



TESTIMONY PRESENTED
TO THE JOINT LEGISLATIVE HEARINGS
ON THE NEW YORK STATE PUBLIC PROTECTION BUDGET
FOR FY2024-2025
CONDUCTED BY
THE ASSEMBLY WAYS AND MEANS & SENATE FINANCE COMMITTEES
Legislative Office Building, Albany, NY
January 25, 2024

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I. INTRODUCTION

Thank you for giving Prisoners' Legal Services of New York (PLS) this opportunity to submit testimony in support of our request for funding in the FY 2024-2025 State budget. As many of you know, PLS' mission is to provide high quality, effective legal representation and assistance to indigent incarcerated New Yorkers and to help them secure their civil and human rights. Created by New York State in 1976 in response to the 1971 Attica prison uprising, PLS protects the civil and constitutional rights of incarcerated individuals, and helps ensure respect for human dignity and human rights, thereby reducing the likelihood of another prison uprising, while helping incarcerated individuals prepare for successful reintegration into their communities upon release.

II. PLS' FUNDING REQUEST FOR FY2024-2025

PLS is requesting total funding of \$7 million for fiscal year 2024-2025.

In her FY2024-2025 Executive Budget, the Governor included funding for PLS of \$2.2 million. In light of this, **PLS' funding request from the Legislature is as follows:**

- **\$2.4 million from the Assembly; and**
- **\$2.4 million from the Senate;**
- **for total legislative funding of \$4.8 million.**

This amount, together with the \$2.2 million from the Governor, will result in the requested \$7 million for FY 2024-2025. This funding will allow PLS to:

- a. breathe life into the provision set forth in the Humane Alternatives to Long Term Confinement (HALT) Act that allows incarcerated individuals to have representation at their disciplinary hearings;

- b. hire additional staff to adequately staff its five offices across the state – Albany, Brooklyn, Buffalo, Ithaca and Newburgh;
- c. continue providing critical legal services to incarcerated people in state prisons and address a significant portion of the current unmet need;
- d. bring PLS’ Pre-Release and Reentry Program (PREP) to scale statewide; and
- e. provide staff cost-of-living adjustments and step increases as provided in our current Collective Bargaining Agreement.

PLS is requesting \$7 million in total funding in an attempt to *begin* to restore PLS to the funding level it had in the early 1990’s under then-Governor Mario Cuomo. In FY1991-1992, PLS was funded at \$3,898,000. Accounting for inflation, funding of at least \$8,720,472 would be required to bring PLS to our 1991 level of funding.¹

PLS is currently funded at \$5,400,000, approximately 62% of what our equivalent funding was in 1991. As such, providing total funding of \$7 million (\$2.2 from the Executive and \$4.8 from the Legislature) for FY2024-2025 will help begin to move PLS toward a level of funding that is reasonable and necessary and will allow PLS to do the job it has been tasked to do by New York State.

III. FUNDING TO PROVIDE REPRESENTATION AT TIER III DISCIPLINARY HEARINGS

As this joint committee knows, during the 2021 Legislative session, both houses of the Legislature passed the Humane Alternatives to Long Term Confinement (HALT) Act. On March 31, 2021, then Governor Cuomo signed the bill and it became law on April 1, 2022. Most of the provisions of HALT are now codified in Corrections Law §137.

¹ [Inflation Calculator | Find US Dollar's Value from 1913-2022 \(usinflationcalculator.com\)](https://www.usinflationcalculator.com/)

The goals of the HALT Act are to substantially limit the frequency and duration of solitary confinement, ameliorate conditions of disciplinary confinement in New York state prisons and protect vulnerable people from being placed in isolation. HALT also attempts to ensure that disciplinary hearings are conducted in a fair and just manner by including a provision that allows a person facing a disciplinary hearing to be represented at that hearing.

The section of the HALT Act that provides for limited representation at prison disciplinary hearings can be found in Correction Law § 137(6)(l) which states, “Persons at such hearings shall be permitted to be represented by any attorney or law student, or by any paralegal or incarcerated person unless the department reasonably disapproves of such paralegal or incarcerated person based upon objective written criteria developed by the department.”

If a person is found guilty at a disciplinary hearing in the NYS prison system, he/she can face severe punishment including solitary confinement, placement in the residential rehabilitation unit for up to a year or more, loss of phone, commissary, package and visitation privileges and loss of good time. The Legislature clearly understood the serious consequences people face at prison disciplinary hearings and the concomitant need to ensure that such hearings are just and fair when it included the provision allowing the accused to be represented by an attorney. However, neither HALT nor the Department of Corrections and Community Supervision’s (DOCCS) regulatory scheme creates any kind of assigned counsel system or database through which incarcerated people with disciplinary charges are able to identify, request and/or access representation.

Although DOCCS has reasonably clear guidelines on who is eligible to represent a person at a hearing, it has not created a system for people in need of representatives to identify potential representatives. Moreover, in 2023, DOCCS held over 14,500 Tier III disciplinary hearings and while PLS, together with other advocacy organizations and volunteers, did what we could to

accommodate requests for representation, PLS does not have nearly enough attorneys available to handle the hearings that are occurring within DOCCS facilities on a daily basis. The lack of any effective system for people charged with misbehavior to identify, request and obtain qualified representatives and the lack of a sufficient number of available qualified representatives, however, are just two of the many hurdles that make the limited right to representation somewhat illusory.

In response to HALT, DOCCS has implemented several regulations and practices regarding representation at disciplinary hearings that create barriers to representation and raise questions about the adequacy of that representation. By regulation, a non-incarcerated representative must notify the facility by email at least two days before the start of the hearing. Title 7 NYCRR 251-5.3. Since the hearing must commence within five days of the accused being held in pre-hearing confinement, that only leaves three days for the charged person to find a representative and for the representative to contact the facility, meet with the client, review documents and prepare for the hearing. This compressed time frame is yet another factor in undermining the statutory right to be represented.

In addition, while DOCCS now allows representation by phone or in person, up until very recently, DOCCS permitted telephonic representation only. Along those lines, in some instances where video evidence is considered and where the video is viewed by the hearing officer and the charged individual during the hearing, the video is not made available to, or summarized for, a representative present only by telephone. Additionally, telephonic representatives are functionally prohibited from confidential strategy consults with their clients while the hearing is proceeding.

We have also heard of some cases where the representative has not been permitted to be present, even telephonically, to hear the hearing officer read the hearing disposition into the record. As a result, a person who provides representation at a Tier 3 disciplinary hearing may not

know the hearing disposition until some subsequent communication from the client, which may unnecessarily delay preparation of an appeal.

Finally, in some cases, people qualified to act as representatives have attempted to do so and have been denied by DOCCS, leaving the charged individual unrepresented. This may be related to the regulatory provision that the representative must contact the facility two days before the hearing or to some other procedural or regulatory hurdle, but regardless, the accused is left without representation even after he/she has requested it.

All this is to say that if the Legislature wants to ensure that the HALT legislation is implemented in the way the Legislature intended, it needs to put teeth into the limited right to representation section. The smartest and most fiscally prudent way to do that is to provide additional funding to PLS to be used to hire attorneys and/or paralegals for the sole purpose of providing representation at prison disciplinary hearings.

PLS is uniquely situated to provide the representation the Legislature intended when it enacted the HALT Act. We have five offices across the state in close proximity to the majority of prisons. We have over 48 years of experience representing individuals facing disciplinary hearings. Prior to HALT, incarcerated individuals did not even have the option of representation at their disciplinary hearings, so PLS' role was (and still is to a great extent) focused on reviewing the hearings after they occurred, identifying procedural, regulatory, statutory or constitutional errors and appealing those hearings. Our track record for such appeals is extraordinary, as is our litigation record when we are forced to take these cases to court because DOCCS refuses to grant our appeal. ²

²Out of 2,018 disciplinary cases that PLS appealed or litigated over the past two decades, we were successful in 1,216 of them, winning 1,032 administrative appeals, 163 cases in court and 21 via settlement. This demonstrates a success rate of over 60% in prison disciplinary cases.

Of course, measuring success in situations where we are providing representation at the actual hearing and not just on the appeal of that hearing will be more nuanced. Clearly, obtaining a dismissal of the charges would fall under the rubric of a “win” but there are many other factors that must be considered when determining the value of providing representation at a person’s disciplinary hearing.

First, having an attorney at the outset significantly increases the likelihood that the hearing officer will be compliant with the regulations and the law that govern disciplinary hearings. At present, many of the errors that occur at disciplinary hearings are not discovered until a PLS attorney reviews the hearing to determine if there are appealable issues. The failure to call relevant witnesses or assess the credibility or reliability of a confidential informant, the refusal by the hearing officer to provide the accused with requested documents, the holding of hearings in absentia and the lack of substantial evidence are just some of the many errors that we discover upon review of disciplinary hearings. As a result, we are typically able to secure reversals of these hearings on administrative appeal or in court, but during that review and appeal process the client has already served time in solitary and in the Residential Rehabilitation Unit.

Having lawyers at the outset of the disciplinary hearing process will more than likely reduce the number of regulatory, statutory and constitutional errors that typically occur at disciplinary hearings, thus ensuring fairer and more just hearings and avoiding the situations where individuals are wrongfully subjected to punishment. But there is more.

Having a system that provides lawyers to individuals facing disciplinary hearings sends a strong message to the accused that there is at least some attempt being made by the State to ensure that the system is fair and just. That message can go a long way in reducing tensions in the prison. Moreover, at the almost 30 disciplinary hearings for which PLS has provided representation over this past year, we have been able to explain to our clients their rights and the regulations and law

surrounding disciplinary hearings. The result is that, while they might not be happy with the outcome of the hearing, they do, in most cases, understand why the hearing officer reached his/her decision and they believe that they have been given a fair opportunity to be heard and to challenge the evidence against them.

Another incredibly important benefit in promoting representation at disciplinary hearings is that it allows the PLS attorney in the case to educate the hearing officer with respect to regulations and laws surrounding disciplinary hearings, many of which hearing officers are not familiar. Over this past year, PLS handled one case where the accused was given a misbehavior report for self-harm. The PLS attorney on the case explained to the hearing officer the law prohibiting punishing a person for self-harm, educating the hearing officer about the existing law. The hearing officer was completely unaware of this provision in the law but, once it was explained, dismissed the charges.

Funding a system that provides attorneys for representation at prison disciplinary hearings will also result in saving the State a significant amount of time and resources. As noted earlier, and as demonstrated by the list of successful disciplinary cases set forth on page 15 of this testimony, PLS has a tremendous success rate with respect to our administrative appeals and court filings challenging disciplinary hearings. However, to win those appeals, we need to assign attorneys and paralegals to review the hearings, research, write and file the appeals and, when unsuccessful, file Article 78 proceedings. In response to the appeals, DOCCS has to fund a team of individuals to review and decide our appeals and, when we litigate, the Attorney General's office is required to represent DOCCS on those appeals. In a large majority of the cases that we bring to court, once the Attorney General's office has reviewed our papers, it agrees that an error has been made, works with DOCCS to reverse the charges and requests the court dismiss the case. Providing representation at the initial hearings would more than likely avert the need for PLS to

file as many appeals or Article 78's as PLS currently files because the attorney could identify procedural and substantive errors at the hearing that could then be avoided and/or corrected.

All of this being said, we are not yet suggesting the funding of a full-scale program that would provide representation in 100% of the prison disciplinary cases held annually. However, we do believe that funding a pilot project to allow PLS to hire dedicated staff to provide representation at disciplinary hearings would be a fiscally smart and worthwhile first step and would go a long way in ensuring that the provision in HALT that allows for limited representation is more than a pipedream for incarcerated individuals.

We propose the creation of a Disciplinary Hearing Unit (DHU) at PLS that will include the hiring of eight to ten staff attorneys and/or paralegals who will work out of our existing offices and who will be assigned to provide representation to individuals facing disciplinary hearings. The DHU staff will be trained and supervised by an experienced attorney. Rather than having an ad hoc approach to representation, our DHU will engage in outreach to the incarcerated population via our bi-monthly newsletter, *Pro Se* and via client communications to inform them of our new unit. In addition, the DHU would staff a Tier III hotline where incarcerated individuals could call and request representation in order to expedite the representation process and ensure that we are compliant with the short time frames associated with disciplinary hearings. Our reputation with the incarcerated population and our success in the limited number of cases where we have provided representation this past year is more than likely to lead to thousands of requests for representation. We also believe DOCCS will work with us to ensure the success of this project in light of our long-term professional relationship and the fact that this project benefits both DOCCS and the incarcerated population by streamlining the representation process and having PLS, a known, trusted and respected legal services organization, as the go-to for representation requests.

We estimate that the cost of staffing this pilot project will be \$1.4 million but the benefit of such a project will more than outweigh the cost. Providing representation at disciplinary hearings by trained and experienced PLS attorneys will ensure that NYS's prison disciplinary hearing process is fair and compliant with the law, prevent people from being unjustly punished and, in turn, significantly reduce tensions in the prison and, in the process, save the State millions of dollars annually by limiting the number of cases that need to be appealed or litigated.

IV. FUNDING FOR CIVIL LEGAL SERVICES FOR THE INCARCERATED POPULATION

The State has a legal responsibility to provide meaningful access to the courts for people confined in state prisons. Bounds v. Smith, 430 U.S. 817 (1977). To help meet that responsibility, New York has wisely chosen to fund PLS to provide statewide representation to individuals incarcerated in New York State prisons. Since 1976, PLS has been recognized as an agency with an extraordinary commitment to strengthening access to justice and delivering civil legal services to low-income and disadvantaged clients.

PLS currently has five offices statewide, located in proximity to most of the state's 44 prisons.³ Our offices are in Albany, Brooklyn, Buffalo, Ithaca and Newburgh. Last year, PLS received and responded to over 7,500 requests for assistance from incarcerated New Yorkers.

PLS provides critical civil legal services to over 32,000 incarcerated individuals in prisons located across the state from Buffalo to Albany and from Plattsburgh to New York City. PLS helps fulfill New York State's commitment to the criminal justice goals of rehabilitation and reintegration by advocating for incarcerated individuals on issues related to their conditions of confinement. PLS also assists our clients in resolving their disputes non-violently, thereby

³ [Find a Facility | Department of Corrections and Community Supervision \(ny.gov\)](#)

lowering tensions, reducing hostility and helping to create a safer environment for incarcerated individuals and correctional staff alike.

Most incarcerated individuals will eventually be released. PLS promotes public health and safety by ensuring that, while incarcerated, people in our state prisons are treated humanely, maintain family ties, are able to participate in educational and rehabilitative programming and have access to adequate medical and mental health care.

By counseling and advising incarcerated individuals regarding their rights and the merits of their claims for the past 48 years, PLS has earned the trust and respect of our clients, as well as their families and loved ones. Our history, expertise and willingness to work toward reasonable compromise, while at the same time zealously advocating for our clients, has also earned us the trust and respect of judges, the Attorney General's office and DOCCS. In addition, legislators and other governmental leaders, including the Governor's office, solicit our perspective and appreciate our advice on prison-related issues, as does the media and many other individuals and organizations within the state's criminal justice and legal services community.⁴

PLS' principal activities include:

Direct Civil Legal Services: PLS receives, on average, between 7,500 and 10,000 requests for assistance annually from incarcerated individuals and answers every one. We provide this underserved population with legal representation without charge on a myriad of civil legal issues associated with conditions of confinement including disciplinary hearings that result in solitary confinement, medical and mental health care, excessive use of force, family law and child visitation, jail time and sentencing and immigration.

Education Project: Initiated in 2018, the Education Project focuses on ensuring that incarcerated individuals are provided with the education to which they are

⁴ In 2014, PLS received the Denison Ray Non-profit Organization Award from the New York State Bar Association (NYSBA) which recognized PLS' extraordinary commitment to strengthening access to justice initiatives; delivering civil legal services to low-income and disadvantaged clients; increasing pro bono services; and marshaling resources to maximize services to the community. In 2017, the NYSBA presented PLS with the Outstanding Contribution in the Field of Correctional Services award. Albany Law School also honored PLS with the Pro Bono Partnership Award. And, in 2022, New York State Senator Neil Breslin presented the Executive Director of PLS, Karen L. Murtagh, with the 2022 Women of Distinction Award for being a positive force in the community, a "role model for others to emulate and follow" and "continuing to lead the path of progress for others."

entitled by law. The Education Project also ensures that DOCCS is complying with various federal and state education laws including the Individuals with Disabilities Education Act (IDEA) and the American with Disabilities Act (ADA). To date, the Education project has:

- Educated parents of at-risk special education students regarding their children’s continuing rights under the IDEA should they become incarcerated.
- Analyzed DOCCS regulations, directives and policies relevant to special education to identify systemic failures with respect to compliance with the mandates of the IDEA and NYS education law.
- Made recommendations to DOCCS to amend its policies to achieve compliance with IDEA and NYS education law mandates.
- Advocated and litigated to achieve DOCCS' compliance with both the IDEA and NYS education law.

Family Matters Unit: Our Family Matters Unit (FMU) assists incarcerated parents in challenging prison disciplinary sanctions suspending or terminating visitation with their children, drafts child visitation petitions, provides representation in court on visitation and support petitions, helps clients access court records, enforces visitation orders, drafts child support modification papers and obtains proximity transfers. The FMU provides a critical resource to incarcerated parents, helping them maintain family ties during their incarceration and removing one of the major barriers to successful reintegration – the accumulation of insurmountable debt as a result of child support arrears.

Pro Bono Partnership Program: Our Pro Bono Partnership Project (PBPP) is a comprehensive program comprised of partnerships with law firms, community agencies and law schools statewide. We also work with the New York State Bar Association (NYSBA) and various county bar associations to identify possible pro bono counsel. Through this project, since 2011, more than eighty (80) individuals and firms have been recruited to accept cases, and hundreds of incarcerated people have had legal representation that they otherwise would not have had.

Albion and Bedford Hills Telephone Program: Our Albion and Bedford Hills Telephone Programs involve a partnership between DOCCS and PLS. Since its inception in 2014, the program has provided legal assistance to more than 1000 women on numerous issues including evictions from pre-prison housing, identity theft, sentencing and jail time issues, medical and mental health care and child visitation and custody.

Pre-Release and Reentry Project (PREP):⁵ PREP is a holistic program staffed by licensed Social Workers (SWs) who help incarcerated persons who will be “maxing out” of prison develop the psychological and practical skills necessary for successful re-entry into their communities. PREP focuses on those who are serving

⁵The PLS PREP project is funded, in part, by New York Community Trust and by the van Ameringen Foundation.

their maximum sentence because those individuals, unlike people who are on parole or post release supervision, have no safety net upon release and are left to fend for themselves upon release from prison. Our PREP SW's develop re-entry plans with each client, modify the plans as needed, and utilize these plans to guide goal-setting and develop personal accountability. Assigned SWs work with clients for a period of three (3) years post-release to provide therapeutic support and identify and address biopsychosocial barriers to successful re-entry. PREP currently accepts applications from individuals who plan to return to the five boroughs of NYC, Dutchess, Orange Niagara, Orleans, Genesee, Wyoming or Monroe county. **PREP is the only re-entry program in New York State that focuses on people who are “maxing out” of prison and thus have no safety net upon release. PREP is also the only re-entry program in NYS that provides our clients with individualized re-entry planning services by licensed mental health professionals, followed by three years of post-release support and advocacy by those same mental health professionals.**

PLS Newsletter: PLS publishes a bi-monthly newsletter, *Pro Se*, which advises incarcerated individuals of changes in the law and explains technical aspects of various laws. *Pro Se* is distributed to all incarcerated individuals via the tablets that incarcerated individuals are now provided and more than 200 organizations and practitioners.

PLS Client Educational Materials: In addition to counseling, advocacy and legal representation, PLS produces and provides more than 75 educational memos on various rights of incarcerated individuals. We continually update and add to these memos, to ensure that we address specific areas of the law so that the incarcerated population is able to navigate both the prison system and the courts.

Partnerships with Law Schools & the Courts: PLS partners with law schools to provide training and mentoring for students who work via work study, clinics, internships, externships or pro bono.

Immigration Unit:⁶ PLS' Immigration Unit provides representation to all immigrants in New York State prisons who are facing deportation hearings. PLS' immigration unit, which opened in 2014, handles over 300 deportation cases annually. In 2015, the success rate for incarcerated individuals facing deportation hearings without representation was reported to be 2%. The success rate for clients represented by PLS attorneys has been close to 38%.

Rapid Response Unit:⁷ In partnership with The Legal Project⁸ PLS provides immigration representation to individuals detained or facing detention in Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington Counties.

⁶ PLS' Immigration Unit is funded through the NYS Office of New Americans.

⁷ PLS' Rapid Response Immigration Unit is funded by the NYS Office of New Americans.

⁸ [The Legal Project - Civil Legal Services - Albany, New York](#).

Unaccompanied Minors Project:⁹ Under the Homeland Security Act of 2002, the U.S. Department of Health and Human Services (“HHS”), Administration for Children and Families, Office of Refugee Resettlement (ORR) is tasked with overseeing the care and placement of unaccompanied children (“children”). HHS contracted with Vera Institute of Justice to develop and coordinate regional programs to increase pro bono services, including representation, for children in HHS custody and who are released from HHS custody. Vera, in turn, selected PLS as the non-profit legal services provider to provide these services to the children being held at Berkshire Farms in Canaan, NY, La Salle in Albany, NY, St. Christopher’s in New Windsor, NY and Long Term Foster Care and Unaccompanied Refugees Minor Programs in Rochester and Syracuse, NY. PLS provides a wide range of services to these children, including:

- Providing a “Know Your Rights Orientation” (KYR);
- Conducting initial interviews (“screenings”) with unrepresented children in HHS custody;
- Providing courtroom assistance for all unrepresented children in HHS custody who are required to appear in court while in custody;
- Assisting unrepresented children in HHS custody, care provider managers (or other relevant persons) who are required by immigration court practice and procedures to file paperwork with DHS or DOJ;
- Coordinating the assignment of Pro Bono Attorneys for children in HHS custody;
- Providing legal referrals to children as they move through the ORR system; and
- Conducting training on immigration law and procedures for newly- recruited attorneys, both in-house and volunteer.

V. PLS’ LITIGATION AND ADVOCACY

Over this past year, PLS has litigated dozens of cases that have helped hold DOCCS accountable and ensure that the incarcerated population is treated justly and fairly. As a result of PLS’ perseverance and tenacity on behalf of our clients, we obtained court decisions or settlements with DOCCS that:

- awarded damages to an incarcerated female pursuant to a negligence lawsuit that was filed against NYS alleging DOCCS’ failed to adequately protect our client from a horrific attack by another incarcerated individual during which our client was bitten and the attacker slashed our client’s face with a razor, from the top of her forehead to the tip of her nose;

⁹ PLS’ Unaccompanied Minors Project is funded through the Acacia Center for Justice.

- ordered DOCCS to credit our client with 162 days of definite sentence time;
- held that the Individuals With Disabilities Education Act (IDEA) permitted a court to award fees and costs to our client, an adult male, who filed an IDEA challenge himself because he was “an individual who[was] legally responsible for the child’s welfare” because, as a “child with a disability” under age 22 and without representation by a guardian, natural parent, or appointed individual, he prevailed in his action on his own behalf seeking required education services from DOCCS;
- modified a Tier III hearing disposition and penalty (from 150 days SHU to 3 days) finding that the Tier III hearing determination failed to consider the k(ii) requirements set forth in Correction Law §137, and that, despite our client being on the OMH caseload, there was no evidence that the “substantial likelihood” determination had been made by DOCCS or OMH;
- resulted in DOCCS agreeing to schedule our client for a urology follow-up and prescribe the medication recommended by an outside urologist.
- reversed and expunged several Tier III hearing dispositions due to DOCCS’ failure to follow the law including:
 - the Hearing Officer’s failure to make a reasonable effort to obtain the requested witness’s testimony;
 - the Hearing Officer’s failure to maintain a complete electronic record of the entire hearing;
 - a finding that DOCCS violated our client’s due process rights to notice of the charges;
 - **holding a Tier III hearing against our client when** the charges were for minor alleged offenses that only warranted a Tier II;
 - a finding that DOCCS wrongfully denied a requested witness;
 - the hearing officer’s refusal to allow the accused to view video evidence that the hearing officer relied upon at the hearing;
 - the refusal of the hearing officer to allow the attorney representing the accused to view documentary and video evidence that was relied upon at the hearing thus denying the accused his statutory right to representation;
 - the denial of our client’s due process rights by the hearing officer who denied our client’s request for employee assistance and legal representation;
 - the hearing officer’s refusal to call relevant witnesses; 2) issuing a confinement sanction that violated Correction Law 137(6)(k)(ii); and 3) interfering with our client’s right to representation by not providing his representative the opportunity to review relevant video evidence;
 - the issuance of a finding not supported by substantial evidence;
 - the issuance of a confinement penalty that violated Correction Law §137(6)(k)(ii) (HALT); and
 - the Hearing Officer’s failure to record the entire disciplinary hearing; withholding video evidence from counsel at all stages of the hearing; mandating telephonic appearance, and; barring counsel from the reading of the disposition.

In addition to the above, PLS engages in daily advocacy on behalf of our clients, helping to ensure that issues associated with their conditions of confinement are addressed in a fair, just and timely manner. Attached, as Appendix A, is an overview of just some of the critical advocacy engaged in by PLS attorneys on behalf of incarcerated individuals over this past year. This summary highlights the need for constant oversight and diligent and persistent advocacy and drives home the reality that, if left unchecked, our prisons could quickly return to pre-Attica conditions.

The importance of and critical need for PLS is also underscored by three reports and one letter issued by the New York State Inspector General's office over the past two years.¹⁰

In January of 2022, New York State Inspector General Lucy Lang issued a report regarding DOCCS' Drug Testing Program.¹¹ In her report, the Inspector General "found multiple shortcomings" in DOCCS drug testing program and procedures "that potentially impacted incarcerated individuals' rights and due process including:

- DOCCS disciplined incarcerated individuals based solely on the results of preliminary drug screening tests.
- These preliminary screening tests were not confirmed by more specific alternative tests as is required by Microgenics' drug test instructions.
- DOCCS failed to take prompt corrective action upon learning that some incarcerated individuals had been charged with drug violations and punished due to false positive drug screening test results.
- DOCCS improperly procured its drug testing systems and services.
- DOCCS failed to adequately oversee and train staff utilizing Microgenics' drug testing systems. DOCCS experienced various administrative failures, which prevented the proper operation of the Incarcerated Individual Drug Testing Program.
- Microgenics withheld information from DOCCS concerning false positive test results and research involving its drug testing systems and provided misleading and inconsistent statements during disciplinary hearings."

¹⁰ https://ig.ny.gov/system/files?file=documents/2022/01/doccs-microgenics_2764.316.2019_alb_report_20220103.pdf; [oig-doccs-racial-disparities-report-12.1.22.pdf \(ny.gov\); https://ig.ny.gov/system/files/documents/2023/11/doccs-drug-testing-program-report.pdf](https://ig.ny.gov/system/files/documents/2023/11/doccs-drug-testing-program-report.pdf);

¹¹ https://ig.ny.gov/system/files?file=documents/2022/01/doccs-microgenics_2764.316.2019_alb_report_20220103.pdf

The investigation, known as the “Microgenics Investigation”, ultimately found that “DOCCS had improperly disciplined incarcerated individuals for drug consumption based solely on the results of preliminary urine screening tests, without first obtaining confirmation through the use of more specific laboratory testing, as required by the test’s manufacturer, the Microgenics Corporation.”¹²

PLS, together with the law firm of Emery Celli Brinckerhoff Abady Ward and Maazel, are currently litigating a putative class action against Microgenics and DOCCS on behalf of thousands of people who were wrongfully accused of and punished for drug possession under the above-referenced DOCCS Drug Testing Program. Hopefully we will be successful and those who suffered will be compensated, but the fact that something like this could still happen almost 50 years after Attica speaks volumes to the need for continued and constant oversight and enforcement. The IG and the Governor, with the issuance of this report, reminded us that all human rights – whether outside or within prison walls – much be protected. The alternative is unacceptable and is the very reason that PLS was funded in the first place.

Too often, human rights are violated because they involve individuals for whom those in power assume no one cares or no one is watching. When a contract is put out to bid, or an administrative disciplinary hearing produces an unjust result, there are real human beings affected and the ripple effect impacts everyone in society.

In the case of DOCCS’ faulty drug testing procedure, there were thousands of incarcerated people who spent significant time in solitary confinement because a lab test produced an erroneous finding. This travesty of justice harms not only the person confined, but all of us. The harms are real, lasting and cannot be overstated. The psychological and physical damage caused by solitary confinement, the loss of family visitation, the lack of proper programming, lost work

¹² <https://ig.ny.gov/system/files/documents/2023/11/doccs-drug-testing-program-report.pdf>

release and educational opportunities – all of which helps combat recidivism – adds to the ledger for which we as a society need to take account.

In her second report, published in November 2022, New York State Inspector General Lucy Lang issued findings regarding the persistent racial disparity in discipline of incarcerated individuals within DOCCS.¹³ The Report concluded that “despite policy changes within DOCCS intended to address the known problem of disparities in the administration of Misbehavior Reports for offenses committed while in custody, Black and Hispanic incarcerated people remain more likely than their White counterparts to face additional punishment behind bars.” These findings demonstrate that PLS’ presence, not only as a watchdog, but as an organization that is constantly holding DOCCS accountable, is as critical now as it was 48 years ago when PLS was created in response to the Attica uprising. While it is our hope that the recommendations set forth in the IG’s report will ultimately help to address racial disparities within DOCCS, the fact is that the harm caused by these disparities is happening every day in our prisons and, but for PLS’ presence, the degree of harm and the number of people harmed would be significantly higher than it is today.

Finally, in her most recent November 2023 report, the Inspector General once again looked into DOCCS’ drug testing procedures, but this time the focus was on the Sirchie NARK II tests it used “to analyze suspected drugs found in correctional facilities as part of its Contraband Testing Program.”¹⁴ Not surprisingly, the findings of the Inspector General’s investigation were similar to what was found during the IG’s investigation into DOCCS’ Drug Testing Program, to wit:

- Much like the Microgenics CEDIA Buprenorphine Assay, the Sirchie NARK II tests were merely presumptive tests, yet DOCCS was taking internal disciplinary action against incarcerated individuals based upon positive tests without first confirming that result with

¹³ [oig-doccs-racial-disparities-report-12.1.22.pdf \(ny.gov\)](https://www.doacs.ny.gov/system/files/documents/2023/11/doacs-racial-disparities-report-12.1.22.pdf)

¹⁴ <https://ig.ny.gov/system/files/documents/2023/11/doccs-drug-testing-program-report.pdf> at p. 6.

an outside “approved analytical laboratory,” as was required by the manufacturer’s instructions.

- The instructions provided by the manufacturer for the NARK II tests, which were relied upon by DOCCS testing officers to determine the presumptive presence of drugs, were, in multiple cases, inconsistent, contradictory and/or wrong, which likely led to false-positive test results. In fact, the Inspector General’s examination of a sample of DOCCS disciplinary records reflecting guilty dispositions for contraband and drug possession found numerous conflicting drug tests records, including some files with conflicting reports of the sequence of drug tests utilized by a testing officer and the color changes observed.
- Despite undergoing training prior to being authorized to utilize the NARK II test, certain correction officers demonstrated a lack of understanding or awareness of the proper testing procedures. More specifically, concerns were brought forth by members of the DOCCS Office of Special Investigations (OSI) that certain testing officers were: (a) using pen caps or pocketknives to place suspected contraband into the NARK II test kit rather than the provided loading device, which is expressly prohibited because of the risk of sample contamination; and/or (b) failing to consistently abide by the proscribed agitation and wait times.

Finally, and most recently, on January 19, 2024, the Inspector General published a letter she sent to New York State Education Department (NYSED) regarding her observations from visits to virtually all DOCCS Correctional Facilities with respect to the provision of education to the incarcerated population.¹⁵ She noted in her letter to NYSED that:

“Science-based literacy education is all the more necessary in the State’s correctional and juvenile facilities to address a civil rights crisis of illiteracy. DOCCS and OCFS house a disproportionate number of Black and brown New Yorkers. Black students with language-based learning differences are more likely to be undiagnosed or misdiagnosed than their white peers, and while students who are not reading by the end of third grade are four times more likely to drop out of school than their peers, that rate doubles for Black and Latinx students living in poverty—who are similarly at disproportionate risk of entering DOCCS or OCFS custody. ***But reading is not only a civil right. It is a vital tool for participation in New York State society***, and DOCCS and OCFS students must have access to the same resources as other students so they may return to our communities equipped to become full participants in our great State.”¹⁶ (citations omitted, emphasis added).

¹⁵ <https://ig.ny.gov/letters>

¹⁶ Id.

Inspector General Lang concluded her letter by noting that individuals in NYS’s custody deserve the same educational opportunities as all other New Yorkers and asked New York’s Commissioner of Education, Betty Rosa to consider incarcerated students in the “implementation of science-based literacy curricula.”

The fact that the NYS Inspector General’s Office has issued three critical reports regarding failures of DOCCS in just one year and the IG’s recognition that education is a civil right and is crucial to successful reintegration highlights the crucial importance of having an organization like PLS to respond to the day-to-day concerns of the incarcerated population. Whether it be a request for representation at a disciplinary hearing, a complaint regarding lack of adequate education, medical or mental health care, an allegation of excessive use of force or a plea for a transfer to protective custody, PLS responds to all of these issues and hundreds more on a daily basis and by doing so we help to ensure the safety and security of everyone inside our prisons and we are instrumental in helping to prepare individuals for reintegration into their communities upon release.

VI. PLS – A SMART INVESTMENT ON ALL FRONTS

PLS ensures that sentences of incarcerated New Yorkers are calculated correctly, that they receive all of the jail time credit to which they are entitled and that they do not unlawfully lose good time credits. PLS also ensures that unlawful disciplinary hearings are reversed and individuals subjected to those disciplinary hearings do not unlawfully spend time in isolated confinement or the residential rehabilitation units.

A Washington State study found that people who are released directly from solitary have a much higher rate of recidivism than individuals who spend some time in the normal prison

settings before returning to the community: 64 percent compared with 41 percent.¹⁷ When people are living in general population they are able to participate in educational and other rehabilitative programs. Participation in such programs increases the likelihood of early release and, as demonstrated by the Washington State study, dramatically reduces the recidivism rate. In addition, if a person is in general population as opposed to solitary confinement when he/she appears before the parole board, release is much more likely.

According to a 2015 report by the Vera Institute of Justice, the average annual cost of incarceration in New York State is \$69,355 per prisoner.¹⁸ In 2023, PLS' advocacy resulted in the expungement of approximately 19 years of solitary confinement from individuals' disciplinary records, the restoration of almost eight (8) years of good time and the correction of 4 years of jail time, parole time and sentencing credit – a total of 31 years – all resulting in less time for individuals to spend in prison and less cost to the state. For every year of good time restored and jail time and sentence computations corrected, and for every year that PLS is able to keep someone out of solitary confinement (and, in turn, significantly decrease their chances of recidivism), PLS saves the State at least \$69,355.00. As a result, in 2023 alone, PLS saved the State over \$2.1 million. We were also successful in seeking the restoration of over 17 years of phone, commissary, packages and visitation privileges to clients, all factors that weigh heavily in increasing a person's chances of successful reintegration upon release from prison.

But there are other deeper, more compelling reasons to fund PLS beyond the money PLS saves the state and the work PLS does to advance rehabilitation.

¹⁷ David Lovell & Clark Johnson, *Felony and Violent Recidivism Among Supermax Prison Inmates in Washington State: A Pilot Study*, available at: <http://www.son.washington.edu/faculty/fac-page-files/Lovell-SupermaxRecidivism-4-19-04.pdf>

¹⁸ <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends>

As noted, PLS, created in the wake of the Attica uprising, is an integral part of New York State's criminal justice system and, as such, has helped to promote prison and public safety for over 48 years. A look-back at where things stood when the Attica uprising occurred is instructive.

On September 10, 1971, when a group of incarcerated individuals took over the D-yard at Attica, and three days later, on September 13th, when the state police and prison officials retook the prison in the bloodiest prison uprising in the United States since the Civil War, the prison population at Attica was 1,281. Today Attica imprisons 1,680 people. In 1971, there was a total of 18 prisons across New York State and a total incarcerated population of 12,525. Today we have 44 prisons and a population of approximately 32,701.¹⁹ As such, while we have certainly witnessed a significant decrease in New York's prison population over the past several years, with a current prison population that is approximately 2.6 times that of what it was when NYS experienced its worst prison riot in U.S. history, the need for PLS services remains crucial.

Adequately funding PLS provides an enormous social, moral and economic benefit to New York State. The critical work PLS engaged in this past year demonstrates PLS' ability to immediately address situations while continuing to insist on transparency, provide oversight and offer direct legal services to thousands of incarcerated New Yorkers every year. The New York State Association of Criminal Defense Lawyers (NYSACDL) has stated that PLS' "work has made the prisons safer, more humane and less violent." New York State Bar Association Past President Stephen Younger stated: "One of the greatest values of PLS is that it works to avoid conditions of confinement that resulted in the devastating Attica riot. PLS is – and should remain – a vital, integral part of the state's criminal justice system and a critical component of public safety."

Irrefutably, the cost of another Attica would be astronomical, not just in dollars but in lives and the threat to the future stability of our criminal justice system.

¹⁹ See DOCCS Daily Population Capacity Report January 16, 2024.

VII. CONCLUSION

PLS has two primary functions:

- (1) Acting as a check on the exercise of power behind New York's prison walls by advocating for the peaceful resolution of the incarcerated population's grievances thereby reducing tensions and maintaining safety and security within the prisons; and
- (2) Helping individuals prepare for successful reintegration into their communities by advocating with respect to their safety and security, helping maintain family connections, and ensuring adequate educational and vocational programming and medical and mental health care.

We commend and thank Governor Hochul for including PLS in her Executive FY2024-2025 budget and the Assembly and the Senate for providing PLS with funding in the past, as both actions are a clear indication of their commitment to civil and human rights and a testament to the value that New York State places on the rehabilitation and reintegration goals of our criminal justice system, as well as public safety (both inside and outside prison walls.)

We ask the Legislature to add \$4.8 million (\$2.4 million from each house) to the Executive appropriation of \$2.2 million to result in total funding for PLS of \$7 million. This level of funding will ensure PLS' ability to continue its critically important work on behalf of the State of New York.

Dated: January 25, 2024

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APPENDIX A

PRISONERS' LEGAL SERVICES ADVOCACY REPORT 2023

Albion "Warm Line" Update. This past year we spoke with 180 women on the warmline relating to a number of issues including medical and mental healthcare, Son of Sam law, family law, child custody, support and visitation, family law, Medication Assisted Therapy (MAT), disciplinary matters, programs, parole, religious expression, education, limited credit time allowance, jail time, sentencing, harassment, failure to protect, and child guardianship

MEDICATION ASSISTED THERAPY (MAT)

PLS submitted a letter to DOCCS Executive Deputy Commissioner Dan Martuscello, Chief Medical Officer Carol Moores, and Deputy Commissioner/Counsel Cathy Sheehan outlining the various problems and statutory violations our clients had reported with respect to gaining access to MAT. The letter included an Appendix identifying our clients and summarizing their specific experiences with MAT. Following submission of this letter-LR, SC, SM, DG- individuals who had been included in the Appendix reported being admitted to the program.

T.C. reached out to us in early 2022 reporting that he is currently addicted to heroin and needs help. He was denied MAT because he was told it is for the new DOCCS admissions only. After individual advocacy efforts since February 2022 and agency-level advocacy T.C., finally, was enrolled in MAT and is now receiving suboxone and the treatment he needs.

W.M. reached out to PLS Newburgh to report that he would like to be in the MAT program, as he has been on a methadone program before. After agency-level advocacy, W.M. is now enrolled in MAT, and receiving buprenorphine.

M.A. reached out to PLS Newburgh Office in September of 2022. He reported that he has been addicted to heroin since he was 17. He stopped using in 2018, but has been self-medicating with suboxone. M.A. also expressed concern that his early release date is coming up within a year and he does not want to relapse when released and be returned to prison. After agency-level advocacy, M.A. is now enrolled in MAT and receiving suboxone.

G.R. wrote to PLS Newburgh Office in October of 2022, requesting assistance in enrolling in to the MAT program. After agency-level advocacy, G.R. is now enrolled in MAT and receiving suboxone.

R.O. entered DOCCS custody in September 2022. He had been receiving MAT up until that time and wrote to us to request assistance getting back on MAT because his withdrawal symptoms were affecting his mental and physical health. After PLS Newburgh advocated with DOCCS on his behalf, he is now enrolled in MAT and receiving suboxone.

F.G. reached out to PLS Newburgh Office in April 2022 to request assistance getting into the MAT program. He had received MAT assistance at outside facilities before. After facility and agency level advocacy, F.G. was enrolled in the MAT program in February 2023 and expressed great gratitude to PLS for our assistance.

T.F. suffers from opioid use disorder and was unable to get MAT in DOCCS. After PLS advocated for him to receive MAT, he had an assessment and received a prescription for MAT.

A.S. has a serious history of opioid use disorder and has been trying to get MAT. After PLS advocated for him to be assessed for MAT, he had a MAT Assessment Appointment.

L.B. had been receiving Suboxone prior to her incarceration, yet had not been given any MAT despite many requests over several months. After we contacted DOCCS on her behalf, she finally began receiving MAT for substance use disorder.

M.K. was treated with Suboxone for ten years prior to his incarceration, but was refused MAT despite filing a grievance and making many requests over several months. After we contacted the medical unit, he was prescribed Suboxone.

Despite a documented history of substance abuse, **M.B.** was denied entry into the MAT program because he was not on any kind of MAT when he arrived at the facility. MB had been in the MAT program at County Jail, but the jail took him off the medication when he became state-ready because they erroneously believed he would be unable to continue treatment with DOCCS. We initially advocated with the Facility Health Services Director and DOCCS' Chief Medical Officer, and urged them not to wait to admit MB into the program until October 7, 2022, the effective date of Correction Law § 626(2)(a), which requires placement in MAT for anyone suffering from a substance abuse disorder. After the statute went into effect and MB still had not been screened for MAT, we brought his situation to the attention of DOCCS Commissioner Dan Martuscello. Shortly thereafter, MB started the program.

A.S. has a serious history of opioid use disorder and has been trying to get MAT since before legislation required DOCCS to provide MAT treatment. PLS has worked with AS for nearly two years on this issue, and on June 1, 2023, AS finally received MAT.

PLS Provides Representation at Tier III Hearing. PLS represented BB in a Tier III hearing involving Assault on Staff and associated charges related to an allegation that BB punched an officer in the face during a pat frisk. We preserved procedural objections related to evidence and witness denials, and noted discrepancies between the reports and injuries sustained by BB. Although the hearing officer found BB guilty of all charges except a search/frisk charge, he was only given a 45-day SHU penalty.

PLS' Representation at Tier III Hearing Results in Reduced Penalty. PLS represented BD in a Tier III hearing involving Violent Conduct, Assault on Staff and associated charges related to an allegation that BD raised his fist to an officer during a routine pat frisk before visiting with his wife. We preserved procedural objections related to evidence denials and BD's right to be present, and we noted discrepancies between the report and officer's testimony. The hearing officer found BD guilty of Violent Conduct but administered a penalty of 30 days SHU.

Son of Sam Advocacy Results in Release of Funds. TF's social worker from New York County Defender Services contacted PLS because TF inherited over \$40,000, which was subject to a Son of Sam injunction. PLS worked with Office of Victim Services and the Attorney General's office to assist TF with finalizing a settlement with his crime victim of \$5000 to release his funds from the injunction.

Advocacy Results in SHU Reduction: GG was charged with assault on staff, interference, direct order, and threats. GG is a Level One S on the Mental Health caseload (which is the highest level of need) and Trans woman incarcerated in a men's facilities. After advocacy raising her mental health concerns, as well as violations of Correction Law 401(5)(a) and 137(6)(k)(ii), GG's confinement penalty was reduced from 255 days to 180 days.

Advocacy Results in Rehearing. AG was charged with various charges related to assault on staff and violent conduct. At his hearing, AG received a SHU penalty of 280 days, which was affirmed by Special Housing and reduced on discretionary review to 135 days. PLS requested reconsideration raising witness and evidence denials, and Special Housing reversed for rehearing.

Two Years of Jail Time Credit. ML was arrested for his current offense in 2018 and spent years at Rikers, during which medical staff diagnosed ML with cancer and twice operated to remove cancerous growths. At sentencing, the court, district attorney, defense counsel and ML all believed that his time at Rikers would count towards his current sentence so that he could quickly return home and continue cancer treatment. However, upon arrival to DOCCS, because ML owed PRS time on an earlier offense, DOCCS credited his Rikers jail time to earlier time owed. With substantial assistance from David Bentivegna, PLS helped the District Attorney and defense counsel correct the commitment order nunc pro tunc so that his jail time counted against both sentences resulting in ML's maxing out from DOCCS nearly two years before his previously calculated max date.

Medical Advocacy Results in Proper Catheter. CR is paralyzed and requires the use of daily condom catheters to address his incontinence. The supply of catheters he was receiving from medical were the incorrect size, and completely ineffective to address his condition. Without the correct sized catheter, CR was unable to leave his cell out of fear that he would urinate on himself. Through our advocacy, we were able to secure CR with a supply of the properly sized catheters he needs.

Medical Advocacy Results in Chemo. MS suffers from Bladder Cancer and requires weekly chemotherapy treatments to address his condition. He reached out to us because medical was not arranging for him to receive treatments, which would have delayed his necessary surgery. As a result of our outreach to the Regional Medical Director, MS promptly began receiving chemotherapy treatments.

Proper Wheelchair Permit Obtained. JS has a mobility disability and wrote to us because he was being forced to use a wheelchair that did not have leg and foot rests. He suffered severe leg pain whenever he used the wheelchair, which hindered his ability to travel throughout the facility and forced him to primarily remain in his cell. As a result of our advocacy at the facility level, JS received a permit for a wheelchair with proper leg and foot rests.

Advocacy Results in Reversal of Hearing. For charges related to assault on staff and weapon possession, DS received a penalty of 200 days of SHU and lost privileges. PLS' appeal argued for reversal because the hearing officer failed to investigate the existence of and thus denied relevant photograph evidence. Special Housing reversed the hearing.

Tier III Hearing Reversed. AW was charged in a July 1, 2022 misbehavior report with violations of Rules 100.11 ("assault on staff"), 102.10 ("threats"), 104.11 ("violent conduct"), 104.13 ("creating a disturbance"), 106.10 ("refusing a direct order"), and 107.10 ("interference") for allegedly throwing his food tray out of the feed-up hatch, and then pulling a CO's arm into the hatch and biting his pinky. The report alleged that the hatch was left unsecured for 45 minutes during which AW held a cup of "unknown liquid" and threatened to throw it at anyone coming near his door. AW is classified as an OMH Level 1, and was on one-on-one watch at the time of the incident. A hearing was held, following which AW was sentenced to 400 days SHU and loss of packages, commissary, and phone, 100 days loss of tablet and special events and 2 months loss of good time. Following our supplemental appeal, this was reversed for rehearing. Per DOCCS Office of Inmate Discipline, the reason for reversal was witness denials. At the second hearing, AW was again found

guilty and this time sentenced to 120 days SHU, loss of packages, commissary, and phone and two months recommended loss of Good Time. We filed a second supplemental appeal, in which we argued denial of the right to call witnesses and to documentary evidence; lack of notice, since the hearing officer dismissed charges at the start of the hearing and then found him guilty of a previously dismissed charge; failure to properly consider mental condition and punishment for misconduct related to mental illness; and HALT violations. The determination was reversed.

270 Days SHU Time Reversed: JA was among a number of clients requesting assistance with a Tier III disposition following a May 2022 lockdown in which there were facility wide searches by DOCCS CERT teams and multiple allegations of staff misconduct. We first submitted an appeal that resulted in a reversal with a re-hearing. At the re-hearing, JA was again found guilty. We noted several issues including an improper witness denial, and biased statements by the HO. Upon submission of a Request for Reconsideration of the re-hearing, DOCCS reversed and expunged the disposition, saving him 270 days SHU time as well as six months loss of Good Time.

Advocacy Saves 120 days SHU: JW was charged with violent conduct, creating a disturbance, and employee interference following an incident in the RMHU at Marcy Correctional Facility (C.F.) He sought representation at his Tier III hearing, but when he was unable to find someone, the hearing officer refused to provide any assistance and told JW that he waived all rights when he requested legal representation. To the hearing officer, only the representative could have asked for witnesses or documentary evidence; the fact JW could not secure representation was his problem. On appeal we argued the hearing officer's failure to cure the lack of employee assistance and concomitant violation of JW's fundamental due process rights mandated reversal and expungement; we also argued that the confinement sanction was impermissible under the SHU Exclusion Law and HALT. We were successful. Our advocacy saved 120 days SHU, 120 days packages and commissary, and 120 days good time.

Visitation Restored: TW's girlfriend, JM, had her visits suspended indefinitely after a "K-9" detection dog signaled on her in the security screening area. She declined to step into a back room with an investigator and left the facility. The noted reason for her suspension was an attempt to bring contraband into the facility. We submitted an appeal in which we argued that a K-9 signal is functionally identical to a positive ion-scan, as both are non-intrusive screening mechanisms to identify contraband exposure, and as such, visits could be denied only for two days per DOCCS Directive No. 4403. We also pointed out that the Directive provides that visitors have the right to refuse strip searches, guilt cannot be assumed from a visitor's refusal, and refusals cannot be grounds to deny future visits. We argued that JM's decision to leave the facility was protected by Department policy, and DOCCS was expressly barred from drawing negative inferences from her decision. In response to our appeal, JM's visits were restored immediately.

Advocacy Saves 258 days SHU: JG received 365 days SHU and corresponding loss of privileges for allegedly refusing to put out a cigarette and spitting on an officer. The hearing disposition had been affirmed by the time we were able to review the hearing record. We raised two arguments in a request for reconsideration: 1) the hearing officer failed to take the requisite confidential OMH testimony given JG's designation as seriously mentally ill; and 2) the confinement sanction violated HALT. In response to our appeal, DOCCS reversed the hearing and ordered a rehearing. JG was again found guilty at the rehearing, but the penalty was reduced to 101 days prehearing confinement and 6 days SHU. Our advocacy, which led to the rehearing and reduction in penalty, saved 258 days SHU, packages, commissary, and recreation.

Bilateral Inguinal Hernia Surgery Approved: FG had been approved for bilateral inguinal hernia surgery to repair a hernia that was causing him severe pain and limiting his ability to perform his

job duties. Ten months after the onset of symptoms, the surgery remained unscheduled; FG was advised it had been deemed a “non-emergent” matter. We wrote to DOCCS Chief Medical Officer and the Facility Health Services Director to request that the approved surgery be expedited in light of FG’s severe pain and the substantial functional limitations this condition imposed. Shortly thereafter, FG had his surgery.

Advocacy Results in SMI Diagnosis. JB requested assistance with obtaining an SMI-designation (seriously mentally ill). He was serving confinement sanctions in RRU and having a difficult time coping; he believed that he would benefit from the OMH programming available in an RMHTU. He advised that he was diagnosed with bipolar in the community, and also had a series of recent serious self-harm incidents over the preceding six months, including a lengthy admission to RCTP crisis observation. We submitted advocacy to the OMH Unit Chief concerning his bipolar diagnosis and serious recent suicide attempts, both of which independently qualify him as a person with a serious mental illness as defined by Correction Law § 137(6)(e). JB informed us soon after that he had been granted an SMI designation and moved to RMHU.

Advocacy Saves 43 Days in SHU. MS received 180 days SHU and loss of privileges for charges including assault on inmate and weapon. By the time we obtained and reviewed the hearing record, the disposition had been affirmed but we identified several grounds on which to request reconsideration. First, MS had been removed from his hearing without any warning and without engaging in any significantly disruptive behavior. Second, he was denied relevant documentary evidence solely because he had not requested the documents directly from his assistant prior to the hearing. Third, the confinement sanction violated HALT. DOCCS reversed the hearing in response to our advocacy and ordered a rehearing. At the rehearing, MS received a penalty of time served with no loss of privileges imposed. Our advocacy saved 43 days SHU and 180 days packages, phone, and commissary.

Client Receives Eye Exam and Glasses. MP had been waiting to see an eye doctor for more than four months when he contacted PLS. He needed eyeglasses – without them, his eyes were constantly burning and watering; he was also struggling to participate in his required programs because he could not read any fine print. When we obtained MP’s medical records, we saw he had finally seen an optometrist. We then advocated with medical staff at his facility to expedite ordering him his needed glasses. Although the facility did not respond to us, MP reported that he received his glasses.

Advocacy Results in Parolee’s Transfer to Different County. MG was due to be released, and wanted to live with his fiancé in Monroe County. DOCCS had denied the residence due to “domestic violence concerns,” but there did not appear to be any that would legitimately disqualify the proposed residence. MG was released, instead, to Montgomery County, where he had last resided, yet he had no contacts or social support in that county and was at risk of homelessness. We advocated for MG’s transfer to Monroe County with his parole officer, the senior parole officer, and the Bureau Chief of the Monroe County Field Office. Parole in Monroe as well as Montgomery counties approved the transfer and MG was able to move to Rochester.

Rehearing Ordered. We appealed a Tier III hearing resulting from an incident in which FF allegedly assaulted a sergeant. Among the issues raised was the denial of FF’s right to call witnesses, including two material eyewitnesses and a potentially exculpatory witness who was on vacation the day the hearing officer was calling all witnesses. The HO refused to adjourn the hearing until that witness was available because he maintained the hearing had to be completed that same day. We argued that DOCCS’ reliance on HALT for requiring hearings to be completed within 14 days was a gross misrepresentation of the statute; the only reason to fast-track a hearing

is because if it was not completed within 14 days, the individual would have to be released from segregated confinement and returned to general population until the hearing was complete. We raised other procedural violations as well and in response to our appeal, DOCCS reversed the hearing and ordered a rehearing.

Transfer from Maximum to Medium Prison: MP was transferred to Upstate C.F. despite a change in his security level from maximum to medium; he reported his ORC had told him the transfer had been a mistake. Although DOCCS Directive states Upstate is suitable for both maximum and medium security individuals, we asked Deputy Commissioner Anne Marie McGrath and the Director of DOCCS Classification and Movement, Douglas Botsford, to explain just how Upstate was suitable for individuals with medium-security status, e.g., did they have the same access to privileges comparable to those given at a medium facility. Additionally, MP's records showed he was transferred to Upstate because of the availability of certain programs, and in our advocacy to DOCCS, we argued that his program needs could be met at any of the local medium facilities. After submitting our advocacy, MP was transferred to Cape Vincent C.F.

Medical Advocacy Results in Transfer to RMU: RW suffers from epilepsy and Crohn's Disease. He was having frequent and severe seizures that were resulting in hospitalization, reportedly the result of Shawangunk medical staff refusing to provide RW with needed Stelara infusions. Through our advocacy, we were able to facilitate RW's transfer to Coxsackie's RMU, get him a GI consultation scheduled, and get his Stelara infusions resumed.

Advocacy Results in Reversal of Hearing: FD received three misbehavior reports, which he alleged were in retaliation for refusing a female officer's advances. The three reports were combined into one hearing, at the conclusion of which FD was found guilty of all charges and received a penalty of 90 days SHU, 90 days loss of recreation, package, commissary, and special event privileges, and one month recommended loss of good time. On appeal we argued the majority of the charges (stalking, direct order, harassment, false statements, out of place, interference) could never result in a confinement sanction under HALT. We noted the only charges that could conceivably result in confinement were threats and creating a disturbance, but we argued that FD's conduct did not constitute threats as defined by statute, nor did the alleged disturbance rise to the level of severity contemplated by the statute. Special Housing reversed and expunged the hearing, though their noted reason for reversal was the facility's failure to maintain records for administrative review. We submitted our appeal without requesting records, so we could not attest to the legitimacy of this reason. Nevertheless, the reversal was still related to the submission of an appeal. Our advocacy saved 90 days SHU and privileges, and one-month RLGT.

250 Days of SHU Expunged: JH received two misbehavior reports following an incident in the dormitory at Greene Correctional Facility, in which he allegedly co-orchestrated a demonstration. Among the charges against JH were violent conduct (2x), creating a disturbance (x2), demonstration, threats, assault on staff, and several more. One hearing was held on both reports, and JH was found guilty of all charges except one (search and frisk). On appeal we argued that JH's right to call witnesses was violated when the hearing officer denied two eyewitnesses on the ground that JH had not requested them through his assistant, and that the charges in the first misbehavior report were not supported by substantial evidence; the narrative contradicted the report author's contemporaneous To-From as well as the incident reports, and the hearing officer failed to elicit testimony that adequately accounted for these contradictions. We also said the penalty was impermissible under HALT. Special Housing reversed and expunged the hearing. Our advocacy saved 250 days SHU and 12 months RLGT.

Protective Custody: CR sought long-term protective custody; his criminal conviction was based on a friendly-fire incident that resulted in the death of a police officer, which led to death threats from the law enforcement community against him that, in turn, led other incarcerated individuals to want to carry out those threats. We successfully advocated for CR's transfer to a safer environment at a new facility.

Misbehavior Report Expunged In the course of investigating CR's safety concerns, he asked for assistance in getting a Tier II misbehavior report expunged. He had received the ticket—which was also his first ever disciplinary incident—for refusing to follow a direct order to go to work. Yet just four days later, the facility acknowledged that CR was unable to work due to a physical disability and provided a form stating he was removed from his job in the Chair Shop. We relayed this information to the Superintendent and ultimately succeeded in having the incident expunged from CR's record.

Albion M2 Dorm – Conditions: Since last quarter, we have received multiple complaints regarding conditions in the M2 dorm at Albion C.F. Incarcerated individuals reported the dorm was being used as a disciplinary confinement unit with numerous deprivations which made a placement there akin to Keep Lock. We were advised that all phones were blocked with wooden barriers to prevent access, there was no recreation, no tablets, no ILC representative, no library access, and there was significant ambiguity regarding when individuals placed on M2 would be released. These conditions are causing severe anxiety and distress among the women housed on the dorm, with many being abruptly cut off from contact with their families. Some women reported engaging in more serious misconduct in the hope that doing so would result in SHU placement where conditions where phone access would be restored on a limited basis so they could speak with their children and families.

In early April 2023 we advocated to both the Albion Superintendent and DOCCS central office that the M2 conditions be ameliorated, and asked for clarification regarding the dorm's purpose. Superintendent Squires responded that M2 was a "general population" unit used to house individuals who were serving loss of privilege sanctions for alleged refusals to program, or to comply with previously imposed privilege loss sanctions. As a result, there was no phone or tablet access on the dorm as well as no recreation, however, individuals housed therein could still go to assigned programs or receive one hour of recreation per day if they were otherwise unassigned.

Despite these clarifications, complaints about the dorm persisted with many women telling us that placement on M2 was being used retributively by facility staff and that it's seen as a means of stigmatizing those housed there. Throughout the quarter, incarcerated women consistently told us that they viewed placement in the SHU as preferable to M2.

M2 is in violation of Correction Law § 137 which lists a number of requirements that all disciplinary or segregated confinement units must conform to including access to a phone within 24 hours of a placement and once a week thereafter. Albion is classifying M2 as a "general population" unit to circumvent §137 as the dorm cannot be used for "general population" since no one without privilege losses could be housed there.

PLS submitted further advocacy, arguing that M2 is in reality a disciplinary confinement dorm and therefore must be brought into compliance with Correction Law §137. We have requested that limited phone access be reinstated, and that Albion implement greater transparency concerning when a placement on M2 will end. We are awaiting a response from DOCCS.

Advocacy Results in 427 days of Jail Time Credit: MP was serving concurrent sentences from Erie and Niagara counties but had not received jail time credit for an extended period while she was in the custody of Niagara County, including time spent in Rochester Psychiatric Center. We contacted Niagara County, which provided an amended jail time certificate resulting in MP receiving an additional 427 days of jail time.

Advocacy Results in 24 days of Jail Time Credit: CFR was arrested on her current charge in Washington State but had not received any jail time credit for the time she was detained out of state pending transport back to New York. We obtained her booking records from King County Washington and requested an amended jail time certificate from DOCCS and Sullivan County, resulting in 23 additional days of jail time credit for CFR.

Advocacy Results in Work Release Reinstatement: DL was approved to participate in work release. However, upon transfer to Edgecombe, she was medically disqualified from work release due to a history of breast cancer. DL was transferred back to Albion, where medical and programming staff insisted that she undergo various invasive and unnecessary diagnostic procedures if she wished to participate in work release. We wrote to DOCCS Counsel explaining that excluding DL from work release based on her medical status violated the ADA, and that conditioning her enrollment in work release on undergoing undesired medical treatment violated her constitutional right to refuse medical care. DL was quickly transferred back to Edgecombe and permitted to participate in work release.

Advocacy At Hearing by PLS Results in Dismissal of All Charges: PG was issued a misbehavior report (MBR) charging him with assault on inmate and related charges for allegedly slashing another individual on a transport van. We represented PG at the Tier III hearing by telephone, questioned relevant witnesses, identified inconsistencies between staff testimony and the MBR, and established that staff person who identified injury as being caused by cutting-type weapon had no forensic medical training. At the conclusion of the hearing, the hearing officer dismissed all charges.

Advocacy Results in Dismissal of Charges: AH received 365 days SHU after he was found guilty of violent conduct, creating a disturbance, and possessing a weapon. On appeal we argued, among other things, that two of the charges were not supported by substantial evidence. The misbehavior report stated that a cell extraction occurred after AH refused to return a tablet, but it did not allege any conduct that was violent or caused a disturbance to the order of the facility. During the hearing the author of the report said the cell extraction process was the basis of those charges, but again failed to identify any supporting conduct. In response to our appeal, DOCCS dismissed these two charges. [The penalty remained despite our argument that it was excessive and impermissible under HALT.]

Advocacy Results in Dismissal of Charges: GB was charged in a February 1, 2023 misbehavior report with violations of Rules 104.1 (Violent Conduct), 104.2 (Demonstration), 107.10 (Interference with Employee), 107.11 (Harassment), 102.10 (Threats), and 101.22 (Stalking) for allegedly writing a threatening letter to the Superintendent. GB pled guilty to all charges and was sentenced to 365 days SHU, 180 days loss of packages, commissary, phone, and static tablet. We argued that GB was not offered representation, violations of the HALT Act, and failure to properly consider mental condition. Following supplemental appeal, the demonstration and interference charges were thrown out but the penalty was not modified.

Advocacy Results in Necessary Medical Care: CH has a chronic hip condition that has required multiple surgeries. Specialists had recommended another surgery but DOCCS had been delaying the procedure for six months by the time CH contacted PLS. Through our advocacy, we were able to secure for CH an appointment with the orthopedist who had originally recommended the surgery, a medical necessity transfer to be closer to that orthopedist, and then DOCCS' approval of the surgery. At this point, we learned Legal Aid Society's Prisoners' Rights Project had also been advocating on CH's behalf, and they assumed sole responsibility for the case.

Advocacy Results in Necessary Medical Care: LA is hearing impaired, and he claimed the degree of his impairment was worse than DOCCS was recognizing. His most recent audiology exam occurred around five months prior to his contacting our office. The examiner had found the results unreliable and recommended that LA be retested in three to four months, but LA had yet to be retested. We successfully advocated for him to be reevaluated by an audiologist.

Advocacy Results in Rehearing: LS received three misbehavior reports stemming from incidents that began when he allegedly refused to enter his cell, and which culminated with him defecating contraband. One hearing was held on all three reports; LS was found guilty of the charges against him and received a penalty of 365 days SHU. On appeal we argued that the charges should be expunged on the ground that LS's right to appeal the hearing was violated due to the unusual difficulty we had in obtaining the records. We also argued the penalty was impermissible under HALT, and alternatively, that it was excessive. DOCCS reversed the disposition and ordered a rehearing. We did not appeal the rehearing, which resulted again in a guilty determination but with a reduced SHU penalty, 305 days. Because our advocacy led to the rehearing, we saved 60 days SHU.

Advocacy Results in Reversal and Expungement of Hearing: BB was charged with, and found guilty of, weapon and altered item after a weapon was recovered during a cell search. We raised a number of issues on appeal, including that BB was denied his right to observe the search; all individuals in his housing area had been evacuated for a fire drill and he was the only one not allowed to return to his cell afterward. Another issue we raised was the denial of BB's right to call witnesses; he sought to question an officer who had altered the misbehavior report, but the officer was not reachable during the hearing. The Hearing Officer then took it upon himself to question the witness off the record and outside of BB's presence. In response to our appeal, DOCCS reversed and expunged the hearing. Our advocacy saved 260 days SHU, 365 days packages and commissary, and 90 days recommended loss of good time. (The original SHU penalty was 545 days, which the Superintendent reduced to 260).

Advocacy Results in Reversal and Expungement of Hearing: DM was charged with assault on staff, violent conduct, refusing a direct order, and employee interference after a cell search allegedly went awry. During the subsequent hearing, DM objected to the fact that the Hearing Officer had been threatening him off the record. The hearing was adjourned so the Hearing Officer could accept a call. When it resumed, the Hearing Officer announced that DM would be removed from the hearing because he had allegedly called him (the HO) a scumbag off the record. On appeal we argued, among other issues, that DM was denied his fundamental right to be present at his hearing. In response, DOCCS reversed and expunged the hearing disposition. Our advocacy saved 45 days SHU, 45 days packages and commissary privileges, and 180 days of static tablet use.

Advocacy Results in Reversal of Hearing: BM received 270 days SHU at a Tier III hearing. We noted an egregious statement at the hearing made by the hearing officer that he was aggravating the imposed penalties because BM pleaded not guilty to the alleged misconduct. We submitted a supplemental appeal arguing this statement was grossly improper and in violation of BM's right to a fair and impartial hearing. DOCCS reversed the decision and ordered a re-hearing saving BM 270 days SHU time.

Advocacy Results in Reversal of Hearing: PLS filed a supplemental appeal of BD's weapon Tier III charges. BD asked the hearing officer if his assistant would collect relevant documentary evidence (specifically any unusual incident report), and the hearing officer stated there were no documents and a representative or assistant would just be speaking for BD. As a result, BD waived his right to representation or assistance, but later found out that there were reports, memos, and photos. The hearing officer found him guilty and imposed 240 days of SHU. The appeal raised the hearing officer's misstatement. The Office of Special Housing reversed for a rehearing, which was never held.

Advocacy Results in Reversal of Hearing: PLS represented BB in a Tier III hearing, in which he was charged with assault on staff and related charges and received a penalty of 45 days of SHU. PLS submitted a supplemental appeal based on the fact that the hearing officer denied BB's attorney the opportunity to view photographs relied on as evidence in the hearing, denied officer injury reports, and denied three relevant witnesses. The Office of Special Housing reversed the hearing.

Advocacy Results in Reversal of Hearing: LM received two misbehavior reports related to an incident that occurred in the yard at Great Meadow. The reports alleged that he sprinted toward COs with an intent to assault staff and that his actions incited other incarcerated individuals to descend upon the area, causing a mass disturbance that resulted in the deployment of chemical agents. One hearing was held on both reports. By the time we received LM's paperwork a final decision on the hearing disposition had been made; Special Housing dismissed some charges but kept the penalty imposed by the Hearing Officer, which was 365 days SHU and 200 days loss of privileges. The superintendent subsequently modified the SHU penalty to 270 days. Our review of the record yielded several issues on which to base a request for reconsideration, including the violation of LM's rights to call witnesses, attend his hearing, and have the hearing recorded in its entirety. We also argued the penalty was unlawful under HALT. In response, DOCCS reversed the hearing and ordered a rehearing; however, the rehearing was never held. Our advocacy saved 270 days SHU and 200 days loss of attendant privileges.

Advocacy Results in Reversal of Hearing: NB was assaulted by other incarcerated people in his cell but charged in two misbehavior reports with violent conduct, fighting, and two different weapon charges. Despite NB's testimony that he was defending himself, with supporting video evidence, the hearing officer found NB guilty of the charges and imposed 120 days of SHU and loss of privileges. PLS submitted a supplemental appeal on the basis that the video evidence did not support the officer's allegations that NB threw punches on the gallery. The video instead showed NB walking down the gallery alone and subsequently, other incarcerated individuals entered NB's cell. The Office of Special Housing reversed the hearing.

Advocacy Results in Reversal of Hearing: AG's was subject to a re-hearing for assault on staff charges. In the rehearing, the hearing officer inappropriately and prejudicially relied on AG's pleas

and witness requests from his last hearing and imposed a penalty of 150 days of SHU. As a result of PLS's supplemental appeal, the Office of Special Housing reversed the hearing.

Advocacy Results in Reversal of Hearing: In a K9 sweep of his facility JLN was charged with possessing drugs and a weapon and received a penalty of 270 days SHU and loss of privileges. PLS submitted a request for reconsideration raising a witness denial for unavailability, that JLN was removed from his hearing and therefore missed an opportunity to question a witness about how JLN was identified in this incident. Office of Special Housing reversed for rehearing.

Advocacy Results in Reversal of Hearing: JR was charged in a March 3, 2023 misbehavior report with violations of Rules 100.12 (Assault) and 104.11 (Violent Conduct) for allegedly grabbing his wife's sweater and pulling her into a plexiglass divider at Five Points CF. He was sentenced to 60 days SHU, commissary, and phone, and 365 days of visitation penalties (305 days total loss of visitation and 60 days of non-contact visitation), a sentence which impacted his ability to see his wife and three young children. We argued a lack of substantial evidence, witness denial, improper removal from hearing, and HALT Act violations. Following supplemental appeal, the hearing was reversed.

Advocacy Results in Protective Custody Placement: TW was being held in the Therapeutic Transitional Supervision Unit (TTSU) at Great Meadow and facing extremely restrictive conditions, e.g., no phone calls, visitation, commissary, access to the law library. He felt threatened by gang members, had been denied protective custody, and so he cut himself in order to be transferred to a mental health unit and avoid general population. We wrote to the Superintendent and while our primary intention was to improve TW's conditions in the TTSU, our advocacy resulted in TW's placement in protective custody.

Advocacy Results in Protective Custody Placement: CY had become a target of the Bloods and threats at Clinton. After failing to obtain protective custody, CY intentionally incurred disciplinary charges so he could be transferred to an RRU. He was concerned about where he would end up once the sanction was completed; initially he sought our assistance with getting placed in long-term protective custody, but worried that would harm his ability to be transferred to the hub closest to his child, he instead asked us to help ensure he would not be transferred to Clinton or other facilities where specific enemies resided. We relayed CY's concerns/requests to Deputy Commissioner Anne Marie McGrath and the Director of Classification of Movement, Douglas Botsford, but then CY was returned to Clinton where he began being threatened again. We sent a second letter to DOCCS expressing our deep dismay at this turn in events. One week later, CY was placed in protective custody at Clinton, and a few weeks after that, he was transferred to Five Points, where he reported he was doing well.

Advocacy Results in Protective Custody Placement: IM requested assistance securing protective custody. He previously served as an informant against the Bloods, which resulted in repeated and ongoing threats to his safety. He was in SHU (at Cocksackie) when he contacted PLS, having secured admission as a self-help measure, but feared for his safety upon the expiration of sanctions. We advocated with Anne Marie McGrath and Douglas Botsford for IM's placement in long-term protective custody upon his discharge from the RRU. He was transferred to general population at Elmira, and when that environment proved no safer, we again advocated for his immediate admission to PC. Shortly thereafter, IM informed us he had been approved for PC through his anticipated release date.

Advocacy Results in Transfer: JC was judicially sentenced to the Willard Drug Treatment Program, but was serving his sentence at Greene. The Willard sentence was reflected in the minutes, but not in the Sentence and Commitment paper. We forwarded JC's sentencing minutes to the facility, and subsequently learned that DOCCS' Central Office had contacted the court to see if the commitment paper had to be adjusted. Around two weeks later, upon learning that DOCCS still had not heard back from the court, we called the clerk's office directly and were informed that updated papers would be sent to Greene within a day or two. Three days later, the facility told us JC would be transferred to Lakeview (where the Willard program is now run).

Advocacy Results in 49 days of Jail Time Credit: DH requested help with Jail Time. She believed she was owed approximately two months credit for a period she spent hospitalized (but still in local custody) undergoing competency evaluations. After confirming the period of hospitalized local time, we contacted New York City DOC to request that they amend DH's jail time certificate to include credit for the period. New York City DOC then issued an amended certificate with the additional time. We confirmed DOCCS received the new certificate and updated the release dates saving DH 49 days of jail time.

Advocacy Results in 190 days SHU, 300 Days Loss of Privileges, 30 Days Loss of Recreation Saved: DF received 300 days SHU and loss of privileges, and 3 months recommended loss of good time after he was found guilty of threats. The charge was based on a letter DF allegedly wrote which included the statement, "Move me out of this jail or any future aos [assault on staff] are held accountable by you." At the subsequent hearing, the hearing officer said DF was not eligible for Tier assistance and/or representation because this was a "non-confine Tier III misbehavior report." DF was then denied all evidence and witnesses. On appeal we argued, among other things, that DF was deprived of his constitutional and regulatory right to employee assistance, and he was deprived of his statutory right to representation. DOCCS reversed the hearing and ordered a rehearing. DF was found guilty at the rehearing and received a penalty of 55 days pre-reversal SHU, 55 days SHU, and 3 months RLGT. Our advocacy saved 190 days SHU; 300 days loss of package, phone, and commissary privileges, and 30 days loss of recreation.

Restraints Order Lifted: BT is serving disciplinary sanctions in Marcy's RMHU. He reported that he was in restraints every time he left his cell to go to programming; in the classroom, he was also shackled to a desk. Not everyone in the unit was shackled, however; BT reported that only five or six people were constantly in restraints. In a letter to Marcy's superintendent, we asked for documentation showing that an individualized determination had been made that BT posed a significant and unreasonable risk to safety such that restraints were justified. In the absence of such a determination, we asked the superintendent to ensure BT would not be shackled during his out-of-cell time. The superintendent did not respond, but BT reported he was out of restraints.

Privileges Restored: MW had privilege sanctions that extended beyond his discharge from RRU. While HALT provides that when a person is discharged from an RRU all underlying disciplinary sanctions shall be dismissed, the statute suggests that at hearings where no confinement sanction was imposed but privilege sanctions were, those privilege sanctions can remain in effect even after the person returns to general population. MW had several such hearings, and through our advocacy we succeeded in obtaining the restoration of some of his privileges (tablet, recreation, earphones) 90 days before they were due to expire. Our advocacy also resulted in reducing MW's package and commissary sanctions by 33 days.

Tablet Benefits Restored: PLS reviewed JR's hearing and lowered his static tablet penalty from 180 days to 74 days.

Advocacy Results in MAT for Three Individuals: PLS had submitted a letter to Dan Martuscello, Carol Moores, and Cathy Sheehan outlining the various problems and statutory violations our clients had reported with respect to gaining access to MAT. The letter included an Appendix identifying our clients and summarizing their specific experiences with MAT and presenting their specific. Madison subsequently sent a second advocacy letter to Central Office with an updated appendix. Three individuals who had been included in the Appendix in one or both letters have since reported being screened for and/or having started the program.

Client Gets New Locker: LM was transferred to a new dorm at Albion and placed in a cube with a broken locker resulting in her property being stolen. Our Buffalo office contacted the Albion Superintendent who agreed to replace the locker.

Advocacy Results in Necessary Medical Equipment: T.W. contacted PLS about a broken CPAP machine. He has extensive cardiac history and asthma, and has had multiple hospitalizations for chest pain and abnormal EKG prior to being incarcerated. His DOCCS-issued CPAP machine had broken parts and did not function properly. While incarcerated he experienced multiple episodes of chest pain and shortness of breath. PLS Newburgh advocated on TW's behalf with the facility Superintendent for a replacement CPAP machine.

Client Receives Proper Religious Designation: D.W. contacted PLS about his religious designation at DOCCS. He is a practicing Muslim, however DOCCS made a unilateral and unsolicited change to his religious designation that made him unable to practice his religion or participate in his religious holidays. His attempts to correct his religious designation were denied – he was told he'd have to wait a year before he can make another change to his religious designation. PLS advocated with the facility Superintendent to correct DW's religious designation.

Client Receives New Boots: V.M. reached out regarding medical footwear. His current medical boots were worn out beyond repair and had holes in them. The replacement boots were approved since 2021. Because V.M. works at the mess hall and around water, his feet would often get wet. PLS advocated with the facility Superintendent for the new boots.

Client Gets A Replacement Mattress: L.J. reached out regarding issues with his old metal coil spring box mattress that caused him significant pain and sleep deprivation. PLS advocated with the facility Superintendent for a replacement mattress.

Advocacy Results in Necessary Medical Treatment: JP, aged 58, reported that he had been requesting a colonoscopy for nine years and nothing had been done. We advocated with the facility superintendent and Facility Health Services Director (at Green Haven C.F.) and succeeded in getting a colonoscopy scheduled.

Time in SHU Expunged and Loss Recreation Restored: JP received 90 days SHU and loss of attendant privileges for charges resulting from an incident wherein he allegedly used a photocopier without authorization to make copies of a complaint about new procedures in the SOP dorms at Marcy, and then distributed the complaint to other residents in his unit. We appealed on the ground that the confinement sanction violated HALT as none of the conduct

attributed to JP met the “(k)(ii)” requirements to justify confinement beyond three days. We also argued that under HALT JP was entitled to immediate release from RRU because he was less than 60 days from his sentence maximum. Shortly after we submitted our appeal JP was released from RRU. DOCCS subsequently reduced the penalty to 41 days, which amounted to time served; they also dismissed the charge of demonstration. Our advocacy saved 49 days SHU and 49 days loss of recreation, packages, commissary, and phone.

Advocacy Results in Necessary Medical Treatment: MB had significant dental needs: he had teeth that were rotting and broken, and he had an exposed metal post in his mouth. In response to our first advocacy letter, MB was told by dental staff (at Marcy C.F.) that he should wait until he was released on parole to get dental treatment. He was denied parole, however, and we contacted the facility again. We acknowledged that Marcy did not have a dentist, but emphasized that this did not excuse DOCCS from providing dental care. We subsequently learned from MB that he had been seen by the dental assistant and the metal post had been repaired. We continued to pursue MB’s other dental needs, but ceased our advocacy efforts when MB was released from prison (and he was able to arrange to see a dentist).

Advocacy Results in Necessary Mental Health Care: After JM’s OMH level went from 3 to 2, we successfully advocated for his transfer to a facility that could provide him with the mental health care he needed.

Advocacy Results in Reduced Sanctions and 500 Days of Loss Property Restored: JM received 500 days SHU, loss of attendant privileges, and recommended loss of good time after he was found guilty of weapon and smuggling. During his hearing JM explicitly raised his mental health, reporting that he was Level 2 and had not been taking his medication. He also told the hearing officer he was confused about the proceeding, yet the hearing officer determined JM’s mental health was not relevant. On appeal we argued that the hearing officer failed to take required OMH testimony in violation of 7 NYCRR § 254.6. We also argued that under HALT, the penalty was excessive and the loss of property sanction that had been imposed was unlawful. In response to our appeal, DOCCS reversed the hearing and ordered a rehearing. At the rehearing JM was again found guilty and received a penalty of 68 days pre-hearing confinement, 297 days SHU, 297 days loss of commissary and package, and 12 months RLGT. Our advocacy saved 135 days of these sanctions, and 500 days loss of property.

Advocacy Results in Visitation Restoration: BD’s father recently finished his parole time and wanted to visit her. He wrote to the Superintendent to request permission to visit in accordance with current policy. The facility banned him from visiting for five years citing that BD’s father had been deceitful in hiding his DOCCS history. In collaboration with Marc Cannan at Beldock Levine, representing BD’s father, PLS was able to reverse her father’s visit suspension. Despite this reversal, BD’s father had difficulty visiting during the fourth quarter and wanted to visit BD on Thanksgiving. PLS reached out to DOCCS Counsel’s office to fix the error, and BD’s father was able to visit.

Advocacy Results in Re-Hearing: PLS assisted AF with a supplemental appeal of a hearing of which AF asserts he was never notified. AF received 9 months SHU. Upon appeal, AF’s hearing was reversed for rehearing. AF received the same penalty at his rehearing.

Advocacy Results in RMHU Release: LG one of the Fields plaintiffs had been in the RMHU for over a year in violation of HALT. PLS advocated to James Donahue, the associate commissioner for mental health for him to be released. Though Mr. Donahue was initially non-responsive, LG received a time-cut on November 28, 2023, was released from the RMHU and is in general population.

Advocacy Results in Necessary Medical Care: CG has significant cognitive impairment and has been housed in the cognitively impaired unit at Fishkill while serving the remainder of his PRS in RTF status. CG received the benefit of “Less is More,” which greatly expedited his release from RTF. Prison staff did not plan for his housing post incarceration. PLS advocated that he be transferred to a hospital for treatment of his multiple chronic conditions and discharge planning. Upon his release, DOCCS transported him to the emergency room in his home county. CG is getting the benefit of community care and hospital discharge planning for his next step.

Advocacy Results in Protective Custody Placement: An article was published in The Times Union about DC’s criminal case, which identified him as an FBI cooperative. Following the article’s publication DC began to be threatened; he was also attacked twice. We successfully advocated for his placement in long-term protective custody, specifically in the APPU at Clinton C.F.

Advocacy Results in Transfer: EA is a transwoman and wanted to be in a women’s prison. DOCCS had previously denied EA’s request because she had been in a male-classified unit at Rikers Island and because her underlying offenses involved violence against women. In an advocacy letter to DOCCS’ Associate Commissioner Jason Effman and Director of Classification and Movement Douglas Botsford, we explained that EA had to be in a male unit at Rikers was because it was the only way she could keep her job, which was available only in a male facility. Further, what was appropriate for EA in local custody was not necessarily appropriate for her in state custody. We also disputed DOCCS’ characterization of EA’s criminal convictions. Her offenses were limited to burglary and robbery, and no one was ever physically harmed during the commission of these crimes. The victims were not, as DOCCS asserted, “exclusively female”; EA’s offenses involved both male and female victims, but only the women cooperated with authorities. To bolster our claim that EA was not dangerous we pointed to her clean disciplinary history. Our advocacy was successful and EA was transferred to Bedford Hills C.F.

Advocacy Results in Transfer: CC needed protective custody due to a conflict with a violent Bloods faction known as Nine Trey Gangstas. After we contacted the superintendent (at Fishkill) and Central Office advocating for protective custody or a transfer, a sergeant called CC out for an interview. CC reported that the sergeant had said he would not be helping CC because of a previous assault on staff. We contacted DOCCS again, but it was not until after CC ingested fentanyl and we contacted DOCCS a third time that CC was finally transferred to a safer environment.

Advocacy Results in Reduced Penalty: GG was accused of unhygienic act and assault on staff among other serious charges. Upon review of the video, the incident concerned a small pool of coffee at the officer’s foot that GG contended the officer accidentally spilled. PLS represented GG in the hearing; he was found guilty and received a 6 month static tablet penalty. Based on PLS’ appeal citing the video evidence, OID reduced his penalty to 32 days of tablet and phones.

Advocacy Results in Rehearing: PLS appealed EM's Tier III penalty of 720 days of SHU and 6 months of recommended loss of good time based on evidence and witness denials and the hearing officer's failure to consider EM's mental state. The hearing was reversed for rehearing. At the new hearing, EM received 3 months of recommended loss of good time and 365 SHU.

Advocacy Results in 133 days of Jail Time Credit: CN requested assistance with a Jail Time issue, specifically, time he spent serving a federal sentence which was ordered to run concurrent with his previously imposed state sentence. We agreed to investigate and noted that CN was sentenced in NY first but was never transferred to DOCCS. Instead, he remained in local custody until he was given over to marshals and eventually sentenced in federal court. This federal term was ordered to run concurrent to his as yet un-commenced (but pronounced) State sentence. Only after completing service on this Federal term was CN returned to NY and transferred to DOCCS. We contacted the Oswego County jail to request an amended certificate, crediting CN with the time he spent in federal custody serving the concurrent federal term. We argued CN should receive the credit because failing to promptly transfer him to DOCCS following his State sentence violated CPL § 430.20 (1). We further cited case law/precedent indicating that awarding jail time credit for time spent serving a concurrent federal term was the appropriate remedy for a 430.20 violation. Oswego agreed and issued an amended certificate crediting CN with the period at issue, 133 days.

Advocacy Results in 30 days of Jail Time Credit: AR contacted PLS because DOCCS had applied the wrong amount of Earned Time Credits to his date calculation. We agreed to investigate and reviewed AR's sentence computation. In that review we noted that although AR had received 11 months ETC, DOCCS subtracted only 10 months in their manual calculation of his PRSME. This incorrect PRSME was then used to compute his CR and ME dates, resulting in dates that were off by 30 days. We contacted the Office of Sentence Review to report the error and request a correction. Sentence Review agreed and re-calculated AR's release dates – now applying the correct amount of ETC to his PRSME, which moved up both his CR and ME dates by 30 days.

Advocacy Results in 2.5 months of Jail Time Credit NI arrived into DOCCS custody with only six days of jail time credit despite his approximately four months in jail. PLS wrote to the Sheriff's office, who certified two and a half more months of jail time. DOCCS recalculated NI's time. PLS continues to review options to obtain credit for the remainder of the time.

Advocacy Results in Release from SHU- TM contacted PLS regarding a Tier III in which she received 180 days SHU. We agreed to review the matter and noted several issues including an excessive SHU penalty that was potentially in violation of HALT. Specifically, TM was charged with contraband/smuggling but the substance at issue was never identified and only weighed a very small amount. We submitted a supplemental appeal arguing that such a small amount of alleged contraband, that was never identified, could not satisfy HALT's KII criteria, which otherwise permits SHU terms in excess of three days. In response, DOCCS modified TM's SHU term from 180 days, reducing it to 108. This effectively made her confinement penalty 'time served,' resulting in TM's release from SHU.

Advocacy Results in Limited Credit Time Allowance RR had successfully completed 3 semesters at Medaille University and was on track to qualify for LCTA. Prior to entering the 4th semester- RR won her criminal Appeal and was released from prison. 13 months after her release, the Court of Appeals overturned the win and RR was sent back to prison.

Shortly after her return to prison- it was announced that Medaille University was closing due to financial issues and that the other area colleges, Daemen and Canisius, would be accepting Medaille students as transfers. We contacted the Dean of Enrollment at Daemen and the Dean of Canisius College after learning that both colleges had not factored Medaille's incarcerated students into the transfer student equation. Due to this, RR was unable to re-enroll for her 4th semester and DOCCS was now denying her LCTA.

We submitted an advocacy letter on behalf of RR requesting that her LCTA denial be reversed due to extenuating circumstances beyond her control. RR was then granted LCTA, and she now has an open date of October 15, 2023. She will be released 72 days earlier than her conditional release date of December 26, 2023.

Advocacy Results in MAT: EG had been removed from the MAT program at Washington C.F. after he had been found with suboxone in his pockets. In an advocacy letter to the Facility Health Services Director we argued that under Correction Law § 626(4), EG could not be removed from MAT as a form of punishment, and the FHSD's allegation that EG was selling the suboxone was unsubstantiated. We also highlighted the withdrawal symptoms EG was experiencing to emphasize the importance of returning him to MAT. Our advocacy was eventually successful; after helping to clear up some miscommunication between EG and medical staff concerning the specific medication to be administered, E G resumed the program.

Advocacy Results in MAT: RO's requests to be screened for MAT were ignored. He also tested positive for suboxone twice after the MAT law went into effect and after he had requested admission to the program to treat his opioid use disorder. As a result of the first failed drug test, he was removed from RSAT, then, as a result of the second, he was denied readmission to RSAT and his good time was rescinded. We included RO's details in our letter to Central Office concerning MAT assessment and screening, and RO was subsequently admitted to the program. He was also readmitted to RSAT, but was denied prior credit for the program despite being informed he would be reassessed for credit after one month, based on program participation. We provided this update in our next advocacy letter to Central Office and shortly thereafter, RO was released from prison.

Advocacy Results in MAT: JM needed assistance getting into MAT; we included him in our advocacy to Central Office and shortly thereafter he was admitted to the program (case #22-007398). He still had three Tier 2 misbehavior reports for drug use that were issued after the MAT law went into effect, and after he had requested admission to the program. We advocated with Mid-State's superintendent for the reversal and expungement of the hearings and restoration of JM's good time. Two weeks later, we learned JM's good was restored: three years, six months, and 28 days. Less than two months later, JM was released from prison.

Advocacy Results in MAT: In 2021, WH was stabbed in a gang attack. After his attack, he was subject to continued threats by gang members and he rarely left his cell. WH intentionally sought SHU sanctions for his protection. In preparation for his release from SHU/RRU, PLS advocated for his enrollment in the MAT program and that he be moved to a different hub. WH started receiving MAT treatment, and upon release from RRU, went to a new hub, where he has been able to participate in a vocational program.

Advocacy Results in Necessary Medical Care: LC suffered from tremors in his arms, hands, and feet. An MRI had been ordered when he was in county jail in 2021. He finally had an MRI in June 2023, and PLS successfully advocated for him to have a neurologist appointment, which occurred in August.

Advocacy Results in Necessary Medical Care: JL suffers from shy bladder syndrome, but DOCCS would not grant him accommodations for urinalysis testing. We advocated with his facility (Sullivan C.F.) and Special Housing, highlighting records that demonstrated JL's need for accommodations and explaining how JL met DOCCS' criteria for placement on the statewide shy bladder list, which would entitle him to accommodations every time he had to produce a urine sample. In response, Sullivan's Deputy Superintendent for Security informed us that he would not add JL to the shy bladder list, but JL could renew his request for accommodations. We then advocated with Counsel's Office, which resulted in JL's placement on the list.

Advocacy Results in Protective Custody: JF needed protective custody due to conflicts with the Bloods gang. When he was at Coxsackie C.F., he had put himself at greater risk by providing cell numbers and names of some of the gang members who were threatening him. His request for PC was denied, which set off multiple suicide attempts before JF was admitted to CNYPC. We successfully advocated for JF's placement in protective custody upon his discharge from CNYPC and transfer to Green Haven C.F.

Advocacy Results in Re-evaluation of Gender Affirming Surgery: GG, a trans woman incarcerated in men's prisons, has been working with PLS toward getting gender affirming surgery for years. GG has been evaluated for and denied gender affirming surgery twice, in 2018 and 2022, through DOCCS's flawed process for evaluating people for gender affirming surgery, which requires them to go through numerous psychological evaluations using outdated and traumatizing "tools." In partnership with the Legal Aid Society, PLS obtained the opinion of Dr. Rachel Golden, a psychologist who helped create the NYSTIP mental health program for trans individuals in DOCCS. Citing Dr. Golden's opinion, which outlined the numerous flaws in DOCCS's evaluation process, PLS wrote to DOCCS Deputy Commissioner and Chief Medical Officer advocating for GG to meet with a gender affirming surgeon. She met with an endocrinologist in late July who suggested she have an orchiectomy, and DOCCS appears to be taking steps for her to get breast augmentation. PLS also wrote a letter in support of her application for parole.

Advocacy Results in Reversal of Release Date Change: KJ is a wheelchair user, and plaintiff in the *Cardew* class action was set to be released to his family in Florida, allowing him a fresh start; his release date was September 3rd, but since that was a Sunday, he was told he would be released on August 31st, since people are generally not released on Fridays or weekends. Based on this information, KJ's family made arrangement to travel from Florida to Shawangunk to pick him up on the 31st then travel back with him to Florida in time for him to report to parole on September 1st ahead of the long weekend. After these arrangements had been made, DOCCS changed his release to September 1st. As a result of this change, KJ would not be able to report to parole ahead of the long weekend and his family would have to change their arrangements at great personal cost. In the end, PLS able to persuade DOCCS to release KJ on August 31st.

Advocacy Results in Reversal and Expungement of Hearing Disposition: At a hearing on April 7, 2023, KL was found guilty of threats and given a penalty of 7 days pre-hearing confinement, 120

SHU, and 120 days loss of recreation, packages, commissary, and phone. The misbehavior report in this case alleged that during a conversation with an OMH social worker, KL allegedly threatened to stab a CO and Sgt. Guy took this case on to challenge the hearing penalty for violating HALT. Under Correction Law 137(6)(k)(ii), for a penalty beyond 3 days SHU to be imposed for the charge of threats, the threat must be an imminent threat of serious physical injury, the person charged must have a history of causing serious physical injury, and the commissioner of DOCCS, and also OMH if the person is on the OMH caseload, must determine there is a strong likelihood the threat will be carried out. In this case, there was no evidence that that either Commissioner or OMH determined the threat was likely to be carried out.

The Office of Special Housing affirmed the hearing disposition on June 2, 2023, before we received the hearing packet. Once we received the hearing packet, GO reviewed it and determined he would file an Article 78 on KL's behalf. Before the Article 78 was filed, Andrew Stecker received a positive decision in the Article 78 he filed on behalf of Pernell Griffin, index number 901471-23, which argued the same (k)(ii) argument concerning threats. On July 31, 2023, GO filed a request for reconsideration based on the Griffin decision. On August 9, 2023, the Office of Special Housing issued a request for reconsideration decision, in which KL's hearing disposition was reversed and expunged. Because he was already serving disciplinary sanctions, OG's advocacy saved KL from serving any of the 120 SHU or 120 days loss of recreation, packages, commissary, and phone.

Advocacy Results in Reversal and Expungement of Hearing: SW was charged with weapon and contraband after an officer recovered two "cutting type weapons" wrapped in clothing from the nightstand next to SW's bed at Walsh Medical Center. At the ensuing Tier III hearing SW said he was being retaliated against, and elicited testimony that his nightstand was unlocked and accessible to anyone throughout the day. He was found guilty of both charges. On appeal we made a quasi-substantial evidence argument, stating that if the cumulative verbal testimony as well as SW's not guilty pleas were to be truly credited, then SW's ownership of the items was not the foregone conclusion the hearing officer made it out to be. Special Housing reversed and expunged the hearing. Our advocacy saved 507 days SHU, recreation, packages, commissary, and six months recommended loss of good time.

Advocacy Results in Reversal and Expungement of Hearing: PD was charged with several rule violations after he was observed cutting himself in his cell. Due to extraordinary FOIL delays we never received the full hearing record, but we still submitted an appeal arguing that the presumption against disciplinary sanctions for acts of self-harm had been violated. We also raised the issue of inadequate notice as the misbehavior report had two different incident dates. Special Housing reversed and expunged the hearing. Our advocacy saved 120 days SHU, 120 days commissary and phone, and 365 days static tablet.

Advocacy Results in Reversal of Hearing: PLS submitted a supplemental appeal for an incident in which LF had hung himself and was cut down by staff. In response, OID reversed the hearing and sanction of two months SHU, recommended loss of good time and privileges.

Advocacy Results in Reversal of Hearing: KA was charged with a string of tickets related to violating fairly minor visit rules relating to being out of place within Five Points' caged visit area. KA is in the RMHU and has regular family visits; he was concerned that he would receive a visit sanction from this Tier III. PLS represented him in the Tier III hearings raising that KA's ongoing serious back condition required him to move and pace. Although found guilty, KA received a 60-

day tablet and special events sanction. Shortly after these tickets, KA was also charged with assault on staff upon his return from an outside medical appointment. PLS entered an appearance to represent KA, but these tickets never proceeded to hearing.

Advocacy Results in Protective Custody Placement: TW was being held in the Therapeutic admission to PC. Shortly thereafter, TW informed us he had been approved for PC through his anticipated release date.

Advocacy Results in Protective Custody Placement: JM suffered serious injuries following an assault by staff at Great Meadow C.F. He retained private counsel for an excessive force lawsuit, but we assisted with medical care matters resulting from the assault, and we were successful in getting him needed appointments with an ENT and orthopedist. We also advocated for JM's safety after he reported that staff were harassing him for seeking legal representation, such as bringing him to a room without cameras and asking what it would take to get him to stop pursuing a lawsuit (case #23-005399). Shortly after sending a letter to Counsel's Office and Classification/Movement, JM was placed in protective custody and eventually he was transferred to Auburn.

Advocacy Results in Transfer: BR sought protective custody at Eastern C.F., but was told by staff there was none at that facility due to HALT. We advocated with the superintendent and Central Office and provided the context for BR's credible need for PC. We also said we were aware that in facilities that did not have a separate PC unit SHU had been used for that purpose, and while it was correct that SHU could no longer be used to house people in PC status, that did not eliminate PC and it was incumbent upon DOCCS to find appropriate alternatives. If Eastern could not come up with a suitable PC unit, then the solution was to transfer BR to a different facility. Shortly thereafter, BR was transferred to Five Points C.F.

Advocacy Results in Transfer and Necessary Medical Care: AS is a trans woman and wanted to be transferred to a women's prison. In an advocacy letter to DOCCS' Associate Commissioner and Director of Classification and Movement, we emphasized the harassment Ms. S was experiencing at a men's facility and discussed her identity as a woman. We also noted her previous sexual assaults in a federal men's prison and highlighted her history in federal women's prison and the female unit at Rikers Island. Shortly thereafter, AS was approved for transfer. She first went to Bedford Hills C.F., but then transferred to Albion because of the harassment she had been subject to by the other incarcerated women. At Albion, however, she was harassed by officers. She requested to go to Groveland C.F., which has a strong LGBTQIA+ community, and that request was granted.

We also assisted AS with effecting a legal name change and getting both DOCCS and the Bureau of Prisons to change her name in their systems. Additionally, AS needed a new wheelchair: DOCCS had confiscated her customized chair upon her entering state custody and the replacement proved to be inadequate insofar as it did not fit her well and was uncomfortable to use. We successfully advocated for a wheelchair that was appropriate for her dimensions and had better cushions.

Advocacy Results in Visitation Reinstatement: BD's father recently finished his parole time and wanted to visit her. He wrote to the Superintendent to request permission to visit in accordance with current policy. The facility banned him from visiting for five years citing that BD's father had been deceitful in hiding his DOCCS history. In collaboration with Marc Cannan at Beldock Levine,

representing BD's father, PLS was able to reverse the Superintendent's decision and allow BD to visit with her father.

Advocacy Results in Visitation Reinstatement. JN's fiancée, NC, had her visitation privileges suspended indefinitely after a K-9 detection dog signaled on her and she refused to be searched. We appealed the suspension, arguing that the benign conduct alleged in the notice and supporting documentation could not support an indefinite suspension. The entirety of the allegations against NC were 1) a detection dog indicated she may have been exposed to contraband; 2) an OSI investigator questioned her; and 3) she denied having any contraband. Relying on the premise that a K-9 search must be governed by the same procedures as ion scanning, we asserted that the alleged conduct did not support any visitation-related sanctions beyond a two-day visit denial. In response to our appeal, NC's visits were reinstated.

EDUCATION

BC, an IDEA eligible student, was transferred to Queensboro C.F. and began participating in work release at home in Suffolk County. When staff at Queensboro discovered he was under 22 years old and had not obtained an HSE, they placed him on hold based on an internal DOCCS policy that individuals 21 and under who do not have an HSE cannot participate in work release. DOCCS planned to transfer BC to Hudson C.F. to work at the DOCCS warehouse in Menands in the Industrial Training Leave program. We explained to DOCCS that transferring him to a more restrictive prison environment would violate his rights under the IDEA, and requested that he be permitted to continue participating in work release and receive community-based educational services. DOCCS lifted the hold on BC, canceled his planned transfer, and allowed him to continue participating in work release at home with his family.

RA wrote to us stating that he was not in any academic classes even though he should be. He had been in ABE (Adult Basic Education - prerequisite for pre-GED class) from 2006 to 2021. We advocated to the education supervisor for RA be evaluated for learning disabilities, re-enrolled in academic programming, and provided with reasonable accommodations under the ADA to address his undiagnosed learning disabilities which were inhibiting his progress in academic class. Due to our efforts, RA is now enrolled in ABE again, and has been given accommodations to address his learning disabilities.

JS is 36 years old, and tests at between a 5th or 6th grade level. He has had no accommodations while in DOCCS, but was in special education classes in school, had an IEP, received extra time on tests, was given permission to use notes and a calculator on tests, and had tests read to him. PLS sent an advocacy letter to the Education Supervisor at Great Meadow requesting an evaluation by an educational psychologist. The Education Supervisor then requested JS's public-school records which confirmed that JS had been in special education. PLS was informed that JS would be provided accommodations when testing began in January. We have followed up with the Education Supervisor noting that JS needs accommodations in the classroom in order to learn, not just when he is being tested. We have not resolved this particular issue yet.

JA is 31 years old, and tests at a 6th-grade level. He has been in pre-HSE with no accommodations since reception. He has a history of a learning disabilities and ADD/ADHD and reported he was in special education classes during his childhood with accommodations such as extra time on tests and one-on-one instruction. PLS submitted an advocacy letter to the Education Supervisor at Hale

Creek asking for JA to be evaluated by an educational psychologist and the Education Supervisor made the request for the evaluation. We are waiting for the results. Additionally, JA has a previous bid from 2014 at age 22. He was previously in prison for 3 years with no accommodations for his learning disabilities.

DG is 57, and has been in ABE with no accommodations since 2010, over 12 years, and has been struggling to progress. His education records show that he had stagnant test scores between 2010 and 2018. He has a history of dyslexia, was in special education classes pursuant to the IDEA in school, received accommodations, and received SSI. PLS sent an advocacy letter to the Education Supervisor at Ulster asking that he be evaluated by an educational psychologist. The evaluation was conducted and accommodations recommended. Specifically, the psychologist diagnosed him with a learning disability and recommended extra time on tests. Even though accommodations were recommended, DG decided he did not want to be in classes and wanted to be in programming so that he is more likely to be granted good time and released on parole. He will consider returning to classes once he is done with ART.

SG is 37 years old and resided at Eastern Correctional Facility. He requested assistance with obtaining his GED. SG signed out of academic programming in 2015, and had not been re-enrolled in eight years. PLS advocated to the Education Supervisor that SG be placed in academic programming so he could work towards earning his GED. SG was re-enrolled in academic programming on October 9, 2023.

THE PRE-RELEASE AND PRE-REENTRY PROGRAM (PREP)

The advocacy of the PREP Social Work team had life-changing results for CT, a 58-year-old man who was released from prison in 6/22 after serving three years on an attempted assault conviction. CT began working with the PREP in 11/21. CT, who suffers from Schizophrenia and addiction, has spent the majority of his life incarcerated. Given this, he never acquired independent living skills, including managing his medication regimen. Upon his release, he was placed in a homeless shelter. His inability to manage his medications resulted in rapid psychiatric decompensation, including auditory hallucinations. He began self-medicating with crack cocaine. While in this decompensated state, he shoplifted socks from Target and spit on a police officer during his apprehension. He was facing a minimum of five years in prison for charges of drug possession and felony assault of an officer. CT's PREP SW immediately began advocating for his case to be moved to Mental Health Court and for CT to participate in an Alternative to Incarceration (ATI) Program. PREP SW met with CT, his lawyer, and the Manhattan Assistant DA at a proffer interview. She argued that CT's lack of disciplinary history during incarceration exemplifies his ability to function appropriately in a structured environment with supervised medication administration. Her professional opinion was that with structured support from supportive housing, medication administration, and regular therapeutic programming, CT could live the stable and law-abiding life he desperately desired. Subsequently, the DA agreed to have the case moved to Mental Health Court and have CT placed in an appropriate ATI program.

EA is a 54-year-old legally blind man who began working with PREP in 11/22. He was released from prison in 9/23 after serving a twenty-year sentence that began as a three-year sentence for criminal sale of a controlled substance. At age 24, EA began to have vision issues and is now legally blind. Before release, EA's PREP SW referred him to the Reentry Works program

of the Osborne Association. Upon release, Reentry Works staff transported EA from his facility directly to the Bellevue Intake Shelter. PREP SW has worked extensively to help EA obtain SSI benefits. Initially, the Social Security Administration insisted that much of the application process had to be done online, despite EA's legal blindness. SW has spent hours meeting with EA and the Social Security Administration, both on the telephone and in person. Through the SW's advocacy and assistance, EA is now receiving SSI benefits. SW has guided EA through the process of obtaining a CityFHEPs housing voucher. Osborne Association's transitional housing community in the Bronx accepts the vouchers and PREP SW advocated to get EA on their housing list. This transitional housing community offers onsite programs and services to residents. SW toured an Osborne apartment with EA, and he has been accepted as a resident. It is anticipated that EA will be moved into the apartment by the end of Winter. In addition to linkage to housing, PREP SW connected EA to Lighthouse Guild, an organization for the visually impaired. They will teach EA how to use technology (including computers and cell phones), obtain his GED, and secure employment. PREP SW is working to help EA learn how to independently navigate NYC, including mass transit.

IL is a 31-year-old man who was released from prison in 8/22, after serving a four-year sentence for burglary. He began working with PREP in 2/22. Upon his release, IL survived an incident in which his right foot and arm were paralyzed. The incident was caused by heroin use. IL has had physical and emotional pain related to his injuries and despite this, continues to use heroin. SW continues to explore addiction treatment options with IL, and although he initially agreed to go to inpatient treatment, he changed his mind and enrolled himself in a NYC Methadone program. IL reports he did not use heroin and attended his Methadone program for about a month, after which time he began using heroin. PREP SW maintains contact with IL and continues to offer support and suggestions, but IL is simply not ready to engage in sobriety planning at this time. SW maintains contact with IL's mother for support.

AH is a 50-year-old male who was released from prison in 1/23 after serving a seven-year prison sentence for two counts of robbery. PREP has worked with AH since April 2022.

Upon his release, it became clear that AH's poor vision and his difficulty ambulating were more profound than previously understood. He lives with uveitis (a form of eye inflammation) and lower extremity edema due to cardiac issues. He has poor medical literacy and SW attends all of his medical appointments to assist AH with understanding and meeting his medical needs. PREP SW was able to confirm with the ophthalmologist that AH meets the criteria for legal blindness, though he had not been declared legally blind. PREP SW had AH's ophthalmologist complete the necessary designation forms. Once AH was declared legally blind, SW referred him to Lighthouse Guild, which provides various services to the legally blind. SW assisted AH in applying for SSI benefits which included drafting an advocacy letter for his application, completing functional assessment reports, and obtaining his hospital records for supportive documentation. Upon SSI approval, SW helped AH open his first-ever bank account. She assisted him in setting up direct deposit for SSI checks, as per SSI regulation.

RR is a 51-year-old man who has been working with PREP since 1/22. He was incarcerated for two years on a parole violation and released in 2/22. PREP SW referred RR to two agencies with programs aligned with his goal of becoming a Certified Peer Recovery Specialist. He participated in training programs through both Exponents and Fortune Society, where he held a peer advocate internship. RR is currently working to obtain his CASAC (Credentialed Alcoholism and Substance Abuse Counselor) certificate. Due to the background check requirements to receive this certification, SW referred RR to the Legal Action Center for assistance in obtaining a copy of

his rap sheet, which he will need as supplemental documentation for the certification process. RR spoke at our Beyond the Bars event in June. DOCCS Acting Commissioner Martuscello attended this event, and RR took the initiative to introduce himself to Commissioner Martuscello, telling him that he would like to work for him someday. Commissioner Martuscello told RR to reach out when he completed his CASAC certification and provided RR with his contact information.

MF is a 53-year-old man released in 11/21 following a two-year sentence for attempted robbery 3rd. His current PREP SW began working with him the day after his release. MF meets with his SW weekly for therapeutic sessions. Upon his release, his PREP SW referred him to Exodus Transitional Community for re-entry employment services. His SW worked with him on interview preparation and resume writing. MF was subsequently offered employment as an Exodus hotel case manager, where he worked for nearly a year until his position was eliminated. He is now employed by another agency as a shelter hotel desk operator. MF has pledged his commitment to serve as a mentor to those in PREP who may be struggling.

LM is a 39-year-old woman released to Putnam County in 12/23 after serving nearly two years for a third DWI conviction. She began working with PREP in 10/23. LM lost her driver's license due to her DUI. She is interested in seeking employment but must rely on public transportation, which is very limited in Putnam County. Before LM's release, SW extensively researched bus routes near LM's home to help her realistically plan for potential employment locations. Although LM's father paid her mortgage during her incarceration, he can't continue to do so. SW did extensive research on foreclosures and was able to find several agencies that can provide LM options to prevent her home from falling into foreclosure. SW is working with LM to choose an option that best meets her needs. Sobriety maintenance is a key focus of SW's work with LM.

JD is a 48-year-old man who has been incarcerated since 8/22 for burglary and has worked with PREP since 3/23. A compelling letter of support from PREP was instrumental in the parole board's decision to grant JD parole and he will be released in 2/24. JD is focused on maintaining sobriety and is actively involved in Alcoholics Anonymous (AA). His SW helps reinforce the 12-step work he is doing with his AA Sponsor. SW has collaborated extensively with JD's ORC (Offender Rehabilitation Coordinator) to enroll JD in the Ready, Willing & Able program, which offers residence and employment as well as assistance with securing permanent housing before program completion. JD experienced horrific childhood trauma which he is learning to process through his work with his PREP SW.

RF is a 26-year-old male released in 12/23 after serving four years for attempted assault 2nd and criminal possession of a firearm. RF began working with PREP in 8/23. RF is diagnosed with ADHD and Schizophrenia for which he is prescribed medication. He self-reports that he has been diagnosed with Bipolar disorder. Therapeutic work with RF has focused on medication adherence, impulse control, and the development of long-term thinking as it relates to his behavior. RF has demonstrated an improved ability to articulate how his actions may not only hurt others but prevent him from achieving his own goals. Upon release, SW met RF at the Port Authority and escorted him to his shelter intake. She assisted RF in applying for SNAP, Emergency Cash Assistance, and a reduced-fare MetroCard.

JC is a 35-year-old man serving a five-year sentence for burglary 3rd. He's been with PREP since 12/22 and will be released in 3/24. JC first began experiencing auditory hallucinations and

delusional thinking during the early part of his bid. He believes the guards put a “recording bug” in his food and they can hear his thoughts and broadcast them over the loudspeaker in the prison. Working with individuals experiencing delusions and hallucinations is challenging, but exceedingly so given PREP’s inability to frequently speak with clients in person or via telephone. JC has spent much of his incarceration in and out of SHU for violent outbursts and aggressive behavior. Such confinement only exacerbates his psychiatric instability. SW taught JC about mindfulness and meditation and helped him learn related tools to soothe himself and quiet his auditory hallucinations. He reports that all of these interventions have significantly improved his mental state. Since his return to general population, JC has not had any disciplinary tickets or altercations.

DF is a 27-year-old man who began with PREP in 6/23 and was released in 11/23 after serving four years for aggravated criminal contempt. SW referred DF to STRIVE, a re-entry organization in Harlem. He was scheduled to attend their 6-week Fresh Start program, which offers a variety of construction-related certifications. Following completion of this program, he has the option to complete a paid internship at STRIVE or to be referred to an employer for a possible full-time job opportunity. Unfortunately, DF’s young son became ill at the time he was slated to begin Fresh Start but he plans to re-enroll in Spring. Before DF’s prison discharge, it was determined that he would reside in NYC with his mother post-release. DF’s mother is single and her several minor children reside in her home, as well. SW referred her to the Kinship Program of the Osborne Association and she was accepted. The program, designed to reduce the burden on homeless shelters, provides a monthly \$500 debit card to a family member who houses an individual newly released from prison. SW is now assisting DF in navigating the legal system so that he can seek visitation with his daughter without violating the order of protection the child’s mother has against him.

EN is a 38-year-old man serving a six-year sentence for one count of robbery 3rd and three counts of grand larceny. He has been working with PREP since 1/23 and will be released in 3/24. Currently, EN is most focused on his goal of obtaining his GED. He has taken the test several times throughout his incarceration. Each time, he passes every section except Math and thus must retake the entire exam. EN revealed to his SW that he becomes extremely anxious during the math portion, starts to panic and, as a result, doesn’t finish answering the remaining questions. His SW has been working with him on trying to increase his self-confidence and develop anxiety-related coping skills to help him refocus during the exam. Post-release, EN plans to obtain his ServSafe certification so that he can work in food service. He would like to take business classes, build his credit score, and eventually own a restaurant. SW will help connect EN with an organization called Score, which would assign him a business mentor for free to help him navigate learning about business ownership.

JV is a 30-year-old man serving a seven-year sentence for criminal possession of a weapon 3rd. He began working with PREP in 3/23 and will be released in 5/24. In their first conversation, SW discussed with JV his re-entry goals and asked him to describe his strengths. JV could not identify a single personal strength. Work with JV has focused on self-exploration, confidence building, and strength identification. One tool employed by the SW was to have JV identify people that he finds inspirational and likable and to identify what he believes their strengths are. Through related discussion, JV was then able to identify things he likes about himself and also identify his strengths. This includes his desire to learn, his creativity, and his patience. As a therapeutic tool, SW had JV participate in a written exercise whereby he recounted,

in detail, his life story. Then, during a visit, SW went through his exercise with him and helped him to identify times he used his strengths throughout his life. This enabled JV to create an inventory of personal strengths that he has to offer the world. SW is now working with JV to explore employment goals based on his strengths and interests. He has gained confidence and believes his life has meaning.