



*TESTIMONY BEFORE THE JOINT LEGISLATIVE HEARINGS*

*ON THE*

*NEW YORK STATE PUBLIC PROTECTION BUDGET*

*FOR FY2023-2024*

*CONDUCTED BY*

*THE ASSEMBLY WAYS AND MEANS & SENATE FINANCE COMMITTEES*

*Legislative Office Building, Albany, NY*

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Presented by:

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***I. INTRODUCTION***

I would like to thank the members of this Joint Committee for inviting Prisoners' Legal Services (PLS) to testify before you today. 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 FY2023-2023***

**PLS is requesting total funding of \$6.6 million for fiscal year 2023-2024.**

In her FY2023-2024 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:**

- **\$2.2 million from the Assembly; and**
- **\$2.2 million from the Senate;**
- **for total legislative funding of \$4.4 million.**

**This amount, together with the \$2.2 million from the Governor, will result in the requested \$6.6 million for FY 2023-2024.** This funding will allow PLS to:

- a. hire additional staff to adequately staff its five offices across the state – Albany, Brooklyn, Buffalo, Ithaca and Newburgh;
- b. address staffing and attrition issues caused by lower salaries and inability to provide sufficient cost of living adjustments;

- c. continue providing critical legal services to incarcerated people in state prisons and address a significant portion of the current unmet need; and
- d. bring PLS' Pre-Release and Reentry Program (PREP) to scale statewide.

PLS is requesting \$6.6 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 \$8,375,691 would be required to bring PLS to our 1991 level of funding.<sup>1</sup>

PLS is currently funded at \$4,150,000, approximately 50% of what our equivalent funding was in 1991. As such, providing total funding of \$6.6 million (\$2.2 from the Executive and \$4.4 from the Legislature) for FY2023-2024 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. PLS' CORE WORK***

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.<sup>2</sup> Our offices are in Albany, Brooklyn, Buffalo, Ithaca and Newburgh. Last year, PLS received

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

<sup>2</sup> [Find a Facility | Department of Corrections and Community Supervision \(ny.gov\)](https://www.ny.gov/department-of-corrections-and-community-supervision)

and responded to over 8,002 requests for assistance from incarcerated New Yorkers.

PLS provides critical civil legal services to over 31,000 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 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 47 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.<sup>3</sup>

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<sup>3</sup> 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."

PLS' principal activities include:

**Direct Civil Legal Services:** PLS receives, on average, between 8,000 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 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 800 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):**<sup>4</sup> 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 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 and Dutchess and Orange Counties. **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:**<sup>5</sup> 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

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<sup>4</sup> The PLS PREP project is funded, in part, by New York Community Trust and by the van Ameringen Foundation.

<sup>5</sup> PLS’ Immigration Unit is funded through the NYS Office of New Americans.

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:***<sup>6</sup> In partnership with The Legal Project<sup>7</sup> PLS provides immigration representation to individuals detained or facing detention in Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington Counties.

***Unaccompanied Minors Project:***<sup>8</sup> 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, New York. 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.

#### ***IV. PLS’ LITIGATION AND ADVOCACY***

Over this past year, PLS has litigated dozens of cases that have helped hold the Department of Corrections and Community Supervision (DOCCS) accountable and ensure that the incarcerated

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<sup>6</sup> PLS’ Rapid Response Immigration Unit is funded by the Office of New Americans.

<sup>7</sup> [The Legal Project - Civil Legal Services - Albany, New York.](#)

<sup>8</sup> PLS’ Unaccompanied Minors Project is funded through the Vera Institute of Justice.

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:

- prevented DOCCS from imposing across-the-board social media bans or bans on possession of computers, computer devices as parole conditions and required DOCCS, before banning any use of social media, to demonstrate articulable registrant-specific circumstances that: 1) raise a legitimate and particularized concern about the Registrant's risk of reoffending by using the internet, and/or 2) indicate that restrictions on a Registrant's access to social media will be the most suitable, least restrictive means of ensuring compliance with a specific goal of rehabilitation;
- reversed a District Court's decision that held that our client was not excused from exhausting his administrative remedies under the Prison Litigation Reform Act (PLRA) and found that any administrative remedies became unavailable to our client when he was transferred to a psychiatric center;
- awarded damages to individuals who were punished for engaging in protected activities associated with their roles on the Inmate Liaison Committee;
- ordered DOCCS to turn over an unredacted copy of video footage involving our client and DOCCS staff which was relied upon by DOCCS to find our client guilty at a discipline hearing;
- awarded damages to our client who was held under a "contraband watch" for 72 days during which the lights in our client's cell were kept on 24 hours a day and he was not permitted; to cover his head or his hands at any point; to have any objects in his cell other than a set of clothing with paper slippers and bedding; to leave his cell for exercise or showering; or to have visitors and phone calls, and his cell was searched and he was frisked at every change of shift;
- prevailed in two habeas corpus actions challenging the long-term detention of immigration clients;
- reversed numerous prison disciplinary hearings and dispositions, a few specifically highlighted here:
  - reversed because disposition violated the presumption against disciplining an individual for acts of self-harm under Correction Law §401(3);
  - reversed disposition because our deaf client was wrongfully removed from his hearing and denied a reasonable accommodation in violation of DOCCS Directives and the Americans With Disabilities Act resulting in expungement of 815 days of solitary confinement, restoration of loss of packages, commissary and six months of good time and return of \$165.99 that had been paid by our client in restitution;
  - reversed disciplinary hearing because the hearing officer failed to consider our client's mental state at the time of the incident (in violation of NYS law and DOCCS regulations) and imposed a confinement penalty that violated the Humane Alternatives to Long-Term Solitary Confinement (HALT) law;
  - reversed disciplinary hearing because DOCCS failed to meet its burden of proof of substantial evidence in finding our client guilty;

- reversed disciplinary hearing because DOCCS failed to afford our client his right to submit documentary evidence; and
- reversed disciplinary hearing because DOCCS failed to electronically record the hearing as is mandated under DOCCS' regulations.

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.

Finally, the recent release of the New York State Inspector General's investigation and findings regarding the persistent racial disparity in discipline of incarcerated individuals within DOCCS further underscores the importance of providing PLS adequate funding.<sup>9</sup> 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."<sup>10</sup> 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 47 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.

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<sup>9</sup> [Microsoft Word - DOCCS Racial Disparity 3780.316.2016-ALB Draft Report & Response 11.25.22.docx \(ny.gov\)](#).

<sup>10</sup> [New York State Inspector General Report Finds Persistent Racial Disparities in Discipline within New York State Prisons | Office of the Inspector General \(ny.gov\)](#).

## V. **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.

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.<sup>11</sup> 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.<sup>12</sup> In 2022, PLS' advocacy resulted in the expungement of approximately 29 years of solitary confinement from individuals' disciplinary records, the restoration of almost eight (8) years of good time and the correction of 11 years of jail time, parole time and sentencing credit – a total of 48 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

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<sup>11</sup> 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>

<sup>12</sup> <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends>

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 2022 alone, PLS saved the State over \$3.3 million.

But there are other deeper, more compelling reasons to fund PLS beyond the fact that PLS has more than paid for itself through the money it has saved the State over the past 47 years.

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 47 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 13<sup>th</sup>, when the state police and prison officials retook the prison in the bloodiest recorded conflict within the United States since the Civil War, the prison population at Attica was 1,281. Today Attica imprisons 1,570 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 31,424.<sup>13</sup> 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 2.5 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

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<sup>13</sup> See DOCCS Daily Population Capacity Report February 1, 2023.

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.

## **VI. 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 Governor Hochul for including PLS in her first Executive 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 again thank Governor Hochul for including PLS in her FY 2023-2024 Executive Budget and we ask the Legislature to add \$4.4 million to the Executive appropriation of \$2.2 million to result in total funding for PLS of \$6.6 million which will ensure PLS’ ability to continue its critically important work on behalf of the State of New York.

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## APPENDIX A

### PRISONERS' LEGAL SERVICES ADVOCACY REPORT 2022

***Bedford Hills & Albion "Warm Line" Update:*** This past year, we received 126 phone calls on the Warmline relating to a number of issues including jail time/sentencing, disciplinary, COVID-19, inadequate medical and mental health care, family law, religious expression, verbal and physical harassment, torts, temporary release, visitation, Shock and other programs, Americans with Disabilities Act (ADA), Prison Rape Elimination Act (PREA), failure to protect, education, excessive use of force, denial of parole, and criminal law issues. PLS provided counsel and advice on several cases, referred some cases to the Immigration Unit, some to the Family Matters Unit, and opened others for investigation.

***Advocacy Results in Dismissal of Charges:*** DM sought assistance with getting a charge of violent conduct dismissed; though it was one charge among others he had incurred, it was because of the violent conduct charge that he was being required to complete the ART program to receive his good time and be released on his conditional release date. DM's conditional release (CR) was rapidly approaching, and did not allow for enough time to complete ART. PLS did not yet have the hearing audio by the time of the appeal deadline, only the documentary hearing record, however, that gave us enough to work with. PLS appealed on the ground that the misbehavior report was defective with respect to the violent conduct charge. The face of the report did not identify any violent acts at all perpetrated by DM, nor did it identify any person against whom he had acted violently. In response to our appeal, DOCCS dismissed that charge, and DM was released from solitary confinement two days ahead of his CR date.

***Advocacy Results in Reduced Penalty:*** JH received 180 days SHU (with 60 days suspended) at a Tier III hearing based on allegations that he was involved in a multiple-person fight behind the bleachers. JH had been found injured on the ground in the aftermath of the fight, which had happened at night and was observed from a distance. On appeal PLS argued, among other things, a lack of substantial evidence: the only staff eyewitness to the fight never actually identified JH as a participant in the fight. Additionally, JH was not accused of possessing any weapon or causing any injury to anyone. DOCCS subsequently reversed and expunged the hearing disposition. PLS' advocacy saved 180 days SHU.

***Penalty Amended and SHU Time Saved:*** VC received 180 days SHU based on charges that he sent a letter to Acting Commissioner Annucci threatening to harm him and his family. The hearing had already been affirmed by the time VC contacted PLS, but we opened to investigate and identified two issues to raise in a request for reconsideration: 1) the Hearing Officer failed to appropriately mitigate the penalty in light of VC's mental state; and 2) the principle underlying the statutory presumption against imposing confinement sanctions for conduct in an RMHTU should apply, as VC was designated as seriously mentally ill at the time of the hearing. In response to our request, DOCCS modified the penalty to 140 days SHU, which amounted to time served. Our advocacy saved 40 days SHU.

***Hearing Reversed and Expunged:*** LM was on his way to a visit with his mother. It was his first visit since Covid restrictions lifted and she had come to celebrate his birthday. LM had to be transported to the S-block visiting area, and as he was exiting the “visit van” he allegedly kicked an officer. Disciplinary charges and a Tier III hearing ensued. LM sought assistance with a rehearing and when we received the records, PLS discovered the audio recording was nonexistent. PLS appealed on two grounds: the hearing was not electronically recorded and LM was denied a relevant witness. The hearing disposition was subsequently reversed and expunged. Our advocacy saved 180 days SHU.

***Reconsideration Saves SHU Time:*** DP received 180 days SHU for allegedly striking another incarcerated individual over the head with a meal tray in the mess hall. The hearing record included video footage of the alleged incident, yet the video we received appeared to depict a different area of the facility (and was from a different day). After repeated follow up with the FOIL officer to clarify the status of the video, PLS learned the correct video could not be found. However, the hearing disposition had been affirmed. PLS then submitted a request for reconsideration, with our email exchange with the FOIL officer attached, in which we asserted that the loss of critical video evidence precluded meaningful review of the proceeding. In response, DOCCS reversed and expunged the hearing disposition. Our advocacy saved 180 days SHU.

***Advocacy Result in Time Cut:*** HC sought assistance with a Tier III hearing at which he received 12 months SHU for weapon possession. DOCCS subsequently affirmed the finding of guilt, but reduced the SHU penalty to 180 days. While waiting to receive the hearing records PLS wrote a letter to the superintendent seeking a discretionary time cut, as HC had serious medical issues and the disciplinary sanctions were negatively affecting his treatment and recovery. Our advocacy letter resulted in a seven-day time cut.

***Advocacy Results in Review of Mental Health Treatment:*** KA had been required to wear an exposer jumpsuit while in disciplinary confinement. An exposer jumpsuit is “made of heavy-duty nylon, commonly used in luggage, that opens from the back and is padlocked around the neck. The suit is part of a little-known effort in New York called the “Inmate Exposure Control” program, which requires some inmates caught exposing themselves or masturbating in front of a staff member or visitor to wear the suit outside their cells. Large yellow signs labeled EXPOSER are also placed outside the inmate’s cell.”<sup>14</sup> KA sought assistance because more than two months after his confinement sanctions expired, he was still being forced to wear the exposer suit despite the fact he no longer met the criteria that would allow DOCCS to impose the restriction. KA reported feeling suicidal because of the humiliation that came with wearing the suit while housed in general population. PLS contacted the superintendent and asked that the facility end the use of the exposer suit; PLS also advocated for a review of KA’s current mental health treatment. In response, the superintendent said KA was no longer in the suit. KA also reported that he was no longer wearing the suit.

***Dental Records Released:*** VW was not receiving adequate dental care at Gouverneur C.F., as the facility did not have a dentist. We requested his dental records, but were subsequently told that because the facility did not have a dentist, dental records could not be released. We wrote the Superintendent asserting, among other things, that PLS’s right to receive our client’s dental

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<sup>14</sup> [In New York, Padlocked Jumpsuits for Prison ‘EXPOSERS’ | The Marshall Project](#)

records after producing a signed HIPAA release did not depend on whether Gouverneur currently had a dentist. Shortly thereafter, we received the requested records.

***Hearing Disposition Reversed and Expunged:*** JW received 201 days SHU for a number of rule violations. PLS appealed the hearing disposition on the ground that JW was denied his fundamental right to be present at his hearing. The hearing officer said he conducted the hearing in JW's absence partly because JW refused to participate and partly because JW became loud and disruptive during the hearing and had to be removed. The hearing record demonstrated otherwise; the record also lacked any evidence that JW had properly waived his right to attend or that he was informed of the consequences of his failing to attend. DOCCS reversed and expunged the hearing disposition. PLS' advocacy saved 201 days SHU and two months recommended loss of good time.

***Advocacy Results in Confirming Certified Mail:*** GL reported that he was not receiving certified mail receipts. PLS contacted the Superintendent, who told us she would investigate the issue, and assess and modify the current certified mail tracking system. PLS then learned from GL that the Superintendent had approached him with a stack of unclaimed mail receipts, and told him she wanted to remedy the situation. None of the receipts were GL's, so the facility provided him with a printout confirming that his certified mail had been delivered.

***Hearing Reversed and Rehearing Ordered:*** TB received 365 days SHU after he was found guilty of a number of charges contained in three misbehavior reports. Among the arguments PLS raised in a supplemental appeal was that TR's right to attend his hearing was violated; he participated telephonically, which we argued did not constitute being present as required by DOCCS' regulations, especially in light of TB's history of being hearing impaired. DOCCS reversed the hearing and ordered a rehearing.

***Additional Days Credited:*** MC was arrested in Florida on a NY warrant and transferred to NY by the U.S. Marshals. DOCCS and the Albany County Sheriff's Office were not crediting her with any of the time she spent in Florida and federal custody. PLS obtained records from both Pinellas County, FL and the U.S. Bureau of Prisons which we provided to Albany County. MC then received an additional 31 days of jail time credit.

***Advocacy Results in Transfer:*** JL has multiple disabilities and had been housed in the ICP at Sullivan. JL was inexplicably transferred to general population at Wende where he had difficulty adapting, and interacting with staff and other individuals. PLS wrote to DOCCS' central office advocating that JL should not have been transferred to general population at Wende due to his disabilities and requesting that he be transferred back to ICP at Sullivan. Shortly thereafter, JL was transferred back to the Sullivan ICP.

***Hearing Expunged Saving SHU Time:*** JGA was charged with assaulting another incarcerated person. Upon review, we noted that the hearing officer failed to advise JGA that she would be taking confidential testimony. In addition, the hearing officer also failed to conduct any reliability/credibility assessment of that testimony. We submitted an appeal noting these deficiencies. In response OID reversed and expunged the hearing saving her 240 days in SHU.

***Educational Accommodations Addressed:*** 28-year-old TB, requested assistance with obtaining needed accommodations for his learning disabilities. TB was diagnosed with both ADHD and PTSD at age 5, and had been unable to progress in his academic classes in DOCCS. PLS informed

the education supervisor of his educational needs, and advocated for DOCCS to obtain his high school IEPs in order to provide TB with appropriate accommodations to address his disabilities. The education supervisor agreed to do so, and received TBs IEPs per our request.

***Advocacy Results in Hearing Reversed:*** MB received a misbehavior report for weapon, contraband, altered item, and smuggling related to an incident where a shank was allegedly found in his underwear during a strip search incident to a cell search. MB initially received 180 days SHU and six months recommended loss of good time, but following the filing of a supplemental appeal, that matter was reversed for rehearing. Upon rehearing, MB was again found guilty and received the same penalties. PLS again filed a supplemental appeal, arguing that the HO failed to appropriately consider client's mental condition at the time of the hearing, denied client his right to call witnesses, and failed to maintain the electronic record. The matter was reversed, this time without a rehearing being ordered.

***Hearing Reversed:*** BD was charged with and found guilty of soliciting, smuggling, drug distribution, facility visiting violation, phone program violation and call forward/3rd party call. BD contacted PLS after his penalty was affirmed. Our request for reconsideration discussed the hearing officer's multiple threats to remove BD from his hearing, her statements that she knew he was lying, and denials of relevant witness testimony and documentary evidence. The hearing was reversed.

***Reconsideration Result in Hearing Reversed:*** KD was charged with a weapon and received a total penalty of 248 days of SHU. In PLS' request for reconsideration, we raised that the HO relied on information outside of the hearing record. In his hearing, KD introduced testimony that on his block, there was a practice of leaving cells open to support his defense that the weapon was not his. The HO interviewed staff on KD's block about this practice off the record. DOCCS reversed the hearing.

***Records Not Properly Preserved Result in Hearing Reversed:*** HF received two misbehavior reports charging him with violent conduct, direct order, assault on staff, altered item, weapon, and lost or stolen property. The HO found him guilty of all charges and imposed 180 days SHU. Our request for reconsideration argued that the record was not properly preserved for review and the penalty was detrimental to HF's close relationship with his four children. The hearing was reversed.

***Advocacy Result in Rehearing:*** At KG's Tier III hearing, KG was found guilty of assault on staff, violent conduct, disturbance, interference, direct order, search/frisk and received 180 days SHU. PLS' supplemental appeal argued that KG was denied his right witnesses when the HO denied individuals who locked near KG as a group. The HO's denial did not identify individual denials and testimony reflected that some of the witnesses refused, but there were no refusals in the record. PLS' appeal also raised the issue that due to the delay in completing the hearing, evidence to support KG's defense had been destroyed. The hearing was reversed and a rehearing was ordered.

***Disposition Reversed:*** CH was issued a misbehavior report for an incident in which he notified an officer that he was feeling suicidal, hung himself with a sheet, and was cut down. CH reported losing consciousness and coming to with officers on top of him, but CH was charged with refusing a direct order for not putting his hands behind his back for cuffing, attempted assault on staff and violent conduct for allegedly trying to bite an officer during cuffing, as well as interference with an employee for disrupting rounds. CH pled guilty with explanation to the direct order and

interference charges. CH was found guilty of all charges other than attempted assault. Notably, the HO credited CH's statements that he had not attempted to bite the CO, but found him guilty of violent conduct for his attempt to kill himself. Though his only penalty was counsel, PLS filed a supplemental appeal on his behalf, arguing that the proceeding violated N.Y. Correct. Law § 401(3)'s presumption against imposition and pursuit of disciplinary charges for acts of self-harm, failure to properly consider mental condition at the time of the hearing, lack of substantial evidence of violent conduct, and improper acceptance of plea. The disposition was reversed.

***Advocacy Result in Parole.*** PLS wrote a letter of support to the Parole Board, highlighting MJ's numerous and serious medical conditions, and asking the Board to consider his health when determining his parole release application. MJ suffers from colon cancer and is paraplegic. MJ has had seventeen surgeries since his cancer diagnosis in 2010 and is currently prescribed sixteen daily medications to address his health issues. The letter of support focused on MJ's need to be released so he can have a wider access to the services, medical care, and assistance that he needs. In February 2022, the Parole Board granted MJ parole and stated that the advocacy letter was reviewed and considered when making their decision.

***Hearing Reversed for Rehearing.*** RM contacted us after his hearing was affirmed about charges related to an assault on another incarcerated individual and for which RM received 240 days SHU. PLS submitted a request for reconsideration based on the failure to preserve the record. The hearing was reversed for rehearing.

***Much Needed Eye Drops Provided.*** Prior to his incarceration, JP was diagnosed with glaucoma, among other medical conditions. JP reported that he had not seen an eye doctor since coming into DOCCS custody and was deprived of his prism lens glasses and eyedrops, both of which mitigate his glaucoma condition. Despite multiple grievances about these issues, only after PLS reached out to the facility health services director and Superintendent, was he sent out for an eye exam, at which time he was prescribed new drops and told that his vision had greatly suffered for the lack of eye drops.

***Reversal Result in Save SHU Time.*** JR was charged with a Misbehavior Report for allegedly reaching through the hatch of his Mental Health Unit ("MHU") Residential Crisis Treatment Program ("RCTP") cell and attempting to grab a CO who was delivering toilet paper. JR was charged with Assault on Staff, Interference with Employee, and Violent Conduct. JR was acquitted of the Assault on Staff charge and found guilty of the Interference with Employee and Violent Conduct charges. A penalty of 60 days SHU, loss of recreation, packages, commissary and phone was imposed. PLS submitted a supplemental appeal asserting a failure to maintain the electronic record, a failure to adequately consider mental condition, and that the client's mental condition rendered the SHU sentence improper. The determination was reversed.

***Error Identified and Privileges Restored.*** CS participated and completed the Step-down program at Southport, but upon transfer to Auburn CF, the facility maintained he was under a loss of recreation privileges through August 2022. Loss of recreation also prevented CS from making phone calls. After a call with Special Housing, Special Housing identified an error in how CS's penalties ran, and his recreation privileges were restored.

***Advocacy Results in Medical Concerns Addressed:*** AV wrote to PLS with a variety of medical concerns related to recent strokes and diabetes, among other conditions. Through PLS' advocacy, we were able to ensure that he was scheduled for occupational therapy, new prescription footwear was requested, and he would receive a diabetic evaluation.

***Hearing Reversed for Rehearing:*** TW was charged with violent conduct, disturbance, assault on staff, direct order and movement violation. At TW's hearing, he was found guilty of the charges and received 365 days SHU and 12 months recommended loss of good time. PLS' request for reconsideration argued for reversal in that TW was denied the officer's injury report. TW's hearing was reversed and a rehearing was ordered.

***Advocacy Results in Reinstating Original Release Date:*** RS was assigned to Work Release at and was erroneously removed from Work Release. After succeeding in reversing his removal, the Time Allowance Committee would not restore him to his prior Conditional Release date. PLS advocated and RS was able to leave prison on his original Conditional Release date. RS is now home.

***Protective Custody Secured:*** AC had a \$10,000 bounty placed on him by the Bloods. AC wanted to remain in protective custody during his stay at Fishkill Correctional. PLS successfully secured PC status for the duration of his time at Fishkill.

***Advocacy Results Transfer for Medical Needs:*** RC wanted to be transferred from Franklin C.F., where he reported having problems with gangs. RC is confined to a wheelchair, and many of the mobility assistants tasked with pushing his wheelchair around the facility were gang members who wanted money for their services. When RC refused to pay, he was attacked on multiple occasions. RC also wanted to be closer to his doctors; he has a pacemaker that requires him to make regular outside medical trips. PLS advocated with Franklin's Superintendent as well as the Office of Classification and Movement. RC was transferred to a facility that can better address RC's medical needs.

***Advocacy Results in Protective Custody:*** EM, a former gang member, had assisted the Office of Special Investigations with contraband investigations at various facilities and as a result, had a statewide hit on him. When EM contacted our office, he was being threatened by gang members, and the facility had denied his request for protective custody. PLS advocated for EM's immediate placement in protective custody; shortly thereafter EM was transferred to a different facility.

***Tablet Return After Hearing Sanction:*** KP had his tablet privileges suspended at a Tier 2 hearing, despite the fact that DOCCS' Directive on tablets (No. 4425) provides that this sanction can be imposed only at Tier 3 hearings. PLS asked the Superintendent to restore KP's tablet privilege; in response to our letter, the Superintendent said taking away a SHU tablet is permissible because Directive No. 4932 § 253.7(a)(ii) permits loss of privileges at Tier 2 hearings. PLS then brought the matter to DOCCS Counsel, and we were told that facilities have final review of Tier 2 hearings. Although no one at DOCCS acknowledged the impropriety of imposing loss of tablet as a sanction at Tier 2 hearings, KP's tablet was returned to him.

***Transfer Granted:*** GG felt unsafe at Mohawk C.F., and PLS advocated for his transfer and/or placement in long-term protective custody. GG then informed us that he had been approved for a transfer but was confined in SHU. We called the facility and were told GG's transfer was

“outstanding” and no date was scheduled. We then called Classification and Movement, who agreed that SHU was too restrictive an environment and said they would promptly schedule a transfer date. Shortly thereafter, GG was transferred to Groveland.

***134 Day in SHU Saved:*** AE was confined when HALT went into effect, which was also within 60 days of his sentence maximum, May 29, 2022. Correction Law § 137(6)(m)(ii) provides for individuals to be discharged from the RRU if they are within 60 days of a fixed release date, yet AE remained confined and none of the exceptions to this provision that would permit continued segregated confinement applied. PLS successfully advocated for AE’s immediate discharge from confinement, and he was returned to general population. Additionally, AE’s rehearing concluded during this quarter. AE was found guilty, but because of the need to transfer him to general population, the confinement penalty imposed was for time served, which amounted to 136 days. As the original penalty was 270 days, our advocacy saved 134 days SHU.

***Advocacy Results in Return of Hearing Aids:*** EJ, who is hearing impaired, had his hearing aids inexplicably taken from him. After our initial advocacy efforts, EJ reported that only one hearing aid had been returned to him. EJ records showed that he had received just the one because the facility wanted him to undergo another audiology evaluation. PLS then advocated for the prompt scheduling of an audiology appointment. Shortly thereafter, the Superintendent informed us that the appointment had been scheduled, and EJ later reported that he had received his second hearing aid.

***Charges Dismissed:*** SW received two misbehavior reports based on an incident of self-harm. PLS represented him at the subsequent Tier 3 hearing and sought to call as witnesses an OMH counselor and an officer who was standing in front of SW’s cell when SW announced he was going to attempt suicide. In the process of explaining to the hearing officer (who was a Commissioner’s Hearing Officer) why we wanted these witnesses, we argued the applicability of Correction Law § 401(3) and the presumption against imposing disciplinary charges for acts of self-harm. The CHO agreed to call our requested witnesses and adjourned the hearing. The day the hearing was supposed to reconvene, however, we learned from the facility disciplinary office that the CHO had dismissed all charges.

***Physical Therapy Resumed:*** AD had sustained an injury to his knee. His medical records showed he was receiving appropriate treatment, but AD reported that his physical therapy had stopped. PLS wrote the Facility Health Services Director and asked that AD’s physical therapy resume immediately. The FHSD responded that AD had another five sessions scheduled.

***Advocacy Results in Transfer:*** TR needed protective custody because he was being threatened by Bloods gang members. (The threats stemmed from TR’s cooperating with the police which, in turn, had led to the incarceration of a prominent Bloods member). PLS wrote Mohawk’s Superintendent as well as the Office of Classification and Movement and requested TR’s immediate placement in protective custody. Shortly thereafter, TR informed us that he had been approved for protective custody, but was being kept in SHU. PLS then sent a second advocacy letter to the same recipients to remind them that placement in SHU as protective custody was barred by HALT. TR was subsequently transferred to Collins C.F.

***Release Scheduled:*** At AP’s first appearance before the Parole Board, in December 2021, she received a 7-month hold and was instructed to complete ASAT in the interim. AP was scheduled to

reappear before the Board in June 2022. AP was already an active client, and as her scheduled reappearance was nearing, she told us she had been unable to make any progress toward completing ASAT for four months following the initial parole denial. PLS sent a letter to the Board outlining the reasons for AP's delayed start to ASAT, which were through no fault of her own, and asked that she not be penalized for her failure to complete the program by the time of her reappearance. PLS also asked that any remaining substance abuse concerns be addressed via community-based programming. AP was not penalized and is scheduled to be released on July 21, 2022.

***Advocacy Results in Enrollment in Stepdown Program:*** MA was serving two years of SHU confinement. MA had been denied consideration for enrollment in the SHU stepdown program (SDP) because he is legally blind; he reported that staff had advised him that no facilities with accommodations for sensorial disabilities offered the program. PLS initially advocated with Sullivan's superintendent and DOCCS' ADA Coordinator, but did not receive a satisfactory response. PLS then contacted DOCCS Counsel's office and requested MA immediate review for stepdown eligibility, together with any necessary accommodations to allow him to enroll in the program—whether at a facility already offering SDP or at a facility already equipped to accommodate sensorial disabilities—or to otherwise receive the benefit of an expedited pathway to release from SHU. Several weeks later, MA was enrolled in the stepdown program at Mid-State C.F.

***Transfer Achieved:*** SM's security status changed from maximum to medium. SM had put in a proximity transfer request for the Clinton hub to be closer to his 14-year old son, but was sent to Upstate C.F., a maximum-security facility. PLS successfully advocated with Classification and Movement for SM's transfer to a medium in the hub.

***Advocacy Results in Dental Intervention:*** RC complained of severe dental pain caused by an overbite and decaying teeth, which he has struggled to get resolved since coming into DOCCS custody nearly 10 years ago. RC reported that with the condition he was unable to fully close his mouth, and impacted his ability to eat, speak and concentrate. Five Points dental staff told him that he needed to see an outside surgeon. After PLS advocacy, dental staff extracted a number of the painful teeth and have scheduled RC for replacing others and RC reports that he is relieved of all pain.

***Advocacy Results in Gender Affirming Reevaluated:*** GG was denied gender affirming surgery in 2019. Per DOCCS' draft policy on this issue, GG is supposed to be reevaluated on a yearly basis; however, he has not been reevaluated since 2019. In partnership with colleagues at the Legal Aid Society, PLS advocated for her to be reevaluated, and she is scheduled for this appointment in August. PLS was also successful in getting her gender affirming clothing restored, as she was not being provided with said clothing after it was lost during a transfer.

***Visitation Suspension Modified:*** DM's partner contacted PLS because she and their three-month daughter went to visit DM and were later accused of introducing a weapon into the facility. As a result, DOCCS suspended the baby's privileges until December 2022 and the mother's privileges indefinitely. DM took accountability for the weapon, a 'jail-made object' in his words, and PLS appealed on DM's family's behalf. As a result, DOCCS reversed its decision concerning DM's

daughter's suspension and reinstated her visitation privileges. DOCCS modified his partner's indefinite suspension to a 3-month full suspension, 2-year suspension of contact visits, with regular visitation privileges resuming thereafter.

***Application for Limited Time Credit Allowance Processed:*** RL wrote because his application for Limited Time Credit Allowance was verbally denied due to "COVID start/stop times" and that program assistants were not working. RL's application was submitted not for programming, but as a college student of the Cornell Prison Education Program. RL completed 64 credits of college study over the course 9 semesters, with only two-Tier II hearings in his disciplinary history. PLS contacted the central office, who promptly directed facility guidance staff to meet with RL and process his application.

***Conviction Reversed and Expunged:*** A wooden shank-type weapon was found on TL's bed during a cell frisk. TL was charged and pled guilty to violations of Rules 113.10 (Weapon) and 113.11 (Altered Item). A penalty of 120 days SHU and loss of privileges was imposed. Following a supplemental appeal in which PLS argued improper failure to consider mental condition, failure to maintain the electronic record, and illegal confinement sanction, the conviction was reversed and expunged.

***Medication For Rheumatoid Arthritis Provided:*** PP wrote to PLS suffering greatly from untreated rheumatoid arthritis. Pre-incarceration, PP had been provided Mobic by a hospital, but DOCCS was not prescribing it to him. PP was provided a number of ineffective medications. After reviewing his pre-incarcerated records and DOCCS records, PLS advocated for him to be provided Mobic and he was finally prescribed it.

***Transfer Results in Completion of Program:*** MB was sentenced to the 90-day Drug Treatment Program at Willard. Upon Willard's closure, MB was transferred to Lakeview DTC. Because Willard was an OMH Level 2 facility, but Lakeview is Level 3, this transfer resulted in the cessation of her Seroquel prescription. PLS requested that DOCCS give her the Seroquel, and transfer her to another facility so she could participate in an alternative program. DOCCS transferred her to Albion so she could complete her DTC program, and was released to the community on time.

***Advocacy Results in Enrollment in Program:*** CR was sentenced to 1 1/3 to 4 years with a Shock order for DWI and related charges. Because the Penal Law does not authorize a judicial Shock order for those offenses, DOCCS ignored her Shock order and refused to enroll her in a Shock Alternative program after CR was disqualified from traditional Shock based on her OMH level. PLS wrote to DOCCS' Office of Sentence Review and requested that DOCCS either honor CR's sentence by enrolling her in a 6-month Shock Alternative program, or else send notification of the sentencing error to both the sentencing court DA and CR's criminal defense attorney pursuant to Correction Law § 601-A. The Office of Sentence Review chose to enroll CR in a Shock Alternative program thus allowing her to be released from prison 9 months earlier.

***Advocacy Results in Emergency Transfer:*** GE is a transgender woman who requested assistance after being transferred to Attica. GE was gang raped at Attica in the 2000's and suffers from PTSD as a result. GE was in SHU status at the time of her transfer, but refused to go back into general population when her sanctions ended out of fear for her safety. GE stated she would engage in a hunger strike to avoid gen pop housing at Attica. PLS advised GE that she would face court ordered forced feeding if she continued her hunger strike, and counseled her against doing so. PLS

submitted an emergency transfer request to both the DOCCS PREA coordinator, Jason Effman, and the Attica Superintendent. DOCCS responded that GE had been transferred to Wende. Jason Effman responded separately confirming GE's transfer, and reporting that she would be interviewed so that her PREA risk assessment could be updated. Post transfer, GE advised us that while she remained concerned, the atmosphere at Wende was considerably better.

***Seizure Disorder Requires Bottom Bunk:*** CD contacted PLS from Collins where he was suffering from seizures and denied a bottom bunk. PLS contacted the Collins Superintendent via both phone and e-mail urging her to immediately provide CD with a bottom bunk due to his seizures as being in a top bunk was a threat to his health and safety. The facility then placed CD in a bottom bunk.

***Credit For Additional Days Granted:*** BT contacted PLS via the Albion warmline reporting that she was owed credit for a September 2020 period when she was held in local custody on misdemeanor charges that were resolved by her present felony plea and conviction. The Franklin County Jail confirmed BT was held for 5 days in September 2020 on a misdemeanor but explained he was unaware whether that misdemeanor was resolved by BT's current felony. The jail provided the Court and case number for the misdemeanor to us. PLS contacted the Malone Town Court which confirmed the misdemeanor was discharged via the felony, and they provided us with a Jail Time certificate which we forwarded to the Franklin County Jail which issued an amended Jail Time certificate for BT giving her credit for an additional 5 days.

***Hearing Reversed and Expunged:*** EW was denied the medical records of the correctional staff who charged him with assault in a Misbehavior Report. The hearing officer said EW was not entitled to them under HIPPA. EW's defense was that he was defending himself from assault by the correctional staff. The hearing was reversed and expunged. A new hearing was ordered where EW will again demand the medical records of the correctional staff.

***Advocacy Results in Necessary Medical Needs:*** RS has been trying to get a bed wedge and compression socks for over two years. After strenuous advocacy by PLS, RS finally can sleep with support and have less worry about blood clots in his legs.

***Transfer Granted For Hearing Impaired Individual:*** NJ was at Green Haven, not receiving services for a hearing-impaired person. PLS was able to get NJ transferred to a facility with better services for deaf people. NJ now has a sign on his cell stating that he is deaf. NJ is no longer receiving disciplinary tickets for not hearing the count. PLS also was able to get the medical director at his new facility to schedule an appointment with an audiologist to have him checked for a hearing aid.

***Access to Programming and Services Granted:*** TC was prevented from accessing any programming or services in the school building at Bedford Hills Correctional Facility. The decision to bar TC was based upon a confidential witness. After PLS's advocacy, we were able to prevent a blanket bar from the school building and TC may now access programming and services there.

***Advocacy Results in Debt Collection Stopped:*** RH was being pursued by debt collectors for a \$55.00 payment owed to Albany Medical College. PLS intervened, and after explaining that RH was not responsible for any medical bills incurred while he was incarcerated, the law firm that had been trying to collect payment stopped.

**Hearing Reversed:** LC received 730 days SHU and loss of attendant privileges, and 365 days recommended loss of good time for a number of charges stemming from an incident at an outside hospital where he allegedly jumped out of bed, ripped out all the medical devices attached to him and charged for the door. In a request for reconsideration, PLS argued that LC's right to call witnesses was violated; the HO failed to appropriately assess LC's mental condition at the time of the incident; and that the penalty was cruel, unusual and a violation of HALT. In response, DOCCS reversed the hearing and ordered a rehearing which the facility decided not to conduct. Our advocacy saved 730 days SHU and 365 days RLGT.

**Advocacy Results in Transfer:** RT complained of ongoing verbal harassment by staff at Sullivan C.F. PLS successfully advocated for his transfer to Elmira.

**Advocacy Results in Safe Transfer:** JH was worried about his safety once he was released from Fishkill's RRU due to conflicts with Bloods gang members. JH was particularly concerned about being transferred to Great Meadow, Coxsackie and Clinton, given their large Bloods populations. PLS alerted DOCCS to the expected dangers JH faced if transferred to one of these facilities. JH was subsequently transferred to Attica, where he reported feeling safe.

**COVID Vaccine Provided:** RL transferred to Wallkill to participate in the Family Reunion Program, which required a Covid vaccine. RL reported that he had been trying for six months to get vaccinated, without success; medical staff purportedly told him that Albany would not send the vaccine to the facility. PLS reported the matter to Deputy Commissioner Dan Martuscello, and said it was our understanding that every individual in DOCCS custody who wanted a Covid vaccine could get one. PLS also said we knew the Department previously put considerable effort into vaccinating incarcerated individuals, and asked that the same effort be made toward vaccinating RL as soon as possible. PLS received a letter from the Dep. Comm. informing us that the Moderna vaccine was offered at Wallkill. He also provided the dates of RL's first dose and when RL would expect to receive the second dose.

**Advocacy Results in Documents Obtained:** PLS first successfully appealed a constructive denial of Tier III hearing records and incident reports requested on behalf of JM. The records we received, however, were heavily redacted and we discovered an additional 14 pages of documents that had been withheld on the basis that disclosure would endanger the life or safety of any person. PLS appealed the redactions again and received seven of the previously withheld pages as well as less redacted versions of other documents already obtained.

**95 Days in SHU Saved:** LF received 365 days SHU for allegedly faking a suicide in an attempt to assault officers. Among the issues PLS raised on appeal was that the penalty violated HALT; we asserted that the nature of LF's alleged misconduct did not fall within one of the seven categories in Correction Law § 137(6)(k)(ii) allowing for confinement beyond three days, and no determination had been made that LF's conduct was so heinous or destructive that placing him in general population risked the safety of others. DOCCS affirmed the hearing disposition, but reduced the penalty to 270 days. PLS's advocacy saved 95 days SHU.

**Advocacy Result in Placement in Reception Dorm:** KR felt unsafe at Greene Correctional Facility – except in the reception dorm. There were cameras there, and everyone residing in the dorm was escorted around the facility. KR wanted to remain in the reception dorm until his scheduled release in August 2022. PLS advocated with the facility as well as with DOCCS' Counsel's Office, and while

the facility did not respond to our letter and Counsel's Office responded by saying they could not advise on KR's placement status, we were evidently successful as KR remained in reception until he was released from custody.

***COVID Booster to be Provided.*** RH was concerned about receiving the COVID booster. RH had been overlooked during the last booster clinic at his facility and wanted to be sure he would receive the second booster shot. PLS brought the issue to the attention of DOCCS' Chief Medical Officer, and in response, she told us RH had been added to the list of individuals for the next booster clinic.

***Hearing Reversed, SHU Time Save.*** CM received 180 days SHU and three months RLGT after he was found guilty of a number of charges stemming from an incident in which he was assaulted by staff. As of the supplemental appeal deadline, PLS had not yet received the audio record and submitted an appeal based on review of the documentary record only. The appeal was denied. PLS then received and reviewed the audio recording, which contained substantial gaps – nearly fifty percent of the hearing had not been recorded. PLS submitted a request for reconsideration asserting that CM was deprived of his right to an electronic recording of the hearing. We also reiterated an argument that had been in our initial appeal; namely, that the penalty was arbitrary and capricious, and an abuse of the hearing officer's discretion. In response to our request for reconsideration, DOCCS reversed the hearing in full without ordering a rehearing. PLS's advocacy saved 180 days SHU and three months RLGT.

***Advocacy Results in Appointment with Time Allowance Committee:*** Due to a sex offense ticket that was ultimately reversed, KA was required to complete sex offender programming. The Time Allowance Committee informed KA that he would not be released because he failed to complete the sex offender program and was set to max out. After PLS advocacy, KA was scheduled to see the Time Allowance Committee again without the incorrect program information.

***Advocacy Results in Visitation Privileges Reinstated:*** JD's partner contacted PLS after a terrible wedding day. Upon arrival to the facility with their 4-year old son, JD's partner was subject to a canine inspection. Officers told his partner that the canine alerted to drugs, and that she could not enter the facility for their wedding. JD's partner pleaded with officers to search her, and removed clothing to demonstrate that she did not have contraband on her person. Despite having women on staff to perform a search, the facility refused to allow her to enter and called the NYS police to ticket JD's partner for trespass and suspended her from visitation indefinitely. PLS submitted an appeal on JD and his family's behalf and his partner's visitation privileges were reinstated.

***Appeal Results in Reduction in Penalty:*** KJ caught a Tier III for refusing to double cell, interference and direct order. The HO imposed 120 days without privileges and one month recommended loss of good time. Upon supplemental appeal, raising KJ's history of childhood trauma and his efforts to obtain an education during the nearly 30 years of incarceration, Special Housing reversed KJ's interference charge, reduced his penalty to 75 days and removed the one month of recommended loss of good time. The facility also changed KJ to single cell status as a result of PLS advocacy.

***Advocacy Result in Needed Heart Surgery.*** WJ needed open heart surgery to correct a leaking valve, but it was delayed due to DOCCS failure to complete the required exams/paperwork for WJ to be cleared for surgery. PLS advocated to numerous facility medical staff regarding WJ's need for surgery and for the clearance paperwork to be completed. Through advocacy WJ was cleared and received open heart surgery.

***Hearing Reversal:*** EM was charged with Assault on Staff, Violent Conduct, Creating a Disturbance, Direct Order, and Interference with an Employee, related to an incident in the Five Points CF mess hall in which EM was charged with grabbing and striking an officer in the face. EM received a sentence of 512 days SHU, 500 days loss of recreation, packages, and tablet, and a recommended loss of six months good time. PLS's request for reconsideration argued that evidence viewed at the hearing had not been preserved and EM's rights to call witnesses and to be present for witness testimony were denied. Special Housing reversed the hearing.

***Tier II Reversed and Expunged:*** JB was among numerous incarcerated individuals requesting assistance with Tier III dispositions and allegations of staff misconduct following the lockdown and facility wide searches by CERT teams at Attica C.F. In a Request for Reconsideration PLS argued improper denials of potentially exculpatory evidence, improper denial of the UF records, an improper witness refusal and HO bias. DOCCS reversed and expunged JB's Tier III, saving him 240 days SHU confinement and loss of privileges.

***Disposition Reverse and Re-Hearing Ordered:*** WW was among numerous incarcerated individuals requesting assistance with Tier III dispositions and allegations of staff misconduct following the lockdown and facility wide searches by CERT teams at Attica C.F. In a Request for Reconsideration PLS argued improper witness denials, denial of employee assistance, improper denial of the UF records, and HO bias. DOCCS reversed the disposition, and ordered a re-hearing, saving 270 days SHU.

***Advocacy Results in Access to Commissary:*** QB is detained at Wende on a substitute jail order from Monroe County jail. Although his family had transferred a significant sum to his JPay Commissary account, staff at Wende told him he could not access commissary because he is a local inmate. After PLS' intervention, QB was given access to commissary.

***Advocacy Results in Protective Custody:*** JR wrote to PLS requesting assistance with getting Protective Custody. JR had made the decision to exit a gang and knew that it meant he would be in danger for the remainder of his term. PLS advocated with Superintendent regarding this issue and JR was placed in long term PC status for the duration of his time at the facility.

***Additional Insurance Error Corrected:*** PK wrote to PLS regarding a practice at Green Haven of the package room requiring incarcerated individuals to purchase additional insurance when sending packages. This practice is counter to DOCCS policy laid out in Directive 4911. PLS advocated with Superintendent regarding this issue, who advised PLS that the practice was now corrected, signage would be posted to ensure that the charges were no longer automatically applied, and that the ILC would be apprised of this correction.

***Advocacy Results in Much Needed Medical Supplies:*** RS has been our client since March 2020. PLS successfully advocated for him to get his CPAP machine replaced in 2021, and we have been advocating for him to get his medically prescribed bed wedge and compression socks for the same condition. The advocacy was successful and RS received those items.

***Advocacy Results in Care for a Hearing-Impaired Individual:*** NJ is deaf and was in a facility with poor accessibility, with no accommodations. PLS has successfully advocated for him to be transferred to a more appropriate facility, at Wende. NJ was prescribed a hearing aid and

audiologist appointment in 2021, but never received the follow up care or the medical device he needed, and PLS advocated successfully for him to receive that care with the medical services director once he was transferred to Wende.

***SHU Penalty Reduced:*** CC received 730 days SHU and 600 days loss of attendant privileges after he was found guilty of assault. PLS argued that CC was denied effective assistance when the hearing officer refused to read requested documentary evidence into the record and did not allow CC to review the evidence before calling witnesses. PLS also asserted that CC was improperly denied a relevant witness and improperly removed from his hearing; and a 730-day SHU penalty was grossly excessive and in direct violation of HALT. In response to our appeal, Special Housing reduced the SHU penalty to 365 days. PLS' advocacy saved 355 days SHU.

***Advocacy Results in Modified SHU Penalty:*** JG received 270 days SHU and loss of privileges and six months recommended loss of good time after he was found guilty of violent conduct, creating a disturbance, assault on staff, and fighting. PLS argued that JG was denied relevant evidence: he had requested video but was informed by the hearing officer that no video existed. As a result of our own FOIL request, however, we had evidence that video footage did, in fact, exist. PLS argued further that the penalty imposed was in violation of the limits set forth in DOCCS SHU Confinement Guidelines and the HALT legislation. In response, Special Housing modified the SHU penalty to 90 days. Our advocacy saved 180 days SHU.

***Advocacy Results in 365 Days of Commissary Saved:*** LG received 365 days SHU and loss of privileges and was ordered to pay \$499.95 in restitution following an incident in which he allegedly propelled an unknown liquid smelling of urine and feces out of his cell and struck a security captain as he was making rounds in the RMHU. Upon requesting the hearing records, we learned there was no audio of the hearing. PLS raised the failure to electronically record; we also argued that the imposition and pursuit of disciplinary charges violated the SHU Exclusion Law, and the penalty imposed violated HALT. The hearing was reversed and a rehearing ordered. PLS did not review the rehearing, but learned LG had been found guilty again. He received the same SHU penalty, but the loss of phone privileges only and no restitution. Our advocacy saved 365 days loss of commissary and packages, and \$499.95 in restitution.

***Advocacy Result in Much Needed Medical Care:*** AK sought assistance with a number of health issues. As a result of our advocacy with the facility Superintendent and FHSD, AK's testosterone replacement therapy was resumed, he was provided a cane, and he was given a program participating waiver for mobility reasons. AK was then transferred, where he reported that he was not receiving his blood pressure medication, his cane had been confiscated, and he was not being permitted sneakers. PLS' advocacy resulted in the restoration of his medication and passes for AK for a cane and sneakers.

***All Charges Dismissed:*** PLS represented MF at a Tier III hearing. MF, whose OMH level is 1S (the highest level), had been charged with threats, stalking, harassment, refusing a direct order, and harassment. PLS raised several arguments at the hearing. First, we argued that the misbehavior report did not contain any allegation of stalking and as such, that charge was not supported by substantial evidence. Second, we argued the misbehavior report was fabricated, and the charges were the result of the officer's personal animosity toward MF and his sex offense; we established this by having MF testify to past harassment by the officer, and by calling a witness who testified to overhearing the officer harass MF. Third, we argued that with the exception of threats, none of

the charges could result in confinement under HALT; further, the alleged threats in this instance did not meet the statutory criteria authorizing confinement. The hearing officer refused to allow PLS to be present for the reading of the disposition, but we learned from MF that all charges were dismissed.

***Advocacy Results in Transfer to RRU:*** RB had been in SHU for 25 days, and was told he would not be transferred to an RRU. As RB is only 20 years old, he falls within a “special population” under HALT, and the statute provides that special populations shall not be placed in segregated confinement for any length of time, without exception. We wrote to DOCCS Counsel and the Superintendent and requested RB’s immediate removal from SHU. Shortly thereafter, Mr. B was transferred to an RRU.

***Advocacy Results in Transfer:*** GC was judicially ordered to serve his sentence in the Parole Supervision Program at Lakeview CF, but remained at Gouverneur CF due to a paperwork mistake. PLS obtained a copy of the court order from GC’s public defender and sent it to the IRC at Gouverneur. GC was then transferred to Lakeview.

***Name Change Finalized:*** GP, a citizen of both the United States and Canada, was trying to change his name in accordance with the Canadian Truth and Reconciliation Commission’s program to give Indigenous people an opportunity to change their legal documents to reflect their Indigenous names. GP had completed the entire application with the exception of fingerprinting. He had the option of sending ink or electronic fingerprints, but DOCCS refused to take them or assist with the process. With the help of the Canadian Consulate, we learned DOCCS would accept only a request for fingerprints made by a law enforcement agency. The Royal Canadian Mounted Police made such a request, but what they received were fingerprints from GP’s decade-old arrest, which did not suffice – Canada’s Vital Statistics Agency, the office responsible for effecting the name change, required fingerprints to be taken expressly for the name change application. That agency sent PLS their specific fingerprinting card, and we arranged a legal visit with GP to take the prints ourselves. Around nine months after we initially opened this case, GP’s name was finally changed.

***Advocacy Results in Appropriate Medical Treatment:*** TB raised a number of medical issues concerning eye care, physical therapy, accommodations for impaired hearing, and the discontinuation of pain medication. In an advocacy letter to the Facility Health Services Director, PLS requested that TB’s eye appointment with an outside specialist be rescheduled, he be given 80% tinted glasses in accordance with previous specialist recommendations, he be provided headphone accommodations and hearing aids, and he be prescribed an effective pain medication. In response to our letter, the FHSD said TB was provided the recommended tinted glasses, a follow-up neuro-ophthalmology appointment was rescheduled, and an appointment with an audiologist to evaluate TB’s hearing aids was requested. The FHSD also said the headphones were being investigated and the matter of TB’s pain management was being assessed and would continue to be treated appropriately.

***Reverse and Expunged Hearing Disposition:*** JA was charged with, and found guilty of, weapon and contraband after a cutting type weapon was recovered during a suspicion cell search. On appeal PLS argued that JA was deprived of his right to observe the search when he was escorted to the shower at the start of the search without the requisite determination that allowing him to observe the search presented any kind of institutional threat, and that he was deprived of his right to representation when the HO failed to make a reasonable effort to identify the incarcerated

individual JA had requested as his representative. PLS also argued that the confinement penalty was excessive and impermissible under HALT. In response to our appeal, DOCCS reversed and expunged the hearing disposition. Our advocacy saved 388 days SHU.

***Medical Hold Granted:*** FE sought protective custody due to longstanding conflicts with the Bloods gang. He had been in long-term PC at Wende C.F. but then was transferred to general population at Great Meadow C.F. As a result of our advocacy, FE was initially placed in protective custody at Great Meadow before being transferred to general population at Clinton C.F. and then to protective custody at Auburn C.F. FE reported feeling safe at Auburn, but then learned he was due to be transferred to general population at another facility. FE did not want to leave Auburn; in addition to feeling safe there he had also been approved for medication-assisted therapy. PLS successfully advocated for FE to receive a medical hold, which allowed him to remain at Auburn.

***Recalculation Results in Jail Time Credit:*** TB wrote that he had been jailed continuously from May 2020 through coming into DOCCS custody, but was only credited with 206 days of jail time. TB did not owe other time from prior sentences. After discussions with the Erie County Sheriff's Department, they identified the error and corrected his jail time certification. TB received 625 days of jail time credit, and DOCCS recalculated his release dates accordingly.

***Advocacy Results in Hearing Reversed:*** GG was charged in a misbehavior report with violations of Demonstration, Creating a Disturbance, Refusing Direct Order, and Interference with Employee. The misbehavior report alleged that GG's gallery was entering the corridor to go to the mess-hall when another individual stopped the officer to ask a question. All individuals then stopped and refused direction. GG then allegedly asked the officer "why the main yard was being split", and the officer again directed the other individuals into the mess-hall, but they did not move. GG then allegedly gestured with his hand to indicate to other individuals that they should enter the mess-hall, which they allegedly then did. Following chow, it is alleged that the individuals on GG's gallery refused to lock in until GG indicated by hand gestures that they should lock-in. GG is an individual whom DOCCS has recognized as having a sensorial disability and has classified as "Hard of Hearing," and has approved GG for reasonable accommodations, including TTD/TTY, telephone amplifier, sound amplification systems "as needed for programs", hearing aids and batteries, notification systems, and shake awake alarm. A hearing was begun by one hearing officer but was discontinued and the recording apparently destroyed. A second hearing was conducted over speakerphone where GG had none of his assistive devices. The hearing officer found GG guilty of all charges, and sentenced him to 180 days SHU and loss of packages, commissary, phone, and special events, as well as three months loss of good time. Despite GG's likely exclusion from segregated confinement, under HALT, GG was actually held in SHU for at least 25 days. Following a supplemental appeal in which PLS argued a lack of substantial evidence, and that GG was denied reasonable accommodations, representation, assistance, his right to be present, right to call witnesses and present documentary evidence, to know and respond to the evidence, and multiple HALT Act violations, the hearing was reversed.

***Advocacy Results in Contact with Family Member Resumed:*** CG is in RTF status but held in the unit for cognitively impaired. One of CG's parole conditions restricted him from any contact with his mother. Because CG has multiple serious medical conditions and at times, limited capacity to make medical decisions, he designated his mother to act as his healthcare proxy. After PLS advocacy, parole removed the condition, allowing them to resume contact.

***Medical Test Scheduled:*** JH wrote to PLS because he was experiencing weakness in his legs, difficulty walking, and pain while sitting. JH medical history included three herniated discs in his lower back and one in his neck, all of which required surgery to address. As a result of our advocacy, JH was scheduled for an MRI to identify the cause of his pain/weakness.

***Advocacy Results in Requested BiPAP Machine:*** ML suffers from severe Sleep Apnea. He reached out to PLS because his CPAP machine no longer provided him relief, and needed a BiPAP machine. Unfortunately, he was denied a BiPAP machine by his provider and was told it wasn't necessary. Through PLS' advocacy at the facility level, ML was given a BiPAP machine, which has alleviated his Sleep Apnea symptoms.

***Successful Medical Advocacy:*** JM contacted PLS because he was experiencing various pain issues, complications related to various serious medical concerns, and an inability to perform his work assignment. PLS successfully advocated for him to be removed from his job placement due to the strain it placed on his legs. After advocacy to Five Points medical, he was transferred where he has been provided a wheelchair cushion and evaluated for surgical remedies for arthritis pain in his hands.

***MAT Granted Prior to Release:*** HP wrote to us seeking MAT, as he had been on MAT from 2011-2021, including at least some of the time he was in county jail. HP is slated for release in December 2022, so it was especially important that he be prioritized for MAT. After extensive advocacy to facility and central office medical staff, we contacted central DOCCS administration and as a result of this advocacy, HP was finally prescribed MAT prior to release.

***Advocacy Result in Necessary Surgery:*** MS was diagnosed with Bladder Cancer while in county jail. Since being transferred to Elmira Reception, MS had not received needed care to address his diagnosis. MS was concerned that the cancer would spread if gone untreated for any longer. As a result of our outreach to the Regional Medical Director, MS was promptly scheduled for surgery.

***Hearing Reversed for Rehearing:*** AW was charged with violations of, assault on staff, threats, violent conduct, creating a disturbance, refusing a direct order, and 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 alleges 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. Following his hearing, AW was found guilty of all but the direct order charge and sentenced to 400 days SHU and loss of packages, commissary, and phone, 100 days loss of tablet and special events and two months loss of good time. On supplemental appeal we argued denial of right to representation, to call witnesses, and to documentary evidence; multiple HALT Act violations; and failure to properly consider mental health status. The hearing was reversed and a rehearing was ordered.

***270 Days of SHU Time Saved:*** JA requested help with a Tier III disposition following the Attica C.F. lockdown which included facility wide searches by DOCCS CERT teams and multiple allegations of staff misconduct. PLS noted several issues at JA's hearing including improper witness denials, improper denial of the UF records, and HO bias. PLS submitted a Request for

Reconsideration, DOCCS reversed the hearing, and ordered a re-hearing. PLS' advocacy saved 270 days SHU time.

***Hearing Reversed and Expunged:*** TS was denied key staff witnesses at a Tier III hearing for assault on staff charges and was sentenced to 45 days of SHU. OID reversed and expunged the hearing after our supplemental appeal, saving him 45 days.

***Jail Time Credit Issued:*** AC requested assistance with her Jail Time. She was sentenced for her present felony conviction on 12/14/21 and was subsequently transferred to DOCCS on 2/2/22. Dutchess County, the county of commitment, refused to certify the 12/14/21 to 2/2/22 period because AC was sentenced on a town court matter after her state sentence, and was serving that misdemeanor term during the 12/14/21 to 2/2/22 period. PLS determined Dutchess County was violating the law by not certifying the period at issue to AC's felony. After repeated contacts with both the Dutchess County Sheriff and the Dutchess County Attorney's office, the County issued an amended certificate, giving AC credit for the 12/14/21 to 2/2/22 period, which saved her 51 days of jail time.

***Advocacy Results in 264 Days in Jail Credit:*** RD requested assistance with his Jail Time. He was held in Monroe county for a 264-day period in 2019 on charges underlying both his concurrently running Monroe and Genesee county sentences. PLS learned that RD's controlling Genesee county sentence was not being credited with the 264 days of Jail Time he identified. This was because the Genesee county sentence was imposed well after the Monroe county sentence and after the original Genesee indictment number was re-assigned to a new SCI number. According to DOCCS, under the new SCI number, RD was not arrested on the Genesee matter until after he was in DOCCS custody for the Monroe county sentence, thus they were not crediting the Jail Time. This was not accurate, and after inquiring with the Monroe county jail, we verified RD was indeed held on the charges underlying his Genesee sentence. After numerous requests to DOCCS and the county, a Jail Time certificate for the 264-day period was issued. DOCCS applied the credit and RD's release dates were updated saving him 264 days.

***Jail Time Credit Results in Release:*** EM was sentenced to two separate 4+2 determinate sentences in Schenectady and Albany counties. The Albany county sentence was ordered to run consecutive to the Schenectady sentence, and included a judicial Shock order. Although EM was under age 50 and Shock-eligible at the time of sentencing, he was over the age of 50 when he became Shock eligible in DOCCS custody. DOCCS therefore disregarded his Shock order. PLS wrote to the Office of Sentencing Review, stating that DOCCS cannot simply disregard a criminal sentence, and, to the extent DOCCS believes a sentence cannot be lawfully implemented, it is required to contact the sentencing court and counsel for the parties as a matter of state law and constitutional due process. In response, DOCCS wrote to the sentencing judge and counsel for the parties in the case in which EM had received the Shock order. The sentencing judge calendared the case for resentencing, EM was represented and was resentenced to a concurrent, rather than consecutive, 4+2 sentence. This resulted in the immediate expiration of his prison sentence and release from prison, saving him 34 months of prison time plus 2 years of PRS based on his prior max date (8/16/25) minus when he was actually released (10/11/22).

***Advocacy Results in Programming:*** BC reached out to PLS for assistance with programming in the TRI-IP unit. BC was not being scheduled for any type of programming and was in his cell all day, which was exacerbating his schizophrenia symptoms. PLS advocated with the facility. BC

reported that he is now being placed on callout for programming.

***Protective Custody and Transfer for Safety:*** HO reached out to PLS to report that he was being threatened and extorted, felt very unsafe, and was not leaving his cell. PLS conducted counsel calls with him, to clarify his needs, after which PLS advocated with the facility. As a result of our advocacy, HO was placed in Protective Custody and transferred to Wallkill. HO reports feeling much safer at the new facility.

***Advocacy Result in Resolve Postal Issue:*** PK is at the Green Haven C.F. who wrote to PLS at the end of the last year complaining of a practice at the facility of requiring purchase of insurance on every package sent out. This was contrary to the Directive 4911, which stated that all packages sent shall be receipted by the carrier and if a receipted carrier is not used, the incarcerated individual must insure the package in order to get a receipt. Because every parcel that is mailed is receipted these days, insuring packages should not be required. PLS did several rounds of advocacy to get this issue resolved, and was ultimately successful in advocating with the superintendent, who responded to our advocacy efforts with an explanation that the issue has been investigated and corrected by educating the staff and posting clear directions about the insurance being optional.

### **THE PRE-RELEASE AND PRE-REENTRY PILOT PROGRAM (PREP)**

The PREP program was designed to assist incarcerated persons serving the maximum sentence to find holistic programming to meet their needs both before they leave the Department of Corrections and Community Supervision (DOCCS) and as they re-enter their community. The pilot was limited to individuals returning to the Bronx and Manhattan but this past year PREP has expanded its service area to Dutchess and Orange Counties in addition to the five New York City boroughs. We have also expanded the time we work with clients in pre-release to eighteen months from twelve months.

**SB** is a 42-year-old man who was released in early September 2022 after serving a three-year bid for Attempted Robbery 3<sup>rd</sup>. It was his third prison bid. SB returned to Staten Island, where he has since found full-time employment in construction. SB has been successful in obtaining his state ID, and with the assistance and guidance of his PREP SW, SB was able to achieve his goal of securing his own apartment on Staten Island. SB plans to obtain his conditional driver's license and PREP SW is working with client to find a night-school to earn his GED.

**RR** is a 51-year-old who was released in February 2022 after serving a two-year sentence for a parole violation. RR was released to Long Island City, and was homeless upon re-entry. His PREP SW collaborated with Exodus Transitional Community prior to his release to secure RR a hotel placement through Exodus. PREP SW also assisted client in reinstating his SSI benefits. RR has been in recovery since his incarceration in 2019 and expressed interest in working in the field of addiction and recovery. Based on his stated goal, his PREP SW connected him to The Fortune Society, and RR enrolled in their program to obtain a certification in social service work and peer recovery support. He has completed multiple employment trainings and has applied for a part-time position as a peer support person. In his free time, he has been assisting others at the shelter to connect with Fortune Society and welfare. RR has reconnected with his family and has been

spending a lot of time with them.

**AT** is a 31-year-old man who was released in September, 2022 after serving a six-year sentence for Aggravated Criminal Contempt and Criminal Contempt 1<sup>st</sup>. AT entered the shelter system upon his release. During his incarceration, his SW was able to visit frequently due to geographic proximity. This was helpful in establish a strong therapeutic alliance early on. AT identified his employment goals as to either work in a hospital or nursing home setting due to his enjoyment in working with the elderly, or to also work in the field of maintenance. Based on these goals, his PREP SW referred him to Project Renewal's Next Step Program which will provide AT with related job training. AT is also interested in obtaining his GED, and his SW referred him to Opportunities for Better Tomorrow, which has a robust adult education program. DOCCS had scheduled a Suboxone appointment for AT, and PLS will assist AT in finding a drug counseling program convenient to his shelter placement. AT has displayed concerning attitudes and inappropriate social behavior that appear to be related to an undiagnosed mental illness. His PREP SW is working to keep him engaged to gain further insight into his unmet psychiatric needs.

**HW** is a 24-year-old male who was released from Green Haven Correctional on 12/16/2022 after serving a four (4) year bid for a probation violation and a subsequent charge of promoting prison contraband. PREP has been working with HW since January, 2022. His re-entry SW has also been working with his mother since that time. Prior to his release, PREP SW worked with HW's ORC as well as various reentry organizations to coordinate his care. SW set up appointments for HW to complete an intake at both GOSO (Getting Out Staying Out), an organization for individuals aged 18-24, and The Osborne Association. On the day of HW's release, his SW received a call from HW's mother that he had been picked up on a bench warrant in Nassau County. HW was subsequently released the next day. Upon his release, HW entered the shelter system in Brooklyn. He went on his own to the HRA office near his shelter and PREP SW supported him over the phone during this appointment. HW completed the intake appointment at GOSO that was scheduled by his PREP SW prior to his release. HW also visited Fortune Society. HW is eager to find ways to spend his free time. Due to his love of animals, PREP SW found a number of animal welfare organizations accepting volunteers to assist HW with spending his free time productively and enjoyably. HW also enjoys reading. His PREP SW took him to the library near her office to pick out a book to read and will help HW obtain a library card once his State ID comes in the mail.

**YV**, a 26-year-old male, began working with PREP in September, 2022. He was released in December, 2022 after a two-year sentence for Criminal Possession of a Weapon 3<sup>rd</sup> SUB 1, 2, 3. Normally, PREP requires a minimum of six (6) months pre-release enrollment, but YV had an extended illness and thus was unable to submit his PREP application in a timely manner. He wrote a letter explaining this and pleading for the opportunity to have his PREP application reviewed and accepted. As such, an exception was made. YV has been actively engaged since enrollment and meets twice weekly with his PREP SW. YV lives with his parents in Crown Heights, Brooklyn. He is incredibly motivated and has been actively seeking his driver's license and employment. PREP SW is assisting YV in completing the steps to obtain his license. While at the DMV, YV was informed that he has an unexpired permit on file. PREP SW determined that YV needed to take a five-hour driving course, which he recently completed, and he will now need to complete a road test. PREP SW will assist YV in scheduling his road test. PREP SW and YV have begun to revise and edit YV's resume so that he can begin applying to jobs. YV has a history of selling drugs. PREP SW has begun to work with YV on identifying his values and working with him to identify steps that will enable him to live his life aligned with those values, which are incongruent with a return to selling drugs.

YV also utilizes PREP SW to process his relationships with his family, particularly those with his strict parents and his mentally ill brother.

**MD** is a 35-year-old male who was released in April, 2022 after a three-year term for Criminal Contempt 1<sup>ST</sup>. MD resided with his sister on Staten Island upon release. PREP SW supported MD and his sister navigate their unstable relationship. Ultimately, the living arrangement proved to be unhealthy for both, and PREP SW supported MD through his separation from his sister and through the shelter intake process. He currently resides in a Brooklyn shelter and maintains an alternate weekly in-person/telephone meeting schedule with SW. PREP SW assisted MD in completing his resume and helped him through the application process for the NYC Parks Department where client has now secured employed.

**MS** is a 21-year-old Youthful Offender who is serving a three-year sentence on two counts of robbery and will be released in December, 2023. He began working with PREP in September, 2022. PREP SW has begun establishment of rapport with MS through monthly legal calls, and PREP SW will visit MS at Upstate Correctional in February. PREP SW sent MS a therapeutic exercise called “Life Story” to help him explore his past, his present and to identify his future goals. This led to MS opening up about his youth in foster care, and has enabled MS and SW to begin to process the extensive childhood trauma he has experienced. It has served to help MS identify realistic, measurable goals for his release. MS suffers from lymphedema of the leg and has been prescribed compression stockings since his incarceration. However, upon his recent transfer to Upstate Correctional Facility, he was told they did not have any related documentation to identify this need and therefore would not be given any compression stockings. He wrote several letters and even brought this up with medical personnel at Upstate, but was told he would not be given a prescription for this necessary item. The PREP Team collaborated with the attorney staff in the Newburgh Office to advocate on behalf of MS to have this medical need addressed. Newburgh attorneys sent an advocacy letter to the Superintendent on behalf of MS and he subsequently received this medically necessary garment. MS expressed deepest gratitude for this advocacy.

**MF** continues to do well and is maintaining his sobriety. He has done so well as a case manager for Exodus, they offered him a promotion to Resident Advisor. MF declined this position because he felt that the cons (particularly leaving his current co-workers) outweighed the increase in salary MF and his PREP SW have a weekly sixty-minute counseling sessions.

**AH** is presently incarcerated and has no contact with anyone on the outside for five years. His PREP social worker has been his only visitor. AH has monthly calls with PREP. Because AH is visually impaired, his PREP social worker will visit to complete the forms needed to obtain birth certificate.

**IL** is a 31-year-old man who was released in August 2022 after serving a four-year sentence for Burglary 3rd. On his release date, IL reportedly had a drink with his friends, came home and went to bed, then reportedly experienced a “sleep-walking episode” in which he put on running clothes, went for a jog, and was found unconscious on the street approximately 17 hours later. IL was found to have rhabdomyolysis, a serious medical condition that can be fatal or result in permanent disability. IL is recovering slowly and his left side remains largely without function. IL’s PREP SW has provided support to IL and his family throughout his intensive care unit stay and now during his inpatient rehabilitation admission. IL and SW have worked together to help IL process his experience in his changing body and adjust to his current circumstance. Despite his current situation, IL remains excited and motivated to pursue his passion of culinary arts and attend a

related training program through Project Renewal.

**CF**, a youthful offender, has made great strides working with his PREP SW to explore his trauma history, how it impacted his choices, and establish concrete goals for his release. Unfortunately, Chad lost his immigration hearing, despite a compelling report from his PREP SW, and was ordered deported. An appeal was filed. PREP SW is now working with Chad to establish a plan if he loses his appeal because CF would be deported to a country he has not lived in since he was one-year old and where he has no social supports.

**JV** recently reached his first full year of release. We are so proud of him.

**JO** returned home June 2021. JO independently secured a security job at a shoe store. He was enjoying greeting the people as they entered the store. He has also been maintaining his merchandise business.

**KJ** contacted Access-a-ride, completed his initial screening and secured rides with the service, which he uses regularly. KJ is also navigating a lawsuit pro se against police officers who used undue force against him during his arrest.

**DF** has connected with a mentor on the outside while incarcerated. His mentor is a reverend who is coaching DF about how to work with marginalized youth, a passion of DF. DF has also been requesting information about publishing his writing, which he uses to cope during his incarceration. He has goals of being published and well-known.

**LM** worked with the housing counselor at his shelter to secure a section 8 voucher and is currently in the process of searching out housing. He works on the weekends for a warehouse. LM has been re-connecting with his daughter who lives out-of-state and is looking forward to her visiting.

## **EDUCATION**

PLS continues to review education intakes to determine advocacy strategies and potential plaintiffs for ADA litigation regarding DOCCS systemic failures to provide reasonable accommodations in the learning environment, and for IDEA due process complaints and potential litigation. We are also continuing advocacy for individual clients including providing advice and assistance regarding obtaining academic and vocational programming, waivers when appropriate, high school diplomas, and college degrees. We also advocate for psychological evaluations which are necessary to diagnose learning disabilities, and provide appropriate reasonable accommodations.

Failure to successfully complete programs, including academic and vocational, negatively impacts one's ability to obtain early release and parole, and to have a successful re-entry.

The creation of RRUs pursuant to the HALT bill has led to a number of challenges in receiving both academic and vocational education programming. We are investigating these matters including compliance with the IDEA, ADA and the HALT bill. DOCCS' requirement that all adults (over 21)

in an RRU receive academic education programming via cell study presents obstacles to receiving an education for all individuals, and specifically for adults who learn differently.

**AC**, a former Attica education client, requested assistance from PLS regarding being in jeopardy of being transferred once again prior to his completion of his associate's degree from REJI (Rochester Education Justice Initiative) due to a change in his security status and end of the Fall semester. We advocated with the Education Supervisor for a continuation of AK's education hold. He responded that the hold will remain in place and that he would personally assure AK, who was quite anxious, about the hold.

**MB** is 57 years old, has learning disabilities and was in Adult Basic Education (ABE) for 7 years during his current incarceration, and for 19 years during his previous incarceration. During these times, he had no accommodations for his learning disabilities. ABE is the most basic academic class for individuals whose grade level is below 6<sup>th</sup> grade. They must test out of ABE by scoring higher than a 6<sup>th</sup> grade level on the TABE exam. Then the individual is enrolled in pre-HSE (High School Equivalency) if their score was between a 7<sup>th</sup> and 9<sup>th</sup> grade level. If they score above a 9<sup>th</sup> grade level on the TABE exam they would be enrolled in HSE. MB has been in prison three times and now has a life sentence with his earliest release date in 2029.

**AR** is 41 years old and has learning disabilities. He spent 10 years in ABE, 3 years during his current incarceration and 7 years during his previous incarceration. During these times, he had no accommodations for his learning disabilities. He recently advanced to the Pre-HSE academic program in 2020.

PLS will be advocating for both **MB** and **AR** regarding review of their psychological evaluations, and ensuring that they receive the necessary accommodations for their learning disabilities.

### **PRO BONO**

***Hearing Reversal:*** RW was found guilty of assault on staff, violent conduct, direct order, visibility obstruction, and weapon, and not guilty of demonstration at a, Tier III hearing. RW was given a penalty of 365 days SHU, 365 days loss of privileges, and 365 days recommended loss of good time. The misbehavior report alleged RW covered the window of his cell and refused to respond to officers or remove the covering. According to the report, when officers entered the cell, RW charged the officers with a weapon and cut one of the officers on the arm. Pro Bono Counsel, Ms. Trabocchi submitted a supplemental appeal on RW's behalf, which resulted in a reversal of the hearing with a rehearing ordered. Ms. Trabocchi's assistance regarding RW's rehearing is pending under a different case number.

***Advocacy Results in Dismissal of Charge and Reduced SHU Sanction at Rehearing:*** GC was found guilty of weapon, contraband and smuggling, and not guilty of drug possession at a Tier III hearing based on a misbehavior report that alleged GC was seen by a CO dropping suspected contraband in a PREA drop box. A small bundle containing pills, a green leafy substance, and a razor blade were recovered from the drop box. The penalty imposed included 330 days of SHU. The hearing was reversed, with a rehearing ordered, after pro bono attorney Cathy Sliwinski filed a supplemental appeal. GC was found guilty at the rehearing of all 4 charges, including drug possession, and received 275 days of SHU. After Cathy filed a supp. appeal arguing, among other

things, that the guilty finding on drug possession was improper given the not guilty finding on that same charge at the original hearing, the rehearing was modified, dismissing the drug charge and reducing the SHU sanction to 191 days.