



TESTIMONY BEFORE THE JOINT LEGISLATIVE HEARINGS

ON THE

NEW YORK STATE PUBLIC PROTECTION BUDGET

FOR FY2022-2023

CONDUCTED BY

THE ASSEMBLY WAYS AND MEANS & SENATE FINANCE COMMITTEES

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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 FY 2022-2023

PLS currently has six offices statewide, located in proximity to most of the state's 52 prisons. Our offices are in Albany, the Bronx, Buffalo, Ithaca, Newburgh, and Plattsburgh. Last year, PLS received and responded to over 7,800 requests for assistance from incarcerated New Yorkers. In response, PLS provided representation on a myriad of issues relating to conditions of confinement including:

- advocating for proper medical and mental health care with a special focus on those writing about Covid-19 concerns;
- helping ensure that sentences are calculated accurately;
- challenging illegal disciplinary hearings that resulted in solitary confinement and loss of good time;
- fighting to restore the visitation rights of parents with their children;

- guaranteeing that youth under 22 and adults with disabilities are provided the educational and vocational programs to which they are entitled;
- representing hundreds of individuals every year in deportation hearings;
- advocating on behalf of veterans and youth suffering from mental illness; and
- preparing individuals who are “maxing” out of prison for successful reintegration into their communities.

For FY 2021-2022, PLS received total State funding of \$3,550,000. We received \$2.2 million in Executive funding and \$1.35 million from the Legislature (\$750,000 from the Assembly and \$600,000 from the Senate.) This funding allowed PLS to maintain its recently opened Mid-Hudson office and to open a small office in the Bronx, two of the three offices PLS was forced to close due to sharply decreased funding during the Pataki Administration. The Mid-Hudson office, located in Newburgh, New York has helped alleviate, to some degree, the burden placed on our Albany office by the prior office closings, as the Newburgh office now covers requests for assistance from, and representation of, individuals at Downstate, Fishkill, Green Haven, Bedford Hills, Taconic and Sing Sing prisons. Our new Bronx office is now the home of our new Pre-Release and Re-Entry Pilot Project (PREP), a program that focuses on assisting people scheduled to be released from prison on their maximum release date with pre-release planning and then working with them upon release to ensure their successful reintegration.

For the 2022-2023 fiscal year, Governor Hochul has maintained PLS’ prior Executive funding by including PLS in her Executive budget for \$2.2 million. **PLS is requesting both houses of the Legislature to jointly add \$2.4 million(\$1.2 million**

from the Assembly and \$1.2 million from the Senate) resulting in total funding of \$4.6 million. This funding will allow PLS to:

- a. adequately staff its six offices across the state – Albany, Bronx, Buffalo, Ithaca, Newburgh & Plattsburgh;
- b. continue providing critical legal services to incarcerated people in state prisons and address a significant portion of the unmet need;
- c. continue COVID-19 related advocacy; and
- d. expand PLS' PREP program in the PLS Bronx office.

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 provides critical civil legal services to over 30,000 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 46 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.¹

PLS' principal activities include:

Direct Civil Legal Services: PLS receives, on average, 10,000 requests for assistance annually 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.

¹ 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 the provision of civil legal services to low-income and disadvantaged clients; increasing the provision of 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.

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 child'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.

Mental Health Project: Our Mental Health Project (MHP) focuses on the needs of youth under 21 and veterans who suffer from mental illness. We focus on these two populations because they are two of the largest segments of the prison population and include the most vulnerable people. Youth under 21 and veterans experience higher rates of mental illness than are experienced by other groups of prisoners. Through our MHP, eligible individuals obtain needed mental health care and we work to ensure that they are not subjected to conditions, such as long-term solitary confinement, that exacerbate their mental illness.

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, enforce visitation orders and draft child support modification papers. The Unit 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 sixty (60) individuals and firms have been recruited to accept cases, and hundreds of prisoners have had legal representation that they otherwise would not have had.

Albion and Bedford Hills Telephone Program: Our Albion and Bedford Hills Telephone Programs involves a partnership between DOCCS and PLS. Since its inception in 2014, more than 700 women have received legal assistance 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:² Our Pre-Release & Reentry Project is a holistic approach to reintegration focused on incarcerated individuals from the Bronx and New York County who are within six to 12 months of their maximum release date. PLS sends these individuals a questionnaire designed to identify their needs and then accepts those individuals into the program who are most likely to benefit from our services. We then work with these individuals for six to 12 months prior to their release from prison, providing representation focused on preparing them for reintegration into their community. To maximize the likelihood of a successful transition, we focus on issues related to:

- Pre and post release education and programming;
- Discharge planning relating to medical and mental health care;
- Locating housing;
- Procuring legal documentation;
- Assisting with job placement;
- Resolving immigration issues;
- Obtaining benefits;
- Re-establishing family connections; and
- Upon a person's release, connecting our clients with available resources in NYC, such as the Fortune Society, Osborne Association and the Doe Foundation.

We follows these clients for up to a three-year period after their release to gather statistics on recidivism and, in turn, assess the successfulness of the program.

PLS Newsletter: PLS publishes a bi-monthly newsletter, *Pro Se*, which advises prisoners 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, we produce and provide more than 75 educational memos on various prisoner rights issues. We continually update and add to

² The PLS PREP project is funded, in part, by New York Community Trust and by the van Ameringen Foundation.

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: We partner with law schools to provide training and mentoring for students who work via work study, clinics, internships, externships or pro bono.

Immigration Unit:³ The Immigration Unit provides representation to all immigrants in New York State prisons who are facing deportation hearings. PLS' immigration unit, which opened in 2014, handles over 300 deportation cases annually. In 2015, the success rate for incarcerated individuals facing deportation hearings without representation was reported to be 2%. The success rate for clients represented by PLS attorneys has been close to 38%.

Rapid Response Unit:⁴ We provide immigration representation to individuals detained or facing detention in Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren, Washington, Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, St Lawrence County jails.

Unaccompanied Minors Project:⁵ 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 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 where unrepresented children in HHS custody, care provider managers, or other relevant persons are required by immigration court practice and procedures to file paperwork with DHS or DOJ;

³ PLS' Immigration Unit is funded through the Office of New Americans.

⁴ PLS' Rapid Response Immigration Unit is funded by the Office of New Americans.

⁵ PLS' Unaccompanied Minors Project is funded through the Vera Institute of Justice.

- 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 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:

- ensure that the Sexual Assault and Reform Act (SARA) residency restrictions are properly applied;
- adopted a bright-line rule that an incarcerated person has exhausted their administrative remedies under the Prison Litigation Reform Act (PLRA), once they have appealed to the Central Office Review Committee (CORC), and the CORC's time limit to render a decision has expired;
- mandated that DOCCS "explain, in reasonable detail, the basis for their determination that [our client was] not an appropriate candidate for medical parole," finding that DOCCS' refusal to certify an individual for medical parole exhibits 'irrationality bordering on impropriety' without some reasonable explanation as to why he is not an appropriate candidate for medical parole."
- reversed a prison disciplinary hearing because DOCCS failed to comply with due process and DOCCS' own regulations by denying our client his right to call witnesses at his disciplinary hearing;
- reversed DOCCS' initial denial of merit time to a client who was forced to leave the SHOCK incarceration program because she suffered two broken legs;
- reversed a disciplinary hearing based upon lack of substantial evidence and DOCCS' failure to follow its own protocols regarding the duty to inventory an individual's property upon their admission to solitary confinement;
- found that DOCCS' refusal to comply with a judicial order for SHOCK incarceration on the basis that the client had received drug-related misbehavior reports was in violation of Correction Law §867 (2-a). [This section of the law provides a distinct process for individuals who have been

judicially sentenced to SHOCK and permits the screening committee to examine only whether the individual has a medical or mental health condition that would prevent him from completing the SHOCK program in determining whether to admit him];

- reversed and expunged a disciplinary determination by DOCCS based upon DOCCS' failure to follow its own procedures with respect to allowing an individual to observe a cell search; and
- reversed and expunged a disciplinary determination by DOCCS based upon DOCCS' failure to call the witnesses requested and failing to provide our client, who was blind, the hearing materials in an accessible format in violation of the Americans with Disabilities Act, (ADA), the Rehabilitation Act and DOCCS' Directive #4932.

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 DOCCS' drug testing program⁶, further underscores the importance of providing PLS adequate funding. In her report on pages 16 – 17, Inspector General Lang lays out PLS' role in bringing the false positive issue to the attention of DOCCS; a role that was critical in DOCCS' final decisions to suspend Buprenorphine testing, reverse sanctions and alert the Inspector General of the problem.

⁶ Lang, Lucy, NYS Inspector General, "Investigation of New York State Department of Corrections and Community Supervision Incarcerated Individual Drug Testing Program," January 2022. Available at: https://ig.ny.gov/system/files/documents/2022/01/doccs-microgenics_2764.316.2019_alb_report_20220103.pdf

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 form of confinement which significantly increases recidivism rates.

In 2021, PLS' advocacy resulted in the expungement of approximately 17 years of solitary confinement from individuals' disciplinary records, the restoration of almost four (4) years of good time and the correction of nine (9) years of jail time, parole time and sentencing credit. 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.⁷ As a result, in 2021 alone, PLS saved the State over \$2 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 46 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 has helped to promote prison and public safety for over 46 years. A look-back at where things stood when the Attica uprising occurred is instructive.

On September 10, 1971, when a group of incarcerated individuals took over the D-yard at Attica, and three days later, on September 13th, when the state police and

⁷ <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends>

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 1,644 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 50 (soon to be 44) prisons and a population of approximately 30,416.⁸ 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, including continuing to address the COVID-19 crisis in the prisons, is just one example. PLS' ability to immediately address situations like COVID and, in the past, HIV Aids, Hepatitis C, etc., while continuing to insist on transparency, provide oversight and offer direct legal services to thousands of incarcerated New Yorkers every year, has been instrumental in helping to prevent another Attica. The New York State Association of Criminal Defense Lawyers (NYSACDL) has stated that PLS' "work has made the prisons safer, more humane and less violent." New York State Bar Association Past President Stephen Younger stated: "One of the greatest values of PLS is that it works to avoid conditions of confinement that resulted in the devastating Attica riot. PLS is – and should remain – a vital, integral part of the state's criminal justice system and a critical component of public

⁸ See DOCCS Daily Population Capacity Report January 20, 2022

safety.” 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 2022-2023 Executive Budget and we ask the Legislature to add \$2.4 million to the Executive appropriation of \$2.2 million to ensure PLS’ ability to continue its critically important work on behalf of the State of New York.

Dated: January 25, 2022

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**PRISONERS' LEGAL SERVICES
ADVOCACY REPORT
2021**

Bedford Hills "Warm Line" Update: Over fifty women signed up for the warmline this past year. The women sought assistance regarding criminal appeals, parole eligibility and other sentencing issues, information on clemency, visitation and custody/guardianship, placement in SNU, mental health medication, medical care, medical parole, suspension of statute of limitations, obtaining records from Rikers Island, applying for stimulus check, and challenging a disciplinary incident in the Court of Claims.

Albion "Warm Line" Update: This past year, we received 140 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, Shock and other programs, 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 Medical Shower Provided: JV has various bladder, prostate and kidney issues. JV reported that staff were not allowing the daily medical showers his provider had recommended for hygiene, PLS' successful advocacy on this issue resulted in the Facility Health Services Director (FHSD) notifying us that a daily medical shower permit had been issued to JV.

Review of Hearing Results in Reversal & Expunge: AR-F had been released early under DOCCS' Correction Law § 73(10) release program, but was subsequently arrested for violating an order of protection which, in turn, violated a term of his release and AR-F was returned to state custody, whereupon he received a misbehavior report for absconding. The incident described in the report related to AR-F's arrest and had absolutely nothing to do with absconding, but he was found guilty and received a penalty including 30 days keeplock. PLS appealed on substantial evidence grounds, but the appeal was rejected because no initial appeal had been submitted within 30 days following AR-F receipt of the hearing disposition as required by 7 NYCRR § 254.8. PLS then called Special Housing, explained the ridiculousness of the charge and asked them to review the hearing. They did, and the disposition was reversed and expunged.

Reconsideration Result in Dismissal: CR received two virtually identical misbehavior reports. Both were written after CR defecated metal on two consecutive days, and charged him with contraband, altered item, and smuggling. In a supplemental appeal PLS argued that the charges violated Correction Law §401(3) and the presumption against disciplining people for self-harming behaviors. PLS also argued that none of the charges were supported by substantial evidence. In response, Special Housing dismissed both smuggling charges and one altered item charge, and reduced the penalty from 270 days keeplock to 105 days. Shortly thereafter, we obtained CR's OMH records, which not only established CR's decompensating mental health and repeated self-harm in the days prior to the incidents, but also showed that the defecated metal resulted from one ingestion/incident, thus providing additional grounds for the illegality of the second misbehavior report. PLS submitted a request for reconsideration, upon which Special Housing dismissed the remaining charges, resulting in a savings of 105 days confinement.

Advocacy Results in Long-Term Protective Custody: JK sought assistance with obtaining long-term protective custody: With a history of being a confidential informant for police departments in the capital region, JK's safety was at risk in every correctional facility in which he had been placed. PLS advocated with Classification and Movement and subsequently learned that JK had been transferred to Hudson Correctional Facility, which is now being used as a long-term protective custody facility.

Advocacy Results in Move for Medical Condition: PS had an order to reside on the first floor "flats" at Great Meadow due to severe asthma, but security staff ordered him to the second floor, which they insisted was also considered the flats. After obtaining PS's medical records, which included an active order for the first floor only, we contacted the Superintendent and asked that PS be moved to the first floor immediately. PS was moved shortly thereafter.

Amendment of Delinquency Date Corrected: JH was returned to DOCCS custody as a PRS violator with a "hold until maximum" assessment. JH received a preliminary delinquency date in February 2019 upon failing to report to his parole officer, but at his final revocation hearing the ALJ modified the final delinquency date to March 2020. As a result, his PRS would have continued to run throughout his time in the community and should have expired in September 2019. DOCCS, however, had JH's final delinquency date a full year earlier, in March 2019, and had calculated that his PRS would not expire until December 2020. PLS contacted the Office of Sentencing Review to request amendment of JH's delinquency date consistent with his revocation minutes. They responded the following day to inform us JH's dates had been corrected, and he was released from prison later that same day. Our advocacy saved 75 days sentence computation time.

Unnecessary Medical Invoices Corrected: In December 2019, WF was inexplicably admitted to an outside hospital as a civilian instead of as a prisoner. WF subsequently and erroneously began receiving monthly bills from Mohawk Valley Health System (MVHS) in the amount of \$7,594.39. WF had received seven bills by the time he contacted PLS; he reported that no one at his facility had been responsive to his requests for help. PLS resolved the matter by calling the business office of MVHS and explaining that WF should not have been billed.

Advocacy Results in Reversal of Tier III and Transfer: Following an assault on CG by other prisoners, CG's mother reported that CG was in Upstate Medical Center with facial fractures, lacerations and bruising. CG was also charged with violent conduct, fighting, assault on staff and refusing a direct order. Overcoming many obstacles to investigation, PLS was able to get the Tier III hearing related to the incident reversed and successfully advocated for the client's placement in unit for the cognitively impaired at Fishkill.

Advocacy Results in Hearing Reversal: At his Tier III hearing, despite the fact that TJ took full responsibility for his actions, the hearing officer imposed 720 days SHU and recommended 365 days loss of good time. In addition, the second session of the hearing was not recorded. Confronted with this information, the Office of Inmate Discipline reversed the hearing and ordered a re-hearing.

Advocacy Result in Medical Parole to Nursing home: EB had been attacked at Riker's Island many years ago. His body and brain deteriorated over the years until he was paralyzed from the neck down. PLS assisted the Deputy Commissioner and Chief Medical Officer in the request for medical parole by also sending a letter to the parole office. PLS described the condition of EB and additionally noted that it took time to find a nursing home bed which could be lost if there was a delay in granting medical parole. EB was released to the nursing home near his mother and his brother.

Transfer to Continue Education Granted: NC is a Bard BPI student. PLS won a reversal on his Tier III hearing, but while his case was pending, NC was transferred to Clinton Correctional Facility. The Bard BPI program does not extend to Clinton. After much advocacy, Deputy Commissioner and Director of Programs noted that Mr. Colon's transfer back to the Green Haven Hub to continue his education is a high priority.

Medical Advocacy Result in Needed Medication: PLS submitted a medical advocacy letter on behalf of AD who was unsatisfied with the medical treatment he was receiving for his chronic respiratory problems, which include constant issues with his ear, nose, and throat. AD informed PLS that certain medications he received at home helped with his respiratory problems which he asked for, but did not receive at Fishkill. PLS submitted a medical advocacy letter on AD's behalf to Fishkill. AD recently informed us that he was given the medications that his doctor at home had recommended.

Release from SHU and Transfer: PLS contacted Special Housing, the Office of Classification and Movement, and Fishkill's Superintendent on behalf of DF, who reported that he was being held in SHU for approximately 14 days over his SHU release date. Special Housing confirmed that there were not any holds on DF's record and that he did not receive additional sanctions to warrant him being held in SHU. The Office of Classification and Movement informed PLS that they were investigating the matter. PLS then called the Superintendent, who advised that DF was just released from SHU for transfer to a different facility.

Transfer Granted: LM requested PLS' assistance due to the conditions inside of Green Haven SHU, including pest infestations, hot temperatures, and problems with electricity. PLS contacted LM's counselor about these issues and LM's counselor said that he would report these issues to officers. PLS then submitted a FOIL request for records of pest inspections and various protocols used to maintain conditions inside of Green Haven SHU. LM was then transferred to a different facility.

Advocacy Results in Time Saved: This has been a long-running and complex sentence calculation case (since 2018), involving the relationship between a federal sentence and two concurrent aggregate New York State terms he is currently serving in DOCCS custody, and that we finally favorably resolved. The result is the running of a federal sentence concurrent with his New York sentence, effectuating the discharge of that federal sentence and thus saving almost 4 years (46 months) of time. In order to obtain credit for the years TJ already had been serving in state DOCCS custody, federal prison officials would need to agree to the designation of New York State as an institution in which the federal sentence could be served and satisfied. Given the administrative bureaucracy and hurdles involved, together with the past nine months of pandemic-

related additional complications in getting responsive actions, it was only in October 2020 that we finally were able to obtain confirmation from federal authorities that his federal sentence of 46 months was deemed satisfied and discharged as of November 2019. Accordingly, through this 2+ year endeavor, PLS ultimately was able to save and spare TJ from having to serve an additional 46 months in federal prison consecutive to the service of his state prison term.

Advocacy Result in Replacement of Glasses: JD contacted PLS concerning his need for his eyeglasses. JD noted that upon his transfer to Upstate his eyeglasses and brown case were lost. JD filed grievances which were not acknowledged, but he was told his glasses would only be replaced if he agreed to a \$50.00 disbursement, funds he states he does not have. PLS relayed his allegations to the Superintendent. The Superintendent promptly responded, reporting that after investigation new glasses had been ordered at no charge and would soon arrive.

Transfer Out of SHU Granted: ET's mother contacted PLS advising that ET had completed his SHU sanction, but remained confined at Upstate. She stated that his property had been packed up for quite some time, leaving him in an empty cell. She indicated ET had been getting mixed messages from day to day about his status and when he might be released from confinement. PLS confirmed with Special Housing that ET had completed his SHU sanction due to a time cut. PLS contacted the facility Superintendent and ET was thereafter transferred out of Upstate.

Advocacy Result in Proper Medication: GC, a 79-year-old man, contacted PLS regarding access to Lumigan, a prescription eye medication used to control high intraocular eye pressure. GC has only one functioning eye and his vision in that eye had been deteriorating for years until the intraocular pressure was brought under control by Lumigan. GC was recently transferred to Groveland, where the medical department changed his prescription from Lumigan to Latanoprost, a medication which medical staff at other facilities had already tried and found ineffective. PLS advocated to the FHSD at Groveland to prescribe Lumigan because his prior history showed that Latanoprost was not effective. DOCCS then had GC seen by a specialist who recommended he receive Lumigan. DOCCS discontinued the Latanoprost re-prescribed Lumigan.

Jail Time Credit Granted: YR needed help with a six-month period of Jail Time in 2019 which was not credited to her current conviction. When YR was arrested on the charges underlying her present sentence, she was also held on a misdemeanor violation of probation (VOP) sentence and this was why she was not receiving full credit. This misdemeanor VOP resulted in a sentence of time served, which entitled YR's current sentence to the full six months of Jail Time credit. PLS contacted the Albany County Sheriff to advise them of YR's credit issue and requested an amendment. The Sheriff issued an amended Jail Time certificate, granting YR the full credit, and saving her 175 days. She has since been released from DOCCS custody.

Certificate for Jail Time Credit: JR, a returned Shock parole violator, noted a Jail Time credit issue involving two months of credit in 2017. PLS contacted the Albany County Sheriff to confirm JR's custody, and requested a Jail Time amendment. The Sheriff issued a new certificate, saving JR 62 days.

Advocacy Results in Transfer to Shock Program: AW requested assistance with DOCCS denial of his placement into the Shock program despite the fact that he was sentenced with a Judicial

Shock order. AW became time eligible for Shock in August 2020, but DOCCS, pursuant to an eligibility screening, determined AW was unsuitable for the program based on a prior Tier III disciplinary matter. PLS argued to DOCCS that the suitability screening was unlawful and in violation of the 3rd Department's decision in *Matzell v. Annucci*, 183 A.D.3d 1 (3d Dept. 2020), and requested AW's immediate placement into Shock. In October 2020, AW was transferred to Lakeview and DOCCS confirmed he would be placed into Shock. He can now be released as early as April 22, 2021, which is over two years sooner than his next nearest release date.

Good Time Credit Granted: AP was previously enrolled in Phase I of CASAT at Albion, but was removed after a Tier II hearing at which she was found guilty of failing to report an injury related to an act of self-harm. Counseling staff subsequently informed her in writing that unless the CASAT removal and Tier II hearing were removed from her record, she would be denied good time credit and would not be released on her CR date. PLS wrote to the Albion Superintendent and TAC and requested that this incident and related program removal not count against AP. She was subsequently granted all of her good time credit and released on her CR date.

Advocacy Results in Merit Time Credit: WO signed out of the Lakeview Shock program in 2018 due to a chronic medical condition that made it difficult and painful to participate. WO satisfied all requirements to earn a merit time allowance, but DOCCS refused to grant him the time based on his voluntary failure to complete Shock. As a result, he was held past his merit eligibility date of July 24, 2020, and told he would not be eligible for parole release until February 27, 2021. PLS advocated that denying merit time credit to WO amounted to unlawful disability-based discrimination pursuant to the ADA. WO subsequently received the merit time credit, appeared before the Parole Board, and was released to parole on December 2, 2020 saving him 87 days on his sentence.

Hearing Reversed and Expunged Saving Days on Sentence: JG is a 21-year old with various mental disabilities and a long history of disciplinary issues in DOCCS. While at Wende, JG was found guilty of various charges at a Tier III hearing and sentenced to 180 days in SHU and loss of privileges and visitation. PLS submitted a supplemental appeal arguing that the hearing officer should have considered JG's mental state and intellectual capacity and taken testimony from OMH and guidance/educational staff. OID reversed and expunged the hearing decision saving JG 180 days

Advocacy Results in Reversal and Expungement of Tier III Rehearing: PW was charged in a misbehavior report with assault on inmate, fighting, violent conduct, creating a disturbance, weapon and contraband. The report alleged that PW and three other inmates were involved in an altercation during which one of the participants sustained a laceration to the left side of his face requiring treatment at an outside hospital. The Sergeant who authored the report later testified that he did not witness the incident, but had viewed a video recording of the fight the following day, and it appeared that PW was the inmate who had caused the slashing injury. At the Tier III hearing on the charges, PW was removed, ostensibly for repeatedly interrupting the hearing officer. PW was found guilty *in absentia* of all charges and a penalty that included 365 days of SHU confinement and an additional 32 days of prehearing SHU confinement was imposed. PLS filed a supplemental appeal on PW's behalf claiming, among other things, that the removal of PW from the hearing was improper. Based on that appeal, the hearing was reversed and a new

hearing ordered. At the rehearing, PW was again removed, ostensibly for being “disruptive,” and was again found guilty *in absentia* of all charges. A penalty of 365 days of SHU confinement was imposed. PLS filed a second supplemental appeal on PW’s behalf arguing that: (1) PW had been improperly removed from the hearing; and (2) the hearing officer had failed to make the required “personal and meaningful inquiry” of a requested inmate eyewitness who, after initially agreeing to testify, later refused to do so due to a “fear of retaliation.” Based on that appeal, the rehearing was reversed and the record expunged.

Advocacy Results in Modified Dispositions: SC received a misbehavior report for various charges when he spoke out after his dormitory had been stuck in the count for hours, an incident that turned disruptive and violent. SC received a second misbehavior report after he punched a plexiglass window; this was prompted by his receipt of the first ticket, as he knew it would cost him his chances of being conditionally released in early 2021. At the subsequent Tier 3 hearings, an aggregate penalty of 10 months SHU and 15 months recommended loss of good time had been imposed. PLS requested that Special Housing reconsider the penalties imposed, arguing, among other things, that SC’s accepting full responsibility for breaking the did not warrant such an excessive penalty. In response to our advocacy, both hearing dispositions were modified. The SHU penalty was reduced by 36 days, and the combined RLGT was reduced from 15 months to five, resulting in a savings of 10 months good time.

Successful Transfer to Unit for Sensorially Disabled: TF is legally blind in one eye, and has 10/50 vision in the other. TF initially contacted PLS because he was not receiving proper accommodations in his academic program at Mid-State. Through the course of investigating TF’s situation, PLS thought he might prefer being in a unit for the sensorially disabled. PLS successfully advocated for his transfer to Woodbourne’s SDU.

Advocacy Results in Transfer: PLS successfully advocated for LJ’s transfer out of involuntary protective custody at Woodbourne into general population at Wallkill.

Tier III Hearing Reversed: AW had received a misbehavior report charging him with fighting and false statements. A Tier II hearing was held, and AW was found guilty of both charges. The day after the Tier II hearing ended, AW received a second misbehavior report for weapon and assault on inmate—for the same incident that was the basis of the first misbehavior report. At the Tier III hearing AW was found guilty of the charges and received 104 days SHU plus 96 days pre-hearing confinement. PLS opened the case to investigate. The deadline for a supplemental appeal arrived before the hearing records did, so we submitted a preliminary appeal arguing that the doctrine of res judicata barred DOCCS from conducting any proceedings concerning the second misbehavior report. In response to our appeal, DOCCS reversed the Tier III hearing, resulting in a savings of 104 days SHU.

New Glasses Provided: TV is extremely nearsighted and was especially anxious because, having lost his eyeglasses, TV had ordered a replacement pair while he was at Great Meadow, but the glasses remained there even after he transferred to Sullivan. PLS wrote both facilities a joint letter asking for their assistance in ensuring that TV’s glasses made it to him at Sullivan. In response,

the Deputy Superintendent for Health at Great Meadow outlined for PLS the process for getting TV his new glasses, including confirming that the glasses had arrived at Sullivan.

Advocacy Results in Sentence Credit: JZB was arrested on the charge underlying his state sentence. JZB received two consecutive 1-year definite sentences for violation of probation on two other charges. Sentencing on the Orange County charge was delayed due to assistance JZB offered to prosecutors; during this time, JZB remained in local custody serving the two definite sentences. JZB ultimately received a four-year determinate sentence on the Orange County charge. The sentencing judge made it clear this sentence was to run concurrently with the Rockland County sentences to ensure JZB didn't suffer a loss of credit for time spent in local jail due to his willingness to help the state. DOCCS, however, did not allow any credit for the period that JZB spent in Rockland County custody after his 1-year definite sentences were imposed; in response to our initial advocacy efforts, DOCCS stated that Penal Law § 70.30 does not authorize prior time credit for time served under imprisonment on a definite sentence. We then submitted an order to show cause to the Orange County Sentencing judge, seeking a *nunc pro tunc* amendment to JZB's uniform sentence & commitment that would provide for his sentence to begin running as of his arrest date, as the sentencing court clearly intended. The ADA did not oppose the relief sought and the court issued an order for an amended commitment, which DOCCS then implemented. Because of our advocacy, ***Mr. ZB received 438 days sentence credit.***

COVID Compliance Addressed: WW fell from a top bunk receiving an orbital fracture and nerve damage around his nose. When WW was taken to Albany Medical Center, he was taken in a DOCCS van that was not COVID compliant for spacing or cleanliness. The incarcerated persons were not spaced six feet apart in the van. They were six feet from the COs, but near each other. The officers and incarcerated persons took their masks off once inside the van. The waiting area for incarcerated persons at Albany Medical Center, was also not clean and did not meet COVID standards. WW had refused a neurologist appointment because he was fearful he would contract COVID 19. PLS contacted the Superintendent and the Facility Health Services Director indicating that WW was not refusing treatment, but was concerned that making the trip exposed him to COVID 19 in both the van and in the hospital waiting room. The Superintendent addressed the issue of the transportation and WW was scheduled for another visit to the neurologist. We also contacted Albany Medical about the condition of the waiting area.

Advocacy Result in Much Need Medical Test: AM arrived at Fishkill CF with complaints of chest pains and shortness of breath. AM was convinced that he had a heart condition and he continued to ask for an EKG. Fishkill CF continued to deny AM an EKG. AM was transferred to Woodbourne CF. PLS continued to advocate for AM. AM finally had an EKG that was abnormal. PLS requested that he be seen by a cardiologist. When AM was seen by the cardiologist, he was diagnosed with Ischemia which is a blockage of the arteries by plaque that is a silent heart condition. It could lead to a heart attack. AM continues to receive care for Ischemia.

Advocacy Results in Medical Treatment: GH suffered from a herniated disc and limited movement of his limbs. GH was transferred from Cossackie CF to Fishkill CF with this condition. Fishkill CF had not schedule him for surgery. Additionally, he was scheduled to work as a porter with his limited mobility. GH also had been informed that he had cancerous cells in his shoulder

muscle while living at a different facility. PLS advocated for GH and he received both his surgery and treatment for his cancer. When the medical staff neglected to give him a work excuse, PLS secured that for him as well.

Advocacy Result in Much Needed Medication: DH suffered from conjunctive heart failure and other weakness to his heart. DH had regular sonograms but a year had passed and one was not scheduled. PLS advocated for DH to have that sonogram and be evaluated by a cardiologist. DH also had pain in his right shoulder, knee, and hip, he needed a hip replacement. DH requested a wheelchair from the medical staff at Green Haven CF, but was provided only a walker. DH's mobility was very limited and painful. We advocated that DH be provide self-carry medications so that he did not have to ambulate across the campus multiple times a day. DG now has his medications and does not have to make that long, painful trip across the prison.

Advocacy Results in Transfer: TF is incarcerated for the murder of a high-ranking member of the Bloods. Because of the stature of the victim in his case, TF was informed the Bloods everywhere want to kill him. TF contacted PLS after an attack at Green Haven CF requiring forty-four stitches. TF had been attacked at every facility where he was assigned after his entry to DOCCS, placed in protective custody, and then transferred to general population at a new facility. TF wanted to be placed in long term protective custody as he felt he would not be safe in any prison. PLS advocated to have him placed in either long term protective custody or in the Assessment Preparation Program Unit (APPU). DOCCS deemed him ineligible for the APPU and transferred him to Clinton CF, but in SHU for disciplinary reasons. DOCCS deemed he was not safe at Clinton CF and, with PLS' continued advocacy, moved him to Southport CF. TF fully served his disciplinary time and was move to general population. TF requested protective custody and was again moved to Great Meadow CF. PLS advocated that he not be placed in general population because DOCCS had eight times before determined he was not safe in general population due to the victim in his instant offense and his having been a confidential informant. Because of our advocacy, TF was finally moved to Upstate CF in the old cadre. TF has so far been safe and has been assigned work in areas that have little movement. TF reports he is housed with older prisoners who are, "just trying to get home". We remain watchful of the situation. Additionally, PLS filed a FOIL request to determine eligibility to the APPU.

Replacement Medication Provided: DM was removed from Wellbutrin, an anti-anxiety medication he had taken for years. The Office of Mental Health (OMH) took DH this drug determining it was one that could be abused by incarcerated persons. DM was not provided with a replacement medication for his anxiety. PLS advocated for OMH at Mid-State Correctional Facility to evaluate him for a replacement medication. DM has received that medication.

Dental Procedure Approved: WT needed dentures for two years. WT first needed to have his two remaining teeth pulled, and WT did have the teeth pulled. PLS advocated for a denture fitting to be scheduled. WT needed to have an alveoloplasty – jaw smoothing – performed before he could be fitted. WT rejected the alveoloplasty. The Chief Medical Officer for DOCCS informed PLS that WT would be offered the alveoloplasty and then denture fitting again in March. PLS explained the need for the procedure and WT agreed to have it. PLS informed the Chief Medical Officer and the Facility Health Services Director that WT wanted the procedure done. WT is waiting to be informed it has been scheduled.

Advocacy Results in Hearing Reversed and Expunged: KS was found guilty of unhygienic act and assault on staff. The penalty was 550 days SHU and 12 months loss of good time. After the hearing was affirmed, PLS submitted a request for reconsideration arguing that the hearing should be reversed because the hearing officer wrongfully excluded KS from the hearing and should have gotten the testimony of an OMH clinician because KS was on mental health watch at the time of the incident. DOCCS was persuaded by our arguments and reversed the hearing and expunged the charges.

Hearing Reversed: At a Tier III hearing, JB requested multiple videos. The videos were essential to JB's defense because the two incarcerated individuals he requested as witnesses could not be identified. JB was told that the video from the incident was not available. JB was found guilty and a penalty of 12 months SHU was imposed. In response to a FOIL request regarding this incident and the related hearing, PLS received two videos. PLS brought this to the attention of DOCCS which reversed the hearing and, although we argued that because this was a re-hearing, the matter should be expunged, ordered a re-hearing.

Advocacy Results in Reduced Penalty: At SN's tier III hearing where SN testified that his mental health and substance abuse issues for which he was not given his medication, led to the conduct underlying the charges of drug possession and smuggling. Nonetheless, the hearing officer failed to get testimony from an OMH clinician and imposed a penalty of 180 days SHU. In response to an appeal from PLS, DOCCS reduced the penalty by 70 days.

Hearing Reversed and Re-hearing Ordered: At a hearing into charges that SV had assaulted officers, SV requested his own injury report and injury photos. The requested documents were relevant and material to SV's defense in which he argued that he was assaulted by officers and sustained injuries. The hearing officer refused to provide the requested documents, stating, "I can't get those for you because it's a HIPAA violation. It's your own personal medical records." The hearing officer found SV guilty and imposed a penalty of 180 days SHU. On appeal, PLS argued that he was wrongfully denied documents, wrongfully excluded from the hearing and wrongfully denied witnesses. In response, DOCCS reversed the hearing and ordered a re-hearing.

SHU Sanction Reduced: At the outset of his Tier III hearing, KC requested another incarcerated individual as a witness. The hearing officer did not refuse to call the witness, however the witness did not testify and there was nothing in the record reflecting that the hearing officer attempted to locate him or that he had refused to testify. The hearing officer found KC guilty and imposed a penalty of 270 days SHU. On appeal, PLS argued that the hearing officer had violated KC's right to call witnesses and had failed to determine whether mental health testimony was a mitigating or contributing factor and that the SHU sanction was too long. In response, DOCCS reduced the SHU sanction by 90 days.

Advocacy Results in Necessary TB Test: LD wrote to PLS after having been transferred from Southport and reporting SHU like conditions at Five Points without a disciplinary sanction. PLS determined that LD was on a TB hold for allegedly refusing to be tested at Southport. After PLS contacted the FHSD, Dr. Wright, multiple times, and a number of COVID related delays, LD was finally tested for TB, found to be negative, and released from his medical hold.

Advocacy Results in Dental Need Met: SL explained nearly all her teeth were removed in by DOCCS dental staff during an oral surgery, and that she would receive dentures, but after 7 months SL had yet to receive them. SL also reported GI distress related to her now limited diet. PLS advocated with both the Facility Health Services Director and Regional Health Director urging that she be fitted for dentures and to have her GI and diet issues addressed. We were finally advised SL was recently fitted for and received dentures.

Hearing Reversed Saving Time in Keeplock: PLS reviewed AW's Tier III hearing in the course of investigating an unlawful Shock placement denial. AW was charged with drug possession, contraband and smuggling after a Narc II test indicated some playing card pieces found on his chair in the yard contained synthetic marijuana. DOCCS determined the Narc II test was too unreliable to provide substantial evidence of guilt so it reversed all disciplinary findings for drug possession which utilized the Narc II. AW's the drug possession charge was therefore reversed, but the contraband and smuggling charges remained. PLS submitted a Request for Reconsideration, arguing that if there was no evidence AW possessed drugs, then there could likewise be no evidence that he was smuggling contraband. DOCCS reversed AW's hearing saving him 15 days Keeplock.

SHU Time Saved: JJ requested assistance with a Tier III related to an alleged misbehavior incident that occurred while he was released from DOCCS custody under its Correction Law 73 pandemic response policy. PLS submitted a Request for Reconsideration primarily arguing that DOCCS could not attach the rules of inmate discipline to conduct that occurs while an individual has been released to supervision under its Correction Law 73 release policy. DOCCS modified JJ's sanctions reducing his SHU disposition from 180 days confinement to 125 saving him 55 days SHU.

Resentencing Saved 241 Days: TG was sentenced to an indeterminate term of 2-6 years with a Shock order for a conviction of 1st degree reckless endangerment. Upon reception, TG was disqualified from Shock based on her OMH level. Because her conviction was not for an offense eligible for a judicial Shock order, DOCCS refused to enroll her in a Shock alternative. DOCCS never contacted the sentencing court or TG's criminal attorney. PLS contacted the attorney to explain the situation, and provided a copy of the Complaint in *Raymond v. NYSDOCCS* and a citation to *Francis v. Fiacco*. TG's attorney then notified the sentencing court and the DA's office of DOCCS' failure to honor the plea, and the judge resentenced TG to 1-3 years, making her immediately eligible for parole release, and saving her 241 days.

Credit Results in Days Saved: AR enrolled in Shock and was scheduled to graduate and be released from prison on April 2, 2020. Three weeks before her scheduled Shock graduation, she was involuntarily removed based on her alleged need for mental health treatment. AR then lost her release date and was not eligible for release until her merit parole eligibility date of December 1, 2020. On September 1, 2020 PLS wrote to DOCCS explaining that this conduct amounted to unlawful disability-based discrimination under the ADA and Rehabilitation Act, and asking that DOCCS credit AP participation in ASAT as an alternative-to-Shock program and immediately release her to parole. PLS recently learned that on October 26, 2020, DOCCS released AR as a Shock discharge saving her 35 days in prison.

Recalculation Results in Release: KO contacted PLS concerning a jail time and sentence calculation issue. KO indicated he had expected to be released from DOCCS custody on January 2, 1 but learned at the last minute that they were only affording him 25 days of credit in connection with the parole violation that resulted in his present custody in DOCCS, instead of four months he believed he should get. This resulted in a calculated ME release date of April 16 instead of January 21. PLS immediately reached out to DOCCS Office of Sentencing Review. They advised the period in question was credited to a determinate sentence he served in local custody. PLS advised KO of DOCCS' position, and explained how definite sentences work and that only if the definite sentence was expressly ordered to run concurrently to the parole sentence would he then be entitled to this credit. We were then contacted by his defense attorney, and conferred with him about these issues, and he indicated the sentence indeed was supposed to run concurrently. Shortly thereafter DOCCS afforded him the credit, recalculated his legal dates, and he was released from custody to his ME on February 24, 2021.

Advocacy Results in Medication Provided: AB contacted PLS about several medical conditions for which he was not receiving attention. AB reported that he is diabetic and suffers from high-blood pressure for which he is prescribed medication. AB also indicated he was improperly assigned to a top bunk, something that he was contraindicated previously due to his chronic health issues. PLS advocated on his behalf with the facility, and were informed that he was provided with his medications and moved to a bottom bunk as well.

Advocacy Results in Dental Care: HM's mother contacted, PLS indicating that prior to his recent transfer he was receiving pain medication for a severe toothache and for a possible related tooth infection. She indicated that HM had told her he was now experiencing constant and excruciating pain, and had not received any of the medications he was receiving at the prior facility. PLS contacted the facility and relayed the concerns. We were advised that he was seen at the dental clinic and prescribed appropriate medication, and had been scheduled for an appropriate follow up appointment.

Advocacy Results in Thorough Medical Exam: HR had been suffering from severe abdominal pain for months, and by the time he contacted PLS, HR had a lump in his left testicle that was causing further pain. Medical staff had yet to physically examine HR; rather the doctor merely examined him visually through his cell door and determined the lump was a varicose vein. In an advocacy letter to the Facility Health Services Director, PLS requested that HR be thoroughly examined by the facility doctor in the infirmary to identify the cause of the pain and determine the appropriate treatment. HR was examined and he had an ultrasound on his testicles. HR also reported to us that while he still experienced pain, he was getting better.

Protective Custody Results in Transfer: JB sought transfer to a long-term protective custody unit. Because he was from the Dominican Republic, he was assumed to be a member of the Trinitarios gang. He was not, but the Bloods gang targeted him as if was one. JB was also believed to be a snitch because of his history of protective custody at multiple facilities. In response to our advocacy with DOCCS' Office of Classification and Movement, JB was transferred. Although he was placed in general population, JB reported that he felt safe and no longer needed our assistance.

Advocacy Results in Transfer: MF sought transfer out of involuntary protective custody out of fear for his personal safety. MF was an enemy of the Bloods due to his involvement in the death of a relative of the gang's founder, which meant he had spent most of his incarceration in protective custody. However, MF experienced increased harassment once others in the unit found out he was gay. PLS successfully advocated with Classification and Movement for MF's transfer; shortly after we contacted DOCCS, MF was transferred. When MF began to encounter problems at Attica, PLS advocated for another transfer and MF subsequently found safety in general population at Wende.

Failure to Follow Regulation Results in Charges Dismissed: DB received several misbehavior reports following a series of incidents in which he was observed securing an object in his mouth. After the object could not be forcibly removed, DB was placed in a drug watch room, and when that yielded no results, he then went to an x-ray room, where he was observed placing an item behind the x-ray table. The item was a plastic bundle allegedly containing 10 smaller bundles of a green leafy substance that an officer suspected was marijuana. Among the numerous charges DB incurred were drug possession and drug distribution—and yet, the substance was never tested or formally identified. PLS was able to get these charges dismissed by arguing that DOCCS had failed to follow its own regulations as well as a 2020 memorandum requiring that substances be identified by the pharmacy, nursing staff, or the Office of Special Investigations.

Hearing Disposition Reversed and Expunged: GB received 270 days SHU for weapon charges following a cell search. PLS had not received the audio recording by the deadline for a supplemental appeal, but the documentary evidence revealed a clear violation of the right to call witnesses. GB requested three incarcerated witnesses, each of whom allegedly refused to testify. The record contained a refusal form for one of those witnesses with nothing more than the word "No" written on it. The portion of the form on which a correction officer could document a specific inquiry of the witness was blank, as was the portion of the form on which the hearing officer could document personal contact. PLS appealed, and the hearing disposition was reversed and expunged. Our advocacy saved 270 days SHU.

Advocacy Results in Protective Custody: SB requested assistance with securing protective custody. SB reported that the Bloods have a standing statewide order to attack him due to his status as an alleged informant. Since 2019, SB had been admitted to PC at several correctional facilities due to ongoing threats against him. Upon transfer, members or affiliates of the Bloods identified him and began to openly discuss attacking him. SB was repeatedly interviewed for voluntary protective custody status and denied for allegedly failing to identify sufficiently specific threats. PLS submitted advocacy seeking SB's admission to protective custody and reiterated the reasonable and sufficiently detailed information he had provided concerning the identities of the people threatening him with imminent harm. PLS' advocacy was successful and SB was placed in protective custody.

Advocacy Results in Protective Custody: PDR sought protective custody due to conflicts with the Bloods and Latin Kings. Several years prior PDR had been assaulted by a member of the Bloods, and after he testified openly at that person's Tier III hearing, PDR became widely known as a snitch. PDR later transferred, where someone recognized him and notified leaders of the Latin Kings of his past and identity. The Latin Kings then tried to extort \$500 from him, lest they

tell Bloods who he was. PDR was repeatedly denied protective custody, despite reporting the threats to staff and attempting suicide. PLS submitted advocacy to the superintendent and to DOCCS Deputy Commissioner, outlining PDR's history of repeated harassment by gangs and the detailed information he had repeatedly provided about the identities of those threatening him. In response the Deputy Commissioner informed PLS that PDR had been approved for transfer.

Advocacy Results in Removal From Work Crew: KS was one of several members of a work crew who were repeatedly forced to clean up human waste leaking from a pipe in a poorly ventilated area. They were not provided with proper safety equipment nor training, and several of them became ill. PLS wrote to the Superintendent stating that any waste cleanup must comply with CDC safety guidelines, which require goggles, protective face shields, liquid repellent coveralls, waterproof gloves, and rubber boots. KS was subsequently told that she would no longer be required to perform this type of cleanup.

Transfer to Receive Treatment: GW was previously detained in the Warren County Jail, where he successfully participated in a new Suboxone program for opioid use disorder. Prior to GW's transfer to DOCCS, jail staff discontinued his Suboxone treatment believing that he would not be able to receive Suboxone in DOCCS. After entering DOCCS custody, medical staff told GW he would not be prescribed methadone or Suboxone because he was not receiving them when he arrived at DOCCS. PLS wrote to DOCCS' Chief Medical Officer, and GW was subsequently transferred to a facility with a Suboxone program and began receiving it.

Advocacy Results in Eye Surgery: JT has multiple chronic medical conditions, including diabetic retinopathy. Prior to the COVID-19 pandemic, JT was transferred from the Ontario County Jail to Wende on a substitute jail order due to the local jail's purported inability to provide adequate medical care. Due to the pandemic, JT's appointments for outside medical care were repeatedly delayed. JT was unable to receive scheduled treatment for his eye conditions, and he eventually lost nearly all his vision. After a number of advocacy efforts with medical staff, JT was finally taken to a specialist for eye surgery which significantly improved his vision.

Sentence Amended: SW requested assistance regarding his DOCCS sentence calculation. All of SW's current convictions were ordered to run concurrent to each other and concurrent to his previously imposed parole term. SW was also sentenced as a predicate felony offender. Under the Penal Law, his new sentences were required to run consecutive to the parole term. DOCCS was running the terms consecutively with the parole term despite the sentencing Court's explicit order to the contrary. PLS contacted DOCCS requesting that they run the terms concurrently with the previously imposed term as ordered noting that 1) DOCCS is conclusively bound by the commitment order it receives, and cannot unilaterally change how a sentence runs, and 2) Per Correction Law 601-a, DOCCS can only advise the Court if it believes there is a legal issue with a sentence and it is up to the Court to make any changes if it chooses to do so. DOCCS amended SW's sentence calculation to run SW's new terms concurrently with his previously imposed parole term, as ordered by the Court, reducing his sentence by 5 years, 6 months, and 4 weeks.

Advocacy Results in Medical Issues Resolved: BW wrote to PLS with a number of medical and reasonable accommodations issues. PLS contacted the Facility Health Services Director by letter and were successful in getting his new glasses delivered as well as a fresh set of hearing aid

batteries.

Hearing Reversed: While MS was having a mental health crisis, he threw a cup of cleaning solution on officers and broke his tablet and was charged with property damage and unhygienic act. After a search of MS's cell later the same day, he was charged with possession of gang materials. At the hearing into these charges, the alleged gang-related materials were not entered into the record. MS had been in prison for 22 years and had no history of gang involvement. The hearing officer nonetheless found him guilty of the charges and imposed 18 months of SHU. In a supplemental appeal, PLS argued that there was insufficient evidence of gang involvement, the HO had failed to consider MS's mental state at the time of the incident and of the hearing, and that the SHU sanction was excessive. The Office of Inmate Discipline reversed the hearing and ordered a re-hearing.

Hearing Reversed and Rehearing Ordered: After an incident involving two other incarcerated individuals. TJ was charged with violent conduct, refusing a direct order, fighting, weapon possession and creating a disturbance. TJ requested the Unusual Incident Report, Use of Force memos, the hearing officer refused to allow TJ to have copies of or even read the documents, first saying that he would read them into the record, but then only summarizing their contents. The HO found TJ guilty of the charges and imposed 7 months of SHU time, a penalty that would impact TJ's ability to have contact with his 11-year-old daughter. PLS argued that the Hearing officer's refusal to allow TJ to have a copy of the incident reports violated his right to present a defense and that the SHU sanction was excessive. In response, the Office of Inmate discipline reversed the hearing and ordered a rehearing.

Advocacy Results in Hearing Reversal: Following two incidents, JW was charged with refusing a direct order, obstructing visibility, unhygienic act and threats, violent conduct, creating a disturbance, interference and assault on staff. JW asked that individuals on the tier be called as witnesses as they would have seen the staff wildly spraying JW. The HO first said that he would call two witnesses but rejected the others as redundant. Then he denied the witnesses because JW was accused of having a sheet in front of his cell. The HO found JW guilty of the charges and imposed a SHU sanction of six months. On appeal, PLS pointed out that although the hearing officer acknowledged that JW had mental health issues and took testimony from a mental health clinician, she concluded his mental state was neither a contributing or mitigating factor. JW's obvious confusion at the hearing, symptomatic of his mental health issues indicated that the HO's failure to recognize this indicated that OMH testimony may have been incomplete or improperly considered. The appeal argued that the HO's reasons for denying the witnesses violated JW's right to call witnesses. First, he determined the testimony of witnesses was redundant before hearing or knowing their testimony, that is, his conclusion was based on conjecture and speculation and second, the sheet was taken down before the spraying took place. She did not make an on the record statement explaining her finding of redundancy. Finally, the appeal argued the hearing had to be reversed because it was not recorded in its entirety. The Office of Inmate Discipline reversed the hearing and did not order a re-hearing.

Hearing Not Recorded: The HO imposed a penalty of 6 months SHU. The Office of Inmate Discipline reversed the hearing because it was not electronically recorded. A new hearing was ordered.

Advocacy Results in Hearing Reversal: DG found a weapon in the cell door track which he turned over to an officer who was present when he found it. The officer charged him with possession of a weapon and altered item. At the hearing, DG denied the weapon was his and noted he'd never been charged with a rule violation of this type. The HO excluded DG from the hearing, took testimony from an OMH clinician and found DG guilty, imposing a penalty of 270 days SHU and 90 days loss of good time. PLS challenged the determination of guilt, noting that the behavior that allegedly warranted exclusion was not electronically recorded, the HO failed to investigate the accused's mental state at the time of the incident and the time of the hearing and failed to state whether his mental health was a mitigating factor, and erroneously placed an individual with mental illness in solitary confinement in violation of his 8th Amendment rights. In response to the advocacy letter, the office of Inmate Discipline reversed the hearing.

Hearing Reversed, No Re-Hearing Issued: HSG was accused of spitting at a video monitor during a telepsychiatry session and was charged with and found guilty of an unhygienic act. At the time that he was alleged to have engaged in this misconduct, he was an OMH level 2 patient, with diagnoses of ASPD, disturbance of emotions and conduct. The hearing officer concluded that HSG's mental health condition was neither a contributing nor mitigating factor. On appeal, PLS argued that this conclusion was arbitrary and capricious. Persuaded by this argument, the Office of Inmate Discipline reversed the hearing and did not order a re-hearing.

Advocacy Results in Necessary Medical Test: RD suffers from a long-term back injury. He needed a CT myelogram as a prerequisite to an evaluation for further treatment. RD cancelled the CT myelogram during the peak of the pandemic because he was concerned about contracting COVID while at the hospital. PLS advocated for the CT myelogram to be rescheduled and for RD to see a surgeon. RD did have the procedure and was evaluated by a surgeon.

CPAP Machine Correctly Calibrated: RS who suffers from obstructive sleep apnea, requested PLS' assistance with having his CPAP machine recalibrated. While this should have been a simple request, PLS advocated for a full year to finally have the CPAP machine properly calibrated. The Facility Health Services Director continued to assure PLS the machine was properly calibrated when it was not. RS is now able to sleep.

Hearing Reversed and Expunged: JM received 42 days of pre-hearing time in solitary confinement, 120 days in keeplock, and 1-year recommended loss of good time for allegedly possessing a weapon, contraband, and gang material. JM was removed from his general population cell before a cell search and placed in the shower where he was prevented from observing the search. PLS filed a reconsideration as DOCCS Special Housing decided the matter before the extension granted to PLS. The matter was reversed and expunged as the removal of JM from the area so he could not observe the search violated the law.

Advocacy Result in Medical and Dental Need Provided: WT came to PLS requesting assistance to be fitted for dentures after two (2) years. Recently, WT was finally being fitted for his new dentures. He is waiting for the last fitting. In the meanwhile, his blood pressure spiked and he was only seen by the nurse. PLS advocated for his blood pressure to be closely monitored and for his medication to be altered to bring it back under control. WT is presently being monitored to

determine what changes in medication are needed.

Advocacy Results in Surgical Consult: RF had an existing open leg wound during the first peak of the COVID pandemic. His wound care treatment during the peak was erratic. His wound eventually needed surgery and there is concern of the infection spreading to bone. PLS advocated for RF to see a surgeon and evaluate what further care would be needed. RF did have a surgical consult. Further testing is scheduled to ascertain whether the infection has spread to his bone.

Medical Issues Addressed: KJ has numerous health problems. He had double vision, and leakage in one eye. His equilibrium and balance were off post stroke. He has a bone spur in his ankle that causes pain. KJ heart is weak and he needed to be seen by a cardiologist. PLS advocated for these issues to be addressed. KJ was provided a wheel chair and is receiving physical therapy. He saw the ophthalmologist and his eye leakage and sight are better. KJ decided to wait on the ankle surgery until the other items were addressed.

Advocacy Results in Transfer: TW was being held in the protective custody block. TW encountered various enemies within this block, including some porters and others who were making threats. He was often fearful of going to showers, the yard, or using the phones. PLS engaged in repeated advocacy with facility officials and DOCCS Central Office officials, seeking his move and protection and ultimately his transfer. These requests were at times ignored, and repeated requests then denied. Further complaints from TW were received and further advocacy undertaken on his behalf to relay and document these issues, resulting in eventual and long-sought transfer in April.

Dental Care Provided: JB contacted PLS about a variety of chronic and ongoing dental problems, which preceded and continued after his transfer. JB had a number of teeth that were seriously compromised as a result of cracks and breaks in the teeth, fillings that kept falling out, and ensuing chronic infections and pain. JB complained of delay and inadequate care, and otherwise neglectful and what he felt inappropriate attention and treatment by dental staff. PLS engaged in extensive advocacy with the facility on his behalf, eventually resulting in care for the urgent problems.

Advocacy Results in Time-Cut: In June, PLS was contacted by the mother of JM. She lives in Florida and had heard that JM may have been in an altercation with staff, that he had been placed in confinement and moved, where he was allegedly being denied his property and other privileges. She was also advised that he could have no visits, when she advised facility officials she planned to travel from Florida to see him. We reached out to JM as well as the facility superintendent. PLS learned that he received a 90-day SHU sanction for contraband and drug charges, which included a loss of visitation. PLS advocated on his behalf and his mother's behalf concerning these matters. The Superintendent agreed to give him a time-cut beginning in July on the loss of visitation, provided he maintain positive behavior. We advised JM and his mother, and steps that could be taken to hopefully obtain this restoration of visitation and how to confirm that she could visit before undertaking the long and costly travel from Florida to see him.

Advocacy Results in Pain Medication Prescribed: JR had chronic severe pain related to carpal tunnel syndrome in his right wrist and neuropathy in his left elbow. Mr. R had previously been prescribed the pain medication Lamotrigine, but it was discontinued due to adverse side effects.

When Mr. R contacted PLS the only treatment he was receiving for pain was acetaminophen, which did not help. In an advocacy letter to the Facility Health Services Director we pointed out that the Medications with Abuse Potential policy had been rescinded, and said we saw no reason Mr. R could not be prescribed appropriate pain medication. Our advocacy was successful: Mr. R was subsequently prescribed Neurontin and he reported feeling much better.

Medical Record Obtained: MW had been trying to obtain his medical records from Ellenville Regional Hospital for nearly a year without success. PLS was able to obtain his records for him, but because other people had reported a similar problem, PLS wrote the hospital and explained that they cannot deny incarcerated individuals access to their medical records, and that these records should be provided upon request. We also alerted the unit of the Department of Health that handles medical record denials, and asked that they correct Ellenville's practices.

SHU Penalty Reduced: MM received 730 days SHU for assaulting two correction officers, one of whom sustained severe injuries. PLS submitted a supplemental appeal arguing excessive penalty and improper witness denial. In order to meet the deadline, PLS had to submit our appeal before we had received the full hearing record. Upon listening to the hearing, we determined that the witness issue was not meritorious but the excessive penalty issue should be pursued. In this regard, our appeal was successful: DOCCS reduced the SHU penalty to 530 days. PLS's advocacy saved 200 days SHU.

Advocacy Result in Needed Medical Treatment: LC sought medical treatment for lymphedema due to a mastectomy after breast cancer, and back pain resulting from serious injuries sustained in multiple car accidents. PLS wrote to Bedford Hills' Facility Health Services Director and asked that LC receive an epidural for her back pain and a battery-powered air wrap for the lymphedema, or appropriate alternatives if these options—which her medical records indicated had been approved—were not available. LC reported that the facility was providing her with massages multiple times a week and a compression sleeve for her lymphedema. LC also reported that she has received an MRI and back therapy, and that medical staff have informed her that she will need to try several epidurals before back surgery will be considered.

Hearing Reversed and Rehearing Ordered: MM received 270 days SHU and six months recommended loss of good time for weapon and unhygienic act, among other charges, when during a random cell search a sharpened toothbrush was discovered and a strong smell of urine was coming from his sink. PLS appealed on grounds that MM was improperly removed from his hearing as well as the hearing officer's failure to assess whether MM's mental health precluded him from understanding and participating in his hearing, an inquiry necessitated by MM's designation as an OMH Level 1S. The hearing was reversed and a rehearing ordered.

Medication Permit Approved: AC was receiving treatment for several serious medical problems, and sought assistance with two specific issues: obtaining a new permit to self-carry his medications (his previous permit had been revoked) and receiving Ensure to supplement his diet. PLS successfully advocated for both.

Hearing Reversed and Re-hearing Ordered: In a supplemental appeal, the PLS argued that the original punishment of 545 days SHU and 3 months loss of good time violates the HALT act, and

renders the portion of SHU time post effective invalid, and that in light of JB's OMH status, the SHU sanction was excessive. The Office of Inmate Discipline reversed the hearing and ordered a re-hearing.

Advocacy Results in Phone Call: AD's sister contacted the PLS because her brother, formerly a patient in at Walsh RMU, is COVID-19 positive and in palliative care at Upstate Medical Hospital. Having been informed of her brother's status, the sister, who is his Medical Care Proxy, wanted to speak with him by phone. She was frustrated because no one was willing to set up such a call. PLS contacted the Superintendent who intervened. Within 24 hours of the PLS's initial contact with the facility, the client and his sister spoke to each other by phone.

SHU Time Reduced: MM received a misbehavior report for soliciting an illegal substance and smuggling during a phone call with his brother. At the hearing he received 150 days SHU and loss of privileges. The supplemental appeal argued that the phone call recording was not entered into the hearing record despite being relied on by the hearing officer, that the charge of solicitation did not apply to an immediate family member and further that there was no indication in the record that the other person on the call was anyone but MM's brother. The appeal letter also addressed the penalty's impact upon MM's relationship with his preschool-aged son. The office of Inmate Discipline reduced the SHU punishment to 90 days.

Advocacy Result in Hearing Reversed: HSG was accused of starting a fire in his cell and received three Tier III tickets over three days. Although HSG is designated an OMH level 2 patient, the hearing officer did not take mental health testimony, and imposed 180 days of SHU and 3 months loss of good time. The hearing tape was inaudible. After submitting a supplemental appeal concerning the mental health testimony, and phone calls to the office of Inmate Discipline concerning the audibility of the tape, the office of Inmate Discipline reversed the hearing.

Advocacy Results in Dental Care: ME had six broken teeth and a serious heart condition. ME had been seeking treatment for months before requesting assistance from PLS. PLS advocated with the facility medical director and dentist, until ME was able to receive the needed dental care at Westchester Medical. Dental surgery was a full success, ME reports no more pain or difficulty eating.

Denial of Witness Testimony Results in Hearing Reversal: SR received 365 days of SHU, including 29 days held prehearing, along with a loss of commissary and loss of packages. SR was denied witness testimony and his entire hearing was not recorded. SR's hearing was reversed and a new hearing ordered.

Advocacy Results in Transfer: MW was being targeted by gang members, first at Clinton and then at GH after he was transferred. MW was stabbed twice and was getting Tier II tickets because he was refusing to leave his cell out of fear of attack. MW exhibited serious mental health impacts from this. PLS advocated with facility Superintendent and Class and Movement for MW to be transferred, and advocated for MW with the Office of Mental Health to ensure he was safe while he expressed suicidal thoughts. MW was transferred to Coxsackie, reports feeling much safer and more mentally stable, believes he would not have survived his time at GH without the assistance of PLS.

Advocacy Results in SARA Compliant Housing: JG was undomiciled and held in the “Residential Treatment Facility” of DOCCS as a paroled sex offender 21 months beyond the date the 18-month sanction for his parole violation. JG was violated for testing positive for drugs in his urine. JG was on parole, but not allowed to leave any DOCCS facility without obtaining SARA compliant housing. DOCCS insisted that JG be returned to Oneida County as he was undomiciled and DOCCS determined that the Department of Social Services would not allow him benefits in another county. There were no SARA compliant housing options in Oneida County from April 2020 until July 2021. PLS efforts representing multiple RTF clients needing SARA complaint housing in Oneida County finally resulted in DOCCS paying for securing hotel rooms in Rome NY for these men to return home.

Medical Care and Test Scheduled: RF had an existing open leg wound during the first peak of the COVID pandemic. His wound care treatment during the peak was erratic. PLS advocated for him to be seen. His wound eventually needed surgery and there is concern of the infection spreading to bone. PLS advocated for RF to see a surgeon and evaluate what further care would be needed. RF did have a surgical consult. Further testing is scheduled to ascertain whether the infection has spread to his bone. RF’s surgeon determined that an MRI was needed. The MRI is now scheduled.

Advocacy Results in Medical Care: SJ has bladder cancer. During the first COVID pandemic peak, SJ decided to forego chemo therapy because when he returned from treatment, he was placed in quarantine in general population where individuals may have contracted the corona virus but be asymptomatic. Just before the second peak, SJ was able to begin aggressive chemo therapy. This time he was housed in the infirmary upon his return. SJ was exhausted and asked to postpone a cystoscopy to determine the size of the tumor. PLS advocated to have his cystoscopy rescheduled as well as his approval for a PET scan and Transurethral Resection of Bladder Tumor. SJ received his PET Scan. His bladder showed no sign of cancer. Unfortunately, his cancer spread to his lungs and his lymph nodes. PLS has developed a relationship with the Facility Health Services Director. PLS called him to inquire about whether SJ might be a candidate for Medical Parole. As a result, the Facility Health Services Director filed application for Medical Parole for SJ.

Disciplinary Sanction Reduced: HS was given 22 days of pre-hearing SHU, 240 days of SHU along with a loss of privileges and a recommended loss of eight-month loss of good time. HS was found guilty of possessing a weapon, a charge he adamantly denied. The disciplinary sanction was reduced 60 days after our appeal arguing that he was denied his right to call witnesses, that the hearing was not fully recorded, and that the penalty was excessive.

Advocacy Results in Vaccination: BC’s father contacted PLS, noting that BC had been trying to get the Covid-19 vaccine but was getting the run-around, not provided it and constantly moved around where he continued to face exposure. PLS contacted DOCCS officials who immediately looked into the matter, and assured us he would be vaccinated as soon as there were sufficient individuals (acceptors of the vaccine) to use a vial. Very shortly thereafter he was then given his first dose.

Long Term Protective Custody: PLS were contacted by GG stating he faces chronic, statewide threats from several gangs. GG has been in great fear for his safety and was in SHU for a minor misbehavior report, which he described as a self-help protective measure to obtain confinement because he could not get protective custody. PLS sent a letter advocating on his behalf, to the facility superintendent and DOCCS officials at OSI and Class and Movement, relaying his need for long-term, statewide protection. Shortly thereafter he was moved to Greene.

Hearing Reversed Saving SHU Time: This Tier III was reviewed in the course of investigating an alleged staff assault incident. Large portions of the hearing were missing from the recording, including LK's statement of defense, pleas and the witness testimony. The facility advised PLS that they sent us everything they had. PLS submitted a Request for Reconsideration arguing that the hearing was not properly electronically recorded/preserved. In response, OID reversed the hearing saving LK 45 days in SHU.

Jail Time Credit Certificate Issued: MB requested assistance with his Jail Time. MB was held in two counties prior to being sentenced on his current conviction. The County that transferred him to DOCCS certified the period he spent in their custody, but MB was not getting credit for time he spent in Clinton County before going to Franklin. Clinton County confirmed MB was in their custody on the charges underlying his current sentence PLS requested that Clinton County issue a Jail Time certificate for a period of 9 months (270 days). They did so, saving MB that time.

Advocacy Results in Parole Release: AR is a transgender woman who was previously housed at Groveland CF. In October 2020, DOCCS transferred her to Albion. AR's transfer to Albion did not go smoothly, and she was subjected to harassment and unwanted attention from staff and other incarcerated individuals. AR therefore requested to be transferred back to a male facility. PLS advocated for a proper housing placement for AR with Jason Effman, and PLS submitted a letter to the Temporary Release Committee at Albion which had previously rejected AR's work release application for mental health reasons. PLS noted that any acute psychiatric issues she had experienced were due to the stressors related to being a transgender individual in prison. The TRC subsequently reversed its decision, and sent her application for central office approval. We also submitted a letter of support to the Board of Parole, which granted AR parole release on her merit eligibility date in December 2021.

Advocacy Result in Ability to Finish Degree: AK, from Attica, requested assistance with obtaining an Education Hold as he had been advised by staff that he would be transferred from a maximum to a medium facility due to his excellent prison record. As AK was enrolled in an associate's degree college program at Genesee Community College he did not want to transfer to a medium facility until after he had obtained his degree. PLS advocated with both Classification and Movement, and the Attica Education Supervisor. After numerous communications we were able to obtain an Education Hold for AK, and were advised that he would not be transferred until he obtained his degree.

Learning Disabilities Addressed: AW, from Attica, requested assistance with obtaining his GED and other programs he needs to obtain early release. AW expressed a desire to learn, frustration with disinterested teachers, and a failure to accommodate his learning disabilities. AW was

diagnosed at age 12 with ADD and ADHD, and has been in the same Pre-HSE class for over two years. His Math score of 7.7 and Reading of 9.9 have not improved during that time. He has a hard time paying attention, and staying focussed. Teachers give him magazines to read for an entire class, and end class early.

PLS advocated for him to be given an Academic Psychological Evaluation (APE) pursuant to DOCCS Directive 4804 as it appeared that DOCCS was unaware of his learning disabilities. The APE is used to diagnose learning disabilities for purposes of reasonable accommodations pursuant to the ADA on standardized testing including TASC/TABE. The Education Supervisor assigned AW to a new academic class with a new teacher, he instructed that teacher to refer AW for a psychological evaluation, and the referral has been made. Once AW's learning disabilities have been diagnosed we will advocate for in-classroom reasonable accommodations as well.

PRO BONO ADVOCACY

Advocacy Results in Reversal, Rehearing and Reduced SHU Time: RB was charged in a misbehavior report with assault on inmate, fighting, refusing direct order, weapon, violent conduct and creating a disturbance. The charging CO stated in the report that he had responded to a "Level 1" at a particular housing location and observed RB and another prisoner "on the ground of the company with staff trying to gain compliance. At this time force became necessary to gain compliance to non-compliant inmates to prevent serious injury to staff and inmates and to quell a disturbance." The report further stated that a weapon was then observed on the ground near RB's hand and was recovered. At the initial Tier III hearing, no prisoner or staff witnesses testified and no documentary evidence (other than the misbehavior report) was introduced or even referenced. RB pleaded guilty to all six charges and a penalty that included 270 days of SHU was imposed. In a supplemental appeal challenging the hearing, PLS argued, among other things, that the 270-day SHU penalty was unconscionable given that, in pleading guilty, RB had admitted only to the conduct described in the report. In substance, that conduct amounted to RB's being observed "noncompliant" and "on the ground" with another inmate, and included the recovery of a weapon nearby.

Following the submission of the supplemental appeal, the hearing was reversed and a rehearing ordered. At the rehearing, RB entered not guilty pleas to the charges of violent conduct, creating a disturbance and refusing a direct order, and pleaded guilty to the weapon charge. The Hearing Officer (HO) dismissed the charges of assault on inmate and fighting on the ground that "there's nothing in the misbehavior report pointing to either one of those." At the conclusion of the rehearing, the HO found RB "guilty" of weapon, violent conduct and creating a disturbance. As to the charge of refusing a direct order, the HO found RB "not guilty" based on the fact that the misbehavior report failed to state "who gave direct orders [to RB] or when." The HO then imposed a lesser SHU penalty of 128 days instead of the 270-day SHU penalty imposed at the original hearing. (Although a supplemental appeal was filed by PLS challenging the rehearing, the rehearing was affirmed.)

Advocacy Results in Reversal and Expungement: GV was found guilty at a Tier III hearing of Assault on Inmate and Weapon. The penalties imposed included SHU confinement for 270 days,

and loss of packages, commissary, and phone for 234 days. The charges stemmed from a fight with another inmate. GV suffered extensive injuries during the incident, including first degree burns, deep lacerations to the head and body, and a fracture of the distal end of the ulna in his right arm. The other inmate was alleged to have suffered two minor cuts. Pro Bono attorney Rosanne Trabocchi filed a supplemental appeal on GV's behalf citing as reversible errors a deficient Inmate Misbehavior Report, lack of substantial evidence, and failures in the required treatment of confidential information. Based on her Supplemental Appeal, the Tier III hearing was reversed and a rehearing ordered. During the pendency of the rehearing, Ms. Trabocchi submitted a letter to OSH Director Donald Venettozzi explaining that both the rehearing and initial hearing were barred on res judicata grounds. She requested that the rehearing in progress be terminated and the initial hearing be reversed and expunged. That request was denied. At the conclusion of the rehearing, GV was found guilty of Weapon but not guilty of Assault on Inmate. Ms. Trabocchi submitted a supplemental appeal seeking reversal and expungement of the rehearing on res judicata grounds. After the rehearing was affirmed, Ms. Trabocchi, in an effort to avoid the time and expense of an Article 78 proceeding, submitted a second letter directly to Mr. Venettozzi arguing yet again that the doctrine of res judicata rendered the rehearing a nullity. In the end, as a result of Ms. Trabocchi's persistence in bringing the res judicata issue to Mr. Venettozzi's personal attention, the matter was reversed and expunged.

Advocacy Results in Reversal Following Supplemental Appeal: GV was found guilty at a Tier 3 hearing of Assault on Inmate and Weapon. The penalties imposed included SHU confinement for 270 days, and loss of packages, commissary, and phone for 234 days. The charges stemmed from a fight with another inmate. Both individuals were charged with Assault on Inmate and Weapon. GV suffered extensive injuries including first degree burns, deep lacerations to the head and body, and a fracture of the distal end of the ulna in his right arm. The other individual was alleged to have suffered a minor cut and a superficial cut. Pro Bono attorney Rosanne Trabocchi filed a supplemental appeal on GV's behalf citing as reversible errors a deficient Inmate Misbehavior Report, lack of substantial evidence, and failures in the required treatment of confidential information. Based on the Supplemental Appeal, the Tier 3 hearing was reversed and a rehearing ordered.

Advocacy Results in Reversal and Expungement Following Request for Reconsideration: MM was charged in a Misbehavior Report with Money/Unauthorized Property, Excess/Altered Clothes, Property in Unauthorized Area, Smuggling, Property Damage or Loss, and Vandalism/Possession of Stolen Property. The charges stemmed from MM's alleged use of a DOCCS-issued tablet to make phone calls and his alleged subsequent hiding of the tablet in his torn DOCCS-issued mattress. MM was found guilty of all charges at a Tier III hearing. The penalties imposed included 180 days keeplock/loss of recreation/packages/commissary/phones, as well as 365 days loss of tablet and a recommended loss of good time (RLGT) of three months. In addition, restitution in the amount of \$68.00 was imposed. MM filed a *pro se* administrative appeal that resulted in the reversal/dismissal of the guilty findings on Money/Unauthorized Property, Excess/Altered Clothes and Smuggling, and a penalty reduction to 60 days keeplock, 90 days loss of recreation/packages/commissary and 180 days loss of tablet. In addition, the loss of phone penalty was suspended for 180 days. The penalties of three months RLGT and \$68.00 restitution were not changed. Pro Bono attorney Rosanne Trabocchi filed a Request for Reconsideration (RFR) on MM's behalf raising deficiencies in the Misbehavior Report; Hearing

Officer bias; lack of substantial evidence; denial of a fair and impartial hearing; wrongful denial of inmate witness; wrongful denial of a requested video and failure to record entire hearing. Based on Ms. Trabocchi's RFR, the hearing was reversed and the record expunged.

EDUCATION ADVOCACY

In its past two issues, *Pro Se* has included a notice that PLS has an Education Unit and directs people to write to PLS if they need assistance with education issues including under the IDEA and ADA. We respond to all intakes and send our Requests for Services form plus Academic and Vocational questionnaires to clients to obtain further information in order to determine how to best assist them. We have numerous cases opened for investigation and advocacy.

PLS received an invitation to tour the Westchester County Jail's innovative education program, and to speak with both incarcerated individuals and staff.

PLS continued to receive and review education intakes in order to determine advocacy strategies and potential plaintiffs for ADA litigation regarding DOCCS failures to provide reasonable accommodations in the learning environment.