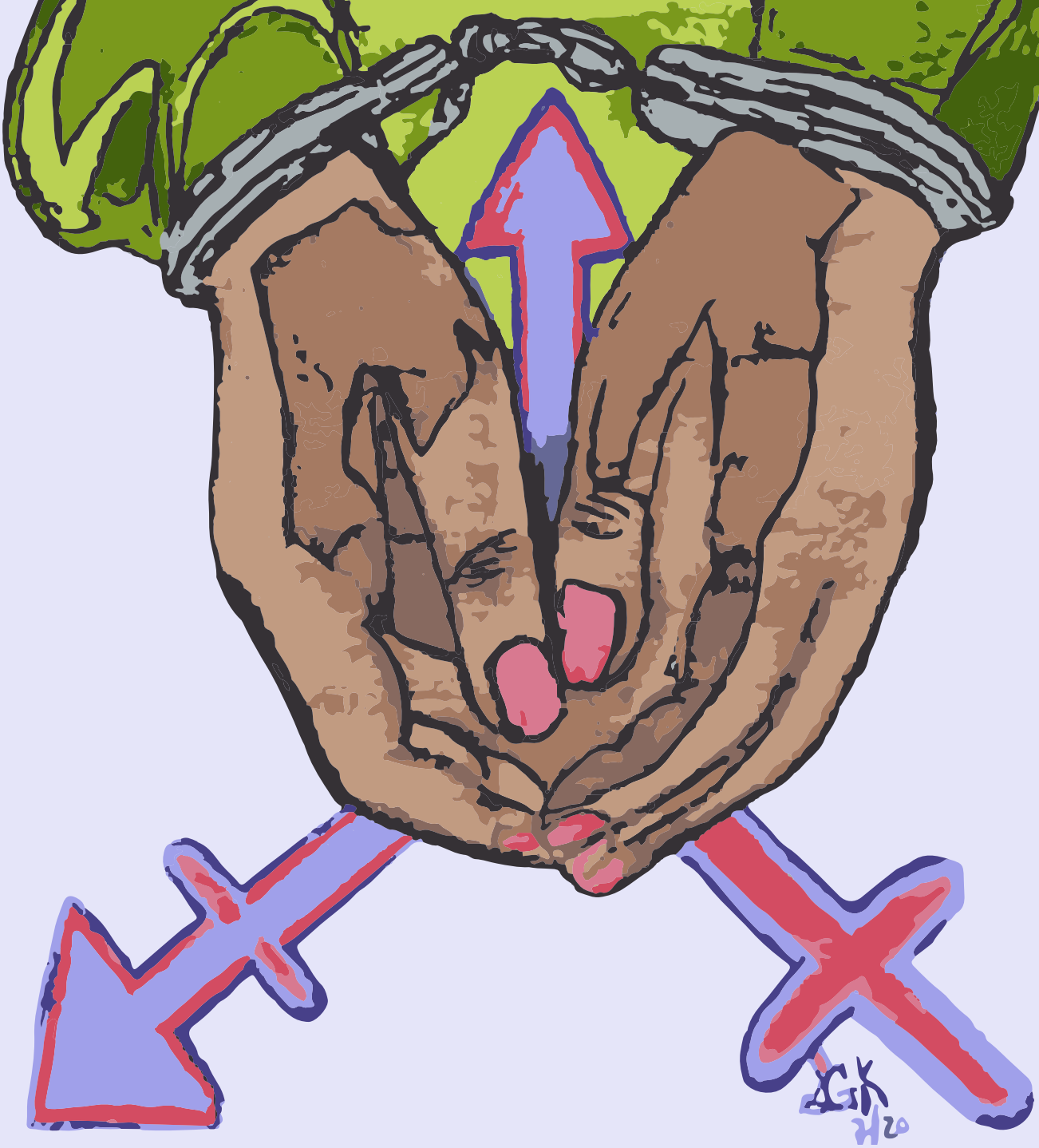


It's Still War in here

A Statewide Report on the Trans, Gender Non-Conforming, Intersex (TGNCI) Experience in New York Prisons and the Fight for Trans Liberation, Self-Determination, and Freedom

SYLVIA RIVERA LAW PROJECT

TAKEROOT JUSTICE

About the authors

The **Sylvia Rivera Law Project (SRLP)** works to guarantee that all people are free to self-determine their gender identity and expression without facing harassment, discrimination, or violence. SRLP is a collective organization founded on the understanding that gender self-determination is inextricably intertwined with racial, social, and economic justice. Therefore, SRLP seeks to increase the political voice and visibility of low-income people and people of color who are transgender, intersex, or gender non-conforming. SRLP works to improve access to respectful and affirming social, health, and legal services for our communities. SRLP believes that in order to create meaningful political participation and leadership, we must have access to basic means of survival and safety from violence.

SRLP holds a strong belief that as the people most affected by the systems of violence and oppression we fight are the best people to lead that fight. We also believe that social justice organizations must find ways to directly involve the members of our community who have been separated from us by the criminal injustice system.

The **Prisoner Advisory Committee (PAC)** is one way to overcome the enormous state-created barriers to communication and political participation for the people who are most affected by the prison industrial complex. PAC currently has over 180 amazing members who are enthusiastic about sharing their time, passion, and expertise with SRLP. Our members are trans, gender-nonconforming, and intersex people and allies who are currently incarcerated. Members of PAC work together with members of our Collective to develop strategy and policy goals. Most recently, PAC Members provided feedback and comments to begin the re-launch and update of SRLP's 2007 groundbreaking report, It's War in Here. PAC Members are developing creative ways to work on changing policies, building community, and sharing information and strategies. They also have been contributing to SRLP's annual newsletter for folks on the inside, In Solidarity.

TakeRoot Justice (TakeRoot) partnered with SRLP to conduct this research. TakeRoot provides legal, participatory research and policy support to strengthen the work of grassroots and community-based groups in New York City to dismantle racial, economic and social oppression. TakeRoot's Research and Policy Initiative partners with and provides strategic support to grassroots community organizations to build the power of their organizing and advocacy work. We utilize a participatory action research model in which low-income and excluded communities are central to the design and development of research and policy.

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This report could not have been made without the brilliant work of our Prisoner Advisory Committee (PAC). Even while existing in some of the most violent and isolating conditions, members of PAC, like so many oppressed communities, continue to find ways to survive, resist, and break down the distance and physical barriers created to systematically divide our community. We stand in solidarity with our members on the inside. We are guided by them, and we are committed to centering the political participation of those directly impacted people and communities. They are the experts – not lawyers, not judges, not DOCCS – this report exists only because of their continued dedication to resisting the systemic harm perpetuated by the prison industrial complex.

This harm has been harshly exacerbated by the COVID-19 pandemic, deepening the isolation and violence faced by those on the inside. As of this writing, at least one in seven people incarcerated in New York State have tested positive for COVID-19, a rate that is 1.7 times higher than the rate in New York overall. At least 33 have died.[i] There is no mechanism to ensure the health and safety of people on the inside. Lack of oversight and contempt for TGNCI people means that COVID further isolates, causing more health risks and increased vulnerabilities. This inhumane environment leads to death. Folks should not be in isolation, and need to be allowed to socialize and get/take care in a way that is safe and healthy. This pandemic highlights, yet again the harms done by the State to those most directly and severely impacted by the prison industrial complex. We must build power to force the State to release everyone.

Special thanks and recognition to Sara Kielly, a long-time PAC member, and Jailhouse Lawyer, for her brilliance, self-advocacy, and resilience. Sara contributed her artistry to our powerful cover art, all while she continues to fight for her freedom, and the freedom of so many of our beloved members on the inside. We are committed to fighting along with her.

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Thank you to the Sylvia Rivera Law Project Collective and staff, Stefanie Rivera, Lacey Lynch, Sasha Alexander, Kimberly McKenzie, and Julian Castronovo, and to the incredible Sylvia Rivera Law Project Movement Building Team.

Our deepest hope is that folks who are directly impacted by the prison industrial complex, and all other forms of institutional violence, will continue to be resilient in dismantling all forms of oppressions that exist and will be revolutionary in ways that inspires everyone impacted to resist and overcome the many barriers the state puts on you for solely existing.

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We also note that many survey participants made notes in the survey about others they wish to thank and acknowledge, including their families, friends, broader community, and former staff at SRLP. We recognize all as part of the network that moves forward the fights for justice and liberation.

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INTRODUCTION

An important note on content:
This report discusses many difficult issues, including verbal and physical violence, sexual violence, self-harm and suicide. We encourage our readers to care for themselves as they need when reading. For those inside, we would like to share with you our guide to "Self Care on the Inside: Tips & Activities to Take Care of Yourself." https://srlp.org/wp-content/uploads/2017/05/Self-Care-on-the-Inside-Guide.pdf

This report sheds light on the ongoing crisis for transgender and gender non-conforming (TGNC)[1] people in New York state prisons. From lack of access to medical services, to verbal abuse by corrections officials, to sexual and physical violence, to retaliation for placing grievances, we demonstrate the lived reality of prison for TGNC people and, crucially, we share their experiences in their own words.

We also emphasize that the experience of TGNC people in prison is a crisis within the crisis of mass incarceration, which disproportionately impacts people of color, low-income people, LGBTQ people, and other marginalized communities. It is a crisis within the crisis of our abusive prisons systems more broadly.

The Sylvia Rivera Law Project (SRLP) embarked on this research ten years after the publication of our previous report, "Its War in Here," a groundbreaking study on the experiences of transgender and intersex people in New York State's men's prisons, which drew from interviews with incarcerated and previously incarcerated people and their advocates.

Now, ten years later, SRLP has expanded our research: conducting in-depth surveys with currently incarcerated TGNC people as well as drawing on the testimony and expertise of formerly incarcerated people to learn more deeply and broadly about their experiences in New York State prisons. In this research we have made a conscious effort to move the focus from outside "experts" on issues of incarceration to the real experts: people surviving within the system itself. We used a participatory action research methodology in which the participation and expertise of currently and formerly incarcerated TGNC people was central to the design, implementation, and interpretation of the research. Their voices are centered throughout. This research gives a picture of the current landscape, makes new recommendations, and centers the voices and experiences of TGNC people in prison. SRLP partnered with TakeRoot Justice for support during key phases of the research project.

Through 44 in-depth written surveys with incarcerated members of SRLP's Prisoner Advisory Committee (PAC), interviews with members in prisons, and the input of SRLP members who are home and free after incarceration, our research finds that:

- **Housing placements do not affirm gender identity, are structured to recognize only a male/female binary, and are otherwise unsafe. TGNC people exercise diligent self-advocacy in attempts to change housing, but are often ignored by formal systems. Many TGNC people are forced to intentionally get disciplinary tickets or go to solitary confinement in order to remove themselves from unsafe housing situations.**

[1] When discussing our survey findings, we use "TGNC " in recognition that none of our survey respondents self-identified as intersex. In our discussion of recommendations, we use the term "TGNCI" because we believe that people who identify as intersex should benefit from any changes to the carceral system. We recognize and celebrate the many identities that fall outside the TGNC umbrella, as well as the fact that identities can change. We want to particularly acknowledge the survey respondents who identified as two-spirit, and to recognize and honor indigenous cultures.

- **There is extremely pervasive verbal, physical, and sexual violence perpetrated by corrections officials and Department of Corrections and Community Supervision (DOCCS) staff against TGNC people. Many survivors use official channels to make reports of sexual violence, but few have positive outcomes, and many face subsequent retaliation for seeking recourse.**
- **TGNC people are subjected to discriminatory and prejudicial behavior when seeking medical care, access to programming, and other basic services.**
- **The implementation of the Prison Rape Elimination Act (PREA) has failed to sufficiently address sexual violence and unsafe conditions for TGNC people.**
- **TGNC people are not provided with information about their rights in prison. As a result of this lack of transparency and information, TGNC people must rely on third parties to inform them of their rights.**
- **TGNC people are fierce self-advocates, widely utilizing the formal grievance system. However, this system fails to serve them, and those who utilize the grievance system often face retaliation.**

Our research provides an in-depth look at the experiences of TGNC people in prison, centering the voices and leadership of currently and formerly incarcerated TGNC people. This research emphasizes the need for policy makers, the legal community, and all of us to push for immediate and life-saving reforms. We call on the New York State Department of Corrections and Community Supervision (DOCCS) to:

- Create TGNCI housing units within existing facilities.
- Create a facility placement and transfer process to accommodate the needs of TGNCI people.
- End solitary confinement. In the immediate term, implement and monitor the Humane Alternatives to Long-Term Solitary Confinement Act, while working to abolish the use of solitary confinement.
- Give special consideration to situations in which TGNCI people are given disciplinary tickets, ensuring they are screened for safety considerations.
- Implement procedures that require DOCCS staff to use affirming language and give people the opportunity to self-identify.
- Hold prison staff and contractors accountable if they engage in verbal abuse or verbal violence.
- Address the crisis of sexual violence in prison.
- Improve the access to and quality of healthcare, both TGNCI-specific healthcare and general medical care, and improve information sharing to ensure that TGNCI people and their advocates know their rights.
- Improve the quality of and access to mental health services, and ensure that mental health providers are TGNCI competent.
- Allow TGNCI people to self determine their gender expression fully and without reprisal.
- Improve access to safe and accessible private showers and other privacy measures.
- Improve the grievance system and monitor for retaliation.
- Ensure access to programming for TGNCI people and protect against discrimination. Create new programming to promote the cohesion and self-advocacy of TGNCI people.

- Foster community connections among incarcerated people as well as between incarcerated people and people on the outside, which keeps people safer.
- Improve oversight, monitoring and transparency.

These recommendations, and more, are detailed later in the report.

People-First Language

Throughout this report we try to use people-first language: language that can identify the situation a person is in without reducing them to or defining them by that situation. For example, rather than using words like “prisoners” or “inmates” we have, wherever possible, chosen to say “incarcerated people,” or simply “people,” if the situation of incarceration was implied. Using language that positions incarcerated people as defined by their incarceration is part of systemic attempts to divide us, and we have tried to resist that here.

SYSTEMS OF INEQUALITY: CRIMINAL "IN"JUSTICE

This diagram illustrates how overpolicing and profiling of low-income people and of transgender and gender non-conforming people intersect, producing a far higher risk than average of imprisonment, police harrassment, and violence for low-income trans people.

Criminalization of Poor and Homeless People	Subject to **profiling and harrassment**; excessive police presence in poor communities; increased exposure to police
	Charged with survival crimes (sex work, drugs, theft, etc.) due to **lack of access to legalized employment or education**
	Charged with "Quality of Life" crimes like sleeping outside, turnstile jumping, loitering, etc., due to **lack of resources (housing, money)**

Criminalization of Trans People	False arrests for using the **"wrong" bathroom**
	False arrests for **lack of proper identity documents** (by ICE, police, etc.)
	Trans women are often **falsely arrested for soliciting** just for being transgender
	Trans masculine people of color often face **increased profiling**

Disproportionately High Exposure to Arrest, Police Harrassment, Incarceration, and Violence for Low-Income Trans People

Additional Gender-Related Harms Suffered by Trans People while in Custody of the Criminal Justice System	Subjected to **increased isolation** as an attempt to "solve" the problem of TGNC people's existence
	Serving longer sentences due to both misconceptions of trans people during sentencing/trial and not being understood at parole
	Gender-segregated arrest procedures (searches, holding cells, policies and procedures, etc.) do not accomodate trans people; low-income trans people are especially targeted due to lack of access to health care that would help them "pass" as non-trans people and are commonly misclassified by arresting officers as "male" or "female" based on their appearance or whether they have had genital surgery
	Denied access to hormones and other trans-specific health care while incarcerated and forced to change gendered characteristics of appearance in prison (made to cut hair, give up prosthetics, clothing); this results in mental anguish and increased exposure to harrassment and violence because appearance may conform even less to gender identity
	Facing **long-terms effects of being repeatedly disrepected** via name calling, being called the wrong name/ pronouns
	Isolated and/or subjected to **increased sexual violence, harrassment, and abuse** at the hands of prisoners and corrections facility staff

Transgender and gender non-conforming (TGNC) people, particularly those of color, are more likely to be targeted, surveilled, harmed and punished by the criminal system.[ii] A 2011 nationwide survey found that at least one in six transgender people have spent some amount of time in a jail or prison.[iii] In 2014, SRLP surveyed current clients and found that 66% of them were currently incarcerated or on probation or parole. Policies enacted in support of the failed 'War on Drugs' and the subsequent 'War on Terror' have led to increased surveillance, policing, and arrest within marginalized communities, and the criminalization of low-income, homeless, undocumented and underdocumented, of color, and TGNC people.[iv] These policies act on top of programs that require individuals and families who access state benefits to be subjected to near-constant surveillance, comply with reporting requirements, and give up many privacy rights.[v] The risk of criminal system involvement for TGNC people is highest at the intersections of other marginalized identities.[vi]

TGNC people, especially trans women and femmes of color, are also disproportionately targeted by police on suspicion of sex work, based on little more evidence than their physical appearance.[vii] Once identified by the police, the state's abuse of TGNC people begins, even before arrest or incarceration. In a survey of TGNC people, the National Center for Transgender Equality (NCTE) found that, among respondents who reported interaction with law enforcement officers who knew they were transgender, more than half (58%) experienced some form of police mistreatment.[viii]

Jails and prisons possess neither the infrastructure, the facilities, nor the institutional will to accommodate the carceral housing needs of TGNC people. TGNC people in prison are routinely housed according to their genitalia, and not their gender identity. In New York State, for example, the Department of Corrections and Community Supervision (DOCCS) claims to give "serious consideration to a transgender inmate's own views with respect to his or her own safety" as required in the twice-yearly assessments mandated under federal law,[ix] but advocates say that this is simply not the case.[x] Rather, transgender women are routinely and indefinitely housed with men, and transgender men housed with women, irrespective of preferences, needs, or safety concerns.

In New York City, the Department of Correction (DOC) has visibly struggled with how to house its TGNC jail population. On Riker's Island, transgender incarcerated people were housed with cisgender gay incarcerated people in a separate unit from the 1970s until 2005, when the unit was closed purportedly due to violence.[xi] In 2014, the DOC opened the 30-bed Transgender Housing Unit (THU) on Riker's, then moved it to the Manhattan Detention Complex in 2015. In 2016, the DOC announced that it would close the THU in order to open "several special units that would house transgender women alongside male populations known to be vulnerable to prison sexual violence, including short men, non-English speakers, and those with disabilities."[xii] Advocates as well as currently detained TGNC people rallied against these changes and, in 2018, it was announced that the New York City Human Rights Law, which requires that City agencies permit people to use single-sex facilities consistent with their gender identity, would be enforced jails and prisons.[xiii] In preparation for this, and due to an immigrant transgender woman of color who filed a complaint with the NYC Human Rights Commission, the THU moved to the Rose M. Singer Center, the only women's jail in the DOC system.

As of this writing, the THU is still in operation, and an additional "mixed" unit has opened for transgender women of any adult age and cisgender women over 50. Neither unit has an operable or visible directive, meaning that people living in the unit and their advocates cannot know the rules or rights of the unit. Advocates complain that the DOC has neither articulated clear criteria for how individuals can gain access to the units, nor supplied sufficient documentation to explain their decision-making. They report anecdotally that some women have been denied entry to the facility without explanation, and that others who had been allowed into the THU were later "transferred into male

facilities after their external genitalia were observed in medical exams—in violation of national prison anti-rape standards."[xiv]

There is very little transparency or accountability in the way that the New York State DOCCS treats TGNC people in jails and prisons. Like most state prison systems, the DOCCS keeps its policies around housing, medical care, programming, staff training, and violence prevention for TGNC individuals out of public view.[xv] No comprehensive national policies or mandatory reporting requirements exist to protect the rights of TGNC people in the criminal system.[xvi] In fact, even as the federal government has taken some preliminary steps to address the high rates of sexual violence that transgender individuals experience through the Prison Rape Elimination Act (PREA), the official National Prisoner Statistics (NPS) program[xvii] renders TGNC people essentially invisible by using a census questionnaire that sorts people solely according to binary gender categories. This categorization actively negates the full range of gender identity or expression. Moreover, most reporting is organized by the prison system, rather than outside third-party agencies or non-profits. This means that transgender individuals must out themselves to officials in order to be counted, which endangers their safety.[xviii]

BRIEF ORIENTATION TO PRISONS IN NEW YORK STATE

New York State only has prisons that are designated as men's facilities or women's facilities. There are three prisons labeled as women's and 50 labeled as men's. With so many prisons across the state, the governance of the facilities can range greatly. Each facility has a superintendent in charge of the facility itself as well as a Chief Unit Mental Health Officer and a Facility Health Services Director who are in charge of the mental health and physical health departments, respectively. There are two solitary-only facilities (often called "supermax" facilities) – Southport and Upstate – outfitted only with special housing units.[xix] Regional Medical Units (RMUs) exist at five facilities to serve populations who need more intensive or long-term medical treatment, but not ongoing hospitalization.[xx] In addition, New York State has two "shock" programs designed for specific individuals in which they undergo intensive "routines" in order to "shock" them into "proper behavior."[xxi]

Each prison has extensive guidelines for observation of individuals who may be suicidal. The New York State Office of Mental Health oversees many of the protocols for individuals who are suicidal through its Division of Forensic Services (DFS). DFS is responsible for coordinating the delivery of mental health services to individuals involved in all aspects of the criminal legal system. In particular, DFS is in charge of a network of prison-based mental health satellite units. Facilities that have Office of Mental Health Satellite Units also have Residential Crisis Treatment Programs (RCTPs) where individuals are put under a 24-hour observation, lose access to many personal items, and are required to wear smocks and paper slippers. In these programs, underwear is only afforded to individuals who are menstruating. Medical devices –including eyeglasses– are often taken away despite existing protocol not to do so.[xxii]

In general, after a person has gone through the initial reception facility and been assigned to a "home" facility, they are assigned to be in general population (GP). When in GP, an individual's right to access programming, law and general library, medical care, visits, education, and recreation is limited only by available slots at the facility. In medium and minimum security facilities, GP residents sleep all together in dormitory style bunks. In maximum security prisons, individuals are in cells, most often with a cellmate. These cells are often in rows along hallways. In some prisons, the cells have one wall that is only steel bars, in other facilities there are solid doors, often with a window or slot in them. There are also a number of other housing types that are used to subject incarcerated people to isolated confinement. These are discussed in conjunction with our relevant survey findings later in the report.

Time passes slowly in prison. There is very little to do or to occupy time. While there are programs offered within the facility, as well as volunteer-run groups and incarcerated-people created groups, there is rarely sufficient space in these programs to accommodate all interested people, and concerns such as disciplinary records, mental health status, medical concerns, and more can keep people from participating. For example, these programs are not accessible to TGNC people who are often held in protective custody or segregated confinement due to no fault of their own.

In both GP and other housing areas, access to medical and mental healthcare is difficult. In some facilities, Correctional Officers (COs) enter a housing unit and do a call for anyone going to the doctor. In other units, individuals must ask the day (or days) before for permission to go. In either arrangement, incarcerated people are always escorted to and from their activities, including to access medical and mental health care. Anyone going to the doctor or mental health specialist for something such as HIV care treatment, rape counseling, hormones, or other sensitive and private care, cannot do so with full privacy. At minimum, they risk sharing with security staff that such a trip was made.

While in GP, a person has access to commissary, packages, and visits. “Packages” refers to items an individual might order from a third-party vendor such as clothing, snack food, books, and more. “Commissary” refers to the items that a prison holds and sells allowing for more immediate access to items such as tampons, toilet paper, and other necessities. Individuals in the Special Housing Unit (SHU), a form of disciplinary solitary confinement, lose their right to access packages, commissary, phone calls, programs, and, sometimes, visits.

METHODOLOGY

Surveys

The survey for this project was developed by SRLP in collaboration with currently and formerly incarcerated TGNC people. We began by mailing out our 2007 report to our incarcerated membership – our Prisoner Advisory Committee (PAC) – as a starting point for discussion. We asked members to write back with their thoughts and ideas in three key areas: What did our previous report miss? What, if anything, is going better? What is the one thing you want to make sure we include in the new report? The feedback received in response to these questions was used to develop the survey for this project. India Rodriguez, a long-time member and volunteer with SRLP, edited the survey before it was distributed. In May 2017, SRLP held a mailing party and the survey was mailed to 96 currently incarcerated PAC members throughout New York State. 48 surveys were returned, with four surveys falling outside of our target sample, as they were completed by cisgender people. Those surveys were excluded from our analysis. The findings are based on the 44 surveys completed by TGNC people that we received from 18 prison facilities from June to November 2017.

Facilities From Which Surveys Were Returned (n=44)			
Facility Name	Security Designation	Designated Men's or Women's facility?	% of Respondents at this facility
Attica	Maximum	Men's	5%
Auburn	Maximum	Men's	11%
Bedford Hills	Maximum	Women's	9%
Collins	Medium	Men's	2%
Coxsackie	Maximum	Men's	9%
Eastern	Maximum	Men's	5%
Elmira	Maximum	Men's	11%
Five Points	Maximum	Men's	5%
Franklin	Medium	Men's	2%
Green Haven	Maximum	Men's	9%
Greene	Medium/Maximum	Men's	5%
Groveland	Medium	Men's	5%
Marcy	Medium/Maximum	Men's	2%
Midstate	Medium	Men's	2%
Mohawk	Medium	Men's	2%
Sing Sing	Maximum	Men's	7%
Washington	Medium	Men's	7%
Woodbourne	Medium	Men's	2%

Interviews for Spotlight Profiles

Short interviews were conducted during in-person visits with currently incarcerated TGNC people. These interviews inform the spotlight profiles throughout the report.

Background and Legal Research

TakeRoot researchers conducted a review of literature and media coverage related to the incarceration of TGNC people in New York and nationwide.

Legal research was also conducted to evaluate the current landscape of laws and regulations that impact TGNC people in New York State Prisons.

Limitations

Our research provides critical insight into the experience of TGNC people in New York state prisons. This community is frequently made invisible by other research, which fails to affirm their gender identities (e.g. research that talks only of men in men's prisons and women in women's prisons). Because there is no formal census that allows TGNC people to self-identify, it is hard to state the size of the community or how many TGNC people are living in prison facilities. Our survey sample of 44 people is only a fraction of the overall community in New York State prisons, and is intended to capture a snapshot of this community, as well as contribute much-needed findings about the experience of TGNC people in prison.

SRLP is explicit in our mission to engage and fight for the freedom and self-determination of TGNC people of color. However, our research did not engage all facets of our communities to the extent we would like. Our survey primarily reached people who identify as women, and nearly 30% of participants identified as white. Gender non-conforming people were underrepresented in our sample, as were intersex people. We recognize that systemic oppression, both within and outside of the prison system, means there are unique barriers to participation for gender non-confirming and intersex people, as well as people color. We note this gap in participation, and view this as an area for future work. In addition, because we reached people that had already connected to SRLP, often through self-advocacy, people who pursue certain kinds of self-advocacy may be overrepresented in our sample.

The experience of people living in women's prisons is underrepresented. While we know that transgender women, particularly women of color, are highly targeted by police and the prison system, we hope that future research can further investigate the experiences of transgender men and TGNC people in women's prisons. We also know that the juvenile correctional facilities are similarly abusive and discriminatory, and the experience of TGNC youth in those systems warrant additional research as well.

A Note on Quotations: Attribution and Spelling Corrections

Quotations from our survey are presented throughout the report with pseudonym initials in order to preserve anonymity of those respondents who preferred to stay anonymous. We opted against a system of numbering respondents to avoid attributions that were reminiscent of the numbers people are assigned in prison. Instead, we assigned people initials that are derived by formula from their real initials, thus honoring their true identities while preserving anonymity.

In the quotations, spelling has been corrected. We chose to do this because respondents hand-wrote their responses from prison, and could not benefit from using a computer spell-check, unlike many other modern-day writers.

Demographics: Who are the People We Surveyed on the Inside?

The majority of respondents identified as female (56%) and people of color (62%). The average age of respondents was 44 (43.7). Most respondents were from New York, with 38% growing up in the five boroughs and 43% growing up elsewhere in New York State. Nineteen percent of respondents grew up outside of New York State. Nine out of ten respondents reported experience with at least one form of social services prior to being incarcerated (91%).

Nearly all respondents were held in a men's facility (91%). All respondents who identified as female were held in facilities designated for men. Four respondents were held in women's facilities: two who identified as male and two who identified as another gender. Nearly two-thirds of respondents were being held in maximum security prisons (71%), about a quarter were in medium security prisons, and 5% were held in mixed security facilities.

Demographics of Survey Respondents		
		Percent of Respondents
Gender Identity n=41	Female	56%
	Male	7%
	Gender Non-Conforming	5%
	Another gender (e.g. two spirit, cross-gender, 3rd gender)	32%
Race/Ethnicity n=40	Person of Color	62%
	White	28%
	Unclear	10%
Where Respondents Grew Up n=42	New York City (5 Boroughs)	38%
	New York State	43%
	Outside of New York State	19%
Experience with social services prior to being incarcerated n=44	Yes	91%
	No	9%

RESEARCH FINDINGS

The following findings are based on 44 in-depth surveys with TGNC people incarcerated in New York State prisons at the time they submitted surveys.[2]

FACILITY PLACEMENT

Survey respondents are not currently placed in housing that affirms their gender identities, that corresponds with their housing preferences, or where they would feel most safe. Of those currently held in men's prisons, the preferred form of housing would be a specialized TGNC unit within a women's facility. Our survey responses and SRLP's experiences working with community members also make clear that housing needs are individualized. Survey responses included a range of preferences for housing, and for other structural changes that would increase safety. PREA requires the placement of people in facilities based upon self-identified gender by default, but, even if this were to be followed, the housing needs of incarcerated TGNC people would not be met, because those needs are diverse and individualized. PREA also requires that prison officials assess housing placements twice a year, and that during these assessments officials place "serious consideration" on the wishes of the individual.[xxiii] But as our survey demonstrates, many TGNC people seek housing placements other than those in which they are currently placed.

Two-thirds of respondents have sought facility transfers, including seeking facilities that are affirming of their gender identity, facilities in which they would feel safer, or facilities that are closer to home. Survey respondents have advocated for themselves by pursuing these requests through a variety of channels. They have received dismissive and cruel responses that ignore the need for people to have their gender identity taken seriously for their emotional and physical safety. Nearly half of respondents report they have purposefully gotten themselves into trouble — getting Tier III tickets or going to solitary confinement — in order to remove themselves from an unsafe housing situation.

Where respondents are currently being held

- **All respondents who identified as women were held in men's prisons**, as were 91% of respondents overall. 9% of respondents are held in a prison designated as a women's prison.
- **Almost three quarters of respondents (71%) are currently held in a maximum security facility.** These facilities significantly restrict people's rights except for two key areas: access to single cell locking units (as opposed to dorm style units at medium and minimum security facilities) and access to visits any day of the week instead of only weekends The medium security facilities in which the remaining participants are held still restrict rights in many ways, including Special Housing Units (SHU's), which are a form of disciplinary confinement, as well as restricting visits to weekends.
- **While the survey did not specifically explore the issue of people being transferred between facilities, it was notable that a number of respondents were transferred during the surveying process. Such transfers, if not requested, can have a significant impact on the lives of incarcerated people.** Three people returned the survey from a different facility than it was mailed to, and 11 others were moved since completing the survey. Transfers between facilities, if unilaterally imposed, can have many effects: making it hard to form community, hard to finish programming, hard to establish visits from loved ones, and hard to form relationships with staff or learn the rules

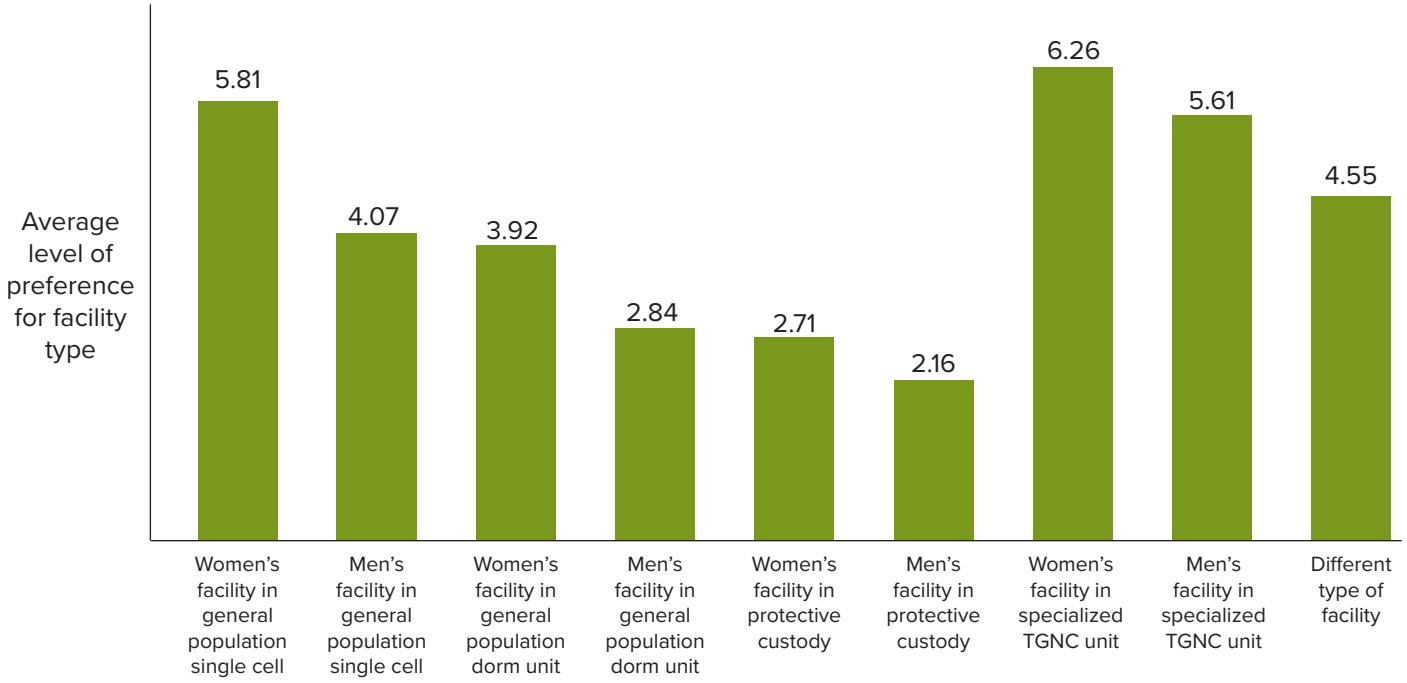
[2] We are happy to share that some individuals have returned home since they were surveyed. Sadly, some of those who came home are now back inside after experiencing parole violations and being re-incarcerated. This speaks to the necessity of transforming the parole system. While not the focus of this report, parole reform is an essential part of the fight to protect our communities from the harms of incarceration.

of a facility. Transfers can also have repercussions for rights: for example, a person in the middle of filing a grievance over medical concerns at one facility, who is then transferred to a new facility, must begin the process again from the beginning, as each facility is a unique jurisdiction. Transfers can also disrupt the process of a name change: name changes must be filed where a person is residing, and a transfer can mean that the process has to be stopped and re-filed in a new county.

Facility Preferences

- **Facility preferences of those currently held in facilities designated for men:**
    - Of those currently incarcerated in a men's facility—the large majority of our survey respondents—**the preferred housing placement is a women's facility within a specialized TGNC unit. The least preferred option is a men's facility in protective custody.**

Housing Preference Rankings of Respondents Currently Incarcerated in Men's Facilities (n=39)



Facility types were ranked by respondents from 1 to 9, with 1 being highest preference. For purposes of displaying the data, these scores were inverted, so that the higher number now indicates greater preference

- **Facility preferences of those currently housed in facilities designated for women.**
    - Four respondents are currently held in women's prisons. Three listed a women's facility in general population, in a single cell, as their preference. The fourth listed a facility only for trans and gender non-conforming people.

Self-Advocacy In Requesting Facility Transfers, and the Department of Correction Response

During the period in which the surveys were completed, there was no clear way for an individual to request a transfer to a facility of a specific gender. There was guidance about transfers related to sexual violence – specifically, Directive 4027A was updated in 2011 (prior to our surveying) to provide some information concerning transfers after an instance of sexual violence. It is important to note that these revisions did not provide a specific right to a transfer due to violence perpetrated against incarcerated people by staff. Instead, Directive 4027A only imagines a transfer due to the actions of another incarcerated person.[xxiv]

After our surveying had concluded, DOCCS updated Directive 4401, which includes the specific steps needed to transfer from a women's facility to a men's, or a men's facility to a women's facility.[xxv] As there is no right to a transfer, many people do not pursue grievances when their transfers are not granted, as the law is not on their side. While Directives 4017, 4021, and 4401 allow people an avenue to ask for a transfer, the prison is not obligated to act. PREA requires only that the prison asks an individual twice a year where they would feel safest.[xxvi]

Despite these barriers, we find that survey respondents exercised significant self-advocacy in seeking facility transfers.

- **Two-thirds of respondents have asked to be in a different type of facility (65%)**. Many shared the frustrations of attempting to transfer to facilities that were closer to home, affirming of their gender identity, safer, or preferred for other reasons.
- **Respondents pursued their transfer requests through a variety of channels.**
    - Nearly three-quarters spoke to someone with Movement and Classification in Albany (72%).
    - About half spoke directly to a staff member, medical professional or volunteer (48%).
    - More than a quarter spoke directly to a Corrections Officer (28%).
    - A third spoke directly to a PREA administrator or coordinator (32%).
    - A quarter filed a grievance (24%).
- **Some respondents described the responses they received when trying to be transferred to a gender affirming facility. The responses lack recognition of the very real need of people to have their gender identity taken seriously, as affirmed by PREA**:
    - *"I asked to be moved to a female prison. I was told because I was born a male I have to be in a men's prison."* –Respondent F
    - *"I expressed that I would feel safe and comfortable at a female facility (Bedford Hills) but they said I need to be a complete female!"* –Respondent TLB
    - *"I have asked consistently and constantly...to be placed in a women's facility or a transgender voluntary housing unit. I was told no, laughed at, pitied and ignored. No changes were ever made.* –Respondent THL
    - *"Denied! You're a male appropriately housed in a male prison."* –Respondent TDC
- **Other responses from staff were dismissive, cruel, and reflective of the bureaucracy of a system that can feel impenetrable.**
    - *"I was at Marcy Correctional when I asked to go to a specific facility. Staff there said that they will place me anywhere they want and I don't have a say so."* –Respondent UFX
    - *"On a facility level I was informed that my inmate transfer system inquiry came back as 'present placement appropriate.' When I wrote to Albany the Asst. Commissioner informed me to contact my facility guidance unit concerning transfer inquiries. Circles, a regular mulberry bush. Bullshit."* –Respondent ME

- **Some respondents also discussed being threatened with Protective Custody (PC) or told that PC was their only option. This is in direct violation of the PREA**, which says that PC is a method of last resort and shall not last for more than 30 days without a review.[xxvii]
    - *"[I was told] 'We don't do that [transfers] there is no other place to put you, would you like to be put in PC?' They love to throw the PC game [at] us t-girls."* –Respondent PD
    - *"[I was told] 'You can write Albany or sign into PC…'"* –Respondent SJH

Measures Respondents are Forced to Take to Remove Themselves from Housing Situations

- **Half of respondents reported they have purposefully gotten Tier III tickets or gone to solitary in order to remove themselves from a housing situation (49%).**
- **In survey comments, respondents described intentionally getting themselves in trouble to avoid physically and sexually abusive situations:**
    - *"In March 2017 I allowed an argument with a CO and Sgt to escalate, and then intentionally made threats (verbal) so I'd get sent to SHU/ RMHU because I was being sexually harassed, abused, touched and threatened on an hourly basis and no staff were responding to my complaints. I had to get out no matter how."* –Respondent THL
    - *"I was being threatened by multiple inmates, so when the CO's told people to get on the wall I punched somebody and started fighting."* –Respondent TCM
    - *"In Auburn CF 2012 inmates wanted to gang rape me in PC and the CO's were forcing me to move on the gallery with these perverts. I refused and went to the SHU then get 'Ad-seg' [administrative segregation, or solitary confinement] for reporting the serial rape plots."* –Respondent TDC
    - *"Was raped in Attica Correctional in 2003. More than once. So I put a weapon in my cell and dropped a slip on myself. So my cell could be searched and weapon found."* –Respondent DU

Tier III Tickets

In prisons across the US, incarcerated individuals must obey all orders from COs and civilian staff. Even orders that are unlawful must be obeyed. Failure to abide by all rules at all times can result in a disciplinary ticket. In New York there are three levels of disciplinary tickets. The tickets are categorized, beginning with a violation and ending with a Tier III. There is no cap on solitary confinement in New York State, so a ticket can potentially result in someone going to solitary confinement for their entire sentence. SRLP has worked with individuals who have survived anywhere from a week to 25 years of solitary confinement in New York.

Tier III tickets result in a hearing before a Commissioner's Hearing Officer (CHO). While there are some civilian CHOs, almost all CHOs are senior COs within the same facility. CHOs are not Judges and this process is not equivalent to a criminal trial. Hearings are audio recorded and the individual with the ticket has the right to call witnesses. There is no right to an attorney, although organizations like Prisoners' Legal Services and Prisoner Rights Project of the Legal Aid Society provide people with many manuals and guides on the Tier III process to assist with self-representation. Laws state that non-English speakers must be provided with an interpreter and that individuals with learning disabilities or cognitive differences must receive assistance.[xxviii] People who do not speak or write in English and people with learning disabilities or cognitive differences have immense trouble writing to attorneys to gain their attention, and therefore their cases often do not reach attorneys.

During these hearings, ordinary courtroom rules, such as procedures for evidence and hearsay are not upheld. However, other rules are in place. One of the most challenging rules is that if an individual wishes to appeal the hearing they can appeal only upon what was raised in the hearing itself. Therefore, if an individual becomes frustrated or does not understand the procedure and goes quiet, there is little information an attorney can assist with. This reality places people navigating the process at a distinct disadvantage.

Our research shows that half of respondents have intentionally gotten Tier III tickets in order to be moved to the long-term solitary facilities or to remove themselves from a housing situation. Tier III tickets can have long-term effects such as negatively affecting a conditional release time, a parole appearance, and access to a vocational or education class.

ISOLATED CONFINEMENT

Nearly all respondents have been in housing other than general population, including more than 80% who have been in disciplinary solitary confinement (see side bar for information on types of isolated confinement). Respondents reported being sent to housing outside of general population due to their gender identity, self-defense against assaults, and fabricated claims by staff. We also want to emphasize that even in instances where charges of misconduct are accurate, isolated confinement is not the answer.

- **Nearly all respondents report that they have been in housing other than general population during their time in New York State Prisons.**
    - 95% have been in a type of housing other than general population housing.
    - 83% have been in disciplinary solitary confinement, including:
        - 83% who have been in SHU for disciplinary reasons.
        - 73% who have been in keeplock.
        - 46% have been in voluntary protective custody.
        - 39% in involuntary protective custody.
        - 37% for OBS/Suicide Watch.
- **Respondents described being sent to housing other than general population due to their gender identity, self-defense against assaults, and fabricated claims by staff:**
    - *"Let me simply tell you that I've landed in either the SHU and/or an MHU strip cell in just about every prison I've ever been housed in at some point in time, frequently for gender related issues."* –Respondent WN
    - *"[I ended up in housing other than General Population] for a Tier III that I did not do because they want me out of the facility because I am transgender and they did not know how to deal with me as a human being."* –Respondent SJH
    - *"I was alleged to have assaulted staff, but in truth they assaulted me and covered it up."* –Respondent EF
    - *"A fabricated infraction as an act of retaliation for complaints and grievances resulted in both SHU and Keeplock time in addition to bias-based infractions. Protecting myself against being physically and/or sexually victimized has also resulted in confinements in PC and disciplinary status placements."* –Respondent TG

Types of Housing Other than General Population

In general, after a person has gone through the reception facility and been assigned to a "home" facility, they are placed in general population (GP). GP means that the individual's right to access programming, law and general library, medical care, visits, education, and recreation is limited only by available slots at the facility.

However, there are a number of types of housing situations other than general population which incarcerated people may experience. For some, a stay in these isolated confinement settings may be brief. For others, it may be for the duration of their entire sentence.

- **Special Housing Unit (SHU)** is a form of disciplinary solitary confinement. Individuals in SHU lose their right to access packages, commissary, phone calls, programs, and sometimes also visits.
- **Keeplock** is a disciplinary alternative to solitary confinement. Individuals who cannot legally be sent to SHU will be sent to keeplock. Individuals who have been found guilty of an infraction that is not thought to rise to the severity of requiring solitary confinement may also be placed in keeplock.[xxix]
- **Regional Mental Health Units (RMHUs)** exist at three facilities and serve as alternate housing for an individual whose mental health status indicates they cannot go to SHU. These are restrictive units with only four hours of structured mental health programming provided each day.
- **OBS/Suicide Watch** is used when an individual has made an active threat to their own life. In this housing, "wellness checks" are made every 15 minutes. Wellness checks can range from an actual conversation and check-in with a professional mental health worker, or can be as simple as a staff member walking by the cell.
- **Protective Custody (PC)** is a form of housing that is supposed to help individuals stay safe within the prison environment. Individuals may choose to be in PC (voluntary), forcibly placed in PC or forced to remain in PC (involuntary). People may choose to enter PC due to their gender identity or sexuality, because their crime of commitment is well known and they are facing abuse, or because the prison environment is stressful and they feel that PC may be less stressful. According to Directive 4948, Protective Custody is supposed to be distinct from solitary or disciplinary confinement. Individuals in PC should get a minimum of three hours out of cell, and one hour of outdoor exercise each day, with no limitations in participation in programs.[xxx] From SRLP member experiences, we know the reality is that many prisons place PC and SHU units near each other and treat them as interchangeable. Individuals in PC receive one hour of solitary out of cell time, and no programs.
    - **Voluntary Protective Custody**: when an individual has chosen to go to Protective Custody.
    - **Involuntary Protective Custody**: when an individual did not choose to go to Protective Custody but is placed there, or, when an individual initially chose to enter Protective Custody but is not allowed to leave, thus making it involuntary.

Protective Custody as punitive and dangerous

Protective Custody (PC) is framed as a mechanism to protect incarcerated people from harm. But in the experience of survey respondents, protective custody is often punitive and dangerous. One of the major reasons for this is that DOCCS construes all harm as coming from other incarcerated people and has failed to make any meaningful changes to address how prison, and PC in particular, can subject individuals to harm perpetrated by Corrections Officers.

- **People seeking facility transfers were told that PC was their only option, or were threatened with being sent to PC.**

- *"We don't do that [transfers] there is no other place to put you, would you like to be put in PC, they love to throw the PC game [at] us t-girls."* –Respondent PD

- **Protective Custody in a men's housing unit was the option least preferred by respondents,** and Protective Custody in a women's housing unit was the second least preferred.
- **A respondent described sexual assaults, including assaults by prison staff, while in Protective Custody:**
  - *"I'm a transgender woman. Can't be in GP! Got raped by CO's and inmates in various PC facilities. Got assaulted by inmates and guards. Nothing ever happened to me in GP because I've never been in GP. All of the above took place in PC. Go figure."* –Respondent TDC

VERBAL VIOLENCE

Verbal abuse and violence are extremely widespread. Nearly all respondents report the use of derogatory names and slurs by Corrections Officers and DOCCS staff, and more than three-quarters report that Corrections Officers and other DOCCS staff do not use correct names or pronouns.

- **Respondents report widespread verbal abuse and violence. Corrections staff refuse to use the correct name and pronouns for respondents, and use verbal slurs against them.**
  - **More than three-quarters of respondents report that Corrections Officers and other DOCCS staff do not use the correct name or pronouns.**
    - 78% say COs and other DOCCS staff do not use the correct name.
    - 76% say COs and other DOCCS staff do not use the correct pronouns.
    - In addition to the use of the wrong pronoun (such as "he" instead of "she") many respondents reported being called "it" as well as numerous transphobic and homophobic slurs.
  - This problem exists in interaction with other incarcerated people as well.
    - 65% say other incarcerated people do not use the correct name.
    - 63% say other incarcerated people do not use the correct pronoun.
- **The use of derogatory names and slurs by Corrections Officers and other DOCCS staff against TGNC people was a nearly universal experience for respondents.**
  - 95% of respondents reported being called a derogatory name by COs or other DOCCS staff.
    - 84% of respondents had been called a derogatory name related to sexual identity (e.g. "faggot") by COs or other DOCCS staff.
    - 75% of respondents had been called a derogatory name related to gender presentation (e.g. "girly-boy") by COs or other DOCCS staff.
    - 59% of respondents had been called a derogatory name related to race or ethnicity by COs or other DOCCS staff.
    - 59% of respondents had been called a derogatory name related to their mental health by COs or other DOCCS staff.
  - The large majority of respondents also reported the use of slurs and derogatory names by other incarcerated people (88%).

- **Respondents shared examples of the names they have been called by Corrections Officers and other DOCCs staff:**
    - *"Faggot or it or he/she."* –Respondent JSB
    - *"Faggot, he-she, tranny, dick sucker."* –Respondent TLB
    - *"He/she, bulldager, it, want to be man, abomination, sinner, and confused."* –Respondent LC
    - *"Transgender freak, it, princess, a prostitute."* –Respondent TH
    - *"Fag, bitch, cock-sucker, AIDS VICTIM (even though I don't have AIDS), my bitch, cum guzzler."* –Respondent D
    - *"Pick one, I have heard it."* –Respondent ME

***"If you let other inmate's and COs tell it, they will say we're an abomination. Don't deserve to coexist with others, we should die or just be amongst ourselves. They're wrong. We're normal because we're human beings. I just want all my brothers and sisters to stand strong and together, protect ourselves and one another internally and externally."* –Respondent F**

PHYSICAL ASSAULT

A common response to requests for increased freedoms or other progressive actions in prisons is that prison is inherently dangerous because of incarcerated people. Our data highlight that Corrections Officers (COs) are perpetrators of physical violence in prison. Nine out of ten respondents reported that they were the victims of physical assaults while incarcerated, including 80% who were physically assaulted by a CO. Common assaults by COs included being punched in the face, kicked in the ribs or chest, hit with an open hand, pushed or shoved, and assaulted with a baton. Many respondents also reported assaults that included COs punching or kicking their genitalia. It is crucial to emphasize that our respondents experienced the same rates of assault from COs as they did from other incarcerated people.

- **91% of survey respondents indicated at least one form of physical assault while incarcerated.**
- **80% of respondents experienced at least one physical assault by a Corrections Official.** Numerous types of assaults were reported.
    - 73% of respondents were pushed or shoved by a CO.
    - 57% of respondents were hit with an open hand by a CO.
    - 50% of respondents were punched with a closed fist by a CO, including 45% who were punched in the face and 27% who were punched in the genitalia.
    - 45% of respondents were kicked by a CO, including 45% who were kicked in the ribs or chest, 30% who were kicked in the genitalia, and 23% who were kicked in the face.
    - 41% of respondents had a baton used against them by a CO.
    - 23% of respondents had chemical spray used against them by a CO.
- **80% of respondents experienced at least one physical assault by another incarcerated person.**

SEXUAL VIOLENCE

Prisons perpetuate a culture of sexual violence. An environment where every order— even unlawful ones—must be obeyed, and where clearly traumatizing procedures such as strip searches occur on a daily basis, is an environment that cultivates rape culture. We firmly believe that an environment in which forcing others to be naked is accepted as both lawful and justified is necessarily at odds

with the idea that small actions matter. Calling incarcerated people derogatory names or refusing to use the right names and pronouns creates an environment where certain people are systematically dehumanized and othered. This cultivates a culture of sexual violence.

Our findings support previous studies which found extremely high, and in some cases universal, rates of sexual violence against incarcerated TGNC people.[xxxi] While not a focus of our survey, it is important to note that attitudes towards sexual violence in the non-incarcerated world are reflected and intensified in prison environments. Many individuals who survive sexual violence are punished again by being placed in PC "for their protection" after an attack. This isolates a person at a time of great vulnerability. Likewise, individuals who fight off their attacker often face disciplinary tickets for their behavior and may spend time in solitary confinement for surviving. In addition, the common and damaging conception that rape is only defined as penetration of a penis into a vagina means that TGNC people who do not have a vagina are construed as incapable of being raped, and in fact capable only of being perpetrators of rape. Time and again, SRLP hears from individuals who have been told by medical staff, therapists, or correctional officers that if they were not a woman in a men's prison they would not be attacked.

It is never said enough so we would like to say again now: no act of sexual violence is ever the survivor's fault. Our identities do not promote sexual violence. No one "earns" or "deserves" sexual violence of any kind.

Our research shows that sexual violence perpetrated by corrections officials is extremely pervasive. Three- quarters of respondents reported at least one experience of sexual violence by a corrections official while in a New York State Prison, including more than two-thirds who were touched in an inappropriately sexual way, and more than a quarter who were forced by a CO to perform oral sex.

Survivors pursued recourse through self-advocacy: 81% reported the sexual violence they experienced. While many of those who reported sexual violence received an investigative visit, few reported positive outcomes, and two-thirds experienced retaliation for reporting sexual violence. Retaliation included physical violence, property destruction, being written up on false charges, and being denied meals or other critical services.

There are many ways in which an incarcerated person is forced to give up control of their body. From mandatory head shaves and prohibition of any individual expression, to strip searches following visits, bodily autonomy is wholly denied. Even if an individual manages to avoid the most violent of actions there are still daily degradations such as pat-downs. A pat-down search is one of the most common searches. Cisgender women and transgender people of any gender identity are to have a pat-down search of their breasts or chests with palms facing outward. Transgender women routinely report that officers grab their breasts and other body parts during unnecessary pat downs. While this is unlawful, it is incredibly hard to prove as pat downs are rarely caught on film, and it becomes a matter of a COs word against the word of an incarcerated person – a battle that incarcerated people rarely win.

Some of the types of sexual violence which respondents reported are technically allowed under the law, even as the law obscures its self-perpetuating avenues for abuse. According to Directive 4910, incarcerated TGNC people, "may request that a Correction Officer of the inmate's preferred gender conduct the pat frisk." However, the directive also stipulates that these requests are to be honored only "whenever possible," which provides wiggle room for DOCCS to sideline the demands of incarcerated people. Furthermore, the directive also empowers CO's to conduct the pat-frisk, no matter their gender, given the existence of "exigent circumstances."[xxxii] Given the lack of clarity in the directive's

language, this means that every transgender woman who responded to our survey is, under current law, allowed to be searched by male COs. Many transgender women responded to the survey stating that searches—whether clothed or naked—by male COs were acts of sexual violence. This is a lawful act of sexual violence in New York State. This, in part, is why SRLP takes every opportunity to say that the way to end rape culture in prisons is to dismantle prisons.

- **75% of respondents reported at least one instance of sexual violence by Corrections Officers (COs). This includes:**
    - 48% of respondents who reported violence from a single male CO.
    - 32% of respondents who reported sexual violence from multiple male COs.
    - **Respondents reported numerous types of sexual assaults by COs :**
        - 68% were touched in a way that felt inappropriately sexual while they were clothed, including 57% who had their chest/breasts touched, 43% who had their genitals grabbed, and 55% who had their bottom grabbed.
        - 36% were asked to strip search in front of other incarcerated people.
        - 36% were asked to remove their bra in front of male COs during a strip search.
        - 27% were forced by a CO to perform oral sex.
        - 18% had their naked genitalia touched by a CO.
        - 16% were forced to perform anal sex by a CO.
        - 20% were forced to perform another sexual act by a CO.

Sexual Violence Reporting

Under Directive 4040, any communication to a person holding a position within DOCCS, including sub-contractors such as mental health specialists, counts as reporting an instance of sexual violence. This means that survivors can forego the formal grievance process. Survivors also have a longer period to report sexual violence than any other concern. Other concerns— from the denial of an extra blanket in the winter, to a DOCCS employee physically assaulting someone—must be reported within 45 days of the incident. For instances of sexual violence this is extended to "any time." However reports, must be "timely" for proper investigation and services.[xxxiii]

- Of those who indicated they experienced at least one form of sexual violence by a CO, **81% said they had reported sexual violence to a DOCCS employee, OMH employee, or volunteer.**
- When asked what happened after they reported an assault, a number of respondents reported inaction or being told there was insufficient evidence. Several respondents said the dismissal of their complaints hinged on the lack of DNA evidence. This is notable issue as not all sexual violence results in DNA evidence, not to mention with the enormous difficulty of getting DNA evidence from a prison setting to an investigating agency. In describing the outcome of reporting sexual violence, survey respondents shared:
    - *"Nothing I was only told that happens in prison."* –Respondent EF
    - *"Nothing. I was transferred to another jail both officers are still DOCCS employees."* –Respondent OC
    - *"They investigated it but in the end it was his word against mine."* –Respondent TCM

- *"Unsubstantiated. No DNA, No rape! It's always unsubstantiated! That's the DOCCS favorite word to deny accountability."* –Respondent TDC
- *"Said it was not enough evidence and swept it under the rug."* –Respondent DU

- Of those who said they had reported sexual violence, **73% received an investigative visit**. Though a few respondents described positive or partially positive outcomes of an investigation, **many respondents who wrote about what happened after an investigative visit reported negative outcomes or impacts like retaliation, being accused of lying, being put in isolated confinement, or lack of follow up.**
  - *"The guy was very nasty and intimidating and I felt he would strike me at any time. I was in a SHU with my hands cuffed behind my back."* –Respondent WN
  - *"I was frightened! But I reported it!!! The captain interviewed me then had [investigator] come see me. BUT they also put me in SHU!!! ....Nothing at all [happened after the visit]!!! It was 'brushed under the rug' and I remained in SHU for 6 damn months for no reason!!!"* –Respondent D
  - *"I don't feel he took me serious. They work, or used to work with the COs, or [are] even friends with these COs some are family members for crying out loud."* –Respondent PD
  - *"Nothing, I was accused of lying."* –Respondent TH
  - *"I'm under the impression their function is to discredit the inmate. Offer a transfer to the victim to make this go away and even then you have no choice or idea where you're sent."* –Respondent U
  - *"They moved me out of that facility but wrote me up for assault on staff and sent me to the box for 3 months now I have that on my record. In 30 years never had an assault on staff."* –Respondent UH
  - *"3 different tgirls wrote formal complaints about this one CO sexually harassing them and it was investigated ... yet not only did he get not found to be guilty, he wasn't even disciplined. 6 months later he was working on our cell block again. It's becoming clear that only sadistic sociopaths and petty tyrants want these jobs. Something needs to be done for real. This cannot continue on like this. Something needs to change."* –Respondent ODL
- Of those who said they had reported sexual violence, **67% said they had experienced retaliation for reporting sexual violence**. Respondents described the retaliation they faced for reporting:
  - *"Ultimately, the administration or prison officials informed facility staff, CO's which in turn make a hostile environment for me!"* –Respondent HE
  - *"Constant cell search, pat frisk and verbal harassment in front of inmates."* –Respondent K
  - *"I've lost a lot of property, [and been] discriminated against when good positions came available in the mess hall."* –Respondent OC
  - *"I reported a friend that was getting raped and was told if I did it again I would have a problem."* –Respondent SN
  - *"Sent to the box, had mail thrown away, had personal property destroyed, received multiple retaliation misbehavior reports."* –Respondent TDC
  - *"Lock me up sent to the box giving all my property away not letting me shower playing with my food."* –Respondent PD

- *"I've been threatened, assaulted, denied meals/Rec/toilet paper and supplies/shower/razor, targeted for unnecessary and destructive cell searches, personal property taken/broken, packages/mail lost or destroyed, denied commissary, commissary taken, set up for false disciplinary tickets/ keep lock."* –Respondent THL

THE PRISON RAPE ELIMINATION ACT (PREA) AND ACCOUNTABILITY

The Prison Rape Elimination Act (PREA) is a federal law first passed by Congress in 2003. While the law was passed in 2003, the regulations implementing PREA were published in May 2012 by the Department of Justice, a federal agency. During the intervening nine years, many individuals and organizations submitted comments to the Department of Justice. Currently and formerly incarcerated individuals, including many of the participants in this survey, submitted their comments to inform the final regulations.

PREA provided the groundwork for what individual federal, state, and municipal prisons, jails, police lock-ups, juvenile detention centers and community confinement facilities must do with respect to sexual violence. In the summary of the final PREA regulations the "particular vulnerabilities" of individuals who are transgender and intersex were noted. PREA created the first federal standard for how transgender and intersex people were to be housed and searched.

As it is a federal law, PREA must be followed by federal agencies; however, state prisons such as the New York State Department of Corrections and Community Supervision (NYS DOCCS) can choose to follow these standards. Agencies who choose not to follow PREA cannot access full federal funding. NYS DOCCS has chosen to be PREA compliant.

In recent years, many advocates and scholars—including currently incarcerated people—have commented that while the regulations themselves are thorough, PREA itself lacks any enforcement mechanism. There is no right to action under PREA, meaning a PREA violation does not itself allow for a lawsuit.

Our research shows that DOCCS makes minimal information related to PREA accessible, and that the tools that people need to stay safe from violence, or to meaningfully address violence when it happens, are still out of reach. Official posters informing people of their rights under PREA, received in response to a Freedom of Information Law (FOIL) request, are so poorly designed that critical information is illegible because it is in white font against a nearly white background, or because the font size is extremely small (See Appendix A for examples). Most respondents did not know who the PREA Manager for their prison or prison hub is, despite the fact that PREA Managers are directly responsible for the daily management of facilities and should be easily accessible.[3] When asked how conditions have changed since 2012, when PREA was implemented, respondents reported that key issues—such as DOCCS staff use of correct pronouns, or verbal harassment from staff—have actually gotten worse, and others, like access to private showers, have stayed the same.

- **While the majority of respondents have seen materials explaining their rights under PREA, and a phone number to report sexual violence, less than half had seen material about how to grieve sexual violence.**
    - 84% had seen a poster stating there is a zero-tolerance policy for sexual violence.
    - 77% had seen a poster explaining their rights under PREA.

[3] SRLP members report that information about PREA managers is not made accessible or posted inside.

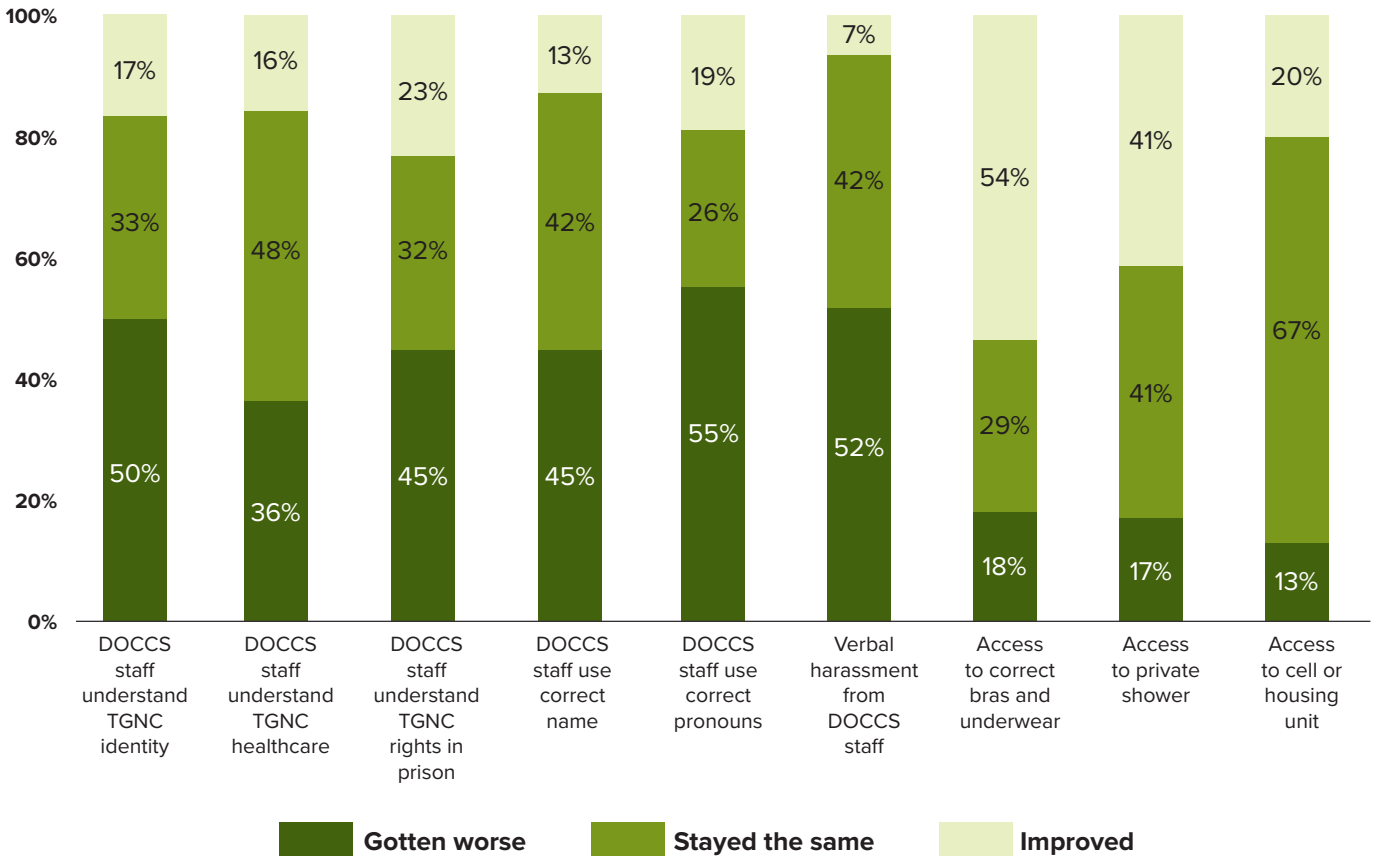
- 70% had seen a phone number to report sexual violence.
- 40% had seen material about how to grieve sexual violence.

- **The information that people do have access to is limited, sometimes illegible, and not inclusive.**
  - Several versions of a "Zero Tolerance" poster, used to inform incarcerated people about their rights under PREA, were received by SRLP. The primary text of the poster reads: "You Have the Right to be Free from Sexual Abuse. DOCCS has Zero Tolerance for sexual abuse and sexual harassment. Report it. Get help. Be safe." However, this text is superimposed over images of people. In several instances, the people are sitting in front of nearly white backgrounds, and the text is also white. This makes portions of the poster completely illegible. In addition, the actual information for how to report abuse (a phone number and address) are in an extremely small font that is hard to read. See Appendix A for examples.
  - *"I think that when they made the PREA video they did not consider trans inmates. Because all the names that are on the video are male and straight. We trans should be included since we are more likely to be sexually assaulted and can speak more freely."* –Respondent TLB
- **More than half of respondents did not know who the PREA Manager for their prison (or prison hub) is, and most had never spoken to the PREA Coordinator.** The current DOCCS PREA Coordinator is Jason Effman.
  - 59% said they did not know who the PREA manager for their prison or prison hub is.
  - 85% of respondents said they had not spoken to the PREA Coordinator.
- Respondents who were inside both before and after the implementation of PREA in 2012 report that **while access to correct bras and underwear has improved, many other key issues have stayed the same, or even gotten worse, after the implementation of PREA.**
  - 54% said that access to correct bras and underwear has improved.
  - 50% said that DOCCS staff's understanding of TGNC identity has gotten *worse* since 2012, and 33% said it was unchanged.
  - 55% said that DOCCS staff's use of correct pronouns has gotten *worse* since 2012, and 26% said it remained unchanged.
  - 52% said that verbal harassment from DOCCS staff has gotten *worse* since 2012, and 42% said it remained unchanged.
  - 67% said that access to a private cell or housing unit has stayed unchanged since 2012.
- Respondents discuss the shortcomings of PREA:
  - *"A lot of times I'll explain to them that they are not only using the wrong pronouns and name, but they are obligated by PREA to get that right. They just tell me "It's a men's jail. deal with it." This will never change unless there are real consequences for failure to comply with this."* –Respondent ODL
  - *"Really, PREA is a joke. CO's don't listen to who runs the PREA system at all, they don't listen to nobody above them they have a tight union to back them up. So they know no matter what happens their job is secure."* –Respondent KE
  - *"With me, Jason [Effman, PREA Coordinator] is extremely a decent man. The problem is DOCCs security limits his power to stop retaliation misbehavior reports. They restrict his ability to throw out false tickets!"* –Respondent TDC
  - *"Medical staff see it as a joke, and most COs don't care about the laws of PREA. A lot of blame*

comes back on the individual who's victimized." –Respondent TH

- *"PREA does not take us trans/and TGNC serious. PREA is not around to help us."* –Respondent PD
- *"PREA coordinator here at BHCF is not properly informed on a lot of TGNC issues. She cannot even get the pronouns correct, and says staff does not have to if they are not comfortable. She literally told me that I am not male, I am transgender."* –Respondent O
- *"PREA is a joke!!! The posters, the stuff, the entire process is a SHAM! PREA didn't help me when I was raped and when I reported threats etc. They ignored it and I was raped in mid-state PC in Dec 2016! PREA doesn't work when staff don't care."* –Respondent TDC
- *"PREA is a joke, they only care if their staff is having sex with inmates. They never respond to written complaints nor do they make the necessary rounds to even check up on inmates!"* –Respondent LC
- *"They need to make CO's and admin. aware of who is transgender in this facility. So we can have the help and support we need."* –Respondent MM

Changes in Conditions Since 2012



PAC Member Spotlight: Kai *(he/him)*

Kai has been inside since he was 23 years old and says that supporting other people inside has come naturally to him. “When I was young, people extended that to me,” he says. When he first came to prison, at a young age, he learned from others. “I used to ask people with 20 years under their belts: ‘How do you do it?,’” he says. He was told there were three options: one, taking lots of medication to make it through; two, taking your own life; or, three, “You handle it.” Kai says he chose to handle it. “That’s why I tend to reach out to the younger people,” he says. “16, 17 years old. I see them in the gym, I engage with them through activities, we sit to talk and I try to help them out. We already have a line of communication built up. It’s really important.”

Kai has been vocal about the concerns that trans men face, particularly when it comes to the current PREA department. Kai says that the current PREA Deputy “is not sensitive to how to address trans men or how to work on men’s needs.” The deputy threatens people by saying, “If you want to be a man then I can move you to a men’s maximum.” If he were speaking to Jason Effman, the PREA Coordinator, about hiring for PREA Deputies, Kai says: “I would recommend a specialist and a sensitivity class for anyone who is going to take that position.”

Another major issue that Kai identifies is housing. When it comes to housing options inside, Kai says the only place he would feel comfortable living is in a single cell in a women’s facility. This is because the alternative is “a huge open space with bunk beds for 70 women in one unit.” In a single cell unit, “I can say, ‘Officer, lock my door,’” Kai says. “And I can put my privacy curtain up and feel OK. I feel secure and like I have my space.”

Kai has a powerful message for readers. “I want everyone to know that there are trans people in prison who need support,” he says. “Just as people outside have their struggles, we have our struggles and we are fighting them. We are all one, and we have to be there for each other.”

TRANSGENDER-SPECIFIC MEDICAL CARE

Gender Dysphoria Diagnosis and Access to Care

Government recognition of transgender identity is highly medicalized. Despite transgender and gender non-conforming people existing and thriving outside of medical communities for centuries, most states require third party verification of identity in order for people to access certain rights. In most contexts, this third party verification is a diagnosis of Gender Dysphoria (GD) from a mental health professional.

The diagnosis of GD, comes from the Diagnostic and Statistical Manual of Mental Disorders, currently in its fifth edition (DSM-V). The DSM-V offers guidance for diagnosing a wide array of mental health differences. Like any tool, it is incomplete and oppressive at times. For example, the DSM classified same-sex attraction as a mental health “disorder” until 1974.

Currently, the DSM-V details the overarching criteria that mental health practitioners should review when diagnosing a patient with GD. Primarily, the DSM-V emphasizes the importance of looking for a difference between a person’s assigned gender and their experienced or expressed gender, as well as resulting significant distress and/or any functioning concerns associated with that distress. Most

strikingly, the DSM-V has re-classified GD from its previous iteration “Gender Identity Disorder” to emphasize that it is the distress, and not the expressed and experienced gender itself, that is being diagnosed.

As the DSM-V provides guidance and overarching criteria, the ways in which a GD diagnosis is evaluated or affirmed may vary by practitioner. At many TGNC-specific medical practices, a GD diagnosis is obtained through a clinical interview that is structured to empower the individual and reduce the impact of ways in which the mental health profession may engage in gatekeeping (such as making a patient ‘prove’ their dysphoria). The experience of SRLP and our PAC members with DOCCS has been in stark contrast to these practices. In our experience, the clinical psychologist currently contracted with DOCCS does a full-day interview, calls family members, spouses, children, and others for personal opinions, and does a series of drawing tests where the patient is asked to draw a man, a woman, and themselves. This is highly unusual when compared to practices in LGBTQ-focused health care clinics.

Gender Dysphoria – like many diagnoses—is complex. Some people appreciate having a name for their feelings, and enjoy the idea of joining a community with this diagnosis. For others, it represents an invasive process they needed to undergo in order to access what they always knew they needed. SRLP has represented clients for whom the diagnosis is a key part of who they are, and clients who see it as a means to access what they need to survive.

Under PREA, transgender identity is not linked to a medical diagnosis. Yet, in New York State, all of the key positive rights for transgender people stemming from PREA are only provided after a formal medical diagnosis is made. Private showers, underwear access, housing check-ins, and hormones are all dependent on a GD diagnosis.

In order to receive health care coverage and, in almost all prison law contexts, in order to access rights associated with your gender identity, a person must have a formal diagnosis of GD. Until 2014, private insurances in New York State were allowed to have blanket-bans on transition related care and, until 2015, New York State Medicaid did not cover transition-related care. Between 2015 and 2017, Medicaid in New York State expanded its coverage following the lawsuit *Cruz v. Zucker*. At the time of the writing of this report, New York State Medicaid must cover any “medically necessary” transition related care.

At any time, SRLP is serving close to 30 individuals on issues of transition-related medical care in NYS DOCCS. Over the past five years we have seen wait-times for individuals seeking a diagnosis last close to one year. This means that an individual may place a sick call slip to speak to medical staff in January, but not actually begin to receive hormones until January of the following year. It can take six to nine months to see the specialist, a clinical psychologist, and then another three months for the specialist to write a report providing or denying a gender dysphoria diagnosis. After this report is finalized, an appointment is made with an endocrinologist to begin hormones. Part of this delay is due to DOCCS currently only contracting with one clinical psychologist to make these formal diagnoses. While most endocrinologist appointments occur over video, the diagnosis itself takes places in person in Buffalo. For people housed in the northeast and southern most areas of the state this often means at least two days of travel. People are either held at Wende Correctional Facility or Albion Correctional Facility while waiting.

Diagnosis of Gender Dysphoria and Access to Hormones

Most respondents to our survey had a diagnosis of gender dysphoria (GD), and of those who had the diagnosis, more than half received it after they went into prison. While most of those with a diagnosis of GD receive hormones, that access is overly restricted (over half must go to medical call to receive their hormones), and respondents struggle to address issues related to dosage or side effects with qualified medical professionals.

- **72% of respondents had a diagnosis of gender dysphoria.** 12% did not have this diagnosis, 7% had an interview and were waiting on the results, and 9% did not know.
- **Of those who had a diagnosis of gender dysphoria, 62% received the diagnosis after they went into prison.**

Access to hormones

- **87% of those with a diagnosis of GD receive hormones**.
- **Hormone access is overly restricted.** Of those who receive hormones:
    - 54% must go to a nurse or medical call to receive their hormones.
    - 36% are allowed to carry their hormones.
    - 36% are allowed to keep their hormones in their locker.

- **Respondents struggled to address issues related to their hormones, despite self-advocacy**:
    - *"I tried to ask the doctor here for Aspirin to counteract the blood thickening quality of estrogen but I was denied." –Respondent ODL*
    - *"I originally was worked up to 6mg. I was dropped to 4mg due to right breast pain and nipple (bloody) discharge. I was taken off completely due to discovery of a 6mm mass in my right breast. I went through tests and saw a specialist, eventually having a right breast lumpectomy and removal of the bleeding nipple ducts. About a month later I was returned to 4mg and 100 of both respectively. I told the endocrinologist I wanted to go back up to 6mg but she wanted lab results of my levels first, but every time I see her the levels are never available for her to review due to DOCCS not doing the blood work ordered. I've been on since 10/2/2014. The only reason I even received all of this treatment for the mass is because I was lucky to have lawyers advocating for me on it and DOCCS 'had' to." –Respondent THL*
    - *"In 2011 I suffered an acute case of pancreatitis. It was the most god awful pain I've ever experienced in my life. And required 3 surgeries! It's a side effect of taking Premarin." –Respondent LKS*[xxxiv]
    - *"I wrote [the doctor] up for stopping my hormones because she felt I was on an unusually high dose. Albany ordered her to continue my treatment. SRLP sent her literature on transgender health care because she never treated a tranny. She compared my hormone dose to what a woman would receive." –Respondent U*

Short Guide to Hormones

There are several different kinds of medically necessary interventions for TGNC people experiencing Gender Dysphoria including therapy, surgeries, and Hormone Replacement Therapy ("HRT").[xxxv] Similar to most mental health diagnoses, there is no single treatment that suits all people. Some people with GD may only need counseling, others may only need hormone therapy or a singular surgery, and others will need hormones, therapy, and various surgeries. Thus, HRT is only one such medically necessary intervention for Gender Dysphoria.

For transgender men or trans masculine people, HRT most commonly involves subcutaneous or intra-muscular shots of testosterone; however, it can also include transdermal methods such as gels, creams, or patches. Under NYS Medicaid, only injectable testosterone is provided unless a doctor has indicated that it is contraindicated and an alternative must be found. Currently, there is no publicly available policy from NYS DOCCS on how testosterone should be distributed.

For transgender women or trans feminine people, a combination of estrogen, an anti-androgen, and progesterone are prescribed. Estrogen can be prescribed as a pill, by injection, or by a number of transdermal methods. The most commonly prescribed anti-androgen is spironolactone which is available as a pill. While there is no public NYS DOCCS policy concerning estrogen, anti-androgens, and progesterone, almost all facilities default to providing pills for estrogen and anti-androgens needs.

Like all medical treatments, it is important for anyone on HRT to see a specialist on a regular basis to monitor things like liver functions, cholesterol, potassium levels, hormone levels, and more. That specialist should oversee and monitor any changes in HRT. Such specialists should be well-versed in the standards of care released by expert organizations such as the Endocrine Society and WPATH.

Trans health surgeries

Half of respondents have discussed a desired trans-health related surgery with their medical provider. However, many respondents describe being told it was not possible for them to access surgeries or being otherwise dismissed.

- **50% of respondents reported they had discussed a specific trans health surgery that they want with their medical provider.**
- **Respondents describe being told their desired surgeries would not be possible to obtain, or being otherwise dismissed by providers**:[4]
    - "NY State does not provide surgeries to transgender. I've requested castration and breast augmentation. Hell they won't even give me Vitamin B supplements." –Respondent U
    - "Denied! DOCCS don't provide sex changes to "men" in "men's" prisons." –Respondent TDC
    - "He said I have to pay my own money and the "tax payers" aren't going to want to pay for this!" –Respondent K
    - "They won't provide any surgeries. They're not "medically necessary" to live. Fuck you!" – Respondent TH

[4] Since this research began, one individual did receive an affirming surgery. This surgery took over three years of advocacy by advocates and the individual and resulted in four separate hospital trips due to constant miscommunication and confusion.

Denial of Transgender-Specific Medical Care, and Respondent Self Advocacy

Nearly two-thirds of respondents reported being denied healthcare specific to their gender identity. More than half of them went on to grieve this denial of care.

- **63% of respondents report they have been denied healthcare specific to their gender identity.**
    - *"[Denied] hormone shots which work faster work better." –Respondent DDZ*
    - *"I requested to be taken off of the pills and to get the shots but was told that the state does not give the shots." –Respondent TCM*
    - *"I fought for my hormones for 6 years before I got them." –Respondent JSB*
    - *"An RN at Upstate CF refused to administer my medication as she said it is not right." –Respondent EF*
    - *"I would like to be giving gender reassignment surgeries and to be able to live as the woman that I am but DOCCS just keeps on denying me the surgeries." –Respondent KBD*
- Of those who had been denied healthcare specific to their gender identity, **61% grieved this denial of healthcare**. Respondents describe the result of their grievance:
    - *"Denied! Continue to address my concerns through the sick call procedure. What a joke!" –Respondent TDC*
    - *"They laughed and said only grieve important things." –Respondent JSB*

Information about Trans Healthcare

Most respondents did not have access to crucial information about their healthcare rights and options: information necessary to both make informed personal healthcare decisions, and also to push back against ill-informed medical staff. The large majority of those who did have access to such information received it from community or legal services organizations, not from the DOCCS.

- **Most respondents (59%) had never seen Health Services Policy Memo 1.31**, which details information about healthcare rights specifically associated with gender identity.
- **Of those who had seen the memo, the overwhelming majority were shown the memo by SRLP (79%), another incarcerated person (29%) and/or another legal services organization (21%).** Only one respondent reported being shown the memo by a DOCCS Corrections Official.
- **More than half of respondents (54%) had never seen any healthcare information regarding transgender healthcare** (such as a brochure on hormones and what to expect).
- **Of those who had seen healthcare information regarding transgender healthcare, the large majority had seen this information from SRLP (39%) or other organizations.** Of those who had seen information regarding transgender healthcare, only four individuals had seen an internal publication from DOCCS (22%).

Health Services Policy Memo 1.31

The Health Services Policy Memo 1.31 (HSP 1.31) contains most of the publicly available information about how people in DOCCS custody can obtain a Gender Dysphoria (GD) diagnosis and subsequent treatment. The Memo outlines only three processes: obtaining a GD diagnosis, accessing HRT, and procuring clothing (including undergarments).

The Memo outlines three ways to establish a GD diagnosis while incarcerated. The first is through a continuation of HRT from a county jail. In SRLP's experience, this is unlikely as most jails do not provide access to licensed medical providers who prescribe HRT. The other pathways to establish a GD diagnosis entail that the person must be "screened for GD by their primary care provider at their permanent facility." Permanent facility refers to the facility following their reception and classification, which can take months. During the screening, a primary care doctor asks a few questions and then sending the responses to the Chief Medical Officer. The Chief Medical Officer must then make a determination that a diagnostic evaluation is "medically appropriate." Once deemed "medically appropriate", an individual is sent to receive an evaluation by Dr. Mazur, who is currently the only clinical psychologist contracted with NYS DOCCS to make determinations of GD diagnoses.

SRLP knows from the experience of members that it takes Dr. Mazur close to 3 months to write up a "report" of the psychological evaluation and make a determination regarding a diagnosis, which is then sent to the Chief Medical Officer for final approval. If HRT is recommended, then individuals can be referred to an Endocrine Specialist for blood work and hormone prescription.

LIMITED ACCESS TO GENERAL MEDICAL CARE, AND TRANSPHOBIC AND OTHER DISCRIMINATORY INTERACTIONS WITH HEALTHCARE PROVIDERS

Often, the discussion of medical care for TGNC people—in prison and outside—centers exclusively on TGNC -specific care needs. But TGNC people have the same or similar needs for general medical care as cisgender people do, and frequently face discriminatory barriers in access to this general medical care. These discriminatory experiences are not exclusive to TGNC people in prisons. SRLP has worked to change healthcare policies that discriminate against TGNC people, particularly those who are low-income and people of color.

In accessing general medical care, many survey respondents reported being asked invasive or inappropriate questions about their gender that were unrelated to their medical complaint, as well as a host of other negative responses by healthcare providers.

Respondents also reported transphobic and other discriminatory interactions with healthcare providers. More than a third were encouraged not to pursue a GD diagnosis, not to take hormones, and to "just be a gay man" or "just a lesbian." More than a third reported that a medical provider refused to provide them with information related to transgender medical care, and more than a quarter were given incorrect information about transgender-specific care. Respondents also described transphobic behavior by medical staff ranging from the use of slurs or the wrong pronouns, to refusal by medical providers to provide trans healthcare or other services.

- **Respondents face discriminatory barriers to accessing general medical care.** When attempting to access medical care that is not transgender-specific:
    - **41% of respondents report being asked invasive or inappropriate questions about their gender, unrelated to their medical complaint.**
    - **57% report being denied medical services.**
    - **39% report being told the medical complaint is "in your head."**
    - **36% report being told they are a constant or inappropriate user of the healthcare system.**

***My heart goes out to my transgender sisters that have to endure and navigate the prison medical system.* –Respondent ME**

- **Respondents describe medical providers refusing services or dissuading respondents against seeking gender-affirming medical services:**
    - **39% said a medical provider encouraged them to "just be a gay man" or "just a lesbian."**
    - **39% were encouraged by a medical provider not to take hormones.**
    - **36% were encouraged by a medical provider not to pursue a GD diagnoses.**
    - **36% said a medical provider refused to provide them with information on transgender medical care.**
    - **36% said a medical provider refused to provide them with names of transgender healthcare specialists.**
    - **27% had been given incorrect information on transgender-specific care by a medical provider.**

- **Respondents describe transphobia by medical providers:**
    - *"He [a doctor] actually lectured me on "God's Plan" and it being against His design."* –Respondent THL
    - *"I have been told by my medical provider at Upstate CF I should not take my medication because it violates what god made me to be."* –Respondent EF
    - *"My primary doctor…even went so far as to state I will get cancer if I take testosterone."* –Respondent LC
    - *"The nurse in Elmira told me she'd do everything in her power to ensure I do not get hormones 'because I'm a man and men don't take estrogen.' She failed, but she came by my cell everyday and told me things like that until I got my hormones. At that point she left me be."* –Respondent ODL
    - *"A Christian Dr. refused to order hormone and underwear because is not consistent with his faith beliefs. I grieved him and he had a nurse deal with me after Albany approved."* –Respondent U
    - *"On most occasions the medical staff aren't trained or knowledgeable for basic trans care (medical) questions in my opinion."* –Respondent HE
    - *"I've had nurses (medical) make a lot of the same abusive comments listed for COs, and refuse to provide me emergency sick call, due solely to me being transgender."* –Respondent THL

- *"Medical staff use's male pronouns even when they know I'm a woman!"* –Respondent TDC
- *"I get laughed at and what I talk about of being a woman in the future, it's not logged in my medical books, nor do I get taken seriously."* –Respondent DD
- *"I've often had to educate health care providers about TG medicine."* –Respondent KNC

MENTAL HEALTH CARE

Respondents report lacking sufficient mental health services, and that medication was the most readily available treatment. Respondents also report that staff from the Office of Mental Health refused to discuss issues related to gender identity.

- **80% of respondents report that they have a mental health diagnosis or diagnoses.**
- **85% of respondents had voluntarily tried to have a session with a counselor or social worker** from the Office of Mental Health.
- **74% had tried to discuss their gender identity with someone from the Office of Mental Health.**
- **44% of respondents said that the person(s) they met with from the Office of Mental Health failed to treat them with dignity and respect.**
- **Respondents report that the Office of Mental Health is overly reliant on medication, to the exclusion of other services**, as well as other negative experiences with the Office. Respondents suggested that most meetings with OMH workers are about medication management and not other therapeutic approaches to mental health care.
    - *"All that they do is just give out pills which does not help with the gender issue."* –Respondent KBD
    - *"If you're not taking any psych meds then they don't want anything to do with you."* –Respondent LC
    - *"They attempt to prescribe psychotropic and mental health meds like they're getting a stipend for the number of inmates that they can get hooked on them. The majority of these guys just need someone who will listen to them, not a daily dose of Haldol or some anti-depressant."* –Respondent ME
    - *"Getting to see a counselor without having to go to OBS [a suicide observation unit] is nearly impossible, you have to wait for your regularly scheduled monthly appointment or go to OBS. Same with the psychiatrist. It's easy to see and speak to a psych. nurse but they can't do anything except send an email that won't be read or put you in OBS. I will say though if you are in a mental health crisis, or make a request/threat, they will not hesitate or waste time putting you in OBS, however much it sucks."* –Respondent THL
    - *"Mental health don't help, if anything they've abused me and violated my rights to confidentiality. They tell the CO's personal information and they mentally and psychologically abuse me by denying meds and therapy my mental health has gotten worse since coming to prison! Over 150 suicide attempts."* –Respondent SC
    - *"I was led into an office, with a corrections officer present the entire time, and asked, "what do you want", in a tone and demeanor that clearly indicated that to her I was merely interfering with her 8-hour coffee break. The entire "interview" lasted less than 3 minutes."* –Respondent KNC
    - *"It's for white prisoners. Not black transgender."* –Respondent DU

- **While some said OMH were receptive to talking about gender identity, many described being referred back to medical or otherwise dismissed.** To obtain a diagnosis of GD, incarcerated individuals need to go through a contracted clinical psychologist. However, this process does not resolve ongoing concerns that individuals might wish to speak about with a mental health care professional, such as the effects of starting hormones, transitioning while in an incongruent prison facility, preparing for release as a transgender person, and more.
    - *"They said my issues regarding gender identity were not under their purview, basically."* –Respondent KE
    - *"Denied. OMH cannot treat nor discuss this issue period!"* –Respondent TDC
    - *"Said my gender identity disorder did not have anything to do with their department."* –Respondent LC
    - *"They don't wish to talk about it it's not important they say."* –Respondent JSB
    - *"Told to go to medical, they don't handle these things."* –Respondent OC

Member Spotlight: Graceéd R&B *(they/them)*

R&B has been a strong self advocate in the face of challenges inside, including experiences with the Office of Mental Health (OMH). "In large, my experience with mental health has been a debilitating process," they say. "Seeking assistance for mental health— and I'm speaking for a large majority— when you ask for help, you are met with resistance and friction: the run around. I know what I need; I specifically ask for trauma help." But even with explicit asks, services are far too hard to come by. "Mental health is nonexistent here. They don't even help the really sick people so how could they help me?"

R&B has recommendations for Ann Sullivan, the Commissioner of the Office of Mental Health. "[I would tell her] to implement that if a CO has one complaint of harassing an inmate or use of force on their service record, if the CO is in any way thought of as someone who would abuse people with a mental health diagnosis, they should not work anywhere near a person with a mental health diagnosis. Especially with a Serious and Persistent Mental Health Diagnosis." This recommendation comes from experience. "Since I have been at Great Meadow, there is an officer who has been involved in 4 fights," R&B says. "He calls people 'retards', he embarrasses them, he harasses them. When the abuse stops, then we can begin to heal."

In thinking about advocacy and resilience, R&B emphasizes the importance of advocates and community outside. Through a pen pal, they have met many activist and advocacy groups like SRLP, Black and Pink, as well as peers. "When one is struggling, we all struggle and we assist each other in overcoming all forms of adversity despite the odds we may be up against."

Deeply committed to their community, R&B says: "If I had the opportunity to be used as a pillar to bring about change, to give metaphorically and, if need be, literally, my life to bring about awareness, safety, for the LGBTQ individuals. And if I was given a special power to be used one time, I would use it to bring about the end of hate. Because that would bring about world peace."

SELF-HARM AND SUICIDE

We send our love to anyone who is having feelings of self-harm or suicide. Please know that you are not alone. You are valued and cared for. For anyone on the inside who is struggling with these feelings, we would like to share with you our guide to "Self Care on the Inside: Tips & Activities to Take Care of Yourself." https://srlp.org/wp-content/uploads/2017/05/Self-Care-on-the-Inside-Guide.pdf

About half of respondents have tried to harm themselves while incarcerated, and a third have tried to kill themselves. Of these, most have had multiple attempts of self-harm or suicide while incarcerated. Most have tried to speak with someone about their feelings. Some respondents report Corrections Officials encouraging them to complete self-harm or suicide.

We present these findings with an emphasis on the fact that prison is a dehumanizing and abusive environment. TGNC people are subjected to daily humiliations, physical, verbal, and sexual violence, isolation, and the negation of their very identities.

- **51% of respondents have tried to harm themselves while incarcerated.**
    - Of those, 75% had attempted self-harm more than once, with 45% attempting 5 or more times.
- **34% of respondents have tried to kill themselves while incarcerated.**
    - Of those, 75% had tried more than one time.
- **67% of people who had tried to harm themselves tried to speak with someone about their feelings. 42% of people who tried to kill themselves tried to speak with someone about their feelings.**
- **Respondents describe the feelings related to self-harm and suicide, including attempts at self-castration because of the prison environment and lack of access to medical care.**
    - Some respondents talk specifically about self-harm and suicide as it relates to lack of access to appropriate gender affirming care or the experience of being TGNC in prison:
        - *"DOCCs does not treat gender dysphoria surgically— so I attempted three times to cut off my private parts."* –Respondent TDC
        - *"I tried many times to self-castration."* –Respondent KBD
        - *"DOCCS makes me suicidal. Why can't they just provide us with GD care."* –Respondent TDC
        - *"Sometimes while being incarcerated in prison and not being able to be yourself which is a transgender woman can be really tough on you and you just want to give up because you don't want to deal with it physically."* –Respondent SJH

- **Some respondents describe Corrections Officials encouraging self-harm or suicide:**
    - *"They told me to do it and get it over."* –Respondent EF
    - *"'Kill yourself.' That's what a Sergeant and Captain told me. 'Why don't you kill yourself already!'"* –Respondent TDC
    - *"I've been ignored and even told to 'do it' because 'no one cares.' But there are also times when I've been provided immediate help."* –Respondent THL

- **Respondents also emphasize the importance of community connections when grappling with feelings of self-harm and suicide:**
    - *"I talk to my pen pals and friends I love whom loves me."* –Respondent SC
    - *"Thanks to the true love I been receiving from SRLP I no longer considered suicide an option nor entertained the thought."* –Respondent STM

ACCESS TO BRAS AND UNDERWEAR

Prisons sell undergarments through their commissaries, which are sex segregated in the same way as the prisons. This means that "men's" prisons sell "men's" undergarments, and "women's" prisons sell "women's" undergarments. People have the right to purchase undergarments through approved vendors, or to have their loved ones send new undergarments to them via a package. NYS is also obligated to provide undergarments for free to individuals who cannot otherwise afford their own; these are often referred to as being "state issued." But undergarments purchased in any of these ways must match the sex designation of the prison. Thus, a trans woman in a prison that is designated for men cannot buy women's undergarments from commissary or have them sent to her by a loved one.

The process to access gender-affirming underwear that differs from the sex designation of the prison is much more burdensome and restricted. A request must instead be made through the medical unit.[xxxvi] Available underwear includes "sports bras," "regular bras," "female underwear," and "male undershorts." Individuals ordering bras are to be measured for the correct size in the presence of a health care professional who will observe the measurements and determine the bra size based on the information in the "NYS DOCCS Bra Measuring Instructions and Sizing Chart." Individuals are allowed a total of six state issued bras and can choose to receive all six as "regular bras" or as two sports bras and four "regular bras."

To request these items, the individual must make a sick call request and ask a health care professional to complete an "Undergarment Request" form which is then sent to the Deputy Superintendent for Administration at the facility to approve. The Deputy Superintendent for Administration then determines where the undergarments will come from and forwards the request to the Facility Steward at the appropriate facility. The Steward then gathers the undergarments and sends them to the medical unit at the requesting facility. The undergarments are then issued to the individual along with a medical permit to possess and wear them.

Both the diagnosis process and the underwear process can be incredibly time-consuming and involve a large number of individuals, in contrast to the fairly routine and private process of acquiring underwear that matches the sex designation of the prison. Per Directive 4911, in either a male or female facility, one needs a "medical permit to obtain, possess and wear gender affirming/transgender clothing."[xxxvii] This places an additional burden on the individual, given the fact that it can take 3 months (and often closer to a year, in reality) to obtain a GD diagnosis. This highlights how DOCCS systemically dehumanized TGNC people.

From our research, two-thirds of respondents currently have access to gender-affirming underwear. A quarter had to grieve the denial of underwear access. More than half have difficulty maintaining access to gender affirming underwear, and half have difficulty obtaining the right sizes.

- **68% of people currently have access to gender-affirming underwear and (if appropriate) a bra.** Of those who do have access:
    - **24% had to grieve the denial of underwear and/or bras.**
- **56% said they have difficulty maintaining access to gender affirming underwear and (if appropriate) bras.** Of those that did have difficulty maintaining access:
    - **80% said that even when they have a medical pass to wear gender affirming underwear, COs or staff will harass them or tell them they cannot wear these garments.**
- **48% of people have had difficulty ordering the right size for their underwear.**
- **Respondents also report sexual harassment and inappropriate touching when being measured for underwear.**

ACCESS TO PRIVACY FOR SHOWERING, USING THE TOILET, AND DRESSING

Prisons eliminate privacy by design. In prison, people do not have autonomy over their bodies. The issue of privacy for TGNC people is part of this broader dynamic, but also a symptom of the fact that their gender identities are not taken seriously or affirmed.

Respondents struggle to achieve privacy for the basic activities of showering, using the toilet, and dressing. Most do not have access to showers in their cells, and a third are not able to shower alone. More than half of respondents have avoided taking a shower. In the prison context, most people with access to showers in their cells are in some form of solitary confinement. While having a shower next to or inside of their cell may increase privacy, it also means that respondents are traveling over an increasingly smaller portion of the facility and the effects of being in a confined space are increased. According to current policy, people with a diagnosis of GD should receive a private shower automatically. But in reality, access to a private shower is limited and problematic. As individuals wait to receive their diagnosis they will continue to be forced to shower in groups or without privacy. Moreover, “private shower” means different things in different contexts. Sometimes it means an individual must be woken at 5am or wait until 9pm to shower so that no one else is using the showers.

In using the toilet, nearly all respondents had to hang a towel or other item in front of their door to have privacy, and more than half said that COs write up tickets or become angry as a result of these attempts to seek privacy. Respondents describe taking similar measures to achieve privacy while dressing.

- **88% of respondents did not have access to a shower inside their current cell.**
- **For those who have to leave their cell to shower, about a third (35%) are unable to shower alone.**
    - **For those who are able to shower alone, the experience can be dehumanizing and does not afford privacy.** For example, some showers are still visible to others even if physically isolated. Other examples of dehumanizing shower experiences include having to walk through the facility in a towel in order to get to the only single-stall shower or having showers only available at 5am or 9pm when no one else is using them.
- **Most people had to advocate for access to a private shower:**
    - **Only 28% of people were provided a private shower upon entrance.**
    - **41% had to ask a medical provider or nurse administrator.**
    - **10% had to grieve denial of a private shower.**

- **61% have avoided taking a shower.** Respondents describe their reasons for avoiding showering:
    - *"Because I refuse to shower with men."* –Respondent L
    - *"I will not shower with men!"* –Respondent KNC
    - *"Too many women in the shower room. So I wait."* –Respondent O
    - *"Before I was allowed to shower alone I would simply 'wash-up' in my cell because I felt very uncomfortable exposing my breast to general population in a shower house."* –Respondent D
    - *"COs like watching me shower."* –Respondent TDC
- **95% of respondents have to hang a towel or other item in front of their cell door in order to have privacy when using the toilet.**
- Of those who had to hang a towel to achieve privacy, **61% said that COs sometimes write up disciplinary tickets or otherwise become angry when they try to create privacy while using the bathroom.**
- **Respondents also discussed the measures they had to take to achieve privacy when dressing, and the repercussions:**
    - *"Hang up a towel then the CO threatens to keep lock me. I tell him I'm getting dressed, he orders me to pull down the towel so I'm standing naked and he stares at my titties and private parts then says something slick like "nice package," stupid stuff to humiliate me."* –Respondent TDC
    - *"I can only get in bed under the covers to change."* –Respondent EF
    - *"I have to hang a sheet up, and take the risk of getting a ticket."* –Respondent KNC
    - *"Turn off my light and dress under my covers or get a ticket for blocking my cell window."* –Respondent JSB

GENDER EXPRESSION ON THE INSIDE

Respondents experience many obstacles to expressing their gender on the inside, ranging from prison rules to the risk of abuse. They experience exclusion from programming due to their gender identity or expression, and programs they do participate in impose limits on their gender expression.

- **Respondents discuss the barriers they face to fully expressing their gender on the inside:**
    - *"Because of HSP 1.31 DOCCS now has to provide us bras and panties. However, unlike the state's female prisoners we are expressly prohibited from ordering and obtaining our own. Also, any other females-only items are not allowed at all, and DOCCS makes no exceptions to standing rules, such as hairstyles, makeup and some clothing. As far as the items or accommodations that allow us TG prisoners to express our identity the ONLY things that are allowed are state-issued bras and panties, no exceptions."* –Respondent KNC
    - *"It's very difficult, especially nowadays. They put you in the box if caught wearing makeshift makeup, etc. It's always risky."* –Respondent WN
    - *"Impossible. Not only are we extremely limited, we tend to get even less options than boys do. The pigs want to call us boys, but deny us even what the boys are allowed. For example, if boys all had on tank tops. Outside in the yard I had one on too. A pig told me I can't wear that. When I pointed out the several other people with them on, he threatened to write me up. Boys get a number of hairstyles, we get one and are constantly being written up for hairstyles. I had*

a bob, for instance, which violated no haircut order, but pigs gave me shit about it regardless. I have been told trans girls are allowed make up and that girls in jail are allowed, yet they deny it to us. Anytime I attempt to wear any shirt other than state uniforms out of my cell, pigs make me come back to my cell and change." –Respondent ODL

- *"The DOCCS say I can wear female clothing but then I was hide them under male clothing they (DOCCS) won't give me any other female clothing but 6 bras and 6 panties. I tried to get 2 skirts, 2 jumpers, 1 blouse, 2 nightgowns, 1 pair of scuffs, 6 knee high socks, 1 bathrobe: all of them are what the females get. But was told that I would not get them."* –Respondent KBD
- *"The CO's will say this is a man prison when I express my gender of being a woman, and a lot of Sergeants and COs would go out of their way to create a problem."* –Respondent DDZ
- *"A battle everyday."* –Respondent TH

- **Respondents described exclusion from programs on the basis of gender identity or sexual orientation.**
  - *"After they found out that I'm a transgender they took away my job at the gym."* –Respondent KE
  - *"I have been discriminated against (due to being TG) and not allowed to work in any food service programs though! And that sucks!!!"* –Respondent D
  - *"Group therapy programs with "men", cannot do! Last time I tried, got set-up, beat up, raped, then only "I" got 270 days SHU! I have nothing in common with "men" (in prison)."* –Respondent TDC
  - *"There some programs I can't get, outside clearance. Some jobs due to unspoken bias against sexual ID."* –Respondent OC
  - *"[T]hey said I 'wasn't man enough' for the program."* –Respondent TCM
  - *"A homo as they say can't do cook's job, prep, diets, or jobs were they can't be watched at all times."* –Respondent OC

- **Many also describe limits placed on their ability to express their gender identity while participating in programs, as well as negative consequences faced when expressing their gender identity.** While some had positive experiences with gender expression in program participation, many described negative ones:
  - *"In prison you have no gender identity. You're nothing but a number."* –Respondent TDC
  - *"I was reminded that I was in a male correctional facility and to [be in the] program I had to accept the fact that I am a man and must follow group protocols to be forthcoming about my true sexuality which anything less is resulting to negative participation."* –Respondent TDC
  - *"We are never allowed to express our gender identity."* –Respondent ODL
  - *"I was allowed to have long hair but it had to be pulled back in a full ponytail, and I was often chastised or reprimanded if I spoke about my identity, and was rebuffed when I would ask staff to use female pronouns."* –Respondent THL
  - *"I was told not to use my gender identity because it might make other's upset, they don't care how it makes me feel."* –Respondent F

USE OF THE GRIEVANCE SYSTEM

As of 1996, all incarcerated people are required under federal law to make full use of internal grievance systems and to "exhaust" these internal systems before they may file in a court of law.[xxxviii] Since 1996, many legal service practitioners have worked hard to make sure people understand internal grievance processes in order to preserve their legal rights.[xxxix]

Nearly all respondents have used the grievance system, many using it numerous times. However, nearly two-thirds report they have never had a positive outcome from the grievance system, and three-quarters report they have faced retaliation in response to a grievance. In addition, more than half of respondents report attempting to use the grievance system but being denied the ability to do so.

- **98% of respondents had used the grievance system.**
    - In write-in fields, respondents described grieving numerous times, including respondents who have filed grievances more than 100 times.
        - *"[I have placed a grievance] literally over 100 times in 25 years."* –Respondent ME
- Of those who had used the grievance system, **63% said they had never had a positive outcome related to a grievance.**
    - *"In over 24 years no grievance reporting physical and sexual abuse has never been substantiated! Even with contusions on my body... still grievance denied!"* –Respondent TDC
    - *"Every grievance I've filed has been ruled against me either to 'security/safety issues,' 'department policy' or 'No evidence of malfeasance by staff' the only thing they go off is if the officer or staff deny the abuse occurred, obviously they'll never admit it happened!"* –Respondent THL
    - *"I was never called for my issues in the 3 attempts. I gave up."* –Respondent DD
    - *"They never are fair. They never admit to any wrong doing! The grievance system is in itself broken."* –Respondent SC
- **59% of respondents report attempting to use the grievance system but being denied**, including:
    - Nearly a third of respondents who were told that grievance papers were not available (30%).
    - A quarter who reported a CO wouldn't deliver their grievance.
- **Respondents describe their experiences attempting to file grievances**:
    - *"I've had grievances ripped up in front of me by the grievance supervisor due to my being TGNCI."* –Respondent THL
    - *"It simply never made it out of the block."* –Respondent WN
    - *"Officers intercepted them and destroyed them."* –Respondent DF
    - *"They don't get processed 90% of the time."* –Respondent STM
    - *"The COs or Sergeant etc put them in the trash."* –Respondent PD
- **Three-quarters of respondents experienced retaliation in response to a grievance** (75%). Respondents described these experiences:
    - *"I have filed numerous grievances, and it almost always results in every CO having a target out for you. I've been ran down on by CO's in my cell, had my cell trashed and property/ photos destroyed. I have other inmates put up to attacking me. I've been sexually assaulted.*

The list is endless, filing a grievance is a serious game of Russian Roulette that can way outweigh the benefits of grieving!" –Respondent THL

- *"I wrote up an officer and he came to my cell, kicking my bars and yelling at me. He also wrote misbehavior reports against me. They all (CO's) stick together, once you are known for writing up officers they make your stay very difficult."* –Respondent B
- *"Cell searches, being denied recreation, chow, mail coming under scrutiny etc."* –Respondent ME
- *"Mail thrown away, misbehavior reports, assaulted by staff, personal property destroyed."* –Respondent TDC
- *"I once grieved an officer for calling me names and disrespecting me. The grievance was denied. And the next day my cell was searched and 'major property' smashed! Some even left in my toilet!!!"* –Respondent D
- *"Their retaliation is always subtle and almost always perpetrated by their fellow officers. Their way of retaliation are too numerous to list, but are of a nature that it leaves no evidentiary record."* –Respondent KNC

Member Spotlight: James *(he/him)*

"I have been incarcerated for 20 years," says James. "13 of which have been spent training dogs." Through the prison's "puppy program," James trains guide dogs, explosive detective canines, and emotional service dogs. James is also an activist for the trans community inside. "Being part of the puppy program helped me advocate for my community," James says. The program is a high profile one, visited by many, and James says that all the new Corrections Officers (COs) come by the puppy program. "I make myself visible to new COs," he says. "I've become visible intentionally. I did a whole broadcast with Chris Cuomo that was broadcast internationally. I will call people and tell them what's happening." James emphasizes the way invisibility can make trans men vulnerable, and why he has felt it is important to make himself visible. "We truly don't face what the women in men's prisons face, but people don't see us here, they say we don't exist. They say truly terrible things to you; they just don't act on them."

James has learned to take care of and advocate for himself and others inside. "I find ways to educate myself on what my rights are," he says. "And then… I'm the first to expect adversity and challenges." In his approach to staff, James notes that he has learned it is important "to be patient, and to understand they aren't experienced either." However, James makes clear that the education and training programs that are in place for staff have little follow through, and many people don't adhere to them. "I know what I have to follow and there are consequences when I don't," James says. "I would like there to be follow up on that side too. We have come a long way but there is still a long way to go."

In reflection on resilience inside, James highlights the importance of access to visits while in prison, and the barriers that can exist to seeing family and community. "Visits are so important," he says, "regardless of whether you're trans or not." Many trans people don't have family support, and James feels lucky that his family supports him. Years ago, his mother sent him an article about Michelle Kosilek transitioning in a Massachusetts prison, and James knew his mother was letting him know it was OK. "My mother is so good about pronouns," he says. "She will correct everyone." But even with a supportive family, James emphasizes how difficult it can be for people to visit. "My mother is 91 years old," he says. "It's a 7 or 8 hour trip…It's a very hard trip."

VISITING

"Visits" generally refer to weekend-only visitation from two people maximum.[xl] Visits are most often done in cafeteria-style settings, with assigned seating for the incarcerated person and assigned seating for the visitors. Individuals in SHU are still allowed to receive visits (unless the infraction was visitation-related in which case the facility can deny them) but often must remain in shackles during the visit and sometimes have specialty sitting areas – either very close to the guards or in a no-contact room where they are kept from their visitor via a transparent divider.

While about two-thirds of respondents say they have had at least one personal visit, nearly two thirds say there is someone who wants to visit them but has difficulty visiting. Only one in ten respondents have ever had a trailer visit.

- **69% of respondents have had a personal visit.**
- **64% say there is someone who wants to visit them but has difficulty visiting.** Respondents describe the challenges of people seeking to visit them:
    - *"I'm too far from my people. It's a hardship for all parties concerned."* –Respondent WN
    - *"Money, traveling, time, and the BS that the prison put them through: the long waiting, the pat downs. The prisons do too much. They go over the line. The prisons target the female and the LGBT visitors. They be wanting the visitors to leave without seeing they family or friends. They are real disrespectful to the visitors and it is totally uncalled for. At times the visitors do not or never come back to visit. For the visitors: keep being strong, because who you're coming to visit she or he need you more than you think. A visit can bring any inmate out of a bad day."* –Respondent PD
    - *"My niece and mother were denied to enter because of jeans being too tight. They had to go to Walmart and buy new clothes."* –Respondent U
    - *"Travel time and money. Scared of prison. Mom feels the kids are too young to handle prison environment."* –Respondent THL
- **Only 10% of respondents have ever had a trailer visit.** A trailer visit is an extended visit with immediate family. While media representations of this are often of spouses and have a sexual overture, trailer visits are in fact often between incarcerated parents and their children or incarcerated adult children and their parents. Spousal visits do also occur. On a trailer visit, families can behave as they may in the free world: cooking a meal together, reading a bedtime story to a child, waking up together. It can be an important way to maintain family ties in very hard times.[xli]

Member Spotlight: Rona Sugar Love *(she/her and Miss)*

Rona Sugar Love has been in the New York State prison system since 1995 and has been deeply involved in advocacy and organizing efforts on the inside. She says the LGBT community is her life. "I started to fight for the girls [while in jail] in 1993," she says. "I watched the way the trans girls were treated on Rikers Island, and I said, 'Enough is enough.' I took a broomstick and I said, 'You touch these girls anymore, you gonna die.' And then we started a coalition. And it was just us until I heard about SRLP and they helped me with my advocacy skills. But before then, it was just us."

Rona says she has seen acts of sexual violence inside decrease because of the advocacy involvement of people in outside communities, which gives more protection to people inside. But these changes, while important, are still limited. Rona says there is still significant assaults from staff.

When she made her first PREA complaint, Rona says it took three months to be seen by the PREA Deputy assigned to her facility. If she could speak to Jason Effman, the PREA Coordinator for DOCCS, Rona says she would tell him "that we need an independent agency to oversee PREA."

Rona draws strength from her advocacy work and community. "I have a collection of photographs from Sylvia Rivera Law Project that I cut out and pasted into a photo album," she says. "So I have everyone who has ever worked there in my photo album. When I go through hell, I take out that album and I put it on top of my bed and I say, 'This is what is happening now, but there are people who are doing so much for you. So you gotta be strong for them.' And this is how I calm myself down."

The Importance of Community Connections and Opening Up Access To Prisons:

Opening up access to prisons and increasing the ability of incarcerated people to form community connections is critical. Prisons are designed to keep oppressed people separated. Prison visits help challenge that separation. They may also make people safer from abuse, because COs know that people receiving visitors have community connections. In addition to prison visits, respondents highlighted the importance of opening up prisons in other ways.

- Programming: Many respondents lifted up the importance of programming. Nearly two thirds (64%) wanted access to support groups, and half wanted access to cosmetology or similar trade programs. Programming was seen as important not only for individuals, but also for the community.
    - *"I would want them to offer a LGBT/TGNCI program to educate officers, administrators, and inmates on the history of TGNCI people and how far we've come to get where we are in this day and age. Etc."* –Respondent UFX
    - *"[I would want] groups for trans life, to bring up problems, work with other trans that need help. Or how about other LGBT program staffers come and talk with us and teach us the right things to know, like our rights or how to go about getting things we need like hormones, femm hygiene products, etc."* –Respondent PD
- Communication and support from community outside: Access to connections with people who are not incarcerated was important to respondents in a number of ways.
    - Community connections were lifted up as helping people cope with feelings of self-harm and suicide:
        - *"I talk to my pen pals and friends I love whom loves me."* –Respondent SC
        - *"My flashbacks and peoples hatred and the physical and sexual abuse had me feeling suicidal until 2014 after getting involved with SRLP I been more happy and motivated... thanks to the true love I been receiving from SRLP I no longer considered suicide an option nor entertained the thought."* –Respondent STM
    - Connection with outside community, particularly community organizations and legal services organizations, helped people access important information about their rights and health that were not provided in prison:
        - 79% of those who had seen Health Services Policy Memo 1.31 were shown the memo by SRLP, and 21% by another legal services organization.
        - Of those who had seen healthcare information regarding transgender healthcare, the large majority had seen the information from SRLP or other organizations, rather than an internal publication from DOCCS.

RECOMMENDATIONS

SRLP has developed the following recommendations as harm reduction measures. Our members on the inside are the movement leaders, and they are the people who are creating the world without prisons and systems of harm. We call for these policy changes to create less traumatic environments for our movement leaders to continue and expand their revolutionary work.[5]

"I feel very strongly that NYDOCCS need to change a lot of their directives and rules. Most of the rules are not in black and white and are being made up on a daily basis. TGNCI should be living more openly and freely. I believe that if we can put forth the effort to fight for our right to express who we are and not be penalized for it, life behind the walls will be much easier."
–Respondent UFX

"Our rights as transgender inmates need to be recognized and respected. With the pronouns, medical issues and the undergarments, along with the proper surgeries we need and medical care. Most important, the Office of Mental Health issue: they need to have a trained therapist for us, so we have someone who understands us and gives us the help and support we need with our issues regarding being transgender."
–Respondent MM

"Though progress has been made in regard to the overall care and treatment for TGNCI inmates, much challenges remain. Lack of understanding, discrimination, respect, ostracism, and loneliness are still too commonly descriptive of how we are made to feel and treated. In addition to the experiences of physical and sexual abuse. Our experiences are so unique in comparison to others incarcerated that it's made hard for many to understand or care about from those unaffected by such issues. These challenges must continuously be addressed and spoke out against for change or progress to be made. Never will I accept an oppressive status, but will fight until my last breath for human dignity, respect, honor and justice. In solidarity from behind these walls I stand with all others for the cause." –Respondent TG

Recommendation #1: Create TGNCI housing units within existing facilities.

The majority of our survey respondents preferred housing in a specialized TGNCI unit, which is not currently available.

- **Create new TGNCI housing units, with clear and accessible mechanisms by which currently incarcerated people can transfer into these units.** Incarcerated people should have the option to transfer into such units in gender-affirming prisons should they choose to do so (for example, a transgender woman could transfer into a TGNCI unit in a women's prison). Such units should include safety and privacy measures, such as ensuring TGNCI people have access to private showers up to three times per day. This recommendation should not lead to the creation of more prisons, but rather the reconfiguration of existing facilities. There should be multiple such units within individual prisons, to allow for people to transfer between them as needed without having to transfer outside of the prison facility, which can be disruptive to course work and other programming.

[5] While our survey focused on TGNC people, throughout the recommendations we are using the acronym TGNCI instead of TGNC, because we believe that people who identify as intersex should benefit from any changes to the carceral system.

Recommendation #2: Create a facility placement and transfer processes to accommodate the needs of TGNCI people.

TGNCI people should always have the protected right to self-determine facility placement. Our research shows that survey respondents exercised significant self-advocacy in pursuing facility transfers, but were met with dismissive and cruel responses, including some who were threatened with being put in protective custody. Nearly half of respondents reported purposefully getting Tier III disciplinary tickets or going to solitary confinement to remove themselves from a housing situation.

- **Revise, pass and meaningfully implement New York State Senate Bill S4702A to allow for facility choice for TGNCI people.**
    - The New York State Legislature should pass New York Senate Bill S4702A , which sets a procedure for housing placement for TGNC people. Prior to passage, the bill should be edited to allow for people to TGNCI people to prioritize specific needs, such as private showers or cells, programming needs, or being closer to family or origin or chosen family. These transfer rights should also be extended to all incarcerated people.
    - New York State Legislature should form a committee that mandates DOCCS participation in making the changes that the bill requires.
- **Create an external and independent committee with TGNCI advocates on it to review all transfer requests and placements for TGNCI people,** and to center the TGNC person's self-determined safety needs and desires. DOCCS should be subject to this committee's recommendations.

Recommendation #3: End solitary confinement. In the immediate term, implement and monitor the Humane Alternatives to Long-Term Solitary Confinement Act, while working to abolish the use of solitary confinement.

Solitary confinement is inhumane and torturous. Nearly all respondents to our survey had been in housing other than general population, including more than 80% who had been in disciplinary solitary confinement. Respondents describe being removed from general population housing due to their gender identity, defense against assaults, and fabricated claims by staff. These immediate measures must be taken to limit solitary confinement, while we work to abolish it:

- **Swiftly implement, enforce and monitor the Humane Alternatives to Long-Term Solitary Confinement Act (HALT Solitary),** which limits the time incarcerated people spend in solitary confinement, ends the use of solitary for certain vulnerable communities, limits the reasons for sending people to solitary, and seeks to improve the conditions experienced in solitary. It is important to note that this bill seeks to restrict solitary stays so that they no longer exceed the definition of torture, but that still leaves people in solitary for long periods of time.
- **Ensure access to programming while in protective custody.** The Protective Custody Status Directive must acknowledge that all people held in protective custody need safe places for sleep and downtime, and must be able to safely participate in classes, recreation, library use, or other spaces if they choose. The Directive must ensure that people will not be prohibited from engaging in programming, nor should they be required to engage. Ensuring the safety of all people may require making arrangements to ensure that programming is accessible in different locations, days, and times.

- **Conduct comprehensive evaluation of Protective Custody units, and do not allow placement of people into units that are out of compliance with the Protective Custody Status Directive.** These evaluations should ensure the physical units are in compliance, and also that they are being run in compliance with the Protective Custody Status directive, including things such as out-of-cell time and access to the library.[xlii]

Recommendation #4: Give special consideration to situations in which TGNCI people are given disciplinary tickets, ensuring that they are screened for safety considerations.

Our research shows that more than half of respondents have intentionally gotten Tier III tickets or gone to solitary to remove themselves from a housing situation, and that disciplinary tickets have been given in retaliation for self-advocacy. This must be taken into account by staff who deal with disciplinary matters.

- **When responding to an incident, prison guards should be required to explore safety concerns and ask whether a TGNCI person's current housing placement is unsafe.** If the TGNCI person reports that their housing is not safe, the prison guards should place them in safer housing instead of issuing a disciplinary ticket.
- **Require Commissioner's Hearing Officers to inquire about safety when assessing disciplinary tickets.** These officers should be knowledgeable about the needs of TGNCI people and the fact that TGNCI people may be intentionally getting in trouble to escape from an unsafe situation. Disciplinary assessments should explore safety concerns. Should there be a determination that an individual is using the disciplinary process in order to access safer housing, Hearing Officers should immediately refer this person to the housing transfer process.
- **Members of the Board of Parole Hearings should be trained to interpret disciplinary records in light of the experience of TGNCI people in prison.**
- **All people should have a right to an attorney to represent them in disciplinary hearings.** New York State should provide funding to legal services organizations to run programs that provide comprehensive representation to TGNCI people in disciplinary hearings.
- **Ensure each department that reviews disciplinary records employs at least one staff member who has undergone extensive cultural humility and competency training in TGNCI issues.**

Recommendation #5: Implement procedures that require DOCCS staff to use affirming language and give people the opportunity to self-identify.

Our research shows that DOCCS and other staff fail to use correct names and pronouns: 78% of respondents say COs and other DOCCS staff do not use the correct name, and 76% say they do not use the correct pronouns. This is a dehumanizing form of verbal violence.

- **DOCCS should ask individuals their preferred name, gender pronoun, and honorific upon admission. Updates to this information should also be permitted.** New York State Senate Bill S4702A should be passed, with revisions to specify these requirements.
- **The department should issue identification to people that aligns with their stated gender identity.** New York State Senate Bill S4702A should be passed, with revisions to specify these requirements.
- **Require DOCCS staff and contractors to use the name, pronouns and honorific stated by the incarcerated person in all verbal and written communications.**
- **Implement disciplinary procedures for prison staff who violate these requirements.**

Recommendation #6: Hold prison staff and contractors accountable if they engage in verbal abuse or verbal violence.[6]

Our research reveals pervasive verbal abuse and physical violence perpetrated by prison staff. 95% of respondents report being called a derogatory name by COs or other DOCCS staff. DOCCs must:

- **Impose employment consequences for staff who use slurs, derogatory names and other verbal violence.** Staff should be held responsible for engaging in verbal abuse, including intentional and repeated use of the wrong pronouns or name. There should be a disciplinary process that includes employment consequences, for such behavior.

Recommendation #7: Address the crisis of sexual violence in prison.

Respondents to our survey reported an alarming amount of sexual violence, and other studies have found the same. Three-quarters of respondents reported at least one experience of sexual violence by a corrections official. The implementation of the Prison Rape Elimination Act has failed to sufficiently address sexual violence and unsafe conditions for TGNCI people. To address this crisis:

- **Improve materials to explain rights under the Prison Rape Elimination ACT (PREA) and make them more accessible and inclusive of TGNCI identities.** This should include:
    - **Make the name and contact information for the PREA manager and coordinator prominently and permanently available.** This information should be prominently and permanently displayed in the mess hall, recreational room and other common areas, as well as in the toilets, so that people can access the information privately and reliably.
    - **PREA managers and coordinators should have a dedicated address where they can receive mail,** to allow people to write them directly. Currently, people must find their PREA manager in the facility.
- **Require that PREA staff introduce themselves to incarcerated people, and specifically to incarcerated people known to be TGNCI.**
    - Require the PREA manager and coordinator to visit hubs and introduce themselves and their roles.
    - Require the PREA coordinator to send each known TGNCI person a letter every six months identifying themselves, their position, and their contact information.
- **Improve PREA explainer materials to make them legible, comprehensible, and inclusive of TGNCI identities.**
    - Revise “zero tolerance” posters, which are currently illegible (due to white text on nearly white backgrounds) and increase the font size of the contact information for reporting. [See Appendix A for current example of the posters]
    - Revise the PREA movies and literature to be inclusive of TGNCI and LGBQ identities.
- **Explain PREA and associated rights at orientation, and in other spaces.**
- **Make publicly available information about what can be expected from a visit by the Office of Special Investigations when investigating sexual assault.** There is currently a lack of information

[6] Note that Recommendation 15 of this report also calls for independent external monitoring of verbal and physical violence, among other issues.

about what these visits should or should not entail. Information about what is required, what is permissible, and the rights of the incarcerated person should be made available both to incarcerated people and their advocates. The right to a confidential interview should be guaranteed.

- **Enforce the 90-day monitoring period for retaliation after a report of sexual violence.** PREA calls for a 90-day period during which monitoring for retaliation takes place. This should be strictly enforced, and there should be employment consequences for staff who engage in retaliation.
- **Amend the union contract agreement between New York State and the New York State Correctional Officers and Police Benevolent Association, to allow for meaningful discipline to be imposed** when an allegation is substantiated.
- **Require that PREA investigations be conducted by outside entities,** rather than the Office of Special Investigations (OSI) which is staffed by DOCCS employees.[xliii] This would help address the appallingly low substantiation rates of current PREA investigations.
- **At the federal level, amend PREA to add a private cause of action,** which would allow people who are incarcerated to hold prison officials accountable for violations of PREA. Currently, people who are incarcerated are unable to sue prison officials for their blatant violation of PREA. Thus, there is very little consequence to prisons that systematically violate PREA and little to no redress for people who are harmed.
- **Immediately pass New York State legislation** allowing state action for any violations of New York State's signed acknowledgment of PREA, while awaiting federal amendments.

Recommendation #8: Improve the access to and quality of healthcare, both TGNCI-specific healthcare and general medical care, and improve information sharing to ensure that TGNCI people and their advocates know their rights.

Our research shows that access to healthcare, both TGNC-specific and general medical care, is compromised for TGNC people in prison. Most respondents had never seen information about their healthcare rights specifically associated with gender identity, and, of those that had, most were shown the information by SRLP or another legal services organization. 63% of respondents were denied healthcare specific to their gender identity, and more than a third were encouraged by a medical provider not to take hormones or pursue a GD diagnosis. When seeking general medical care, 41% were asked invasive or inappropriate questions about their gender, unrelated to their medical complaint, and 57% were denied medical services. Many report experiencing transphobia from medical providers.

- **Create and make readily available accessible "Know Your Rights" materials about TGNCI-specific healthcare.** The current practice of sharing Health Services Policy Memo 1.31 (HSPM 1.31), which outlines TGNCI-healthcare rights is insufficient, both because it does not reach enough people and because the language is not accessible. DOCCs should:
    - Require the medical department to present on HSPM 1.31 at orientation.
    - Require all doctors seeing people who requested to be screened for a GD diagnosis to advise those people of HSPM 1.31 and what it means.
    - Implement a program in which TGNCI people introduce and discuss HSPM 1.31 and related information about TGNCI healthcare. This should include outside TGNCI organizations from the New York State area, as well as a peer information sharing program.

    - Post accessible, comprehensible information about TGNCI healthcare in the law library, library, medical, on block bulletin boards, and in other public spaces.
- **Enforce HSPM 1.31 by ensuring that a pre-incarceration diagnosis is not presented as a requirement to access healthcare related to gender dysphoria.**
- **Have more than one health professional competent and sanctioned to provide initial Gender Dysphoria diagnosis** and further mental health screening, so that people do not need to travel to see a single provider.
- **Update DOCCS directives and policies under supervision of a trans healthcare provider in the New York area** to ensure they are comprehensive and competent.
- **Implement an oversight system to evaluate approval (or refusal) for hormone replacement therapy and other trans-specific medical care.**
- **Allow all incarcerated people to keep hormones in their lockers**, as well as other supplies such as needles, syringes, alcohol swabs and adhesive bandages.
- **Make information about healthcare rights broadly available**, and not only in medical settings.
- **Require TGNCI competency training** for all medical personnel.
- **The Department of Health should perform regular audits for TGNCI competency** and enforce changes as needed.
- **Establish clear complaint mechanisms to report doctors to the medical board** in instances of TGNCI bias or other issues.

Recommendation #9: Improve the quality of and access to mental health services, and ensure that mental health providers are TGNCI competent.

Respondents report lacking sufficient mental health services, and nearly half report that the person(s) they met with from the Office of Mental Health failed to treat them with dignity and respect.

- **Require TGNCI competency training** for all mental health services personnel.
- **OMH should provide counselors with experience in GD and coexisting diagnoses for, at minimum, every OMH hub.** Incarcerated TGNCI people should have access to ongoing therapy for non-emergency related reasons, rather than only having access to OMH on an emergency basis.
- **Implement a trauma-informed protocol** for accessing and receiving mental health services.
- **Mental Hygiene Legal Services should evaluate the TGNCI competency of mental health service provision** in its review of mental health services.

Recommendation #10: Allow TGNCI people to self determine their gender expression fully and without reprisal.

TGNCI people in prison are arbitrarily and inhumanely discouraged from expressing their gender identity. To allow for self-determination and gender expression:

- **TGNCI people should be able to obtain their own gender-affirming underwear and clothing** through same channels as cisgender people: through family and friends, ordering by catalogue, or receiving from the prison facility, rather than having to go through medical.

- **Increase the availability of personal hygiene items for TGNCI people** such as wigs, hair extensions, perms, curling irons, toiletries and makeup.
- **Allow people to tailor clothing to express gender identity without retribution.**

Recommendation #11: Improve access to safe and accessible private showers and other privacy measures.

Prisons eliminate privacy by design. Our respondents reported struggling to achieve privacy for the basic activities of showering, using the toilet and dressing. Most do not have showers inside their cells, and a third are not able to shower alone. More than half reported avoiding taking a shower, and nearly all had to hang a towel or other item in front of their door to achieve privacy dressing or using the toilet, for which many faced disciplinary action.

- **Establish clear standards about what it means to "shower alone":** it should not be done during unusual hours; should not compromise ability to participate in programs, recreation or visitation (making the choice between those things and showering); should include visual privacy; should not require someone to be paraded through the prison to their shower
- **Do not penalize people for trying to achieve privacy while using the toilet or dressing.**
- **Convene a task force to redesign current facilities to provide privacy** in showering, using the toilet and dressing.

Recommendation #12: Improve the grievance system and monitor for retaliation.

The grievance system fails TGNCI people in prison. Nearly all respondents used the grievance system, many using it numerous times. However, nearly two-thirds report they have never had a positive outcome from a grievance, and three-quarters report they have faced retaliation in response to a grievance . In addition, more than half reported attempting to use the grievance system but being denied the ability to do so.

- **Require an evaluation of the grievance process at every facility, and implement changes to make it possible to place a grievance directly and privately.** The grievance process should be as private as possible, and a grievance should have to pass through as few people as possible before being delivered.
- **Monitor the grievance system for retaliation.** Implement a policy of monitoring for retaliation 90 days after a grievance is filed, similar to that for PREA-related grievances.

Recommendation #13: Ensure access to programming for TGNCI people and protect against discrimination. Create new programming to promote the cohesion and self-advocacy of TGNCI people.

Our research showed the importance of access to programming, and the discrimination faced by TGNC people attempting to access programming. Nearly two-thirds of our respondents wanted access to support groups, and half wanted access to cosmetology or similar trade programs. Programming was seen as important not only for individuals, but also for the community.

- **Require regular trainings for DOCCS staff and volunteers, delivered in partnership with TGNCI-competent outside organizations.** Require attendance at a training as part of the recertification process.

- **Implement a regular review of program assignments and investigate instances of possible discrimination.**
- **Update DOCCS policy to expressly prohibit the program committee from giving any consideration to gender identity in its decisions.**
- **Require program committees to produce written statements explaining why someone has been denied a program.**
- **Implement a program in which TGNCI people are trained to speak at orientation for new arrivals.** Give TGNCI people an active voice in orientation to humanize them and make clear that they are part of the community.

Recommendation #14: Foster community connections between incarcerated people and with people on the outside, which keeps people safer.

It is critical to up access to prisons and increase the ability of incarcerated people to form community connections. Prisons are designed to keep oppressed people separated. Prison visits help challenge that separation. They may also make people safer from abuse, because COs know that people receiving visitors have community connections.

- **Allow for, and create, more support groups by and for TGNCI people.**
- **Visits should be made more accessible** by including lockers, making information about visiting hours readily available, and making it easier to determine if someone has been transferred.
- **Expand trailer visits beyond immediate biological or legally recognized family.**

Recommendation #15: Improve oversight, monitoring and transparency.

Oversight, monitoring and transparency are essential to the recommendations we have proposed, to holding DOCCS accountable, and to ensuring that TGNCI people in prison and their advocates have insight into how policies have been implemented.

- **Implement independent, external monitoring of the treatment of TGNCI people in New York State prisons,** including monitoring verbal violence, physical violence, sexual violence, access to housing transfers, and the grievance process.
- **Increase transparency about current DOCCs policies and intended revisions.** We recognize that NYS DOCCS is working to update what they can provide to TGNCI people but it is important to be transparent with incarcerated people and their advocates about both the current policies and the revision process.

Legal service providers must be more responsive to incarcerated TGNCI people

Survey respondents reported negative experiences reaching out to legal service providers from inside—either silence or rejection.

Legal service providers must be better equipped and more culturally competent. SRLP routinely hears from individuals who have waited months for a response from an organization, often missing vital deadlines while waiting for replies. Likewise, even thoughtful legal service organizations routinely reinforce prison norms by not offering clients non-contact visits (for avoiding strip searches) and not having social workers or other specialists on staff able to work with individuals navigating systems following trauma.

The funding community should also recognize this issue and better resource providers to meet the need for services. Many free legal service organizations are barred from working with incarcerated people by their funding.

Respondents described the challenges in trying to contact a civil attorney while inside:

- *Those who responded told me that their caseload was full and were not able to assist me. Most of them didn't respond at all. I didn't have any up-front money, I think that played a major part.* –Respondent B
- *Every time I write to a lawyer or a legal organization I hear the same response: "We are sorry to inform you but due to budget restraints we are unable to represent you."*–Respondent TDC
- *I was physically attacked by Corrections Officers, but all the attorneys wanted was money I didn't have. Then when I advised that I was transgender they advised me they would not help.* –Respondent EF
- *All dead-ends/unavailable to take my lawsuits. This has been extremely frustrating and exhausting, causing some to go past the legal time limits. A lot of anger and resentment comes from this* –Respondent TH
- *It is sadly nearly impossible. You spend hours compiling addresses of potential lawyers and firms, then more time writing the letters, and then you mail them out but get 99.9% no response back. You might as well not even try if it is any kind of civil matter other than a court of claims or §1983 federal suit for prison conditions/abuse/injury/etc. You can't even find a list of potential family court, divorce, bankruptcy, military, admin. etc. If your case won't garner significant damages you stand NO chance, and even then your pulling a miracle if you succeed. The state and government, and defendants exploit that weakness. Also even the agencies and organizations set up to help represent prisoners are so overwhelmed and busy that it's luck if you get one to be able to take your case/matter.* –Respondent THL

CALL TO ACTION

Our research makes clear what our members know and experience every day: the crisis for TGNC people in New York State prisons. The prison system is abusive for everyone who encounters it, by design. For TGNC people, this experience is compounded by pervasive violence and discrimination, limited access to medical services, restricted access to programming, retaliation for placing grievances and more.

The need for change could not be more urgent. Our TGNC community—our family; our loved ones—are suffering daily. This very moment, they are being subjected to inhumane and discriminatory treatment, to violence, in New York State prisons. They are also fighting for themselves and their community: advocating for themselves and others, defending their rights and fighting to win new ones. We honor their strength and resistance.

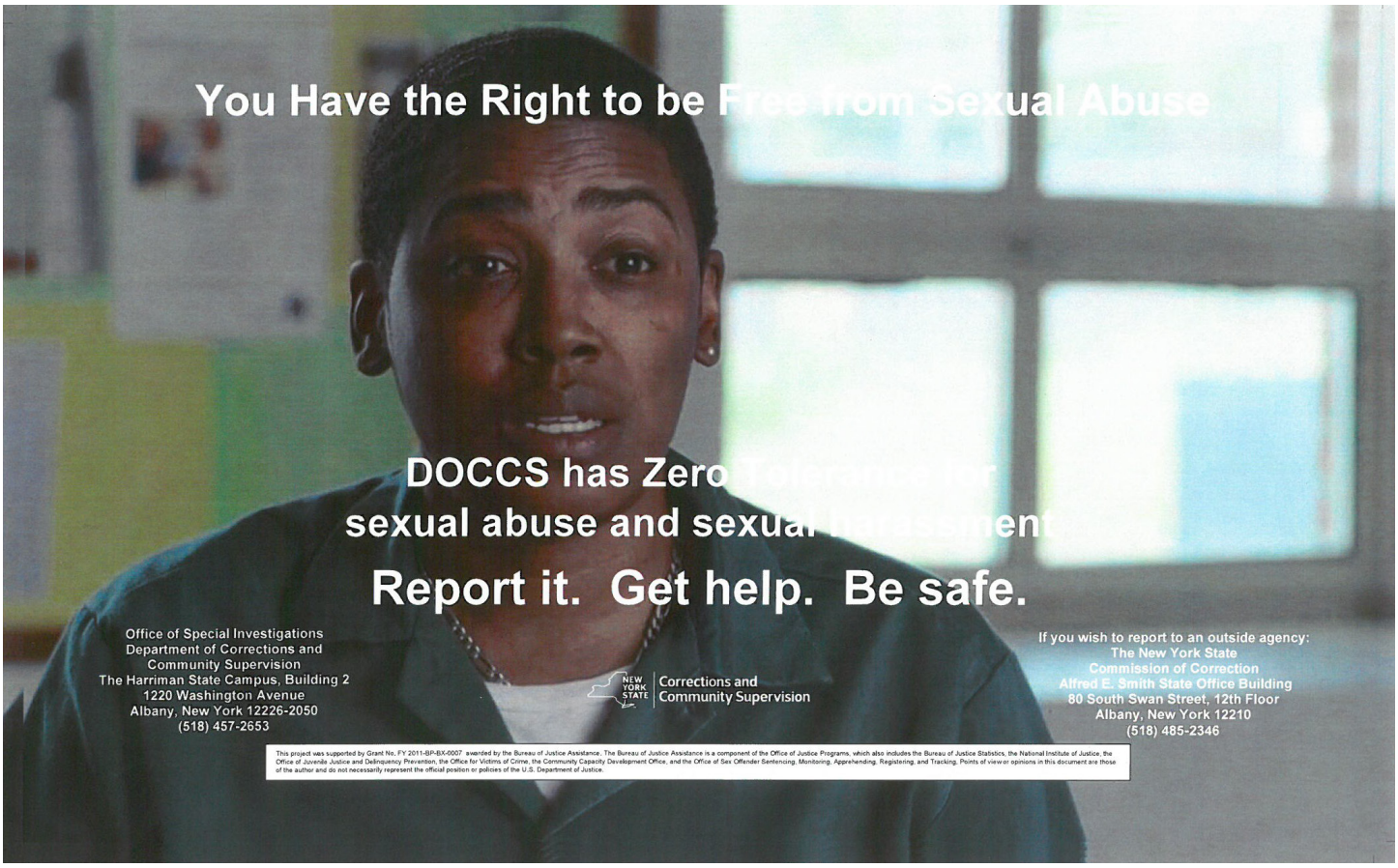
We will continue to work towards a world without prisons and systems of harm. Simultaneously, we call on DOCCS and others to take immediate action to implement the recommendations in our report. These reforms are critical, lifesaving, and imperative.

"I've been told not to advocate for trans people by administrators while in prison, and I've been told to pick my battles. The thing is this: every trans person's battle is my battle as well. If they're allowed to do something to another trans person, what will stop them from doing the same thing to someone else? From doing it to me? In war, you don't get to simply choose your battles, you fight the one in front of you. Then the next and the next until you die or live through them all. It's war in here."
–Respondent TH

APPENDIX A: Posters used by DOCCS to inform people about their rights under the Prison Rape Elimination Act (PREA).

Received via FOIL request.

The information on the poster is largely illegible due to printing white text on a nearly white background, as well as the extremely small font size of the contact information for how to report sexual violence.




Usted Tiene el Derecho a Estar Libre del Abuso Sexual
DOCCS tiene Cero Tolerancia para el abuso sexual y el hostigamiento sexual
Repórtelo. Obtenga ayuda. Cuídese.
Office of Special Investigations
Department of Corrections and Community Supervision
The Harriman State Campus, Building 2
1220 Washington Avenue
Albany, New York 12226-2050
(518) 457-2653
NEW YORK STATE
Corrections and Community Supervision
Si desea reportar a una agencia externa:
The New York State
Commission of Correction
Alfred E. Smith State Office Building
80 South Swan Street, 12th Floor
Albany, New York 12210
(518) 485-2346
Este proyecto fue pagado por Grant No. FY 2011-BP-BX-0007 concedido por el Bureau of Justice Assistance. El Bureau of Justice Assistance es un componente del Office of Justice Programs, que ambién incluye al Bureau of Justice Statistics, el National Institute of Justice, el Office of Juvenile Justice and Delinquency Prevention, el Office for Victims of Crime, el Community Capacity Development Office y el Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Los puntos de vista u opiniones en este escrito son del autor y no necesariamente representan la posición oficia; o las políticas del U.S. Department of Justice.


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ENDNOTES

i The Marshall Project. A State-by-State Look at Coronavirus in Prisons. Retrieved March 1, 2021 from https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons

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vii James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., and Anafi, M. (2016, December). The Report of the U.S. Transgender Survey. Washington, D.C: National Center for Transgender Equality. Retrieved from http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf

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viii James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., and Anafi, M. (2016, December). The Report of the U.S. Transgender Survey. Washington, D.C: National Center for Transgender Equality. Retrieved from http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf

ix 28 C.F.R. § 115.42 (c)-(e).

x Blakinger, K. (2016, February 11). A look at how New York houses trans inmates—and where Sophia Burset of 'Orange is the New Black' would be jailed in real life. Daily News. Retrieved from http://www.nydailynews.com/news/national/new-york-houses-trans-inmates-article-1.2527905

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The PREA Standard requires that agencies make individualized housing and program placements for all transgender and intersex individuals. These must "be reassessed at least twice each year to review any threats to safety experienced by the inmate" and an individual's "own views with respect to his or her own safety shall be given serious consideration" in the assessments. 28 C.F.R. § 115.42 (c)-(e).

xi Stahl, A. (2017, December 21). New York City jails still can't keep trans prisoners safe. The Village Voice. Retrieved from https://www.villagevoice.com/2017/12/21/new-york-city-jails-still-cant-keep-trans-prisoners-safe/

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xvi Center for American Progress & Movement Advancement Project. (2016). Unjust: How the Broken Criminal Justice System Fails LGBT People. Retrieved from http://www. lgbtmap.org/file/lgbt-criminal-justice.pdf

xvii Carson, E. A. (2016). Data Collection: National Prisoner Statistics. Bureau of Justice Statistics. Retrieved from https://www.bjs.gov/index.cfm?ty=dcdetail&iid=269#Questionnaires

xviii Directive 4911 requires individuals to obtain a "medical permit" to receive and wear gender-affirming clothing, which necessarily requires outing themselves to officers or others in the DOCCS facility. Similarly, Directive 4910 requires individuals to self-identify as trans in order to advocate against the sexual violence of pat-frisks. Directives 4017, 3081, 4021,

and 4401 are all also designed to undermine the safety and privacy of TGNC individuals.

xix Correctional Association, Solitary at Southport (2017) available at: https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5c4f5bd8562fa7fb256b550d/1548704749745/2017+Solitary+at+Southport.pdf

xx Bedford Hills, Coxsackie, Fishkill, Mohawk, and Wende all have Regional Medical Units. See: Blakinger, Kai. Jan 8, 2019. "Disabled Prisones Decry Treatment in New York's Prison System." The Appeal. Retrieved from: https://theappeal.org/disabled-prisoners-decry-unfair-treatment-in-new-yorks-prison-system/

xxi Definition of shock incarceration program: "provides selected inmates a special six-month program of shock incarceration, stressing a highly structured routine of discipline, intensive regimentation, exercise, and work therapy, together with substance abuse treatment, education, pre-release counseling, and life skills counseling." The two facilities are Lakeview and Moriah. See: New York State Departments of Corrections and Community Supervision. Shock Incarceration Facilities. DIR #0086. Dtd. 3/18/2019. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/0086.pdf

xxii New York State Department of Corrections and Community Supervision. Inmate Suicide Prevention. DIR #4101. Dtd. 7/25/2019. Retrieved from: https://doccs.ny.gov/system/files/documents/2019/12/4101.pdf See section V(d)[G] for minimum standards while in RCTP.

xxiii The PREA Standard requires that agencies make individualized housing and program placements for all transgender and intersex individuals. These must "be reassessed at least twice each year to review any threats to safety experienced by the inmate" and an individual's "own views with respect to his or her own safety shall be given serious consideration" in the assessments. See: 28 C.F.R. § 115.42 (c) - (e).

xxiv "An inmate's risk of being sexually abused by other inmates or sexually abusive toward other inmates shall be monitored and any specific occurrence or information shall be noted and considered in connection with any transfer." See: New York State Department of Corrections and Community Supervision. Sexual Abuse Prevention & Intervention- Inmate-on-Inmate. DIR# 4027A. Dtd. 11/29/2017. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/4027a.pdf

"Each inmate shall be initially assessed by a Security Supervisor for their risk of being sexually assaulted by other inmates or sexually abusive toward other inmates using the gender-appropriate PREA risk screening." See: New York State Department of Corrections and Community Supervision. Inmate Reception/Classification. DIR# 4021. Dtd. 1/23/2019. https://doccs.ny.gov/system/files/documents/2020/11/4021.pdf

xxv New York State Department of Corrections and Community Supervision. Guidance & Counseling Services. DIR #4401. Dtd. 8/21/2020. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/4401.pdf

xxvi Prison Rape Elimination Act. 28 C.F.R. § 115.42 (c)-(e).

xxvii Prison Rape Elimination Act. 28 C.F.R. § 115.43 (c).

xxviii See NYCRR § 253.2 and NYCRR § 254.6(c)(3)

xxix See New York State Department of Corrections and Community Supervision. Special Housing Units. DIR #4933. Dtd. 4/4/2017. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/4933.pdf

xxx New York State Department of Corrections and Community Supervision. Protective Custody Status. DIR #4948. Dtd. 11/17/2020. Retrieved from https://doccs.ny.gov/system/files/documents/2020/11/4948_0.pdf

xxxi See for example :
Valerie Jenness et al. (2007). Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault. Irvine: Center for Evidence-Based Corrections, University of California.

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xxxiii New York State Department of Corrections and Community Supervision. Inmate Grievance Program. DIR # 4040. Dtd. 1/20/2016. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/4040.pdf

xxxiv Generally speaking, there are links between forms of estrogen therapy and pancreatitis. See generally, Dajeong Seo, et. al. (2017, September 18). Estrogen-induced acute pancreatitis: A case report and literature review Obstet Gynecol Sci. 2017 Sep; 60(5): 485–489.

xxxv World Professional Association for Transgender Health (WPTH). (2016, December 21) "Position Statement on Medical Necessity of Treatment, Sex Reassignment, and Insurance Coverage in the U.S.A." Retrieved from: https://www.wpath.org/newsroom/medical-necessity-statement

xxxvi New York State Department of Corrections and Community Supervision. Inmate Clothing Issue. DIR # 3081. Dtd. 6/28/2019. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/3081.pdf

xxxvii New York State Department of Corrections and Community Supervision. Packages & Articles Sent or Brought to Facilities. DIR #4911. Dtd. 6/28/2019. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/4911.pdf

xxxviii Prison Litigation Reform Act (PLRA). 42 U.S.C. § 1997e.

xxxix Forms of this vary, however three classic examples of legal advocates and organizations trying to make the legal landscape more accessible to people in prison can be found in the Jailhouse Lawyers Handbook, Jailhouse Lawyers Manual, and the Prisoners' Self-Help Litigation Manual. Each of these books contains a more comprehensive section devoted to the PLRA and how it has challenged the concept of legal justice in the US.

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xli Rights in an extended family visit can be found in: New York State Department of Corrections and Community Supervision. Family Reunion Program. DIR # 4500. Dtd. 1/5/2016. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/4500.pdf

The Osborne Association has many resources on visitation and the rights of incarcerated parents: http://www.osborneny.org/resources/see-us-support-us-toolkit/

xlii New York State Department of Corrections and Community Supervision. Protective Custody Status. DIR # 4948. Dtd. 11/17/2020. Retrieved from: https://doccs.ny.gov/system/files/documents/2020/11/4948_0.pdf

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