

To: New York State Senate Standing Committee on Codes
From: Transgender Law Center
Re: Legislative Changes to Section 50-a of the Civil Rights Law
Date: 10/17/2019

Testimony in Support of Repeal of CRL 50-a

Transgender Law Center (TLC) is the largest national trans-led organization advocating self-determination for all people. In furtherance of our mission to keep transgender and gender nonconforming people alive, thriving, and fighting for liberation, TLC supports the repeal of New York Civil Rights Law 50-a.

Transgender people across the nation and in New York state experience disproportionate mistreatment by law enforcement and correctional officers. To address these harms, we need to be able to fully understand the patterns of abuse and how internal disciplinary systems are currently addressing them. Repealing 50-a would shed light on such patterns, leaving us better prepared to strategically work to ensure the safety of all New Yorkers.

Transgender people in New York, particularly transgender people of color, face alarming rates of police harassment. The 2015 U.S. Transgender Survey results for New York found that, “[i]n the past year, of respondents who interacted with... law enforcement officers who thought or knew they were transgender, 61% experienced some form of mistreatment,” ranging from verbal harassment to forced sexual activity. TLC attorneys have worked with several trans women who were profiled as sex workers by police and threatened with arrest unless they performed sexual acts on the officers. Once they performed the acts, however, the officers would arrest the women anyway.

The current lawsuit brought by the ACLU and NYCLU against the New York Police Department on behalf of Latina trans woman Linda Dominguez is one example of the kind of behavior that is often only addressed behind closed doors, if at all. Dominguez was charged with “false personation” in 2018, when she told police officers both her birth name and legal name upon her arrest. NYPD officers left her chained to jail cell bars in pink

handcuffs all night to humiliate Dominguez, and verbally harassed her while she was locked there.

This kind of harassment is also why most transgender people feel unsafe going to the police. 58% of New York State respondents to the USTS said they would feel uncomfortable asking the police for help if they needed it. This is a particular problem for transgender people who experience intimate partner violence or transphobic attacks. TLC attorneys have worked with several trans New Yorkers who have called the police for help and have been ignored, or, worse, arrested themselves. While our attorneys have made complaints about these patterns, there is no way to know if officers are being held accountable, because 50-a shields such records from the public.

Correctional officers, another group whose disciplinary records are protected by 50-a, also disproportionately abuse trans people, particularly trans people of color. The USTS found that one in five incarcerated respondents had been physically or sexually assaulted by prison staff in the last year. Among those who were physically assaulted by staff, about half reported that this had happened multiple times in the past year. The USTS also found deprivation of medical care for more than a third of transgender respondents in prison.

The tragic death of Layleen Polanco, an Afro-Latina transgender woman who died while held in Riker's Island this past summer, is one example of the dire consequences of this kind of neglect. Polanco was held in solitary confinement, as many transgender people in prisons and jails are, despite prison staff knowing that she had an epileptic condition. Polanco had a seizure while in isolation and died alone in her cell without treatment. Advocates have spoken out about conditions for transgender people on Riker's Island for decades, but the protections of 50-a make it difficult to know how seriously correctional officers' violations of trans people's rights are being taken.

In order to understand how such tragedies can occur, we need to be able to see how internal systems are responding when harm occurs. We need to be able to understand patterns of behavior and discipline in order to hold violent individuals and systems accountable. Therefore, TLC supports the full repeal of CRL Section 50-a.