

Derrick D. Cephas, Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

April 23, 2019

Dear Members of the Board of Correction and Hearing Audience,

Thank you to the Board for convening this important hearing. Thank you for everyone in the audience who is a survivor - or has loved a survivor - and is here today. As important and vital as these hearings are, speaking at them or providing information can be extraordinarily hard and I want to thank you all.

My name is Mik Kinkead and I am the Director of the Prisoner Justice Project at the Sylvia Rivera Law Project (SRLP). Since September, I have been visiting the Transgender Housing Unit (THU) located at 4A South in the Rose M. Singer Center (RMSC), twice a month. Since March, I have been visiting the second THU, an integrated housing unit for transgender women and cisgender women over 50, on 3A South at RMSC also twice a month. I am therefore at RMSC every week, often for four to five hours at a time. My testimony will be mostly limited to those two units. As such, this testimony does not touch on the experiences of transgender men, gender non-conforming people, or any transgender person housed in a men's jail. I also cannot speak to the experiences of intersex individuals beyond the one experience I previously shared with the Board in September and October 2017.¹

I want to take a moment to acknowledge that DOC often refers to a third housing unit. This is more properly regarded as an intake unit for TGNCI people of all genders at RMSC. At this time I know of no governing Directives, Guidances, or other information - public or internal - as to the operation of this unit. Only one transgender woman I have worked with went through that intake unit - in late March - and I cannot say how many people have been processed there or why some and not all people who identify as TGNCI between arrest and arraignments aren't taken there.

Recommendation: Similar to the Assessment of the THU, please consider an Assessment of this Intake Unit including numbers and gender identities of TGNCI-identified people going through that unit compared to TGNCI people going through intake at other locations.

¹ See Sylvia Rivera Law Project, Letter to the BOC re: PREA Variance Request (October 10, 2017) available at <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2017/Oct-10-2017/SRLP%20submission%2010.6.2017.pdf>.

The Move to RMSC Is Overwhelmingly Positive

An overall point I want to make is that the THU moving to RMSC has been for the best. It has changed to the point of being almost unrecognizable. So much that advocates and women in the unit have requested for years has now occurred. There are steady staff who are self-selecting for the unit, fairly consistent use of correct names and pronouns, access to the same commissary and state-supplied items as all cisgender women, the ability to access all programming including gender-specific programming, and more. The women in the unit and the women leaving the unit seem to have a consistent message that it is an important place. Women I know who have experienced the THU at both RMSC and MDC, share that the move has been an amazing improvement.

Process and Transparency Continue to be At Issue

What continues to be at issue is how individuals in the THU end up there.² In September, when I surveyed women there as to how they came to be in the unit, not a single person said they were selected based upon an application. Some women said they had filled out multiple applications³ and never heard anything back until an outside advocate interfered. Other women said that they went straight from intake to the unit without ever requesting it. For the women who were placed in the unit directly from intake, they believed the unit was *involuntary* and that all transgender people were placed there. Universally, the message was that the application for the THU played no part in why they were at the THU. As mentioned in Brooke's testimony, people may fill out the application multiple times and be enduring horrific violence but only come to the THU later and without a clear reason s to the delay.

Lack of transparency is a theme throughout the THU. Directive 4498, *Transgender Housing Unit*, last updated in December 2014, is classified as distribution "A" meaning it is not available to incarcerated people or the general public.⁴ In 2015, I and other advocates, received a copy and - when we asked about transparency - were told that a public-facing document would be made where information regarding shift changes and other security protocol were redacted. Since 2015, I have not heard of any plans to make this available in any form. When applying for the unit, applicants are required to indicate that they will abide by the rules and regulations therein. It is hard to imagine how this meaningfully happens when the women are not apprised of the rules, regulations, and their *rights* as they cannot see the governing Directive and there is nothing in writing available to people held in the New York City jails concerning the unit.⁵

² This was raised in the Board's own assessment of the THU in 2018. N.Y.C. Board of Correction, An Assessment of the Transgender Housing Unit at 6 and 8 (February, 2018).

³ See the annexed testimonies number four (Naomi Peterson) and six (Brooke).

⁴ N.Y.C. DEP'T OF CORRECTION, DIRECTIVE NO. 4498, TRANSGENDER HOUSING UNIT (Dec. 03, 2014).

⁵ The Board previously raised this in their Assessment, "Ninety-two percent (92%, n=109) of all applicants indicated on their application that they agreed to abide by the rules of the Transgender Housing Unit. The THU application itself does not state the rules of the unit, so it is unclear how applicants know the rules to which they are agreeing.

Should the Directive be made public at this time, however, it is unclear what it would accomplish as it is incredibly out of date. I want to emphasize that it is out of date for *good* reasons. It is out of date due to the move of the THU to RMSC and the opening of the second unit. This means that many sections specific to the THU being in a men's jail - and the mentions of transgender men being placed within Protective Custody at RMSC - no longer make sense. The unit being specific to transgender women and not inclusive of transgender men seems no longer operable.

During a recent class at the THU, one of the women shared that she regularly speaks to transgender men and trans-masculine people in the law library. According to her, they have asked why they couldn't also be in the THU. She responded by saying that as she had never seen any documents governing the THU she didn't know but it would make sense for her that they should all be afforded the same rights. I know advocates do try and inform transgender men of the THU and other housing options but, without knowing when a TGNCI person has gone through intake, it is particularly difficult to ensure we reach out to and share knowledge with *every* TGNCI person.

Recommendation: Directive 4498 should be updated and made public. These updates should include the option for transgender men to be housed within the THU or THU/I and should remove protective custody at RMSC as the default placement.

Advocate-created Know Your Rights materials for TGNCI people should be made available in the law libraries of every jail and upon intake.

The THU Is Not The Only Option

The THU is a positive space that is seriously changing the mental health, physical and sexual safety, and access to positive programming for the women housed there. Unfortunately, its existence as a *voluntary* unit which should be chosen by individuals who do not feel that they can be safely housed in the general population of the facility concurrent to their lived gender seems to be forgotten.⁶ Instead, the unit seems to be the default for transgender women only after being housed according to the sex assigned at birth.

Despite DOC stating that there are transgender women in general population at RMSC, I have yet to meet with or hear from my clients that this has happened. If this is happening, that is wonderful news. Transgender women should be considered for general population as well as all

Board staff are not aware of any written policies outlining the rules of the unit." N.Y.C. Board of Correction, An Assessment of the Transgender Housing Unit, at 8 (February, 2018).

⁶ In accordance with the Minimum Standards and DOJ's clarification of PREA. Clarification of §115.42(c) & (e) available at <http://www.prearesourcecenter.org/node/3927>.

other units within RMSC such as drug treatment, mental health, and protective custody. According to the women I work with, however, it appear to be that they are housed as men, then considered for THU and, if upon entry to THU they experience conflict, they are transferred down to the THU/I or back to a men's jail.

The THU appears to be the first option considered for gender-affirming placement and the THU/I is the second. I have never worked with or heard of a transgender woman in any other voluntary unit. That said, two women with whom I work have recently been placed in solitary confinement within RMSC. This is clearly better than moving them from RMSC to a men's jail for solitary confinement, but if transgender women can be held in solitary as well as the THU and the THU/I it seems that DOC could expand housing considerations for transgender women to include the other units within RMSC.

It is possible that the women I spoke to misunderstood something about the housing process. That does happen. However, there is no way to know as there seems to be no paper trail of decision made. In the Board's February Assessment of the Transgender Housing Unit, it was shared that of the 118 applications for the THU in the period evaluated, "99 applications (84%) did not have any decision recorded." This appears to suggest that individuals are not informed as to why they are or are not considered at any part of the process.⁷ This does not appear to have improved at all.

In addition, DOC employees seem to have varying knowledges of the unit - some claiming that the PC units at Brooklyn House are in fact an additional THU, some claiming that the THU is by Judge's order. The majority of the time, I do believe this is done without any ill will. Rather, as Ms. Madea Sidney suggests in her testimony, there simply hasn't been ongoing conversations across DOC concerning transgender people and our rights.⁸ Without guidance, directives, or new training, the minimum standards seem to be followed haphazardly at best.

When individuals ask "why wasn't I considered for general population at RMSC - as Ms. Cash has done in her testimony⁹ - it's very hard to answer that. The minimum standards suggest that she should have been.

Recommendation: DOC should work with local advocates and experts to create Guidance for housing TGNCI people from the point of intake to release. This Guidance must follow the Minimum Standards and lay out the reality that TGNCI people have the same right to access programming as their cisgender counterparts

⁷ N.Y.C. Board of Correction, An Assessment of the Transgender Housing Unit, at 13 (February, 2018). "Of the 118 applications, 11 applications were approved, eight applications were denied, and 99 applications (84%) did not have any decision recorded."

⁸ See annexed testimony number five (Madea Sidney).

⁹ See annexed testimony number seven (Savannah Cash).

and that the THU is one option among many. This guidance must be made publicly available.

Lack of Faith in Investigations

I want to close by stating that the information shared in the Board's 2018 Assessment of the PREA Standards, and all of the Board's various reporting on investigations of PREA complaints, are known within the jails as well.¹⁰ The fact that, in the random sampling, only a quarter of individuals were ever informed of the outcomes of their case, and that the majority of PREA complaints were not closed within the required investigatory time period seem to be stifling the belief of survivors in the utility of the system.¹¹ When interviewing various women for this hearing, I heard over and over again that filing a PREA complaint for sexual violence was either useless or potentially harmful.

For those who said it was useless, I heard themes that the investigation simply wouldn't be taken seriously. One woman suggested to me that DOC already sees transgender women as suspicious and trouble-makers, so reports filed by transgender women are not investigated.

I'm sure the Board remembers - as I still remember in great detail - my testimony in April 2018 concerning a transgender woman who was raped at AMKC, brought to Bellevue, brought back to AMKC, and raped a second time all within 72-96 hours.¹² Her story is still shared throughout the units as an example that reporting does not keep you safe and that self-advocacy can lead you to be placed right back in the same unit where you experienced harm.

For those women who shared that reporting was potentially harmful, they mentioned the precariousness of being in the THU. Since September, I have learned of three women transferred out of the THU after they reported feeling sexually harassed by cisgender women during recreation or other shared times. These three women were all transferred out of the THU and to men's jails. This sends the message that the THU is a form of a privilege and that transgender women's genders are at the root of any concern. For them to be transferred and not their harassers stifles reporting and teaches women in the unit to make calculated decision regarding their safety.

Recommendation: Clear and public housing standards for TGNCI people should assist in ensuring TGNCI individuals to not fear being transferred out of a gender-affirming unit due to reporting sexual harassment or violence. In addition,

¹⁰ N.Y.C. Board of Correction, Audit Report on the New York City Department of Correction's Sexual Assault and Sexual Harassment (PREA) Closing Reports (September, 2018).

¹¹ *Id.*

¹² See Sylvia Rivera Law Project, Letter to the BOC re: Transgender Housing Unit Assessment (April 23, 2018) available at <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/April-20-2018/SRLP%20Comments%20on%20PREA%20and%20placement%20of%20trans%20people.pdf>.

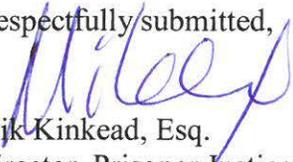
however, DOC *must* take concrete steps towards hiring more Investigators and creating clear guidelines concerning protections for any individual reporting violence. During investigations, DOC must record contact information for individuals should their cases carry on after their release.

Closing Thanks

Finally, I want to thank the seven transgender women who shared their stories of surviving at RMSC. They are annexed to my testimony here. It took hours for us to meet and share these stories. There was so much that needed to happen before, during, and after, to ensure that these stories were safely told. Even the shortest testimony was the product of re-living trauma, re-triggered memories, and many emotions. I want to invite the Board to do what Ms. Madea Sidney shared when I spoke to her this last Thursday, "Come and see me in person. Come here without announcement so that you see how it is. Get my opinion, from me." I urge the Board to do just that and, to ensure that when they do there is plenty of time and space for all of the emotions and that the unit is closely monitored for any retaliatory actions after the visit.

Thank you for this opportunity.

Respectfully submitted,


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Testimonies from Transgender Women for PREA Compliance Hearing

Testimonies number One to Five were all taken between March 28th – April 18th in the Transgender Housing Unit and the Transgender Housing Unit/Integrated. Testimony Six is an essay given to SRLP in October, 2018 by a woman in the Transgender Housing Unit who has since returned home, which for her is outside of New York State. She was unable to come to the hearing today but provided permission for re-sharing her essay. Testimony Seven is the drafted testimony of Savannah Cash which she will be giving in person. Ms. Cash was not held in the Transgender Housing Unit or the Transgender Housing Unit/Integrated during her 17 day stay at RMSC. Instead, due to her refusal to go the units and her insistence on being allowed in general population, Ms. Cash informs us she was in either Disciplinary Solitary Confinement or on a Mental Health Hold the entire time.

For those who have chosen to share their identifying information, they have also invited the Board to contact them and ask them for more details on their experiences within the City jails.

Testimony 1:

I would like to withhold my name. I am a 26 year old bi-racial transgender woman. The following is my testimony for the Board:

Well many people address trans women about their sexuality, that's none of their business and it's very sad that the law does nothing to protect trans women from transphobic behavior. What should be done differently is just simply respect us as people and not what they have assumed us to be.

Many NYC jail employees and volunteers have abused their power to include their own religious, and/or personal opinions when dealing with any LGBTQ persons especially transgender women, and men. People are paid to do their jobs without "phobic" behaviors; they should truly focus on their job and not their sexual preferences or religious upbringing.

I have never been raped, but I hope that the persons that apply for jobs associated with healthcare will treat sexual violence victims of all creeds and sexualities fairly and justly. Without judgment of said case and/or persons.

When a pat-frisk or strip search happens, only some people will ask if you have a preference of officer for the search. This is a very tragic situation. They are insanely disrespectful and only affirming in said disrespect. Some of the men will feel on the shape of your body and completely disregard the "pat and frisk" action/law.

Employees, contractors, and volunteers with the NYC jails should simply treat everyone with respect and kindness. Policies that should be used are the "gender affirming," the "family affirming" policy. People who may have their loved ones working with them are highly dangerous persons. The persons who work in law enforcement should have a mandatory training class on all phobic subjects including sexual, racial, religious, and gender.

Testimony 2:

My name is Jeannie Dinh. I am a 60 year old Asian trans woman. The following is my testimony for the Board:

I am in the female facility now and the officers call me Jeannie and female officers pat frisk me. But I am very scared because I will go to prison upstate. There, I will be pat frisked and strip frisked by male officers. I would like to be pat frisk or strip frisk by female officers only. When I have been inside before, like at Upstate Correctional Facility, some officers would call me as Mr. Dinh. I wish they would call me Miss Dinh or just Dinh if they can't say "Miss" to me.

Testimony 3:

My name is Ms. Kitty Jane Rotolo. I am a 55 year old white trans woman. I identify as straight and as an advocate. The following is my testimony for the Board:

I will honestly say that the treatment of all transgender people has gotten a lot better since the PREA law has gone into effect. The facility should always practice being fair and impartial. As opposed to pre-judging us all. The powers that be have become extremely conscious that any and everything that constitutes sexual misconduct is a touchy situation. And now they are threatening to lock us up and write a ticket for something as silly as patting someone on the back. If they're really enforcing this with jail time COs will absolutely make people think twice about practicing unprofessional behavior!

I have experienced pat frisks in both male and female prisons and jails. And by both male and female staff. The state of unprofessionalism goes individually. I tend to experience more professional behavior with male officers! The pat frisk in itself seems to have improved over the last 3 decades! But it currently seems to be very professional, courteous. Yet thorough! They use the back of their hands to actually touch you. It leaves less room for abuse. So that is good. They literally used to squeeze our breasts. And now they aren't as severe anymore!

I attempted to access healthcare when I first came through corrections simply concerning my own lifestyle. In asking for an HIV test. And I had a hard enough time trying to rid the medical staff of ridicule and shame on me in corrections more times than not. Medical staff is related to security staff. Mostly through marriage! So the confidentiality clause almost always gets violated. Most through nurses disclosing our status through their officer spouses! This in itself is a violation of the worst kind! And more times than not, the officers share our status with the inmates!

After suffering injuries pertaining to sexual violence in both upstate prisons and jails, I was just told to go fuck off. When I would report an incident of sexual abuse, it frightened me immensely. One time it was after I was literally raped by a gang of prisoners! They would respond with such unsupportive behavior! The institution should practice equality and be aware that every human life is of equal importance. The institution practices prejudiced, bias behavior which is not legal nor should it be still in place in life!

Testimony 4:

My name is Naomi Peterson. I am a young, Black, transgender woman. The following is my testimony for the Board:

I filled out 5-10 forms saying that I was transgender. Maybe some of them were THU applications, maybe some were medical. I don't even remember. There were so many. And I said it over and over.

I was at MDC and then another men's jail. I don't remember the name, it was on Rikers. When I was on Rikers I was transferred to a house with gang members - crips. Someone called 311, I don't know who, and I got transferred to RMSC.

At the men's jails they kept saying "he he he" and I said "excuse me, I'm a woman" and they say "we aren't used to you." I know that's bs. We've been inside before. It's not like they never locked us up before. I know I'm easily manipulated, I'm 25, I have ADHD, I'm so scared of the men and how they manipulate me.

The THU is a lot better. But even here escort officers use the wrong names and pronouns. They say "he-she" they call me by my boy name. When you need something from them they ignore you. Or they'll laugh and carry on with the officers and ignore you. They threaten to mace you all the time. If we argue and disagree they say "I'll press the red button and get the turtles on you."

I don't understand a lot of things, reading is hard. I wish they would just slow down and be nicer.

Testimony 5:

My name is Madea J. Sidney, booking and case number 349-19-05297. I am an older trans woman, 59 years old. I am a bi-racial jailhouse lawyer. I have asked SRLP to share a proposal for a “Transcommunity Forum” which I previously shared with Warden Soares following her Tour in the Transgender Housing Unit.

Transcommunity Forum: Bridging the Gap of Communication Series

Objective: Whereas, it is the concerns of both the inmates confined in the Rose M. Singer Center and the Correctional Staff that is employed within the Rose M. Singer Center that the Transcommunity is lacking the proper introduction within the environment of a female institution. The Rose M. Singer Center is not duly prepared for the change of atmosphere of such inmates within its confines as the Transgender Housing/Intersex Housing Unit. The Correctional Staff are not properly prepared to ascertain the situations that may arise with such dilemmas of the Transgender individual, leaving confusion that is understood by neither party.

Yet the real concern is that there is no clarity as to the communication of how, when, and where to address certain pertinent situations and issues. The biggest problem that hinders the trans community and the Correctional Community is that there are no formative outlets to address the like, dislikes and disappointments of behaviors within a forum that is non-punitive on both sides of the table.

The first step is to listen, understand, learn and then execute a plan that will help both sides be more tolerant of each other’s needs and areas of betterment. This is an arena where the PREA official must take the necessary steps.

The main issues that the Transcommunity Forum will address are:

1. How to Communicate without the behaviors of aggressive demeanor and or attitudes when expressing ones concerns;
2. Dealing with the behaviors that daily reflect living skills in the housing areas and throughout the institution;
3. Ascertaining the ways of how to reach the familiar ground that allows a safe haven for both staff and inmates to communicate certain likes and dislikes within either Transgender housing, inter-sex housing, and or other housing units where Transgender people are housed and to open the community forum for the L.G.B.Q. to also give feedback on likes or dislikes of Correctional Issues in that respective institution;
4. Allowing an open session where both Correctional Staff and the inmate population of the Transcommunity can implement certain programming to educate staff and the transcommunity on the opportunities of effective communication for latter entities such as employment, family coping skills, and educational and vocational concerns;
5. Outside representation of transcommunity that will train and or give input on the different forms of communicative measures that can be properly utilize to help the

Correctional Institution address the needs of both the inmate(s) and the Correctional Employee that are dealing with both the Transcommunity and the L.G.B.Q. inmates and staff here in the Rose M. Singer Center.

6. Monthly or twice weekly programs of how to properly execute a grievance and as to what are valid issues that can be addressed professionally.

7. That it be mandated that PREA Officials and or the supervisory counterparts be attendance within these forums to ascertain the standing of the transcommunity and the L.G.B.Q. community.

As it has been stated so many times by great individuals and philosophers: "Rome wasn't built in a day." So hopefully this forum will bridge a gap that can and will be filled creating a better environment both for the working individual and the confined individual whose safety and mental stability isn't conditioned to a hostile and treacherous environment of distrust, disabilities, and disarray that is common in the interaction of both parties as well as the Supervisory entities within the institutional settings.

It is the hope this Transcommunity Forum will enable a better communication and communicative measure that will clarify the issues that haven't been properly addressed in the inception of the Transgender Housing Unit and the Transgender Community at Rose M. Singer Center.

Testimony 6:

As the officer unlocked my cuffs, I was dazed by the bright blooming pastels of Rosie's Intake unit. "I'm sorry about that earlier" she told me "I've had my days with racism too." She was Black and a lesbian and one of the very few friendly faces I had seen in the last week. We had spent the last two hours together on a rickety steel DOC bus. We had just stepped off a two hour bus ride with a man in the back seat who called me all the usual slurs. Tranny, cocksucker, faggott. I'd become numb to this language from daily beatings in the Brooklyn men's prison.

A man in the back seat had reached the end of his rope. "I'll snap your neck. I'll snap your neck. I'll snap your neck." He was attacking whomever he could, which often meant the tranny in the front seat.

The officers in intake were laughing around the central dock: "step through here, miss." I passed through the metal detector with a dull sense of relief. I knew I was finally safe. The women here treated me so gently. A nervous nurse actually *apologized* to me when she found me on the toilet trying to bring me dinner.

I spent the last week in the Brooklyn men's prison. For the first few days I hid in my 6' x 9' cell, sleeping or feigning sleep to avoid the men held there. I had regular visitors harassing me through my cell bars. "We don't want any gays on our floor" was a phrase accompanying every interaction. I pretty quickly stopped talking to people. I tried answering questions about being a transitioning woman and was universally met with laughter and listeners telling each other how crazy I was.

People asked me if my tits were real, what my genitals were like, how I liked to have sex, even after I stopped responding from behind my bars. I remained a side-show attraction. Men continued to shout through the bars, wake me up by slapping my feet with a towel, take things off my table, and one incident where someone tried to rip my property document from my hand. I waited awake in the night for hours for an officer to pass so I could request transfer to protective custody or a trans unit. Most officers shrugged me off and continued making the night rounds. Some told me to wait for a captain and left. I spoke with a handful of captains with concerns about my safety, one or two later sent a transfer request document. I think most wouldn't do anything because the jail was too full. During the 24 hour intake, I had been in my own cell for a few hours but mostly held in larger units with men. It was easier to blend with a baggy brown shirt enveloping my chest.

Rosie's is friendly. It's the exception that an officer misgenders me. I only got gendered correctly 3-4 times in the men's prison. Mostly by nursing staff. Almost every officer has listened to my concerns; again, the inverse of Brooklyn house. I have easy access to social programs, medical treatment. I did not have phone use for the first 5-6 days in Brooklyn, meaning all these pleas for better treatment fell on the deaf ears of staff.

Testimony 7:

My name is Savannah Cash and I just came out of Rikers on April 9th

Throughout that time I was housed at RMSC. I think it is important to share that despite being at RMSC I still faced horrific treatment.

I spent 17 days on the island and all of them were in segregation. From the beginning I was not treated as other women.

From the moment I came in to Rosie's I was put in a separate cell. That outed me to everyone as trans. From the moment I was in there everyone knew I was trans because of how I was housed. Throughout the time I was forcibly separated from all cisgender women. I wasn't allowed to be integrated. I had to do everything only with transgender people; they never wanted to see me as a woman.

The Transgender Unit is segregation. I was never considered for general population. Did we not learn anything from the Civil Rights movement? Segregation is not lawful. If people choose it, that's fine. I didn't choose it and because of that I was punished with segregation.

What this does is make people think we are sexual predators. It makes people think we are the problem. We aren't a problem and most other incarcerated people didn't see us as problem. It was the correctional officers who saw us as a problem.

While I was there I was told that I could only shower with other transgender women. We showered as a group. Instead of being able to shower alone they made all of us shower in one group.

While I was there, they deprived me of all of my medications and then punished me when I had reactions to not having my medications. When I stood up for myself and demanded that I could access my rights I was punished.

I have been in solitary before, and being back there in segregation at RMSC made me remember all of it. Those experiences and traumas never leave you and when I was there I relived all of those memories.

You start to ask yourself if you did something to deserve this. You begin to think that you are the problem. I literally felt like I was losing my mind.

You can't tell me that I am not resilient and strong. I have survived all of this and I now want to take this to you all and make you aware that actions need to be taken right now. Not just that laws must be passed but that we must actually enforce these laws.