



Prison Reforms to Improve Menstrual Equity (PRIME)

**Recommendations to Improve Menstrual Equity for Incarcerated Individuals
In Correctional Facilities Across Michigan**

**The Greater Good Initiative
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ISSUE BRIEF

Individuals living in correctional facilities must quickly adapt to a loss of autonomy. Beyond their loss of several civil rights,¹ incarcerated individuals are continually stripped of their dignity through a lack of control over their personal hygiene. Limited access to menstrual products in correctional facilities across the United States poses a threat to not only the dignity, but the physical wellness and safety of incarcerated menstruators.² In Muskegon, County Michigan, prison staff forced thirty incarcerated menstruators to share a pack of twelve pads, leaving less than half of one pad per individual. When this case was brought forward in court, it was decided that the “deprivation of menstrual products was “de minimis” -- too trivial to be considered a violation of the Constitution.”³ The lack of legislative and judicial accountability concerning menstrual equity in correctional facilities creates dire consequences for incarcerated menstruators. Menstrual equity advocate and former inmate Kimberly Haven reports that throughout her sentence, overpriced menstrual products from the commissary and uncomfortable encounters with correctional officers compelled her to craft her own menstrual products. Due to toxic shock syndrome⁴ caused by her makeshift products, when Ms. Haven returned home, she needed a hysterectomy.⁵ Ms. Haven is one of many individuals who has endured physical turmoil and a degrading power imbalance resulting from the stigma and shame surrounding menstruation, a societal burden that is only made heavier inside prison walls.

¹ *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

² Haven, K. (2019, November 08). ACLU News & Commentary. Retrieved January 12, 2021, from <https://www.aclu.org/news/prisoners-rights/why-im-fighting-for-menstrual-equity-in-prison/>

³ Semelbauer v. Muskegon County, 1:14-cv-01245 W.D. Mich. (2014). <https://www.clearinghouse.net/chDocs/public/JC-MI-0010-0001.pdf>.

⁴ Toxic Shock Syndrome (TSS): an often life-threatening infection of the bloodstream often caused by a bacterial infection from a tampon or sanitary napkin that was either used for an unsafe duration or made from low-grade products.

⁵ Haven, K. (2019, November 08). ACLU News & Commentary. Retrieved January 12, 2021, from <https://www.aclu.org/news/prisoners-rights/why-im-fighting-for-menstrual-equity-in-prison/>

Presently, thirty-eight states do not have menstrual equity laws protecting incarcerated individuals, including Michigan.⁶ Current legislation has proven to be insufficient and poorly upheld. The Eighth Amendment requires prisons to provide for an individual's basic hygiene needs, yet incarcerated individuals have historically received scant protection. In the court case *Semelbauer v. Muskegon County*,⁷ incarcerated menstruators were denied access to menstrual products for up to two days, causing them to bleed on their clothes, which they were not permitted to clean until their weekly wash day. Wearing bloodstained clothing for a long duration increases a person's propensity for infection and breeds humiliation. Despite the health risks and shame these individuals experienced from a lack of access to menstrual products, the court ruled that their case was minor, diminishing the situation to a "delay in delivery."⁸ In response to the insufficient legislation protecting incarcerated menstruators' health, dignity, and safety in Michigan, The Greater Good Initiative proposes the following reforms to ensure the dignified protection of incarcerated menstruators in correctional facilities across the state:

1. All local and state correctional facilities in the state of Michigan must institute policies ensuring the provision of menstrual hygiene products to incarcerated individuals at no cost. Each month, incarcerated individuals who menstruate must have access to a specified number of menstrual hygiene products determined by the Michigan Department of Corrections. "Menstrual hygiene products" must include at least tampons and sanitary napkins and should meet the quality of products that can be bought in the community.

⁶ *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

⁷ *Semelbauer v. Muskegon County*, 1:14-cv-01245 W.D. Mich. (2014).
<https://www.clearinghouse.net/chDocs/public/JC-MI-0010-0001.pdf>

⁸ Haven, K. (2019, November 08). ACLU News & Commentary. Retrieved January 12, 2021, from
<https://www.aclu.org/news/prisoners-rights/why-im-fighting-for-menstrual-equity-in-prison/>

In the summer of 2017, the Federal Bureau of Prisons issued an Operations Memorandum clarifying that female inmates “should be provided with a range of menstrual products, including tampons and various kinds of sanitary pads, at no cost.”⁹ However, the policy change only applied to federal prisons, leaving many incarcerated people in state and local correctional facilities with limited access to menstrual hygiene products.¹⁰ Reports indicate that incarcerated people in Michigan have experienced difficulty procuring a sufficient quantity of menstrual hygiene products. Inadequate access to menstrual supplies in the Muskegon County Jail, where correctional officers “provided only one pack of 12 pads for as many as 30 women,”¹¹ led to the ACLU of Michigan filing a lawsuit on behalf of inmates in 2014.¹² Given the different blood flows and durations of each individual’s period,¹³ the inclusion of both tampons and sanitary napkins accounts for the varying needs of people who menstruate.

2. Each correctional facility must designate a locker where hygiene products are stored and can be freely accessed by all inmates. In addition to menstrual hygiene products, other essential hygiene products, such as toilet paper and disposable underwear for people with limited bladder control, should be stored in this locker. The designated locker must be

⁹ Chandler, M. A. (2017, August 24). *Federal prisons must now provide free tampons and pads to incarcerated women*. The Washington Post.

https://www.washingtonpost.com/local/social-issues/federal-prisons-must-provide-free-tampons-and-pads-to-incarcerated-women/2017/08/23/a9e0e928-8694-11e7-961d-2f373b3977ee_story.html?utm_term=.09c716b707c5&itid=lk_inline_manual_17

¹⁰ O'Connor, L. (2018, February 7). *Federal Prisons Made Menstrual Products Free. Now Some States May Follow Suit*. Huffington Post.

https://www.huffpost.com/entry/state-prison-free-pads-tampons_n_5a7b427be4b08dfc92ff5231

¹¹ (2014, December 4). *Semelbauer v. Muskegon County - Complaint*. Civil Rights Litigation Clearinghouse. <https://www.clearinghouse.net/chDocs/public/JC-MI-0010-0001.pdf>

¹² Witte, B. (2018, March 27). *No tampons in prison? #MeToo makes strides*. The Detroit News. <https://www.detroitnews.com/story/news/nation/2018/03/27/prison-tampon-access-movement/33316759/>

¹³ Laske, B. (2018, June 12). *Tampons, pads cost money in Michigan’s women’s prison*. Spartan Newsroom. <https://news.jrn.msu.edu/2018/06/tampons-pads-cost-money-in-michigans-womens-prison/#:~:text=Paying%20For%20Menstrual%20Products,purchase%20extra%20tampons%20and%20pads.>

restocked at least twice a month, or as many times as necessary to ensure that incarcerated individuals receive their monthly supply of free menstrual hygiene products.

Even when correctional facilities possess an adequate supply of menstrual hygiene products, ineffective methods of distributing them to incarcerated people often prevent their hygienic needs from being met. Experiences described by incarcerated people illustrate the inefficacy of entrusting correctional officers with the responsibility of distributing menstrual hygiene products to inmates. Incarcerated people have recounted instances of correctional officers using their control of the provision of menstrual products to “coerce [inmates] for sexual or other favors” and “prevent them from reporting abuse.”¹⁴ Designating a locker for hygiene products accessible to all inmates precludes correctional officers from using menstrual supplies as a tool to exploit the imbalanced power dynamics of officer-to-prisoner relationships. The identification of toilet paper and disposable underwear as hygiene products that should be stored in designated lockers accounts for the aging prison population¹⁵ and concerns expressed about access to toilet paper in the Muskegon County Jail.¹⁶

3. Each time a locker designated for hygiene products is restocked, the correctional facility must complete a supply form that reports how many menstrual hygiene products were placed in the locker. These supply forms must be submitted to the Michigan Department of Corrections on a monthly basis.

Some states have passed legislation guaranteeing free menstrual hygiene products in state and local correctional facilities, but some institutions have failed to comply. For example, female

¹⁴ *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

¹⁵ McKillop, M., & Boucher, A. (2018, February 20). *Aging Prison Populations Drive Up Costs*. The Pew Charitable Trusts.

<https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/20/aging-prison-populations-drive-up-costs>

¹⁶ (2014, December 4). *Semelbauer v. Muskegon County - Complaint*. Civil Rights Litigation Clearinghouse. <https://www.clearinghouse.net/chDocs/public/JC-MI-0010-0001.pdf>

inmates in Maryland have had to continue buying tampons despite the passage of a state measure in 2018 that required correctional facilities to provide menstrual hygiene products at no cost.¹⁷ Although the bill defines menstrual hygiene products as tampons and sanitary napkins, female inmates in the Maryland Correctional Institution for Women in Jessup reportedly receive free pads, but not tampons. Concerns exist about correctional facilities' compliance with a similar law passed in Virginia in 2018.¹⁸ Requiring correctional facilities in Michigan to submit supply forms to the state's Department of Corrections on a monthly basis ensures accountability by allowing the state to monitor the type and quantity of hygiene products they make available to inmates at no cost.

4. A supply of hygiene products should be made available to incarcerated individuals at intake and wherever strip searches take place. Incarcerated individuals must also receive their monthly supply of menstrual hygiene products at discharge.

When incarcerated individuals undergo a strip search during their period of menstruation, the menstrual hygiene product they are using will likely be exposed to surfaces containing harmful bacteria that may transfer to the individual who must continue using the exposed menstrual product. In order to eliminate a menstruating individual's risk of contracting an infection during a strip search, correctional facilities should make menstrual hygiene products and sanitary disposal options available at the location of a strip search, allowing individuals to replace and safely dispose of their used menstrual product. When incarcerated individuals are released back into community life, they will likely not possess the means to purchase menstrual

¹⁷ Marimow, A. E. (2019, June 5). *A new law promised Maryland's female inmates free tampons. They're still paying.* The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

¹⁸ Ibid

products. For this reason, incarcerated individuals who menstruate must be given their monthly supply of menstrual hygiene products at discharge. If an individual's release occurs during the night hours and they do not have the opportunity to retrieve their products from the menstrual hygiene locker as they are exited from the facility, they must be allowed the opportunity to access the locker on the day preceding their release.

5. Each correctional facility must institute a policy that ensures the disposal of menstrual hygiene products in a hygienic manner. Policies of each correctional facility must also ensure proper sanitation of areas where menstrual hygiene products or other materials containing bodily fluids are exposed.

In order to mitigate the transmission of bloodborne pathogens caused by an exposure to bodily fluids, it is imperative that correctional facilities both provide a sanitary means of disposing menstrual products and properly sanitize areas exposed to bodily fluids. According to the Center for Disease Control and Prevention (CDC) the most common instances of exposure to bloodborne pathogens, including Hepatitis B virus (HBV), Hepatitis C virus (HCV), and Human Immunodeficiency Virus (HIV), are via direct contact between bodily fluids and skin.¹⁹ Exposure may occur if cells, door handles, restroom stalls, garbage bins, and sink areas are improperly sanitized. In order to ensure the proper sanitation of areas exposed to bloodborne pathogens, the CDC recommends a routine sterilization of high-contact areas with a solution consisting of one part bleach to nine parts water.²⁰

¹⁹ Blood/Body Fluid Exposure Option. (2013, January 1). Retrieved January 17, 2021, from <https://www.cdc.gov/nhsn/pdfs/hps-manual/exposure/3-hps-exposure-options.pdf>

²⁰ Environmental Cleaning Procedures. (2020, April 21). Retrieved January 17, 2021, from <https://www.cdc.gov/hai/prevent/resource-limited/cleaning-procedures.html>

PRELIMINARY REPORT

What is the problem that you're trying to fix?

As of November 2019, “thirty-eight states [had] no law requiring the provision of menstrual products to incarcerated people.”²¹ This reality has forced incarcerated individuals to fend for themselves, often leading them to use potentially dangerous “homemade” menstrual products that have left many needing hysterectomies.²² In a Michigan jail, most menstruating people were denied access to menstrual products and those who received such products only did so after “begging for them.”²³ This forced the inmates to use products like toilet paper or bleed into their jumpsuits. Prison staff in this same jail were also known to force inmates to compete for menstrual products by “ordering 30 women to share a pack of 12 pads.”²⁴ Such competition can only intensify an already hostile environment while allowing prison guards another method of control: dictating which inmates receive menstrual products. This reinforces the power imbalances already existing in prisons and can even lead to inmates being forced to provide sexual favors for prison staff “in order to access critical period supplies.”²⁵ Therefore, it is clear that not having proper legislation regarding menstrual equity in prisons creates dangerous physical and mental effects for inmates. A lack of access will cause prisoners to attempt using other products such as toilet paper which creates unsanitary and unsafe conditions, exposing incarcerated peoples to potentially great physical danger. In addition, having a limited supply of tampons and pads will often intensify power imbalances between prisoners and guards. Finally,

²¹ Haven, K. (2019, November 8). *Why I'm Fighting for Menstrual Equity in Prison*. Retrieved January 17, 2021, from <https://www.aclu.org/news/prisoners-rights/why-im-fighting-for-menstrual-equity-in-prison/>

²² *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

²³ Ibid

²⁴ Ibid

²⁵ Jeltsen, M. (2016, June 23). *Providing Free Pads And Tampons To Incarcerated Women Is About More Than Hygiene*. Retrieved January 17, 2021, from https://www.huffpost.com/entry/new-york-prisons-periods_n_576bfcade4b0b489bb0c901b

limited period products will cause many to bleed through their jumpsuits, creating humiliating circumstances for inmates.

What is the solution proposed?

To promote menstrual equity, we propose that the state government and each correctional facility within the state of Michigan adopt policies that expand accessibility to menstrual hygiene products and maintain a sanitary environment for inmates. Acknowledging that inmates' low wages fail to easily cover the cost of tampons and other menstrual hygiene products,²⁶ the policy advises the state of Michigan to pass legislation guaranteeing the free provision of tampons and sanitary napkins. Each state and local correctional facility should also designate at least one locker as a storage unit where inmates can access hygiene products including menstrual supplies. When lockers are restocked, correctional facilities must complete supply forms that indicate the number of each type of product placed in the locker and submit them to the Michigan Department of Corrections on a monthly basis. Our proposal also identifies several instances in which a supply of menstrual hygiene should be made available to inmates: at intake, discharge, and wherever strip searches occur. Aiming to protect the health of incarcerated individuals and all who work in correctional facilities, the policy advises each detention center to enforce policies that ensure proper sanitation of areas where menstrual supplies are exposed and disposal of items like tampons and sanitary napkins that contain bodily fluids.

²⁶ Laske, B. (2018, June 12). *Tampons, pads cost money in Michigan's women's prison*. Spartan Newsroom. <https://news.jrn.msu.edu/2018/06/tampons-pads-cost-money-in-michigans-womens-prison/#:~:text=Paying%20For%20Menstrual%20Products,purchase%20extra%20tampons%20and%20pads>.

Why was this specific issue chosen?

A memo issued by the Federal Bureau of Prisons in August of 2017 mandated the provision of “a range of menstrual products, including tampons and various kinds of sanitary pads, at no cost.”²⁷ The First Step Act of 2018 codified the “existing Bureau of Prisons regulation requiring the provision of free menstrual products in federal women’s facilities.”²⁸ The Bureau of Prisons’ regulation only applies to federal institutions, however, leaving the need for policy guaranteeing equitable access to menstrual products in state and local correctional facilities unaddressed. Since the Federal Bureau of Prisons’ policy clarification, a number of states have passed or attempted to pass legislation ensuring equitable access to menstrual products in state and local correctional facilities. For example, the Maryland General Assembly passed a bill in 2018 requiring free access to menstrual hygiene products including sanitary napkins and tampons, acknowledging that inmates’ wages are insufficient to cover the cost of tampons available for purchase through a commissary.²⁹ Additionally, Connecticut, Kentucky, New York, and Virginia have recently “passed laws mandating that prisons and local jails provide free menstrual products,” and Colorado had previously” mandated funding in its budget for tampons in state prisons.”³⁰ However, the state of Michigan has yet to pass legislation codifying equitable distribution practices of menstrual products in state and local correctional institutions.³¹

²⁷ Chandler, M. A. (2017, August 24). *Federal prisons must now provide free tampons and pads to incarcerated women*. The Washington Post.

https://www.washingtonpost.com/local/social-issues/federal-prisons-must-provide-free-tampons-and-pads-to-incarcerated-women/2017/08/23/a9e0e928-8694-11e7-961d-2f373b3977ee_story.html?utm_term=.09c716b707c5&itid=lk_inline_manual_17

²⁸ *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

²⁹ Marimow, A. E. (2019, June 5). *A new law promised Maryland’s female inmates free tampons. They’re still paying*. The Washington Post.

https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

³⁰ Weiss-Wolf, J. (2019, April). *U.S. Policymaking to Address Menstruation: Advancing an Equity Agenda*. William & Mary Journal of Race, Gender, and Social Justice, 25(3).

<https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1501&context=wmjowl>

³¹ See “Supplementary Materials,” page ____, Charts #1 and #2 for additional details on which states currently administer menstrual equity policies for incarcerated populations.

Complaints voiced by inmates of Muskegon County Jail about inadequate access to essential hygiene products such as menstrual products and toilet paper illustrate the need for state legislation guaranteeing free access to menstrual supplies.³²

Ensuring equitable access to menstrual hygiene products in correctional facilities acknowledges an incarcerated individual's right to basic hygiene necessities and a dignified life. Incarcerated people have described the humiliation and embarrassment of having to ask correctional officers for menstrual products and being subjected to an unhygienic environment. A female inmate in Indiana who was denied a sufficient supply of menstrual products "bled through her jumpsuit onto the floor where she was forced to sleep."³³ Another formerly incarcerated woman needed "an emergency hysterectomy due to toxic shock syndrome after using makeshift tampons in prison" and described situations in which incarcerated individuals turn down visits with family members and other visitors to avoid the humiliation of returning from the visit without a pad after being forced to throw it away.³⁴ Other incarcerated individuals have described instances in which they were "denied menstrual products by officers in order to control them."³⁵

What were the broad questions that guided research into this issue?

1. How do correctional facilities distribute hygiene products, such as tampons and sanitary napkins, to inmates?
 - a. Our preliminary research unearthed multiple instances of power abuses committed by correctional officers who withheld menstrual hygiene products

³² Semelbauer v. Muskegon County, 1:14-cv-01245 W.D. Mich. (2014). <https://www.clearinghouse.net/chDocs/public/JC-MI-0010-0001.pdf>.

³³ *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

³⁴ Ibid

³⁵ Ibid

from incarcerated individuals,³⁶ thereby revealing a need for more autonomous menstrual care in correctional facilities. After evaluating methods of distribution used by various correctional facilities, including a partnership with correctional caseworkers, our team concluded that instituting a locker of sanitary napkins and tampons that can be autonomously accessed by incarcerated menstruators would most effectively mitigate the potential for power abuses from correctional officers or caseworkers who might mishandle or withhold menstrual products from inmates.

2. How can state governments hold correctional facilities accountable for failing to uphold policy directives or legislative provisions guaranteeing inmates access to specific hygiene products?
 - a. As evidenced by weak implementations of Maryland’s menstrual equity bill at certain correctional facilities,³⁷ menstrual equity policy for incarcerated menstruators necessitates measures of accountability. In order to maintain the integrity of our recommendations and ensure that incarcerated menstruators are continually receiving a sufficient quantity of quality sanitary napkins AND tampons, our policy proposes that each correctional facility in Michigan submits a monthly report to MDOC that details the type and quantity of each hygiene product made available in the accessible locker.
3. What were the pre-existing barriers to equitable access to menstrual products in detention centers?

³⁶ *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

³⁷ Marimow, A. E. (2019, June 5). *A new law promised Maryland’s female inmates free tampons. They’re still paying*. The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

- a. Along with instances of power abuses and product withholding,³⁸ the lack of community grade menstrual products in correctional facilities emerged as a barrier for incarcerated menstruators seeking period equity. In response to several accounts of incarcerated menstruators contracting infections or enduring other physical ailments as a result of low-grade or makeshift menstrual products,³⁹ our team decided to incorporate the provision of community-grade menstrual products as a policy precedent.
4. What are the budgetary considerations the Michigan Department of Corrections must make prior to administering the distribution of menstrual hygiene products?
 - a. To offer a possible budgetary framework the Michigan Department of Corrections (MDOC) could utilize when appropriating funds for incarcerated menstruator's hygiene products, our team outlayed the financial framework used by the Maryland Department of Corrections,⁴⁰ encouraging the MDOC to scale budgetary appropriations in consideration of the demographics of incarcerated populations across the state.⁴¹
5. Were there any significant lawsuits regarding proper menstruation treatment in Michigan correctional facilities in the past?
 - a. The most significant lawsuit we found in Michigan's recent past initiated by concerns about inadequate access to menstrual hygiene products was filed by the

³⁸ *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

³⁹ Haven, K. (2019, November 8). Why I'm Fighting for Menstrual Equity in Prison. Retrieved January 17, 2021, from <https://www.aclu.org/news/prisoners-rights/why-im-fighting-for-menstrual-equity-in-prison/>

⁴⁰ Pilgrim, S. M. (2018, March 16). *2018 Regular Session - Fiscal and Policy Note for Senate Bill 598*. https://mgaleg.maryland.gov/2018RS/fnotes/bil_0008/sb0598.pdf

⁴¹ See "Supplementary Materials," page ____, Chart #3 to see additional allocations of the Prisoner Custody, Care, and Programs budgetary appropriations.

ACLU on behalf of inmates at Muskegon County Jail.⁴² Despite the deprivation of menstrual hygiene products and other essential hygiene items such as toilet paper, the court ruled that the complaints raised by inmates at Muskegon County Jail, were “de minimis,” or “too trivial to be considered a violation of the Constitution.”⁴³

What is the relevance of the issues to the (state at hand) and its citizens?

Currently, the Michigan Department of Corrections fails to guarantee the provision of free tampons and sanitary napkins to incarcerated individuals. Inmates in the state of Michigan can purchase tampons or pads in the commissary. However, some Michigan prisoners make as little as “\$0.84” a day, while a pack of “36 Playtex tampons” cost \$6.99, meaning that inmates must work for “8.3 days” each month to afford a box of tampons.⁴⁴ This price is unattainable for most inmates because it means that inmates would have to spend nearly a third of their monthly earnings on menstrual products every single month, leaving them less money for other necessities, including deodorant and shampoo. Therefore, inmates in the state of Michigan currently lack access to affordable, community-grade period supplies which can create dangerous physical and mental conditions for incarcerated groups in Michigan who menstruate.⁴⁵

⁴² Witte, B. (2018, March 27). *No tampons in prison? #MeToo makes strides*. The Detroit News. <https://www.detroitnews.com/story/news/nation/2018/03/27/prison-tampon-access-movement/33316759/>.

⁴³ *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>.

⁴⁴ Laske, B. (2019, June 25). Tampons, pads cost money in Michigan's women's prison. Retrieved January 17, 2021, from <https://news.jrn.msu.edu/2018/06/tampons-pads-cost-money-in-michigans-womens-prison/#:~:text=The%20Michigan%20Department%20of%20Corrections,purchase%20extra%20tampons%20and%20pads.&text=If%20a%20woman%20needs%20to,of%20wages%20toward%20menstrual%20health>.

⁴⁵ See “Supplementary Materials,” page ____, Chart #5 for additional data demonstrating the financial challenges faced by incarcerated menstruators seeking menstrual hygiene products.

Why is this an issue that requires governmental response

Without governmental response, state correctional facilities will continue to have complete control over determining what constitutes adequate, affordable, and appropriate menstrual supplies without any input from those outside prison walls. This causes the current issues regarding menstrual products in correctional facilities to fester. If such issues continue, inmates will continue to be subjected to serious health risks while having their dignity stripped of them. However, if the government creates legislation to specifically guide local and state facilities on how to best distribute menstrual products to inmates, Michigan prisons will be legally bound to this government legislation, and inmates may begin to receive an adequate supply of menstrual hygiene products. The government is the only external entity that has the ability to regulate what occurs within prison walls. Through the implementation of our policy considerations, including accountability-focused, government-administered reports to uphold these considerations, incarcerated individuals who menstruate can receive a sufficient quantity and quality of menstrual products and access them autonomously, destigmatizing the shame and fear surrounding their period.

What are the arguments for the creation of the programmatic or policy response to issues that will be proposed?

The five recommendations our policy proposes proficiently address both the most prominent challenges incarcerated menstruators face as well as the issues that are often left unspoken. A plethora of incarcerated or formerly incarcerated menstruators have reported feeling immense intimidation and shame surrounding their menstrual care due to a myriad of factors:

Regardless of whether or not a facility has an adequate amount of menstrual hygiene products to sufficiently supply incarcerated menstruators, many individuals seeking menstrual products are barred from accessing them due to intimidation, withholding, and harassment from

correctional officers. There are ubiquitous accounts of correctional officers abusing their power and inhibiting incarcerated menstruators from accessing necessary menstrual care. For example, a Department of Justice Investigator found that “correctional officers would withhold necessary menstrual items in order to coerce prisoners to have sex with them,”⁴⁶ illustrating the imbalanced power dynamics that make correctional officers ill-equipped to control the provision of essential hygiene products. A potential solution to mitigate this abuse of power is to utilize correctional caseworkers as liaisons between incarcerated menstruators and menstrual hygiene products, though despite the greater likelihood of a trusting relationship existing between a caseworker and inmate than between a correctional officer and an inmate, caseworkers are also susceptible to abusing their position of power and preventing incarcerated menstruators from receiving the menstrual products they need. In order to provide the most conducive care to incarcerated menstruators, our policy recommends the implementation of a locker housing sanitary napkins and pads that is accessible to all incarcerated menstruators at each correctional facility in Michigan. By granting incarcerated menstruators autonomy in their menstrual care, correctional facilities can more critically affirm the dignity of the inmates in their care.

An essential component of ensuring autonomous period equity care for incarcerated menstruators is providing individuals with a level of choice in the products they use. Incarcerated menstruators have reported bacterial infections, toxic shock syndrome, and sepsis⁴⁷ as a result of a lack of menstrual hygiene supplies. It is essential that both the sanitary napkin and tampon supplies are consistently restocked, as each menstruator’s body and blood flow requires a

⁴⁶ *The Unequal Price of Periods*. American Civil Liberties Union.

<https://www.aclu.org/report/unequal-price-periods>.

⁴⁷ Polka, E. (2018, September 05). “The Monthly Shaming of Women in State Prisons.” Retrieved January 17, 2021, from

<https://www.publichealthpost.org/news/sanitary-products-women-state-prisons/#:~:text=Incarcerated%20women%20also%20face%20health,quality%20or%20provide%20minimal%20protection.>

different combination of products, and the menstruator knows their body best. In order to more completely eradicate incarcerated menstruators' chances of contracting an infection, it is critical that the sanitary napkins and tampons made available in correctional facilities are of comparable grade to menstrual products in the community surrounding the institution. Low-grade menstrual products can impose dire health consequences on menstruators. A former inmate described needing an "emergency hysterectomy due to toxic shock syndrome after using makeshift tampons in prison,"⁴⁸ illustrating the hazards to one's health the lack of community-grade menstrual supplies can pose.

In order to propagate an environment that encourages the eradication of harmful bacteria and bloodborne pathogens in correctional facilities, it is essential that high-contact areas, including restrooms, dining halls, and door handles are thoroughly and routinely sanitized. To further cultivate an environment of menstrual sanitation, staff at correctional facilities must make sanitary napkins and tampons available at all sites where strip searches occur. If an incarcerated menstruator is on their period during a strip search, their menstrual product will be exposed to air and foreign surfaces that could rapidly breed bacteria and cause an infection. By making clean sanitary napkins and tampons available at the site of strip searches, along with sanitary methods of disposal, correctional facilities can allow menstruating inmates to swap out and safely dispose of their used menstrual product and retrieve a new one immediately. Such immediate retrieval would allow incarcerated menstruators to forego the humiliation and discomfort of wearing bloodstains on their clothes while critically eliminating their chances of contracting a bacterial infection.

⁴⁸ *The Unequal Price of Periods*. American Civil Liberties Union.
<https://www.aclu.org/report/unequal-price-periods>.

In addition to storing menstrual hygiene products in an accessible locker and at the sites of strip searches, correctional facilities should also make sanitary napkins and tampons available to incarcerated menstruators at intake and shortly preceding discharge. If an individual enters a correctional facility during a period of menstruation, it is their right to receive sufficient menstrual care that minimizes their chances of infection and embarrassment. When an incarcerated menstruator is discharged, they will likely be unable to afford menstrual products for a moderate duration after their release. For this reason, staff at correctional facilities should create opportunities for soon-to-be-discharged menstruators to gather necessary period hygiene products preceding their release. If an individual is slated to be discharged in the middle of the night, they should be allowed the opportunity to visit the accessible locker containing sanitary napkins and tampons the day before their release.

An additional cost-related challenge that burdens incarcerated menstruators is the overpriced menstrual products at the commissary. Incarcerated individuals are not paid enough to sufficiently sustain their menstrual product supply through commissary, and if they have no other menstrual care options besides what commissary provides, they may be left with unsafe menstrual care options. Without a steady supply of free tampons, for example, some incarcerated menstruators attempt to fashion their own tampons from pads, a practice that poses serious health risks.⁴⁹ For this reason, it is essential that all sanitary napkins and tampons are made available to each incarcerated menstruator free of cost, a standard legislated by Maryland in 2018.⁵⁰

The pillar supporting the sustenance of each policy recommendation is a system of accountability. Despite passing legislation guaranteeing the free provision of tampons and

⁴⁹ Marimow, A. E. (2019, June 5). *A new law promised Maryland's female inmates free tampons. They're still paying.* The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html.

⁵⁰ Ibid

sanitary napkins, inmates in Maryland have reported continued difficulties obtaining tampons at no cost.⁵¹ In order to strengthen and sustain the implementation of this policy, it is critical that the Michigan Department of Corrections requests monthly supply reports from each correctional facility in the state to affirm the proper supply and allocation of each menstrual product. Although the submission of monthly reports increases the administrative responsibilities of correctional facility staff, the accountability it fosters increases the likelihood that the dignity of incarcerated individuals is respected, a worthwhile and indispensable goal.

What is the basic form of your policy response?

Our policy response to the problem of inequitable access to menstrual hygiene products in Michigan correctional facilities involves the passage of legislation guaranteeing the provision of free menstrual hygiene products to inmates. New York City passed the first piece of legislation requiring correctional facilities to provide menstrual products in 2016, creating momentum for the passage of menstrual equity laws at the state level.⁵² According to the ACLU, laws addressing menstrual equity in correctional institutions “generally require such institutions to provide as many freely available menstrual products as necessary to detained people who menstruate.”⁵³ For example, Maryland passed a law in 2018 guaranteeing free access to menstrual hygiene products, defined as tampons and sanitary napkins, in the state’s prison system.⁵⁴ In addition to passing legislation requiring correctional facilities to make a supply of free tampons and sanitary napkins available to inmates, we envision each correctional facility in

⁵¹ Ibid

⁵² *The Unequal Price of Periods*. American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>

⁵³ Ibid

⁵⁴ Marimow, A. E. (2019, June 5). *A new law promised Maryland’s female inmates free tampons. They’re still paying*. The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

Michigan instituting written policies that implement our suggestions of distributing menstrual supplies to inmates through lockers, sanitizing areas where bodily fluids are exposed, and providing inmates with hygienic ways to dispose of menstrual products. To ensure that correctional facilities adopt these policies, we recommend that the Michigan Department of Corrections produce a policy directive directing institutions that fall under their jurisdiction to implement our suggested practices.

What ongoing questions do you have?

1. How many menstrual hygiene products, if any at all, do incarcerated individuals who menstruate receive without requesting them in Michigan correctional facilities?
2. How do inmates dispose of menstrual hygiene products in Michigan correctional facilities?
3. How can inmates best track their menstruation cycles in order to best prepare for their next period?
4. How can inmates feel comfortable asking male prison staff for menstrual products and other treatment related to menstrual health?

POLICY ANALYSIS

What is the programmatic or policy response to the problem that was chosen?

To meet the hygienic needs of incarcerated people, our policy calls for correctional facilities in Michigan to adopt standards ensuring the free provision, effective distribution, and proper disposal of menstrual hygiene products. We recommend that the Michigan Department of Corrections standardize a number of free menstrual hygiene products that each correctional facility must provide its inmates on a monthly basis. Following the example of Maryland's state law passed in 2018 that guaranteed "free access to menstrual hygiene products in the state's prison system," our policy requires Michigan correctional facilities to make both tampons and sanitary napkins available to inmates at no cost.⁵⁵ To prevent correctional officers from exerting control over inmates by threatening to withhold essential hygiene products, an action that exploits the "officer-prisoner power dynamic" described by former inmates,⁵⁶ correctional facilities must distribute menstrual hygiene products to inmates by placing them in lockers designated for the storage of hygiene products that all inmates can freely access. Incarcerated individuals should be able to access other essential hygiene products in these lockers, such as toilet paper, the availability of which inmates at the Muskegon County Jail voiced concerns,⁵⁷ and disposable underwear, an important hygiene product for the growing portion of older incarcerated individuals.⁵⁸ To ensure that correctional facilities comply with any laws or policy directives that implement our suggestion of guaranteeing free access to menstrual hygiene

⁵⁵ Marimow, A. E. (2019, June 5). *A new law promised Maryland's female inmates free tampons. They're still paying*. The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

⁵⁶ Witte, B. (2018, March 27). *No tampons in prison? #MeToo makes strides*. The Detroit News. <https://www.detroitnews.com/story/news/nation/2018/03/27/prison-tampon-access-movement/33316759/>

⁵⁷ *Semelbauer v. Muskegon County*, 1:14-cv-01245 W.D. Mich. (2014). <https://www.clearinghouse.net/chDocs/public/JC-MI-0010-0001.pdf>

⁵⁸ McKillop, M., & Boucher, A. (2018, February 20). *Aging Prison Populations Drive Up Costs*. The Pew Charitable Trusts. <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/20/aging-prison-populations-drive-up-costs>

products, we recommend that the Michigan Department of Corrections request monthly reports from each correctional facility that indicate how many items of each type of product were stored in the facility's locker designated for hygiene products. Although the monthly submission of supply forms adds to correctional facilities' administrative responsibilities, requiring periodic reports helps the Michigan Department of Corrections enforce policy changes regarding the provision of menstrual hygiene products, a challenge experienced by other states that have adopted menstrual equity laws.⁵⁹ Furthermore, our policy requires correctional facilities in Michigan to make a supply of menstrual hygiene products available at intake, acknowledging the possibility that newly admitted inmates could be on their period, and wherever strip searches take place, allowing inmates to replace exposed menstrual hygiene products. To protect the health of incarcerated individuals and correctional officers, all correctional facilities should institute policies that ensure the proper disposal of menstrual hygiene products and sanitation of areas where bodily fluids are exposed through the presence of menstrual hygiene products or other means.

Outline the process your policy proposal will take once implemented. Explain any systems that will be in place, administrative changes, agency authority changes, etc.

Immediately following the implementation of this policy, the Michigan Department of Corrections (MDOC) should partner with each correctional facility in the state to facilitate an audit to determine the number of menstruators per institution, and thus, the number of menstrual products made available at each facility. In tandem, MDOC should assess the age demographics across correctional facilities to help determine the provision of disposable underwear, and other

⁵⁹ Marimow, A. E. (2019, June 5). *A new law promised Maryland's female inmates free tampons. They're still paying.* The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

hygiene products intended for aging populations. When deducing the proper number of products to make available to each individual, the MDOC can model the policy in place at the Patuxent Institution under the Maryland Department of Corrections,⁶⁰ which allocates 48 sanitary napkins and tampons per month to menstruating inmates. The MDOC's capacity to supply a sufficient amount of community-grade menstrual hygiene products is contingent on their statewide budget for hygiene products in correctional facilities. As of 2019, the appropriated value for "physical health care" for incarcerated individuals amounted to \$251,579,700,⁶¹ comprising 17% of the total budget appropriated for Prisoner Custody, Care, and Programs.⁶² Currently, the Maryland Department of Corrections allocates \$81,000 to supply menstrual hygiene products to incarcerated individuals free of charge⁶³. As of 2020, Maryland's incarcerated population totaled 29,996 individuals,⁶⁴ while Michigan's incarcerated population was 54,403.⁶⁵ MDOC should account for the size of Michigan's incarcerated population while contextualizing its budgetary provisions with the demographics of Michigan's correctional facilities (that is, noting the approximate populations of menstruators and aging individuals to scale the allotment of menstrual and aging-specific products).⁶⁶ Equally as important as the number of products made available is the quality of products made available. To ensure that incarcerated individuals do not contract infections from chemically harmful menstrual products, the policy recommends that the menstrual hygiene products made available to incarcerated individuals are of the same quality as

⁶⁰ Pilgrim, S. M. (2018, March 16). *2018 Regular Session - Fiscal and Policy Note for Senate Bill 598*. https://mgaleg.maryland.gov/2018RS/fnotes/bil_0008/sb0598.pdf

⁶¹ See "Supplementary Materials," page ____, Chart #3 to see additional allocations of the Prisoner Custody, Care, and Programs budgetary appropriations.

⁶² Risko, R. R. (2019). *Budget Briefing: Corrections* (pp. 20-30, Rep.). Michigan: House Fiscal Agency.

⁶³ Pilgrim, S. M. (2018, March 16). *2018 Regular Session - Fiscal and Policy Note for Senate Bill 598*. https://mgaleg.maryland.gov/2018RS/fnotes/bil_0008/sb0598.pdf

⁶⁴ State-by-State Data - Maryland. (2020, July 28). Retrieved January 17, 2021, from <https://www.sentencingproject.org/the-facts/#map>

⁶⁵ State-by-State Data - Michigan. (2020, July 28). Retrieved January 17, 2021, from <https://www.sentencingproject.org/the-facts/#map>

⁶⁶ See "Supplementary Materials," page ____, Charts #6 and #7 for additional demographic information concerning incarcerated populations in Maryland and Michigan

products offered in the community outside the correctional facility. Once the budget and supply of hygiene products have been determined and acquired, all Michigan correctional facilities should acquire a locker to store menstrual hygiene products in. To mitigate the historically harmful encounters between correctional officers and incarcerated individuals seeking menstrual products,⁶⁷ we recommend that all incarcerated individuals are granted autonomous access to these lockers. In addition to storing products in accessible lockers, the policy recommends that menstrual hygiene products are stored at the sites where strip searches occur. If an individual is menstruating at the time of strip search, they should be allowed the opportunity to obtain a new sanitary napkin or tampon to minimize the transmission of bacteria from the used product's exposure to air and foreign surfaces. In conjunction, facilities should also make sanitary disposals available at each strip site and all other locations where an individual may need to change their menstrual product. In order to minimize incarcerated individuals' chances of contracting bloodborne pathogens, each correctional facility should ensure that high-contact areas of the institution are thoroughly and routinely sanitized. Because an individual may be menstruating upon entry into or exit from a correctional facility, facilities should make menstrual hygiene products available to individuals at intake and shortly preceding discharge. Since formerly incarcerated individuals will likely not have the financial means to adequately supply their menstrual hygiene products upon release, it is critical that correctional facilities provide menstruators a sufficient number of menstrual hygiene products to use during their first period of menstruation outside the facility.

Finally, ensuring the implementation of accountability measures to protect the aforementioned policy recommendations is of paramount value. The policy recommends that

⁶⁷ Haven, K. (2019, November 8). *Why I'm Fighting for Menstrual Equity in Prison*. Retrieved January 17, 2021, from <https://www.aclu.org/news/prisoners-rights/why-im-fighting-for-menstrual-equity-in-prison/>

MDOC requests monthly reports from each correctional facility entailing the number of each type of hygiene products stored in the accessible lockers. As mentioned, while requesting these reports creates an additional administrative task for correctional facilities, this accountability measure may assist MDOC in enforcing policy changes related to menstrual hygiene products.⁶⁸

Why is this something that should be addressed at the state level?

The policy should be addressed at the state level because Michigan has yet to pass legislation or implement policy directives guaranteeing equitable methods of distributing menstrual hygiene products in local and state correctional facilities. The Federal Bureau of Prisons' memo issued in 2017 mandating the free provision of "a range of menstrual products, including tampons and various kinds of sanitary pads,"⁶⁹ only applies to federal institutions, leaving a need for improved accessibility to menstrual hygiene products in state and local correctional facilities. By following suit with the 13 states⁷⁰ that have passed legislation advancing menstrual equity in correctional facilities, Michigan can address the need for expanded access to menstrual hygiene products in its own institutions while serving as a model for other states that have yet to adopt the standards set by policy that only applies to federal facilities.

⁶⁸ Marimow, A. E. (2019, June 5). *A new law promised Maryland's female inmates free tampons. They're still paying.* The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

⁶⁹ Chandler, M. A. (2017, August 24). *Federal prisons must now provide free tampons and pads to incarcerated women.* The Washington Post. https://www.washingtonpost.com/local/social-issues/federal-prisons-must-provide-free-tampons-and-pads-to-incarcerated-women/2017/08/23/a9e0e928-8694-11e7-961d-2f373b3977ee_story.html?utm_term=.09c716b707c5&itid=lk_inline_manual_17

⁷⁰ *The Unequal Price of Periods.* American Civil Liberties Union. <https://www.aclu.org/report/unequal-price-periods>.

Are there alternative responses that should be taken into account?

Alternative responses that should be taken into account include guidelines that would enforce a more equitable distribution of products by caseworkers and detention center staff, but it has been concluded that the most effective and equitable way to allow incarcerated individuals access to the menstrual products they need is by providing them through a shared locker. Distribution by staff was found to be problematic due to a variety of issues including a lack of concern for the dignity of incarcerated individuals, forcing them to beg for products, as well as officers abusing their power by forcing incarcerated individuals to engage in non-consensual behaviors to obtain the menstrual products they need. It was also determined that tampons and sanitary napkins should both be made free to allow individuals more flexibility and access to what they are most comfortable with.

Why is the policy you have proposed the appropriate/best response to the problem you have identified?

Our policy represents an appropriate response to the inequitable distribution of menstrual hygiene products in Michigan's correctional facilities because it affords inmates a degree of choice in which products they can use and eliminates the need for inmates to interact with correctional officers. A specific factor that separates our proposed solutions from others is that fact that our policy incorporates the ability for individuals to have autonomy over the products they use, allowing incarcerated menstruators to opt for either sanitary napkins or tampons instead of only being granted one type of product or the other. Furthermore, our solution would permit the removal of a facilitator to handle the products, allowing incarcerated menstruators to feel less frightened and intimidated when seeking menstrual care. Historically, menstrual equity in correctional facilities has primarily been challenged by incarcerated individual's reliance on

correctional officers to attain their hygiene products, as well as a lack of varied, community-grade menstrual products.⁷¹ Our policy addresses both challenges.

What are the resources that will be needed to carry out this programmatic or policy response?

_____The primary resource necessary to ensure that the policy is carried out is a quantity of sanitary napkins and tampons that can sufficiently supply incarcerated menstruators at Michigan correctional facilities. The basis of our policy includes the proper distribution of menstrual products to inmates in correctional facilities, so an abundance of quality menstrual products is vital to its success. Secondly, easily accessible storage devices such as lockers are necessary to provide individuals with a supply of menstrual products without having to request them from correctional officers. In larger correctional facilities, it is likely that multiple storage centers will need to be placed throughout the correctional facilities to ensure that all individuals can access the menstrual products they need quickly and efficiently.

What criteria are you using to determine if your policy is successful?

_____The success of our policy is contingent upon the systems of accountability protecting the recommendations our policy proposes. Monthly reports assessing the quantity, quality, and type of menstrual hygiene products must be conducted with integrity, reporting honestly if the product supply was insufficient. Dishonest reports would not only violate the policy precedents, but provide a stark disservice to incarcerated individuals who have a right to a sufficient supply of menstrual products without interference. As evidenced by the accountability-centered shortfalls Maryland correctional institutions displayed when weakly administering their menstrual equity policies, the use of monthly reports as a means of ensuring the thorough implementation of each

⁷¹ Haven, K. (2019, November 8). *Why I'm Fighting for Menstrual Equity in Prison*. Retrieved January 17, 2021, from <https://www.aclu.org/news/prisoners-rights/why-im-fighting-for-menstrual-equity-in-prison/>

policy aspect would be a worthwhile measure.⁷² In addition to assessing the quantity, quality, and type of menstrual hygiene products, monthly reports should consider the sanitation measures implemented by each facility, the accessibility of hygiene products at intake, discharge, and strip searches, and the holistic wellness of incarcerated individuals relating to menstrual hygiene (considerations under this category include ensuring that incarcerated menstruators have not been prohibited from accessing a sufficient amount of menstrual products without harassment, as well as certifying that no incarcerated menstruator has contracted an infection from the circumstances in which they needed to change their product or from the product itself). Failure to address each of these considerations would inhibit the success of this policy. If the policy's recommendations are upheld, this policy will successfully affirm the right to sanitary and autonomous menstrual care that each incarcerated menstruator is owed.

What would happen with the problem if no action is taken and the problem were to continue on unchanged and undisturbed?

If no action is taken, incarcerated people will continue to be subjugated to cruel treatment. Incarcerated menstruators will have to continue “improvis[ing] menstrual hygiene supplies, using toilet paper or maxi pads as tampons, or notebook paper to wipe themselves”, resulting in “bacterial infections, toxic shock syndrome, sepsis, and even death”⁷³. In proposing that the Michigan Department of Corrections monitors the quantity of menstrual products available in each correctional facility, provides a sufficient supply of both sanitary napkins and

⁷² Marimow, A. E. (2019, June 5). *A new law promised Maryland's female inmates free tampons. They're still paying*. The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

⁷³ Polka, E. (2018, September 05). “The Monthly Shaming of Women in State Prisons.” Retrieved January 17, 2021, from <https://www.publichealthpost.org/news/sanitary-products-women-state-prisons/#:~:text=Incarcerated%20women%20also%20face%20health,quality%20or%20provide%20minimal%20protection.>

tampons to provide incarcerated menstruators with a choice as to what they put in or on their body, and ensures that all products meet the standard of products available in the community, our policy greatly minimizes incarcerated menstruators' chances of contracting an infection. The policy's recommendations to routinely sanitize high-contact areas of correctional facilities, make sanitary disposal options available at any site where an incarcerated menstruator may need to replace their used product, and ensure that unused sanitary napkins and tampons are available at sites of strip searches will help to further deter incarcerated menstruators' chances of contracting a menstruation-related disease. Secondly, menstrual products continue to be seen as rare, desirable commodities making them into "bargaining chips" that prison guards can use to gain favors from inmates"⁷⁴. By implementing a locker that is accessible to all incarcerated menstruators, intimidation from correctional officers is eliminated. Finally, incarcerated people will continue to dread every month and the pain and humiliation that they now often associate with menstruation.

⁷⁴Ibid

BUDGET ANALYSIS

Potential increases in expenditures caused by the implementation of our policy depend on how much the Michigan Department of Corrections (MDOC) already spends on hygiene products provided to inmates at no cost. Budgetary estimates produced by other states that have adopted similar policies can serve as a guide for evaluating the potential cost of our policy. In Maryland, “the proposed fiscal 2019 budget included about \$81,000 for supplies at both the women’s prison and the booking and intake center in Baltimore”⁷⁵ and “approximately \$58,000 for hygienic supplies for both male and female offenders housed” in the Patuxent Institution.”⁷⁶ For reference, \$251,579,700, or 17% of the MDOC’s budget for Prisoner Custody, Care, and Programs, was allocated to “Physical Health Care” in the fiscal year 2018-2019,⁷⁷ and Michigan’s incarcerated population stood at 54,403⁷⁸ as of 2020, compared to Maryland’s incarcerated population of 29,996 individuals.⁷⁹ The fiscal note for Maryland’s bill guaranteeing the provision of menstrual hygiene products to incarcerated individuals who menstruate projected that the bill would have no effect on the state’s expenditures or sources of revenue, since it only “codifies existing practice,” but acknowledged a “potential minimal increase in local expenditures to the extent that a local correctional facility does not currently meet the bill’s requirements.”⁸⁰ In contrast, a similar bill considered by the Arizona state legislature in 2018 was

⁷⁵ Marimow, A. E. (2019, June 5). *A new law promised Maryland’s female inmates free tampons. They’re still paying.* The Washington Post. https://www.washingtonpost.com/local/legal-issues/a-new-law-promised-marylands-female-inmates-free-tampons-theyre-still-paying/2019/06/04/cc5442da-86d7-11e9-a491-25df61c78dc4_story.html

⁷⁶ Pilgrim, S. M. (2018, March 16). *2018 Regular Session - Fiscal and Policy Note for Senate Bill 598.* https://mgaleg.maryland.gov/2018RS/fnotes/bil_0008/sb0598.pdf

⁷⁷ Risko, R. R. (2019). *Budget Briefing: Corrections* (pp. 20-30, Rep.). Michigan: House Fiscal Agency.

⁷⁸ State-by-State Data - Michigan. (2020, July 28). Retrieved January 17, 2021, from <https://www.sentencingproject.org/the-facts/#map>

⁷⁹ State-by-State Data - Maryland. (2020, July 28). Retrieved January 17, 2021, from <https://www.sentencingproject.org/the-facts/#map>

⁸⁰ Ibid

projected to “cost the state an estimated \$80,000.”⁸¹ The bill considered in Arizona would have provided incarcerated women with an unlimited supply of “tampons, pads, cups, and sponges,” exceeding the range of free products proposed by our policy. Likewise, state budget analysts projected that a bill in Oregon’s state legislature giving inmates free access to an expanded list of sanitary products including tampons would cost the state approximately \$100,000.⁸²

⁸¹ O'Connor, L. (2018, February 7). *Federal Prisons Made Menstrual Products Free*. Now Some States May Follow Suit.. The Huffington Post.
https://www.huffpost.com/entry/state-prison-free-pads-tampons_n_5a7b427be4b08dfc92ff5231?guccounter=1&guc_e_referrer=aHR0cHM6Ly93d3cuZ29vZ2x1LmNvbS8&guce_referrer_sig=AOAAAM_OcaS4fOJ-fLhHE-cbivxQqvP-j0mgYfKMqToOpckEYPGWjmm8-0Tg2st_uPm3SjvxamHBw-suCYiT7SCnJXYoXI0d1ZUoanOXUOxD9jJuMfOsZxKpZgcJVVCTZrIp8KXvZtA1sbrDSgiYQso0BxIaAGxIMQ5qMW-n4T7fqe2I

⁸² Borrud, H. (2019, June 10). *Oregon House passes mandate for free tampons in prisons, jails*. OregonLive.
<https://www.oregonlive.com/politics/2019/06/oregon-house-passes-mandate-for-free-tampons-in-prisons-jails.html>

CONCLUSION

Upon implementation, PRIME will create more equitable access to menstrual products in correctional facilities. Currently, incarcerated menstruators endure a variety of undignified experiences when trying to access a product essential to their health. PRIME will ensure that all local and state detention centers in the state of Michigan provide access to both sanitary napkins and tampons at no cost, acknowledging that the limited financial means of incarcerated individuals hinder their ability to pay for essential hygiene products. Sanitary napkins and tampons, both of which should meet the quality of products available for use in the community, are to be accessible through a shared locker that is to be restocked when necessary, and at least twice a month. Each correctional facility is also responsible for completing a supply form to submit to the Michigan Department of Corrections on a monthly basis that indicates the number of menstrual and other hygiene products stocked in the shared locker.

PRIME ensures an effective and equitable distribution of menstrual products in detention centers by allowing inmates direct access to products without having to request them from center staff or security whose historically poor relationships with incarcerated individuals make them ill-equipped to handle the provision of menstrual supplies. Accounts of former inmates show that incarcerated individuals have felt embarrassed requesting menstrual supplies from correctional officers and have been coerced into participating in demeaning acts in return for products.⁸³ Michigan was identified as an ideal location to implement this policy due to the absence of state laws or department policies guaranteeing the free provision of adequate menstrual supplies. Additionally, there are no federal regulations on the distribution of menstrual hygiene products in state and local detention centers, further solidifying the viability of creating

⁸³ *The Unequal Price of Periods*. American Civil Liberties Union.
<https://www.aclu.org/report/unequal-price-periods>.

a framework for menstrual equity in Michigan correctional facilities. Changes in the distribution of menstrual products is necessary for both the physical and mental well being of inmates.

PRIME ensures more equitable access to products and holds correctional facilities responsible for implementing these changes.

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The Greater Good Initiative: Promoting Menstrual Equity Through the Expanded Availability and Improved Management of Menstrual Hygiene Products in Michigan's Correctional Facilities

January 18th, 2021 - Across the United States, an increasing number of advocates have championed legislation and policies that aim to improve the accessibility of menstrual hygiene products. The movement for menstrual equity acknowledges access to menstrual hygiene products as a basic life necessity for individuals who menstruate. By drawing attention to instances in which menstruators struggle to obtain period hygiene products, advocates of menstrual equity have reinforced the notion that menstruation should not impose burdensome costs on those who experience a natural biological process. Advocates involved in the menstrual equity movement have made progress advancing legislation intended to improve access to menstrual hygiene products in public schools and other government-funded facilities. Menstrual equity legislation expanding access to menstrual supplies in correctional facilities has also made headway on a federal and state level, but some states' prison systems remain without policies guaranteeing inmates free access to menstrual hygiene products. Michigan is one such state.

The Greater Good Initiative has released a policy that aims to advance menstrual equity in Michigan by proposing that each of its state and local correctional facilities provide incarcerated individuals with tampons and sanitary napkins at no cost. In addition to measures ensuring the free provision of menstrual hygiene products in Michigan's detention centers, the policy advises each correctional facility to store hygiene products--including, but not limited to menstrual supplies--in a locker accessible to all inmates. The policy also aims to ensure that Michigan's correctional facilities comply with measures mandating the provision of free menstrual hygiene products by requiring each institution to submit monthly reports to the state's Department of Corrections indicating the number of hygiene products stored in their designated locker. Additionally, the proposal advises correctional facilities in Michigan to institute written policies regarding the sanitation of areas where bodily fluids could be exposed and the disposal of menstrual hygiene products or other substances that could contribute to an unhygienic environment if left unattended.

PRIME seeks to acknowledge the dignity of all incarcerated individuals and their right to essential resources that protect their health and well-being.

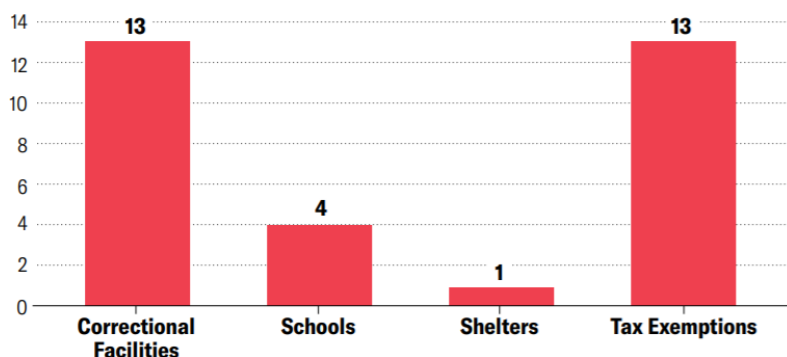
About The Greater Good Initiative: The Greater Good Initiative (GGI) is a youth-led, policy think tank working to create sustainable solutions to our nation's most pressing issues. Currently working in the Civil Rights, Economic, Education, Environmental, and Public Health Sectors, GGI has coordinated with local, state, and federal legislators, policy professionals, and community leaders to write and advocate for realistic and effective policies that actively respond to the public's greatest concerns.

SUPPLEMENTARY MATERIALS

Chart #1: U.S. States With Menstrual Equity Laws, Figure One⁸⁴

FIGURE 1: U.S. STATES WITH MENSTRUAL EQUITY LAWS

Number of states (including DC) with laws addressing menstrual equity issues in institutions or via tax exemptions for menstrual products



Note: Tax exemptions only includes states with specific laws exempting menstrual products. An additional five states do not impose sales taxes on any products, including menstrual products

5 ACLU: The Unequal Price of Periods

Chart #2: U.S. States With Menstrual Equity Laws, Figure Two⁸⁵

	Correctional Facilities	Schools	Shelters	Tax Exemption
Alabama	X			
Alaska				NA
Arizona				
Arkansas				
California*	X	X		†
Colorado	X			
Connecticut	X			X
Delaware				NA
D.C.	X			X
Florida	X			X
Georgia				
Hawaii				
Idaho				
Illinois		X		X
Indiana				
Iowa				
Kansas				
Kentucky	X			
Louisiana	X			
Maine				
Maryland**	X		X	X
Massachusetts				X
Michigan				
Minnesota				X
Mississippi				
Missouri				
Montana				NA
Nebraska				
Nevada				X
New Hampshire		X		NA
New Jersey				X
New Mexico				
New York	X	X		X
North Carolina				
North Dakota				
Ohio				X
Oklahoma				
Oregon				NA
Pennsylvania				X
Rhode Island				X
South Carolina				
South Dakota				
Tennessee	X			
Texas	X			
Utah				
Vermont				
Virginia	X			
Washington				
West Virginia				
Wisconsin				
Wyoming				
	13	4	1	12

⁸⁴ *The Unequal Price of Periods*. American Civil Liberties Union.
<https://www.aclu.org/report/unequal-price-periods>.

⁸⁵ Ibid.

Chart #3: Fiscal Year 2018-19 Budgetary Appropriations for Prisoner Custody, Care, and Programs in Michigan⁸⁶

Prisoner Custody, Care, and Programs

FY 2018-19 appropriation for prisoner custody, care, and programs is **\$1,522,793,700**.

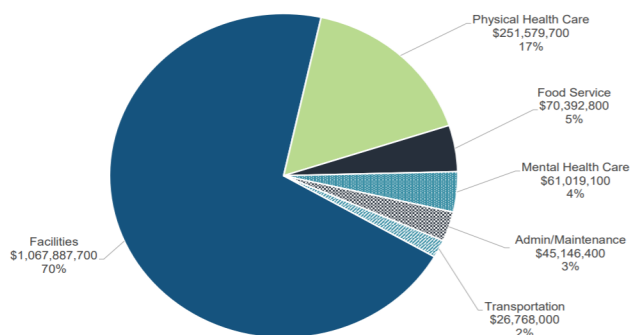
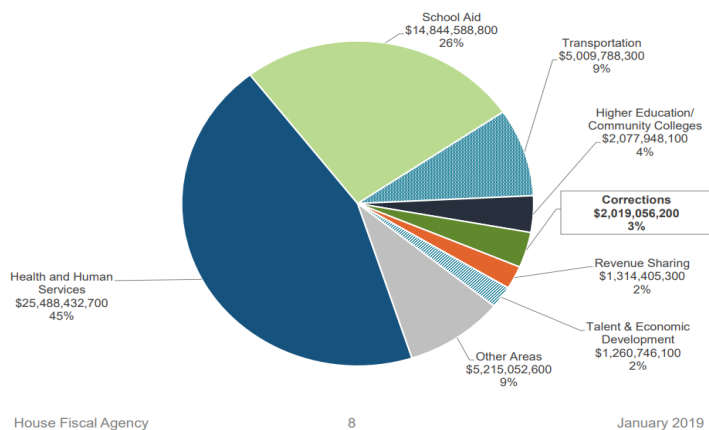


Chart #4: Michigan Department of Corrections' Share of Total Budget for Fiscal Year 2018-19⁸⁷

MDOC Share of Total State Budget

The MDOC budget represents **3%** of the **\$57.2 billion** state budget (adjusted gross) for FY 2018-19.



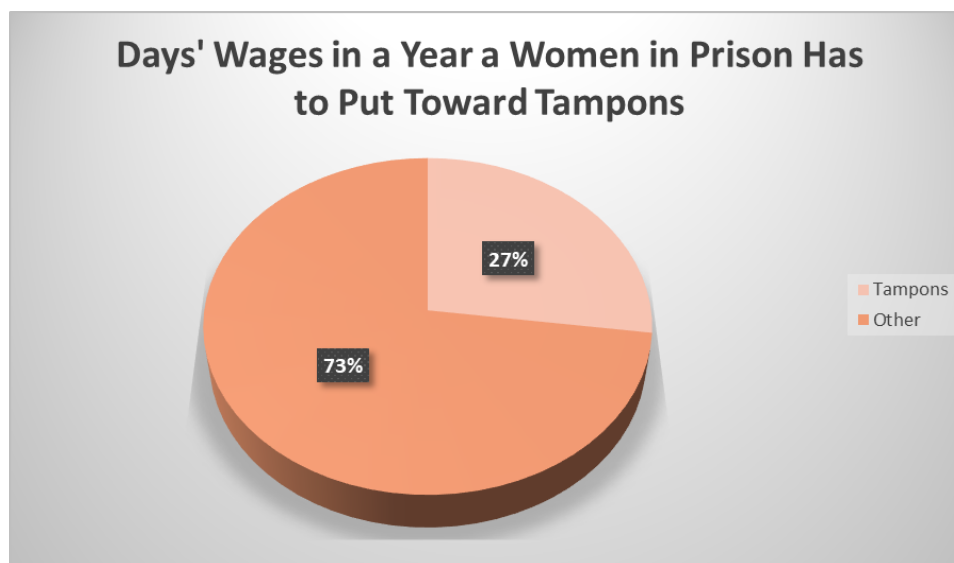
House Fiscal Agency

8

January 2019

⁸⁶ Risko, R. R. (2019). *Budget Briefing: Corrections* (pp. 20-30, Rep.). Michigan: House Fiscal Agency.

⁸⁷ Ibid.

Chart #5: Days' Wages in a Year a Woman in Prison Has to Put Toward Tampons⁸⁸**Chart #6: Comparative Demographics of Corrections Populations in Maryland (left) and Michigan (right)⁸⁹**

Total Corrections Population (2019, except a is 2013 and b is 2016)		Total Corrections Population (2019, except a is 2013 and b is 2016)	
Total incarcerated, prison and jail	29,996	Total incarcerated, prison and jail	54,403
- Prison population	18,476	- Prison population	38,053
- Jail population	11,520 ^a	- Jail population	16,350 ^a
Prison incarceration rate (per 100,000)	305	Prison incarceration rate (per 100,000)	381
Jail incarceration rate (per 100,000)	250 ^a	Jail incarceration rate (per 100,000)	210 ^a
Probation population	71,352	Probation population	153,345
Parole population	10,338	Parole population	15,722
Life sentences (% of prison population)	3,141 (14.6) ^b	Life sentences (% of prison population)	5,121 (12.1) ^b
Life without parole (% of prison population)	338 (1.6) ^b	Life without parole (% of prison population)	3,804 (9.0) ^b
Juvenile life without parole	16 ^b	Juvenile life without parole	357 ^b
Private prison population	29	Private prison population	0

⁸⁸ Laske, B. (2018, June 12). *Tampons, pads cost money in Michigan's women's prison*. Spartan Newsroom. <https://news.jrn.msu.edu/2018/06/tampons-pads-cost-money-in-michigans-womens-prison/#:~:text=Paying%20For%20Menstrual%20Products,purchase%20extra%20tampons%20and%20pads>.

⁸⁹ State-by-State Data - Maryland. (2020, July 28). Retrieved January 17, 2021, from <https://www.sentencingproject.org/the-facts/#map>

Chart #7: Cont. Comparative Demographics of Corrections Populations in Maryland (left) and Michigan (right)⁹⁰

Imprisonment by Gender (2019)		Imprisonment by Gender (2019)	
Men in prison	17,753	Men in prison	36,024
Women in prison	723	Women in prison	2,029

⁹⁰ State-by-State Data - Michigan. (2020, July 28). Retrieved January 17, 2021, from <https://www.sentencingproject.org/the-facts/#map>