



PLS Notes

Summer 2020

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PLS WELCOMES NEW STAFF

Mike Horrell joined PLS as a staff attorney in March 2020.

Originally from Kentucky, Mike came to the Northeast for school and has stayed ever since. Prior to coming to PLS, he worked for five and a half years as a litigator at WilmerHale, a large law firm in Boston, primarily on commercial disputes in state and federal court.

Kristyn J.E. Henry joined PLS as a staff attorney in March, 2020.

Prior to joining PLS, Kristyn worked for five years as a Trial Attorney in the Roxbury Defenders Unit of the Committee for Public Counsel Services where she represented indigent members of the community in the Dorchester, Roxbury, and Central Divisions of the Boston Municipal Court as well as the Suffolk Superior Court. Kristyn has dedicated her seven-year practice to representing people of color, immigrants, and marginalized people who are often forgotten about and treated unfairly in our legal system. Kristyn is extremely proud of her Guyanese heritage and culture and understands how being a young black woman from a family of immigrants puts her in a unique position to connect with many of her clients on a meaningful level. Kristyn is extremely honored to have the opportunity to represent her clients who she knows are so much more than the statistics and categories where they are regularly placed. In everything Kristyn does, she urges people to remember that everyone deserves to be treated with dignity and “No one is as bad as their worst act.” Kristyn was recently honored in January of this year by the North Shore Black Women’s Association and received a community activism award as a 2020 Reverend Dr. Martin Luther King Jr. Honoree.

Angel Mendez-Flores is a paralegal in the Brutality Project and

Rapid Response to Brutality Project. A recent graduate of Brown University, Angel came to PLS with extensive experience in law and public policy. During undergrad, Angel worked with various advocacy groups including the Center for American Progress and the Mexican American Legal Defense and Educational Fund.

Matt Mahlan joined PLS as a paralegal in July 2020. He recently graduated summa cum laude from Northeastern University with a B.S. in Politics, Philosophy, and Economics. While at Northeastern, Matt assisted with research investigating health disparities among people with or at increased risk for HIV. Matt has also previously worked at the MacArthur Justice Center, where he advocated on behalf of people held in solitary confinement, and at a private corporate law firm.

NEW COMMUNITY LIAISON PROJECT

We believe that a civil rights driven organization is only as strong as its connection to the communities it serves. With this in mind, PLS recently created the Community Liaison Project (CLP), the beginnings of what will likely become a larger racial equity project (more information to come). The project aims to establish and strengthen relationships with the communities and family members of the clients we serve and to provide a mechanism for those most impacted to engage more directly in advocating for significant policy change.

Some of the more specific goals of the project are:

- Keeping the community informed about the specific work PLS is doing
- Attending and speaking at community based events
- Facilitating community forums and speaking circles with former clients and family members
- Hosting information sessions for family members about the services offered at PLS
- Offering self-help trainings to teach family members how to advocate for their incarcerated loved ones
- Supporting community based campaigns regarding the rights of incarcerated individuals
- Working with loved ones and formerly incarcerated individuals on legislative advocacy campaigns

As this is a new project, it is still in the development stages. We are open to suggestions about how we can improve upon our efforts.

Contact Info: LaToya Whiteside, lwhiteside@plsma.org, Kristyn J. E. Henry, khenry@plsma.org, Mario Paredes, mparedes@plsma.org, 617-482-2773 (outside line for friends and family), 9004 (free state speed dial), 617-482-4124 (collect call line for counties), 50 Federal St., 4th Floor, Boston MA 02110.

PLS' CLASS ACTION LAWSUIT FOR RELEASE AMIDST COVID-19 PANDEMIC

On April 21, 2020, PLS filed a class action lawsuit, *Foster v. Mici*, and emergency motion for a preliminary injunction seeking release for incarcerated people throughout the Commonwealth due to the COVID-19 pandemic. PLS' emergency motion asked the court to order the defendants (Governor Charlie Baker, Commissioner Carol Mici, Secretary of the Executive Office of Public Safety Thomas Turco, and Parole Board Chairperson Gloriann Moroney) to use their authority to reduce the incarcerated population to a level that would allow for appropriate physical distancing in sleeping, eating, and recreation. In a separate claim, PLS also asked the court to prohibit the defendants from confining in a correctional facility any individual who has been civilly committed for alcohol and substance use treatment pursuant to G. L. c. 123, § 35.

PLS argued that holding medically vulnerable people in prisons and jails which do not allow for social distancing during the COVID-19 pandemic violates their constitutional rights by placing them at substantial risk of serious harm, including death. On June 2nd, 2020, the Massachusetts Supreme Judicial Court denied plaintiffs' motion for an emergency preliminary injunction in the case. Although the court recognized that, due to the COVID-19 pandemic, the situation inside the Commonwealth's jails and prisons "is urgent and unprecedented, and that a reduction in the number of people who are held in custody is necessary," it concluded that plaintiffs had not established, at least at this point in time, that DOC's efforts to address the COVID-19 emergency are constitutionally inadequate.

Despite the denial of emergency relief, the case is far from over. The SJC expressed concerns that the lockdown conditions DOC has put in place to respond to the pandemic, including isolation, reduced access to medical and mental health care, deprivation of outdoor exercise, and the cancelling of activities and visitation,

may themselves become Eighth Amendment violations. Accordingly, the SJC transferred the case to the Superior Court with instructions that it “shall proceed as an emergency matter, with due speed in consideration of the circumstances.”

The SJC also ruled that a person cannot be civilly committed to a correctional facility under Section 35 for substance use treatment unless the judge makes a finding that: (1) “the danger posed by the individual's substance use disorder outweighs the risk of transmission of COVID-19 in congregate settings”; and (2) “commitment is necessary notwithstanding the treatment limitations imposed by quarantine protocols.”

PLS is now beginning the discovery process in the Superior Court, wherein each side has the opportunity to request records and information from the other, which will be complete in January 2021. Each side then has an opportunity to file a summary judgment motion to ask the Court to rule on all or part of the case in February 2021. The case will then proceed to trial for all claims that remain alive after summary judgement. The Superior Court judge has also made it clear that we can file for preliminary relief at any time before trial if conditions warrant it. This would likely be based on the impact of the solitary confinement-like conditions on prisoners’ mental and physical health and/or on DOC’s failure to put into place appropriate release mechanisms that have been recommended by the Supreme Judicial Court.

Please know that we are continuing to work through all means available to protect the health, safety, and well-being of our clients. If you would like additional information about the case, please write us a letter anytime or contact us during intake, Monday afternoon from 1pm-4pm. Please note, however, that our call volume has gone up considerably and it may be easier to get a response by writing to us.

Have you been in non-DDU Restrictive Housing for 180 days or more?

If you are in RHU (other than DDU) for 90 days, you have a right to a review hearing. At 180 days, and every 90 days after that, you have a right to have the hearing be recorded. Please make the request for recording when they give you the required 48 hour hearing notice. Then, after your hearing, please write to Kate Piper, Prisoners’ Legal Services, 50 Federal St., 4th Floor, Boston MA, and tell her 1) the date of your hearing and the prison where it took place, and 2) that they did record it, or that they refused your request for recording, if that was the case.

Committee for Public Counsel Services Innocence Program

Have you have been convicted of a crime in Massachusetts that you did not commit? If so, please contact the CPCS Innocence Program. They may investigate your case, represent you or assign you a lawyer, or seek forensic testing. They will review your case even if DNA testing is not an option, and even if you pled guilty despite actually being innocent.

To apply, please write or call:

CPCS Innocence Program
21 McGrath Highway, 2nd Floor
Somerville, MA 02143
617-209-5666

Calls will be accepted Tuesdays and Thursdays. DOC prisoners may call collect.

PLS ADVOCATES FOR RELEASES AND IMPROVED CONDITIONS AMIDST PANDEMIC

The World Health Organization declared the coronavirus outbreak a Public Health Emergency of International Concern on January 30th and a pandemic on March 11th. The coronavirus has spread quickly among jails and prisons in the Commonwealth and nationally, as social distancing is impossible and protective equipment and hygiene supplies are scarce. On March 21st, the first prisoner in MA tested positive for COVID-19 at the Massachusetts Treatment Center in Bridgewater, MA. By the next day, 3 prisoners and 1 correctional officer had tested positive for COVID-19. The virus quickly spread among prisoners and facilities, and as of July 10 there were 664 prisoners and 368 staff who tested positive for COVID-19 along with 9 prisoner deaths.

PLS has sent letters to and met with numerous public officials advocating for immediate releases of as many prisoners as possible in order to uphold social distancing guidelines as well as improved conditions for those who are not released. We have also joined in and supported the advocacy of sister organizations who are fighting for releases and improved conditions.

Advocacy for Releases

PLS began to advocate for the release of prisoners on March 12th by sending a letter to the Governor, the DOC Commissioner, the Sheriff's Association, and the Secretary of Public Safety asking that they release medically vulnerable individuals as well as those who can safely live in the community. We continued to advocate for the release of prisoners by joining the letter written by the Building Up People Not Prisons Coalition on March 16th. This letter demanded an urgent reduction in the prison population in order to stop the flow of people into jails. PLS followed up by sending a letter to Massachusetts District Attorneys urging them to expedite the release of elderly and medically infirm incarcerated people on March 19th. We wrote, "This is a race against time. Swift and unequivocal action now will undoubtedly save lives. We urge you to act quickly to remove the sick and elderly from our jails and prisons and immediately endorse all pending medical parole petitions."

On March 19th, PLS advocated for the release of ICE detainees by joining 763 organizations in a letter to the Acting Director of ICE, demanding detainee releases. The letter stated, "ICE has repeatedly proven to be incapable of adequately responding and providing the proper care for people in its custody, under normal circumstances. In light of the news that the World Health Organization declared the COVID-19 outbreak a pandemic, we call on ICE to release all people from detention."

The following day, PLS joined 60 other organizations in sending a letter to New England ICE urging them to release detainees from custody in order to protect the health of the immigrants in ICE custody. We followed up on May 14th by sending a letter to public officials asking for the release of immigrant detainees as part of a national #FreeThemAll day of action. We wrote, "Given ICE's shameful record of managing infectious disease outbreaks in detention facilities, and the minimal and unenforceable policies in place now, more than two months into the national emergency, the lives of people in custody and the health of the community at large are in serious jeopardy."

Advocacy for Improved Conditions

On March 12th, PLS advocated for improved conditions for those who are not released by sending a letter to the Governor, the DOC commissioner, the Sheriff's Association, and the Secretary of Public Safety, urging that prisoners, staff, and volunteers be educated on the measures of minimizing the risk of both contracting and spreading the virus. Similarly, PLS recommended implementing a plan for staffing shortages, having a clear and medically recommended plan for screening, housing, and treating those who have been exposed to the virus, and also providing adequate cleaning and hygiene supplies for both prisoners and staff. Finally, PLS recommended eliminating the costs of alternate communication such as phone calls and emails due to restricted visitation.

We continued our advocacy by following up on recommendations of maximizing free access to alternate communication on March 22nd. In partnership with the Keep Families Together Coalition, we wrote to public safety officials to urge leaders to ensure maximum free access to telephone and video conferencing for all those incarcerated in Massachusetts, given the suspension of personal visitation. The letter stated, "This will serve the urgent needs of prison families, who are now isolated and suffering economically from the crisis. It will also help preserve some semblance of connection and sanity to prisoners trapped in a dangerous and stressful environment."

On March 25th, PLS signed onto a letter written by the Material Aid and Advocacy Program which urged the Governor, Mayors, Town Managers, and District Attorneys to meet the immediate survival needs of those living on the street. The following day we signed on to a letter in partnership with the Center for Public Representation and others regarding the need for statewide guidelines preventing discriminatory allocation of life-saving medical care.

On April 29th we partnered with the Mental Health Legal Advisors Committee in urging public officials to improve conditions in order to ameliorate mental and physical harm to prisoners enduring lockdown. Some of these recommendations included expanding access to media, providing safe and confidential medical and mental health services, allowing video visitation, increasing access to fresh air and exercises, and more. We also continued to advocate on behalf of ICE detainees by sending a letter to the Bristol County Sheriff's Office and ICE raising concerns about the use of segregation for ICE detainees on May 28th. We asked that ICE remove ICE detainees from segregation as well as reinstate attorney phone calls pursuant to the standard.

Letters in Support of Litigation

PLS wrote letters in support of litigation. On March 27th, we filed an amicus curiae letter in support of the ACLU/MACDL lawsuit urging the immediate reduction of prison and jail populations. We wrote, "The most effective way to reduce the spread of infection in prisons and jails is to release as many people as we can, as quickly and efficiently as possible." On April 2nd we submitted a letter in response to the Court's Order of April 1, 2020, requiring the DOC and Sheriffs to report on the distance between prisoners in sleeping arrangements, dining and recreation. In our letter we stated that based on our years of experience monitoring prisons, and visiting and speaking with prisoners, it is clear that social distancing is impossible in the vast majority of DOC and

county facilities. It is also clear that the environment in prisons and jails is not conducive to promoting health and welfare during this pandemic and immediate measures must be taken to decarcerate in order to save lives and reduce the spread of COVID-19.

Community Actions

Many organizations have organized community actions to advocate for the release of prisoners and improved conditions for those who are not released. For example, the Building Up People Not Prisons Coalition, led by Families for Justice as Healing, has been organizing weekly actions in support of prisoners and their families since the onset of COVID-19, urging releases, and has organized petitions, letters, social media actions, protests and press conferences. They emphasize that incarcerated individuals and the communities and families from which they come need adequate protection. Additionally, Mass Bail Fund has uplifted their call to #FreeThemAll with more urgency than ever, urging the release of individuals in local jails, prisons, and ICE detention and bailing people out as quickly and safely as they can. The Boston Chapter of Black and Pink has been advocating for its members and other incarcerated people and has organized fundraisers to help provide hygiene materials to incarcerated people during the crisis. Massachusetts Against Solitary Confinement has been advocating and organizing social media actions to protest the use of lock-down and solitary confinement to manage COVID-19 risks, and to uplift the cruelty and harm that this causes. The Coalition for Effective Public Safety has been advocating for improvements to the parole system to try to get as many people out on parole as possible, while CPCS has increased its provision of parole assistance substantially. Internal medicine physicians and public health experts in the Boston area have written to Governor Baker, urging him to release as many people as possible from jails and prisons and stop the flow of people into jails and prisons.

If you have been bitten by a K9 while incarcerated, please contact PLS



Essex County Correctional Facility (ECCF) posts K9s throughout the correctional facility, including in the yard and outside the chow hall. Prisoners at ECCF have contact with the K9s daily, and K9s respond to every incident at the facility, including every fight and every use of force. K9 officers are given broad discretion to direct their K9s to bite prisoners, and PLS has had many clients contact us to report being bitten and injured by K9s. PLS is committed to getting the ECCF policy changed so that prisoners at ECCF and elsewhere are not subjected to this cruel and unusual practice.

Ultimately, we have all been working together in order to maximize our impacts. We have been working tirelessly to fight for the lives and health of incarcerated individuals throughout this pandemic. We are actively working against the lock-down and use of solitary confinement to quarantine people. We are working to educate the public and policymakers about the harm it is causing and continuing to advocate for releases so that social distancing can be effectuated without lockdown conditions. Additionally, we continue to do advocacy for individual clients who require mental health and medical care or other assistance related to COVID-19 and advise folks to call us during Monday afternoons from 1-4 pm or write to us at 50 Federal Street, 4 Fl Boston, MA 02110.

What would you like to learn more about?

PLS wants to hear from you about what issues you may want included in future Notes. Please write to us to let us know what you might want to learn more about so that we can respond to your needs. Send letters to Jesse White, Staff Attorney, Prisoners' Legal Services, 50 Federal St., 4th Floor, Boston MA 02110.

COMMITTEE FOR PUBLIC COUNSEL SERVICES V. CHIEF JUSTICE OF THE TRIAL COURT

On March 26, 2020, the Committee for Public Counsel Services (CPCS) and the Massachusetts Association of Criminal Defense Lawyers (MACDL) filed an emergency petition under Mass. Gen. Laws ch. 211, Section 3, to the Massachusetts Supreme Judicial Court (SJC) "to reduce the numbers of people who are now in or who will enter Massachusetts jails, prisons, and houses of correction" in order to lower the spread and impact of COVID-19 in these communities. The case did not directly raise constitutional claims, but CPCS argued that, because people cannot social distance in prisons and jails and because they lack access to hygiene supplies, "continuing to detain individuals without any modification in the face of the current crisis raises significant Eighth Amendment, ... and due process concerns."

CPCS asked the Supreme Judicial Court to exercise its superintendence powers to (1) limit the number of people taken into custody; (2) significantly reduce the pre-trial population, including by releasing individuals held on unaffordable bail, those held on bail revocations for technical violations, those over the age of 60, and those with medical conditions making them vulnerable to COVID-19; and (3) reduce the sentenced population, including by release of people eligible for parole unless they were incarcerated on crimes against the person, people who were set to wrap within 6 months, people in on technical violations, people over 60 if not incarcerated on crimes against the person, people who qualify for medical parole, people in Houses of Correction not for crimes against the person, and anyone else for whom release or stay was appropriate. CPCS

concluded that, "There are about 16,500 human beings in our prisons and jails. None of them have been sentenced to death."

Many prisoners' rights advocates filed amicus ("friend of the court") letters in support of CPCS's petition, including a group of public health professionals, an attorney representing prisoners seeking medical parole, attorneys representing people with pending criminal appeals, the Boston chapter of Black & Pink, Families for Justice as Healing, The National Council For Incarcerated and Formerly Incarcerated Women and Girls, Sisters Unchained, New Beginnings Re-Entry Services, Citizens for Juvenile Justice, Mental Health Legal Advisors Committee, and Prisoner's Legal Services (PLS). On March 30, 2020, PLS filed an emergency petition seeking intervenor status in the case. In addition to the relief requested by CPCS, PLS asked the court to release civilly-committed people, to consider release for all individuals over age 50, to ensure that no one was excluded from release solely on the basis of their underlying conviction, and to require special COVID-19 considerations and grant presumptive parole during parole board review. PLS' emergency petition also directly raised Constitutional claims for releases under the Due Process Clause and the Eighth Amendment. PLS concluded that "The crisis in Massachusetts jails and prisons, as nationally, is without precedent. The extent of the danger to prisoners, staff, and the general public is impossible to calculate but certainly extreme.... The relief sought in this Petition will save lives."

Without ruling on PLS' motion to intervene, The SJC issued an opinion on April 3, 2020 ordering (1) that all pre-trial detainees except those charged with violent offenses or crimes against the person should be granted a rebuttable presumption of release and (2) that DOC and county sheriffs must issue daily reports about COVID-19 in their facilities. However, the SJC decided that they lacked the power under Mass. Gen. Laws chapter 211 Section 3, absent a finding of constitutional violations, to order the release of people sentenced to incarceration because these decisions were the responsibility of the executive branch.

The court noted that the case before it did not directly raise constitutional claims and indicated that such claims were not supported by the record of the case, but it left the door open for such claims to be brought in the future. On April 28, 2020, the SJC also ordered trial court departments to develop procedures to enable attorneys to seek speedy approval for funds that are needed for medical parole proceedings and release plans, special procedures for releasing medical records, and additional data reporting requirements.

The Special Master has released weekly reports on releases and COVID-19 testing as well as positive cases in DOC and county facilities. Although pre-trial detention has decreased in Massachusetts, the number of releases for incarcerated people has not increased significantly.

Following the SJC decision, PLS filed a separate class action lawsuit (*Foster v. Mici*) arguing that (1) the Eighth Amendment requires state prisons and jails to release enough people to allow for social distancing and (2) the Due Process Clause requires the release of everyone civilly committed to a corrections facility under Section 35. More details about that case are included in an article on page 2. PLS will continue to fight for the release of incarcerated and civilly-detained people in this and other litigation.

PLS SEEKING YOUR IDEAS FOR PUBLIC POLICY/LEGISLATION

As PLS prepares to start setting a legislative agenda for next session, we would love to hear your ideas for what policy issues matter most to you, and what you would like to see us work on for legislation.

This past session we prioritized:

- A bill to roll back restrictive visitation rules and improve the visitation process
- A bill to make telephone calls between incarcerated people and their loved ones free
- Two bills to reform the parole board and parole system
- A bill to create baseline standards around use of force (particularly planned use of force, chemical agents, kinetic impact weapons, and use of K9s) and transparency in use of force cases
- A bill to end Life Without Parole sentencing
- A bill to create baseline entitlements to education and programming
- A bill to collect voluntary data about LGBTQ people in restrictive housing
- A bill to create a commission around treatment of substance use disorder in prisons and jails
- A bill to ensure that protections contained in the Criminal Justice Reform Act which apply to restrictive housing would apply to units that are substantially similar to restrictive housing.
- A bill that would end incarceration of people in prisons and jails solely for the purpose of substance use disorder



Contact Us

PLS Would Like to Hear From You About Your Treatment Under the New Transgender Law and DOC Regulations

The Criminal Justice Reform Act requires that prisoners who have a gender identity that differs from the prisoner's sex assigned at birth be addressed in a manner consistent with their gender identity, provided with access to commissary items, clothing, programming, educational materials and personal property that are consistent with their gender identity, searched by an officer of the same gender identity if the search requires a prisoner to remove all clothing or includes visual inspection of genitals, and housed in a correctional facility with prisoners with same gender identity unless it is certified in writing by the correctional administrator that placement would not ensure the prisoner's health or safety or that placement would present management or security problems.

Of the above, the bills that still have a chance of moving forward are the visitation bill, the no cost telephone calls bill, the bill to create baseline entitlements to programming and education, the LGBTQI restrictive housing data collection bill, and parts of the bills which would improve the parole board and create greater data collection and transparency in use of force matters.

For the next session we can refile legislation that didn't make it through this session and/or we can draft new legislation.

Please contact us if you have recommendations or priorities for policy makers that you would like us to be aware of as we consider our legislative priorities going forward. You can send a letter to Attn: Legislative Priorities, Prisoners' Legal Services, 50 Federal St. 4th Floor, Boston MA 02110.

STATEMENTS FROM PLS REGARDING THE MOVEMENT FOR BLACK LIVES

Below are the public statements that were released by Prisoners' Legal Services in the wake of the death of George Floyd and so many others at the hands of police officers across the United States.

Dear Friend,

No one can be a defender of human rights or proponent of freedom while standing on the sidelines watching others fight for racial justice. It has always been time to be an anti-racist, but the recent murders of multiple Black people at the hands of police and armed vigilantes serve as a strong reminder that now is an especially critical time for all of us to lend our voices, our resources, our leverage, our influence, our hurt, and our belief in something much better to this current struggle - to Black Lives Matter. We must propel it forward and make this a definitive turning point in history.

We cannot limit the scope of our advocacy efforts to only police violence, which happens to get caught on video. Brutality towards Black people happens every day in hidden areas of society, including prisons and jails. There, individuals are often victims of brutality at the hands of correctional officers. Unlike in the streets, no one is able to post and share video clips for the world to see the truth with their own eyes.

Just a few months ago, in retaliation for assaults against three correctional officers, a month-long campaign of collective unprovoked violence was waged against dozens of incarcerated people held at Souza-Baranowski prison. These attacks were systematic and demonstrated a level of brazen orchestrated violence that Prisoners' Legal Services had not seen in the almost 50 years of our existence.

We received over 100 separate reports of assaults in less than 6 weeks. The assaults on incarcerated people disproportionately targeted Black and Brown people and in multiple cases officers cut off dreads and used racial slurs. Just last month, staff and the Sheriff himself assaulted immigrants in ICE custody at the Bristol County House of Correction. Several immigrants ended up in the hospital with injuries. One detainee almost asphyxiated on a rubber bullet shot down his throat.

Are you Currently or Recently Incarcerated at a Women's Prisons or Jail?

Because the majority of DOC prisoners are men, the majority of PLS's clients are men. PLS is committed to understanding the needs of women and non binary people in Massachusetts prisons and jails in order to better advocate for them. If you are interested in sharing information about your experience at MCI Framingham, South Middlesex Correctional Center, the Women's Correctional Center in Chicopee, or the women's units at South Bay HOC, please contact PLS. Please share this information with any currently or recently incarcerated women who may be interested in speaking with PLS.

Write to PLS at 50 Federal Street, 4th Fl., Boston, MA 02110 or call and ask to speak with attorney Becky Shapiro (free state speed dial: 9004; county collect calls: 617-482-4124).



Contribute to PLS Notes

If you have a case you are litigating or another matter that you are working on that you would like highlighted in PLS Notes, please send submissions to:

Jesse White, Staff Attorney
50 Federal St., 4th Floor
Boston, MA 02110

Please know that space in PLS Notes is limited, and we cannot promise inclusion of any submission.

Black and brown bodies bear the brunt of deep seated racism and violence before, during, and after incarceration. Structural racism, unconscious bias, selective favoritism - racism, in all its forms, is a disease that relegates too many black and brown children to an existence of degradation, divestment, dehumanization and death. The survivors, who are strong enough to tell their story and lead the movements and protests, are filled with pain. Many continue to fight anyway because there is no choice but to hope that this will soon end and that our children will be allowed to realize their dreams. We all pay for this cycle of trauma that we will pass on to yet another generation if we do not take this seriously.

We stand in solidarity with our clients, their families, and members of the Black and Brown communities who have taken to the streets to voice their anguish. We stand against police brutality in all forms. We stand against mass incarceration and a criminal legal system that disproportionately impacts Black and Brown people. As an organization, allyship with Black and Brown communities is not only a moral imperative but a requirement of our agency's mission. We challenge other agencies throughout Massachusetts to stand with us in solidarity and say: Black Lives Matter.

Rise up! Speak out! Invest in the movement! And let's follow the lead of those who are directly impacted. Center this moment in your life and in your work now and for as long as it takes to eradicate this disease, and please don't watch from the sidelines.

Part of PLS' role in being an organization for social justice is to devote space to amplifying Black voices. In an effort to honor this, one of our Black staff attorneys has generously allowed us to publish her reflection on the current climate and murder of George Floyd.

Malcolm X said, "Of all our studies, history is best qualified to reward our research."

In 1968, cities across America burned to the ground in response to the assassination of Dr. King. Washington, Detroit, Cincinnati, Chicago, Baltimore, and many more cities erupted in protest because after generations of police violence, government-sanctioned terrorism and the assassination of the one Black man calling for peace, Black people were tired. And today, fifty years after the assassination of Dr. King and as we marked the 99 year anniversary of the 1921 bombing of Black Wall Street, Dr. King's fears are still alive, Black people are still tired and in many cases worse off.

We are tired of our children being funneled through the school to prison pipeline. We are tired of biases in the healthcare system that contributes to the many health inequities suffered by members of our community; this is why Black people are dying at significantly higher rates from COVID-19. We are tired of being over policed and over criminalized because of our very existence.

We are tired of being hashtags.

Rest in Peace #DavidMcAtee, #GeorgeFloyd, #AhmaudArbery, #BreonnaTaylor, #SeanReed, #StevenDemarcoTaylor, #ArianeMcCree, #BothamJean, #Eric Garner, #TerranceFranklin, #MilesHall, #RickyBall, #WilliamGreen, #SamuelDavidMallard, #SandraBland, #TrayvonMartin, #TamirRice, #OscarGrant, #JohnCrawford, #MichaelBrown, #PhilandoCastile, #AltonSterling, #Atatiana Jefferson, #TerenceCrutcher, #FreddieGray, #WalterScott, #SamuelDuBose, #SeanBell, #AmadouDiallo, #Laquan McDonald, and the countless others whose deaths didn't garner national attention but nonetheless were lost.

" [When you] live in a world where there is this presumption of dangerousness and guilt wherever you go... When the burden is on you [as a Black person] to make the people around you see you as fully human and equal, you get exhausted."

- Bryan Stevenson

LaToya Whiteside, Esq.

Staff Attorney

Are you in a DOC facility and have a drug or alcohol problem?

PLS is investigating the lack of access to proper treatment for addiction to drugs and alcohol (also known as "substance use disorder") at DOC facilities. Please contact PLS if you have substance use disorder (addiction to opioids, cocaine, benzos, alcohol, K2, or any other drug, including prescription drugs) and you would be willing to share with us your experience with accessing treatment in DOC.

RACIAL JUSTICE LEGISLATION AND THE BLACK LIVES MATTER MOVEMENT

The movement for black lives has deepened its roots and made tremendous strides in the weeks since the police murders of George Floyd, Rayshard Brooks, Breonna Taylor, and Tony McDade. Racial justice is now at the forefront of the legislative and policy agenda in a way never before seen in Massachusetts.

The legislature is working on hammering out racial justice legislation, which at the time of this writing is being heard in the Massachusetts House of Representatives. Many prisoners' rights advocates and community groups are worried that the Legislation being considered does not go far enough towards racial justice and that the voices of the most impacted people have not been fully heard in the process. Unfortunately, the bills currently only minimally address corrections.

PLS has been fighting to make sure that policy makers know that incarceration is a fundamental racial justice issue that must be included in their work towards reform. We know that the racialized impacts of law enforcement do not end at the jailhouse door, and our racial justice agenda cannot end there either. The Massachusetts population is approximately 27% people of color, and yet the DOC population is 57% people of color. 11.4% of African American children have an incarcerated parent, whereas only 1.8% of white children have a parent who is incarcerated. Our racist policing systems lead directly to black and brown people being disproportionately imprisoned and black and brown communities and families bearing the brunt of the traumatic impacts of incarceration.

PLS has been working with Legislators to propose amendments which would help our clients. We submitted and distributed testimony urging legislators to ensure that use of force and law enforcement related protections apply equally to incarcerated persons. We further advocated that qualified immunity be eliminated, that the legislature ensure community leaders and impacted people have greater involvement in the process of visioning and drafting legislation, and that racial justice and corrections related commissions that are established prioritize community leadership.

We will continue to push for further reforms that will specifically impact the lives of incarcerated people. We have advocated for the passage of bills that would expand visitation access and ensure that telephone calls be provided at no cost to prisoners and their families. We have also asked that legislation which would provide baseline rights to education and programming and legislation which would reform the parole board be included in the racial justice agenda.

PLS Has Moved!

New Address:

50 Federal Street, 4th Floor,
Boston, MA 02110

There is additional legislation on the federal level which would eliminate qualified immunity for law enforcement officers where people sue to vindicate their federal constitutional rights, including under the 8th and 14th amendments. If this were to pass, it would mean that when prisoners file suit about excessive use of force or other unlawful conditions of confinement under federal law 42 USC Section 1983, their suits could no longer be dismissed because of the qualified immunity doctrine.

This Legislation is moving very fast, and the bill may be finalized and pass before you receive this article. However, there are two groups which will continue to exist and which you may want to reach out to in order to inform them of your racial justice priorities.

The Black and Latino Caucus of the Massachusetts Legislature has been leading reform efforts, and you should feel free to contact them with your input. They are:

- Representative Carlos Gonzalez, Chair: 617-722-2080, Carlos.Gonzalez@mahouse.gov
- Representative Jose Tosado, Vice Chair: 617-722-2060, Jose.Tosado@mahouse.gov
- Representative Chynah Tyler, Treasurer: 617-722-2450, Chynah.Tyler@mahouse.gov
- Representative Bud Williams, Clerk: 617-722-2304, Bud.Williams@mahouse.gov
- Senator Sonia Chang Diaz: 617) 722-1673, Sonia.Chang-Diaz@masenate.gov
- Representative Marcos Devers: 617-722-2020, marcos.devers@mahouse.gov
- Representative Nika Elugardo: 617-722-2582, nika.elugardo@mahouse.gov
- Representative Russell Holmes: 617-722-2220, Russell.Holmes@mahouse.gov
- Representative Liz Miranda: 617-722-2430, liz.miranda@mahouse.gov
- Representative Frank Moran: 617-722-2582, Frank.Moran@mahouse.gov

- Representative Jon Santiago: 617-722-2130, jon.santiago@mahouse.gov
- Representative Danillo Sena: 617-722-2014, Danillo.Sena@mahouse.gov
- Representative Andy Vargas: 617-722-2396, andy.vargas@mahouse.gov
- Representative Aaron Vega: 617-722-2011, Aaron.Vega@mahouse.gov

The Senate has also appointed a racial justice task force, which has been and will continue to work on reforms.

They are:

- Senator William Brownsberger: 617) 722-1280, William.Brownsberger@masenate.gov
- Senator Sonia Chang Diaz: 617) 722-1673, Sonia.Chang-Diaz@masenate.gov
- Senator Joanne Comerford: (617) 722-1532, Jo.Comerford@masenate.gov
- Senator Bruce Tarr: (617) 722-1600, Bruce.Tarr@masenate.gov
- Senator Michael Moore: 617-722-1485, Michael.Moore@masenate.gov

Change is not going to happen overnight, and PLS is dedicated to pursuing a racial justice agenda on behalf of our clients at all times now and into the future. We are doing what we can to advocate in this process and offer feedback to the policy makers who are spearheading reform in order to ensure that the priorities of incarcerated people are included.

We would love to hear from you about what you see as priorities and what you would like us to advocate for as we seek policy change. If you have input, please send mail to Prisoners' Legal Services (Attn: Racial Justice Agenda) 50 Federal St., 4th Floor, Boston MA, 02110.

IF YOU ARE IN JAIL OR PRISON YOU MAY BE ABLE TO GET A STIMULUS CHECK

If you have a valid social security number, and are NOT married to a person who has an ITIN (instead of a social security number), you may be able to get a stimulus payment even if you are in jail or prison.

You can call the Greater Boston Legal Services CORI & Re-entry Project between 9 am and 5 pm for help at 617-603-1797. If that number is busy, you can also call 617-603-1510. The toll free number is 800-323-3205, and ask for extension 1797 or 1510.

DECARCERATION LEGISLATION INTRODUCED

Representative Lindsay Sabadosa sponsored a bill proposing decarceration measures in order to ensure that public health measures can be effectively implemented to prevent the spread of COVID-19 in Massachusetts' prisons and jails. Bill H.4652, "An Act regarding decarceration and COVID-19," proposes important steps to prevent the spread of COVID-19 in Massachusetts prisons and jails through release of incarcerated and pretrial individuals.

If it were to pass, this legislation would require the release of people who do not pose an immediate threat to society, including those who: are charged with or serving time for simple possession of controlled substances, are detained because they cannot afford bail under \$10,000, are over the age of fifty, are medically vulnerable (as defined by the Center for Disease Control), are incarcerated as a result of technical parole and/or probation violations, qualify for medical parole, are incarcerated due to warrant for failure to pay fines and fees, and/or are within six months of their release date.

The bill provides that individuals who would qualify for release under the aforementioned categories may still be detained or incarcerated under certain circumstances.

This legislation calls for the Sheriffs and the Commissioner of Correction to work with public health officials to ensure the implementation of appropriate health and safety practices in all correctional facilities including minimizing the practice of double celling, ensuring that there are sufficient medical quarantine beds available, increasing access to disinfecting products, and providing individuals with additional uniforms and phone and email services free of charge.

In late March, Prisoners' Legal Service contacted legislators in an effort to garner support and get this legislation passed as well as to encourage additional action in support of prisoners during the pandemic. PLS worked with a group of legislators who wrote a letter to Governor Charlie Baker, Secretary Thomas Turco of the Executive Office of Public Safety, and Secretary Marylou Sudders of the Executive Office of Health and Human Services. This letter stressed the importance of this decarceration legislation and the positive impact it would have on incarcerated individuals and public health. It urged releases and that new admissions be limited to all extents possible. It also urged compliance with CDC guidelines of health and safety and a mitigation of the harmful effects of the lockdown, starting with providing additional free phone calls and emails. Lastly, the legislators asked that appropriate housing be found for those being released so that they may live safely in the community and not be detained for lack of a home placement.

A hearing by way of written testimony for this legislation was held on May 5, 2020. Many organizations, including Prisoners' Legal Services, Black and Pink, Families for Justice as Healing, and the Coalition for Effective Public Safety, submitted testimony. A virtual town hall was hosted on May 7, 2020 by Senator Jamie Eldridge and Representative Mary Keefe to discuss this decarceration bill. There were over 200 attendees, including 40 individuals who presented powerful anecdotes, data, and painful stories about incarcerated loved ones. Testimony included evidence regarding the near impossibility of social distancing, the lack of testing, the inadequate sanitation, and the conditions of the lockdown including mental health concerns, malnutrition and the lack of exercise and programs. The town hall concluded with Senator Eldridge and Representative Keefe urging advocacy for the release of prisoners, better resources for newly-released prisoners, and more testing.

The deadline for H4652 to be reported out of Committee is on July 31, 2020. Regardless of whether or not this Legislation ultimately passes, PLS will continue to advocate for prisoner releases and improved conditions of confinement as well as proper health care

PRISONERS' RIGHT TO VOTE

All Massachusetts prisoners had the right to vote until 2000, when an amendment to the Massachusetts constitution took the right to vote away from individuals incarcerated on a felony conviction.

Voting By Absentee Ballot

Prisoners are only *not eligible* to vote if they are incarcerated for a felony conviction on Election Day. People incarcerated for other reasons, such as misdemeanors, pre-trial detention, and civil commitments are allowed to vote by absentee ballot. People with felony convictions who are no longer in prison are eligible to vote even if they are on probation or parole, regardless of their criminal record.

You ARE eligible to vote in prison if any of the following apply to you on Election Day:

- You are awaiting trial on misdemeanor or felony charges but not currently incarcerated for a felony conviction.
- You are incarcerated for a non-felony offense.
- You are civilly committed but not incarcerated for a felony conviction.
- You are on probation or parole.

You must also be (1) a U.S. citizen, (2) a resident of Massachusetts, and (3) 18 years or older on Election Day.

If you are incarcerated but eligible to vote because you fit into one of the categories listed above, you are considered a "specially qualified voter" and you do not have to be registered to vote.

If you were not a Massachusetts resident immediately prior to your incarceration, contact the town clerk of the town you lived in most recently before incarceration for voting instructions.

If you were a Massachusetts resident immediately prior to your incarceration and you choose to vote while in custody, you can vote by absentee ballot.

For more information, please contact PLS through intake by writing to Prisoners' Legal Services, 50 Federal St., Boston MA 02110, or contact us by telephone (state speed dial 9004, county collect call 617-482-4124) on Monday afternoon between 1pm-4pm and ask for the PLS voting information sheet.

MEDICAL PAROLE UPDATE

Since April 13, 2018, Massachusetts law has allowed terminally ill or permanently incapacitated prisoners to be released on medical parole, known in other states as compassionate release. The law is G.L. c. 127, § 119A. Prisoners who are permanently incapacitated or are terminally ill with less than 18 months to live can apply to be released on medical parole. As defined by the statute, permanent incapacitation is a physical or cognitive incapacitation that appears irreversible, as determined by a licensed physician and that is so debilitating that the prisoner does not pose a public safety risk. Typically, those who need assistance with most activities of daily living, including walking, are considered physically incapacitated and those with dementia or Alzheimer's disease are considered cognitively incapacitated. Even those who have sentences with no parole eligibility, including persons serving natural life, can be eligible for medical parole.

Under the law, the decision to grant or deny a petition for medical parole is the responsibility of the DOC Commissioner. There are policies and regulations that govern this process--Executive Office of Public Safety and Security regulations are at 501 C.M.R. 17.00; DOC policy and required forms are at 103 DOC 603, Parole Board policy is at 120 PAR 700. A petition is submitted to the superintendent or the sheriff of the institution where the individual is located. The superintendent or sheriff must forward the petition along with their recommendation to the Commissioner of DOC within 21 days of receiving the petition.

Upon receipt of the petition, the Commissioner must notify the district attorney for the jurisdiction where the offense occurred and the victim or the victim's family that the prisoner is being considered for medical parole, if applicable under chapter 258B. The parties who receive the notice shall have an opportunity to submit written statements. If the prisoner seeking medical parole has been convicted of 1st or 2nd degree murder, the victim's family and the DA can request a hearing. The process should be completed by a written decision from the Commissioner within 66 days from the petition being filed.

PLS has filed 30 petitions for medical parole since March; 3 were granted, 27 were denied. We are currently working on 4 new petitions. In light of the COVID-19 pandemic, we filed more petitions for individuals with medical concerns that increase their vulnerability to COVID-19. We asked that DOC expedite the review of these petitions because of the risk these individuals face.

DOC interprets the standard for those eligible very narrowly and the decisions rendered are sometimes arbitrary. Even though PLS has asked for special considerations due to the pandemic, DOC maintains a strict interpretation of those who are eligible for release. In the majority of denied petitions we have seen, the Commissioner states that the person is still a risk to public safety because they either do not meet the level of necessary incapacitation, or their disciplinary history indicates that their release will not be compatible with the welfare of society.

PLS continues to advocate for medical parole for qualifying prisoners. If you believe that you qualify for medical parole, please reach out to PLS. If you know someone who may be eligible but is unable to reach out on their own, please contact us and provide us with their name or ID number so that we may contact them about the possibility for medical parole. We will screen those who contact us and try to either refer to other counsel or represent those who appear to meet the criteria of the law. **Write to PLS at 50 Federal Street, 4th Fl., Boston, MA 02110 or call and ask to speak with Paralegal Kate Piper (free state speed dial: 9004; county collect calls: 617-482-4124).**

ANNOUNCEMENT: PLEASE CALL PLS THROUGH THE MAIN LINE

PLS staff have been getting an increased number of calls going to their direct lines from clients, rather than coming through the main line and receptionist. We ask our clients to please call the receptionist to be directed to the appropriate staff person who can help you. We understand that it can sometimes be difficult to get through to PLS staff, and you may decide to call us directly because you believe it will help you get the help you need more quickly and effectively. However, calling our direct lines actually makes it less likely that people will be able to get through to us when they need to and it may take longer to route you to the person responsible for your intake.

PLS staff are sometimes unable to answer direct calls because the volume is overwhelming, particularly since January with the numerous assaults reported from Souza, and the volume only increased during the pandemic. If we attempted to answer all calls we would not be able to accomplish the advocacy, litigation, and policy work that we are doing when we are not speaking with our clients. By calling the receptionist we can make sure that we are prioritizing calls appropriately and balancing them with other work we need to accomplish to help our clients. We apologize for any frustration but unlike CPCS, which has thousands of attorneys at its disposal, we have less than 10. We appreciate your patience and are always ready to hear any suggestions or feedback regarding our intake system, which we continually strive to improve.

We are a small staff of 20. We open approximately 2000 new intakes every year and carry full litigation and policy workloads, which have all increased dramatically over the last few months. This is an extremely busy time for the office and we are doing all we can to advocate on your behalf during this incredibly challenging time for you and your families. Please keep in mind that we are also working from home and juggling children and caring for loved ones. We deeply appreciate your patience and understanding and know that it is not easy given the conditions you are enduring right now.

As a reminder, all new matters have to go through our regular intake process, detailed below, so we will not be able to help you if you call someone directly for a new issue. For follow up issues, we ask that you to go through the receptionist so that we can make sure that you are sent to the correct person and so that we are not duplicating work. The receptionist is also in the best position to relay to you when we are available to take your call.

Please know that our phone lines are generally open from 9am-11am and from 1pm-4pm on weekdays. We are able to assist with new issues if you call on Mondays between 1pm-4pm. **Please remember that new intakes are also opened or followed up on by writing to us at Prisoners' Legal Services, 50 Federal St., 4th Floor, Boston MA 02110.**

PLS INTAKE INFORMATION

For assistance with new issues, please call during our regular intake hours, Monday afternoons from 1pm-4pm. State prisoner free speed dial line: 9004 (please note that the * and # are no longer used), County Prisoner collect call line: 617-482-4124. To report a guard on prisoner assault, please call any weekday from 9am-11am or 1pm-4pm. If you cannot reach PLS by phone, please write to "Intake", 50 Federal St., 4th Floor, Boston MA 02110.

ATTENTION: PLS is eager to hear from non-English speakers who need our help

PLS Notes está disponible en español. Pídalo si gusta. Además PLS está buscando ayuda de prisioneros quien habla español que pueden servir como contactos con la gente que no hablan inglés. Aceptamos llamadas y cartas en español igual como en inglés.

PLS hears from a significant number of prisoners for whom English is not their first language, particularly Spanish speakers. Since PLS has the ability to have letters translated and to continue communication with prisoners through interpreters, would readers please encourage such prisoners contact PLS for assistance? Thank you.

PLS RESPONDS TO BRUTALITY AT SOUZA BARANOWSKI CORRECTIONAL CENTER

On January 10, 2020, there was an incident at Souza Baranowski Correctional Center in which prisoners allegedly assaulted three correctional officers. In the wake of this incident, the Department of Correction (DOC) used extreme and unnecessary force on dozens of prisoners in what seemed to be an orchestrated effort at retaliation and intimidation. In the weeks after January 10, PLS received at least 200 complaints from prisoners at SBCC: 126 complaints of use of excessive force by correctional staff, and 74 complaints related to other inhumane conditions of confinement. PLS staff members visited close to 100 prisoners to interview them about their experiences during this period of time. Prisoners reported excessive force at SBCC with little or no provocation, including shooting prisoners with pepper balls and taser guns, spraying them with chemical agents, ordering dogs to bite them, and physical beatings. The violence was in many instances racialized, with white officers targeting prisoners of color and using racial slurs against them.

The crisis at SBCC led many prisoners to self-injure or attempt suicide, and access to appropriate medical and mental health care was unnecessarily limited. It was reported that at one point there were 30 active suicide watches happening. We also had numerous reports of prisoners who called a crisis, but were ignored for hours, or even encouraged to hurt themselves.

SBCC was locked down for several weeks and then reorganized in a way that reinforces a culture of punishment rather than rehabilitation and public safety. DOC has reconfigured the Northside of the prison into a highly restrictive area where prisoners are locked in their cells all but two hours and fifteen minutes a day and a somewhat less restrictive Southside, where prisoners have up to four hours of daily out-of-cell time.

All prisoners at SBCC must eat their meals inside their cells, and Northside prisoners are fed by staff through a small opening in the cell door called a wicket, just as they would be in solitary confinement. Prisoners are forced to remain in their cells almost all day long, and the majority have a cell-mate who they must share their limited space with. Prisoners on the Northside are no longer permitted to have contact visits with their family members, and in general the Superintendent has discretion to impose non-contact visits against anyone at any time for any reason. Access to personal property is restricted on the North side, and canteen is reduced substantially. Our understanding is that prisoners on the North side are no longer permitted to go to the law library, cannot go to the gym or yard, cannot participate in any group religious services, and have no access to

validated programming. Their time out of cell is spent within their unit, or on a small outdoor recreation deck.

In addition to responding to the reports of brutality and mistreatment, PLS intends to file a lawsuit regarding the brutality that occurred in January and February at SBCC. The precise contours of the case have not yet been decided, but we are seeking to provide redress for as many people as we can and to make lasting change in use of force practices at SBCC in order to prevent something like this from happening again. It is unclear yet whether and how we may be able to help address conditions on Northside, but we are actively considering litigation and policy based remedies.



Hepatitis C in the Counties and Department of Correction


We want to hear from you if you are (or were recently) a prisoner in a Massachusetts State Prison or county jail or house of correction and have concerns about Hepatitis C, including if:

- You have asked to be tested for Hepatitis C but have been denied testing; (You can ask for testing by putting in a sick call slip)
- You have Hepatitis C but have not been evaluated recently, or told whether and when you will be treated for it;
- You have Hepatitis C and would like to pursue treatment; or
- You have other questions or concerns about Hepatitis C treatment.

Hepatitis C is an infection spread through contact with infected blood that can lead to liver disease if not appropriately treated. Hepatitis C is a silent disease and many who are infected are unaware of their infected status. Individuals who have been incarcerated are at increased risk for this infection. According to the Centers for Disease Control and Prevention (CDC), risk factors for Hepatitis C include but are not limited to:

- Contact with surfaces, equipment, or objects that have infected blood on them;
- The sharing of needles for injectable drug use;
- Use of tattoo and piercing equipment; or
- Less commonly through sexual intercourse.

If you have questions or concerns about Hepatitis C, please contact Al Troisi at 9004 for state prisoners and (617) 482-4124 for county prisoners or write to PLS at Prisoners' Legal Services 50 Federal Street, 4th Floor, Boston, MA 02110.



Prisoners' Legal Services of MA
50 Federal Street, 4th Floor
Boston, MA 02110