



PLS Notes

Spring 2022

Executive Director: Elizabeth Matos
Editors: Angel Mendez-Flores, Jesse White, & Aaron Steinberg

Prisoners' Legal Services
50 Federal Street, 4th Floor
Boston MA 02110
Phone: 617.482.2773
County Prisoner Collect: 617.482.4124
Massachusetts State Prisoner Calls: 9004
www.plsma.org

INSIDE THIS ISSUE

- **PLS Welcomes New Staff Members**
- **Clemency Initiative Accepting New Clients**
- **PLS Investigates CSU**
- **COVID Ombudsman Appointed**
- **Prisoner Funds**
- **Complaint in Response to Brutality at SBCC**
- ***Foster v Mici* Litigation**
- **Litigation Updates**
- **New Organizational Structure at PLS**
- **Legislative Updates**
- **Information About the Stimulus from GBLS Clinic**
- **Four Things You Should Know If You Have Student Loan Debt While Incarcerated**
- **RIECI Survey**
- **Protecting Right to Sue**
- **PLS Vision, Mission, Services, & Client Communication**

PLS WELCOMES NEW STAFF MEMBERS

Terry Alves-Hunter recently joined PLS as a Paralegal for the Racial Equity in Corrections Initiative (REICI). Previously, she was a Paralegal/IT Professional at Booth Law, PC and the Multicultural Outreach Coordinator at Parent/Professional Advocacy League. Terry brings over 20 years of legal, welfare, and advocacy experience to PLS. She is a Court Appointed Special Advocate for children of neglect, a Special Education Advocate, Racial and Equity Advocate, Peer Support Specialist for Mental Health, Domestic Violence Advocate and Peer Support Trainer, and a lead Auditor in Legal Compliance.

Ada Lin is the Bart J. Gordon Legal Fellow at PLS. Her fellowship focuses on assisting incarcerated individuals who are terminally ill or permanently incapacitated in seeking release under the state compassionate release ("medical parole") statute. Ada is a recent graduate of Duke University Law School and served as a Legal Intern at the Abolitionist Law Center and a Law Clerk at the ACLU of Maryland while pursuing her degree. Previously, she was a Paralegal for the ACLU's National Prison Project and the Washington Lawyers' Committee for Civil Rights and Urban Affairs. Ada holds a BA in Social Studies from Harvard University.

Sarika Ram is a Paralegal at Prisoners' Legal Services. Prior to coming to PLS, Sarika researched issues in policing and the prison industrial complex at the Movement Alliance Project, Upturn, and ACLU of Massachusetts, taught in classrooms on the inside, and worked with formerly incarcerated job-seekers. Outside of anti-prison work, Sarika loves dancing (ballet and bhangra in particular!), building Lego sets, and watching rom-coms.

Alice Bukhman is PLS' first Healthcare Advocate, assisting the organization to think strategically about systemic solutions to the many problems faced by those incarcerated in accessing basic healthcare. Dr. Bukhman's first job after her residency was Academic Director for the emergency departments at Cambridge Health Alliance. She then went on to serve as the Rwanda country director for a Columbia University

program to support emergency medicine training in rural and low resource settings. Since 2016, Dr. Bukhman has been an attending physician at Brigham and Women's Hospital and currently serves as the Director of Clinical Operations for the Faulkner Emergency Department. Dr. Bukhman is also an Instructor at Harvard Medical School.

Aaron Steinberg is PLS' new Communications and Development Coordinator. He joins us from the World Peace Foundation where he served as the Communications and Outreach Coordinator. Previously, Aaron was a Program Assistant at the Council on Foreign Relations.

Brenda Nyamunda began her career working security for multiple organizations in the Boston area before becoming a Customer Service Representative at MassHealth. After temping at PLS for a brief period, the organization hired her full-time to serve as the organization's receptionist.

Kern Saint Dic is the new Legal Assistant and IT and DVT. Support at PLS. Kern has previous experience from a variety of fields, including law, technology, and art. Previously, he was a Legal Assistant at Robert Half Legal, a Customer Support Specialist at HubSpot, and a Product Specialist at Apple. Kern is also a multimedia artist, working across multiple disciplines, and speaks Haitian Creole, French, and Spanish.

Sonia Marquez is a human resource professional with over 25 years of comprehensive human resources experience. She was previously at Greater Boston Legal Services, where she was the Director of Human Resources. Since 2009, she has been a board member of Equal Justice America, a non-profit that provides opportunities for law students to work with organizations that deliver civil legal services to those most in need. PLS is excited to welcome her as our new Human Resources Consultant.

Kelsea Goodrow joined PLS in January of 2022 as the Project Coordinator for Project RIZE, a subsidiary project of REICI. Kelsea has years of experience in human rights and non-profit work. Before joining PLS, she worked in the non-profit education sector supporting low-income and disadvantaged youth. Outside of the office, Kelsea is an avid reader with a passion for travel.

THE CLEMENCY INITIATIVE ACCEPTING NEW CLIENTS

The Clemency Initiative at Greater Boston Legal Services is accepting new clients interested in filing for a commutation or a pardon from the Governor.

- Commutation is early release from prison when a person has exhausted ALL appeals and other legal ways to get out of prison.
- A pardon is a forgiveness for the offense granted after release from prison to reduce barriers to jobs or other opportunities.

Commutation Eligibility & Governor's Guidance Factors

People who are serving a Massachusetts state court (not federal) sentence who are:

- Not eligible for parole.
- Not currently waiting for court decisions, and appeals, and there are no pending cases against them.
- No violations of prison institutional rules in the past year.
- Served at least 15 years of a sentence for murder.
- Participated in programs (education, training, self-improvement, etc.) as offered.
- Participation in military, public, or charitable service.
- Participation in rehabilitation, education, mentoring, and other self-development programs.
- Provided substantial assistance to law enforcement.
- Accepted responsibility for actions.

Pardon Eligibility and Governor's Guideline Factors

- Released from prison.
- At least 5 years without new misdemeanors after release, parole, or probation.
- At least 10 years without new felonies after release, parole, or probation.
- Positive contributions to their communities.
- Paid restitution as ordered.
- Participated in restorative justice program.
- Past military, public, or other community or charitable service.
- Participated in rehabilitation, education, mentoring, other self-development programs.
- Accepted responsibility for actions they committed.
- Denied a job or lost other opportunities because of their offenses.

If you are interested in receiving help from The Clemency Initiative, email clemency@gbls.org or send letter with your name and prison ID number to: **Lucie Gulino, Clemency Initiative, Greater Boston Legal Services, 197 Friend St. Boston, MA 02114.**

Please note, Greater Boston Legal Services is committed to prioritizing Black, Indigenous, and People of Color (BIPOC), and LGBTQ+ people. If you were denied clemency, you must wait at least 1 year to re-apply.

PLS INVESTIGATES CLINICAL STABILIZATION UNITS (CSU)

In 2021, PLS began investigating the Clinical Stabilization Unit (CSU) at MCI-Norfolk. The CSU is one of DOC's infirmary-style units, located above MCI-Norfolk's Health Services Unit. The CSU is akin to a prison nursing home. It houses MCI-Norfolk's most medically vulnerable: elderly, infirm, and/or disabled individuals who need assistance with activities of daily living, such as personal hygiene, dressing, toileting, getting in and out of bed, moving about, and eating. Many patients in the CSU are permanent residents there, with progressive and/or irreversible conditions that include ALS, dementia, advanced heart and lung disease, and blindness. Some are in their 80s. Despite the acute medical demand required by its patients, the conditions and care provided in the CSU are grossly inadequate.

Conditions

Due to a glaring shortage of medical providers at MCI-Norfolk more broadly, the CSU often remains unstaffed by medical personnel and aides for hours at a time. Since late November 2021, MCI-Norfolk has not had a full-time doctor or dedicated Medical Director. An overall shortage of registered nurses and nurse practitioners has created an over-reliance on medical assistants as well as an overrepresentation of correctional staff in the CSU. Furthermore, the CSU lacks adequate CNA staffing, resulting in neglect on various levels.

In addition to poor care, inadequate medical staffing has led to abhorrent sanitation issues. Response times to patients' needs are often incredibly slow, and as a result, medical incidents involving bodily fluids can remain unnoticed and uncleaned for days at a time. The lack of CNA staff has led to instances of patients lying in soiled bed sheets and unchanged briefs for hours on end. The incarcerated workers assigned to clean the unit work diligently, putting remarkable effort into keeping the unit clean and upholding the dignity of the patients there. However, these workers aren't there 24/7 and aren't provided with sufficient cleaning supplies. CSU patients report blood, urine, and fecal stains on toilets, bathroom walls, and baseboards for months at a time. These deplorable sanitation measures create hazardous living conditions and facilitate the transmission of infectious disease. In fact, Covid-19 has swept the unit twice since the start of the pandemic, and bacterial infections abound. The cramped physical layout of the CSU, consisting of 16 beds crowded into one open-air space, further increases infectious disease spread and deprives patients of room to safely move around the unit.

You Might be Eligible for Release on Medical Parole!

You may be eligible if you are serving any sentence (including natural life). To be eligible, you must be either terminally ill (expected to live less than 18 months) or permanently incapacitated (physically or cognitively).

If you think you might be eligible, please reach out to us and we'll evaluate your situation and whether we can file a petition for you. Some eligible people are too sick or incapacitated to reach out for help themselves. This is especially true of people who are eligible due to dementia or other cognitive incapacity. To help people in that situation, we count on other prisoners to let us know about them. If you know of someone who may be eligible but may be unable to reach out on their own, please write or call us with their name or ID number and location, so that we may contact them about the possibility for medical parole.

Write to PLS at 50 Federal Street, 4th Fl., Boston, MA 02110 or call and ask to speak with Ada Lin about medical parole (from DOC facilities, speed dial: 9004; from county facilities, collect calls: 617-482-4124).

Committee for Public Counsel Services Innocence Program

Have you 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 Efforts

PLS is working to affect an overhaul of the CSU. First and foremost, we're focused on filing medical parole petitions to secure the release of permanent CSU patients. Medical parole is the most efficient, ready-made solution within the parameters of the law to get these individuals the care that they need. We're urging the legislature to hold the DOC accountable to the letter and spirit of the medical parole law and we support a bill (H.2448/S.1599) that will remove barriers to obtaining medical parole. Additionally, through advocacy letters to the DOC, state legislators, and other state officials, we've detailed the appalling conditions of the CSU and pushed for change, specifically in the areas of staffing, sanitation, and infectious disease control. We've also raised attention in the media, to educate the public about this abhorrent situation.

In addition to the MCI-Norfolk CSU, there is also a CSU at MCI-Shirley, along with the Nursing Care Unit (NCU) there. The NCU houses patients who need more ongoing medical attention than those in the CSUs, but who's medical needs fall short of requiring infirmary level care. Thus far, our investigation has been focused on the CSU at MCI-Norfolk because we lack the same level of information and reporting from MCI-Shirley. We are deeply concerned that conditions in the NCU and CSU at MCI-Shirley are just as bad as those at MCI-Norfolk, and we want to investigate and tackle the problems in the MCI-Shirley CSU and NCU as well.

If you are a patient, companion, or individual with knowledge about the MCI-Shirley CSU or NCU, please contact PLS, by writing to PLS at 50 Federal Street, 4th Fl., Boston, MA 02110 or calling and asking to speak with Emily Cataldo (free state speed dial: 9004). We will keep these calls anonymous to protect you from retaliation.

COVID OMBUDSMAN APPOINTED

COVID-19 has created dangerous and harmful conditions throughout the Department of Correction. In response, through the budget process, the legislature created a mandate that DOC "shall release, transition to home confinement or furlough individuals in the care and custody of the department who can be safely released, transitioned to home confinement or furloughed with prioritization given to populations most vulnerable to serious medical outcomes associated with the 2019 novel coronavirus according to the Centers for Disease Control and Prevention's guidelines." PLS advocated for this language with the idea that we could use it to advocate for safe decarceration of as many people as possible during the crisis, which would then allow for greatly improved and safer conditions for anyone who remained incarcerated.

The legislature also created a new office, that of an independent COVID ombudsperson, who was meant to monitor compliance with the legislative mandate and actions taken to ensure the health and safety of incarcerated persons relative to COVID-19 as well as establish public health standards for DOC. The independent ombudsperson is tasked with reporting to the legislature "(1) the department's efforts to mitigate the rate of infection in facilities under its purview; (2) the department's efforts taken relative to safe depopulation relative to the 2019 novel coronavirus; (3) the department's policies in development to further mitigate the rate of infection in correctional settings; (4) the amount of population reduction achieved to-date by the use of the mechanisms for release, home confinement or furlough stated in this item; and (5) the department's compliance or noncompliance with the office's established public health standards." It is also empowered to recommend that the legislature require the commissioner to testify at a public forum if the DOC is not taking actions necessary to slow rates of infection or comply with public health standards.

In March of 2021, Dr. Monik Jimenez, a highly qualified epidemiologist, was put forward for the Ombuds role after being vetted by the Attorney General's Office and DPH in accordance with the budget. The DOC declined to provide Dr. Jimenez with the resources and hiring autonomy necessary to create and operate an independent Ombudsman office and she was never hired. The DOC then acted unilaterally and on September 1, 2021, reported to the Legislature that it had entered into an agreement with University of Massachusetts Medical School to implement and direct the Office of the Ombudsman, with a \$1.5 million budget and hiring autonomy. UMass Medical School was a contracted provider of medical services for DOC, before Wellpath took over.

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 Aaron Steinberg, Prisoners' Legal Services, 50 Federal St., 4th Floor, Boston MA 02110.

The agreement that DOC entered with UMass Medical School originally included no mention of the most effective mechanism to ensure public health and contain the spread COVID-19 in prisons and surrounding communities - reducing the numbers of people held in prisons. The DOC proceeded as if the requirements in the budget that related to decarceration did not exist. Following advocacy by PLS, community partners, and the legislature, the contract was modified to include the decarceration aspects of the mandate; however, in practice, the ombudsperson has failed to uphold this mandate.

Lauren M. Andersen, MM, RN, CEN, CCRN, was ultimately hired as the COVID ombudsperson for DOC. **You can contact her by calling 833-662-8410 and leaving a voicemail, or by having a family member go to the website at <https://covidombudsman-madoc.org/submit-inquiry-concern/>.**

PLS has been litigating a class action lawsuit, *Foster v. Mici*, related to COVID-19 since the early days of the pandemic. More information about that case can be found on page seven. Recently an expert witness in that case analyzed the ombuds office's actions and inactions and stated that several of her recommendations "are inconsistent with the established science about infection control, contradict CDC and Massachusetts DPH recommendations, and increase the risk of infection to DOC staff and inmates." More, "The biweekly progress reports from the Office of Ombudsman do not appear to apply a standard of infection control that accounts for the greater risks for infection and for severe illness from COVID-19 incurred by DOC inmates compared with people in the general community." Finally, her failure to recommend depopulation in keeping with the legislative mandate is "detached from the reality of the pandemic preparedness and public health." Our expert maintains that "Decreasing prison crowding has the potential to prevent unnecessary suffering during the COVID-19 pandemic, and it is based on sound scientific evidence."

PLS has found that the ombudsperson, rather than working as an independent mechanism of oversight and accountability for DOC, has operated largely to shield the DOC from accountability with respect to its COVID-19 practices and failures. We are aware that the ombudsperson is seeking expanded funding in order to address broader health care issues in the DOC system, and we are in opposition to this expansion. PLS continues to believe that what we need is real, independent, oversight that will hold DOC accountable and promote harm reduction in the system.

STANDARD OPERATING PROCEDURE (SOP): PRISONER FUNDS

As you may be aware, a Standard Operating Procedure (SOP) attached to DOC regulation 103 CMR 405, "Inmate Funds," has seriously restricted incarcerated individuals' ability to send money to the outside. The SOP effectively prohibits the disbursement of funds to people and organizations in the community, the only exceptions are funds used to send gifts directly from outside companies to community recipients or for personal publication orders sent directly to a DOC facility. Money gifts to loved ones and community organizations (e.g. churches, charities, etc.) are outright banned. Other purposes for outgoing funds must be reviewed and deemed legitimate by correctional staff through a strict and violative screening process. In order to pay bills, for example, people are asked to disclose sensitive information about themselves or their loved ones, such as the nature of the bill to be paid, landlords' contact information, the visiting history of the person to whom the funds will be sent, details of the person's past deposits and disbursements, child support orders, etc.

PLS opposes this restriction on outgoing funds and the additional barrier it creates between people in prison and their communities. Unfortunately, however, this SOP is DOC-wide, and attempting to remedy this system-wide problem through individual advocacy would be ineffective while also taking up a large amount of our limited advocacy time and resources. PLS does not currently have the capacity to oppose this restriction in court, but some clients have challenged it through pro se litigation, and we hope this legal avenue is successful in effecting change. We are looking into different channels through which we can oppose this restriction systemically.

Amigo Por Correspondencia!

La Unitarian Universalist Mass Action tiene voluntarios a quienes les gustaría ser sus amigos por correspondencia. Si desea un amigo por correspondencia, envíe su nombre, número de identificación, lugar de encarcelamiento y cualquier otra cosa que desee compartir a:

**UU Mass Action
40 Mechanic St., Suite 306
Marlborough, MA 01752**

También puede enviar un correo electrónico a:
mascpenpal@uumassaction.org

PLS FILES COMPLAINT IN RESPONSE TO BRUTALITY AT SOUZA BARANOWSKI CORRECTIONAL CENTER

On January 10, 2022, PLS filed a 59-page complaint in federal district court in Worcester in response to the widespread brutality and violations of prisoners' constitutional rights at Souza-Baranowski Correctional Center in January and February 2020. The complaint alleges that DOC staff subjected prisoners at SBCC to weeks of violence in retaliation for an altercation that took place between prisoners and staff on January 10, 2020, in which several staff were injured.

During this period of violence, which we have named the "Retaliatory Force Campaign," Tactical Team officers used excessive and unjustified force against more than 100 prisoners. DOC staff used extreme methods of force including beating and kicking prisoners, pepperball guns, K9s, tasers, excessively tight handcuffs, and forcing prisoners into stress positions. Officers regularly used racial slurs against Black and Latinx prisoners and targeted them for especially brutal and degrading treatment like cutting off people's dreadlocks. High-ranking DOC officials, including DOC Commissioner Carol Mici and former SBCC Superintendent Steven Kenneway, directed and encouraged the brutality against prisoners. The use of force was not to establish order in the facility, but to send a message to prisoners. The violence against prisoners in early 2020 is just one example from the long history of unconstitutional violence against prisoners at SBCC.

The complaint alleges that the officers' use of excessive and unnecessary force constituted cruel and unusual punishment in violation of the Eighth Amendment, and that violence against Black and Latinx prisoners was racially motivated, violating their right to Equal Protection under the Fourteenth Amendment.

What the lawsuit asks for:

The lawsuit asks for money damages and injunctive (non-monetary) relief. PLS seeks money damages to compensate the plaintiffs—and class members, if a damages class is certified (see below)—for injuries they suffered during the retaliatory violence in January and February 2020. The injunctive relief PLS seeks would require DOC to change its policies and practices to avoid similar violence in the future. The complaint asks the court to require DOC to implement adequate policies governing the use of force, investigation of use of force incidents, and discipline of staff who use improper force.

Pen Pal Invitation!

Unitarian Universalist Mass Action has volunteers who would like to be your pen pal! If you would like a pen pal, please send your name, facility and anything you'd like to share about yourself to:

**P.O. Box 300159
655 Centre Street, Jamaica Plain
MA, 02130-9998**

You can also email:
mascpenpal@uumassaction.org

PLS will seek class certification

The lawsuit was brought on behalf of nine current and former prisoners at SBCC – the "named plaintiffs." The court must decide whether to grant "class certification" – that is, to allow the case to go forward on behalf of additional individuals other than the named plaintiffs. We do not know yet whether the court will decide to do so. We are planning to ask the court to certify both injunctive relief and damages classes.

Next steps

The defendants filed a formal answer to the complaint on March 25, 2022, unsurprisingly denying most of our allegations. The next steps include a conference with the Court to set a schedule for the case. The schedule will include a time period for discovery, in which both sides exchange information, and for plaintiffs' motion for class certification. Lawsuits are slow, and complex civil rights lawsuits like this one are slower, so it will not be surprising if we have to litigate this case for several years. We are prepared to fight for as long as it takes, because what happened at SBCC was a barbaric violation of basic human rights that must not happen again.

PLS CONTINUES LITIGATION IN *FOSTER V. MICI*

PLS continues to litigate *Foster v. Mici*, the class-action lawsuit filed in April 2020 challenging the DOC's failure to protect incarcerated people from COVID-19. At that time, the first wave of the coronavirus was surging through prisons and jails, infecting more and more people while DOC failed to take the most basic measures—such as providing masks and hand-sanitizer—to reduce the spread. The primary action the DOC took was a harsh system-wide lockdown that confined people to their cells more than 23 hours a day. DOC's lockdown sent many into mental health crisis and caused misery for everyone, but failed to stop widespread sickness.

Our complaint alleged that DOC's failure to take reasonable steps to protect incarcerated people from the risks of COVID-19 amounted to cruel and unusual punishment. We argued that because prisons by their nature involve large numbers of people living close together, social distancing is impossible in prison, and therefore DOC should be ordered to release people from its custody. We argued that releases were especially important to protect those whose age or medical conditions made them vulnerable to serious illness or death from COVID-19.

Unfortunately, the courts have not agreed with us. The Supreme Judicial Court has issued two decisions in the case—one in June 2020 and one in November 2021. Both times, the Justices rejected our claim that the DOC's failure to release people to allow for greater social distancing among those remaining in prison constituted "deliberate indifference" to prisoners' health and safety, in violation of the Eighth Amendment. Both times, the Court held that Commissioner Mici's efforts to control the virus without releasing people were reasonable, and therefore constitutionally adequate.

The SJC's November 2021 opinion resolved our appeal of the Superior Court's (Judge Ullmann's) denial of our second motion for a preliminary injunction - a motion filed in December 2020, during a high point of the pandemic that caused thousands of infections and at least 20 deaths among DOC prisoners. For that motion, PLS gathered 38 affidavits from incarcerated people describing horrific and inhumane conditions, including appalling failures to provide medical and mental health care and to prevent the spread of COVID-19. Many affidavits described the fear, uncertainty, and helplessness people felt, feelings made worse because the lockdown prevented communication with their loved ones on the outside. With our motion, we submitted an expert affidavit from an infectious disease doctor explaining that reducing the prison population to allow for social distancing was the only effective way to reduce the toll of illness and death.

Judge Ullman of the Superior Court denied that motion, finding that the DOC's efforts to manage the virus were adequate under the Eighth Amendment. We appealed, and the SJC affirmed Judge Ullman's opinion in November 2021. We disagree with these opinions. The courts' tolerance of so much illness and death among incarcerated people, and their refusal to condemn the DOC's clearly inadequate efforts to deal with such widespread suffering, are deeply troubling.

The case is not over. Neither the SJC nor Judge Ullman has ruled on our claim that the DOC's failure to consider releasing prisoners violates a provision in the DOC's annual budget. That provision requires the DOC to release people who can be safely released, and to use or consider using various measures to reduce the prison population, consistent with public safety, to address the COVID-19 threat. DOC has not released a single person in response to this law, defying its letter and spirit. We recently filed a motion for summary judgment on this claim, asking the Court to find that the DOC has not complied with the law. The DOC also moved for summary judgment on this claim, as well as on our constitutional claim under the Eighth Amendment. Summary judgment is a procedure in which the court determines whether a trial is necessary because there are factual disputes about essential aspects of a party's claim or defense. The parties filed their motions in late March, and we expect the Superior Court to hold oral argument in the next month or two.

Despite the losses in court so far, the case has had some positive effects. This case received a lot of attention from the media and the community, bringing to light some of the awful conditions inside DOC. DOC has also improved some of its COVID-19 practices. We believe these changes were at least in part in response to pressure from the lawsuit. As stated, the case is not over, and we will continue to argue that the law requires the DOC to do much more to protect the health and safety of incarcerated people.

OTHER LITIGATION UPDATES

Battle v. Hodgson challenges the solitary confinement of people with mental disabilities in Bristol County custody and the mental health care provided to these people. After extensive settlement negotiations failed to produce results, the parties are now involved in discovery and moving towards summary judgment or trial later this year.

Doe v. Mici challenges the use of correctional facilities in the DOC and in the Hampden County Sheriff's Department to hold people civilly committed for SUD treatment and alcoholism. The case is in discovery and scheduled for summary judgment or trial later this year.

In *Lyons, et al. v. Mici* and *Todd, et al. v. Mici*, PLS contends that several specific provisions of the visitation regulations, 103 CMR 483, violate constitutional and Massachusetts law because they unreasonably limit visitation without any rational basis, and are arbitrary and capricious. The challenged provisions include the tiered caps limiting the number of visitors each prisoner can have on their visitor lists by security level, the limit on the number of times per year prisoners can update their visitor lists, and the restriction preventing an individual from being on more than one prisoner's visitor list. Discovery in the cases has been completed, and PLS anticipates the next step will be filing for summary judgment.

Briggs, et al. v. Department of Correction, et al. is a class action lawsuit filed to challenge discrimination against persons who are deaf and hard of hearing. We reached a settlement agreement on all issues in the case except the issue of provision of an adequate emergency notification system. The DOC has hired two ASL interpreters, guarantees hearing aids to all who need them, installed videophones and captioned telephones, and has provided significant other accommodations. The court recently denied DOC's motion for summary judgment on the adequacy of its emergency notification system, and we are now preparing for trial on that matter.

Minich v. Spencer, II is an action for damages brought by the three named plaintiffs in the class-action case that challenged the excessive and abusive use of seclusion and restraint at Bridgewater State Hospital, which used these techniques 100 times more frequently than any other psychiatric hospital in the country. The court approved a \$1.5 million settlement in January of 2021, and the Legislature appropriated the necessary funding in October. On January 9, 2022, we distributed the Settlement awards, ranging from \$3,000 to \$80,000 to class members who had filed claims.

PLS is co-counseling *Cheek v. Massachusetts Parole Board*, which was filed on November 30, 2021, on behalf of 10 individuals who have been successfully on parole for many years. Plaintiffs are asking the court to order the Board to conduct timely and meaningful reviews of petitions to terminate parole. In response to the suit, the Board has agreed to draft regulations governing termination proceedings and to conduct a public hearing where interested members of the public can testify. The court has stayed the litigation until that process is complete.

NEW ORGANIZATIONAL STRUCTURE AT PLS

PLS has adopted a new organizational structure to promote diversity, equity, and inclusion within the organization's leadership, and improve the effectiveness of the services that we provide. Diversity, equity and inclusion are extremely valuable assets to any organization and provide valuable insight and expertise to better understand the needs of our clients and devise solutions to effectively address them. The following is our new organizational structure along with the staff members who will be leading each position:

Directors

- **Lizz Matos** will continue as the Executive Director. She will oversee and guide the organization through coordination with Directors, supervisors, and all other staff members.
- **James (Jim) Pingeon** will continue as the Litigation Director. He will oversee and guide all impact litigation for the organization and oversee coordination with outside partners and firms. He will also supervise senior attorneys and directors on litigation.
- **Becky Schapiro** is the new Health Care and Disability Director. She will engage in and support health care related litigation, oversee health care advocates, and support and guide the Healthcare and Disability Committee Chair.
- **Lauren Petit** will be the Medical Parole Director. She will engage in and support medical parole litigation and will supervise and support the medical parole fellow and Medical Parole Committee Chair.
- **Kristyn Huey** is the new Brutality Project Director. She will engage and support brutality-related litigation, and support and guide the brutality project paralegal and Brutality Committee chair.
- **Bonnie Tenneriello** is the Solitary Confinement Director. She will engage in solitary confinement litigation and, supervise and support solitary committee chairs.
- **LaToya Whiteside** will continue as the Race Equity in Corrections Initiative (REICI) Director and Project RIZE Director. She will continue to engage in and support race equity work, including litigation. She will also supervise and support the REICI Paralegal, RIZE Project Coordinator, and REICI Committee Chair.
- **Jesse White** will continue as the Legislative Director. She will continue to guide all of the legislative work for PLS in coordination with the Executive Director and Project Directors.

- **Al Troisi** will continue as the Intake Advocacy Director. He will continue to oversee and guide all of the intake work for PLS, and support and guide the Intake Co-Chairs.
- **Valerie Linhardt** will continue as the Development Director. She will continue to oversee and guide the organization's development work and lead the work of Board-staff Development Committee.
- **Linda Ryzewski** will continue as the Office Manager.

Committee Chairs

- **Kate Piper** is the Medical Parole Committee Chair.
- **Matt Mahlan** is the Legislative Committee Chair.
- **Angel Mendez-Flores** is the Brutality Committee Chair.
- **Michael Horrell** is the Healthcare and Disability Committee Chair.
- **Terry Alves-Hunter** is the Race Equity in Corrections Initiative (REICI) Committee Chair.
- **Sarika Ram** and **LaToya Whiteside** are the Solitary Committee Co-Chairs
- **Matt Mahlan** and **Sarika Ram** are the Intake Committee Co-Chairs.
- **Kristyn Huey** and **LaToya Whiteside** are the DEI (Diversity Equity and Inclusion) Committee Co-Chairs.

Other Appointments

Kate Paper has been named Sr. Paralegal, and Michael Horrell, Lauren Petit, David Milton, Bonnie Tenneriello, and LaToya Whiteside have been named Sr. Attorneys. Edna Medina has also been named Sr. Administrative Assistant.

LEGISLATIVE UPDATES

In Massachusetts, Legislative sessions technically last for a year and a half. The end of the current session will be on July 31, 2022. This generally means that any bills which have not passed by July 31 will either need to be let go or need to be re-filed next session and advocacy will start anew. This session, PLS prioritized 16 bills, and supported many others. We worked together with our clients, community advocates, grassroots organizations, and coalitions to advocate for our bills. We believe strongly that even if a bill does not pass this session, the advocacy is worthwhile because we are in a constant process of educating policy makers and the public about prison conditions and what is necessary for change.

We did find, however, that with so many bills, our advocacy has been stretched thin. We are therefore planning to narrow our field for the next session and prioritize no more than 3-5 bills so that we can focus our efforts and be more effective.

We will be working with our clients to establish what PLS's goals should be, and then we will file bills that will work in conjunction with litigation and systemic advocacy efforts towards reaching those goals. If you have ideas regarding what PLS's goals should be in order to inform our policy priorities for the next session, please contact us by mail only:

Jesse White
Legislative and Policy Director
Prisoners' Legal Services
50 Federal St., 4th Floor
Boston MA 02110

The following is a comprehensive update on the bills that we have been prioritizing this session, what goals each bill is seeking to accomplish, and the status of the bills as of April 2022.

Bills Reported Favorably

Each of these bills were reported favorably from the committee, meaning that they are moving forward in the legislative process.

The Senate side of An Act establishing a jail and prison construction moratorium (S. 2030)(Sen. Comerford). This bill was spearheaded by our partners at Families for Justice as Healing and would establish a five-year moratorium on new prison and jail construction and expansion in the Commonwealth, while still allowing for repairs. The bill was reported out favorably from the Joint Committee on State Administration and Regulatory Oversight and is now being considered by the Ways and Means committee, which considers budget impacts of legislation.

An Act to promote rehabilitation including guaranteed health, treatment, and safety for incarcerated LGBTQI+ people (S. 1566/H. 2484)(Sen. Cyr, Rep. Lewis). This bill was spearheaded by our partners at Black and Pink Massachusetts and would ensure incarcerated LGBTQI+ people have the right to safer housing, health, and affirming programming. It was reported out favorably from the Joint Committee on Public Safety and Homeland Security and is now being considered by the Ways and Means Committee. Public Safety and Homeland Security and is now being heard by the Ways and Means Committee.

An Act establishing a commission to review substance use in correctional facilities (S. 1598, H. 2509)(Sen. Jehlen, Rep. O'Day). We know that our clients are constantly being punished for substance use disorder, when what people really need is treatment. However, there is very little information being collected or transparently reported about this issue. This bill will establish a committee that will collect, and review data about substance use in Massachusetts correctional institutions, jails, and houses of correction. It was reported out favorably from the Joint Committee on Public Safety and Homeland Security and is now being heard by the Ways and Means Committee.

An Act relative to education and programming for the incarcerated (S. 1564)(filed by Sen. Creem). This bill would establish a baseline entitlement to at least five hours a week of programming for all incarcerated people, minimum out of cell time for people in general population, and access for anyone who does not have a high school degree or equivalent to such education. It was reported out favorably from the Joint Committee on Public Safety and Homeland Security and is now being heard by the Ways and Means Committee.

Bills Pending in The Joint Committee on Public Safety and Homeland Security

Each of the below listed bills is being heard in the Joint Committee on Public Safety and Homeland Security. The committee has until May 18, 2022, to report the bills out. This means that by that time we should know if the bills will be moving forward in the legislative process, or if they will be over for this session. If you would like to contact the committee about any of these bills, please write to them at the addresses below:

House Committee on Public Safety and Homeland Security
24 Beacon St.
Room 167
Boston, MA 02133

Senate Committee on Public Safety and Homeland Security
24 Beacon St.
Room 213-B
Boston, MA 02133

An act to provide criminal justice protections to all prisoners in segregated confinement (S.1578/H. 2504) (filed by Sen. Eldridge and Rep. Miranda). In response to the Criminal Justice Reform Act of 2018, we have seen the DOC and the Sheriffs create numerous units that do not meet the technical definition of restrictive housing (more than 22 hours a day confined in a cell), but which are nonetheless restrictive and segregated from the general population.

We have also seen the Northside of Souza Baranowski Correctional Center, which is considered general population, endure conditions very similar to restrictive housing. Finally, we have seen the DOC promise to end restrictive housing “as currently defined” and close the Departmental Disciplinary Unit. This legislation is aimed to ensure that all segregation units are provided with due process and conditions protections, that general population units have baseline conditions protections and minimum out of cell time, and that the DDU is, in fact, closed. We are working on this bill alongside our partners in Massachusetts Against Solitary Confinement (MASC).

An Act to strengthen family and community connection with incarcerated people (S. 1550/H. 2440)(filed by Sen. Chang-Diaz, Rep. Decker). This bill was filed in response to the DOC’s extreme limitations on visitation, created in 2018. Its goal is to make visitation a process that is as free and fair as possible. It would eliminate caps on the number of visitors that people may have and permit prisoners to update their pre-authorized visitation list when they need to (cont...).

Contact Us About Transgender Issues

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.

It would guarantee opportunities for at least three in-person visits a week, ensure that no visitor is excluded solely because they have been incarcerated in the past, ensure that prisoners are allowed to have contact visitation wherever that is feasible, and that they are allowed to sit side by side and engage in reasonable physical contact with their visitors. The bill would allow loved ones to see their incarcerated friends and family members if they are transferred to a hospital and in critical condition or in imminent danger of death. It would also allow for video and other electronic communication but ensure that such communication must not replace in person visitation, and must be provided without cost.

An Act relative to inmate telephone calls (S. 1559)(filed by Sen. Creem). This bill is meant to support family and community connections by providing telephone calls for no cost to incarcerated people at all state prisons and county jails and houses of correction. The Senate side of the bill is in the Public Safety Committee, and the House side of the bill is in the Judiciary Committee, so it is listed below in the Judiciary Committee section as well. We are working on this bill alongside our partners in the No Cost Calls Coalition. The act has passed as part of the House budget but still needs to get through the Senate and be signed by the Governor's Office.

An Act to create uniform standards in use of force, increase transparency, and reduce harm (H. 2480/S. 1541)(filed Sen. Barrett, Reps Miranda and Keefe). Brutality is consistently identified by PLS clients as a priority area and something we need to work hard to address. It is also a difficult issue to legislate because we know that correctional staff are often able to get away with using excessive force regardless of what the law says they can and can't do. This bill is aimed to create uniform minimum standards for state prisons, county jails, and houses of correction and increase transparency in the use of force by increased access to records and data.

An Act to remove barriers to medical parole (S. 1599/H. 2448)(filed by Sen. Jehlen and Rep. Domb). The Criminal Justice Reform Act finally brought Massachusetts up to speed with the vast majority of other US states that provide compassionate release options for terminally ill and permanently incapacitated people. However, we have seen that the DOC has failed to appropriately implement the law, and many people who should be eligible for medical parole remain behind bars. This bill clarifies and closes loopholes in the law to ensure increased access to medical parole for those who are eligible.

An Act to promote equitable access to parole (S. 1560/H. 2503)(filed by Sen. Creem, Reps Vargas and Miranda). In Massachusetts, parole is a broken system that often acts to keep people incarcerated, rather than to encourage rehabilitation and freedom. This bill aims to reform the parole process by improving the efficiency and balance of the parole board to include people with backgrounds in social services, mental health care, substance use disorder, and those who have experienced incarceration and parole, account for the rights and needs of persons with disabilities who are currently discriminated against in the process, improve transparency, and reduce the length of time incarcerated people must wait between parole reviews. We are working on this bill alongside our partners in the Coalition for Effective Public Safety (CEPS).

An Act relative to media access and transparency in correctional facilities (S. 1638/H. 2513)(filed by Sen. Rausch, Reps. Dave Rogers and Decker). They say that sunshine is the best cleanser, and this could not be truer in the context of incarceration, where so much is hidden behind closed walls. Right now, media access to corrections facilities is inhibited by regulation, and incarcerated people are unable to communicate confidentially with the media. This bill would increase transparency in the correctional system by ensuring that media representatives have appropriate, reasonable, and confidential access to visitation, telephone calls, and other communication with incarcerated people.

Bills Pending in The Joint Committee on the Judiciary

The following bills are being heard by the Joint Committee on the Judiciary, which will report them out by June 30, 2022. At that time, we will know whether these bills are over for this session, or whether they will be able to move forward in the process. If you would like to contact the committee about any of these bills, please write to them at the addresses below:

Contact Information

Senate Committee on the Judiciary
24 Beacon St.
Room 511-C
Boston, MA 02133

House Committee on the Judiciary
24 Beacon St.
Room 136
Boston, MA 02133

An Act relative to telephone service for inmates in all correctional and other penal institutions in the Commonwealth (H. 1900)(filed by Rep. Tyler). The Senate counterpart to this bill is being heard in the Joint Committee on Public Safety and is listed above. This bill is meant to support family and community connections by providing telephone calls for no cost to incarcerated people at all state prisons and county jails and houses of correction. The Senate side of the bill is in the Public Safety Committee, listed above. We are working on this bill alongside our partners in the No Cost Calls Coalition.

An Act to reform parole supervision in the interest of justice (H. 1798)(filed by Rep. Miranda). Approximately 90% of people who are reincarcerated for a parole violation are reincarcerated for a technical violation, meaning they have not committed a new crime. This bill seeks to reduce reincarceration for technical violations of parole by imposing specific requirements the parole board must follow when issuing parole conditions and prohibiting the board from revoking parole and reincarcerating someone in the case of a non-criminal violation or where the violation stems from a relapse caused by substance use disorder. We are working on this bill alongside our partners in the Coalition for Effective Public Safety, the Charles Hamilton Houston Institute for Race and Justice, and the ACLU of Massachusetts.

An Act establishing a jail and prison construction moratorium (H. 1905)(filed by Rep. Tyler). This bill was spearheaded by Families for Justice as Healing and would establish a five-year moratorium on new prison and jail construction and expansion in the Commonwealth, while still allowing for prisons and jails to make necessary repairs. The Senate version of this bill was heard in a different committee, and was reported out favorably, meaning that it will be moving forward in the process.

Bills Pending in The Joint Committee on Mental Health, Substance Use, and Recovery

The below bills are being heard in the Joint Committee on Mental Health, Substance Use, and Recovery with a reporting deadline of May 31, 2022. This means that by that date we should know whether these bills will be moving forward in the process or whether they will be over for this session. If you would like to contact the committee about any of these bills, please write to them at the addresses below:

Senate Committee on Mental Health, Substance Use, and Recovery
24 Beacon St.
Room 312-E
Boston, MA 02133

House Committee on Mental Health, Substance Use, and Recovery
24 Beacon St.
Room 33
Boston, MA 02133

An Act to ensure the constitutional rights and human dignity of prisoners on mental health watch (S 1283/H 2089) (filed by Sen. Eldridge, Rep. Fluker Oakley). In November of 2021 the Department of Justice found what our clients have long known: mental health watch as it currently operates is cruel and unusual punishment. This bill aims to reform the mental health watch system, including creating baseline standards for mental health care, limits for use of mental health watch and improved conditions of confinement for persons placed on mental health watch. We are working on this bill alongside our partners in the coalition Massachusetts Against Solitary Confinement (MASC), and the Massachusetts Association for Mental Health (MAMH).

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.

An Act ensuring access to addiction services (S. 1285/H. 2066) (Sen. Friedman, Rep. Balsler): Thousands of people every year are incarcerated in Massachusetts prisons and jails solely for substance use disorder treatment. This bill would end the practice of incarcerating men who have not been convicted of any crime but who have been civilly committed for involuntary treatment for alcohol and substance use disorders under M.G.L. c. 123 § 35.

Bills Sent to Study

When a bill is “sent to study” that means it is dead for the session and will not move forward in the legislative process. The below bills were prioritized by PLS, but will not be passed this session.

An Act to reduce mass incarceration (H. 1797)(filed by Rep. Livingstone and Rep. Miranda). This bill would have ended life without parole, allowing all people serving life sentences the opportunity for a parole hearing after serving 25 years, and it would have applied retroactively so that it would impact currently incarcerated people. Right now approximately one out of every six people incarcerated in state prisons in Massachusetts is serving a life without parole sentence. This bill was sent to study by the Joint Committee on the Judiciary. We worked on this bill with our partners in the Campaign to End Life Without Parole (CELWOP).

An Act regarding decarceration and COVID-19 (H. 1868)(filed by Rep. Sabadosa). We know that our clients have suffered tremendously during COVID-19. People have gotten needlessly sick, have died, and have endured lengthy and cruel lock down conditions. This bill would have appropriately balanced public safety needs against the imminent public health threat of COVID-19 and taken important and necessary steps to release people from incarceration to stem the spread of the virus and improve conditions for those left behind. This bill was sent to study by the Joint Committee on the Judiciary.

The Senate side of An Act to reform parole supervision in the interest of justice (S.1600)(filed by Sen. Jehlen). The counterpart for this bill in the House is still being heard in the Judiciary committee, but the Senate side has been sent to study by the Joint Committee on Public Safety and Homeland Security. Please see below for more information.

Attention

Unitarian Universalist Mass Action gen volontè ki ta renmen vin zanmi w! Si w ta renmen yon zanmi korespondans, tanpri voye non w, nimewo idantifikasyon w, non prizon an w, ak nenpòt lòt bagay ou ta renmen pataje bay: UU Mass Action 40 Mechanic St., Suite 306 Marlborough, MA 01752 Ou ka ekri yon imèl tou a: mascpenpal@uumassaction.org. Anplis moun ki pale anglè, gen tou pen pal ki ka kominike an panyòl, pòtigè ak kreyòl.

LIKE TO READ?

Order Free Books from the Prison Book Program!

Send a letter with your name, Prison ID and Address, and favorite authors, books genres to:

Prison Book Program
1306 Hancock St.
Suite 100
Quincy, MA 02169

INFORMATION ABOUT THE STIMULUS FROM GREATER BOSTON LEGAL SERVICES TAX CLINIC

There have been three Economic Impact Payments (EIPs), which many people refer to as “stimulus payments.” If you have missed any payments, you will need to file a tax return to claim them. For the first two payments you will need to file a 2020 tax return and for the third payment you will need to file a 2021 tax return. Please do not file duplicate returns if you have already filed them as doing so will only delay and complicate your ability to receive the stimulus.

The first two payments were for \$1200 and \$600. If people did not receive these payments automatically, then they were required to file a 2020 tax return and claim the missing payments as the Recovery Rebate Credit on line 30 of the 1040 tax form. The third stimulus payment was \$1400 and went out in the Spring of 2021. Many incarcerated people received this payment without filing a tax return, but if you did not, you will need to file a 2021 tax return to claim the missing payment.

Many incarcerated individuals have filed paper returns which fell into a deep IRS backlog. Understandably frustrated that they were not receiving the funds, many people filed multiple returns, which ended up increasing processing wait times and likely triggered Identity Verification requests from the IRS. There is a procedure for prisons to verify an incarcerated person’s identity directly with the IRS if they receive an IRS notice requesting identity verification. GBLS has confirmed with some of the prisons directly that they are aware of this, and they have been regularly emailing these verifications to the IRS on behalf of the incarcerated people who get the notices.

There are some reasons that an incarcerated person may not receive their payment even if they filed the return, got it processed and had no identity issues. For example, if someone has debts such as child support or past taxes, the payments can be taken to offset the debt and there is little the incarcerated person can do. If their name does not match their social security number, the IRS will not continue processing the return and it is an issue to be resolved with the Social Security Administration rather than the IRS. If the individual has been the victim of identity theft, the IRS issues individual PIN numbers yearly to be used each filing year and it is not possible to recover that number if lost and past the tax year; however, you can still file a paper return. If the person is a victim of identity theft and has not been issued such a number, they need to contact the IRS and request a number in order to file the return.

GBLS recommends that you do not file multiple returns as that will just delay processing. If you have not filed a return, you should file only for the appropriate tax year; for example, do NOT file a 2021 1040 if you are missing the first two payments (\$1800). For the first two payments you will need to file the 2020 tax return. For the third payment (\$1400) you will need to file the 2021 return. Sometimes, the IRS needs to be contacted with a Power of Attorney to figure out what is holding up the processing. Family members can do this for their loved ones. Please know that it is very difficult to get through to the IRS, especially during filing season, but not impossible. The telephone number is 800-829-1040 and can be called from 7AM to 7PM, but people should be prepared to keep redialing and being on hold for lengthy periods. **GBLS may be able to assist a limited number of individuals after April 19, 2022. You should contact them directly by writing to: Greater Boston Legal Services, Low Income Taxpayer Clinic, 197 Friend St., Boston, MA 02114. Please know that PLS is unable to assist with stimulus payments.**

Amigo Por Correspondência

A Unitarian Universalist Mass Action tem voluntários que gostariam de ser seus correspondentes! Se desejar um amigo por correspondência, envie seu nome, número de identificação, lugar de encarceramento e qualquer outra coisa que você gostaria de compartilhar para: UU Mass Action 40 Mechanic St., Suite 306 Marlborough, MA 01752 Você também pode enviar um e-mail: mascpenpal@uumassaction.org. Além daqueles falam inglês, há também amigos por correspondência que podem se comunicar em espanhol, português e crioulo.

Attention

Prisoners' Legal Services is looking into the Massachusetts Parole Board's failure to provide necessary accommodations to people with mental health issues or cognitive disabilities. If you have a mental or cognitive disability that has caused you difficulty accessing parole -- for example, difficulty preparing for or participating in your parole hearings, or trouble developing a parole plan -- we would be very interested in talking to you about it. Please write to or call Prisoners' Legal Services and ask to speak with staff attorney Michael Horrell.

Contribute to PLS Notes

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

Aaron Steinberg
50 Federal St. 4th Floor,
Boston MA 02110

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

FOUR THINGS YOU SHOULD KNOW IF YOU HAVE STUDENT LOAN DEBT WHILE INCARCERATED

Federal student loan borrowers struggling or unable to make payments while incarcerated should know about the four debt-relief options described below. More information about these programs is available at protectborrowers.org/hold. Borrowers and their families can also connect with the Student Borrower Protection Center for more information at 1025 Connecticut Ave NW, #717. Washington, DC 20036.

- **Federal Student Loan Debt “Write-Offs.”** The federal government will generally “write-off” the federal student loans of borrowers whose sentences are 10 years or longer, meaning they would no longer owe the loan. To do this, borrowers must submit certain information about their incarceration to the U.S. Department of Education (“the Department”) at U.S. Department of Education PO Box 5609 Greenville, TX 75403-5609 as soon as possible.
- **Temporarily Stop Collection of Federal Student Loans in Default.** Borrowers who are incarcerated and behind on their federal student loan payments may be able to stop collections activities—like threatening phone calls or letters—until they are released. Incarcerated borrowers in default should submit information to the Department’s Default Resolution Group at U.S. Department of Education Default Resolution Group P.O. Box 5609. Greenville, TX 75403-5609 as soon as possible.
- **A “Fresh Start” for Federal Student Loan Borrowers in Default.** Recently, the Department announced that borrowers who are behind on their federal student loan payments will be eligible to re-enter repayment on their student loans in good standing. This option would make borrowers eligible for federal financial aid such as the Second Chance Pell program for incarcerated students. Stay up-to-date on new information about this process at our website.
- **Income-Driven Repayment.** For borrowers who are not behind on their loans, they may be able to be in a repayment plan based upon their income. For borrowers with no or very little income, the payment amount can be \$0.

Know Any Non-English Speakers?

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 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.

REICI SURVEY

In 2021 the Racial Equity in Corrections Initiative (REICI), in collaboration with Black and Brown prisoners, generated a first of its kind survey with the goal of collecting data to eliminate institutional racism and its impact on Black and Brown prisoners in the day-to-day operations of Massachusetts' prisons and jails. The survey has been mailed to over 1,400 Black and Brown prisoners in MA DOC. Though the distribution process has been slow and fraught with obstacles, the REICI Team is excited to report that we have received over 460 completed surveys. Further, thanks to the help of Representative Nika Elugardo, Chairwoman of the Structural Racism in Corrections Commission, the REICI Team will soon begin in-person distribution of the survey to Black and Brown prisoners throughout DOC. The logistics of this operation are still being worked out with Commissioner Carol Mici, but we are aiming for dates in late May. Administering the surveys in this fashion should help to alleviate any concerns regarding legal mail and contraband.

If we have not yet received a completed survey from you, for any reason, your name will be added to the in-person distribution list. If you do not believe we have your name on our distribution list and you are interested in participating in the survey, please call PLS and ask to speak with a member of the REICI Team so that your name can be added. Additionally, if you have experienced any retaliation as a result of your attempt to participate with the REICI survey please reach out. The REICI Team, in collaboration with other legal organizations, is actively working to address this issue.

The REICI cash raffle will officially be held shortly after in-person survey distribution and collection efforts have concluded. All raffle winners will be contacted directly via Corrlinks. The facility of the winners will be shared with the group. However, the names of winners' will remain anonymous.

STRUCTURAL RACISM COMMISSION - Though the Structural Racism in Corrections Commission has come to a close, we are excited to share a highlight of the commission's efforts. First, in collaboration with Representative Nika Elugardo, REICI identified prisoners who were permitted to provide testimony during the commission hearings. As most of you know, this was a rare opportunity since, historically, prisoners have not been able to speak during these hearings. For those of you who are unaware, the Structural Racism Commission, along with the other race equity commissions in session this year, came about as the result of the hard work and expertise of one of your own! We won't disclose his name, but know you all can contribute and make a change.

PROJECT PROGRESS - The REICI Team is thrilled to announce some recent developments and next steps for our project. First, through a partnership established with a small team of professors and students at Boston University, aggregation of the data collected by the survey has officially begun. Aggregating the data will be a massive undertaking and will take some time. Data aggregation will continue through the summer with the goal of producing a complete report by the beginning of fall 2022. Copies of the report will be distributed to all participants as well as published by academic institutions and the media.

REICI's first official projects are underway. The first project aims to reform the Canteen by working to have more culturally appropriate items added to the menu and available for purchase. Additionally, REICI is piloting a new liaison project. This project seeks to promote further collaboration between prisoners and PLS. If you are interested in taking part in this pilot project and becoming a REICI Liaison, please mail us a copy of your resume. No phone calls please. Stay tuned for more information about both projects.

CORRLINKS - We would like to remind everyone that the purpose of the REICI Corrlinks account is to provide survey updates only. Please refrain from using the account for any other communications, especially those communications which contain substantive information, since there is no Attorney-Client Privilege. If you are in need assistance (i.e. medical, facility wide issues, etc.) not specifically relating to the REICI survey, please contact PLS' general intake line on Mondays, 1 - 4 pm. Currently, REICI is not conducting individual advocacy unrelated to the survey. We plan to develop additional projects and strategies for advocacy once the survey results are aggregated. We will keep you posted as we get closer to that goal. We appreciate your understanding in this matter.

PROJECT RIZE - Project RIZE has begun individual advocacy efforts for Black and Brown prisoners with Substance Use Disorders (SUD) seeking access to Medication-Assisted Treatment (MAT). Thanks to the information we have gathered from clients already, Project RIZE has been able to identify a number of systemic issues and barriers which persist and bar Black and Brown prisoners from gaining access to the MAT services they require. Through individual advocacy efforts and in collaboration with organizations such as Harvard PLAP, we are working to address and dismantle these barriers.

All DOC facilities were projected to have MAT treatment available by January 31, 2022. This has not occurred. Currently, MAT and Medications of Opioid Use Disorder (MOUD) are reported to be available at the following facilities (for all levels of security): MCI Cedar Junction, Souza-Baranowski Correctional Center, MCI Shirley, MCI Framingham, and Northeastern Correctional Center. All other facilities, including MCI Norfolk, Old Colony Correctional Center, Pondville, North Central Correctional Institution, and MCI Concord, have yet to roll out MAT services. According to reports from the DOC, these facilities are in the process of obtaining appropriate licenses and certifications, awaiting inspections, and/or working to hire appropriate staff. The DOC has not identified any dates that they anticipate these programs will be operational.

Should we receive any further updates regarding the roll out of MAT and MOUD services at the above listed facilities, we will be sure to share this information with you. Additionally, as the Project evolves, we will be sure to update you.

If you are in need of services, please contact RIZE, attention Kelsea Goodrow or LaToya Whiteside. We are conducting interviews on a rolling basis and want to hear from you.

PROTECTING YOUR RIGHT TO SUE THROUGH EXHAUSTION

Submitting a grievance is the first step in protecting your right to sue over prison conditions. Both federal and state law require that prisoners “exhaust administrative remedies” before they can file a lawsuit in court. In other words, you must follow whatever administrative processes the prison has for addressing your problem before you can sue. In DOC, the institutional grievance process is governed by 103 CMR 491 and is outlined below. Please note that some problems such as classification, disciplinary, and requests for accommodations have their own administrative procedures, and they should be followed accordingly.

In DOC, there are two types of grievances, Medical, and Institutional. In deciding whether to file a medical or institutional grievance, first you need to determine who is at fault. For example, if you need a bottom bunk due to an injury, first figure out if Wellpath (the medical provider) fail to issue a bottom bunk medical order, or is there an active medical order that DOC is not honoring? If you are unsure about who is causing the problem, the best and safest option would be to grieve through both the institutional and the medical processes to cover your bases.

The following are the steps that you need to take to “exhaust administrative remedies” and protect your right to sue:

Getting Started: The Pre-informal Complaint. 103 CMR 491.09(4).

- You can complain verbally or in writing to a staff supervisor prior to filing an informal complaint, but it is not required.

Step One: File the Informal Complaint. 103 CMR 491.07(1)-(2).

- You must use the “Step 1 Informal Complaint Form” and fill it out completely.
- You must include in it a brief description of the incident.
- You must check off the relevant “area of concern” so that the complaint can be sent to the right staff supervisor.
- You must submit it by institutional mail or the grievance drop box.
- You have 5 working days to file your informal complaint, from the date the incident occurred or you became aware of it.

Step Two: File the Formal Grievance. 103 CMR 491.14(1)-(9).

- You must file a formal grievance, by completing the “Inmate Grievance Form.”
- You must include the date of your grievance, your institution, the incident’s date and location, the facts, and the “remedy” you seek.
- You must include only one incident per grievance form unless combining incidents is necessary to support your claim. 103 CMR 491.11(5).
- You must include a brief but complete statement of the relevant facts to support your grievance. 103 CMR 491.14(2).
- You must meet the deadline. You have 10 working days from the receipt of the step 1 informal complaint decision to file your grievance. You may make a written request to the Institutional Grievance Coordinator and the Superintendent for an extension of 10 days to file your grievance under 103 CMR 491.17. This may be allowed if it is determined that the reason for your request is “legitimate.” There is no guarantee of getting an extension and we stress the importance of meeting the initial 10-day deadline.

Step Three: Appeal. 103 CMR 491.16.

- You must file an appeal if you receive a negative decision on your grievance or if you have gotten no response.
- You must include the same issues and the same or a lesser remedy as your grievance.
- You must use “the designated appeal form” to file your appeal and submit it to the superintendent or designee.
- You must attach a copy of your original grievance to the appeal. (Cont...)

- You must meet the deadline. You have 10 working days from receipt of denial or response. You may write to request a 10-day extension as described above
- If you have not received a response to your grievance within 30 working days of filing the grievance, we recommend that you file an appeal, informing DOC that you take their silence as a denial.

Exception 1: Emergency Grievances 103 CMR 491.18(1)-(6)

- If your issue is urgent, such that a delay in resolution could cause a substantial risk of immediate harm to a person or destruction of property, a “Step 1 Informal Complaint Form” you are not required to file a step 1 Informal Complaint.
- Instead, file an emergency grievance right away.
- To do this, fill out a grievance form and clearly mark it “EMERGENCY.”
- You should receive a response within 3 days. 103 CMR 491.18(5).
- You have 10 days from the date you receive the response to your grievance to appeal. 103 CMR 491.18(6).
- You should receive a response to your appeal within 5 working days. 103 CMR 491.18(6).
- Ordinarily, a grievance about a past assault does not meet the criteria for an emergency grievance because it already happened.

Exception 2: Employee Misconduct 103 CMR 491.09.5(b) and 491.11(3); 103 DOC 522.05(B)

- If you are reporting employee misconduct, the regulations provide that you can report it as permitted under the DOC Internal Affairs Unit policy, 103 DOC 522. Under that policy there are three ways to report:
 - (1) You can immediately report it to a staff member verbally or in writing;
 - (2) You can fill out a grievance, skipping the Informal Complaint step; or
 - (3) You can call the employee misconduct hotline-. the number is (508) 422-3425.
- You may obtain assistance from an officer or other staff member if you cannot read or write. And you can use the language line if you cannot speak English.

The following are the steps that you need to take to “exhaust medical remedies” (Wellpath/CCS procedure) and protect your right to sue:

Step One: Staff Access (Happy Hour)

- You must bring your medical concerns to Staff Access and speak with HSA or the designee. You may be asked to return to the next Staff Access in order to give the HSA time to respond to the complaint. This step is required before filing a formal written grievance.

Step Two: Formal grievances to the Health Services Administrator (HSA) at your institution using the sick call box.

- You must file a medical grievance within 10 working days (weekdays, not including holidays) of the incident or situation you are complaining of, you “becoming aware of the incident or situation,” or you receiving a response to an informal complaint.
- Whenever a grievance is returned for “follow-up,” you will have an additional 3 business days from the date of receipt to resubmit the grievance with the additional information requested. If the grievance is not resubmitted, it will be interpreted that the grievance has been withdrawn.

Step Three: Appeals of Formal Grievances to Wellpath Grievance and Appeal Coordinator

- Appeals must be submitted within 10 business days from the grievance decision receipt, Wellpath has 30 business days to respond to your appeal. If additional time is needed in order to generate a more complete response, you should receive notification of such.
- Should the appeal be returned, the patient will have 3 business days from the date of the receipt to resubmit the appeal with the additional information requested. In order to appeal the decision of Wellpath (or the lack of a response), you must send your appeal directly to:

Wellpath
16 Chestnut Street
Suite 250
Foxborough, MA 02035
Attn: Grievance and Appeal Coordinator

The most important aspect of the grievance process to take into consideration is the timing of each step. It is also important to keep in mind that every grievance form (for all types of grievances) only allows you to submit one incident per form, and you must include a complete statement of the relevant facts that support your grievance.

Another key aspect of the grievance system is that you want to prove to the Court later that you did everything necessary to exhaust your administrative remedies. As such, we recommend that you make a copy for yourself of every informal complaint, grievance, and appeal that you submit, even if it is handwritten. Note the date and time that you submitted it, and how you submitted it.

If you are in DOC custody, we encourage you to reach out via Intake by calling 9004 every week on Mondays from 1-4 PM to request to be sent a full info sheet that is specific to DOC. Please note that all counties have their own grievance processes, and they should be followed accordingly.

PLS VISION, MISSION, SERVICES, AND CLIENT COMMUNICATION

We want to acknowledge that some clients have reached out about difficulties getting through to PLS and receiving the assistance they so desperately need. In response to these concerns, we have been meeting regularly to find ways to improve our communication system with clients. We are researching how we could use Corrlinks effectively given the confidentiality barriers, as well as how to collaborate more with clients, family members and liaisons, and ways to be more accessible with limited staffing, increased volume of calls, letters and intakes and increased litigation, particularly with two complex class-action lawsuits related to brutality at Souza Baranowski Correctional Center and COVID ongoing.

PLS recently engaged in a strategic planning process and identified the following mission: “Prisoners’ Legal Services of Massachusetts is an anti-racist organization whose mission is to challenge the carceral system through litigation, advocacy, client counseling, partnership with impacted individuals and communities, and outreach to policymakers and the public in order to promote the human rights of incarcerated persons and end harmful confinement.” We execute this mission with a focus on five main priority areas: staff assaults, medical and mental health care, conditions of confinement, solitary confinement, and racial equity in corrections.

Here is a description of the services we provide. First, advocacy: we open approximately 2000 intakes every year. This volume of intake means that we must prioritize our time in order to be as effective and consistent as possible in the services we provide, and we are often in the difficult situation of being unable to assist with issues, as harmful as they are and as much as we want to help. We offer individual direct advocacy and support on a variety of issues such as medical and mental health care, ADA compliance, treatment of LGBTQ+ individuals, staff brutality, solitary confinement, and medical parole, and we offer advice and self-help materials in many other areas. We are in the process of reviewing and enhancing all of our self-help materials and info sheets.

In addition to individual advocacy, we advocate on systemic concerns such as poor prison conditions. We have a liaison project wherein each staff person is assigned to two prisons or jails to keep in regular communication with clients and raise conditions concerns with administrators. We are also currently engaged in systemic advocacy related to the long-term nursing care unit at MCI-Norfolk and we are anticipating doing the same at MCI-Shirley. We are also in the process of receiving, analyzing, and organizing data from hundreds of surveys received from clients regarding experiences with race equity and discrimination. The results will help determine priority areas of advocacy in our Race Equity in Corrections Initiative.

The nature of advocacy is that it does not always work, and in general individual advocacy is less effective than systemic advocacy in effecting long-term change. Where advocacy has failed and systemic issues have been identified, much of our effort goes into two other areas of our work: impact litigation and legislative and policy work. Systemic impact litigation aims to make a broad change in the system, and is very labor intensive. These cases are usually class action or multi-plaintiff cases, though we also do individual litigation, usually related to brutality or for medical parole. We currently have 23 cases on our active docket.

Another way we try to address systemic issues is by working on legal reform through the legislature. In this session, we prioritized 16 bills, which are summarized on page nine. However, a new legislative session is starting in January of 2023. For the next session, we hope to narrow our field and prioritize no more than 3-5 bills. PLS played a major role in pushing for the Criminal Justice Reform Act provisions related to incarceration and we are also advocating to ensure the DOC and counties are properly implementing the law. We will adopt a campaign-oriented strategy, utilizing multiple tools including media work, collaboration with clients and community partners, litigation and policy work to maximize impact.

During PLS’ strategic planning process, we identified several important goals for the coming years. We will be working to build and sustain a healthy, inclusive, and effective organization. We will be prioritizing racial justice to reduce or eliminate racial inequities in corrections, we will be working to reduce harm in the system by ensuring respect for civil and human rights, and we will be working to reduce reliance on incarceration overall.

In short, our clients’ input and concerns matter to us deeply. We are proud of much of the work we have done and continue to do alongside many of you, but there is always room for improvement, and we want to be as effective as we possibly can be with the resources and limitations we have. Of course, we are always seeking funding to continue the work and expand resources to better address the many issues brought to our attention, but hearing your feedback is crucial to ensuring we are doing that. **We will soon be having a legal retreat where we will be discussing what our projects for the coming year will be, and in line with the strategic plan above. Please write to Marisol Carrillo, Prisoners’ Legal Services, 50 Federal St., 4th Floor, Boston MA, with any input you may have about what PLS should be prioritizing.**

PLS NOTES- SPRING 2022



**PRISONERS' LEGAL SERVICES
OF MASSACHUSETTS**

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