



PLS Notes

Winter 2023

Executive Director: Elizabeth Matos
Editor: 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
- PLS Intake Process
- CSU Investigation Continues
- COVID Ombudsman
- Inmate Funds
- REICI Updates
- Prisoners' Voting Rights
- Health Care Proxy
- Women's Clemency and Commutation Project
- Restrictive Housing info Gathering
- A Different Way Forward
- Litigation Updates
- Legislative Updates
- Trafficking Survivor Conviction Relief Initiative
- Student Loan Information
- We Are Joint Venture
- PLS Vision, Mission, Services, & Client Communication

PLS WELCOMES NEW STAFF MEMBERS

Mac Hudson (he/him) recently joined PLS as a Community Liaison and Paralegal for the organization's Racial Equity In Corrections Initiative (REICI). Mac served 33 years in the DOC, during which he was engaged in civil rights advocacy, teaching law classes to other prisoners, and hosting cultural and religious special events. Mac joined PLS' board in 2006, where he was one of six incarcerated people that served. In addition to working at PLS, Mac is pursuing a bachelor's degree at Emerson College and is slated to graduate this year.

Danielle Magaelhaes (she/her) joined PLS in August and is one of our full-time receptionists. Before joining PLS, Danielle was in the dental field for 10 years.

Saphire Ruiz (they/them) is a community organizer and new Brutality Project Paralegal at PLSMA. They just graduated from Hamilton College with a degree in Interdisciplinary Studies and focus on Women and Gender Studies. They've been deeply involved in and led a number of protests, movements, and organizations over the last four years, with a particular focus on the emotional work and labor of women and gender variant students of color. Some of their work over the last two years has focused on racial (in)justice in the aftermath of the George Floyd uprisings in 2020. They hope to become an educator and to continue working to serve their communities in the future.

PLS INTAKE PROCESS

Prisoners' Legal Services (PLS) assists incarcerated persons through litigation, direct client advocacy, and general legal advice. PLS assists clients with issues in several areas, but prioritizes issues related to medical and mental health care, staff brutality, conditions of confinement, and segregation. Below is a description of our intake process.

New Intakes

Phone: Our phone intake hours are Mondays from 1-4pm. You can reach PLS at any of the below phone numbers. Your loved ones and attorneys may also reach us on your behalf at our main line.* If our office is closed in observance of a holiday, phone intake hours will be held from 1-4pm the next day.

Main: 617-482-2773

State Prisoner Speed Dial: 9004 or 9005

County Prisoner Collect Calls: 617-482-4124

Please understand that due to high call volumes, we are often unable to answer every call that we receive. If you are unable to reach us during our phone intake hours, please consider writing to our office instead.

Mail: PLS accepts new intakes by mail at all times. Mail should be sent to:

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

In order to ensure that you receive a prompt response with minimal clarification required, please try to write clearly, thoroughly, and to the point. Mail intake letters should include the following, but please feel free to mail PLS a letter even if you do not have all the information:

1. Your identifying information: full name, ID number, location, etc.
2. A brief statement of the issue
3. Any relevant supporting details
4. A description of any attempts you have made to resolve the issue (e.g., sick slips, grievances, speaking with staff members, etc.)
5. A description of any responses or decisions you have received, either approving or denying your requests
6. Any copies of documents or records that may help PLS better understand the issue
7. What you hope PLS can do in order to assist you with the issue

Note: You must open a new intake, either during Monday phone hours or by mail, for each new, unrelated issue for which you seek assistance.

Established Intakes

Once you have initiated a new intake, you should expect a response from PLS. There are several possible responses you may receive. Your assigned advocate may request additional information, advise you to take additional steps to resolve the issue on your own, send informational resources, inform you that we are unable to assist you, etc. Please understand that these responses and our ability to assist with a given issue depend heavily on how time and resource intensive the issue is, the likelihood that efforts will be successful, your individual circumstances, etc.

Phone Hours for Established Intakes (see "New Intakes" for Phone Numbers)

Mon, 9-11am

Tue-Fri, 9-11am; 1-4pm

Sat-Sun N/A

Please note that each advocate has different time commitments and thus, varying availability to accept phone calls at any given time. We also understand that you as the client may be similarly limited in your ability to call during the above phone hours. For this reason, it is best to communicate early in the intake process how and when to best reach each other.

*Note: If your family member or attorney contacts PLS on your behalf, a new intake will be opened in your name. That being said, because you are our client, you must also contact PLS to indicate that you wish to receive assistance. You may contact PLS by phone during the above phone hours or by mail at:

PLS CLINICAL STABILIZATION UNITS (CSU) INVESTIGATION CONTINUES

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. (cont.)

Despite the acute medical demand required by its patients, the conditions and care provided in the CSU are grossly inadequate.

According to reports from patients in the CSU, there is a prolonged shortage of medical providers in the CSU and in MCI-Norfolk more broadly. Since November 2021, there has not been 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 certified nursing assistant (CNA) staffing, resulting in neglect and poor sanitation. Covid-19 has swept the unit multiple times since the start of the pandemic, and bacterial infections abound.

PLS is focused on filing medical parole petitions to secure the release of permanent CSU patients as it is the most efficient, ready-made solution within the parameters of the law to get these individuals the care that they need. We're also continuing to urge the legislature to hold the DOC accountable to the letter and spirit of the medical parole law and we will support legislation in the coming session to 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 whose medical needs fall short of requiring infirmary level care. Thus far, our investigation has been focused on the CSU at MCI-Norfolk due to a lack 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 staff (free state speed dial: 9004). We will keep these calls anonymous to protect you from retaliation.

COVID OMBUDSPERSON APPOINTED

COVID-19 has created dangerous and harmful conditions throughout the DOC. In response, the legislature created a mandate through the budget process 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 independent COVID ombudsperson office that is 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. (cont.)

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). Last year, PLS helped file 5 successful petitions.

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).

The 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.

The COVID Ombudsperson is Lauren M. Andersen, MM, RN, CEN, CCRN. 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/>.

Foster V. Mici

PLS has been litigating a class action lawsuit, *Foster v. Mici*, related to COVID-19 since the early days of the pandemic. An expert witness for this case analyzed the ombuds office’s actions 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 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. Learn more about the PLS litigation docket on pg. 10.

PLS’ New Medical Advocacy Initiatives

PLS recently joined the **Massachusetts Serious Illness Coalition** which aims to strengthen the communication, collaboration, and connection between the health care system and communities, and between patients and clinicians, to support what matters most to everyone seeking care, especially people living with serious illness. We are excited to work with the coalition to increase awareness of the health care needs of people who are incarcerated and living with serious illness.

PLS has also started collaborating with the **Medical Justice Alliance** to support the creation of a Massachusetts chapter. This would increase capacity to provide medical expert testimony to support our individual and systemic medical advocacy.

What would you like to learn more about?

PLS wants to hear from you about what you may want included in future Notes. Please write to us to let us know so that we can respond to your needs. Send letters to

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

STANDARD OPERATING PROCEDURE (SOP): INMATE FUNDS

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. 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.

Clients have challenged this policy 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.

Carrier V. Gallant

A group of five individuals incarcerated at Old Colony Correctional Center have filed a pro se civil Complaint against DOC officials, claiming that the defendants are withholding the ability to send funds to religious organizations and family, which is a violation of the fourth and first amendments of the United States Constitution. The plaintiffs are seeking class certification (when a group files a lawsuit over a similar issue), which the court will decide. The plaintiffs are also claiming that the actions of the defendants are violation of 42 U.S.C § 1983, specifically, a violation of 42 U.S.C. § §2000cc et. Seq. the Religious Land Use and Institutional Persons Act, a violation of 103 CMR 405.

The plaintiffs request a Declaratory Judgement stating that their rights have been violated, a Preliminary Injunction allowing prisoners to send money out to who they feel is appropriate, for any reason, Compensatory and Punitive Damages, and any other relief that the court deems just and adequate.

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 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.

Contact PLS about 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.

REICI UPDATES

REICI's mission is to build awareness, solutions, and leadership to combat institutional racism and the discriminatory treatment of Black and Brown people in day-to-day correctional operations through client and legislative advocacy; community building and education; internal efforts designed to increase staff understanding of racial equity work and an anti-racist policy; and litigation.

A New Team Member

REICI is proud to welcome Mac (M1) Hudson as the newest member of the REICI/PLS Team. Many of you know M1 and if you don't, ask about him! He spent more than 30 years behind the wall and fought tirelessly to improve the lives of a lot of you. He was recently released on parole so of course we had to put him on our team. As REICI's Community Liaison Paralegal, he is tasked with building and strengthening connections between our team and impacted community partners. He has made an excellent addition to our team thus far and we are excited to see the positive contributions he will make to the project moving forward.

REICI Survey Distribution

We sincerely appreciate everyone who participated in the REICI Survey process. To date we have over 400 completed surveys! We recognize that another 700+ Black & Brown prisoners have yet to have the opportunity to participate in this process. Our team was originally slated to carry out a DOC wide in-person distribution/collection of the surveys back in May, however COVID and other logistical obstacles prevented the effort from being a success. Although a small number of surveys were distributed in-person at Norfolk, Gardner, and Cedar Junction, we were not successful in arranging the in-person collection of those surveys or subsequent distribution/collection at remaining facilities.

As such, our team has resumed efforts to distribute/collect the remaining surveys. If you filled out a survey and still have it in your possession, please hang-on to it a little longer! We have designated volunteers through our Prisoner Empowerment Project (PEPs) at six DOC facilities - MCI Framingham, MCI Norfolk, MCI Concord, MCI Shirley, SBCC, and OCCC (See next section to learn more about PEPs). If you are located at any of those facilities, with the exception of SBCC, please turn in your survey to your facilities' PEP. If you do not know the name of your PEP, please contact our office to request that information.

If you are at Gardner, MTC, Shattuck or Cedar Junction and would prefer to mail in your survey, please contact our office before doing so. This is not the preferred method for submitting surveys as many that were previously mailed never made it back to our office. Please do not mail in your survey if you are not housed at one of the above-named facilities. Again, if you are at any other facility, we will arrange to have your survey picked up by a member of our team (PLS Staff or a PEP).

Also, if we did not receive your completed survey for any reason, or if you never received a survey and would like to participate, your survey will be delivered, and subsequently collected, by your PEP or by a member of the REICI team. Stay tuned via CorrLinks for more information regarding this. 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 PLAP, are working to address this issue.

REICI Projects

We are excited to announce the debut of a new REICI project - the Prisoner Empowerment Project (PEP). The project was developed in response to data collected from the REICI survey in which many of you expressed concerns about programs behind the wall. The project is currently in the pilot stage at six DOC facilities - MCI Framingham, MCI Norfolk, MCI Concord, MCI Shirley, SBCC, and OCCC. Participants in this project, known as PEP's, serve as volunteer prisoner liaisons and will be working primarily on REICI/BIPOC initiatives. Currently, PEPs are working to assist REICI with several projects including the Canteen Project and drafting the REICI Survey Report. If you would like to provide input/feedback regarding either initiative, please reach out to your facility's PEP.

CorrLinks

We would like to again remind everyone regarding the purpose of the REICI CorrLinks Account. This account is for purposes of sharing information regarding the REICI survey only. If you would like to contact REICI staff regarding other issues impacting Black and Brown prisoners at your facility, you may indicate only that you wish to schedule a zoom meeting with a member of the REICI team. Please refrain from using the account for any other communications, especially those communications which contain substantive information. As you are all aware, all communications via CorrLinks are being monitored by DOC personnel, therefore there is no Attorney-Client Privilege on that platform. The REICI CorrLinks account SHOULD NOT be used for intake purposes. (cont.)

We have over 1500 prisoners on this account and cannot respond to each email individually. If you are in need of individual advocacy or other assistance (i.e., medical, facility wide issues, brutality, etc.) please write to us or contact PLS' general intake line on Mondays, 1 - 4 pm. Currently, REICI is not conducting individual advocacy unrelated to the survey. We appreciate your understanding in this matter. Also, the name on the REICI Account will say Elizabeth Matos. Please note that those emails are not coming from Attorney Matos, but a member of the REICI team. Similarly, Attorney Matos (PLS Director) will not be reviewing any incoming messages in this inbox.

Project RIZE

Project RIZE is continuing to provide individual advocacy for Black and Brown prisoners with substance use and opioid use disorders (SUD/OD) seeking access to Medication-Assisted Treatment (MAT). If you are struggling with OUD and seeking to gain access to MAT or other therapeutic services, or are otherwise in need of SUD services, please contact RIZE, attention Kelsea Goodrow or LaToya Whiteside. We are conducting interviews on a rolling basis and want to hear from you!

Project RIZE

Prisoners' Legal Services

50 Federal St., 4th Floor

Boston MA 02110

PLS Notes en Español

PLS Notes está disponible en español. Pídale 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.

PRISONERS' VOTING RIGHTS

Voting is an important right and an opportunity for those who have been impacted by the criminal punishment system to ensure their voices are heard in the political process. In 2001, Massachusetts restricted the right to vote and disenfranchised some incarcerated people. **Despite that restriction, some prisoners are eligible to vote while they are incarcerated.**

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

- You are incarcerated awaiting trial on misdemeanor or felony charges but not currently serving a sentence for a felony conviction,
- You are incarcerated, serving a sentence for a non-felony offense,
- You are civilly committed but not serving a sentence for a felony conviction,
- You are not incarcerated, but on probation or parole from any type of conviction.

Under Massachusetts law, if you are (1) a U.S. citizen, (2) a resident of Massachusetts, and (3) 18 years or older on Election Day,

Under current Massachusetts law, you are **NOT** eligible to vote if you are incarcerated serving a sentence for a **felony** conviction on Election Day.

The Votes Act

Massachusetts passed a law in 2022 that included some requirements meant to support eligible incarcerated people in exercising the right to vote, including:

- Requiring correctional facilities to display and distribute voter education and election information materials,
- Requiring facilities to assist individuals who are incarcerated and may be eligible to vote in registering, applying for and returning mail-in ballots,
- Requiring facilities to provide voting information to people upon release; and
- Reporting to the Legislature on compliance and voting under this Act.

These requirements begin in January 2023, and PLS is monitoring compliance with the Act.

Health Care Proxy

People in prison or jail have the right to put a Health Care Proxy in place the same as someone not in prison does. Doing so helps to ensure that your medical decisions are made by someone you know and trust, and who knows your beliefs and values about medical care and treatment, when you are unable to make decisions for yourself. In order to complete a Health Care Proxy, you must be at least 18 years old, and you must be mentally competent when completing it.

You can also ask to complete a Health Care Proxy at any time and DOC or the county correctional facility that you're incarcerated in must help you to do that. You should make this request by submitting a sick slip.

When you complete a Health Care Proxy, make sure that staff gives you a copy of the completed document and sends a copy of it to the Health Care Agent you have chosen. This document is effective anywhere, not just inside DOC or county correctional facilities. If your Agent provides a copy to an outside hospital, their rights should be honored.

Women's Clemency and Commutation Project

The Women's Bar Foundation (WBF) is seeking women, including transgender women, incarcerated in MA prisons to represent in clemency and commutation petitions. They have volunteer attorneys available to work on these petitions and asked PLS for referrals. The basic criteria they've established for this representation are:

- You were convicted and are incarcerated at MCI Framingham or are a trans woman at another DOC prison,
- You lack an alternate remedy for release and do not have a medical parole petition pending,
- Your direct appeal has been completed,
- You have served a minimum of 10 years of your sentence, or if convicted of murder, you have served at least 15 years already.

If you meet these criteria and wish to obtain representation to pursue clemency or commutation, please contact us through our intake system to request a referral to the WBF. PLS can complete the referral form on your behalf and connect you directly with the WBF to determine if they can serve you.

Gathering Information on Restrictive Units:

PLS is aware that solitary confinement in DOC has been given a new name, Behavioral Adjustment Units, and we believe that the minimal adjustments made to this harsh confinement does not change their punitive nature. We're also aware that there are other, similar units that do not meet the technical definition of solitary confinement but are nonetheless restrictive and punitive, such as the ITU, SAU, and Northside at SBCC. While we have advocated on a systemic level to end solitary confinement and similar forms of imprisonment, we have found that individual advocacy is not effective. Thus, PLS plans to engage in a policy campaign, pursuing legislation in the upcoming session that would end solitary confinement by establishing universal conditions of confinement that include a meaningful and substantial baseline for out of cell time, programming, education, work, and potentially other conditions protections. We anticipate this is going to be a long and difficult fight requiring substantial time and effort to develop public education and create the political will to get it done.

You can support this effort, anonymously or by name, by sharing your story to shed light on conditions in these units, to both inform our campaign and (with your explicit permission) for us to share with the media, the public, legislators, and other decision makers in Massachusetts. If you are currently, or recently were, held in a BAU, SAU, ITU, or on SBCC's Northside and would like a copy of our systemic advocacy or to contribute information and insight into these units, please contact us through our intake system to let us know and ask for the "restrictive units survey."

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

A DIFFERENT WAY FORWARD: PLS' WOMEN'S PROJECT RELEASES NEW REPORT

In July 2022, PLS' Women's Incarceration Conditions and Reentry Project (the Women's Project) released a new report detailing the traumatic experiences of incarcerated women in Massachusetts and the urgent need to remedy the harm that women face in the carceral system. The report, *A Different Way Forward: Stories from Incarcerated Women in Massachusetts and Recommendations*, draws on interviews and surveys of incarcerated women throughout Massachusetts, providing a comprehensive picture of how violence, trauma, and discrimination are intrinsic to women's experiences of incarceration.

Most respondents in the report have experienced or witnessed sexual misconduct by staff. Some experienced physical violence by staff, and others have been threatened with physical violence by staff. Transgender women incarcerated in men's prisons reported sexual misconduct from both correctional staff and incarcerated men. The Massachusetts Department of Correction (DOC) reports that 70% of women in its custody have an open mental health case. The report highlights how this issue is exacerbated in custody.

The harm women face at the hands of correctional staff is illegal but continually occurs with impunity. Staff sexual misconduct is ubiquitous despite the 2003 Prison Rape Elimination Act (PREA), which was meant to address exactly these issues, and women regularly experience retaliation, in direct violation of DOC policy, for reporting staff misconduct. Transgender incarcerated women report being punished instead of protected by staff, including being subjected to unclothed searches conducted by male officers and being placed in solitary confinement after they experience sexual violence, all in contravention of law.

For this report, the Women's Project partnered with PLS's Racial Equity in Corrections Initiative to learn about the experiences of incarcerated Black, Indigenous, and people of color (BIPOC) who are women. Incarcerated BIPOC women reported experiencing discrimination in the assignment of jobs and worse medical and mental health care as compared with incarcerated white women. BIPOC women with English as a second language reported struggling to be heard, understood, and addressed due to inadequate translation services.

Black incarcerated women reported that the canteen does not carry hair, skin, and hygiene products appropriate for their skin, hair, and health.

Informed by these experiences shared by women in state prisons, the report proposes five recommendations to respond to the trauma women face in criminal legal and carceral systems:

- 1. Establish independent oversight:** The fact that incarcerated women face retaliation when they report sexual misconduct and other misconduct by officers is evidence that the prison system often operates with impunity and that DOC cannot effectively oversee itself and hold itself accountable. We must establish an independent oversight body that will increase accountability and transparency without increasing the footprint of our carceral system.
- 2. Decarcerate:** Release women from prisons and jails using parole, medical parole, clemency, ending pre-trial confinement, ending cash bail, and ending life without parole sentencing.
- 3. Facilitate women's reentry:** Women released from prisons and jails will need resources to smoothly reintegrate into their communities and avoid becoming reincarcerated, so funding reentry resources created by formerly incarcerated women is critical. It is also important to facilitate reentry on a human level, meaning that communities must come together in solidarity to support women reentering and facilitate healing.
- 4. Reduce reliance on incarceration:** Multiple legal mechanisms exist to divert women away from incarceration but are currently under-utilized. The Commonwealth could also adopt policies and change funding streams to reduce people's contact with police, and to discourage needless arrest and prosecution.
- 5. Fund communities and community responses to harm:** Underfunding communities is a root cause of harm and behaviors penalized through incarceration. However, responding with incarceration furthers that harm, rather than alleviating it. Instead, the Commonwealth should fund communities to prevent harm, and fund community responses to harm for when harm does happen.

To Request a copy of the report, please write to
Sarah Nawab, Prisoners' Legal Services, 50 Federal St., 4th Floor, Boston MA 02110.

LITIGATION UPDATES

Diggs v. Mici

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 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.

The injunctive relief PLS seeks would require DOC to change its policies and practices to avoid similar violence in the future.

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 filed this lawsuit as a class action with nine current and former prisoners at SBCC serving as the named plaintiffs. The classes sought are one for all people subjected to excessive force at SBCC between 1/10/20 and 2/6/20, and all people subjected to racial discrimination at SBCC during that same time period, and they cover both injunctive and monetary relief. The Court will decide whether to certify the classes, and exactly how the classes will be defined.

Next steps

The defendants filed their Answer to the Complaint, unsurprisingly denying most of our allegations. The case was reassigned from Judge Hillman in Worcester to Judge Alison Burroughs in Suffolk. Judge Burroughs issued a scheduling order for the case, setting the deadline for filing class certification motions in the spring of 2023. We have filed our first discovery requests. Initial settlement discussions have also begun.

JOHN DOES 1-10 V COMMISSIONER OF CORRECTION, ET AL.

Plaintiffs are incarcerated in two separate correctional facilities: (1) the Massachusetts Alcohol and Treatment Center or MASAC operated by the Department of Correction, and (2) the Stony Brook Stabilization Center operated by the Sheriff of Hampden County. Plaintiffs are civilly committed under Massachusetts General Laws Chapter 123, Section 35 (“Section 35”). They have not been convicted or charged with any crime but are imprisoned solely because they need inpatient treatment for an alcohol or substance use disorder.

The legal claims are: (1) Incarcerating civilly-committed men but not women constitute gender discrimination in violation of the 14th Amendment to the U.S. Constitution, the Massachusetts Declaration of Rights, and the Massachusetts Equal Rights Act. (2) Civil commitment to a correctional institution for treatment of a medical condition constitutes unlawful disability discrimination in violation of the Americans with Disabilities Act, the Rehabilitation Act, and the Massachusetts Declaration of Rights. (3) Civil commitment to a prison violates the substantive due process provisions of the Fourteenth Amendment to the United States Constitution and of the Massachusetts Declaration of Rights. Plaintiffs’ unnecessary incarceration in correctional facilities, rather than in an appropriate treatment facility, represents a substantial departure from accepted professional judgment, practice, and standards.

The suit seeks a declaratory judgment that Plaintiffs’ incarceration violates the constitutional and statutory provisions referred to above, and a permanent injunction prohibiting the civil commitments under Section 35 to a correctional facility. On July 2, 2019, the court allowed plaintiffs’ motion for class certification, and we are proceeding with discovery. We have also had settlement discussions with the Defendants based on changes DOC has made to MASAC after we filed suit, including turning all day-to-day operation over to the clinical provider and removing all correctional officers from inside the facility. Because Defendants are unwilling to remove the possibility of correctional confinement, settlement is unlikely.

Goodwin Proctor is co-counsel of the case with us. We have filed two amended Complaints describing the changes at MASAC and adding plaintiffs at Hampden County correctional facility. On December 29, 2021, the court issued a rather odd decision holding that Section 35 is not facially unconstitutional, but only because there would be no need for confinement in a correctional facility if DPH created enough treatment facility beds. Since our position is that only the portion of the statute that allows for incarceration is unconstitutional, we agree with that reasoning.

Defendants, however, asked the Court to report the case to the Supreme Judicial Court, but that motion was denied. Meanwhile, we are proceeding with discovery and expect a trial in 2023.

Converse v. Massachusetts Department of Correction, et al

This is a case filed in 2018, for damages and injunctive relief brought by a 52-year-old pre-trial detainee with severe mental illness and cognitive disabilities who suffered physical and emotional injury as a result of an assault by correctional officers at Souza Baranowski Correctional Center. Mr. Converse was on a Mental Health Watch when correctional officers sprayed chemical agent into his cell and physically attacked him, breaking his shoulder in several places.

In addition to claims that the use of excessive force violated Mr. Converse’s constitutional rights, the Complaint alleges violations of the Americans with Disabilities Act because DOC policies allow the use of force on prisoners who are not capable of complying with orders, fail to require mental health clinicians determine whether the use of force is contraindicated or whether alternative interventions might be effective, and do not allow for reasonable modification to DOC’s standard use of force procedures and techniques to take into account the unique vulnerabilities of prisoners with mental health and cognitive disabilities. Discovery is complete and the Defendants filed for summary judgment and Plaintiff opposed. The hearing was held on December 7th, 2022.

Briggs, et al. v. Department of Correction, et al.

This class action was filed in December 2015 on behalf of prisoners with hearing impairments who allege that the DOC discriminates against them in virtually all aspects of prison life. In 2018, plaintiffs reached a settlement agreement with the Medical Defendants, resulting in class members receiving access to ASL interpreters for medical appointments and hearing aids that had been previously denied. After extensive discovery, and further mediation, on November 6, 2019, we reached a settlement on all issues except emergency notifications. DOC has now installed videophones to allow deaf prisoners to make telephone calls to friends, family, and attorneys. It has also hired two ASL interpreters, guarantees hearing aids to all who need them, installed captioned telephones, and has provided significant other accommodations. We are now monitoring compliance with the agreement. There have been four site visits by the monitor so far.

Although DOC has remedied some problems, others persist and new issues have emerged, particularly with the Captioned telephones. We served Defendants with a letter detailing their non-compliance as a prerequisite before filing a motion asking the court to find the Defendants in substantial non-compliance with the Settlement Agreement. In addition, the settlement agreement left unresolved the issue of emergency notification systems, including the need for visual alarms. The court denied DOC's motion for summary judgment on the adequacy of its emergency notification system, we have completed supplementary discovery on that issue and are now preparing for trial on that matter.

Linsenmeir v Springfield Police Department

Along with the ACLU of Massachusetts and Northampton attorney Luke Ryan, PLS represents the family of Madelyn Linsenmeir, who died while in custody of the Hampden County Sheriff's Department on October 7, 2018. Ms. Linsenmeir was arrested in Springfield on September 29, then transferred to the Hampden County women's facility in Chicopee; she was rushed to the hospital on October 4 with what proved to be a fatal heart infection. PLS became involved when the sheriff's department initially refused to allow Ms. Linsenmeir's family to visit her as she lay dying in the hospital. After her death, Ms. Linsenmeir's family engaged PLS and co-counsel to investigate the circumstances leading to her death. We have obtained public records from the sheriff's department and from the Springfield Police Department, although the latter provided records only after we filed a public records lawsuit. That case remains open in Hampden County Superior Court pending resolution of our claim for attorney's fees under the recently amended public records law. We filed the Complaint alleging wrongful death and constitutional violations on March 5, 2020. The Defendants have filed a motion to dismiss, which was argued on August 3, 2020. On May 5, 2021, the court denied the Defendants' motion. Discovery and depositions are currently proceeding.

Battle, et al. v Sheriff, Bristol County (Segregation and Mental Health Care)

This class action is a challenge to solitary confinement practices at the Bristol County House of Correction and Jail. We are co-counsel with the Mental Health Legal Advisor's Committee. The Complaint was filed January 9, 2018, on behalf of all Bristol prisoners who have a mental illness. Plaintiffs challenge the failure to exclude prisoners with mental illness from segregation; the failure to take mental illness into account in the disciplinary process; and to provide adequate mental health care, particularly to prisoners in segregation

As a result, the suicide rate in Bristol County is alarmingly high, twice that of other Massachusetts county correctional facilities and three times the suicide rate for jails nationally. On September 28, 2018, the court denied the Sheriff's Motion to Dismiss, rejecting his argument that the solitary confinement provisions in the criminal justice reform legislation enacted in April make the case moot. On April 24, 2019, the court allowed Plaintiffs' motion for class certification, which was supported by detailed affidavits from prisoners and a declaration from our expert psychiatrist. The parties agreed to stay discovery because productive settlement discussions were ongoing, but the parties were unable to finalize a settlement and intensive discovery is underway.

OTHER LITIGATION UPDATES

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.

In Memory of Ray Champagne

It was with great sadness that we learned that PLS Board Member Ray Champagne passed away in late July. Ray spent 45 years in prison after a wrongful conviction. He was a PLS client and then became a client-board member in 1993. After his exoneration in 2020, he continued to serve on the PLS Board. Throughout his time with us, Ray made tremendous contributions to the organization. Ray was one of the founders of the Exoneree Network and served as the Network's Research & Planning Coordinator. His generosity and commitment to systemic change will be remembered by all who knew him.

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.

Happy 2023!

The staff at Prisoners' Legal Services wish you and your loved ones all the best for the New Year.



GREEN V. DOC EXPLAINED

On November 30, 2021, in *Green v. Massachusetts Department of Correction et. al*, the Court issued an emergency order, which “restrained [DOC] from imposing any punitive disciplinary, or other measures against incarcerated persons in the custody of DOC based solely on ‘positive’ NARK 20023 (NARK II Test) test results.” This case was filed by a group of defense attorneys and prisoners in a class-action lawsuit on the basis that the NARK II Test is wrong approximately 80% of the time. The plaintiffs Julian Green, Eugene Ivey, James P. McKenna, and Lisa Newman-Polk filed on behalf of themselves and others in their same situations. McKenna and Newman-Polk are two Massachusetts attorneys who have worked as public defenders in the Massachusetts Committee for Public Counsel Services and who have been accused of sending illegal drugs to incarcerated clients based on false positives from the Nark II Test.

According to the preliminary court injunction, The NARK II Test is a “highly inaccurate” and “unreliable” field drug test to detect the presence of illegal “synthetic cannabinoids” (K2) on incoming mail in correctional facilities. The DOC admitted using the NARK II Test and admitted it cannot vouch for how reliable the test is or how frequently it generates inaccurate results. On the Nark II Test product packaging, it states, “NARK only tests for the possible presence of certain chemical compounds... and such compounds can be found in, both legal and illegal products”. The test can react with chemicals that can be commonly found on paper.

False positives not only put prisoners at risk of being confined to solitary or restrictive housing units (“RHU”) but also limit their ability to communicate with their attorneys and families through mail. Additionally, many incarcerated people are refusing incoming mail or asking their legal counsel to not send any mail into DOC facilities due to fear of false positives. Lastly, false positives preclude prisoners from holding jobs and participating in education and other programming if they are confined to solitary or restrictive housing. The Court’s decision now prohibits DOC from placing someone in RHU while they wait for the further laboratory results.

At PLS, we have received many reports of violations by the DOC of the judge’s orders. Please contact us through intake if you want advocacy on this matter. However, we can only advocate on this matter if the ONLY evidence keeping the individual in restrictive housing is a positive NARK II Test.

If you would like more information about this process and your rights, please contact our office and request our “Restrictive Housing Hearing Chart.”

If you are aware of any use of the NARK II test after 12/1/2021 (including on real legal mail, fake legal mail, or on papers already in someone’s possession), even if no disciplinary ticket was issued, or if you are aware of anyone currently being punished in any way related to the Nark II test (for example, being placed in segregation, on Awaiting Action, moved from one prison to another, or from South to North side of SBCC), please contact our office.

LEGISLATIVE UPDATES

The most recent legislative session in Massachusetts ended on July 31st, 2022. During the 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 strongly believe that even if a bill did not pass this session, the advocacy was worthwhile because it educates policymakers and the public about issues impacting people who are incarcerated and their loved ones, as well as what is necessary for change. The following section will provide a more detailed outline of the outcomes of each of the bills PLS directly supported during the previous session.

Since then, PLS has been working with our clients and community partners to determine our policy platform for the upcoming 2023-2024 legislative session. We have narrowed in on seven priority bills: reforming medical parole, ending solitary confinement, addressing structural racism, ending the incarceration of people under Section 35, fulfilling the promise of no cost calls, ending life without parole, and parole system reform. We are continuing to collaborate with our clients as our platform is being created. If you have ideas regarding what PLS’s goals should be to inform our policy priorities for the next session, please contact by mail only:

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

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.

Bills Passed By the Legislature During the Previous Session

Mental Health Watch: Alongside Massachusetts Against Solitary Confinement (MASC) and Massachusetts Association for Mental Health (MAMH), we worked to pass H.4948/S.1283, to reform the Mental Health Watch system in Massachusetts. Although the full bill did not pass, we were able to get mental health watch reform included in a large omnibus mental health bill that did pass the legislature this session. This reform is now Mass. Gen. Law ch. 123 section 18(a 1/2). It allows incarcerated people who have been on mental health watch for 72 hours or longer to petition a Court for transfer to a hospital run by the Department of Mental Health or to Bridgewater State Hospital/ISOU at OCCC. Please know that PLS is currently working on creating an information sheet with more detail about people’s rights under the new law.

Decarceration: Senator Sonia Chang-Diaz led the fight to continue to include a COVID-19-related decarceration mandate in DOC’s Fiscal Year 2023 budget. Under the mandate, DOC must release, transition to home confinement, or furlough, anyone who can be safely released, transitioned to home confinement, or furloughed. We have an ongoing lawsuit, Foster, et al. v. Mici, et al., to try to get a court order that the DOC finally implement this law.

Elimination of Parole/Probation Fees In The 2023 Budget: The FY 2023 budget also eliminates probation and parole fees, which will help alleviate an unnecessary financial burden on formerly incarcerated people who are reentering society. These fees impact tens of thousands of people in Massachusetts annually, disproportionately people of color.

Voting Rights: S.474/H.836 was originally drafted by the African American Coalition Committee at MCI-Norfolk. Portions of this bill were passed by the legislature as part of a larger omnibus bill called the VOTES Act. The included provisions will ensure that all incarcerated people who are eligible to vote have meaningful access to the ballot box. Governor Baker has signed the VOTES Act into law and the jail-based voting provisions will come into effect in January 2023.

Bills that did not pass during the Previous legislative session

No Cost Calls: S.1559/H.1900 would have provided telephone calls to incarcerated people at no cost in all state prisons, county jails, and houses of correction. We worked tirelessly alongside the No Cost Calls Coalition to ensure that this bill passed in the legislature and landed on the Governor's desk for his signature. However, Governor Baker held the bill hostage by linking it with the passage of a "dangerousness" amendment that would expand pre-trial incarceration. As a result, the bill was unable to move forward.

Moratorium: S.2030/H.1905, spearheaded by our partners at Families for Justice as Healing, would have established a five-year moratorium (i.e., temporary pause) on the construction and expansion of new prison and jail facilities in the Commonwealth, while still allowing for necessary repairs. Although the moratorium's language was passed by the legislature as part of the governmental infrastructure bills, Governor Baker chose to veto it at the end of the session.

Solitary Confinement: S.1578/H.2504 would have extended Criminal Justice Reform Act protections to people incarcerated in all units that are segregated from the general population regardless of whether they are considered "restrictive housing" under current law. The protections included creating baseline programming, education, and out of cell time entitlements for general population units, establishing a 72-hour cap on placement in mental health watch, clarifying rights to out of cell time, prohibiting vulnerable populations from being placed in segregated confinement, enhancing due process protections for those who are segregated, and improving data reporting requirements and responsibilities of the restrictive housing oversight committee.

We worked on this bill alongside our partners in Massachusetts Against Solitary Confinement (MASC).

Life Without Parole: H.1797 would have ended life without parole by providing people serving life sentences with the opportunity to have a parole hearing after serving 25 years of their sentence. It would have applied retroactively so that it would have impacted currently incarcerated people. We worked on this bill with our partners in the Campaign to End Life Without Parole (CELWOP).

Medical Parole: S.1599/H.2448 would have clarified and closed loopholes in the law to ensure increased access to medical parole for those who are eligible. It clarified eligibility determinations, provided access to cognitively incapacitated people, ensured a clear path to placement when private placement cannot be found, improved the revocation process, and encouraged prompt court resolution of court challenges to denials.

Media Access: S.1638/H.2513 would have provided media representatives with rights similar to attorneys, ensuring that they could correspond confidentially with incarcerated people. It also established retaliation against an incarcerated individual for communication with a media representative as an offense punishable by disciplinary action.

Visitation: S.1550/H.2440 would have guaranteed the opportunity for at least three in-person visits a week, ensured that no visitor was excluded solely because they were incarcerated in the past, rolled back limitations that were placed on the number of unique individuals who were allowed to visit, permitted video and electronic communication, and allowed visitors to sit side by side and engage in reasonable physical contact. The bill would also have allowed loved ones to see their incarcerated friends and family members if they were transferred to a hospital and were in critical condition or imminent danger of death.

Use of Force: 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. H.2480/S.1541 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.

Parole Access: S.1560/H.2503 aimed 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 worked on this bill alongside our partners in the Coalition for Effective Public Safety (CEPS).

Parole Supervision: S.1600/H.1798 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. S.1600/H.1798 sought 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 worked 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.

LGBTQI+ Rights Act: S.1566/H.2484 was spearheaded by our partners at Black and Pink Massachusetts and would have ensured incarcerated LGBTQI+ people have the right to safer housing, health, and affirming programming.

Section 35: Thousands of people every year are incarcerated in Massachusetts prisons and jails solely for substance use disorder treatment. H.2066/S.1285 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 substance use disorders under M.G.L. c. 123 § 35.

Substance Use Review Commission: S.1598/H.2509 would have improved treatment by collecting more information and reviewing data about substance use in Massachusetts correctional institutions, jails, and houses of correction.

Education and Programming: S.1564 would have established a baseline entitlement to at least five hours a week of programming for all incarcerated people, minimum 8 hours out of cell time for people not in restrictive housing, and access for anyone who does not have a high school degree or equivalent to such education.

PLS' Legislative Priorities for the 2023-2024 Legislative Session

PLS has been working towards solidifying a policy platform for the next session. There are many needs, and we have been trying to narrow our field so that we can effectively use our limited resources. In May, PLS held a staff retreat to help us determine our organizational priorities. This retreat was guided by our clients' voices, our performance in this past session, our staff's capacity, and our resources. Following the retreat, we sent out two mailings seeking feedback from clients who have expressed interest in policy issues to help guide our policy goals.

Our draft policy platform for next legislative session is outlined below. If you have thoughts or feedback or would like to be added to the PLS policy mailing list, please send information by mail only to Jesse White, Policy Director, Prisoners' Legal Services, 50 Federal St., 4th Floor, Boston MA 02110.

Medical Parole: Massachusetts is ranked second highest in the nation for its number of elderly people who are incarcerated. More than 15% of Massachusetts prisoners are older than 55. According to DOC data, 270 people applied for medical parole in the fiscal year ending in June 2020. Of those, 26 were granted medical parole, which is particularly disappointing due to the added danger of COVID-19. The data also shows a total of 56 people have been granted medical parole since the law passed in 2018. During the 2020-2021 legislative session, PLS supported an unsuccessful bill that would have clarified and closed loopholes in the law to ensure increased access to medical parole for those who are eligible. It also would have clarified eligibility determinations, provided access to cognitively incapacitated people, ensured a clear path to placement when private placement cannot be found, improved the revocation process, and encouraged prompt court resolution of court challenges to denials. We will support a modified version of this bill during the coming session.

Solitary confinement: Since the passage of the Criminal Justice Reform Act in 2018, the Department of Correction has created new housing designations to skirt laws restricting and regulating the use of solitary confinement. During the 2020-2021 legislative session, PLS supported a bill that would have extended the Criminal Justice Reform Act protections to people incarcerated in all units that are segregated from the general population regardless of whether they are considered "restrictive housing" under current law. That bill did not pass. The DOC has continued to create new units (the BAUs the SAUs and the ITU in particular) which do not meet the technical definition of restrictive housing. We find this unacceptable and propose a new strategy for the upcoming session. (cont.)

We propose pursuing an omnibus bill (one large bill with several components) that we might consider titling something like “An act to improve conditions of confinement and promote successful re-entry.” The bill would establish minimum universal baseline entitlements that would apply to every incarcerated person no matter what unit they are in and no matter what their classification is. Entitlements would include substantial and meaningful out of cell time, and access to voluntary programming, education, and work. We anticipate that this will be an uphill battle and will require substantial time and energy to build the political will to pass.

Race-based data: During the present era of criminal justice reform, the experiences of BIPOC prisoners during their incarceration are surprisingly not a part of the conversation. One reason being there is very little data available to the public or otherwise that would highlight the BIPOC prisoners’ experience. Presently, correctional institutions are not mandated to collect substantive racial demographic data (information relating to the day-to-day operations of corrections i.e., disciplinary records, programming, mental health access and substance use treatment, etc.). The lack of data prevents advocates from naming and/or otherwise challenging discriminatory practices that would allow for meaningful reform. To help overcome these issues, PLS’ Racial Equity in Corrections Initiative (REICI) created a comprehensive survey which identified many of the different areas of prison life and how racism plays a role. During the forthcoming legislative session, PLS will support a bill guided by insights gained from this data collection. The bill will mandate the collection and public release of information regarding the routine operations of prisons reported by race. This might include race-based data on classification, mental health treatment, medical treatment, disciplinary proceedings, employment, canteen, overt racism, etc. Although we have yet to determine the exact language of the bill, the goal is to create a neutral, non-DOC affiliated entity that will be responsible for collecting and reporting the data. We are also considering some oversight functions, particularly around investigating, and resolving grievances filed by BIPOC prisoners. We want to be careful not to explicitly tie the grievance to overt acts of racism, as the oversight function would be to identify and challenge discriminatory treatment in all its many forms.

This will be a collaborative effort requiring input from REICI staff, prisoners, legislators, community organizations, and institutions alike. We will establish a prisoner review team at each facility and encourage those interested in participating to reach out to REICI staff.

Prison phone calls: Massachusetts families pay over \$14 million each year to connect with their loved ones who are serving time.

The organization Worth Rises projects that the state could provide free phone calls for every person in prison and jail for only \$3.4 million - once you deduct the inflated rates, fees, and taxes that families are now paying to prison telecommunication corporations. During the 2020-2021 legislative session, PLS supported a bill that would have provided telephone calls to incarcerated people at no cost in all state prisons, county jails, and houses of correction. We worked tirelessly alongside the No Cost Calls Coalition to ensure that this bill passed in the legislature and landed on the Governor’s desk for his signature. However, Governor Baker held the bill hostage by linking it with the passage of a “dangerousness” amendment that would expand pre-trial incarceration. (cont.)

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.

We are committed to fulfilling the promise of No Cost Calls next session if we cannot get it passed this session.

Increased transparency and accountability in carceral facilities: Carceral facilities in Massachusetts enjoy a degree of opacity that enables regular non-compliance with policy and misconduct by staff. During the 2020-2021 legislative session, we pursued a bill that would have created media access in corrections facilities similar to attorney access, allowing media to meet and communicate with incarcerated people confidentially. We also pursued a bill related to use of force that included provisions to increase transparency and access to use of force records. In the upcoming session we are proposing combining these two bills into one bill focused on transparency and accountability in the system.

Section 35: This past session we supported a bill that would have ended incarceration in prisons and jails under Section 35, a law that allows for civil commitment of people with substance use disorder. The bill got a lot of traction but did not pass. We are committed to fulfilling the promise of this bill in the next session in order to decrease the footprint of corrections and save lives.

Ending Life without Parole: PLS continues to support the work of the Campaign to End Life Without Parole (CELWOP) and will support the work of this coalition in the upcoming legislative session.

Parole Reform: PLS continues to support the work of the Coalition for Effective Public Safety, which is focused on reforming the parole system in Massachusetts. We will continue working towards parole board and parole system reform by supporting this coalition's work.

THE TRAFFICKING SURVIVOR CONVICTION RELIEF INITIATIVE (TSCRI) ACCEPTING NEW CLIENTS

Greater Boston Legal Services' TSCRI is accepting new clients interested in seeking sealing, expungement, or vacatur of offenses they received because of having been trafficked.

Often, as part of a trafficking scheme, a trafficker will coerce or force the person they're exploiting into engaging in criminal activity. These charges can vary widely in nature depending on how the trafficker chooses to exploit their victim. Some examples of crimes could include:

- Sex-work charges
- Drug possession or selling
- Weapons carrying or selling
- Shoplifting
- Trespassing
- And more

Of the 91% of trafficking survivors with records:

- 72.7% faced employment barriers
- 57.6% faced housing barriers
- 18.2% faced barriers getting loans
- 16.7% faced education barriers

What specific legal remedies are there for survivors?

In addition to general record sealing and expungement statutes, there are special statutes designed to help survivors clear their records of charges they received because of having been trafficked. These statutes vacate offenses, meaning they remove any guilty findings:

- M.G.L. 265 c. 59 covers offenses for
 - Prostitution or sex-work
 - Minor drug possession
- Mass. Crim. Pro. 30(b) and relevant case law cover any offenses where trafficking or abuse was not known at the time of prosecution.

How do I know if I'm a survivor?

Human trafficking is compelled work.

- Have you ever felt forced to work, where you received little to no pay, or had to give your pay to someone else?
 - For example: Working at a job? Through sex or sex acts?
- Have you ever accepted a job and then came to find out the job either didn't exist or was very different from what you were told it would be?
 - If yes, did you feel free to leave that job or were there circumstances that made you feel you had to continue working there?
- Has anyone ever taken your identification or travel documents from you and kept them where you couldn't access them to cause you to perform work or a service?

If you are interested in receiving help from The Trafficking Survivor Conviction Relief Initiative, email trafficking@gbls.org or send letter with your name and prison ID number to: Ashleigh Pelto, CORI Project, 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.

WHAT 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 debt relief options described below. More information about these programs is available at protectborrowers.org/incarceration. 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**. The Student Borrower Protection Center does not provide legal representation to individual borrowers, but we will attempt to connect you with resources and additional support.

A “Fresh Start” for Federal Student Loan Borrowers in Default.

Recently, the U.S. Department of Education (ED) announced that it will eliminate the negative effects of default and restore eligibility to receive federal student aid for certain borrowers who are in default on their federal student loans. This “Fresh Start” initiative will make incarcerated borrowers with federal student loans in default eligible for federal student aid, including Pell Grants for prison education programs (PEPs).

All other borrowers with previously defaulted student loans who do not seek enrollment in a PEP must begin repayment on their loans within one year of the end of the federal student loan payment pause, or risk experiencing the consequences of default once that one year period ends. Borrowers with no or very little income may be eligible for an income-driven repayment (IDR) plan, with a payment as low as \$0 per month. These borrowers should enroll in an income-driven repayment plan at <https://studentaid.gov/idr>, by visiting myeddebt.ed.gov, contacting their loan holder by phone or in writing, or calling the Default Resolution Group at 1-800-621-3115 as soon as possible.

Qualifying incarcerated borrowers in default who seek to enroll in qualified PEPs will be automatically eligible to apply for federal student aid to help them complete their course of study. These borrowers may apply for financial aid through the Free Application for Federal Student Aid (FAFSA), even before Fresh Start is fully implemented later this year.

Incarcerated borrowers with federal student loans in default who enroll in PEPs qualified to receive Pell Grant funds will have their loans automatically transferred out of default and into in-school deferment status for as long as they are enrolled. After incarcerated students complete or discontinue their PEPs, they must begin repayment on any prior federal student loans to stay out of default.

Borrowers with defaulted loans in the following programs are eligible for Fresh Start:

→ Defaulted William D. Ford Federal Direct Loan (Direct Loan) Program loans

→ Defaulted Federal Family Education Loan (FFEL) Program loans (both ED-held and commercial-held)

→ Defaulted ED-held Perkins Loan

● **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 information about their incarceration to ED at U.S. Department of Education PO Box 5609 Greenville, TX 75403-5609 as soon as possible. ED may also be reached at (903) 259-3877.

● **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 ED’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. The Department may also be reached at (903) 259-3877.

● **Income Driven Repayment.** Borrowers who are not behind on their loans may be able to be in a repayment plan based upon their income. Borrowers with no or very little income may be eligible for an income-driven repayment (IDR) plan, with a payment as low as \$0 per month. These borrowers should enroll in an income-driven repayment plan at <https://studentaid.gov/idr>, by visiting myeddebt.ed.gov, or contacting their loan holder by phone or in writing.

WE ARE JOINT VENTURE

We Are Joint Venture is a collaborative movement that focuses on sentence parity in the Massachusetts criminal law system. We are founded and led by a group of men at MCI Norfolk.

Joint venture is a theory that allows the commonwealth to convict people of murder when they never murdered anyone. Courts have been accepting as fact that a secondary co-accused had foresight that the principal attacker might carry out a killing as sufficient proof of guilt in assisting or encouraging them.

Charged with murder, we are serving life sentences for a murder that we did not commit. In all of our cases, the District Attorney was aware that we were innocent of the charges of murder brought against us, and yet we were still convicted and sentenced to life without parole for murder.

Through this project, the Harriet Tubman organization with the assistance of the Lifer's Group, Inc. and the Young Men's Committee, our sole focus is sentencing parity in the criminal law system. Our goals and priorities are as follows:

- Reduce the racial disparity in sentencing, resulting from joint venture theory
- Identify specific solutions that will move us closer towards our goals
- Educate people in the criminal law system, as well as the wider public, about the injustices that results from joint venture theory
- Develop a legislative campaign that will end the practice of joint venture
- Work with District Attorneys and build support to end the use of joint venture now
- Build a social movement that supports our legislative campaign and builds the power needed to end joint venture and its impact.

If you would like to get involved, please share your experience with:

Edmack.wearejv@gmail.com

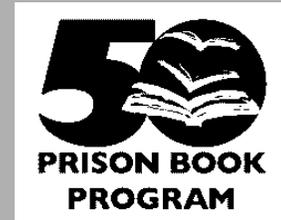
Like to Read?

Prison Book Program sends free books to people in prison. You can request books 3 times per year.

Write a letter with your committed name, ID#, mailing address and 3-4 categories of books you like to read (for example: mysteries, psychology, nature, sci-fi) to:

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

You can expect books within 60-90 days.



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.

Have you received your latest COVID-19 and flu vaccinations?

The DOC is required to offer a COVID-19 and influenza vaccine and booster to all people incarcerated in their facilities. The Center for Disease Control expects to see a dramatic uptick this winter in respiratory illness, especially regarding the flu.

Vaccines are the best-known way to prevent against serious illness and death, so we'd like to encourage you to get your jabs. Tens of millions of people have received their vaccinations with the most intense safety monitoring to date. We know side-effects from vaccination are minimal and pose much less risk than the diseases themselves. Both the COVID-19 and flu viruses will continue to mutate which is why it is important to stay up to date with your vaccinations.

If you are having difficulty receiving vaccines and boosters at your facility, please call PLS at the number listed at the front of this issue of PLS Notes during intake hours.

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 can have letters translated and to continue communication with prisoners through interpreters, would readers please encourage such prisoners contact PLS for assistance? Thank you.

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.

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. **Please write to Marisol Carillo, Prisoners' Legal Services, 50 Federal St., 4th Floor, Boston MA, with any input you may have about what PLS should be prioritizing.**

PLS NOTES - WINTER 2023



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