

FILED
SUPREME COURT
STATE OF WASHINGTON
3/25/2020 8:00 AM
BY SUSAN L. CARLSON
CLERK

No. _____

SUPREME COURT OF THE STATE OF WASHINGTON

SHYANNE COLVIN, SHANELL DUNCAN, TERRY KILL, LEONDIS
BERRY, and THEODORE ROOSEVELT RHONE,

Petitioners,

v.

JAY INSLEE, Governor of the State of Washington, and STEPHEN
SINCLAIR, Secretary of the Washington State Department of Corrections,

Respondents.

DECLARATION OF COUNSEL, NICHOLAS B. STRALEY

Nicholas Allen, WSBA #42990
Nicholas B. Straley, WSBA #25963
Janet S. Chung, WSBA #28535
COLUMBIA LEGAL SERVICES
101 Yesler Way, Suite 300
Seattle, WA 98104
Telephone: (206) 464-1122
Attorneys for Petitioners

I, Nicholas B. Straley, declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my knowledge:

1. I am one of the attorneys for the Petitioners in this action.
2. I am an attorney with Columbia Legal Services (CLS). My

Washington State Bar Number is 25963.

FACTS DEMONSTRATING COMPLIANCE WITH NOTIFICATION REQUIREMENT OF RAP 17.4(b)

3. In compliance with RAP 17.4(b), I notified Secretary Sinclair, Governor Inslee's Office, and their respective legal representatives on March 23, 2020 at 4:10 p.m. by electronic mail that Columbia Legal Services would be filing a motion for accelerated review of the Petition Seeking a Writ of Mandamus in the Washington State Supreme Court *See* Attachment 1.

FACTS DEMONSTRATING THAT ADEQUATE RELIEF CANNOT BE GIVEN IF THE MOTION AND MERITS ARE CONSIDERED IN THE NORMAL COURSE BECAUSE OF THE IMMINENT, SERIOUS AND UNPRECEDENTED THREAT OF COVID 19 TO PEOPLE INCARCERATED IN WASHINGTON'S PRISONS

4. When this motion is heard, CLS will have filed 14 declarations from Petitioners and other people currently living in DOC facilities or family members of such people, and five (5) declarations from

public health experts, correctional health care experts and other experts.

All of these declarations prove the level of danger to people living in DOC facilities and demonstrate that Secretary Sinclair and Governor Inslee must immediately begin releasing many people from DOC custody.

5. The declarations from Petitioners and people living in DOC facilities show that people live on top of each other, sleep in extremely close proximity to many other people, use the same bathrooms, including sinks, showers, and toilets. *See* Declaration of Shyanne Colvin at ¶¶ 9-17, 20; Declaration of Linda Graham at ¶¶ 12-14; Declaration of Francis Cota at ¶¶ 9-14, 18-19; Declaration of Daniel Maples at ¶¶ 4-17, 20; Declaration of Maurice Meadows at ¶¶ 9-16, 18; Declaration of Tim Pauley at ¶¶ 16-19, 23; Declaration of Terry Kill at ¶¶ 9-20; Declaration of ¶¶ Leondis Berry at 5-9, 17; Declaration of William Burkett at ¶¶ 8-12; Declaration of Brian Stark at ¶ 6. They have limited access to essential cleaning supplies and lack basic information. *See* Colvin Decl. at ¶¶ 18; Cota Decl. at ¶¶ 15-17; Maples Decl. at ¶¶ 18-19, 59-61, 66-69; Meadows Decl. at ¶¶ 17-21, 34-35; Pauley Decl. at ¶¶ 11, 20-22, 25-26; Kill Decl. at ¶¶ 19-20, 44; Berry Decl. at 7-9, 16, 18; Burkett Decl. at 8, 12, 14-17, 29; Stark Decl. at ¶ 7. Declarations also show that outbreaks are likely because of the close living conditions and because of the way in which food service and janitorial services are provided, even now months after the

need to begin COVID protections became apparent. *See* Colvin Decl. at ¶¶ 21-22; Cota Decl. at ¶¶ 11-15, ¶¶ 19-20; Maples Decl. at ¶¶ 42-58; Meadows Decl. at ¶¶ 39-48; Pauley Decl. at ¶ 14, ¶¶ 31-32; Kill Decl. at ¶¶ 12-14, ¶¶ 17-23, ¶¶ 25-44; Berry Decl. at ¶¶ 7-13, ¶¶ 16-19, ¶¶ 30-32; Burkett Decl. at ¶ 10, ¶¶ 12-16, ¶¶ 20-21, ¶ 29; Stark Decl. at ¶¶ 5-7.

6. The declarations from experts show that the risk is extreme and outbreaks are likely inevitable. Once COVID gets into prisons, it will spread quickly and likely create a health emergency that will overwhelm the ability of DOC medical systems to handle the pandemic. *See* Declaration of Dan Pacholke at ¶ 5; Declaration of Robert B. Greifinger, M.D. at ¶¶ 14-15; Declaration of Dr. Michael Puisis and Dr. Ronald Shansky at ¶¶ 9-13; Declaration of Frederick L. Altice, M.D. at ¶¶ 14-20; Declaration of Cassie Sauer at ¶¶ 13-16, ¶ 21.

7. People will then be sent out to the community hospitals in the generally rural communities in which Washington's prisons are located, thereby adding new people in need of intensive medical care and trained medical personnel to the already stretched rural community hospitals. *See* Sauer Decl. at ¶¶ 5-12, 21 (declaration from President and Chief Executive Officer of Washington State Hospital Association).

8. Colleagues at CLS and I have been working to address the dangers that COVID-19 represents to people incarcerated in Washington's jails and prisons for the last several weeks.

9. We have gathered and analyzed as much available public health research and other sources as possible regarding the dangers that COVID-19 poses to people living in Washington's prisons and the correctional and medical staff who work in them. *See* Declaration of Alex Bergstrom and Attachment thereto.

10. We have also gathered and analyzed other relevant information, reports, articles and directives regarding the need to reduce prison populations as an essential public health step in the fight against COVID-19. *Id.*

11. Importantly, CLS staff members have not found a single source from any public health expert stating that prisons should **not** reduce their prison populations. In fact, the World Health Organization has just issued guidance instructing jails and prisons to take steps to reduce their populations as an important step in heading off a COVID-19 epidemic in prisons. *Id.* at ¶¶ 10; 13-14.

12. We have provided these sources to the Court. *See id.*

13. The resources we have gathered and the expert testimony that has been presented are sufficient to show that Governor Inslee and

Secretary Sinclair must take action now, because any further delay in reducing the number of people in our prisons will likely lead to larger outbreaks and cause needless injury and deaths.

14. As detailed below, we have already provided Secretary Sinclair and Governor Inslee with much of this information and a number of the declarations. We and many others have implored the Governor and Secretary Sinclair to begin releasing people.

15. Unfortunately, to date, Secretary Sinclair and the Governor have refused to agree to the release of anyone from confinement as a part of the effort to fight the COVID-19 virus.

16. As the evidence presented in support of the Petition and brief in support demonstrates, this Court may have never confronted a circumstance in which extremely quick Court action is as necessary and justified as it is in these circumstances.

FACTS DEMONSTRATING THE COMMUNICATIONS WITH SECRETARY SINCLAIR AND THE GOVERNOR'S OFFICE ABOUT THE DANGERS OF COVID IN PRISONS AND THE URGENCY OF IMMEDIATE ACTION, AND THEIR REFUSAL TO BEGIN RELEASING ANYONE

17. Over the last week we and other interested parties have corresponded with the Governor's office and with Secretary Sinclair through various means about the need to begin releases of people from

DOC facilities and about the need to impose other measures to protect people living in DOC facilities from COVID-19.

18. Attached are true and correct copies of the letters and electronic communications and attachments that I have sent to or received from Secretary Sinclair regarding the COVID epidemic. *See* Attachments 1-16.

19. On Monday, March 16, I sent a letter to Secretary Sinclair as an attachment to an email. *See* Attachments 2 and 3. The Governor's Chief of Staff, David Postman, and the Governor's General Counsel, Kathryn Leathers, were copied on this electronic mail and attached letter, as was the Assistant Secretary for Prisons, Robert Herzog, among others. *See* Attachment 2.

20. This March 16 letter asked Secretary Sinclair to begin immediately using his existing authority to release people from DOC prisons who are at high risk from COVID-19 due to age or health conditions, and those who are within six months of their earned early release date. *See* Attachment 3.

21. On Monday, March 16, I sent a separate letter by electronic mail to Governor Inslee through Mr. Postman, his Chief of Staff, and Ms. Leathers, his General Counsel. The electronic cover sheet for this correspondence is Attachment 4 and the March 16 letter to Governor

Inslee is Attachment 5. I copied Secretary Sinclair and Assistant Secretary Herzog with this letter to the Governor, among others. *See* Attachment 4.

22. The March 16 letter to Governor Inslee asks that he immediately call an emergency meeting of the clemency and pardons board in order to begin broadscale clemency proceedings to address the urgent health COVID-19 health crises. *See* Attachment 5.

23. Both letters lay out the urgent nature of the need to begin reducing the number of people in our prisons, particularly people most at risk of serious injury from COVID-19. *See* Attachments 3 and 5.

24. Secretary Sinclair sent out an email on Tuesday, March 17, to a group of stakeholders acknowledging receipt of our letter and informing us that DOC would respond to us at some point. I was included on this email. *See* Attachment 6

25. That same day, I received another email sent just to me requesting that he and I speak by telephone. Attachment 7.

26. I responded by email, that I was happy to speak with him. In a subsequent email regarding the logistics of setting up the phone call, I stated that we needed to include other stakeholders in that conversation, and we had particular questions to which we needed answers. Of particular interest were any plans that DOC and the Governor's office had to release

people. Mr. Postman was copied on this electronic mail that I sent to Secretary Sinclair. *See* Attachment 8.

27. We received no further communication from Secretary Sinclair or anyone with the Governor's office regarding our March 16 letter until Friday, March 20.

28. Not having heard anything further from Secretary Sinclair or the Governor's office since the prior Tuesday, I sent Secretary Sinclair and copied Mr. Postman with an email on Friday, March 20. *See* Attachment 9.

29. In this email, I noted that we had received no further communication from Secretary Sinclair or the Governor's Office. I also noted that our understanding of the seriousness of the epidemic and its risks to people in our prisons was changing. *Id.*

30. Based upon our research and information we received from experts in public and correctional health, we came to realize that limiting releases to only the original categories of people who we had identified in our March 16 letter would not be sufficient to adequately address the serious and unique dangers facing people living in Washington's prisons.

31. I expressed in my March 20 email that Secretary Sinclair and Governor Inslee must begin immediately releasing people who are

over 50, people with underlying health concerns, and people who are within 18 months of their earned early release dates. *Id.*

32. I also stated in this email that Columbia Legal Services was preparing to file litigation on Monday, March 23 to protect people living in DOC facilities. I informed him that I was available to speak with him anytime over the weekend. *Id.*

33. I included a number of attachments with my March 20 email to Secretary Sinclair. These attachments included five (5) redacted declarations from people living in DOC facilities who attested to the serious risks that they and their fellow incarcerated people are facing right now, the limited information that incarcerated people are receiving, the serious health concerns that they have and other relevant information. *See Attachments 9 to 14.*

34. I also attached the then most current list of relevant news accounts, studies and other information that CLS staff members have been gathering. *See Attachment 15.*

35. In my March 20 email, I asked to speak with him as quickly as possible. I said that I was available anytime Saturday or Sunday. *See Attachment 9.*

36. I also indicated in my March 20 email, that CLS was preparing to file suit on Monday, March 23 unless the State began wide-

scale releases of people within the categories of people I identified in that email. *Id.*

37. Though my March 20 email I requested a meeting as soon as possible over the weekend. Although my email also stated that CLS was preparing to file litigation on Monday, the earliest time Secretary Sinclair offered to have a telephone conversation was not until 10:15 a.m. on Monday morning.

38. I again contacted Secretary Sinclair by email on Sunday, March 22, and I again reiterated the need for DOC to begin immediately releasing people from DOC facilities. I included links to recent news stories regarding outbreaks of COVID in a federal correctional center and in New York state prisons and jails in my March 22 email to him. *See* Attachment 16.

39. My CLS colleague, Nick Allen, and I joined the Monday conference call. In addition, representatives from Disability Rights Washington and the ACLU of Washington participated, as did Sonja Hallum, a Senior Policy Advisor to Governor Inslee. Secretary Sinclair and Assistant Secretary Herzog were also on the call, as were other DOC officials.

40. During the call, DOC officials and Ms. Hallum stated that they were compiling a list of particularly vulnerable people and that they

were considering releasing some people, but that they had not yet made a decision as to whether any releases would occur, who the people released might be, the timing of any releases or the conditions under which any releases might occur.

41. Secretary Sinclair stated that the “trigger” for any release would likely be when DOC experienced a critical staffing shortage or had an “outbreak” in one of the prisons.

42. When I asked what they were doing about asymptomatic staff members with COVID entering the prisons and spreading infection, DOC staff responded that they are following CDC guidelines and that there was nothing more they could do address the danger of an asymptomatic staff member working in the prisons.

43. We have received no further communication from the Governor’s Office or Secretary Sinclair since the conference call this morning.

44. Therefore, as the emergent nature of this crisis is evident and the lack of responsiveness demonstrated by the Governor and by Secretary Sinclair, Columbia Legal Services must seek expedited review on behalf of their clients in order to provide them with meaningful relief before it is too late.

DATED this 23rd day of March, 2020 at Seattle, Washington.

A handwritten signature in black ink, appearing to read 'NBS', is written above a horizontal line.

Nicholas B. Straley, WSBA #25963

TABLE OF ATTACHMENTS

<u>Attachment</u>	<u>Description</u>
1	March 23 email from Nick Straley to Governor Inslee, Secretary Sinclair and others
2	March 16 email cover sheet to Secretary Sinclair and others
3	March 16 letter from stakeholders to Secretary Sinclair
4	March 16 email cover sheet to Governor Inslee and others
5	March 16 letter from stakeholders to Governor Inslee
6	March 17 email from Secretary Sinclair to stakeholders
7	March 17 email from Secretary Sinclair to Nick Straley
8	March 17 email from Nick Straley to Secretary Sinclair
9	March 20 email from Nick Straley to Secretary Sinclair
10	Redacted declaration A
11	Redacted declaration B
12	Redacted declaration C
13	Redacted declaration D
14	Redacted declaration. E
15	List of COVID research and articles gathered and organized by Columbia Legal Services
16	March 22 email from Nick Straley to Secretary Sinclair

From: [Nick Straley](#)
To: [Sinclair, Stephen D. \(DOC\)](#); [Postman, David \(GOV\)](#); [Leathers, Kathryn \(GOV\)](#); [Lang, Tim N \(ATG\)](#)
Cc: [Merf Ehman](#); [Nick Allen](#); [Janet Chung](#); [Antonio Ginatta](#)
Subject: Notice of imminent filing of suit and request for expedited review before the Washington State Supreme Court.
Date: Monday, March 23, 2020 4:09:00 PM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Governor Inslee, Mr. Postman, Ms. Leathers, Secretary Sinclair and Mr. Lang:

I am emailing to inform you that Columbia Legal Services will be filing a petition for relief pursuant to Article IV, Section 4 of the Washington State Constitution, RCW 7.16.160, .170. and RAP 16.2 in the Washington State Supreme Court later today on behalf of a number of people currently incarcerated in prisons across Washington. This electronic mail also serves as notice to you that we will be seeking expedited review of this matter by the Supreme Court pursuant to RAP 17.4(b). We will provide you with the time and date of the hearing on this motion as soon as we confirm it with the Court.

We will be asking the Court to order the Governor and Secretary Sinclair to take immediate steps to reduce the population of people in Washington's prisons because of the extreme and unprecedented COVID 19 pandemic and take other immediate actions to reduce the dangers confronting people living in DOC facilities, the people working in those facilities and the communities in which DOC facilities are located.

You are aware of our concerns given the letters, emails and attached documents that we have provided to you and given the questions we and others posed during our conference call this morning. You have also received many other correspondence from many other stakeholders and concerned citizens asking for the release of people from DOC custody as an essential public health action necessary to protect the lives of people currently under your care.

In our letter of Friday, March 20, we stated that we would be filing suit today unless the State agreed to release people in the categories that we outlined in that email. Today, during the call we were told that the State has not yet agreed or decided to begin releasing anyone from DOC facilities in response to the COVID 19 pandemic, with the possible exception of some people incarcerated in facilities for violations of their community custody conditions. Accordingly, we are moving forward with litigation.

We will of course provide you with copies of all of the materials we file with the Court. We will be effecting proper service, but I will also send each of you copies of everything that we file by electronic mail as soon as they are available.

Mr. Lang and Ms. Leathers, please let me know if the Attorney General's Office will accept service on Secretary Sinclair's or the Governor's behalf or if you wish that I direct all further correspondence solely to you.

Sincerely,

Nick Straley

Nick Straley, Staff Attorney

Pronouns: he/him/his

Phone: (206) 287-8611

Email: Nick.Straley@Columbialegal.org

Address: Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104

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From: [Nick Straley](#)
To: [Sinclair, Stephen D. \(DOC\)](#)
Cc: [Merf Ehman](#); [Janet Chung](#); [Rachael Seevers](#); [Jamie Hawk](#); [Nick Allen](#); [Herzog, Robert L. \(DOC\)](#); [david.postman@gov.wa.gov](#); [kathryn.leathers@gov.wa.gov](#); [Antonio Ginatta](#)
Subject: Letter regarding DOC response to COVID 19 emergency
Date: Monday, March 16, 2020 1:54:00 PM
Attachments: [20 0316 letter to Sec Sinclair re COVID.pdf](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
Importance: High

Secretary Sinclair:

Attached is a letter from a coalition of community-based organizations, legal services providers and other concerned stakeholders that calls upon the Department of Corrections to immediately begin taking additional steps to address the COVID 19 public health crisis. This group would like an opportunity to speak directly with you regarding these requests as soon as possible. Please contact me at your earliest convenience to schedule a conference call.

Sincerely,

Nick Straley
Columbia Legal Services

Nick Straley, Staff Attorney

Pronouns: he/him/his

Phone: (206) 287-8611

Email: Nick.Straley@Columbialegal.org

Address: Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104

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March 16, 2020

Secretary Stephen Sinclair
Washington State Department of Corrections
PO BOX 41100, Mail Stop 41100
Olympia, WA 98504-1100

BY ELECTRONIC MAIL

Dear Secretary Sinclair:

We, a broad coalition of community-based organizations, legal services providers and concerned stakeholders, are calling on you to take immediate action to protect the health of people incarcerated by the Washington’s Department of Corrections (DOC). The coronavirus threatens the lives of more than 18,000 people under DOC’s care and control. Given the current health crisis, without decisive action, a prison sentence in Washington may quickly turn into a death sentence.

Accordingly, we are writing to ask that you take a number of steps to protect the people in Washington’s prisons and slow the spread of COVID-19 within this vulnerable population. These actions include the following:

- Release people most at risk of serious harm or death from COVID-19 from DOC custody;
- Release those who are less than 6 months from release to community supervision;
- Utilize community custody officers to provide assistance to people leaving facilities and refrain from placing anyone in any local jail as a result of an alleged community custody violation;
- Ensure that all people in custody receive the same level of care that people living outside prison walls receive, including appropriate COVID-19 testing;

- Provide all people in custody unfettered access to soap and water, hand sanitizers, and single use towels;
- Implement social distancing measures to the extent possible, without locking people in their cells for extended periods of time;
- Provide telephone and email access to incarcerated people free of cost in those facilities that have limited visitation;
- Disseminate accurate, timely, and thorough information about COVID-19 and its spread within DOC to people in custody and their families.

The Emergency Facing DOC, Its Staff, and the People in Its Custody.

The danger that COVID-19 poses to the people living under DOC's care cannot be overstated. Current projections of the spread of this virus indicate that as many as 50% of people living in the United States could become infected, with roughly 20% of that number requiring intensive hospital care.¹

Prisons and jails are particularly ill-suited to address the current pandemic. People live in close contact with one another, social distancing is difficult, hygiene services and essential medical equipment is in short supply, and medical treatment is not easily accessible. Once COVID-19 breaks out, it will likely spread quickly through our prisons.² Unfortunately, with Friday's announcement that a correctional officer at the Monroe Correctional Complex has tested positive for COVID-19, the danger is here and additional infections will occur, if they haven't already. The burden upon DOC and its resources will be extreme. Given the rate of infection in the community, and the close quarters of the prisons, it is not alarmist to believe that DOC could be facing many thousands of people infected with the virus with hundreds, if not thousands of them, requiring intensive medical interventions. DOC is simply not equipped for providing the level and quality of medical care that will be required in such an outbreak, and unless immediate and serious steps are taken to slow transmission within the prison, people will die needlessly.

DOC has recently suspended visitation and announced that it will not charge people in custody co-pays for COVID-19 related testing and treatment. These steps are essential but not sufficient. More action is needed. In order to rise to the coming crisis, advocates, community members, and families demand that you take the actions detailed below.

Immediately release the most vulnerable people under DOC's care.

As you know, COVID-19 poses the greatest risk of death to the elderly as well as to those who are immunocompromised, or those who suffer from diabetes, chronic obstructive pulmonary disorder and other lung conditions, high blood pressure, and

¹ See https://www.washingtonpost.com/health/coronavirus-forecasts-are-grim-its-going-to-get-worse/2020/03/11/2a177e0a-63b4-11ea-acc8-80c22bbee96f_story.html.

² See <https://www.newyorker.com/news/q-and-a/how-prisons-and-jails-can-respond-to-the-coronavirus>.

those with cancer.³ Many people currently living in DOC facilities fall into one or more of these vulnerable groups.

As of June 2018, roughly ten percent of the DOC population, or more than 1,900 people, were at least 56 years old. While people in this age group are at the greatest risk of death from COVID-19, they also pose the lowest public safety risk to our communities.⁴ This vulnerable population should be released immediately.

Not only will release remove this population from the extreme risk of infection they face in prison but reducing the overall population will provide more flexibility to DOC custody and medical staff in relation to housing placements and other exigencies that DOC will undoubtedly have to implement in the coming months.

These releases should be coordinated with local and state public health agencies and social service providers to ensure that medically fragile people leaving DOC's custody receive an appropriate continuum of care. Coordinated care will ensure that the most vulnerable members of our communities are protected and reduce the likelihood of unnecessary spread of the virus.

Importantly, DOC has the authority under existing policy to furlough these medically fragile individuals and to allow for emergency medical releases. See DOC policy 350.270; also, RCW 9.94A.728. DOC should immediately exercise that authority and begin releasing anyone at serious risk of harm from COVID-19 as a result of their age or health condition. To the extent that any existing policy may limit these powers or create obstacles to immediate action, DOC should amend its rules and policies on an emergency basis.

This crisis highlights the need for DOC and policymakers to take further action to permanently reduce the numbers of people living in custody. Mass incarceration has provided the breeding ground for the spread of infection and the lack of necessary resources to combat it in our jails and prisons and keep people safe. This crisis will affect everyone both inside and outside prison. However, people and their communities will always be much safer when they can receive appropriate health care within the existing community-based, health care system rather than rely on the prisons or jails.

Immediately release people who are within 6 months of their release date.

In order to further decrease the overall population and provide more flexibility and resources to meet the coming crisis, DOC should immediately release those people who are within 6 months of their estimated release date to community supervision. These people are overwhelmingly in the lowest level security classifications and removing this large category of people will alleviate stress on the institutions and allow

³ See <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html> ; <https://www.nytimes.com/2020/03/12/health/coronavirus-midlife-conditions.html?auth=login-email&login=email>

⁴ See Beckett, Katherine, About Time: How Life and Long Sentences Fuel Mass Incarceration in Washington, p. 48 (2020).

resources to be focused where most needed. It will also provide increased flexibility as the virus spreads and DOC faces inevitable staff shortages.

DOC already has the authority to take this action under its graduated reentry policy, and should take immediate steps to release people.⁵

DOC should also work with Governor Inslee's office, the Sentencing Guidelines Commission, and local prosecutors to explore other avenues for decreasing the overall prison population in the face of this public health emergency, including expedited clemency proceedings and discretionary resentencing.

Repurpose community custody officers away from issuing violations to people under supervision and toward providing assistance and supports to keep people safe.

The dangers facing people currently housed in DOC custody are significant. However, many local and county jails are even more unprepared to address the coming health crisis in their facilities. DOC must not add to the burdens of local jails by issuing community custody violations to people under supervision, thereby adding more people to these risky locations. Thus, DOC should immediately place a moratorium on violations and instead provide resources and support to people under its supervision in order to keep them, their families, and their communities safe. More appropriately, all people currently under community custody should be released from that status to allow community custody officers to focus on assisting people being released from DOC custody to stay safe and effectively reintegrate into their communities.

Provide COVID-19 testing and treatment in a manner that meets or exceeds community-based standards of care.

People living in DOC facilities must be provided at least the same level of care that people living outside prison receive. In order to ensure that people are seeking medical care when appropriate, DOC should immediately suspend all medical co-pays, not only those associated with COVID-19. DOC must issue clear standards that meet current best practices regarding testing for the virus and follow-up medical care; it must also train staff to implement these measures effectively. To the extent that DOC will continue to hold people facing serious medical crises in custody, it must be able to meet their needs. Specifically, there must be adequate medical services, supplies, and practitioners available. DOC must ensure that it has enough ventilators, intensive care beds, negative pressure rooms, quarantine areas, and practitioners who are skilled in treating the extremely sick people who may soon be requiring care. In line with recently

⁵ See RCW 9.94A.733

passed SB 6063, DOC should also establish clear criteria for transferring sick people to community hospitals when more intensive care is needed.

Provide all people living in its care unfettered access to soap and water, hand sanitizers, and single use towels.

While we understand that DOC is already taking steps to ensure that it protects its staff and people living under its care, we want to underscore how important these steps are to effectively address this crisis. To this end, DOC should immediately suspend any prohibition on the possession of alcohol-based hand sanitizer and provide all people living in DOC facilities with an adequate supply of essential hygiene products at no cost. It should also ensure that all people, including those in segregation, suicide watch, and infirmaries, have access to hot water and soap.

To the extent that DOC or specific facilities are having difficulty accessing sufficient supplies to meet these basic public health requirements, resources must be expended immediately.

Implement social distancing measures to the extent possible.

Releasing as many people as possible is the most likely strategy to mitigate risks to the most vulnerable people in custody. DOC should also implement social distancing, one of the most effective measures to prevent the spread of COVID-19. To that end, DOC should cease transfer of prisoners between institutions unless medically necessary. Additionally, DOC should immediately assess its programming, dining, yard, movement, and work schedules to assess what measures can be taken to limit large gatherings within its facilities. Additionally, pill lines and infirmary waiting rooms should have limited numbers of people, particularly given that these locations are more likely to have medically compromised individuals present. However, these efforts should not result in prolonged, widespread lockdowns. Any lockdowns or interruptions in regular activities, such as exercise or visits and phone calls with families or attorneys, should be based solely on the best science available and should be as limited as possible in scope and duration. Releasing many people will likely relieve much of the need for long term isolation or lockdowns.

Provide telephone and email access to incarcerated people free of cost in those facilities that have limited visitation.

In all circumstances, the exorbitant phone and email charges that people living in DOC facilities face is unconscionable. However, at this time of great social disruption and widespread fear, when DOC has stopped all in person visitation, denying people access to family and loved ones because they are unable to afford these charges is particularly inappropriate. DOC must accordingly take all necessary steps during this public health crisis to ensure that people can maintain contact with their spouses, children and other family members without being forced to pay for that right.

Ensure that people in custody and their families receive updated, comprehensive, timely and thorough information.

Many people living in DOC facilities lack basic information about how to protect themselves, or what to expect should they become infected. DOC must issue appropriate, thorough, regularly updated, and accessible instructions and directives to all people under its care, as well as their family members. DOC must take steps to ensure that this information is accessible to people for whom English is not their primary language, those who lack literacy skills, and people with cognitive or sensory disabilities who may require assistance in accessing this crucial information. DOC must also ensure that any information that is distributed via kiosk or JPay is made accessible to those who do not have access to that technology, including those in segregation.

Request for a Meeting

We understand that DOC, like all of us, is struggling to keep up with this rapidly changing situation, and we believe that the above steps are needed and we would like to meet with you, remotely, within the next few days to address these requests and share information. Please have your staff contact us [add specific contact info] to set up such a meeting as soon as possible.

Please have your staff contact Nick Straley, Columbia Legal Services, at nick.straley@columbialegal.org to arrange a telephone call.

Sincerely,

s/ Merf Ehman
Executive Director
Columbia Legal Services

s/ Suzanne Cook
Co-Chair
Statewide Family Council

s/ David Carlson
Director of Advocacy
Disability Rights Washington

s/ Prachi Dave
Staff Attorney
Public Defender Association

s/ Jorge L. Baron
Executive Director
Northwest Immigrant Rights Project

s/ Anne Lee
Executive Director
TeamChild

s/ Hillary Behrman
Director of Legal Services
Washington Defender Association

s/ Liz Moore
Director
Peace and Justice Action League of
Spokane

s/ Robert S. Chang
Executive Director
Fred T. Korematsu Center for Law and
Equality

s/ Carmen Pacheco-Jones
Chair
Racial Equity Committee of the Spokane
Regional Law and Justice Council

s/ Megan Pirie
Vice President
ALL OF US OR NONE Eastern
Washington Chapter

s/ Kurtis Robinson
President
Spokane NAACP #1137

s/ Tarra Simmons
Civil Survival Project

s/ Michele Storms
Executive Director
ACLU of Washington

From: [Nick Straley](#)
To: david.postman@gov.wa.gov; kathryn.leathers@gov.wa.gov
Cc: [Janet Chung](#); [Nick Allen](#); [Rachael Seevers](#); [Jamie Hawk](#); [Antonio Ginatta](#); [Merf Ehman](#); [Charlie McAteer](#); [Sinclair, Stephen D. \(DOC\)](#); [Herzog, Robert L. \(DOC\)](#)
Subject: Steps to be taken by State to protect people currently incarcerated in Washington's prisons and jails.
Date: Monday, March 16, 2020 1:57:00 PM
Attachments: [20 0316 ltr Gov Inslee re coronavirus and institutions.pdf](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[20 0316 letter to Sec Sinclair re COVID.pdf](#)

Governor Inslee:

Attached is a letter from a coalition of community-based organizations, legal services providers and other concerned stakeholders that calls upon you to take additional steps to protect the men and women currently incarcerated in Washington's prisons and jails during this unprecedented, public health crisis. I have also attached another letter that we have sent to DOC Secretary Sinclair regarding steps DOC must take immediately. Please have your staff contact me at nick.straley@columbialegal.org if you have any questions about these letters or would like to set up a conference call to discuss these requests.

Sincerely,

Nick Straley
Columbia Legal Services

Nick Straley, Staff Attorney

Pronouns: he/him/his

Phone: (206) 287-8611

Email: Nick.Straley@Columbialegal.org

Address: Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104

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March 16, 2020

The Honorable Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Delivered by electronic mail

Dear Governor Inslee:

Thank you for taking necessary steps to protect the public from the coronavirus pandemic. We, a broad coalition of community-based organizations, legal services providers and concerned stakeholders, urge you to take similar steps to protect people in custody in state correctional facilities, juvenile facilities and local jails.

The danger that COVID-19 poses to the people living in custody and the staff people responsible for their care cannot be overstated. Prisons and jails are particularly ill-suited to address the current pandemic. People live in close contact with one another, social distancing is difficult, hygiene services and essential medical equipment is in short supply, and medical treatment is not easily accessible. Once COVID-19 breaks out, it will likely spread quickly through our prisons and jails.¹

Unfortunately, with Friday’s announcement that a correctional officer at the Monroe Correctional Complex has tested positive for COVID-19, the danger is here and additional infections will occur, if they haven’t already.

The burden upon DOC and its resources will be extreme. Given the rate of infection in the community, and the close quarters of the prisons, it is not alarmist to believe that DOC could be facing many thousands of people infected with the virus with hundreds, if

¹ See <https://www.newyorker.com/news/q-and-a/how-prisons-and-jails-can-respond-to-the-coronavirus>.

not thousands, of people requiring intensive medical interventions. DOC is simply not equipped to provide the level and quality of medical care that will be required in such an outbreak. Unless immediate and serious steps are taken, people will die needlessly.

The most effective step to prevent spread in our prisons is to release the elderly and people within 6 months of release.

As you know, COVID-19 poses the greatest risk of death to the elderly as well as to those who are immunocompromised, or those who suffer from diabetes, chronic obstructive pulmonary disorder and other lung conditions, high blood pressure, and those with cancer.² Many people currently living in DOC facilities fall into one or more of these vulnerable groups.

As of June 2018, roughly ten percent of the DOC population, or more than 1,900 people, were at least 56 years old. While people in this age group are at the greatest risk of death from COVID-19, they also pose the lowest public safety risk to our communities.³ This vulnerable population should be released immediately.

In order to further decrease the overall population and provide more flexibility and resources to meet the coming crisis, DOC should also immediately release those people who are within 6 months of their estimated release date to community supervision. These people are overwhelmingly in the lowest level security classifications and removing this large category of people will alleviate stress on the institutions and allow resources to be focused where most needed. It will also provide increased flexibility as the virus spreads and DOC faces inevitable staff shortages. DOC already has the authority to take this action under its graduated reentry policy and should take immediate steps to release people.⁴

These releases should be coordinated with local and state public health agencies and social service providers to ensure that medically fragile people leaving DOC's custody receive an appropriate continuum of care. Coordinated care will ensure that the most vulnerable members of our communities are protected and reduce the likelihood of unnecessary spread of the virus.

Not only will releasing people reduce the extreme risk of infection they face in prison but reducing the overall population will provide more flexibility to DOC custody and medical staff to address special housing placements and other exigencies that DOC will undoubtedly have to implement in the coming months. Releasing people is also

² See <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html> ; <https://www.nytimes.com/2020/03/12/health/coronavirus-midlife-conditions.html?auth=login-email&login=email>

³ See Beckett, Katherine, About Time: How Life and Long Sentences Fuel Mass Incarceration in Washington, p. 48 (2020).

⁴ See RCW [9.94A.733](#)

important to relieve pressures upon DOC staff. Undoubtedly, as the virus spreads, many DOC staff members will be required to quarantine themselves and take care of family members. Staff shortages will occur. Reducing the number of people under DOC's care will protect everyone and ensure that appropriate safety and security are maintained.

This crisis highlights the need for policymakers to take further action to permanently reduce the numbers of people living in custody. Mass incarceration provides a breeding ground for the spread of infection, even under normal circumstances; in a pandemic such as this it creates a humanitarian and public health crisis. Moreover, the high cost of incarceration has drained money from other community supports, including health care, that keep our communities safe. This crisis will affect everyone, both inside and outside prison. However, people and their communities will be safer when they receive appropriate health care within the existing community-based, health care system, rather than in our prisons or jails.

Immediate steps you should take that are within your authority as Governor.

You have the authority to act quickly and decisively in the face of this imminent public health crisis inside Washington's prisons and jails.

Under RCW 9.94A.885, you may, upon recommendation from the clemency and pardons board, grant extraordinary releases for reasons of "serious health problems."

Moreover, under RCW 9.94A.870, you may call an emergency meeting of that board to recommend whether you should exercise your clemency power to meet an emergency related to prison capacity. The COVID-19 pandemic has created such an emergency. Addressing the coronavirus pandemic requires social distancing, isolation, and quarantine practices that are likely not possible in a correctional setting due to structural and staffing limitations; these immediate steps will help decrease the likelihood of widespread infection within our prisons.

Furthermore, pursuant to RCW 43.06.220 you have broad authority to take any other necessary actions during a state of emergency. You exercised this authority in ordering all schools across the state to close. You should exercise the same authority to protect people currently held in custody in Washington's prisons and jails.

Based upon this authority, we urge you to take the following steps:

- Direct Department of Corrections Secretary Sinclair to identify all people in confinement in DOC facilities who fall under the CDC definition of "higher risk" populations: older persons and persons with serious chronic medical conditions, like heart disease, lung disease, or diabetes;
- Direct Secretary Sinclair to provide that list to the Clemency and Pardons Board;

- Call the Clemency and Pardons Board into an emergency session to advise you as to whether to commute the sentences of people in confinement who are in those “higher risk” populations or have a short time remaining on their sentences;
- Direct the Clemency and Pardons Board to waive the 30-day hearing notice requirement under RCW 9.94A.885(3);
- Direct Secretary Sinclair to take all other actions laid out in our letter to him dated today, and work with him to ensure that those actions are taken swiftly.

For any releases you decide to undertake related to the coronavirus pandemic, we would urge a release plan that takes into account the medical needs of those persons who are released, including linkages to community-based health care as needed.

We would also urge you to take similar emergency steps for other people confined under state authority. For example, younger people in juvenile facilities with serious, chronic medical conditions or those who are nearing their release dates, should be released to the community immediately as well.

Finally, local and county jails are even less prepared than DOC to address the dangers facing their incarcerated populations. Therefore, we ask that you issue guidance to local and county officials directing them to significantly reduce their jail populations, both by limiting the number of people coming into these settings, as well as releasing as many people as possible back into the community. Again, decreasing the overall jail population will provide the flexibility that will be needed in these facilities to address the coming health crisis within their walls.

We are available to discuss this request at your convenience. Please have your staff contact Nick Straley, Columbia Legal Services, at nick.straley@columbialegal.org to arrange a telephone call.

Sincerely,

s/ Merf Ehman
Executive Director
Columbia Legal Services

s/ David Carlson
Director of Advocacy
Disability Rights Washington

s/ Jorge L. Baron
Executive Director
Northwest Immigrant Rights Project

s/ Hillary Behrman
Director of Legal Services
Washington Defender Association

s/ Robert S. Chang
Executive Director
Fred T. Korematsu Center for Law and
Equality

s/ Suzanne Cook
Co-Chair
Statewide Family Council

s/ Prachi Dave
Staff Attorney
Public Defender Association

s/ Anne Lee
Executive Director
TeamChild

s/ Liz Moore

Director
Peace and Justice Action League of
Spokane

s/ Carmen Pacheco-Jones

Chair
Racial Equity Committee of the Spokane
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s/ Megan Pirie

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ALL OF US OR NONE Eastern
Washington Chapter

s/ Kurtis Robinson

President
Spokane NAACP #1137

s/ Tarra Simmons

Civil Survival Project

s/ Michele Storms

Executive Director
ACLU of Washington

From: [Sinclair, Stephen D. \(DOC\)](#)
To: [Nick Straley](#)
Cc: [Merf Ehman](#); [Janet Chung](#); [Rachael Seevers](#); [Jamie Hawk](#); [Nick Allen](#); [Herzog, Robert L. \(DOC\)](#); [Postman, David \(GOV\)](#); [Leathers, Kathryn \(GOV\)](#); [Antonio Ginatta](#)
Subject: RE: Letter regarding DOC response to COVID 19 emergency
Date: Tuesday, March 17, 2020 1:01:17 PM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image002.png](#)
[image008.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)

Dear Mr. Straley:

Thank you for your email and your letter dated March 16, 2020. We are in the process of reviewing your concerns and will contact you to schedule a conference call once we have answers to your concerns. Thank you for your patience during this time.

Stephen Sinclair, Secretary

Pronouns: he/him/his

Washington State Department of Corrections
(360) 725-8810 | stephen.sinclair@doc.wa.gov



From: Nick Straley [mailto:Nick.Straley@ColumbiaLegal.org]
Sent: Monday, March 16, 2020 1:55 PM
To: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>
Cc: Merf Ehman <Merf.Ehman@ColumbiaLegal.org>; Janet Chung <janet.chung@columbialegal.org>; Rachael Seevers <Rachael@dr-wa.org>; Jamie Hawk <jhawk@aclu-wa.org>; Nick Allen <Nick.Allen@ColumbiaLegal.org>; Herzog, Robert L. (DOC) <rlherzog@DOC1.WA.GOV>; Postman, David (GOV) <David.Postman@gov.wa.gov>; Leathers, Kathryn (GOV) <kathryn.leathers@gov.wa.gov>; Antonio Ginatta <Antonio.Ginatta@columbialegal.org>
Subject: Letter regarding DOC response to COVID 19 emergency
Importance: High

Secretary Sinclair:

Attached is a letter from a coalition of community-based organizations, legal services providers and other concerned stakeholders that calls upon the Department of Corrections to immediately begin taking additional steps to address the COVID 19 public health crisis. This group would like an opportunity to speak directly with you regarding these requests as soon as possible. Please contact me at your earliest convenience to schedule a conference call.

Sincerely,

Nick Straley
Columbia Legal Services

Nick Straley, Staff Attorney

Pronouns: he/him/his

Phone: (206) 287-8611

Email: Nick.Straley@Columbialegal.org

Address: Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104

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From: [Sinclair, Stephen D. \(DOC\)](#)
To: [Nick Straley](#)
Subject: RE: Letter regarding DOC response to COVID 19 emergency
Date: Tuesday, March 17, 2020 1:18:49 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)

Do you have time for a call and if so what number?

Stephen Sinclair, Secretary

Pronouns: he/him/his

Washington State Department of Corrections

(360) 725-8810 | stephen.sinclair@doc.wa.gov



From: Nick Straley [mailto:Nick.Straley@ColumbiaLegal.org]
Sent: Tuesday, March 17, 2020 1:16 PM
To: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>
Cc: Merf Ehman <Merf.Ehman@ColumbiaLegal.org>; Janet Chung <janet.chung@columbialegal.org>; Rachael Seevers <Rachaels@dr-wa.org>; Jamie Hawk <jhawk@aclu-wa.org>; Nick Allen <Nick.Allen@ColumbiaLegal.org>; Herzog, Robert L. (DOC) <rlherzog@DOC1.WA.GOV>; Postman, David (GOV) <David.Postman@gov.wa.gov>; Leathers, Kathryn (GOV) <kathryn.leathers@gov.wa.gov>; Antonio Ginatta <Antonio.Ginatta@columbialegal.org>
Subject: RE: Letter regarding DOC response to COVID 19 emergency

Thank you Secretary Sinclair for your response during this very difficult time. We look forward to speaking with you as soon as possible.

Nick Straley

From: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>
Sent: Tuesday, March 17, 2020 1:01 PM
To: Nick Straley <Nick.Straley@ColumbiaLegal.org>
Cc: Merf Ehman <Merf.Ehman@ColumbiaLegal.org>; Janet Chung <janet.chung@columbialegal.org>; Rachael Seevers <Rachaels@dr-wa.org>; Jamie Hawk <jhawk@aclu-wa.org>; Nick Allen <Nick.Allen@ColumbiaLegal.org>; Herzog, Robert L. (DOC) <rlherzog@DOC1.WA.GOV>; Postman, David (GOV) <David.Postman@gov.wa.gov>; Leathers, Kathryn (GOV) <kathryn.leathers@gov.wa.gov>; Antonio Ginatta <Antonio.Ginatta@columbialegal.org>
Subject: RE: Letter regarding DOC response to COVID 19 emergency

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Stephen Sinclair, Secretary

Pronouns: he/him/his

Washington State Department of Corrections
(360) 725-8810 | stephen.sinclair@doc.wa.gov



From: Nick Straley [<mailto:Nick.Straley@ColumbiaLegal.org>]

Sent: Monday, March 16, 2020 1:55 PM

To: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>

Cc: Merf Ehman <Merf.Ehman@ColumbiaLegal.org>; Janet Chung <janet.chung@columbialegal.org>; Rachael SeEVERS <RachaelS@dr-wa.org>; Jamie Hawk <jhawk@aclu-wa.org>; Nick Allen <Nick.Allen@ColumbiaLegal.org>; Herzog, Robert L. (DOC) <rlherzog@DOC1.WA.GOV>; Postman, David (GOV) <David.Postman@gov.wa.gov>; Leathers, Kathryn (GOV) <kathryn.leathers@gov.wa.gov>; Antonio Ginatta <Antonio.Ginatta@columbialegal.org>

Subject: Letter regarding DOC response to COVID 19 emergency

Importance: High

Secretary Sinclair:

Attached is a letter from a coalition of community-based organizations, legal services providers and other concerned stakeholders that calls upon the Department of Corrections to immediately begin taking additional steps to address the COVID 19 public health crisis. This group would like an opportunity to speak directly with you regarding these requests as soon as possible. Please contact me at your earliest convenience to schedule a conference call.

Sincerely,

Nick Straley
Columbia Legal Services

Nick Straley, Staff Attorney

Pronouns: he/him/his

Phone: (206) 287-8611

Email: Nick.Straley@Columbialegal.org

Address: Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104

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From: [Nick Straley](#)
To: [Sinclair, Stephen D. \(DOC\)](#)
Cc: [Rachael Seevers](#); [Neil Fox](#); [Jamie Hawk](#); [Nick Allen](#); [Janet Chung](#); [Antonio Ginatta](#); [Postman, David \(GOV\)](#)
Subject: RE: Letter regarding DOC response to COVID 19 emergency
Date: Tuesday, March 17, 2020 4:54:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Steve:

As you know there's a big coalition of folks who are very concerned about the impact of COVID on folks inside. We also know that you and your staff share those concerns and are working diligently to address them. I am not the only person who needs to hear the information that you have. As you know, we really want to know when DOC will begin releasing people, who those people will be and the conditions under which they will be released. DOC clearly has the authority to do so and/or can ask Governor Inslee to grant you any additional authority you may need pursuant to his emergency powers. We'd also like to talk with you about the other items laid out in our letter. Will you be able to answer those questions for us when we talk? I'm attaching today's editorial in the Washington Post about the need to immediately begin reducing prison and jail populations. We need to know that DOC is going to begin taking this essential public health stance immediately.

<https://www.washingtonpost.com/opinions/2020/03/17/we-must-release-prisoners-lesser-spread-coronavirus/>.

Thanks,

Nick

From: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>
Sent: Tuesday, March 17, 2020 1:40 PM
To: Nick Straley <Nick.Straley@ColumbiaLegal.org>
Subject: RE: Letter regarding DOC response to COVID 19 emergency

Yes but it will just be me and I would hope it is not a call like the CBCC thing. Not trying to be snarky we just have a lot going on and I'd be happy to give you some info. Also, you should check our external website because we put a bunch more information on it. We are preparing a formal response to your letter but an informal discussion would appreciated. What number do you want me to call?

Stephen Sinclair, Secretary

Pronouns: he/him/his

Washington State Department of Corrections

(360) 725-8810 | stephen.sinclair@doc.wa.gov



From: Nick Straley [<mailto:Nick.Straley@ColumbiaLegal.org>]
Sent: Tuesday, March 17, 2020 1:28 PM
To: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>
Subject: RE: Letter regarding DOC response to COVID 19 emergency

Can we do it later today? I'm tied up with a bunch of things until after 4.

From: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>
Sent: Tuesday, March 17, 2020 1:18 PM
To: Nick Straley <Nick.Straley@ColumbiaLegal.org>
Subject: RE: Letter regarding DOC response to COVID 19 emergency

Do you have time for a call and if so what number?

Stephen Sinclair, Secretary

Pronouns: he/him/his

Washington State Department of Corrections
(360) 725-8810 | stephen.sinclair@doc.wa.gov



From: Nick Straley [<mailto:Nick.Straley@ColumbiaLegal.org>]
Sent: Tuesday, March 17, 2020 1:16 PM
To: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>
Cc: Merf Ehman <Merf.Ehman@ColumbiaLegal.org>; Janet Chung <janet.chung@columbialegal.org>; Rachael Seevers <Rachael@dr-wa.org>; Jamie Hawk <jhawk@aclu-wa.org>; Nick Allen <Nick.Allen@ColumbiaLegal.org>; Herzog, Robert L. (DOC) <rlherzog@DOC1.WA.GOV>; Postman, David (GOV) <David.Postman@gov.wa.gov>; Leathers, Kathryn (GOV) <kathryn.leathers@gov.wa.gov>; Antonio Ginatta <Antonio.Ginatta@columbialegal.org>
Subject: RE: Letter regarding DOC response to COVID 19 emergency

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Nick Straley

From: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>
Sent: Tuesday, March 17, 2020 1:01 PM
To: Nick Straley <Nick.Straley@ColumbiaLegal.org>
Cc: Merf Ehman <Merf.Ehman@ColumbiaLegal.org>; Janet Chung <janet.chung@columbialegal.org>; Rachael Seevers <Rachael@dr-wa.org>; Jamie Hawk

<jhawk@aclu-wa.org>; Nick Allen <Nick.Allen@ColumbiaLegal.org>; Herzog, Robert L. (DOC) <rlherzog@DOC1.WA.GOV>; Postman, David (GOV) <David.Postman@gov.wa.gov>; Leathers, Kathryn (GOV) <kathryn.leathers@gov.wa.gov>; Antonio Ginatta <Antonio.Ginatta@columbialegal.org>

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Stephen Sinclair, Secretary

Pronouns: he/him/his

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(360) 725-8810 | stephen.sinclair@doc.wa.gov



From: Nick Straley [<mailto:Nick.Straley@ColumbiaLegal.org>]

Sent: Monday, March 16, 2020 1:55 PM

To: Sinclair, Stephen D. (DOC) <sdsinclair@DOC1.WA.GOV>

Cc: Merf Ehman <Merf.Ehman@ColumbiaLegal.org>; Janet Chung <janet.chung@columbialegal.org>; Rachael Seevers <Rachael@dr-wa.org>; Jamie Hawk <jhawk@aclu-wa.org>; Nick Allen <Nick.Allen@ColumbiaLegal.org>; Herzog, Robert L. (DOC) <rlherzog@DOC1.WA.GOV>; Postman, David (GOV) <David.Postman@gov.wa.gov>; Leathers, Kathryn (GOV) <kathryn.leathers@gov.wa.gov>; Antonio Ginatta <Antonio.Ginatta@columbialegal.org>

Subject: Letter regarding DOC response to COVID 19 emergency

Importance: High

Secretary Sinclair:

Attached is a letter from a coalition of community-based organizations, legal services providers and other concerned stakeholders that calls upon the Department of Corrections to immediately begin taking additional steps to address the COVID 19 public health crisis. This group would like an opportunity to speak directly with you regarding these requests as soon as possible. Please contact me at your earliest convenience to schedule a conference call.

Sincerely,

Nick Straley
Columbia Legal Services

Nick Straley, Staff Attorney

Pronouns: he/him/his

Phone: (206) 287-8611

Email: Nick.Straley@Columbialegal.org

Address: Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104

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To: [Sinclair, Stephen D. \(DOC\)](#)
Cc: [Nick Allen](#); [Janet Chung](#); [Merf Ehman](#); [Antonio Ginatta](#); [Charlie McAteer](#); [Herzog, Robert L. \(DOC\)](#); [Postman, David \(GOV\)](#); [Leathers, Kathryn \(GOV\)](#)
Subject: Following up with you regarding need to immediately release people from custody and other recommendations in March 16 letter.
Date: Friday, March 20, 2020 8:41:00 PM
Attachments: [List of News and Publications re COVID-19.pdf](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[email from woman re husband in shelton_Redacted.pdf](#)
[20_0320_Decl A - redacted_Redacted.pdf](#)
[20_0320_Decl B - redacted_Redacted.pdf](#)
[20_0320_Decl C - redacted2.pdf](#)
[20_0320_Decl D - redacted_Redacted.pdf](#)
[20_0320_Decl E - redacted_Redacted.pdf](#)
Importance: High

Dear Secretary Sinclair,

I am writing to follow up on the community letter you received on March 16, 2020 and our emails from the next day and to provide you additional information. You told us that DOC would provide us with a response to the concerns and recommendations laid out in our March 16 letter. To date we have not received any such response from you or from the Governor.

In light of the expanding COVID-19 emergency, we continue to be extremely concerned for the safety and wellbeing of the people in DOC custody. As you know, the COVID-19 pandemic continues to emerge as a growing crisis throughout Washington State. Public health organizations, including the World Health Organization, Centers for Disease Control and Prevention, Washington State Department of Health, and other organizations around the world have put out a consistent, resounding message to the global community: The COVID-19 virus is a public health emergency. Failure to take immediate, comprehensive, and sweeping steps to reduce the spread of this virus will have grave consequences for our communities and loved ones.

Governor Inslee in his press conference today indicated that he is not ordering mandated shelter in place because so many people in the broader community are voluntarily taking steps to keep themselves and their families safe. As the attachments we have provided you here prove, people locked up in Washington's prisons cannot volunteer to take such actions. They are reliant upon you and your staff to take appropriate actions to keep them safe.

The dangers of COVID-19 to prisons and the people locked up within them cannot be overstated. Our team has been monitoring the news and relevant research around these issues and have found a wealth of information that prove that releasing people from prisons must be undertaken in order to mitigate the COVID-19 outbreak. These sources also show that many other jurisdictions have already begun to reduce the number of people in custody. We have attached a (non-exhaustive) list of resources that speak to the need to act swiftly and decisively to reduce the risk of a massive COVID-19 outbreak in DOC facilities. All of these materials are readily available to the public.

The public health consensus is universal and clear – states must immediately begin to reduce the numbers of people living in prisons and take other crucial steps to protect people incarcerated in

prisons. In fact, the emerging evidence indicates that our original request to release anyone over 60, people with underlying health conditions and anyone within 6 months of their release date, was much too limited.

Studies of the cruise ships where COVID took root prove that the infection spread many times faster in the lockdown conditions onboard the ships, much faster than it would have in freer, more community-based settings. In addition, the CDC has reported that many people currently hospitalized with COVID in the United States are under 50. These two scientific realities mean that many more people need to be released from DOC custody than we identified in our prior letter. And they prove that locking people down or placing them in isolation in an environment like a prison will greatly increase the likelihood and rapidity of spread through the entire population. Any plans to respond to COVID by locking down facilities is therefore contrary to the best available science and will dramatically increase the number and severity of the infections.

In addition, the science proves that you should also begin to release anyone with an earned early release date within the next 18 months. Current projections for the widespread availability of a vaccine for COVID are 18 months or more. DOC should immediately release anyone who will be released within that time frame. Should DOC delay, any person leaving DOC custody in the next 18 months might be a carrier of COVID who could reignite an outbreak in the broader community.

The current best public health and scientific information proves that anyone over 50 should be released immediately, as should anyone with a serious medical condition, and anyone within 18 months of their earned early release date. In addition to releasing many people, DOC must also immediately begin to implement the other recommendations laid out in the March 16 letter. However, as the pandemic continues, even more expansive steps may become necessary, particularly, if DOC does not immediately begin taking the steps outlined here and in the March 16 letter.

We have also attached a few representative declarations from people currently living in DOC facilities. As you can see, the conditions they and their fellow prisoners face are completely antithetical to limiting the spread of COVID within the prisons. They live on top of one another, sharing toilets, showers, sinks, and ice machines. They eat from communal dishes and utensils that are inadequately cleaned and have limited access to hand soap or hand sanitizers or other essential cleaning supplies. Even where possible, few people are practicing social distancing. Staff apparently is not confident in the measures imposed to keep COVID out of the facilities. Concerningly, it appears that these fears may be well founded.

Reports indicate that COVID may already be present inside the prisons. Included is an email I received today from a woman who reports that her husband at CBCC has seen what appears to be a quarantine facility at CBCC. Declarations we have attached demonstrate the same facts. Other people in other facilities report that entire wings or pods have been shut down and people transferred to make room for people who have tested positive for COVID or shown symptoms. Overcrowding is occurring in some wings as a result of the recent transfer of people between prisons or wings of prisons. To date, DOC has not publicly acknowledged the existence of COVID inside its prisons. However, the evidence shows that COVID is either already present or at the very least that

DOC is preparing for its imminent arrival.

DOC's failure to appropriately address the COVID crisis as set out in this and other correspondence will inevitably place even greater strain on the community hospital networks in the communities in which prisons sit; communities that are mostly rural with few public resources. As the prison medical systems become quickly overwhelmed, people will be sent out to nearby hospitals and emergency departments, taking up valuable medical personnel and equipment that will not be available for people living in those rural communities. DOC's refusal to act now directly imperils the health of every person who lives in communities near prisons.

Therefore, the State must immediately begin releasing the most vulnerable individuals, those over age 50, those with preexisting health conditions that put them at risk and everyone within 18 months of his or her early release date. Many can be released into stable housing situations with family or loved ones. Others will require assistance to ensure appropriate housing and medical care. The State must provide DOC with the resources and staffing to allow it to appropriately address the reentry needs of these people releasing. You have broad pre-existing authority to utilize furlough and release under the present circumstances. In addition, to the extent that you believe that DOC does not have current authority to act, the Governor can make appropriate orders eliminating any barriers pursuant to his emergency powers.

These steps are the only ways to dramatically reduce the number of people who will become sick and die in DOC custody. Taking these actions will also significantly reduce the stress that will fall upon DOC correctional and health care staff in the coming months. We are sure that you do not wish for DOC medical professionals or those in nearby communities to face the type of terrible decisions that doctors in Italy are now being forced to make. The immediate release of many people and the implementation of the other March 16 recommendations are the only ways to avoid such a possibility.

Because the State has not taken the steps necessary to combat the COVID virus and because the lack of action constitutes an immediate and serious threat to the lives of every person in DOC custody, Columbia Legal Services will be bringing suit on Monday to protect those people. Please let me know before then if the State will take the actions we have requested or if it has any other information it would like us to consider before we file suit. I can be reached at this email address anytime on Saturday, Sunday or Monday.

Sincerely,

Nick Straley, Staff Attorney

Pronouns: he/him/his

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Address: Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104

Connect with us: www.columbialegal.org    

Our vision of justice: A Washington State in which every person enjoys full human rights and economic

opportunities.

The logo for 'Imagine Justice' features the word 'imagine' in a large, lowercase, red font, with 'JUSTICE' in a smaller, uppercase, red font below it. The text is surrounded by various colorful icons including a house, a star, a heart, a gear, a lightbulb, and a person, all connected by a colorful, abstract line.

Join us for an evening of hope and inspiration
October 16, 2019 | 5:00 pm | [Impact Hub Seattle](#)
TICKETS

CONFIDENTIALITY STATEMENT: This email and any attachments are for the sole use of the intended recipient(s). This communication and attachments may contain privileged or confidential information. If you feel you have received this message in error, please alert me of that fact and then delete it. Any disclosure, copying, distribution, or use of this communication by someone other than the intended recipient is prohibited.

I, [REDACTED] declare under penalty of perjury under the laws of the United States of America that the following statements are true and correct to my best knowledge and belief:

1. I am 59 years old and I had triple bypass surgery on [REDACTED], 2018.
2. My birthday is [REDACTED],
3. I am over the age of 18 and am competent to testify as to the contents of this declaration.

Background

4. I am currently in detention at the Twin Rivers Unit at Monroe Correctional Center.
5. My DOC number is [REDACTED].
6. I have been at this facility since July 2007.
7. My ERD is [REDACTED] 2027. I've been in for 20 years.
8. I'm trying to get clemency right now.
9. I'm in a single cell in [REDACTED] at TRU.
10. I have a wet cell without a shower.
11. The showers are community showers.
12. 40 guys share six showers in the wing.
13. At least half of us are in the dayroom all of the time. It's mostly single cells on my wing.

14. All of us go to yard and to meals at the same time with other men from other units.

15. Everyone is out during the day.

16. We share ice, there's an ice chest and we scoop into it with a communal scoop . So people are sharing the scoop and it doesn't get washed that often.

17. They have not given us hand sanitizer for use in our cells. They have some in a few areas around the prison, but no hand sanitizer in our dayroom.

18. We're still going to yard. They cut down religious programs. There is no visiting right now.

19. There are four units at Twin Rivers Unit and they closed one wing down.

20. They opened a different unit and quarantined a whole wing.

21. People are in cell unit quarantine. People are now in isolation.

Medical History

22. I had triple bypass heart surgery in [REDACTED] 2018.

23. For a bunch of time before my surgery, they didn't want to send me out to get my heart checked by a cardiologist. They denied me. It took a long time to get anything done.

24. I had 5 or 6 heart attacks while in DOC custody before I received any out of prison or saw a cardiologist.

25. They sent me a paper saying that my chest pains were deemed not medically necessary to see a cardiologist.

26. My wife had to fight for me, because the medical team here were not going to give me any help. Finally, headquarters ordered them to send me out for an echo-cardiogram with a cardiologist.

27. I was coming out of anesthesia from the echo-cardiogram and the outside doctor in the hospital told me that my condition was so urgent that they were admitting me to the hospital that day.

28. That day they admitted immediately after getting the echo-cardiogram and I was in surgery within 5 days.

29. I had to rehab after my surgery by myself. They didn't do anything for my rehab after surgery.

30. They haven't sent me back out to see my cardiologist in over a year, even though I was supposed to see him in January.

31. The last time I saw him my ejection fraction test I was at 16%. Normal would be 100%.

32. I asked to go see him because I don't know what is going on. My chest is still numb from the surgery. They've failed to get me back to see him, even though I've asked.

33. I have hypertension. They have me on medication for hypertension.

34. I worry about my health condition while I am detained here. Due to my medical conditions I am aware that I am at a higher risk of contracting the coronavirus than most.

35. Based on the information I have been able to gather, I am aware that my existing medical conditions expose me to more severe symptoms of the corona virus than most.

36. I've completed around 40 different programs, including CD treatment, stress anger management, redemption mentorship, I have a long list.

37. They've told us to go to sick call if we start feeling sick.

38. Sick call is at 7:30 in the morning. You're called out with everyone else going to sick call and you walk down to the infirmary. You fill out a piece of paper and then wait to be seen with the other guys who are waiting for sick call. While waiting, you are in a small room with lots of guys, sometimes 10 or 15 other people.

My work in the Kitchen

39. I work in the kitchen and am worried about that too, because population comes through to get food and then they sit at tables all together to eat. We eat at the same tables.

40. We prepare 750 meals and there are two sides for eating, a south and north side line.

41. So around 375 men will come through each of the chow line two times a day, at lunch and at dinner.

42. They don't have any hand sanitizers for men when they come into the chow hall.

43. It's a blind feed and you grab a tray and go around the corner to sit down.

44. They don't sanitize the transfer area very often.

45. Six men share a single table while eating.

46. There are about 40 tables. The tables are within about 3 feet of each other.

47. Up to 50 guys work in the kitchen area at any one time. There are a lot of different stations where people are working.

48. DOC has told us that we can't use some pink cleaners. But no other training or protocol since the coronavirus outbreak for how to keep the kitchen area clean or how not to spread germs to other men who we are working with or feeding.

Who I am

49. I'm trying to get clemency.

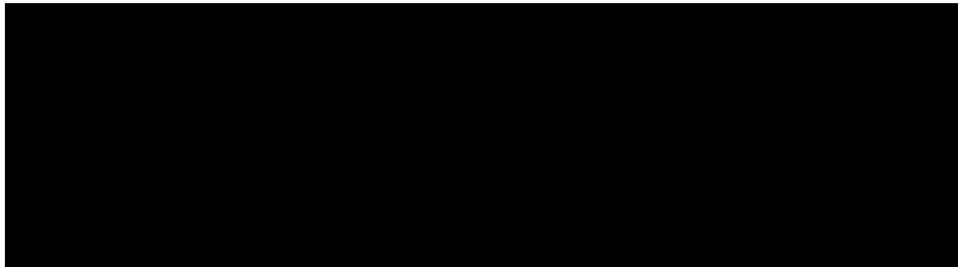
50. I've helped create a culinary arts mentorship program and been a leader for African-Americans, in side I was the president for Full Gospel Businessmens Fellowship International. I'm a worship leader and also a Christian representative. I mentor other men.

51. I have a job waiting for me if I am released. I'm married and could immediately move in with my wife in Edmonds.

52. I haven't had a major infraction since 2006.

53. Columbia Legal Services has permission to move forward with litigation against DOC on my behalf to try and help the situation here given this dangerous public health crisis.

DATED this 18th day of March 2020, in Monroe, Washington.



I, [REDACTED], declare under penalty of perjury under the laws of the Washington that the following statements are true and correct to my best knowledge and belief:

1. I am 62 years old and am competent to testify as to the contents of this declaration.

Background

2. I am currently in detention at Stafford Creek Correctional Center in Aberdeen.

3. I have been here since 2009. I've been incarcerated since December 2005.

4. My cell has 2 beds and meant to house 2 of us.

5. I'm in a tank with 150 people or more and we all breath the same air.

6. There are about 78 cells on my tank and all of them have 2 people.

7. I'm on A side and there is another B side with just as many cells on it. We all breath the same air. Staff, inmates. We all breath the same air.

8. I'm in a dry cell. There is no sink, shower or toilet in my cell.

9. So lockdown would be terrible.

10. I have to use a catheter for a medical condition.
11. I have Parkinsons and the stage that I am right now is not good.
12. I need to use a catheter and would have no way of cleaning my catheter or getting rid of my urine if we were on lockdown.
13. There are 4 communal bathrooms for everyone on A side. There are no wet cells in on A or B side.
14. There is only one unit in all of Stafford Creek that have the cells toilets or sinks in them this is G unit.
15. None of the other units have toilets or sinks in the cells.
16. Everyone who does not live in G unit has to use communal bathrooms.
17. We all share the same toilets, sinks and showers.
18. All DOC has done is put up signs telling us to wash our hands more often.
19. The bathrooms are cleaned by porters but not very well.
20. Right now we're not on lockdown so we're all out in the dayrooms, yard and chow halls with all the other guys.
21. I have an early release date of [REDACTED] 2020. I am supposed to get out on [REDACTED].

Medical History

22. I currently suffer from young-onset Parkinsons, like what Michael J. Fox has. I've had it for a while.
23. I have to use a walker or a cane when I have the energy to get around. I have a mobility issue.
24. Because my system has slowed down, I now have to use a catheter to urinate.
25. I have to use certain medications to be able to defecate because my system doesn't work properly.
26. My cellmate helps me get my clothes together and provides me with care.
27. I take medications to control the symptoms of my Parkinsons.
28. I suffer from tremors.
29. I also have COPD.
30. I've had to deal with it since 2003.
31. I use an inhaler when I get short of breath sometimes.
32. High stress causes me to get short of breath and when I get stressed I have hard time communicating because I have serious cognitive issues that sometimes make it difficult for me to communicate.

33. Parkinsons is like a roller coaster ride. Sometimes right after taking my medications I have no or little cognitive problems and then I can start having difficulty as the meds wear off or if I am stressed.

34. DOC has not taken good care of me. The only time I get chronic care is when I beg for it.

35. I've been losing my vision since October. My vision loss is due to my Parkinsons.

36. This is problem that many people with Parkinsons get and so the doctors should have been ready to deal with it as soon as I started getting symptoms.

37. I saw a doctor who recommended an eye specialist. But they still haven't sent me to see a specialist.

38. I filed a grievance on it. They've been trying not to do anything for me because they know I should be getting out soon.

39. I'm deaf in my right ear and have limited hearing in my left ear.

40. I asked that they put a notice on my door so that I don't get a write up if I can't respond to orders from the corrections officers because I don't hear them. But they haven't done it.

41. They haven't given me a hearing aid either, even though I've asked for one.

Problems with the Kitchen and living units in controlling disease

42. I work in the kitchen. I sit at a desk and fold napkins right next to the dish pit. They wash all the silverware, the trays, the glasses that we use in the dish pit.

43. All of these dishes get handwashed by other inmates.

44. They handwash everything because there are no dishwashers. The process is horrible. We basically have to eat off dirty dishes.

45. The sometimes run out of the cleaning supplies for the dishes. Sometimes they have to use oven cleaner or floor cleaner. Things don't get rinsed off real well and we're eating it.

46. The dishes are washed by inmates, some of whom don't care much about their job and do a bad job.

47. Since the COVID outbreak, DOC has done nothing to make sure that things in the kitchens are done more hygienically.

48. They are preparing to lock us down, I think.

49. If they lock us down, they bring trays by of the pre-made food and they drop it off at each cell.

50. The dishwashing will be done the same way. The trays, silverware, and glasses will go back to the kitchens and be washed the same way if we are locked down.

51. Inmates will be preparing all of the food and the trays on lockdown, just like they do now.

52. Staff will do the delivery of the food and so if staff get sick they will transmit COVID to us when they deliver the trays.

53. They can also get us sick, just by being around us.

54. When the staff come into to the prison now, they check their temperature but even the staff are complaining that its not being done right. It's not taking very accurate temperatures. I know this because staff in the kitchen are telling us this.

55. I've heard from the correctional officers that they are worried about the things DOC is doing to keep COVID out of the units.

56. This is really worrisome to us because there are a lot of elderly in Stafford Creek.

57. There is no COVID testing or nothing for people inside. If they put is on quarantine or lockdown they will just lock us in our cells and wait for us to die.

58. Being short I am very freaked out about how little DOC is doing and how many people could get really sick here inside.

59. We don't have access to hand sanitizer. We only have basic body wash like soap that we wash our hands with. This soap is only in the bathrooms. These are communal soap dispensers that we all use. We

have no way of washing our hands in our cells and we aren't allowed hand sanitizer. There are no paper towels in the bathrooms for us to use.

60. We have our own personal towels.

61. They do laundry every day, but I'm not sure how things are going to happen when we are on lockdown.

62. I am a veteran and should have a place to get help through the VA.

63. I am not exactly sure where I am going to go on release, but even though I am not sure where I will go, I think I should be released.

64. I get free medical through the VA. I am not hopeless. I will come up with something.

65. I worry about my health condition while I am detained here. Due to my medical conditions I am aware that I am at a higher risk of contracting the corona virus than most.

66. Based on the information I have been able to gather, I am aware that my existing medical conditions expose me to more severe symptoms of the corona virus than most.

67. I have told staff that I am worried about it, but it doesn't do any good around here, because no one listens.

68. DOC has not given us any real idea what to do if we get sick. We think they will just quarantine us, which will be much worse than

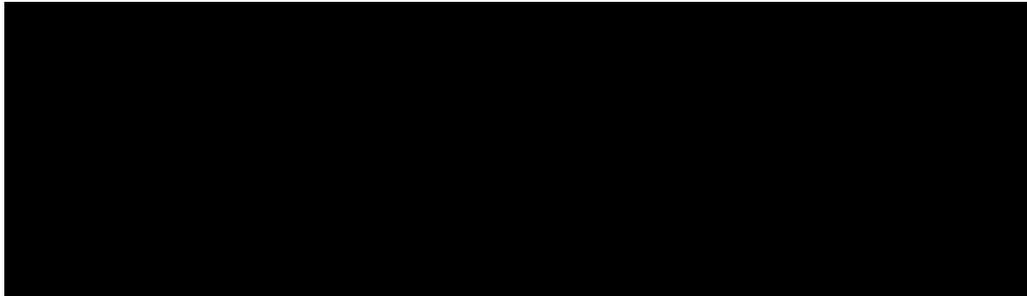
where we are now. This will dissuade guys from telling DOC that they are sick.

69. Also, guys won't tell staff or doctors about being sick because they don't want to be the guy that forces everyone else to go onto lockdown or quarantine.

70. So, people inside have strong reasons not to tell staff even when they are sick.

71. I give Columbia Legal Services permission to file litigation on my behalf against DOC in order to do whatever needs to be done to protect people in DOC custody.

DATED this 19th day of March 2020 in Aberdeen, Washington.



I, [REDACTED], declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to my best knowledge and belief:

1. I am 65 years old and am competent to testify as to the contents of this declaration.
2. My address is [REDACTED].
3. My husband's name is [REDACTED] and he is currently locked up at the prison in Shelton.
4. He is 67 years old. His DOC number is [REDACTED].
5. He entered prison on [REDACTED], 2020. He has an early release date of [REDACTED], 2020.
6. We've been married for 28 years. We own a home together in Puyallup where he would come when he is released.
7. He currently has no serious medical needs.
8. He is low risk and low security but been stuck in Shelton since January. He should be in minimum security, but they haven't moved him yet.
9. No one else lives with me and so, my husband and I could take care of each other if he was home here with me.

10. He'd be happy to do home monitoring to serve out the rest of his sentence.

11. I talked to his counselor yesterday to start his early release package.

12. I spoke with him today. He is now in a cell designed for two people. They now have put an extra person in his cell who has no bed. He is sleeping on the floor. There are now three men sharing a cell designed only for two.

13. DOC apparently has opened a quarantine wing and so needs to push more people into the existing cells.

14. They are beginning to overcrowd the cells because of the quarantine in other parts of the prison.

15. I just got my visitation approved this week by DOC to see him. I haven't been able to see him because DOC requires people to get approved before they can visit people.

16. It takes DOC weeks to approve people for visitation after someone comes into DOC.

17. So since they hadn't approved me yet I have not seen my husband since he entered prison in January.

18. But now the prisons are barring visitation so I can't see him anyway.

19. There is no video visitation at Shelton or any way for me to visit him any longer because there is no visitation.

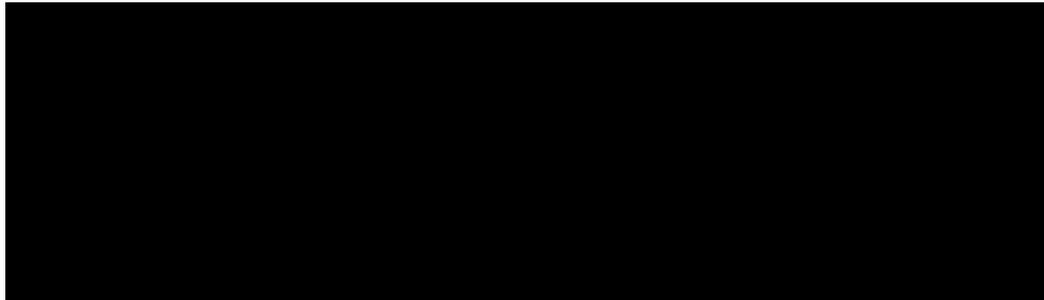
20. Now there are so many people in the wing that its really hard to get phone time.

21. He said all of the guys are concerned about what is going on and trying to reach loved ones and there are long lines for the phone.

22. He said the younger guys always beat him to the phone.

23. I authorize Columbia Legal Services to file litigation against DOC to address the COVID health crisis in prisons.

DATED this 19th day of March 2020 in Puyallup, Washington.



I, [REDACTED], declare under penalty of perjury under the laws of the United States of America, that the following statements are true and correct to my best knowledge and belief:

1. My name is [REDACTED].
2. My birthdate is [REDACTED]. I am currently 70 years old.
3. My DOC # is [REDACTED].
4. I am over the age of 18 and am competent to testify as to the contents of this declaration.
5. My ERD is [REDACTED] 2029. I have been in DOC custody for 25 years.
6. I am currently at Stafford Creek Corrections Center (SCCC) in Aberdeen, Washington. I have been at this facility since 2015.
7. I am in [REDACTED].
8. I am in a cell for people who are disabled because I need a wheelchair to get around. I am in a two-man cell, like all of the other cells in my unit, with the person who is my wheelchair pusher. My unit is not a wet cell. Neither are any of the other cells in my unit.
9. There are approximately 228 prisoners in my unit.
10. There is only one handicap shower in my unit that I can use. About 30 other prisoners use this shower over the course of a day. It

is cleaned three times per day with hepastat. There have been no changes in cleaning protocol for the showers since the COVID-19 pandemic.

11. There are 4 bathrooms in my unit, with 5 sinks in each bathroom, which are used by each of the over 200 prisoners each day. They are cleaned with hepastat each day. They may have increased use of hepastat since COVID-19.

12. In each bathroom, there are 2 toilets and 2 urinals. There is protocol that these be cleaned after every use. They can get pretty dirty over the course of the day between cleanings. Individuals can use hepastat to clean before and after use, but it is not required.

13. There is a big dayroom in my unit. There are approximately 20 tables in the dayroom, with 4 seats at every table, and the space between tables is about 3 feet. The space between individuals at each table is about 1 foot. The day room remains pretty crowded every day and evening. Most of the day room is full during the day and evening with people sitting in close contact with each other.

14. There are common use items in the dayroom for use by all prisoners, including 2 microwaves per tier and 1 ice machine. They are cleaned every time the bathroom is cleaned. Otherwise, you are required to clean up after your own mess, but this does not always occur.

15. There are 7 phones in this unit, for use by all of the prisoners. They are not cleaned after every use and there have been no efforts to increase cleaning of the phones due to COVID-19. There is no one specifically assigned to clean the phones – it is on individual prisoners to decide whether to clean them.

16. DOC has not provided prisoners with access to hand sanitizer due the COVID-19 outbreak, or any additional cleaning supplies. I asked for hand sanitizer and was denied. I was told there is soap in bathrooms to wash hands, and that I don't need hand sanitizer. I asked commissary if we could get it put on store, so we could buy it, and was told "no" because there is alcohol in it. There are also no masks at all available in the prison.

17. DOC has not had any formal conversations with prisoners about COVID-19 – no formal classes or in-person discussions. They have only taped up a few notices around the prison. But if you can't read, you would not know what is going on. The only other way you could figure out what is going on is by watching the news. There is nobody from DOC giving information verbally.

18. DOC is still transporting prisoners for non-critical visits with the doctor. For example, last week, I was scheduled to go out for a colonoscopy, which I refused because of fear of coronavirus.

19. DOC has stopped visitation and programming, but people are still working in the prison. No other steps have been taken to reduce social distancing. They have not shut down the yard or the gym.

20. 2 units go to the yard at any time, which amounts to about 300 prisoners at a time. I don't go out to the yard because it is too cold and damp out there and I am susceptible to pneumonia.

21. There have been no restrictions on access to the dining hall. I go to "B" dining hall. It seats about 300 people for lunch and dinner – about a unit and a half go through each feeding schedule. It is crowded in there. There are about 35-38 tables, with the capacity to sit up to 4 people at a table. Everyone is in close contact with one another – they are bumping into each other. Usually there are people waiting in line to get a place to sit. I am still going to the dining hall because that is the only way I can get food. But I am worried about going to dining hall because I have to be in close proximity to other people who may be infected.

22. I am a 70-year old disabled veteran. I am at a heightened risk of harm for exposure to coronavirus due to my age and extensive medical history. I have several serious medical conditions: stage-4 liver disease; compensated cirrhosis; Type-2 diabetes; COPD and asthma; stomach issues, including the removal of my gall bladder; arrhythmia, and

arthritis. I have also broken my back twice – once in a hang-gliding accident in 1974; a year later, I fell at work and reinjured the same area.

23. I also have metal implants in my right foot and right arm. Metal implants in my foot are due to a fall resulting from high blood pressure. My right arm has implants due to an ulnar bone shortening.

24. In 2013 or 2014, half of my colon was removed due to excess polyps.

25. I recently contracted pneumonia on two occasions: once in [REDACTED] 2019, which required transport to the hospital, and again in [REDACTED] of 2020.

26. I currently take 24-medications related to high blood pressure, diabetes, arrhythmia, COPD, colon-related issues, and my other medical conditions.

27. While I am in the unit, I can walk a little bit, but it causes pain. As a result, I am almost exclusively limited to getting around in a wheelchair.

28. My last major infraction was in 2008.

29. I am in constant fear about the impact that COVID-19 would have on me should I be exposed to it in prison. There have been no efforts to reduce social distancing among the prison population and I worry that once it gets into Stafford Creek, I will face harm or even death.

30. Columbia Legal Services has permission to move forward with litigation against DOC on my behalf to try and help the situation here given this dangerous public health crisis.

DATED this 20th day of March 2020, in Aberdeen, Washington.



I, [REDACTED], declare under penalty of perjury under the laws of the United States of America, that the following statements are true and correct to my best knowledge and belief:

1. My name [REDACTED].
2. My birthdate is [REDACTED].
3. My DOC number is [REDACTED].
4. I have been at Stafford Creek Corrections Center (SCCC) in Aberdeen, Washington, since [REDACTED] 2018. I am in [REDACTED].

5. I live in a cell with another individual. The entire B-Wing is 2-man cells. The entire prison is set up that way, with the exception of segregation.

6. There are approximately 136 prisoners in B-Wing.

7. All of the 16 showers in my unit are community showers. They are separated just over chest level. They clean them pretty regularly and then once per week, they spray bleach all over them. But considering what is going on, no amount of cleaning is enough.

8. There are 4 bathrooms in B-Wing. Each bathroom has 2 urinals and 2-3 toilets. Toilets and urinals are shared throughout the day by all 136 prisoners in the unit. The toilets and urinals are cleaned about 3 times per day – morning, afternoon, and evening. Prisoners also have

access to a pink disinfectant spray in the bathroom to spray the area. However, no extra cleaning efforts have been taken in light of the COVID-19 crisis. There are signs posted to make people aware of the risk of COVID-19, but that is it.

9. There are about 6 sinks in each bathroom in the unit, for a total of 24. The sinks are shared by all 136 prisoners in the unit. The sinks are cleaned three times per day.

10. In B-Wing, there is a dayroom full of tables, a microwave, and 7 phones.

11. In the dayroom, there are 4 people to a table and there are 24 tables that are approx. 2-3 feet apart from each other. Generally, there are about 50-60 people in the dayroom. People in the dayroom are always within close proximity to each other. While DOC suspended visits, this has not been adequate to address social distancing problems among prisoners in the wing. Furthermore, DOC is not enforcing any social distancing practices among prisoners in the wing.

12. There are two community microwaves that are being used all day everyday by all 136 individuals. They are not cleaned very often – only about once per day.

13. There are 7 general phones in my unit and 1 attorney phone, and 2 JPay machines and 1 kiosk. Phones are not being cleaned

after every use. Kiosks require you to touch the palm of your hand on the machine and it is not cleaned after every use. 136 people share these phones over the course of the day.

14. People are still going to the yard, the gym, and to work and school areas.

15. On the yard, there is no social distancing. Anywhere from 100 – 400 people might be out on the yard at any given time, and there are groups of people who are in close proximity to each other.

16. In the dayroom, there is one community ice machine and one community sink. These are not well maintained over the course of the day. These are generally not cleaned daily.

17. I am in bunk beds with my cellmate. He sleeps right above me. We have two individual sides of the room that are about 3-5 ft. apart from each other. This is the case for each of the 64 cells.

18. Prisoners in my wing have not been provided with hand sanitizer. There are 3 soap dispensers in each bathroom, and that is the only access to hand washing materials I have in my wing. DOC has only posted signs requesting that people wash their hands more often and the proper way to wash hands. However, there have been no formal gatherings by DOC to explain the seriousness of COVID-19 and the steps people should be taking to address it. Staff, however, have plenty hand sanitizer

for themselves. We dry our hands with hand towels. We are issued 3 hand towels that we can turn in every day to laundry, but there is no requirement that we turn them in every day, and oftentimes people will not turn them in every day.

19. The only thing DOC has cut back on is visitation – anything from the outside is cutdown. But there have been not reductions to other facility activities. Prisoners are still programing.

Medical History

20. In 2007, I had a massive heart attack. At the time I was a DOC out-of-state placement in Oklahoma. I was airlifted from Oklahoma to Texas and had emergency surgery because 2 of my arteries were blocked. 3 months later, I had another massive heart attack and was again airlifted from Oklahoma to Texas for another surgery to clear a third blocked artery.

21. As a result of those heart attacks, the muscles in the entire bottom left side of my heart are dead. That means that I have been diagnosed for sudden cardiac death.

22. In 2011, I had another surgery where a pacemaker put in my heart. I take 5 different medications 2 times per day to maintain heart health.

23. In 2018, the battery on my pacemaker died, so I had a fourth surgery to replace it. So, in total, I have had 4 surgeries on my heart over the past 12 years.

24. I see a cardiologist 2 times per year minimum. I am limited physically. I can only do limited exercises, not including cardio exercises. I also require a healthy diet.

25. I have an Ejection Fracture (EF) of 30%, where normal is between 50-60%.

26. I am very concerned about COVID-19 at SCCC. From everything I know, I fall into the category of vulnerable people should I be exposed to it. I am in constant fear about what would happen to me should I be exposed to the virus, especially since DOC has not provided me with a clear plan about what would happen if I were to become infected with COVID-19. I know there is no cure for COVID-19 and that people are dying every day.

27. People are not taking steps at this prison to address COVID-19. DOC is not enforcing or putting any emphasis on any of the best practices, besides suspending visits.

28. Yesterday, I experienced shortness of breath and heart palpitations, which is common with my condition; however, I am hypersensitive about this due to COVID-19. There is an onsite nurse in my

unit that I went to. The nurse said if this gets worse, I should call a medical emergency.

Work

29. I work from 7 am – 2 pm as a mentor in my unit. I am in a unit for people with serious mental illness called the Skill Building Unit (SBU). I assist with people who are physically ill – push people in their wheelchair, etc. I am also a TA for education classes in the unit. Whatever the SB program participants need, I help out with. As a result, I have to be in close contact with about 50 people per day.

Chow Hall

30. I am social distancing, so right now I am not going to chow hall. I eat in my room. Last time I went to chow hall was about 1-2 months ago because of COVID-19. So, I eat only off of commissary so I don't risk anything. I know that exposure to COVID-19 for me could result in very serious harm or even death, so I have to self-isolate with regards to meals.

31. Everyone else is going to chow hall. It is set up like the day room. There are 3 – 4 times more tables in the chow hall than in the day room – about 40-60 tables. There is also close proximity between the tables and close proximity between people at the tables, with four seats at a table. There are 2-3 feet of space between the tables.

32. Using commissary as the only source of food requires me to use my limited resources.

Who I am

33. I have been a mentor since April 2019. I want to be able to help out fellow prisoners in my unit because I know they are vulnerable and seen as different from the general population. I know this because I have family member who has mental health issues too.

34. My ERD is [REDACTED] 2029. I have been in DOC since 2001.

35. I have been married for about 10 and-a-half years. I have 4 kids and 6 grandkids. If I was released, I would live with my wife in Arlington, Washington. I have many members of the community who have advocated for my release and would support me if released.

36. I have a clemency petition in place, which was filed in September 2019 by my attorney.

37. I would have a job in the community if released.

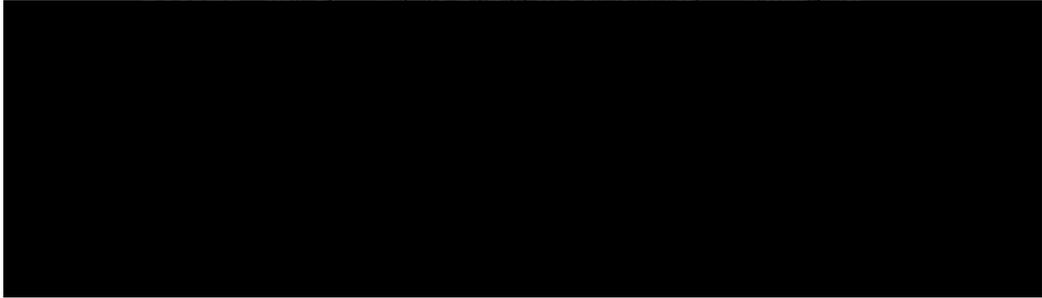
38. My last major infraction was in 2015.

39. Columbia Legal Services has permission to move forward with litigation against DOC on my behalf to try and help the situation here given the dangerous public health crisis.

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DATED this 19th day of 2020, in Aberdeen, Washington.



This document contains publicly available information, news, and media resources that show that release of inmates from correctional facilities is the primary means by which prisons should be addressing COVID-19. Categories of news, media and publications is as follows:

(1) Examples of Counties, Cities, States and/or Countries that are releasing people from correctional facilities

(2) Studies & News/Public Media about Necessity of Release and/or Removal from Congregate Settings

Category 1: Examples of Counties, Cities, States and/or Countries that are releasing people from correctional facilities

Title of Article:	Date Published:	Publication/News Source:
Los Angeles Is Releasing Inmates Early And Arresting Fewer People Over Fears Of The Coronavirus In Jails	March 16, 2020	BuzzFeed News
Dozens released from Spokane County custody following Municipal Court emergency order	March 17, 2020	The Spokesman-Review
Travis County judges releasing inmates to limit coronavirus spread	March 16, 2020	Statesman
Dozens of inmates released from Ohio jail over coronavirus concerns	March 16, 2020	New York Daily News
Order to authorize Hamilton County sheriff to release low-risk, nonviolent jail inmates	March 16, 2020	Cincinnati Enquirer
Bexar County Sheriff announces COVID-19 prevention plan for jail inmates, deputies	March 14, 2020	KSAT San Antonio
Cuyahoga County jail releasing some inmates early to help minimize potential coronavirus outbreak	March 14, 2020	Fox 8 Cleveland
Iran has released 85,000 prisoners in an emergency bid to stop the spread of the coronavirus	March 17, 2020	Business Insider
Plans to release 200 prisoners to minimize COVID-19 threat not enough, say IPRT	March 16, 2020	Irish Examiner

Category 2: Studies & News/Public Media about Necessity of Release and/or Removal from Congregate Settings

Title of Article:	Date Published:	Publication/News Source:
“COVID-19 quarantine of cruise ship may have led to more infections”	March 3, 2020	Medical News Today
Prisons and jails are vulnerable to COVID-19 outbreaks	March 7, 2020	The Verge
No Escape From Virus Threat for 2 Million Crammed in Prisons	March 11, 2020	Bloomberg Quint
A coronavirus outbreak in jails or prisons could turn into a nightmare	March 17, 2020	Vox
Advocates and Sheriffs Worry Prison, Jails Could Be Incubators For COVID-19	March 18, 2020	Oregon Public Broadcasting (OPB)
What Coronavirus Quarantine Looks Like in Prison	March 18, 2020	The Marshall Project
As Washington nursing home assumed it faced influenza outbreak, opportunities to control coronavirus exposure passed	March 16, 2020	The Washington Post
How Prisons and Jails Can Respond to the Coronavirus	March 14, 2020	The New Yorker
We Must Release Prisoners to Lessen the Spread of Coronavirus	March 17, 2020	The Washington Post
An Epicenter of the Pandemic Will Be Jails and Prisons, if Inaction Continues	March 16, 2020	The New York Times
COVID-19 Outbreak on the Diamond Princess Cruise Ship: Estimating the Epidemic Potential and Effectiveness of Public Health Countermeasures	February 28, 2020	Journal of Travel Medicine
Prisons and custodial settings are part of a comprehensive response to COVID-19	March 17, 2020	The Lancet, Public Health

From: [Nick Straley](#)
To: [Sinclair, Stephen D. \(DOC\)](#)
Cc: [Nick Allen](#); [Janet Chung](#); [Antonio Ginatta](#); [Heather McKimmie](#); [Rachael SeEVERS](#); [Jamie Hawk](#); [Postman, David \(GOV\)](#); [Herzog, Robert L. \(DOC\)](#); [Lang, Tim N \(ATG\)](#)
Subject: People testing positive in federal and New York correctional systems.
Date: Sunday, March 22, 2020 5:53:00 PM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Dear Secretary Sinclair:

I wanted to bring these reports to your attention. The first federal prisoner has now tested positive for COVID 19. <https://www.usatoday.com/story/news/politics/2020/03/22/first-federal-inmate-tests-positive-coronavirus-new-york/2893959001/>. And a number of state prisoners in New York have also tested positive, including potentially Harvey Weinstein. <https://www.nbcnewyork.com/news/local/inmates-test-positive-for-coronavirus-at-harvey-weinstein-prison-source/2339003/>. Many more people incarcerated in the New York City jail system have also tested positive. <https://www.nbcnewyork.com/news/coronavirus/21-inmates-17-employees-test-positive-for-covid-19-on-rikers-island-officials/2338242/>.

It is abundantly clear that DOC must begin releasing people immediately before it is too late here.

We would like to join you on the call at 10:15. I will send a request to Ms. Grigg for the call in information.

Sincerely,

Nick Straley

Nick Straley, Staff Attorney

Pronouns: he/him/his

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TICKETS

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COLUMBIA LEGAL SERVICES, INSTITUTIONS PROJECT

March 24, 2020 - 6:56 PM

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Appellate Court Case Number: 98317-8
Appellate Court Case Title: Shyanne Colvin et al. v. Jay Inslee et al.

The following documents have been uploaded:

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- nick.straley@columbialegal.org
- tim.lang@atg.wa.gov

Comments:

Declaration in Support of Petition for Writ of Mandamus

Sender Name: Maureen Janega - Email: maureen.janega@columbialegal.org

Filing on Behalf of: Nicholas Brian Allen - Email: nick.allen@columbialegal.org (Alternate Email: nick.allen@columbialegal.org)

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