

### **Will my individual loved one be released under the State's release plan?**

Unfortunately, this is a question we generally cannot answer for you. So far the State has provided the three lists linked above, and no other specific information. We have more questions than answers about these lists and any future lists they might provide. We do not know how many people on this list were already scheduled for release in the next month or two. We do not know what their convictions were, what the details of their releases look like, what prisons they are coming from, nor any other details other than their names. We do not know if these lists are final nor exactly how they were determined. As these are all State decisions, we do not know the details of their conversations or the criteria they have come up with. We also do not have capacity at our organization to look into each individual's situation, as our resources are dedicated to the maximization of our expertise in systemic advocacy. As best we can we will continue trying to share other resources for the pursuit of individualized needs.

What we do know is that the State's release plan so far do not change our legal strategy. The State estimated that their actions would impact up to 950 people, and we know that 950 is nowhere near the amount needed to ensure the health and safety of the roughly 18,000 people locked up in DOC facilities. We also do not agree with the State's plan to limit relief to specific types or classes of convictions, and our lawsuit makes no such distinction.

### **Do I need to do anything to make sure your lawsuit will impact my loved one?**

No. Although we have specific petitioners named on the court documents, the demands within the case apply statewide to all DOC facilities. You do not need to take any action to have individual names added. If your loved one is over 50, has an underlying health condition that puts them at risk of grave illness should they become infected with COVID-19, or is already within 18 months of release, then the lawsuit is asking to have them released. If your loved one would not be released as a member of one or more of these categories of people, the idea is that the increased space, health care capacity, access to communication, and sanitation measures also included in the lawsuit would help to protect them better inside as well.

### **What information do you still need from our loved ones inside?**

We have been so grateful for all of the information and stories you have shared. At this point we have entered our arguments into the court record, all well supported by the evidence many of you have helped us collect. We are unable to add more at this point so there is no need, as far as the case goes, to continue

passing information to us about the conditions inside. If someone you know in prison tests positive for COVID-19 and DOC is not properly reporting or treating it, especially outside of the MSU at Monroe, please try to have them contact us directly through our Collect line at 206-382-3399. (This line is specifically set up to be used by people who are incarcerated or detained. We ask that family and friends on the outside correspond through email to keep the Collect line open.)

### **How can I watch the oral argument for the lawsuit on April 23rd?**

The oral argument will be streamed live on TVW.org, starting at 9:00am on April 23rd. We will post a specific link as soon as we have one, but you will be able to navigate to the live TV schedule from their home page as well.

### **When will the court make a decision?**

This is another element we do not have control over and cannot predict. The court appears to be taking the case very seriously, which gives us hope for a swift decision, but ultimately they will take as much time as they need to make a fully considered decision.

### **What can I do to help with the effort to get DOC and the Governor to begin releasing people and taking other essential public health steps to keep people incarcerated in Washington's prisons safe from COVID-19?**

There is a lot of great work being done to try to protect your loved ones inside. The lawsuit is meant to support the larger community organizing efforts taking place around the state. If you are a family member or loved one looking to connect, you can reach out to the Covid19 Mutual Aid – Seattle network on Facebook or through email at [covid19mutualaidsea@gmail.com](mailto:covid19mutualaidsea@gmail.com). They are working on public campaigns, media, community support, and more. Please feel free to share other networks with us.

### **Can I or my loved one submit a declaration or other evidence in the lawsuit?**

At this time, we have collected many different declarations (sworn statements) and have submitted a lot of evidence to the Court. We are not certain whether we need to submit more information to the Court. The demands of the lawsuit apply statewide, so you do not need to be named as a petitioner to benefit from the lawsuit if it is successful. If you have particular information that you think we should have for the lawsuit, please email Alex Bergstrom at [alex.bergstrom@columbialegal.org](mailto:alex.bergstrom@columbialegal.org). At this point, we are not certain whether we will use your information. We will follow up with you if we would like you or your loved one to help us further with information to the Court.

If you are currently in custody, you can try to reach us through the following methods:

1. Our collect call line is: 206-382-3399. Unfortunately, there are some limitations with this phone number at this time. We are not able to pick up multiple calls at once and we do not have staff capacity to answer all calls during business hours.

2. If you are unable to reach us through the collect line, please feel free to write to us via U.S. postal mail (label the envelope "Legal Mail") at: Columbia Legal Services, 101 Yesler Way, Suite 300, Seattle, WA 98104. Please include your name and DOC # and any information you would like for us to know about your current situation.

 **Has anyone tested positive for COVID-19 who is incarcerated in any prison in Washington?**

At this point, our only “official” source of information on confirmed cases is through DOC’s website. Information that DOC is publicly providing regarding testing can be found at <https://www.doc.wa.gov/news/covid-19.htm>.

 **Will CLS find out if DOC is telling the truth about no one testing positive in a prison?**

We are doing what we can to confirm whether DOC is telling the truth or not. If you have information about this question that you think we should know, please email Alex Bergstrom at [alex.bergstrom@columbialegal.org](mailto:alex.bergstrom@columbialegal.org). We believe that it will be difficult for DOC to hide any positive tests during the case we have brought. They will likely have to provide evidence to the Washington Supreme Court regarding the number of negative and positive tests as part of the case.

 **What is the relief that we hope the Court will grant our clients and the other people living in prisons in Washington?**

We have asked the Court to release anyone who is 50 or over, anyone who has a medical condition that makes them particularly vulnerable to COVID-19, and anyone with 18 months of their earned early release date. The science shows that DOC needs to release a large number of people in order to protect people at high risk and to allow everyone who will remain in DOC custody the conditions that will allow them to engage in appropriate physical distancing and hygienic practices. We are concerned that DOC may resort to prison wide lockdowns or the widespread use of solitary confinement as a response to COVID-19. As discussed below, neither lockdowns nor wide-spread solitary confinement are appropriate steps for DOC to take. Instead, it’s essential that DOC begin releasing a large number of people. In addition, we are asking the Court to address community corrections violations and conditions inside the prisons to keep all people as safe as possible.

 **What authority does DOC have to order people be released?**

DOC has a number of different tools it can use to begin releasing people today. They include furloughs, extraordinary medical placements and graduated reentry. Furthermore, DOC could identify existing state laws, regulations or policies that limit

its ability to use these programs and can unilaterally change policies and ask Governor Inslee to use his emergency power to waive other state laws and regulations that currently limit DOC from releasing a large number of people.

### **What authority does the Governor have to order people be released?**

Governor Inslee has significant emergency powers pursuant to RW 43.06.220 to prohibit actions which undermine his or DOC's efforts to release people or to waive any existing state law, regulation or policy that limits his or DOC's efforts to release people. In addition, Governor Inslee has the power to grant clemency to people currently serving time in Washington's prisons. He needs to order the clemency and pardons board into emergency session in order to recommend the people who should be granted clemency.

### **Can DOC keep COVID out?**

No. As of April 6<sup>th</sup>, DOC has already confirmed that one person was infected while in confinement at the Minimum Security Unit at the Monroe Correctional Complex. The nationally recognized scientists, doctors and correctional experts who have consulted on our case all agree that it is very unlikely that DOC will be able to keep COVID-19 out of other prisons over the long term as well. Even if no more infections occur in the next several weeks, it will be over a year before a vaccine becomes widely available and so at any point until then COVID-19 could break out in any of our prisons. The danger is particularly acute in intake and receiving units and with staff members who may be asymptomatic, but nonetheless infectious. No amount of screening will stop someone who does not yet feel ill from entering a prison and unintentionally infecting other people.

### **If it gets in can DOC contain it?**

All of the experts also agree that once COVID-19 gets inside a prison it is likely to spread incredibly quickly and will be difficult to contain. The close quarters that people share in prison, the communal bathrooms, meal spaces and kitchens are all places where COVID-19 can spread to others quickly and easily. Asymptomatic people may spread COVID-19 for a few days before they become ill. In addition, people in prison may be less likely to report feeling ill because they will be concerned that they will be locked into solitary or more importantly may cause their entire unit or pod to go into lockdown. Many people will feel extreme reluctance to report symptoms if a unit-wide lockdown will result for which they are responsible.

### **Why don't we wait to decide this question until we know that COVID is spreading in the prisons?**

All the public health evidence shows that you have to stop outbreaks before they become apparent because by the time someone shows symptoms the virus will have spread widely, particularly in the close quarters of a prison or prison unit.

Waiting to take action until someone gets sick may be much too late and the pandemic may already be out of control inside the prison.

 **Is it just as safe in prison as it is out here or at least only marginally less safe?**

It is much less safe in prisons because of close living quarters and the lack of facilities that will really allow for social distancing. The CDC recommends that prisons follow the same COVID-19 related precautions that other congregate care facilities, like nursing homes, are utilizing. However, as we have unfortunately experienced right here in Washington, once COVID-19 gets into a nursing home or prison it spreads quickly because of how closely people live to each other. Some of the petitioners live in dormitory style housing units where 30 or 40 people share the same living and sleeping spaces and the same bathrooms and meal facilities. Others live in cells with one or two other people all sharing the same few square feet of space. Life in prison simply doesn't allow for the type of social distancing that everyone living outside of prisons can undertake. In fact, one study from the cruise ships which suffered early outbreaks indicates that in confined spaces like that the virus can spread up to 8 times faster than it would in the community more generally.

 **Will we be releasing people with nowhere to go and so only exacerbating problems with the community health care systems, homeless services and housing providers?**

Many people living in Washington's prisons, including a number of the petitioners, have stable homes to which they can return if released. Once there they can do what all of us are doing to keep ourselves and our families safe, hunker down, maintain proper physical distance and wait for the pandemic to pass. As discussed above, those things are simply not possible in prison. Also, there are people who will need assistance upon release to access safe, stable housing and reliable medical care. The State has the resources and staffing necessary to provide those types of supports, if it wishes to do so. By coordinating efforts with other state, county and local agencies, DOC can bring services and resources to bear to assist people who are releasing from DOC facilities. In the petition to the Court, we asked that DOC be ordered to ensure that any person being released is provided with the resources and supports necessary to meet their housing and medical needs. We also want to support any community efforts that are pushing our government agencies to prepare in this way.

 **Will releasing people from prison lead to other problems like an increase in crime and a need for more police?**

Most people leaving prison want to live with their families and enjoy law-abiding lives. Everyone we are asking to be released is in a "low risk" population: older people who statistically have very little recidivism risk, people with serious health issues who by virtue of their illnesses or disabilities are unlikely to re-offend, and individuals on work release or who are scheduled to be released within 18 months and who are already considered low-risk. DOC and the Governor have a variety of

different tools they can use to release people, tools that can be tailored to particular circumstances to address the needs of individuals and of the broader community. Generally speaking, the root causes of crime and the relationship between crime and policing are far outside the scope of the lawsuit. We assert that the net benefits of the demands, if granted, will be felt by our communities at large



**Are we putting survivors at risk by releasing some of these people, and if so, what should/can we do to mitigate the risk to them?**

We believe that people who have survived crime should receive notification and assistance from the State if the Court orders any release of incarcerated individuals. Our Petition asks for and recommends that crime victim and witness notification happen quickly if releases are ordered, and we also ask that the DOC confer with victim advocates to develop notifications and increase staffing where necessary to assist those who have witnessed or been victims of crime. With appropriate planning and coordination, the State can both release individuals to prevent the spread of COVID-19 and ensure that no one is endangered. If the State appropriately dedicates and uses resources, releases can be handled in a safe way.



**Are there people who should not be released under any circumstances? What happens if someone is released who then does something wrong?**

COVID-19 does not discriminate based upon gender, race, carceral status, conviction or sentence. We are all at extreme risk from this disease, but people living in our prisons are at particular risk as discussed above. The medical and correctional experts who have consulted on this case are unanimous in their views that large-scale releases are the most appropriate measure to take right now to protect the public and those in DOC custody. The people in the categories described above are generally classified as “low risk” because of their age, medical conditions, or the fact that they are already scheduled to be released soon. In this case the State can address any of their possible “public safety” concerns while still granting early release for many individuals. Releases are not unusual. In fact, people are released from DOC custody every day. DOC has the resources to properly monitor and support people leaving DOC custody.



**How do we ensure that people are released in a fair and equitable way?**

The State must ensure that releases are equitable and that they don’t exacerbate racial or socioeconomic disproportionality. We are seeking release of categories of people based on age, disability or illness, and proximity to release date. Releases in these broad categories reduce the chances of individual bias impacting decision-making. Unique cases may require different considerations, but even in these rare circumstances, decisions can be made with a consciousness of the role that bias plays in the criminal legal system at all levels. One important tool in combating the influence of bias in release decisions would be to do ongoing assessments of racial or socioeconomic disproportionality and make them publicly available. It is important

to us that our process and the content of the lawsuit are equitable as well, and we invite feedback that can help us improve as we move forward.



**What will the public reaction be to releasing people and which people can we release without raising serious public backlash?**

This is an unprecedented global public health emergency that no one alive has ever confronted. We are all living entirely differently than we did just several weeks ago. The public understands that extraordinary circumstances require extraordinary decisions. Leaders who show resolve, conviction and good judgment will be trusted that they made the right call in difficult times. Other states, like California, Colorado and Maine have already begun releasing people from their state prisons. Washington should follow their lead. Releasing people who are most at risk from COVID-19 and getting them into stable community-based situations will protect everyone. Failing to release individuals and failing to take appropriate steps to stop COVID-19 in prisons will cause significant harm not just to those in custody, but to the surrounding communities and hospitals as well.



**I'm worried that my loved one will face retaliation if they speak out against DOC's handling of the pandemic. Is there any way to protect them?**

If your loved one has faced retaliation related to DOC's coronavirus response, please contact us and do your best to have your loved one connect with us directly through our confidential Collect line (206-382-3399). We have heard many stories already about retaliation and we have committed to responding individually to those situations in any way available to us.