

## **LITIGATION FAQ: *RUSH V. DOC***

### ***A list of general questions for people in DOC custody, and their family, discussing Columbia Legal Services' lawsuit against DOC***

Please note: These materials have been prepared for general information purposes only and are not intended as legal advice or opinions. An attorney should be contacted for advice on specific and individual legal issues.

#### **1. What is the lawsuit about?**

The lawsuit's purpose is to ensure that people who are currently incarcerated are protected against COVID and ensuring the accountability of the Department of Corrections (DOC) and Department of Health (DOH). The lawsuit has three goals:

- Immediately ensure that enough vaccines to vaccinate the entire prison population are allocated to DOC facilities throughout Washington,
- Make sure DOC and DOH are providing people in DOC custody with the information they need to make an informed choice on whether they want to take the vaccine, and
- Make sure DOC has a plan in place to prohibit DOC staff who choose not to take the vaccine from being in contact with people who are currently incarcerated.

#### **2. Why was the lawsuit filed?**

Since the beginning of the pandemic, Columbia Legal Services (CLS) has heard from people inside of DOC and their family, friends, and community advocates about the terrible conditions inside of DOC prisons due to COVID outbreaks and DOC's inability to keep them safe. This lawsuit is based on all the community input we received, and our investigation has led us to conclude that DOC is violating the constitutional rights of people in prisons by failing to provide continuing education on COVID and its vaccines and failing to protect them from staff that refuse to be vaccinated.

### **3. Isn't there enough vaccine already available to people in DOC?**

Since we filed the lawsuit, the Governor and DOH have made vaccines available to many segments of the population, including people in prison. However, COVID has been an ongoing problem even with vaccines and the need for booster shots is a legitimate question that is currently being discussed. Ensuring that people in prison have sufficient, **unexpired**, vaccines remains a top priority.

### **4. Didn't Governor Inslee say that all state employees would be required to get the vaccine?**

Yes, the Governor did recently make that announcement. However, there are many questions that remain and concerns that DOC will not meet the timeline set by the Governor. For example, what exemptions will DOC make available for people who want to exclude themselves from the required vaccine? Also, how DOC will verify whether someone has a valid exception is still unknown. Finally, even if someone has a valid exception, there are no details on what an unvaccinated staff member will be allowed to do inside of a prison. CLS is taking steps to get answers to these questions and make sure people inside of prisons are not put at any further risk from unvaccinated staff.

### **5. What about release from prison?**

Large-scale meaningful reduction of the prison population as a means to protect people in prison from COVID is likely not an option at this time through the courts. The Washington Supreme Court in the [Colvin v. Inslee](#) case that CLS filed last year, decided that releasing people from DOC prisons to increase the effectiveness of social distancing and masking was up to the discretion of the Governor. While the Governor did decide to release some people in April 2020, he has not made any other announcements about plans for additional release. In other words, unless the Governor decides to release more people, there is likely not much we can legally do at this time to secure widespread release of people due to COVID.

### **6. What about all the harm people in custody have already suffered?**

This pandemic is not over. Every day we learn more about COVID, its variants, the need for booster shots, and COVID's impact on health. Through this lawsuit, we are trying to help ensure that people in the prisons are no longer subjected to the harms they have endured and prevent DOC, and the State, from causing more harm going forward.

### **7. How can I help or how can I be a part of the lawsuit?**

Concerned and impacted communities have already contributed a great deal by providing us with relevant information over the last year to help us better understand what is going on inside the prisons. However, if you have a family member, friend, or

loved one who is incarcerated and you have information you think we should have related to the lawsuit, please email Alex Bergstrom at [alex.bergstrom@columbialegal.org](mailto:alex.bergstrom@columbialegal.org).

We cannot guarantee that we will use your information, but we may follow up with you if we need to request additional information.

If you are in prison, you can try to reach us by phone or mail:

- The number for our confidential collect call line is: 206-382-3399. Currently, due to capacity issues, we are not able to take a high volume of calls. Therefore, the collect line is only being used for calls that we have scheduled with people in the prison or to respond to serious emergencies. Writing to us remains your best option for receiving a response, and if we need to follow up with you to schedule a call based on your letter, we will do so.
- To write to us via U.S. postal mail (label the envelope "Legal Mail"), send your correspondence to: 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. As noted above, we currently have significant capacity issues due to our modified operations during the pandemic, so it may take us several weeks to reply.

#### **8. Where can I find out more about the lawsuit and stay up to date on what is going on?**

We have created a specific page on our [website \(bit.ly/Rush-v-WA-DOC\)](https://www.columbialegal.org/bit.ly/Rush-v-WA-DOC) that will track the progress of the lawsuit and provide updates.

#### **9. What if I am in prison and I don't want to take the vaccine?**

We are not medical professionals, so we cannot tell people what they should do. We do believe that everyone should have access to all of the most accurate and up-to-date medical information they need to be able to make informed decisions about the vaccine. In other words, people should understand the risks of any decision they make. Our lawsuit is advocating for people in DOC custody to have *access* to the vaccine, have as much information they need, and for them to be protected from unvaccinated staff.

For questions, contact Tony Gonzalez, Columbia Legal Services  
Attorney, at [tony.gonzalez@columbialegal.org](mailto:tony.gonzalez@columbialegal.org).