

**MESSAGE FROM THE STAFF OF PRISONERS' LEGAL SERVICES OF
NY REGARDING THE COVID-19 PUBLIC HEALTH EMERGENCY
(12/28/2020)¹**

The staff of Prisoners' Legal Services is concerned about the health and safety of everyone in DOCCS custody during this pandemic. To ensure that your health and safety are protected, PLS, other prisoners' rights advocacy organizations and Legislators have been in regular contact with DOCCS, the Board of Parole and Governor Cuomo's office about our concerns, particularly with respect to reducing the prison population by selectively releasing people.

CARES ACT UPDATE: Verifying Your Identity

Below is a notice that DOCCS provides to individuals who, after submitting an application for a CARES Act payment, receive a request from the IRS to verify their identity. Your ORC can assist you with the process of verifying your identity.

You have received a letter from the IRS (4883C or 5071C) in response to your application for Economic Impact Payments (EIPs) under the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (March 27, 2020). If you require assistance, contact the Guidance Unit in writing within five business days of receipt of your letter, and a Guidance Unit staff member will place you on a call-out.

You **MUST** bring with you the IRS 4883C or 5071C letter and any of the documents listed below that you have in your possession.

- A copy of the Form 1040 that you filed for the stimulus money.
- Your prior year's income tax return if you filed a return or one was filed for you. If someone filed a return for you, or included you on their return, please immediately notify them of the letter you received.
Note: A Form W-2 or 1099 is not an income tax return.
- Any supporting documents for your previous year's tax return (Forms W-2 or 1099, Schedules C and F, etc.)

The Department will **NOT** be making any phone calls or sending any emails to the IRS. The IRS has set up a simplified process for the Department to respond on your behalf. The information collected by the Guidance Unit staff will be forwarded to the IRS for validating identity.

A continuación se muestra un aviso que DOCCS proporciona a las personas que, después de presentar una solicitud de pago de la Ley CARES, reciben una solicitud del IRS para verificar su identidad. Su ORC puede ayudarle con el proceso de verificación de su identidad.

¹ The coronavirus public health emergency and the actions undertaken in response to it are continually changing. The information in this message is current and accurate through December 28, 2020, and supersedes prior versions of this message.

Usted ha recibido una carta del IRS (4883C o 5071C) en respuesta a su solicitud para Pagos de Impacto Económico (EIP) bajo la Ley de Ayuda por Coronavirus, Remedio y Seguridad Económica, *Pub. L. No. 116-136, 134 Stat. 281 (March 27, 2020)*. Si necesita ayuda, contacte a la Unidad de Consejería por escrito dentro de cinco días laborales de recibir su carta y un empleado de la Unidad de Consejería lo anotará para una cita institucional.

Usted TIENE QUE llevar los siguientes documentos:

- La carta 4882C o 5071C del IRS.
- Una copia del Formulario 1040 que usted sometió para el dinero del estímulo.
- La planilla de contribución sobre ingresos que sometió o que fue sometida por usted. Si alguien sometió una planilla por usted o lo incluyó en la planilla de él/ella, favor de notificarle inmediatamente sobre la carta que recibió.
Nota: un Formulario W-2 o 1099 no es una planilla de contribución sobre ingresos.
- Cualquier documentación de apoyo de la planilla del año pasado (Formularios W-2 o 1099, *Schedules C and F*, etc.)

El Departamento NO hará ninguna llamada telefónica ni enviará emails al IRS a nombre suyo. El IRS ha establecido un proceso simplificado para que el Departamento responda a nombre suyo. La información recogida por el personal de la Unidad de Consejería se enviará al IRS para validar la identidad.

Eligibility for Early Release: DOCCS is currently **considering** for early release non-violent felony offenders who have not been convicted of sex offenses and who are within 90 days of a release date. People who meet the eligibility criteria will be evaluated for release; they are not entitled to release. In addition to the requirement that individuals have a parole approved address, there are other factors that may result in denial of early release even if an individual otherwise meets the threshold eligibility requirements.

Consideration for early release is on a rolling basis. That means that as eligible individuals approach the 90-day mark, DOCCS will review the other factors to determine whether they will be released. If you believe you qualify for release consideration, we urge you to contact your ORC to make sure that your proposed release address will be approved.

DOCCS is also considering for early release pregnant and postpartum women who are nonviolent felony offenders who have not been convicted of sex offenses and who would otherwise be released within 6 months. To be released, women who meet the criteria must have stable housing and health care.

In late October, PLS contacted the Governor's and the DOCCS Commissioner's offices about expanding the criteria with respect to whom DOCCS will consider for early release.

Visitation: Due to an increasing number of infections in the community and among DOCCS staff and the incarcerated population, on December 28, visitation was suspended until further notice at all DOCCS facilities.

Five Free Stamps: Due to the suspension of visits at all DOCCS facilities, each week, DOCCS will provide 5 free postage stamps to all incarcerated individuals. Unused stamps will not be rolled over to the next week.

The Impact of the Pandemic-Related Suspension of Programs: Due to efforts to control the spread of COVID-19, between mid-March and mid-June, DOCCS suspended all programming. To limit the impact that the suspension would have on the incarcerated population's chances of merit, parole and conditional release, PLS urged DOCCS to credit the individuals who were enrolled in these programs during the suspension with the entire period that the programs were suspended. DOCCS agreed to credit individuals who were enrolled in ASAT, CASAT, and IDDT with the period 3/16/20 through 4/10/20. PLS continues to urge DOCCS to reconsider this issue.

Transfers: On December 14, due to the increase in COVID-19 cases in the community and within DOCCS facilities, transfers of individuals from the county jails to DOCCS was suspended. The decision will be reviewed on or about January 14. On the same date, transfers from one prison to another were slowed down.

Testing For COVID-19: In consultation with the NYS Department of Health, DOCCS has recently developed an asymptomatic surveillance testing plan. This plan calls for testing a number of incarcerated individuals from each facility every weekday, from multiple housing units, in order to avert potential outbreaks and target resources to facilities and housing units identified as a potential problem. This asymptomatic surveillance testing plan is in addition to testing individuals who display symptoms and those who are identified as part of a contact trace.

While tests are voluntary, as a precaution, DOCCS will place individuals who refuse the test in isolation for 14 days.

COVID-19 in the Prisons

On or about December 16, an individual in DOCCS custody at Woodbourne C.F. died. He was the nineteenth person in DOCCS custody to die from COVID-19. We do not have any additional information about the person who died or the circumstances of his death.

On or about December 21, an individual in DOCCS custody at Clinton C.F. died. He was the twentieth person in DOCCS custody to die from COVID-19. We do not have any additional information about the person who died or the circumstances of his death.

On December 24, there were 683 individuals in DOCCS custody who were infected with COVID-19. This number includes only people who have tested positive and who have not yet recovered. According to DOCCS statistics, the prisons with the highest number of infected individuals are Attica (19), Auburn (28), Bare Hill (27), Cayuga (19), Clinton (33), Coxsackie (32), Gouverneur (20), Gowanda (18), Groveland (56), Lakeview (19), Mohawk/Walsh (45), Orleans (25), Wende (63), Woodbourne (90), Wyoming (10).

Reducing the Spread of the Virus: Wearing masks is one of the most effective measures for reducing the spread of Covid-19. DOCCS reports that it has provided all incarcerated individuals with surgical-type masks as well as 4 washable cloth masks. Individuals can request replacement masks if the masks that they were given are damaged. DOCCS requires correction officers, parole officers and civilian staff to wear masks while on duty. Incarcerated individuals are encouraged to wear masks and are required to wear them during movement, visits, and programming.

We at PLS strongly encourage you to wear a mask. Medical science has demonstrated that masks are an important and effective measure for controlling the spread of the virus. Masks protect the person who wears the mask as well as those who come into contact with him or her.

Scientists have not determined that people who recover from COVID-19 are immune from getting the virus a second time. Several people have been infected twice and many people do not have antibodies to the virus after they recover. **For this reason, even people who have recovered from COVID-19 should continue to wear masks and maintain 6 feet between themselves and others.**

Lawsuits for Release Relating to COVID-19: Due to the danger of widespread COVID-19 infection in prisons, there have been numerous lawsuits in state and federal courts seeking the release of prisoners serving sentences imposed by state court judges. To date, the lawsuits have led to the release of one New York State prisoner; the court granted bail pending appeal to an individual in DOCCS custody. The defendant has a medical condition that, if he is infected with COVID-19, is likely to cause his death. The case is reported in *Pro Se*, Vol. 31, No. 1.

The reasoning used by the courts to deny release varies, but is rooted generally in various procedural and substantive legal hurdles. Lawsuits seeking relief for people who are not in state prison, for example pre-trial detainees and people charged with technical parole violations, have been more successful.

PLS has not ruled out bringing a lawsuit should there be significant legal and/or factual developments that change the current legal landscape. We continue to monitor the situation in the NYS prisons and are closely watching what is happening in courts across the country. Our goal is to take whatever action we believe is the most likely to result in, to the greatest extent possible, the protection of the health and safety of the incarcerated population.