

PLS NOTES

June 2016

Published by Prisoners' Legal Services
Ten Winthrop Square, Boston, MA 02110
Executive Director: Leslie Walker
Editor: Peter Costanza
Phone: 617.482.2773

County Prisoner Collect: 617.482.4124
Massachusetts state prisoner calls:
*9004#. Call in Mondays 1-4 PM,
emergencies from segregation 9-11 or
1-4 every day or write PLS at 10
Winthrop Square, Boston, MA 02110
<http://www.plsma.org>

Prisoners' Voting Rights in Massachusetts

Voting is an important right and can be an opportunity for people who are affected by the criminal justice system to be heard in the political process. Massachusetts, unlike many other states, permits some prisoners to remain eligible to vote while they are incarcerated. Prisoners are not eligible to vote if they are incarcerated for a **felony conviction** on election day in November 2016. But people with felony convictions who are not in prison are eligible to vote. That includes people on probation or parole as of election day. In many states people who have been convicted of a felony lose their right to vote permanently, or have to apply to a court for reinstatement of their right to vote. This is **not** the case in Massachusetts.

You are also eligible to vote while incarcerated if you are **awaiting trial** on misdemeanor or felony charges, or if you are

civily committed but not incarcerated for a felony conviction. If you are incarcerated but still are eligible to vote because you fit into one of the categories listed above, you are considered to be a "specially qualified voter" and you do **not** have to be registered to vote in order to vote. Finally, to vote, you must also meet the qualifications for any voter, which require that you be a U.S. citizen, a resident of Massachusetts, and at least 18 years old on election day.

If you were a Massachusetts resident immediately before you were incarcerated and you want to vote, follow these three steps: (1) request an absentee ballot, (2) follow the instructions on the ballot, (3) return the absentee ballot to the address indicated on the ballot, either by mail or by a relative who takes the ballot in for you. The ballot must be returned to the election officials by the time the polls close on election day.

PLS HAS AN INFORMATION SHEET DESCRIBING HOW TO CAST AN ABSENTEE BALLOT IN MORE DETAIL. PLS will send it to any prisoner who requests it. *The official form for an Absentee Ballot Application by a Family Member is also available in English or Spanish for download on-line at* www.sec.state.ma.us/ele/eeleifv/howabs.htm

Ballots don't have to be witnessed or notarized. If you can't fill out an absentee ballot yourself another person can help you mark it. He or she will have to sign the ballot indicating that they helped you.

The USA faces hotly contested elections this year, especially for president. Get in on the action and VOTE. PLS will send the necessary forms to any Massachusetts prisoner who asks for them by phone or by mail.

Hepatitis C Patients -- PLS Wants to Hear From You!

PLS and the National Lawyers Guild are co-counsel on a class action lawsuit against the DOC and its medical provider, MPCH, challenging the failure to treat Hepatitis C. This case follows years of advocacy on behalf of individual prisoners with Hepatitis C, and the arrival of new medications that offer a near-certain cure with minimal side effects. We are interested in hearing from prisoners or ex-prisoners about their experiences with Hepatitis C treatment, or lack of treatment, since the arrival of these new drugs in 2014. Please contact us in writing, or call the office and ask to leave a message for **Joel Thompson**.

PLS is Looking for Information About Health Care in Worcester County

PLS is interested in hearing from people who are or were recently (in the last three years) held at the Worcester County Jail and House of Correction, about their experiences with health care there. We would like to learn more about all aspects of the health care provided there, whether it involves medical or mental health, chronic care or emergencies, medication access, etc. If you have any such experiences and are willing to share them, please contact PLS in writing, or call the office and leave a message for **Joel Thompson**.

Follow-up on Anti-Shackling Law Shows Widespread Non-Compliance

Two years ago, the Massachusetts Legislature *unanimously* passed the "Anti-Shackling Law," which is meant to protect the human rights of pregnant prisoners and their developing babies. The law contains provisions on medical care, nutrition, and psychological care, but its best-known provision prohibits shackling women during and after labor. Two years later, PLS and the Prison Birth Project produced a report based on public records requests, communications with correctional officials, medical providers, and women who have been pregnant and incarcerated in Massachusetts since the law took effect two years ago. The report indicates that neither the DOC nor any sheriff is completely compliant with the new law, and that many of the law's provisions are hardly complied with anywhere. Key findings in the report are

- knowledge of the law varies not only from one prison or jail to another, but among staff who work for the same institution,
- women are being handcuffed in labor in violation of the law,
- women are being restrained to hospital beds after they have given birth, in violation of the law,
- postpartum women are being restrained with ankle shackles and waist chains in violation of the law,
- some pregnant women are taken to court or medical appointments in the back of vans that have no seatbelts, and other women are missing court dates altogether because of failure to plan for a proper vehicle, both of which violate the law,
- women are going hungry or making do without enough fruit, vegetables, or fiber,

although the law requires a diet containing nutrients necessary to maintain a healthy pregnancy,

-women are being given standard issue clothing several sizes too large instead of maternity clothes designed to fit their bodies; among other issues, pants that are too long put women at risk of tripping and falling,

-although the law requires statewide standards on health care, nutrition, clothing, and other conditions of confinement for each prison and jail, the department of correction has not developed these standards. On the core requirement of barring restraints during labor, Barnstable, Berkshire, and Nantucket's official written policies do not comply with the prohibition; Barnstable only prohibits restraints during "active labor." Comparison of the labor-restraint policies of the DOC and counties reveals that although most of the policies do prohibit restraint during labor, and while in the hospital after delivery, almost all of the policies permit or require restraints in transportation from the hospital, contrary to the law.

The quality and consistency of prenatal medical care remains very uneven between county and DOC facilities. Although the law requires DOC to consult with DPH and the sheriffs to develop minimum standards for pregnancy-related care for all jails, the DOC has not developed such statewide standards. The law requires that every state and county facility housing women have at least one staff person trained in pregnancy-related care, including nutrition. Not all of the departments appear to be in compliance. The DOC responded to a public records request regarding compliance with the training requirements with a list of all medical staff positions, but did not identify any particular

staff members as having received the training.

The news is not all bad. One county sheriff's department responded to inquiries from PLS about a woman who had been unlawfully restrained by putting new procedures into place and training staff in those procedures. The DOC and some counties made changes to their written procedures. Other counties have not responded to the new law with any procedural changes.

The report concludes with specific recommendations for implementing the "anti-shackling law."

- The statutory ban on restraints during any stage of labor or childbirth must be fully enforced.
- The ban on leg and waist restraints must be fully enforced.
- "Postpartum recovery" should be explicitly defined as *six weeks*, or longer if deemed medically necessary. Six weeks is a medical definition of postpartum, and is a community standard.
- Statewide standards must be developed for all elements of the law, and all prison or jail staff that supervise women or transport them to court or medical facilities must be trained on the policies in question.
- Any restraints of pregnant women must be fully, accurately, and promptly documented in writing and reviewed by the Secretary of the Executive Office of Public Safety and Security, who is the commissioner of correction's supervisor.
- Data collection systems should be set up to track all pregnant prisoners and the outcomes of their pregnancies, and women incarcerated during their

pregnancies or post-partum period must be informed of their rights under the law.

- Last but not least, alternatives to incarceration should be developed specifically for pregnant and post-partum women, so that they can have more nearly normal pregnancy, childbirth, and postpartum experiences despite their criminal justice system involvement.

The Effect of Incarceration on Veterans' Benefits

If you are incarcerated and are within 30 days or less of your release date, you can ask the Veterans' Administration to restart your veteran's benefits as of the date of your anticipated release. You can use documents from the prison administration or the parole board that are dated thirty days or less from the release date. If you don't end up being released on the planned date, the VA will inform you that the benefits will be discontinued or reduced without further notice.

VA website is www.va.gov

VA phone is 1-800-827-1000

Vet Homeless Hotline is 1-877-44AID-VET

VA disability compensation payments. If you are convicted of a misdemeanor, you remain eligible to continue receiving VA disability compensation payments throughout your incarceration. If you are convicted of a felony and are sentenced to more than 60 days, your benefit will be reduced, but not eliminated. The maximum disability benefit for a person incarcerated more than 60 days on a felony conviction is the 10% disability rate. If the

veteran was already on the 10% rate the payment is reduced by one-half. Payments are not reduced for disability recipients participating in work-release programs, living in halfway houses, or on parole. When you get into work release, a halfway house, are paroled, or released from prison, you can apply to have disability benefits reinstated.

VA disability pension. If you were receiving a VA pension prior to incarceration, you can continue to receive it during pretrial detention and for up to 60 days of incarceration after conviction of a misdemeanor or felony.

Education benefits. If you are incarcerated for any reason other than a felony conviction and are otherwise entitled to receive VA education benefits, you remain eligible despite incarceration. If you were convicted of a felony but are now in work release or a halfway house and are otherwise eligible, you may apply to receive education benefits, which may include tuition, fees, books, equipment and supplies. You cannot, however, receive VA education benefits if some other program already pays the costs.

Burial. Most veterans remain eligible for burial benefits through the VA, with some exceptions. Benefits may include burial in a veterans' cemetery, a headstone or marker, and a service flag for the family. You can obtain a determination of eligibility at any time or your family or funeral director can contact the Massachusetts National Cemetery Scheduling Office at the time of need. That telephone number is 1-800-535-1117, then press 3.

VA medical care. The VA does not provide hospital and outpatient care to a veteran who is incarcerated in a prison or jail that has a

duty to provide medical services. Once you are released you can apply to the VA healthcare facility where you want to receive services.

General information. You must notify the VA of your incarceration and conviction. If you don't, the VA can deny future benefits until you pay back any benefits you were not eligible for. If you are incarcerated on a misdemeanor, a qualified family member can apply to have all or part of the compensation not paid to you because of incarceration be paid to your spouse, children, or dependent parents. This is called apportionment. No apportionment can be paid to family if you are incarcerated on a felony conviction. After you tell the VA about your incarceration and conviction, the VA should inform you and your family if your family has a right to apportionment benefits while you are incarcerated, and under what conditions payments may be restored to you after release from incarceration. You can apply for reinstatement at your local VA office before release with proof of anticipated release date from the prison or the parole board.

VA contact office. Each VA regional office has a homeless veterans outreach coordinator who assists justice-involved veterans. They can explain what benefits you qualify for and assist you in applying for them, as well as refer you to other places that can help you. For most of Massachusetts the address is:

**Homeless Veterans Outreach Coordinator
Boston Regional Benefits Office
JFK Federal Building
Boston, MA 02203-9928**

The cities of Fall River and New Bedford, along with Barnstable (Cape Cod), Dukes, Nantucket, Bristol, and part of Plymouth

counties are served by the Providence, Rhode Island Regional Office, address:

**Homeless Veterans Outreach Coordinator
Providence Regional Benefits Office
380 Westminster Street
Providence, RI 02903**

If you have access to a telephone, you can also call the **VA's National Call Center for Homeless Veterans at 1-877-424-3838.**

Finally, there is a program to help incarcerated veterans with health and mental health needs with reentry after release. It is called **the Healthcare for Reentry Veterans Program (HCRV)**, and it can work with the Department of Veterans' Services and meet with eligible veterans while they are still incarcerated, but nearing release. HCRV services include pre-release assessments referrals to medical, mental health, and social services including employment and help with short term case management upon release. HCRV has guidebooks to send to veterans to give them information about VA services and Massachusetts community based resources for veterans. The guidebooks contain information for both VA-eligible and non-VA-eligible veterans. You should contact HCRV within 6 months of your release from jail or prison. You will need to provide eligibility information. Contact information:

HCRV Specialist
Department of Veterans Affairs
ENRM Veterans Hospital
200 Spring Road, Building 16
Bedford, MA 01730

VA Treatment, CORI, and Incarceration

Eligible veterans who are not currently incarcerated can use VA health care regardless of criminal history. Only when an otherwise eligible veteran is currently incarcerated, or in “fugitive felon” status (that is, has an open warrant for a felony) is he or she not able to use VA health care.

The VA has **two** programs to help veterans who are involved with the criminal justice system. Aside from the HCRV program, there is Veterans Justice Outreach. The first program contacts veterans who are nearing release. The second program connects veterans who are at the “intake” stage of the system-police, courts, and jails- to community mental health, substance abuse programs, and counseling. All of the VA medical centers have Veterans Justice Outreach Specialists who connect the VA health centers’ patients with the police, courts, jails, and lockups in their service areas.

=====

Donate to PLS!

Please consider donating to PLS. Readers with internet access can go to PLS’ website at www.plsma.org. The donation page is secure, and your donation is tax deductible.

Reaching PLS

County Prisoner Collect: 617-482-4124
Massachusetts State Prisoners: *9004#
Phone Intake hours: Mondays 1-4 P.M.
(general pop.);
9-11 and 1-4 daily (seg.)
Mailing address: PLS, Ten Winthrop Sq., 3d Fl., Boston, MA 02110.

=====

Pre-Determination of Eligibility for Federal Disability Benefits Before Release

The Department of Correction recently signed a Memorandum of Understanding with the Social Security Administration that should speed up the Supplemental Security Income (SSI) application process for eligible Massachusetts prisoners completing their sentences.

SSI payments are generally available to people who are age 65 or older, or who are blind or disabled, AND whose income and resources fall below certain limits. If you received SSI before your incarceration, your benefits are suspended while you are in prison. If your confinement lasts 12 consecutive months or more, your SSI benefits will terminate and you need to file a new application for benefits. Until recently, that meant that you would have to apply for benefits the day that you get out of prison and then wait several months for your application to be approved before you could receive benefits.

With the new Memorandum of Understanding, those eligible should be able to begin their applications several months before their anticipated release. That way, the Social Security Administration can begin processing your application before your release and your benefits can begin much sooner on or after your release. While it is not entirely clear how the Department of Correction will implement the new Memorandum of Understanding, it appears that a correctional employee will assist prisoners who seek to apply for SSI

approximately 90 days prior to a confirmed release date. If you believe that you may be eligible for SSI and are nearing your release date, we recommend contacting your CPO or re-entry staff and asking that they assist you with filing an SSI application with the Social Security Administration. PLS would appreciate hearing from prisoners about to be or released about their experiences applying for SSI shortly before release.

Medicaid and Incarceration

States are not required to terminate Medicaid eligibility for people solely because they are incarcerated. States may *suspend* eligibility while a person is incarcerated, but suspension is a temporary status that can end immediately when the incarceration ends.

Furthermore, Medicaid reimbursement is available for inpatient services provided to a prisoner in *medical* facilities (outside hospitals).

Bottom line: if you know your release date is coming up, contact or ask a family member or correctional employee to contact Medicaid with the information so that Medicaid can put you on payment status the day you walk out the door. If you are not enrolled in Medicaid and are incarcerated, you can file an application before your discharge. This gives the state time to process your application and determine your eligibility. If Medicaid finds you eligible, payments will be available as soon as you are released.

Social Security Phones (Mon.-Fri. 7 to 7.)

1-800-772-1213
1-800-325-0778 (TTY)

Social Security Benefits and Incarceration

Social Security benefits stop for people who are incarcerated on a criminal conviction for more than 30 days. There is no time limit on the length of suspension, but the cutoff is not permanent. Benefits can be restored after release to the street or to parole. Present your request for reinstatement with release papers as soon as possible after getting out. Social Security will try to restart your payments promptly.

Social Security can't restart benefits after release if you were not receiving them before you went to jail. If you think you are eligible for social security but were not receiving it before you were locked up, you can file a claim several months before your scheduled release. That allows a decision to be made closer to the time of release.

Social Security also runs the Supplemental Security Income (SSI) program for aged or disabled people who are poor. SSI benefits are suspended if you are incarcerated for a month or more. If the incarceration is for twelve months or less, SSI can be quickly restarted on release. If you are locked up for twelve months or more, SSI is terminated and you must file a new claim from scratch. Again, however, you can apply for benefits from scratch before you are actually released.

Family or friends with internet access should look at the following Social Security web site addresses:

<http://www.ssa.gov>
<http://www.ssa.gov/pubs/10504.html#prerel>
release

Will Pell Grants Resume?

One casualty of the 1990s tough-on-crime legislation was Pell Grant eligibility for qualified prisoners who wanted to obtain higher education credit while incarcerated. Termination of Pell Grants cut many of the most-motivated and most capable individuals in prison off at the knees.

One sign of an improving approach to rehabilitation emerged last year. In 2013 the Department of Justice funded a study which found that incarcerated people were 43 percent less likely to return to prison within three years after participating in correctional education. Because of the lower recidivism rate the study also estimated that for every dollar spent on prison education programs, four or five dollars would be saved in incarceration costs.

Because of these findings, the federal Department of Education set up a Second Chance Pell Pilot Program. This is an experimental program that will further study the benefits of in-prison higher education. Under this program the federal Secretary of Education can grant exceptions to the ban on Pell Grants for prisoners to selected programs at specific prisons. There is no guarantee that any Massachusetts prison will be chosen as a grant site, but the abundance of higher education resources in Massachusetts means that some of the applications should be strong contenders. PLS is following the selection process and will inform Massachusetts prisoners of any Pell Grant opportunities that gain approval.

Boston University Prison Education Program

Boston University operates a college-level educational program at MCI-Norfolk and MCI-Framingham. No Pell Grants are needed for this program. Those who successfully complete the Boston University Prison Education Program earn a Bachelor of Liberal Studies in Interdisciplinary Studies.

Participation in the program is competitive; interested students must sit for an entrance examination and participate in an interview process. The entrance exam consists of an essay, language (grammar usage and reading), and math. Once accepted, students take courses comparable to those offered on the campus of Boston University.

B.U.'s web site described this degree-granting program in detail, as follows. Boston University Prison Education Program students who complete the bachelor's degree in Interdisciplinary Studies will be able to:

- Demonstrate knowledge of and ability to apply fundamental theories, perspective and techniques in the areas of English, Mathematics, Computer Science, Natural Science, Literature, Philosophy and History.
- Display breadth of knowledge by explaining and applying content of subject matter to real-life situations.
- Articulate goals, purposes and methods used to understand the world in scientific, cultural, historical, ethical, and religious ways.

- Exhibit proficiency in research methods and forms of inquiry that yield results appropriate for quantitative and qualitative data analysis.
- Demonstrate informational and communication competence through written and oral communication consistent with standard academic styles and formats (e.g., research paper using APA style guide; oral presentation of research project). The student will be able to conduct a literature search, select and critically evaluate valid and appropriate sources, and synthesize an argument that he or she is able to present in oral and/or written form.
- Analyze complex issues and arguments (e.g., identify assumptions, premises, and conclusions) in various intellectual contexts (scientific, technical, ethical, social, global, etc.) and will assess the validity of arguments presented.

Published by Prisoners' Legal Services
 Ten Winthrop Square, Boston, MA 02110
 Executive Director: Leslie Walker

Phone: 617.482.2773

County Prisoner Collect: 617.482.4124

Massachusetts state prisoner calls:

*9004#. Call in times Mondays 1-4 PM,

emergencies from segregation 9-11 or

1-4 every day, or write PLS at 10

Winthrop Square, Boston, MA 02110

<http://www.plsma.org>