



OREGON DEPARTMENT OF CORRECTIONS' FAILURE TO PROTECT PEOPLE IN CUSTODY RESULTS IN FILING OF CLASS ACTION LAWSUIT

Plaintiffs are asking a federal judge to release them if the Oregon Department of Corrections does not protect them and others from the coronavirus.

4.6.2020

FOR IMMEDIATE RELEASE

Contact: Bobbin Singh, Executive Director, Oregon Justice Resource Center, at 503-724-3717 or bsingh@ojrc.info.

PORTLAND, Ore. – People incarcerated at four Oregon prisons filed a federal class action lawsuit today against Governor Kate Brown and the Oregon Department of Corrections (ODOC) on the grounds that their rights are being violated by willful and/or deliberately indifferent medical care provided to them. The seven are all more than sixty years of age and/or have chronic health concerns that the Centers for Disease Control and the Oregon Health Authority recognize as placing them at additional risk from the COVID-19 pandemic. They are in custody at Oregon State Correctional Institution (OSCI), Oregon State Penitentiary (OSP), Columbia River Correctional Institution (CRCI), and Coffee Creek Correctional Facility (CCCF).

The suit names Governor Kate Brown, the ODOC Director Colette Peters, Deputy Director Heidi Steward, Assistant Director of Operations Mike Gower, Eastside Institutions Administrator Mark Nooth, and Westside Institutions Administrator Rob Persson as well as the Administrator for Oregon Correctional Enterprises, Ken Jeske.

As of one p.m. on April 6, six cases of COVID-19 have been detected at Oregon prisons. The plaintiffs are concerned that COVID-19 poses a serious risk to the health of all who live and work in Oregon's prisons. There are many reasons why incarcerated people and those who work with them may be especially vulnerable to outbreaks of infection, including living at close quarters to one another, unsanitary conditions, poor health, and the large numbers of people who cycle through the system. Prisons are not built to adequately withstand a global pandemic; ODOC is not equipped or resourced to handle a public health crisis of this magnitude.

Jails and prisons all over the country and world are releasing people with the aim of preventing massive outbreaks of severe illness and death in response to the threat of coronavirus. Governor Kate Brown has identified people in group-living environments, including people in prisons and jails, as the second-highest priority group for testing due to their vulnerability to disease.

“Our clients are keenly aware that they are particularly at risk of serious illness and even death if they contract COVID-19,” said Juan Chavez, Director and Attorney for the Civil Rights Project at the Oregon Justice Resource Center. “This disease has the potential to wreak havoc in an environment such as a prison. People who live in Oregon’s prisons should not have to pay with their lives for the failure to take sensible steps to protect them.”

The Centers for Disease Control recommend that people stay six feet apart, wash hands frequently or use hand sanitizer, stay home when sick, and clean and disinfect frequently touched surfaces daily. Without following the CDC guidelines, ODOC is not only putting these plaintiffs, its employees, and its contractors at risk, it also risks the health and lives of the communities surrounding its 14 prisons.

The plaintiffs argue that ODOC and Oregon hospitals are not equipped to cope with a COVID-19 prison outbreak. ODOC recently announced layoffs, a hiring freeze and other measures to address a \$60 million shortfall which Director Colette Peters told media “could not have come at a worse possible time.” ODOC does not keep sufficient electronic health records to help identify and track trends in medical care. Additional medical costs required to test and treat COVID-19 will further balloon ODOC’s shortfall.

Plaintiffs’ experiences:

- Paul Maney is assigned to the hazard clean-up work crew at OSCI. He has received no training or protective gear (other than gloves) for the clean-up fluids from COVID-19 patients. The disinfectant Mr. Maney is required to use and is used through the institution, Waxie Solsta 710, is not an EPA-registered disinfectant effective against the virus that causes COVID-19.
- George Nulph has a compromised immune system and cannot live in the general population due to his medical condition. Until March 30, OSCI had taken minimal steps to protect him or other people within Unit 13 from exposure to COVID-19. Incarcerated people and staff freely entered and exited Unit 13. Mr. Nulph was required to eat his meals in general population.
- Gary Clift is housed in Unit 13 (unit for people with health issues) at OSCI due to his serious medical condition. He has seen sick people within Unit 13 showing COVID-19 symptoms. As an example, he has personally witnessed a man who said he could not breathe and did not have the strength to dress himself. Mr. Clift has not observed any incarcerated people showing COVID-19 symptoms within Unit 13 wearing facemasks or other protective gear.
- Theron Hall lives in E Block at OSP. He has a serious respiratory condition that causes tightness of breath and other difficulty in breathing. Due to his illness, he is at increased risk of serious health outcomes from COVID-19.
- David Hart became very ill around March 21, with symptoms of fever, dry cough, lethargy, and coughing up blood and other fluids. He tested positive for influenza but was denied a test for COVID-19. Despite being ordered quarantined, Mr. Hart was still required to get his meals with general

population. In addition, his cellmate remained housed with him and was required to continue working.

- Micah Rhodes lives at CRCI where OJRC understands that, among other issues, people in a living unit are given a ration of cleaning supplies for the day which are not replaced if they run out before the day is over. Additionally, people are sleeping in beds only 30 inches apart, and up to 158 people at a time are exercising together in the yard.
- Sheryl Lynn Sublet lives in a dorm with 117 other women, 40 of whom, including Ms. Sublet have health conditions placing them at higher risk of severe illness or death from COVID-19. Ms. Sublet and other medically vulnerable people are still eating their meals shoulder-to-shoulder with other women.

The plaintiffs argue that they should be provided the adequate care recommended by the CDC and health experts, including their release, if safe. A court should order ODOC to allow six feet of space between people in prison. If the department cannot comply, a panel of judges should determine whom to release so as to create enough space within prison to follow CDC guidelines. The plaintiffs are also seeking other remedies, including ready access to cleaning supplies, testing for people who may have been exposed to coronavirus, and more.

ENDS/

Note to editors: Attorneys David Sugerman and Ben Haile join the Oregon Justice Resource Center as co-counsel.