

THE LEGAL AID SOCIETY

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*****FOR IMMEDIATE RELEASE*****

Legal Aid Files Lawsuit To Secure New Yorkers In NYS Prisons Access To The COVID-19 Vaccine

(NEW YORK, NY) – The Legal Aid Society filed a [lawsuit](#) in New York State Supreme Court against New York Governor Andrew Cuomo and New York State Health Commissioner Howard Zucker on behalf of three persons incarcerated in New York State prisons, demanding that the State grant people in custody the same access to the COVID-19 vaccine that has been afforded others in virtually every other congregate residential setting-- settings which by their very nature place individuals at high risk for contracting and transmitting the virus that causes COVID-19.

To date, only a limited number of incarcerated people in the custody of the New York State Department of Correction and Community Supervision (DOCCS) have been given access to the vaccine. No other congregate residential setting has been subject to the same eligibility restrictions. The lawsuit follows on a previous challenge filed by public defender and civil liberties groups in February seeking vaccine access for people incarcerated in New York City jails, which remains pending.

The lawsuit argues that:

- New York State has authorized vaccine eligibility for virtually every other congregate residential setting, including homeless shelters and correctional settings housing juveniles;
- Depriving the incarcerated population of access to the vaccine stands in direct opposition to the State's stated policy to ensure that people who are at high-risk, reside in congregate settings, and are from communities of color are prioritized for immunization;
- All incarcerated persons in New York should have priority access to the vaccine because prisons, including DOCCS facilities, are high-risk congregate settings;
- Sound public health policy dictates that all incarcerated individuals, along with those living and working in congregate residential settings, have access to the vaccine--to prevent disease among the people within the facilities and the broader community, and to disrupt the ongoing emergence of new variants of SARS-CoV-2;

- There is no public health or epidemiological basis to exclude adult correctional facilities from vaccine prioritization while including other congregate residential settings and including staff at correctional facilities; and
- Albany must extend vaccine eligibility to incarcerated people in state prisons to avert further illness and death from COVID-19.

“Week after week, the Cuomo Administration watches COVID-19 cases rise in DOCCS facilities and continues to stand in the way of the vaccine that could save our clients' lives. The State treats no other congregate residential setting in this way, and indeed recognizes that the prison setting is sufficiently high-risk to authorize vaccine eligibility to staff. The decision to exclude incarcerated people as a category for prioritization stands in stark contradiction to the State's professed commitment to both public health principles and equitable access to the vaccine,” said **Veronica Vela, Supervising Attorney with the Prisoners' Rights Project at The Legal Aid Society**. “Albany has had plenty of time to rectify this arbitrary and immoral policy, and we are confident that a court will compel Governor Cuomo to reverse course and immediately expand eligibility to our incarcerated clients.”

The three petitioners in this lawsuit reside at different facilities throughout New York State and experience living conditions common to all congregate residential facilities, including shared and crowded living, bathroom, recreational, and eating spaces - characteristics of these settings that make them particularly vulnerable to the spread of COVID-19. The petitioners also report the inability to practice social distancing and refusal from the correction officers and others to comply with mask wearing and other CDC protocols. The inherent qualities of a correctional setting create an urgent need for vaccinations to keep people -- those in custody as well as staff and members of the community -- safe from infection and its potentially life threatening effects.

[As of March 16, 2021](#), 6,167 New Yorkers in DOCCS' custody have tested positive for COVID-19 and another 34 have succumbed to the virus. For those who have been infected, the lingering effects and long-term complications of the virus remain unknown.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For 145 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.legalaidnyc.org