



March 23, 2020

COVID-19 Update: Whitehorse Correctional Centre and Yukon Community Corrections

The Corrections Branch is working diligently towards preparedness during the rapidly evolving COVID-19 global pandemic. The Branch is making concerted efforts to ensure the health and safety of staff, clients, and the public while also ensuring the provision of humane essential services.

The Corrections Branch is taking a proactive approach. In consultation with the Yukon Communicable Disease Centre and in line with the recommendations from the office of the Chief Medical Officer of Health, a number of precautionary measures have been implemented to reduce the potential for exposure and transmission. The following are some of the steps that have been taken at the Whitehorse Correctional Centre (WCC) and in Yukon Community Corrections (YCC).

The Whitehorse Correctional Centre

- WCC Health Services have delivered information sessions to inmates on COVID-19;
- WCC staff have received education sessions on the use of recommended personal protective equipment, including hand sanitizer, and this equipment has been made available throughout the facility;
- All front-line correctional staff and managers have been reminded of the direction from the Chief Medical Officer of Health on March 22, 2020 to self-isolate if they have recently returned home to the territory;
- As essential service workers, all front-line correctional staff and managers have been reminded that they are not permitted to attend any social gatherings, even those with less than 10 people;
- Additional cleaning measures in the secure area of the WCC have been implemented;
- All non-essential training for staff has been suspended until further notice;
- All inmate programming facilitated by external contractors and community partners have been suspended until further notice, although all programming facilitated by correctional officers is still available to those incarcerated at the WCC;
- A new tool has been implemented to screen all persons admitted to either the WCC or the Arrest Processing Unit upon initial intake;
- Court appearances from the correctional centre are being facilitated via video;
- Intermittent offender reporting is being closely monitored and assessed on a weekly basis. Where feasible, alternate community supervision arrangements are being made;
- Signage regarding COVID-19 has been posted throughout the facility for both inmates and visitors, additional hand sanitizing measures will be put into place for visitors and staff, and screening measures of all individuals attending the facility for visits have been implemented;

- As of Tuesday March 24, 2020, all personal visits with members of the public will be suspended until further notice;
- In order to support inmates with continued personal connections with family and friends, two free daily telephone calls are being provided to inmates as per an agreement with the inmate telephone service provider;
- Professional visits are still permitted, however, all visits are currently being offered in a secure manner, with a physical barrier between visitors and inmates to prevent droplet and contact transmission. Disinfectant products have been placed on both sides of the visiting area to enable each individual to clean the area prior to the visit. Professional visits with lawyers are also being facilitated via video conferencing. As per normal routine, all visits must be booked in advance; and,
- An order for increased canteen stock has been placed to mitigate any disruption in service delivery.

As a reminder, the kiosk located in the WCC's reception area is still available for members of the public to deposit funds into inmate trust and phone accounts. Funds may also be added to trust accounts by mailing a money order to the WCC while funds to phone accounts can be deposited by calling 1-866-713-4761 or online at www.inmatephones.ca.

Yukon Community Corrections

- Signage regarding COVID-19 has been posted throughout the YCC office;
- Additional cleaning materials have been made available for both client and staff use;
- Probation officers have begun shifting to a supervision model whereby clients check-in via phone or video depending on the individualized circumstances of the client;
- All non-essential training for staff has been suspended until further notice;
- All in-person group programming for clients has been cancelled until further notice; and,
- All travel for probation officers to conduct in-person supervision or attend circuit court has been suspended until further notice. To ensure there are no gaps in service delivery, supervision in communities will be done via phone or video technology.

The Corrections Branch will continue to work collaboratively with the Yukon Communicable Disease Centre and the office of the Chief Medical Officer of Health to ensure continuity in service delivery without sacrificing the health and safety of staff, clients, and the public.

Sincerely,



Andrea Monteiro
Director, Corrections



April 1, 2020

COVID-19 Update: Whitehorse Correctional Centre and Yukon Community Corrections

The Corrections Branch continues to work steadfastly towards preparedness during the ever-evolving COVID-19 global pandemic. The Branch remains committed to implementing measures to ensure the health and safety of correctional staff, clients, and the public while also ensuring the provision of humane essential services.

In consultation with the Yukon Communicable Disease Centre and in line with recommendations from the office of the Chief Medical Officer of Health (CMOH), the Corrections Branch has taken a carefully planned, proactive approach to reduce the potential for exposure to, and transmission of, COVID-19. Further to the precautionary measures outlined in the public memorandum released on March 23, 2020, the following are some of the additional steps that have been taken at the Whitehorse Correctional Centre (WCC) and in Yukon Community Corrections (YCC).

The Whitehorse Correctional Centre

- An updated COVID-19 screening form has been circulated and is completed for every individual admitted to the WCC. The new updates include the new direction from the CMOH regarding domestic travel;
- Updated precautionary isolation and medical monitoring procedures have been developed and implemented for both current inmates, as well as for all newly admitted individuals upon intake at the WCC;
- In collaboration with other justice stakeholders, the WCC continues to undertake a detailed review of the personal circumstances of individuals on remand, those serving intermittent sentences, and individuals who may be particularly vulnerable to COVID-19 due to their age or underlying health conditions. This proactive review is underway to ensure that all clients are housed in the most appropriate location should there be a pandemic issue within the correctional institution. This review also includes an assessment of which, if any, inmate(s) could be released on an unescorted temporary absence and housed in the community without compromising their safety or that of the public;

- In partnership with the RCMP and Health and Social Services, work is underway to appropriately manage individuals in the community who do not pose a public safety risk to others rather than have them admitted to the Arrest Processing Unit within the WCC;
- To maintain continuity of service and program delivery, substance use services, spiritual services, and First Nations services are offered, upon inmate request, in a secure manner, with a physical barrier between the service provider and the inmate to prevent droplet and contact transmission;
- All inmate disciplinary hearings are conducted on-site at the WCC using video technology. This measure reduces the risk of COVID-19 exposure and transmission between independent hearing adjudicators and inmates without sacrificing procedural fairness;
- The Forensic Complex Care Team (FCCT) has two designated members who continue to attend the WCC weekly to meet with inmates. In addition, the phone numbers for FCCT counselors have been added to the list of “free calls” and inmates have been provided with their counselor’s number to facilitate communication and essential check-ins;
- The First Nation Liaison Officer has scheduled weekly talking circles and continues to meet regularly with inmates;
- Work is underway to facilitate the online delivery of various courses offered through Yukon College;
- Work programs, as well as indoor and outdoor recreational opportunities, continue to be offered at the WCC;
- All inmates discharged from WCC will be provided with information related to COVID-19 including safe community practices; and,
- All individuals in custody at the WCC are held in their own cell that has solid walls and a solid door.

Yukon Community Corrections

- While all YCC offices remain operational, the Whitehorse, Watson Lake and Dawson City offices have reduced the hours during which they are open to the public;
- In Whitehorse, clients who are required to attend in person for reporting and intake assessments are directed to use a designated telephone within the office to liaise with their Probation Officer or Bail Supervisor. Cleaning materials are available to enable each individual to clean the area and telephone prior to beginning the session;
- In Watson Lake, intake assessments are conducted at the YCC office in a secure manner, with a physical barrier between YCC staff and clients;

- Weekly in-person staff meetings have been temporarily suspended and replaced with daily individual meetings between the YCC supervisor and staff to promote and facilitate social distancing; and,
- Weekly case consultation meetings between YCC staff and the FCCT have been temporarily suspended, though staff have been reminded and encouraged to consult the FCCT via telephone where appropriate.

The Corrections Branch will continue to work collaboratively with health and justice partners in responding to the dynamic situation presented by the COVID-19 global pandemic. As developments arise, the Branch will maintain its measured, proactive approach which prioritizes the health and safety of correctional staff, clients, and the public while also ensuring that humane essential services are provided to Yukoners.

Sincerely,



Andrea Monteiro
Director, Corrections



May 12, 2020

COVID-19 Update: Whitehorse Correctional Centre

The Corrections Branch continues to work diligently in responding to the ever-evolving COVID-19 global pandemic. Over the course of the last several months, the Branch has implemented a number of precautionary measures to reduce the potential for exposure and transmission of the virus at the Whitehorse Correctional Centre (WCC). A fulsome outline of the proactive practices that have been adopted at the WCC and in Yukon Community Corrections was previously circulated in public memoranda on March 23, 2020 and April 1, 2020.

In responding to the COVID-19 global pandemic, the Corrections Branch has taken a measured approach aimed at ensuring the health and safety of correctional staff, clients, and the public while also ensuring the provision of humane essential services. This approach has been developed in consultation with the Yukon Communicable Disease Centre and has been guided by recommendations from the office of the Chief Medical Officer of Health as well as the principle of least restrictive measures.

The Corrections Branch continues to monitor and assess the dynamic situation presented by the COVID-19 global pandemic with extreme care to ensure that its response is appropriate in the circumstances and proportional to the level of risk presented as new developments arise. The measured approach that has been implemented aims to balance health and safety with values that are integral to the delivery of correctional services, including dignity, respect, and legality.

As of May 1, 2020, all 11 confirmed cases of COVID-19 in Yukon had recovered and no new cases have been reported. As such, the Corrections Branch has taken steps to strike an appropriate balance in its approach given the current, presenting situation in Yukon. This has included:

- As of May 5, 2020, redeploying WCC's receptionist back to the usual post in the institution's reception area.
- As of May 12, 2020, reinstating personal visits with members of the public on weekdays at 17:45 and 19:00.

- In order to continue to maintain inmate safety, these visits will be offered in a secure manner, with a physical barrier between visitors and inmates to prevent droplet and contact transmission. Prior to entering the WCC, all visitors will be required to use hand sanitizer. Before permitting the visit to take place, WCC employees will ask each visitor a series of COVID-19 screening questions. Only two visitors will be permitted per visit session and measures will be implemented to ensure that physical distancing between visitors is maintained. Disinfectant products have been placed on both sides of the visiting area to enable each individual to clean the area prior to the visit. Since the ability to physically distance while escorting a visitor to the visiting location is limited, the escorting WCC employee will be issued appropriate personal protective equipment.
- Recognizing that WCC personal visits are still limited, the correctional centre will continue to provide each inmate with a free, 20-minute telephone call every day.

As the situation presented by the COVID-19 global pandemic evolves, the Corrections Branch will maintain its measured approach to appropriately balance risks to health and safety with the provision of humane essential services.

Sincerely,



Andrea Monteiro
Director, Corrections



July 28, 2020

Kevin MacGillivray, Crown Counsel
Public Prosecution Service of Canada, YRO
Elijah Smith Building
300 Main Street, Suite 200
Whitehorse, Yukon Y1A 2B5

Dear Mr. MacGillivray,

In response to COVID-19, the Corrections Branch implemented measures at Whitehorse Correctional Centre (“WCC”) to ensure the health and safety of correctional staff, clients and the public while also ensuring the provision of humane essential services. These measures were established in consultation with the Yukon Communicable Disease Centre (YCDC) and are in line with recommendations from the office of the Chief Medical Officer of Health (CMOH). They are consistent with measures taken by correctional institutions across Canada.

The measures put in place in March and April 2020 have not changed significantly. These measures are:

- All inmates participate in a verbal screener upon intake.
- Staff are all expected to be reviewing the COVID-19 screening questions daily and not enter WCC if they have any symptoms. If someone does attend work and appears to be ill, they are being directed to return home.
- Cleaning procedures have been increased and cleaning supplies are readily available for both staff, visitor and inmate use.
- All new admits are kept separate from the greater inmate population for a 14-day period for medical observation. During this 14-day period, they are monitored daily by WCC health services staff for COVID-19 symptoms.
 - If an individual displays symptoms, they will be medically isolated and tested for COVID-19 as per CMOH/YCDC direction.
- Access to the correctional population by external service providers is limited and, for the most part only permitted where physical distancing can be maintained. In instances where physical distancing is questionable/not possible, the service provider is required to wear a mask.
- Contact, personal visits (i.e. those without a physical barrier) are currently restricted to limit the likelihood of the virus entering the institution.
- In order to continue encouraging family contact, all inmates are still being provided with one free 20-minute daily phone call.

There have been no cases of COVID-19 at WCC.

The Corrections Branch works cooperatively with health and justice partners to respond to the dynamic situation presented by COVID-19. The Branch will continue to respond to developments in a measured, proactive manner, prioritizing the health and safety of correctional staff, clients and the public while at the same time ensuring that Yukoners are provided with essential services in a humane manner.

Sincerely,

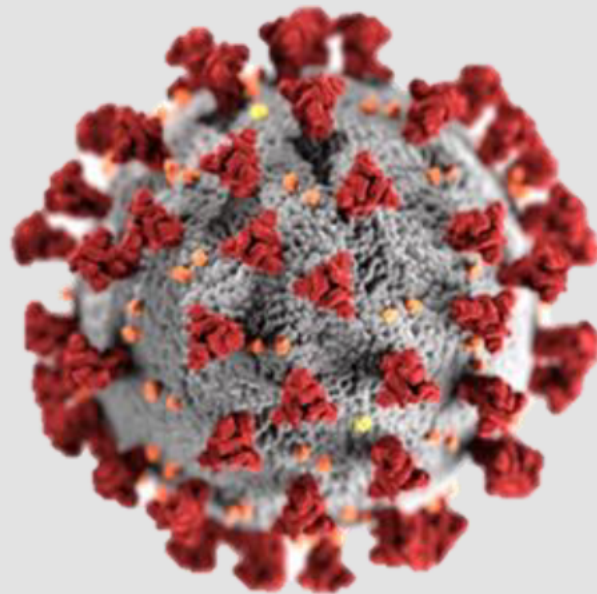


Andrea Monteiro
Director, Corrections

Encl. COVID-19 Public Updates – March 23, April 1 and May 12, 2020

HEADS OF CORRECTIONS
COMMUNITY-CORRECTIONS SUB-COMMITTEE

JURISDICTIONAL
ADAPTATIONS TO THE
COVID-19 PANDEMIC



JULY 2020

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INTRODUCTION

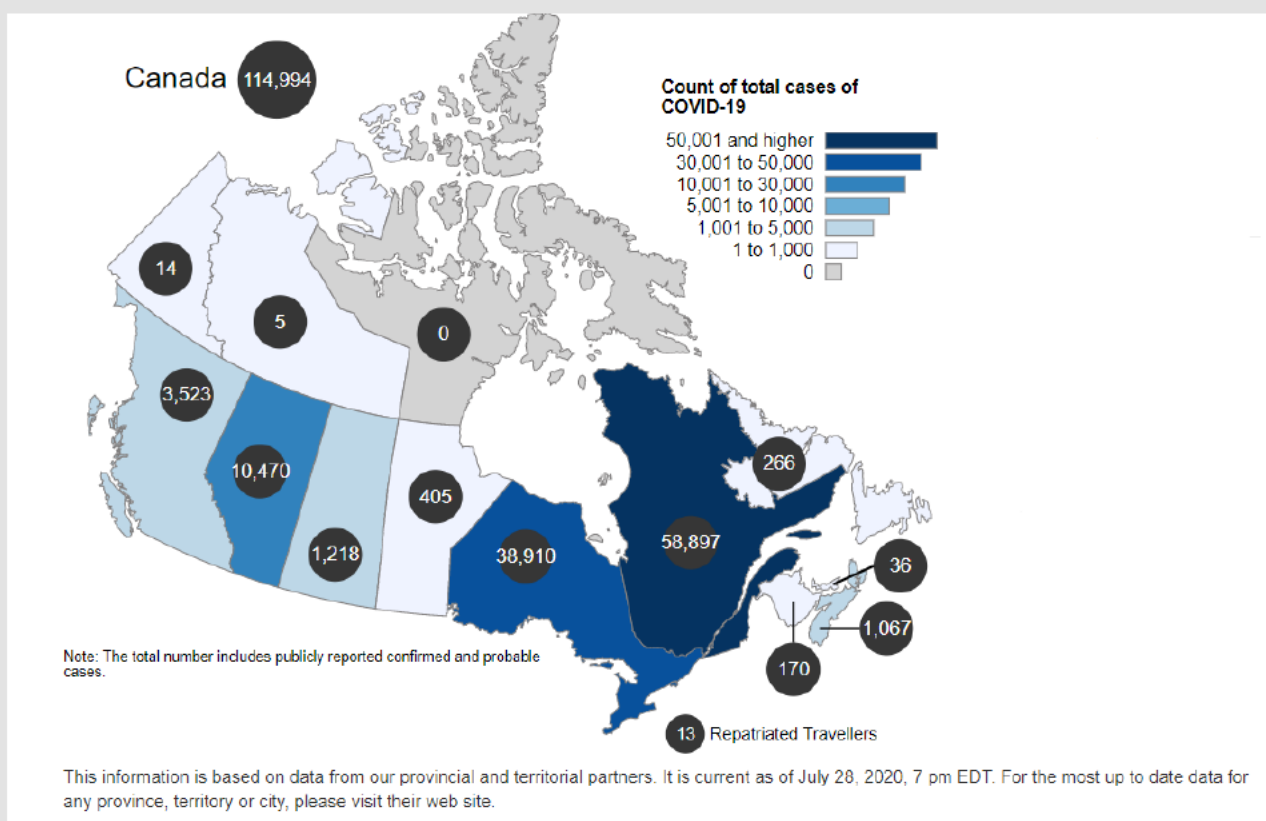
The COVID-19 pandemic has had a direct and significant impact across correctional jurisdictions and will continue to do so for the foreseeable future. Correctional jurisdictions have responded swiftly and undertaken measures to reduce the number of clients reporting directly to offices and implement practices which support continued supervision and case management through other means.

Acknowledging and anticipating a need to respond to future waves of COVID-19, the Heads of Corrections (HOC) have identified the need develop a document collating jurisdictional adaptations in

response to COVID-19. This document assists correctional jurisdictions across Canada as they continue to respond to the COVID-19 pandemic.

Jurisdictional adaptations varied based on jurisdictional size, service delivery, and exposure to COVID-19. The following map¹ outlines confirmed and probable cases of COVID-19 within each jurisdiction as of July 28, 2020.

Included in this document is an overview of jurisdictional adaptations in response to the COVID-19 pandemic in the areas of client reporting, service delivery, staffing practices, court processes, technology, and recovery planning.



¹ Government of Canada. (2020, July). *Coronavirus disease (COVID-19): Outbreak update*. <https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection.html#a1>

CLIENT REPORTING

All jurisdictions reported reducing the number of clients required to report in person to enhance alignment with physical distancing measures. Several jurisdictions ceased all client reporting, while most jurisdictions maintained some in-

person reporting for certain client populations. An overview of responses has been included in Table 1.1.

Jurisdictions that continued to require in-person reporting cited consideration of one or more of the following criteria in making these decisions:

- Public safety considerations;
- Case management and responsivity considerations including but not limited to the client's mental and physical health;
- Client offence, risk, and order type;
- Indigenous community driven travel restrictions;
- Maintaining services specific to electronic supervision; and
- Court-ordered in-person reporting.

Table 1.1
Continued In-Person Reporting Required

Yes	No
British Columbia	New Brunswick
Correctional Service of Canada	Northwest Territories
Manitoba	Nunavut
Newfoundland and Labrador	Saskatchewan
Nova Scotia	
Ontario	
Prince Edward Island	
Quebec	
Yukon	

Adaptations to Address the Specific Needs of Vulnerable Populations

Cellular Phones

Virtually all jurisdictions reported a challenge in accommodating remote supervision with clients who lacked access to a telephone. Both British Columbia and Manitoba have temporarily issued clients cellular devices if the sole reason the clients maintained in-person reporting was their lack of technological capacity to facilitate remote supervision. Most clients fitting this standard were experiencing homelessness.

Sourcing Essential Supplies

Prince Edward Island reported efforts to supply vulnerable populations with essential supplies during the COVID-19 pandemic, which was specifically vital in the rural areas of the province where transportation is not easily accessible. Ontario is currently exploring the provision of personal protective equipment (PPE) to vulnerable populations through their probation and parole offices.

Challenges Identified in Remote Supervision

Several challenges were identified in transitioning to remote supervision. Table 1.2 outlines the reported challenges and mitigation strategies implemented by respondents.

Challenges	Mitigation Strategies
<p>Accommodating remote supervision for clients who lack:</p> <ul style="list-style-type: none"> • Access to a telephone • Financial resources to support increased telephone transactions 	<ul style="list-style-type: none"> • Some jurisdictions have issued clients cellular devices given on loan to clients lacking the technology to facilitate remote supervision • Some jurisdictions have sought the assistance of community resources, including local police authorities, for connecting with clients
<p>Decreased value in interpersonal communication with lack of access to visual cues</p>	<ul style="list-style-type: none"> • Some jurisdictions have introduced video conferencing technologies to assist in narrowing this gap in remote supervision
<p>Lack of technology for staff to facilitate access to:</p> <ul style="list-style-type: none"> • Client information management databases • Secure client telephone contact 	<ul style="list-style-type: none"> • Some jurisdictions were able to secure technology upgrades for staff including cellular phones and laptops to increase staff capacity to work remotely • Jurisdictions that have been unable to secure technology upgrades reported these functions were performed in-office on a rotational basis
<p>Securing consent from clients and victims</p>	<ul style="list-style-type: none"> • Some jurisdictions have accepted verbal consent in the absence of signed consent forms. When required, certain jurisdictions allowed for in-person signing of consent forms • Nova Scotia advised email has been used to secure required signatures for consent forms
<p>Lack of conversational privacy for both clients and staff</p>	<ul style="list-style-type: none"> • Some jurisdictions have enhanced capacity for privacy by providing microphone enabled earbuds for staff working remotely • Some jurisdictions have provided education to staff in privacy considerations for both the client and probation officer (PO) with remote supervision technologies including specific considerations for video conferencing
<p>Connectivity issues for staff and clients including lack of:</p> <ul style="list-style-type: none"> • Reliable internet connection • Cellular service • Computer access 	<ul style="list-style-type: none"> • Some jurisdictions requested assistance from external community agencies, including Indigenous communities, and local police authorities in connecting with clients experiencing these barriers to facilitate remote supervision

SERVICE DELIVERY ADAPTATIONS

Client Intake Procedures

Most jurisdictions introduced capacity for staff to conduct intakes

via telephone as either the sole means of intake or to be used at the probation officer's (PO) discretion. The Correctional Service of Canada, Prince Edward Island, and Yukon advised intakes continue as status quo or in a modified in-person capacity.

In Prince Edward Island, in-person intakes continue solely for clients who had been directed by the court. Clients reporting from court are seen behind plexiglass barriers to ensure physical distancing measures are observed. Appropriate disinfecting protocols are implemented upon the client's departure.

In Yukon, intakes continue to be completed in-person with the use of telephones. Clients are directed to an interview room with a telephone where their intake call is forwarded to the staff member working in office. Moving into the second phase of their restart planning,

Yukon advises in-person intakes may take place in a larger meeting space where physical distancing measures can be observed between the client and PO.

Of the jurisdictions that maintained a certain level of in-person reporting, many advised interim risk assessments were conducted during telephone intakes to assist POs in determining the client's suitability for ongoing remote supervision. Call forwarding features were also used in some jurisdictions to allow for administrative staff to assist with transferring intake calls while working remotely.

Yes	PO's Discretion	No
Correctional Service of Canada	Nova Scotia Ontario	Alberta
Prince Edward Island		British Columbia
Yukon		Manitoba
		New Brunswick
		Newfoundland and Labrador
		Northwest Territories
		Nunavut
		Quebec
		Saskatchewan

Transfer of Documents

The physical transfer of paper documents was discontinued for most jurisdictions during the COVID-19 pandemic. Many jurisdictions adapted their practices where client signatures were previously required to allow for the client's verbal acknowledgement of understanding their court order and consenting for release of information. Newfoundland and Labrador introduced a Managed File Transfer system, a secure means to send password protected documents, which allows

Yes	Circumstances
Manitoba	If the client is already reporting in person
Nova Scotia	If deemed necessary
Ontario	To sign any required releases of information for pre-sentence report writing
Prince Edward Island	Continued for documents deemed necessary for individuals in custody
Quebec	If deemed necessary
Yukon	Continued normal practice with COVID-19 precautions in place

No
Alberta, British Columbia, Northwest Territories, Nunavut, Saskatchewan

for staff to sign documents electronically. New Brunswick has allowed clients to send consent via email by indicating they have read and consent to the respective document. Jurisdictional responses to are outlined in Table 1.4 including the circumstances in-person document signing may be required by certain jurisdictions.

Risk Assessments

Most jurisdictions reported minimal impacts to their risk assessment practices, with several reporting capacity for staff to complete risk assessments via telephone. Jurisdictional adaptations to risk assessment procedures are outlined in Table 1.5.

No Changes Noted	Completed via Telephone	Suspended
Correctional Service of Canada Manitoba New Brunswick Prince Edward Island	British Columbia Northwest Territories Nova Scotia Nunavut Ontario Quebec Saskatchewan Yukon	Newfoundland and Labrador

Newfoundland and Labrador reported risk assessments were predominately suspended due to the nature of information required to be discussed while probation officers work from home while all new intakes were supervised as high until a risk assessment could be completed.

As part of their restart planning, Ontario has recently reintroduced required in-person risk assessments for clients who fit the following offence or court order criteria:

- Intimate partner violence offences;
- Sexual offences; and
- Intensive supervision orders.

Enforcement of Conditions

Jurisdictional adaptations relating to enforcing conditions included no change in practice,

Status Quo	Consultation with Supervisor and/or Crown	Increased use of Discretion
Manitoba Nova Scotia Nunavut Northwest Territories Prince Edward Island Quebec	Newfoundland and Labrador Ontario	Alberta British Columbia New Brunswick Saskatchewan Yukon

consultation now required with the supervisor and/or Crown counsel, and increased discretion for POs to pursue all reasonable measures prior to considering enforcement measures. An overview of jurisdictional responses is provided in the Table 1.6.

As COVID-19 also held significant impacts for service providers and justice partners, the capacity for community corrections clients to meet court expectations was also impacted. Jurisdictional responses indicated the following areas of challenge relating to enforcement practices:

- Decreased capacity to monitor curfews;
- Limited or no options available for clients to fulfill court ordered treatment or programming conditions;
- Restitution;
- Community work service hours; and
- Increased difficulty in connecting with clients and service providers.

Jurisdictions that emphasized probation officer discretion in pursuing reasonable measures prior to enforcement indicated one or more of the following considerations in pursuing enforcement:

- Enforcement is reserved for exceptional circumstances for high-risk clients only;
- Probation officers are to consider whether the breach was a result of circumstances beyond the client's control;
- Whether the breach was determined to be a clear violation; and
- Whether the client meets the standard of failing or refusing to comply without a reasonable excuse.

Prince Edward Island and Quebec both reported an increase in enforcement practices conducted via telephone.

Electronic Supervision

Several jurisdictions across Canada provide electronic supervision as an additional tool to assist the courts in monitoring clients.

Each jurisdiction's adaptations to their respective electronic supervision program were relatively independent and have been outlined in the Table 1.7.

Electronic Supervision Services	
Jurisdictions	COVID-19 Adaptations
British Columbia	<ul style="list-style-type: none"> • Continued for existing clients but suspended for all new requests on April 9, 2020. Relevant justice partners were notified of this decision • On July 2, 2020, the electronic supervision program resumed with appropriate COVID-19 precautions in place including required use of PPE for both clients and staff • Clients may also be authorized to remove their electronic supervision device as part of the removal process
Correctional Service of Canada	<ul style="list-style-type: none"> • Adapted their training protocols for clients by requiring the client to demonstrate certain tasks after the bracelet is affixed, including removing the charger and pressing the device button • Clients are given direction to enhance compliance with physical distancing measures including what direction to look when the device is being affixed • Parole officers may authorize a client to install the electronic supervision unit within their own home. In authorized cases, the client is provided with an installation checklist

	<ul style="list-style-type: none"> Clients may also be authorized to cut their electronic supervision device off as part of the removal process, in the presence of staff while maintaining physical distancing measures, or not
Newfoundland and Labrador	<ul style="list-style-type: none"> Existing clients under electronic supervision continued, however, a temporary hold on new requests for installations was implemented to accommodate the implementation of safe work practices
Nova Scotia	<ul style="list-style-type: none"> Existing clients under electronic supervision continued, however, a temporary hold on new requests for installations was implemented except for exceptional circumstances Electronic supervision installation is completed at a correctional facility
Prince Edward Island	<ul style="list-style-type: none"> Plexiglass barriers have been put in place at two office locations that commonly affix electronic supervision bracelets, providing coverage for both the client and the staff member affixing the bracelet When the plexiglass barrier is not available, both the staff and the client are required to wear PPE
Saskatchewan	<ul style="list-style-type: none"> In replacement of electronic supervision, clients were supervised on house arrest following a similar process without the bracelet POs and/or electronic monitoring coordinators completed written schedules outlining the client's requirements to be home Curfew checks were conducted by telephone both in and outside of regular working hours by staff Local police authorities were notified of the client's status on house arrest

Alternative Measures/ Diversion Programs

Most jurisdictions were able to maintain delivery of alternative measures/diversion programs. A summary of jurisdictional responses has been included in Table 1.8.

Commonalities amongst jurisdictions that continued these programs with adaptations include:

- Using telephone or video conferencing to conduct interviews;
- Allowing agreements to be entered into verbally; and
- Considering alternative arrangements when

the capacity for traditional agreement options, including the completion of community work service, may be interrupted as a result of the COVID-19 pandemic.

In addition to introducing capacity for virtual alternative measures/diversion programming, Manitoba has continued in-person meetings for this service with the use of plexiglass and appropriate PPE. New Brunswick prioritized alternative measures for youth files while suspending adult files for approximately three months.

Table 1.8

Alternative Measures/Diversion Programs		
Suspended	Status Quo	Continued with Adaptations
Newfoundland and Labrador	Northwest Territories	Alberta
Nunavut	Prince Edward Island	British Columbia
Quebec		Manitoba
Saskatchewan		New Brunswick
Yukon		Nova Scotia

Home Visits

Several jurisdictions across Canada are responsible for home visits to perform a variety of functions including but not limited to residency approval, suitability assessments for the electronic supervision program and client meetings. Some jurisdictions maintained this function with adaptations in place, while others suspended home visits altogether. An overview of responses is included in Table 1.9.

Table 1.9	
Home Visits	
Continued	Adaptations
British Columbia	Curbside home visits only
Correctional Service of Canada	Continued with physical distancing protocols and following universal infection protection protocols
Newfoundland and Labrador	In extenuating circumstances, a drive by home visit is permitted
Prince Edward Island	Porch visits have recently been reinstated with client screening protocols in place
Suspended	
Alberta, Manitoba, Quebec, and Saskatchewan	

Pre-Sentence Reports

All jurisdictions continued to provide pre-sentence reports as required by the courts. Many jurisdictions noticed a reduction in requests from the court and offered remote options for the pre-sentence report interview including telephone and video conferencing. Several jurisdictional adaptations were reported to support the remote production of pre-sentence reports including:

- Reports are submitted electronically to the receiving court;
- The office most familiar with the client will complete the report, regardless of which office is originally assigned the report;
- The client's identity is verified through a series of questions relating to their personal information if the pre-sentence report interview is conducted via telephone; and
- Interviews conducted in a manner other than in-person, are noted in the pre-sentence report.

Manitoba and Nova Scotia advised in-person interviews for pre-sentence reports were accommodated with appropriate COVID-19 precautions in place when other remote interview measures were not available. Yukon continued to conduct in-person interviews for pre-sentence reports in their correctional centres for clients awaiting sentencing.

Cognitive Behavioural Programming

Most jurisdictions that offer cognitive behavioural programming were able to maintain or restore a certain level of program delivery. Jurisdictional adaptations for program delivery included offering programming via telephone or using video conferencing technology. In response to the COVID-19 pandemic, British Columbia and Nova Scotia have endorsed the use of virtual programming for individuals and small groups.

Most jurisdictions that offer cognitive behavioural programming were able to maintain or restore a certain level of program delivery. Jurisdictional adaptations for program delivery included offering programming via telephone or using video conferencing technology. In response to the COVID-19 pandemic, British Columbia and Nova Scotia have endorsed the use of virtual programming for individuals and small groups.

All jurisdictions that have maintained or resumed in person program delivery advise of adherence to physical distancing measures as set out by their provincial or federal health authority.

Table 2.1 Cognitive Behavioural Programming	
Maintained or Resumed In-Person	
Correctional Service of Canada	
Manitoba	
Yukon	
Continued Virtually (via telephone or video conferencing)	
Small group and individual	British Columbia Nova Scotia
Individual	Alberta Correctional Service of Canada Prince Edward Island Quebec Saskatchewan
Suspended	
Northwest Territories	

As part of their restart planning, Correctional Services of Canada advises in-person programming may continue in areas that are not experiencing local transmission of COVID-19 with no more than five participants in the group. Yukon intends to offer their first in-person programming in August 2020.

New Brunswick and Newfoundland and Labrador does not offer internal cognitive behavioural programming.

Sex Offence or High-Risk Offender Notifications

convicted of a sexual offence. The information released to community members will vary depending on the type of notification conducted. Jurisdictions that conduct these notifications include the Correctional Service of Canada, British Columbia, Northwest Territories, Newfoundland and Labrador, Nunavut, and Yukon. The Correctional Service of Canada, Newfoundland and Labrador and Northwest Territories advise this service was maintained as status quo with physical distancing measures in place. Yukon noted there has been no need for notifications during the COVID-19 pandemic. Nunavut continues to communicate this information via email.

British Columbia discontinued public outreach for notifications at the start of the pandemic. On April 28, 2020 this function was reinstated with safety protocols in place for staff. The decision to conduct a notification is made in consultation between the staff, local manager, regional director and high-risk offender analyst. If approved, notifications are to take place in-office in the secure interview room and staff are to follow established COVID-19 safety protocols.

Several jurisdictions across Canada are responsible for conducting several types of notifications to community members relating to clients deemed to be high risk and/or

STAFFING PRACTICES

Working Remotely

All jurisdictions reported staff are working remotely, at varying levels. Considerations for determining levels of required in-person staffing included:

- The scope of COVID-19 spread within the specific province or corresponding communities;
- Staff's technological capacity to perform critical duties and administrative support from home;
- Whether local offices remained open to the public;
- Availability of PPE and disinfectant materials to ensure staff and client safety in-office;
- Capacity to maintain organizational responsibility if additional COVID-19 outbreaks occur; and
- Ability to accommodate physical distancing measures within corresponding office spaces.

Most jurisdictions reported staff attend local offices on rotational basis with the frequency of the rotation varying depending on operational need. Some respondents advised of accommodations made for staff with specific needs for remote work including but not limited to staff lacking access to appropriate child-care or the staff member or a member of their family being immunocompromised. Alberta and Yukon report the ability work remotely has been provided as an option to staff and has not been mandatory.

Most jurisdictions reported a gradual increase of staff returning to work in-office, with New Brunswick, Newfoundland and Labrador, Nunavut and Yukon reporting nearly all staff have returned to the office.

British Columbia reported creating a web page for staff to assist staff in locating all necessary information to assist in the transition to remote supervision.

Training and Onboarding Employees

Jurisdictional responses were divided in whether new protocols have been developed to assist in training and onboarding new staff. Several jurisdictions adopted adaptations to assist in this area. All responses were relatively independent in what adaptations had been made to support training and onboarding and have been included in Table 2.2.

Table 2.2

Training and Onboarding Staff

Jurisdiction	Adaptations
British Columbia	<ul style="list-style-type: none"> • The BC Public Service Agency has created guides to assist supervisors with onboarding new employees, virtually • Basic training for both administrative staff and probation officers has continued with virtual offerings replacing any training that was previously offered in-person • Advanced online training opportunities have been developed in response to COVID-19 to assist staff in professional development if working remotely has resulted in reduction their workload • Guides and videos were provided to staff to assist in navigating new technology for remote work and video conferencing
Correctional Service of Canada	<ul style="list-style-type: none"> • In-person training has been developed to assist the organization in strengthening their infection prevention and control measures

Manitoba	<ul style="list-style-type: none"> • Staff training has continued with the addition of PPE protocols in place
Newfoundland and Labrador	<ul style="list-style-type: none"> • Modular training was developed for new and existing staff to prepare staff to return to the workplace • Prior to COVID-19 all new training has been provided in a one-to-one or virtual environment as a result of limited new hires and geographic limitations. Physical distancing measures have been implemented to accommodate any in-person training
Parole Board of Canada	<ul style="list-style-type: none"> • To accommodate technical challenges, training was provided to staff outside of core hours, using additional tools such as Microsoft Remote Assistance • The use of unprotected networks including Duo or Zoom were also used for training new staff. Staff were cautioned to not discuss protected information
Prince Edward Island	<ul style="list-style-type: none"> • Work has been underway prior to the pandemic to develop eLearning options for training staff • Additional training was provided to staff to assist in navigating new technology for video conferencing
Quebec	<ul style="list-style-type: none"> • Training has mostly been postponed with some training offered via Microsoft Teams
Saskatchewan	<ul style="list-style-type: none"> • Hiring during the pandemic has been restricted to candidates within their ministry to reduce challenges associated with virtual onboarding

Challenges Identified with Staffing Practices

Several challenges were identified in the area of staffing practices. Commonalities in responses include:

- Staff non-compliance with rotational schedules or reluctance to attend in-office;
- Accommodation of staff medical or childcare needs in relation to remote work and rotational schedules;
- Shift in approval process to fill vacant positions resulting in hiring delays;
- Changes in hiring process to accommodate telephone or video interviews;
- Changes to union participation processes; and
- The development of risk mitigations strategies to enable delivery of critical training that is necessary to complete the work specific to each role.

COURT PROCEEDINGS

Virtual Court Proceedings

All respondents reported their jurisdiction has capacity for virtual court proceedings to varying degrees. The operational impacts identified in this transition included:

- Ensuring staff had the technological capacity to participate in virtual court hearings via telephone or video;
- Additional expectations from the court for staff to communicate court or legal updates to clients;
- Adjusting to the electronification of certain processes and documentation;

- Challenges with remote connectivity in relation to location, weather, and demand on government bandwidth;
- Lack of communication when matters have been adjourned or completed;
- Balancing the demand for video court appearances and capacity to maintain safe COVID-19 protocols; and
- Accommodating direction from the court for client intake including both in-person and remote intakes.

Court Closures

All respondents reported some level of court closure within their jurisdiction except Northwest Territories, Prince Edward Island and Yukon.

Reported operational impacts and associated accommodations in response to jurisdictional court closures were minimal and included:

- Increased reliance on staff by the courts to update clients of court outcomes; and
- Change in enforcement practices in determining where to forward breaches, when required.

TECHNOLOGY

Transition to Remote Work

Jurisdictional responses provided a variety of technology tools that assisted staff in the transition to working remotely. These tools included:

- The use of a Virtual Private Network (VPN) to allow for secure internet access;
- MiFis which act as a mobile hotspot allowing for mobile internet connectivity;
- Voice over Internet Protocol (VOIP) which allows staff to make calls using broadband internet connection in exchange of a regular phone line;
- Managed File Transfer system (MFT) which allows for secure electronic document transfer and capacity for clients to electronically sign documents;
- Laptops;
- Cellular devices;
- Web cameras; and
- Remote desktop access technologies.

In recognizing the importance of maintaining client privacy while working remotely, Prince Edward Island provided locking filing cabinets to remote work locations to ensure government information was stored in a secure manner. British Columbia provided microphone enabled earbuds to enhance client privacy. Some office locations in British Columbia and New Brunswick have made a computer available to assist clients to meet virtually with their probation officer.

Remote Work Technology Applications

Most jurisdictions articulated which applications were used to support remote work and their endorsed method of use for the application. An overview of technology applications is provided in Table 2.3.

Application	Jurisdictions	Endorsed Method of Use
Cisco Jabber	Alberta	<ul style="list-style-type: none"> Voice over Internet Protocol (VOIP) to allow for calls with clients without reliance on normal telephone landlines
Duo	Parole Board of Canada	<ul style="list-style-type: none"> Training purposes only as this application is not appropriate for discussing sensitive information
FaceTime	Nova Scotia	<ul style="list-style-type: none"> Client appointments
GoToMeeting	Manitoba	<ul style="list-style-type: none"> Client appointments, individual and group programming
Microsoft Remote Desktop	Parole Board of Canada	<ul style="list-style-type: none"> Training purposes
Microsoft Teams	British Columbia	<ul style="list-style-type: none"> Client appointments, individual and small group programming, alternative measures and staff meetings
	Nova Scotia	<ul style="list-style-type: none"> Client appointments and programming
	Quebec	<ul style="list-style-type: none"> Staff training
	Saskatchewan	<ul style="list-style-type: none"> Staff meetings and training
Skype for Business	British Columbia	<ul style="list-style-type: none"> Client appointments, individual and small group programming, alternative measures and staff meetings
	New Brunswick Nova Scotia	<ul style="list-style-type: none"> Client appointments Client appointments and programming
Webex	Alberta	<ul style="list-style-type: none"> Available in-office only for client meetings
	Parole Board of Canada	<ul style="list-style-type: none"> To accommodate clients and victims participating in remote parole board hearings
	Saskatchewan	<ul style="list-style-type: none"> Staff meetings and training
WebRTC	Quebec	<ul style="list-style-type: none"> Client appointments
Zoom	Parole Board of Canada	<ul style="list-style-type: none"> Training purposes only as this application is not appropriate for discussing sensitive information
Zoom for Healthcare	New Brunswick	<ul style="list-style-type: none"> Client appointments
	Prince Edward Island	<ul style="list-style-type: none"> Staff training and low risk client meetings

RECOVERY PLANNING

Restoring Normal Service Levels

All jurisdictions have identified transitioning staff back to the office has required particular attention in ensuring the health and safety of both staff and clients while also continuing to deliver critical services. The Correctional Service of Canada, the Parole Board of Canada, British Columbia and Saskatchewan developed working groups/committees that were responsible for leading recommendations on recovery planning.

In planning to restore normal service delivery, most jurisdictions advised of conducting risk/hazard assessments for each local office to identify risks and mitigation strategies relating to the transmission of COVID-19. These assessments frequently included the determination of maximum occupancy levels for both staff and clients while maintaining appropriate physical distancing measures. Maximum occupancy levels were then used to inform recovery planning.

Most jurisdictions advised staff will continue attending the office on a rotational basis with a gradual increase until a full in-office staffing compliment is achieved. An increase in clients attending the office will be initiated after an increase in staffing levels has been established. Reported considerations for prioritizing which clients are expected to return to in-person reporting include:

- Risk level (e.g. high-risk clients returning prior to moderate risk clients);
- Unassessed clients;
- Offence type (e.g. intimate partner violence, sex offences)
- Court order (e.g. conditional sentence orders); and
- Clients in crisis.

A few respondents advised of prioritizing in-person reporting for the purposes of conducting risk assessments and pre-sentence report interviews.

Many jurisdictions that experienced court closures reported an anticipation of increased workload demands as courts resume service delivery. As a result, Northwest Territories has provided direction for staff to resume working in-office, full-time, to effectively respond to the expected increase in staff workload.

Jurisdictional responses were divided on resuming in-person group programming. The value group dynamic adds to programming will need to be balanced with the recommendations of public health authorities. The use of virtual tools to accommodate small group programming has assisted jurisdictions in delaying the resumption of in-person programming. Correctional Service of Canada and Yukon are prioritizing in-person programming with appropriate physical distancing measures in place. Program resumption is prioritized for areas where local transmission of COVID-19 is low or non-existent.

Several in-office protocols were provided by respondents to encourage adherence to physical distancing measures including:

- Various office signage that advises of maximum occupancy levels, prompts clients and staff to self-assess for COVID-19 symptoms and provides direction for physical distancing and appropriate hygiene;
- Screening protocols for staff and clients;
- Increased availability and use of disinfectant products; and
- Decreased or discontinued seating in waiting rooms.

Recovery plans provided in jurisdictional responses have been included in [Appendix A](#).

Screening, Isolation, and Exposure Protocols

Screening Protocols

Most jurisdictions reported expectations surrounding staff self-screening with varying degrees of formalization. Manitoba advised as physical distancing measures are in place, self-assessment protocols are not required. As Nunavut does not have any COVID-19 cases within their jurisdiction, there is no current protocol in place for self-screening. Formalized self-screening tools provided in jurisdictional responses have been attached to this document as [Appendix A](#).

Isolation Protocols

Responses varied in whether jurisdictions implemented formal protocols for staff isolation in the event a staff member tests positive for COVID-19. Most responses pointed to alignment with respective public health authority for isolation protocols which often includes an epidemiological investigation by their jurisdictional health authority. Commonly reported isolation protocols required symptomatic staff or staff returning from travel to self-isolate for a period of 14 days. Staff that are symptomatic, but test negative may return to work once their symptoms resolve.

Office Exposure Protocols

Jurisdictional responses were divided on whether formalized protocols have been developed for COVID-19 office exposures,

however, all respondents advise should a need arise, their response will align with recommendations outlined by their respective public health authority. Reported jurisdictional protocols for office exposure to COVID-19 by a staff or client include:

- If staff or clients present or report as symptomatic, they are asked to leave the office immediately and contact their local health authority for further direction and appropriate testing;
- Some jurisdictions advised symptomatic clients are provided a mask upon departing the office;
- Risk assessments are conducted which include a review of staff who have been in close contact with a confirmed or presumptive case. Depending on the jurisdiction, staff determined to be in close contact are required to either self-isolate for a period of 14 days or self-monitor for symptoms and respond accordingly; and
- Several jurisdictions advised that an office exposure to a confirmed or presumptive case of COVID-19 would result in immediate closure to accommodate appropriate cleaning and disinfecting protocols.

Formalized exposure plans provided in jurisdictional responses have been attached to this document as [Appendix A](#).

Personal Protective Equipment

Almost all jurisdictions reported having adequate access to PPE and most reported the sourcing of PPE was completed through their jurisdiction's respective distribution/ operations centre. Both British Columbia and Yukon identified a need to externally source specific PPE materials. Both jurisdictions advise that all PPE procured outside of the normal scope of provincial practice aligns with public health recommendations.

Jurisdictions varied in response to what PPE protocols are in place for staff working in-office. An overview of PPE available to staff in each jurisdiction is included in Table 2.4.

Jurisdiction	Physical Barriers	Gloves	Masks	Face Shields/ Safety Goggles	Isolation Gowns
Alberta	Yes	Yes	Yes	Yes	
British Columbia	Yes	Yes	Yes	Yes	
Correctional Service of Canada		Yes	Yes	Yes	
Manitoba	Yes	Yes	Yes		
New Brunswick		Yes	Yes	Yes	
Newfoundland and Labrador		Yes	Yes	Yes	
Northwest Territories	Yes	Yes	Yes		
Ontario	Yes		Yes		
Prince Edward Island	Yes	Yes	Yes	Yes	Yes
Quebec	Yes		Yes	Yes	
Saskatchewan	Yes	Yes	Yes		
Yukon	Yes	Yes	Yes		
Jurisdictions with No Reported PPE Protocol					
Jurisdiction	Status				
Nova Scotia	PPE protocols are specific to physical distancing and handwashing				
Nunavut	PPE protocols are not currently in place as there are no confirmed COVID-19 cases in Nunavut, however, masks have been provided to staff				
Parole Board of Canada	PPE has not been secured as there have been no hazards identified in relation to COVID-19 where PPE would be required				

Most jurisdictions continue to see clients behind physical barriers, reducing requirements for PPE. All jurisdictions that have protocols in place for PPE report the use of PPE is reserved for circumstances where appropriate physical distancing measures cannot be observed or when staff are following disinfectant protocols. Some respondents advised staff may choose to wear a mask, if desired.

Travel to Support Operations

Most jurisdictions advised travel was significantly reduced or discontinued to enhance adherence to public health recommendations. Reported reasons for required travel include training, home visits, and itinerant supervision to remote communities.

British Columbia and Nova Scotia advised itinerant/satellite offices will be re-opened upon completion of risk/hazard assessments. Several jurisdictions advised consultations are taking place with the leadership of remote and Indigenous communities to canvass the willingness of each community to accept visits from community corrections staff before resuming service delivery.

Some jurisdictions advised when staff are travelling together and are unable to observe physical distancing, the use of masks is required.

Moving Forward: Key Adaptations

COVID-19 has presented a unique opportunity for jurisdictions across Canada to expand and potentially enhance the scope of their service delivery beyond what has been traditionally provided. As a result, jurisdictions are considering retaining some of the most promising adaptations beyond the pandemic¹.

Video Technology for Client Appointments and Programming

Video technology has been identified as a key tool to be retained beyond the pandemic by most jurisdictions. Although face-to-face interventions are still necessary and important, they are not needed for all populations served by community corrections. In fact, some jurisdictions have noticed an increase in client engagement when using video and teleconferencing technology versus the client's engagement in-person.

The use of video technology introduces a broader range of intervention options in more remote communities where probation officer attendance may be sporadic and access to in-person evidence-based cognitive behavioural programming may be more limited. Moreover, the lack of access to programming in more remote communities disproportionately impacts Indigenous clients. The introduction of virtual programming may help jurisdictions further reduce recidivism and the overrepresentation of Indigenous peoples in the justice system.

Remote Work

At the start of the pandemic, most jurisdictions transitioned staff to remote work settings to ensure physical distancing. The transition to remote work has challenged prior attitudes and assumptions relating the requirement for staff to work in-office, and many jurisdictions are considering retention of work from home options beyond the pandemic. In some cases, remote work options for staff were identified to lessen existing facility strains and allowed for shared office spaces. Additionally, as transitioning to remote work settings required upgraded technology to support remote supervision, staff are well equipped to continue working remotely should there be a second wave of the pandemic.

Remote Training

In response to the pandemic, many jurisdictions shifted to virtual training, in addition to or in place of in-person training, to enhance adherence to physical distancing measures. The transition to virtual training has resulted in several benefits including:

- A reduction in staff travel requirements and associated costs; and
- An increase in training opportunities for staff.

¹ The longer-term effectiveness of these adaptations has not yet been assessed. Although these practices have shown to be efficient in the shorter term, longer term consequences (both positive and negative) will continue to be evaluated to inform future practice.

APPENDIX A: ADDITIONAL DOCUMENTS

The documents referenced in this appendix will be attached in a Microsoft Word document included with this report.

Self-Screening Assessments

- BC Staff Self Screening Tool
- CCS Self Screening
- ON Staff Self Assessment
- PEI Staff Self Screening Tool
- QC Screening
- SK Staff Self Screening Tool

Exposure Control

- BC Public Service Exposure Control
- CSC Symptomatic Staff Contact Tracing
- CSC Symptomatic Client Contact Tracing
- NWT Exposure Control Plan
- QC Exposure Plan

Recovery Planning

- AB Relaunch Staff Visual
- AB Relaunch Plan
- AB Relaunch Guidelines
- BC Electronic Supervision Safe Work Practices
- BC Risk Assessment
- CSC RTW Staff Orientation
- NWT Recovery Plan
- NWT Risk Assessment COVID-19
- QC Recovery Plan
- SK Recovery Planning



JURISDICTIONAL ADAPTATIONS *TO THE COVID 19 PANDEMIC*

Heads of Corrections – Community Corrections Sub-Committee



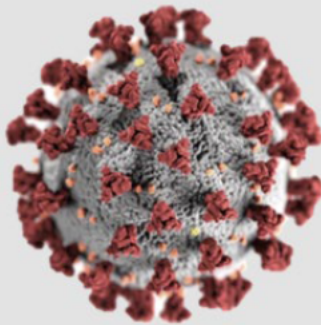
THE TASK

Develop a document collating jurisdictional adaptations in response to COVID-19

THE REPORT

HEADS OF CORRECTIONS
COMMUNITY-CORRECTIONS SUB-COMMITTEE

JURISDICTIONAL ADAPTATIONS TO THE COVID-19 PANDEMIC



JULY 2020

INTRODUCTION

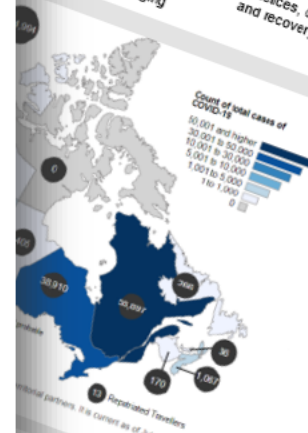
The COVID-19 pandemic has had a direct and significant impact across correctional jurisdictions and will continue to do so for the foreseeable future. Correctional jurisdictions have responded swiftly and undertaken measures to reduce the number of clients reporting directly to prisons and implement practices which support continued supervision and case management through other means.

Acknowledging and anticipating a need to respond to future waves of COVID-19, the Heads of Corrections (HOC) have agreed to develop a document outlining jurisdictional adaptations in response to COVID-19. Acknowledging

and anticipating a need to respond to future waves of COVID-19, this document will assist correctional jurisdictions across Canada as they continue to respond to the COVID-19 pandemic.

Jurisdictional adaptations varied based on jurisdictional size, service delivery, and exposure to COVID-19. The following map outlines confirmed and probable cases of COVID-19 within each jurisdiction as of July 28, 2020.

Included in this document is an overview of jurisdictional adaptations in response to the COVID-19 pandemic in the areas of client reporting, service delivery, staffing practices, court processes, technology, and recovery planning.



Count of total cases of COVID-19

50,001 and higher
30,001 to 50,000
10,001 to 30,000
5,001 to 10,000
1,001 to 5,000
1 to 1,000
0

Confirmed and Probable Travelers

Informational partners, 5:16 Central as of July 28, 2020, 7 pm EDT. For the most up-to-date data for virus disease (COVID-19): Outbreak update. [https://www150.com/diseases/2019-novel-coronavirus](#).

CLIENT REPORTING

100%

of jurisdictions reduced levels of in-person reporting

In-Person Reporting Considerations:

- Public safety
- Case management and responsiveness
- Offence, risk and order type
- Indigenous community driven travel restrictions
- Maintaining services specific to electronic supervision
- Court-ordered in-person reporting

71%

of jurisdictions continued to require a certain level of in person reporting

STAFFING PRACTICES



of jurisdictions reported staff are working remotely, at varying levels.

Remote Work Considerations:



Scope of COVID-19 within the specific community



Technological capacity to perform critical duties from home



Whether local offices remained open



Availability of PPE and disinfectant materials in-office



Capacity to maintain responsiveness if additional outbreaks occur



Ability accommodate physical distancing measures in-office

SERVICE DELIVERY ADAPTATIONS



Client Intakes



Alt Measures/Diversions



Transferring Documents



Home Visits



Risk Assessments



Pre Sentence Reports



Enforcement



Cognitive Behavioural Programming



Electronic Supervision



Notifications

VIDEO CONFERENCING




Client Appointments



Staff Meetings/Training



Client Programming

62% 

...of jurisdictions use video conferencing to support client appointments

MOST

...jurisdictions are using video technology to enhance interactions with staff through virtual staff meetings and training opportunities.

3

...jurisdictions adopted the use of video technology to support virtual delivery of cognitive behavioural programming.

RECOVERY PLANNING

0037



Restoring Normal Service Levels

- Ensuring health and safety of staff and clients while also maintaining delivery of critical services
- Ensure recovery planning allows for responsiveness should jurisdictions face future waves of COVID-19

Considerations for Increasing Clients In-Office

- Risk level
- Unassessed clients
- Offence type
- Court order type
- Clients in crisis

Screening, Isolation, and Exposure Control Protocols

- Many jurisdictions developed screening tools to ensure safety of staff and clients
- Isolation and exposure protocols align with provincial/federal health authority

MOVING FORWARD

Key Adaptations



Video Conferencing:

- Client appointments
- Programming



Remote Work



Remote Training

THANK YOU



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March 23, 2020

COVID-19 Update: Whitehorse Correctional Centre Corrections

The Corrections Branch is working diligently towards preparedness during the rapidly evolving COVID-19 global pandemic. The Branch is making concerted efforts to ensure the health and safety of staff, clients, and the public while also ensuring the provision of humane essential services.

Although there are no confirmed cases of COVID-19 in the Yukon, the Corrections Branch is taking a proactive approach. In consultation with the Yukon Communicable Disease Centre and in line with the recommendations from the office of the Chief Medical Officer of Health, a number of precautionary measures have been implemented to reduce the potential for exposure and transmission. The following are some of the steps that have been taken at the Whitehorse Correctional Centre (WCC) and in Yukon Community Corrections (YCC).

The Whitehorse Correction Centre

- WCC Health Services have delivered information sessions to inmates on COVID-19;
- WCC staff have received education sessions on the use of recommended personal protective equipment, including hand sanitizer, and this equipment has been made available throughout the facility;
- Additional cleaning measures in the secure area of the WCC have been implemented;
- All non-essential training for staff has been suspended until further notice;
- All inmate programming facilitated by external contractors and community partners have been suspended until further notice, although all programming facilitated by correctional officers is still available to those incarcerated at the WCC;
- An order for increased canteen stock has been placed to mitigate any disruption in service delivery;
- Signage regarding COVID-19 has been posted throughout the facility for both inmates and visitors and screening measures of all individuals attending the facility for visits have been implemented;
- Both personal and professional visits are still permitted, however, all visits are currently being offered in a secure manner, with a physical barrier between visitors and inmates to prevent droplet and contact transmission. Disinfectant products have been placed on both sides of the visiting area to enable each individual to clean the area prior to the visit.

Professional visits with lawyers are also being facilitated via video conferencing. As per normal routine, all visits must be booked in advance;

- A new tool has been implemented to screen all persons admitted to either the WCC or the Arrest Processing Unit upon initial intake; and,
- Court appearances from the correctional centre are being facilitated via video.

As a reminder, the kiosk located in the WCC's reception area is still available for members of the public to deposit funds into inmate canteen and phone accounts. Funds may also be added to canteen accounts by mailing a money order to the WCC while funds to phone accounts can be deposited by calling 1-866-713-4761 or online at www.inmatephones.ca.

Yukon Community Corrections

- Signage regarding COVID-19 has been posted throughout the YCC office;
- Additional cleaning materials have been made available for both client and staff use;
- Probation officers have begun shifting to a supervision model whereby clients check-in via phone or video depending on the individualized circumstances of the client;
- All non-essential training for staff has been suspended until further notice;
- All in-person group programming for clients has been cancelled until further notice; and,
- All travel for probation officers to conduct in-person supervision or attend circuit court has been suspended until further notice. To ensure there are no gaps in service delivery, supervision in communities will be done via phone or video technology.

The Corrections Branch will continue to work collaboratively with the Yukon Communicable Disease Centre and the office of the Chief Medical Officer of Health to ensure continuity in service delivery without sacrificing the health and safety of staff, clients, and the public.

Sincerely,

Andrea Monteiro
Director, Corrections



Territorial Court of Yukon

Announcement

March 17, 2020

THE TERRITORIAL COURT IS IMMEDIATELY IMPLEMENTING THE FOLLOWING MEASURES TO ASSIST IN CONTAINING THE SPREAD OF COVID-19. THESE MEASURES WILL BE REVISITED AS MORE INFORMATION BECOMES AVAILABLE, AND WILL BE VARIED AS THE CIRCUMSTANCES REQUIRE IN ORDER TO RESPOND QUICKLY TO THE DEVELOPING COVID-19 SITUATION.

The overriding goal is to protect the health and safety of all Court users and to minimize all unnecessary contact between individuals who are associated with Court proceedings. The use of agency appearance by counsel for an accused, the use of technology for appearances, whether by video or telephone, and the use of delaying non-essential proceedings to a later date, thus minimizing Court appearances, all assist in achieving this goal. If you have a lawyer, we encourage you to contact your lawyer and have them appear for you where appropriate.

Individuals who have matters in Court and do not have counsel may contact the Court Registry at 867-667-3429 or 1-800-661-0408, ext. 3429 (criminal) to set up a telephone appearance, (for civil matters use extension 5937).

Most proceedings of the Court are open to the public. However, until further notice no members of the public will be permitted in courtrooms unless required for a Court matter, or unless the Court directs otherwise. Those able to be in the courtroom include: counsel, parties, witnesses, Probation Officers, Crown Witness Co-ordinators, Victim Services Workers, support workers (ie. FASSY), or other similar persons. Media will also be within the permitted class of persons. Further, in the event that an individual who would otherwise be allowed to be in the courtroom shows symptoms of COVID-19, that individual will not be allowed in the courtroom. Symptoms identified by the British Columbia Centre for Disease Control for COVID-19 include:

- cough;
- sneezing;
- fever;
- sore throat; and
- difficulty breathing.

Any lawyers, parties, witnesses, or within that class of persons allowed to be in Court who are ill, in quarantine, or in self-isolation, should take steps to notify the Court and other parties as soon as possible.

The Court encourages counsel to contact their clients and any witnesses as soon as possible to allow for such adjustments to be made to the scheduled Court sittings as is required, and additionally, to advise the Court and other parties of any applications to adjourn matters as soon as possible.



Territorial Court of Yukon

Announcement

We encourage counsel to work together on consent adjournments for matters currently scheduled to proceed between now and June 4, 2020. In any event, the Court may, on its own initiative, decide to adjourn matters that are not considered to be urgent.

We are prepared to set aside additional Court time for adjourning matters and fixing dates as is required.

Recognizing that the circumstances of a particular case or situation may require it, for all the below there remains the ability for counsel to ask a judge to make an exception, and the Court may, including on its own initiative, direct otherwise or make any order or provide any direction the Court considers appropriate.

Circuits

The goal is to minimize travel for all participants in the Court process, including the Court party and to prevent the introduction or spread of COVID-19 in small communities. Therefore:

1. There will be no circuit travel by the Court party;
2. All matters where the accused is not in custody will be adjourned from the upcoming Court circuit for a period of at least two regularly scheduled Court circuits;
3. All in-custody matters will be presumed to proceed as expeditiously as possible. In cases where the matter has not been set for trial, preliminary inquiry or sentencing, the matter shall be adjourned to a Whitehorse docket court to be spoken to by counsel. In other cases, however, the expectation is that every effort will be made by counsel to agree to have all these matters utilize technology. Alleged offenders and witnesses will not be required to travel between the communities or from outside the Yukon for Court proceedings, unless the Court directs otherwise. In those cases where counsel cannot agree and an application is required, the Court will accept informal applications for audio and video appearances (by ie. e-mail). Pre-trial conferences will be held in every case that requires judicial direction in this regard;
4. All other cases where the trial, preliminary inquiry, and sentencing has already been scheduled, and the offender is not in custody, will be adjourned to a fix-date court in Whitehorse on June 4, 2020 or a date thereafter; and
5. Show causes will be conducted as normal from the Community.

Non-Circuit Show Causes

1. All show causes will be conducted by video-appearance for the accused from WCC.

Domestic Violence Treatment Option Court and Community Wellness Court

The Court will proceed as scheduled with modifications as follows:



Territorial Court of Yukon

Announcement

1. All first appearances will be adjourned to a date in the regular course in order to determine the direction the matter will be proceeding;
2. For all individuals who are already participating in the Court, their matter will be adjourned for at least 10 weeks; and
3. Appearances by counsel acting as agent for the accused, or otherwise having the accused attend by telephone, are advised and strongly encouraged for all Court appearances.

Wednesday Docket Court

1. All matters will be adjourned until June 3, 2020 or a date thereafter. Matters may be brought forward from a later docket date in order to do so;
2. Appearances by counsel acting as agent for the accused, or otherwise having the accused attend by telephone, are encouraged for all court appearances. The accused may contact the Court Registry at 867-667-3429 or 1-800-661-0408, ext. 3429 to organize a telephone appearance; and
3. Matters can proceed to sentencing and flexibility will be provided to accused attending the sentencing by telephone or video, unless otherwise considered inappropriate by the Court.

Judge's Docket

1. Matters can either proceed as scheduled or be adjourned to a judge's docket on June 5, 2020 or thereafter; and
2. Appearances by counsel acting as agent for the accused, or otherwise having the accused attend by telephone, are encouraged for all Court appearances where the attendance of the accused is not required.

Intermittent Sentences

1. Those matters for which counsel are seeking intermittent sentences will, barring exceptional circumstances, be adjourned for sentencing at a later date.

Fix-Date Court

1. The Court will remain open as usual for setting dates for matters. This said, for non-urgent matters, it is most likely that these will be put to a fix-date court on June 4, 2020 or a date thereafter, rather than to a trial, preliminary hearing or sentencing date.



Territorial Court of Yukon

Announcement

Applications

1. All non-urgent applications shall be adjourned to a later date; and
2. All urgent applications may proceed by video or teleconference.

Youth Docket

1. Matters can either proceed to sentencing or be adjourned to a youth docket June 4, 2020 or a date thereafter. Matters currently scheduled for a date prior to June 4, 2020 may be brought forward in order to further be adjourned.

Pretrial and Pre-Circuit Conferences

1. All pre-trial and pre-circuit conferences shall be held by teleconference, unless the Court directs otherwise.

Trials, Preliminary Inquiries and Sentencing Hearings

1. All in-custody matters will be presumed to proceed as expeditiously as possible. The expectation is that every effort will be made by counsel to agree to have all these matters utilize technology. Alleged offenders and witnesses will not be required to travel between the communities or from outside the Yukon for Court proceedings, unless the Court directs otherwise. In those cases where counsel cannot agree and an application is required, the Court will accept informal applications for audio and video appearances (by eg. e-mail). Pre-trial conferences will be held in every case that requires judicial direction in this regard;
2. For all non-urgent matters scheduled to proceed before June 4, 2020, although the expectation of the Court is that counsel will cooperate in adjourning the matter where appropriate, the Court is prepared to consider hearing the matter depending on the circumstances of the case, upon the application of either or of both counsel; and
3. Any such application can be scheduled to be heard in a pre-trial conference or, where appropriate, on the record.

Small Claims Court

1. All non-urgent small claims court matters are cancelled and shall be scheduled for dates after May 31, 2020. Matters that are considered by the Court to be urgent shall be dealt with on a case-by-case basis; and
2. Individuals or counsel may contact the Court Registry at 867-667-5619.



Territorial Court of Yukon

Announcement

Child Protection

1. All urgent or statutorily mandated matters, including the initial presentation hearing, the protection hearing, applications for supervision orders and for extension of time, and any other urgent motions shall proceed. Where possible, parties shall attend by teleconference; and
2. All other matters shall be adjourned to June 4, 2020 or a date thereafter.

Emergency Intervention Orders and Other Protective Orders

1. Urgent applications for emergency orders will proceed. The parties will attend the hearing by teleconference unless otherwise directed by the Court.

Traffic, Ticket and Bylaw Matters

1. Matters scheduled shall be adjourned to a later date without the person having to attend court; and
2. A notice of the new Court date will be sent to the disputant by mail to the address on file with the Court.

Emergency Matters

1. Any emergency or time-limited matters that arise at any location in the Yukon will be dealt with as the circumstances may require.

As this situation is constantly evolving, we will continue to monitor and assess information. The Court will post further updates and information as it becomes available. Please continue to monitor the Territorial Court Website, www.yukoncourts.ca, for updates or follow us on twitter at @YukonCourts.

FOR



CHISHOLM, P.
CHIEF JUDGE OF THE
TERRITORIAL COURT OF YUKON

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Session Briefing Note

Spring 2020

**Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

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Session Briefing Note

Spring 2020

Justice - COVID-19 Business Continuity Plan Update

Justice

67(3)(a)

Background:

- March 11, 2020: The World Health Organization calls COVID-19 outbreak a pandemic. The “Yukon Government Pandemic Co-ordination Plan” (the Plan), is being coordinated by the Yukon Emergency Measures Organization (EMO) with policy guidance provide by the Executive Committee on Pandemic Preparedness where required.

67(3)(a)

CONFIDENTIAL**Session Briefing Note****Spring 2020****Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

- March 17, 2020: Courts make operations changes, including:
 - the Supreme Court of Yukon notified the public, legal professionals, and the media of procedural changes resulting from the advice of Chief Public Health Officer, Dr. Theresa Tam, regarding COVID-19. Due to the need for social distancing, currently scheduled cases will continue to be heard by telephone appearance, with exceptions for in person hearings being determined on a case-by-case basis. There will be no jury trials set in March, April or May and all in-custody appearances will be held by video conference.
 - the Court of Appeal of Yukon has noted that the COVID-19 precautionary measures will be dealt with on a case-by-case basis between parties and the Court. It is expected that the Court of Appeal for British Columbia will issue a COVID-19 response as it relates to their court. This information may inform how cases may be managed in Yukon.
 - The Territorial Court has issued an announcement that states:
 - the court will use agency appearance by counsel and technology for appearances (i.e. video or telephone),
 - non-essential proceedings will be delayed,

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Session Briefing Note

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Justice - COVID-19 Business Continuity Plan Update

Justice

- the public will not be permitted in the Territorial Court unless they are required for a Court matter or the Court directs otherwise. The court has provided a list of exceptions which include support workers, probation officers, media, and others, and,
- circuits will be completed by the Court remotely and will focus on individuals who are in-custody.

67(3)(a)

- March 18, 2020: Yukon RCMP informed the public that all non-essential police services are suspended effective March 18, 2020. Non-essential services includes criminal record and vulnerable sector checks as well as fingerprinting for non-criminal matters.

67(3)(a)

CONFIDENTIAL**Session Briefing Note****Spring 2020****Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

- YC has implemented an Operational Continuity Plan (OCP) for both Custody and Community Corrections that ensures facilities are equipped with proper signage and communication regarding COVID-19 as well as proper Personal Protective Equipment and sanitation equipment.
- Procedural changes and the use of technology wherever possible are being implemented to limit in person contact and minimize the risk of contamination. This includes increased frequency of cleaning in secure areas, all meals for the Arrest Processing Unit clients being served on disposable meal trays, physical barriers for scheduled inmate visits with the public, and probation officers completing client check-ins by phone or video.

67(3)(a)

Approved by:_____
Deputy Minister, Department_____
[Date approved]_____
Deputy Minister, Department_____
[Date approved]

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**CONGRESS OF
ABORIGINAL PEOPLES**



**CONGRÈS DES
PEUPLES AUTOCHTONES**

Premier of Yukon
Government of Yukon
Box 2703
Whitehorse, Yukon
Y1A 2C6

March 20, 2020

Dear Honourable Sandy Silver,

I urge you to act under your authority as Premier, on humanitarian grounds and out of concern for public health and correctional staff, to immediately release all detainees currently held on remand for non-violent offenses and inmates six months short of their release date.

Novel Coronavirus (COVID-19) has been declared a global pandemic by the World Health Organization (WHO). The lives of detainees and the safety of the general public are endangered by unnecessarily keeping anyone in confined living spaces where they cannot avoid infection. Cases of coronavirus have already been detected in institutions in multiple provinces, and overcrowding conditions threaten to create a breeding ground for the virus. Various reports from Provincial correctional centers include a presence of black mold, lack of proper medication, and medical care.

According federal Health Minister, Patty Hajdu, "30-70% of the Canadian population could be infected by Coronavirus... that number depends on the scope and the scale of the response to combat transmission".

This crisis requires extraordinary leadership, and a willingness to take decisive action to protect public health. Canada's federal and provincial institutions threaten to become a dangerous vector for transmission for both inmates and the general public if you do not act immediately.

The over-representation of Indigenous people in the justice system, where treaty and Section 35 rights have been stripped away, means that our constituents would be disproportionately affected by outbreaks of COVID-19 in Canadian prisons. CAP believes that Indigenous inmates have been treated like political prisoners, and it is time to adhere to the honour of the Crown.

In addition to the risk of detainees, families and communities would be put at risk if steps are not immediately taken to reduce over-crowding and limit the chance of infection, by releasing offenders who do not pose an immediate threat to public safety. The mental and psychological health of inmates is also at risk with the current high stress environment, which could have profound implications long-term mental health.



The call to release non-violent detainees has been made by advocates across Canada, in the pages of the Globe and Mail¹, and in countries around the world. The Congress of Aboriginal Peoples wishes to add our voice to this call. Please find attached our recent press release. This is the most humane and effective measure available for addressing transmission in our jails and prisons.

Sincerely,

Kim Beaudin
National Vice Chief

Cc: Prime Minister Justin Trudeau
Cc: Minister Bill Blair, Minister of Public Safety
Cc: Tracy-Anne McPhee, Procureure générale
Cc: CAP Board of Directors

¹ <https://www.theglobeandmail.com/opinion/article-during-a-pandemic-prisons-pose-a-special-risk-we-need-to-release-non/>

**CONGRESS OF
ABORIGINAL PEOPLES**



**CONGRÈS DES
PEUPLES AUTOCHTONES**

Premier ministre du Yukon
Gouvernement du Yukon
Case 2703
Whitehorse (Yukon)
Y1A 2C6

Le 20 mars 2020

Monsieur Sandy Silver,

Je vous conjure d'agir de votre propre autorité de premier ministre pour des raisons humanitaires et dans un souci de santé publique et de santé du personnel correctionnel, pour libérer immédiatement tous les détenus actuellement en détention provisoire pour des délits non violents et les détenus dont la remise en liberté est prévue avant six mois.

Le coronavirus (COVID-19) a été déclaré pandémie mondiale par l'Organisation mondiale de la santé (OMS). La vie des détenus et la sécurité de la population générale sont en péril en raison de la détention inutile de toute personne vivant dans un espace confiné où elle ne peut éviter la contagion. Des cas de coronavirus ont déjà été détectés dans les établissements carcéraux de plusieurs provinces, et la surpopulation menace de créer un terreau fertile pour le virus. De multiples rapports des centres correctionnels provinciaux indiquent la présence de moisissures noires, et déplorent le manque de médicaments et de soins médicaux appropriés.

Selon Patty Hajdu, ministre de la Santé : « De 30 à 70 % des Canadiens pourraient être infectés par le nouveau coronavirus..., mais ce nombre dépendra de la portée et de l'échelle de la réponse pour lutter contre la transmission. »

Cette crise requiert une direction exceptionnelle et la volonté de prendre des mesures décisives pour protéger la santé de la population. Les établissements fédéraux et provinciaux du Canada menacent de devenir des vecteurs dangereux de contagion tant pour les détenus que pour la population générale si vous n'agissez pas immédiatement.

La surreprésentation des Autochtones dans le système judiciaire, où les droits issus des traités et de l'article 35 ont été bafoués, laisse craindre que nos commettants ne soient touchés d'une manière disproportionnée par l'éclosion de la COVID-19 dans les prisons canadiennes. Le CPA croit que les détenus autochtones ont été traités comme des prisonniers politiques et qu'il est temps de respecter l'honneur de la Couronne.

En plus des risques que les détenus courent, les familles et les collectivités sont en danger si des mesures ne sont pas prises immédiatement pour réduire la surpopulation et atténuer les risques de contagion en libérant les contrevenants qui ne posent pas de menace immédiate à la sécurité publique. La santé mentale et psychologique des détenus est aussi en péril en raison du milieu actuel placé sous haute tension, ce qui pourrait avoir des répercussions profondes sur la santé mentale à long terme.



La demande de libérer les détenus non violents a été faite par des avocats de l'ensemble du Canada, dans les pages du Globe and Mail² et dans des lettres du monde entier. Le Congrès des peuples autochtones souhaite ajouter sa voix à cette demande. Veuillez trouver ci-joint notre dernier communiqué de presse. À l'heure actuelle, c'est la mesure la plus humaine et la plus efficace pour lutter contre la propagation de ce virus dans nos centres de détentions et nos établissements carcéraux.

Cordialement,

Kim Beaudin
vice-chef national du CPA

CC Justin Trudeau, premier ministre
CC Bill Blair, Ministre de la Sécurité publique et de la Protection civile
CC Caroline Wawzonek, Ministre de la Justice
CC Conseil d'administration du CPA

² <https://www.theglobeandmail.com/opinion/article-during-a-pandemic-prisons-pose-a-special-risk-we-need-to-release-non/>

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Session Briefing Note

Spring 2020

**Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

Session Briefing Note

Spring 2020

**Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

Background:

- March 11, 2020: The World Health Organization calls COVID-19 outbreak a pandemic. The “Yukon Government Pandemic Co-ordination Plan” (the Plan), is being coordinated by the Yukon Emergency Measures Organization (EMO) with policy guidance provide by the Executive Committee on Pandemic Preparedness where required.

67(3)(a)

- March 18, 2020: Yukon RCMP informed the public that all non-essential police services are suspended effective March 18, 2020.

67(3)(a)

Session Briefing Note

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**Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

- Procedural changes and the use of technology wherever possible are being implemented to limit in person contact and minimize the risk of contamination. WCC has the capacity to assign one inmate per cell.
67(3)(a)

- March 19, 2020: The Law Library is closed to the public. The website has been updated to relay this information. Law Society members, law firm staff, employees of the court and the media will be permitted to attend
67(3)(a)

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0059

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Session Briefing Note

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**Justice - COVID-19 Business
Continuity Plan Update**

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67(3)(a)

- March 23, 2020: The Investigation and Standards Office (ISO) will complete work remotely. While there will be no face-to-face contact or in person interviews, all ISO services remain active.

67(3)(a)

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Session Briefing Note

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**Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

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Spring 2020

**Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

Approved by:

Deputy Minister, Justice

Date approved



Territorial Court of Yukon

Announcement

THE TERRITORIAL COURT IS IMMEDIATELY IMPLEMENTING THE FOLLOWING MEASURES TO HELP CONTAIN THE SPREAD OF COVID-19. THESE MEASURES WILL BE REVISITED AS MORE INFORMATION BECOMES AVAILABLE, AND WILL BE VARIED AS THE CIRCUMSTANCES REQUIRE.

The overriding goal is to protect the health and safety of all court users and to minimize all unnecessary contact between individuals who are associated with Court proceedings. The use of agency appearance by counsel for an accused, the use of technology for appearances, whether by video or telephone, and the use of delaying non-essential proceedings to a later date thus minimizing court appearances, all assist in achieving this goal. Individuals who have matters in court and do not have counsel may contact the Court Registry at 867-667-5441 or 1-800-661-0408, ext. 5441 to set up a telephone appearance. If you have a lawyer we encourage you to contact your lawyer and have them appear for you where appropriate.

As this situation is constantly evolving, we will continue to monitor and assess information. The Court will post further updates and information as it becomes available. Please continue to monitor the Territorial Court Website, www.yukoncourts.ca, for updates or follow us on twitter at @YukonCourts.

Most proceedings of the Court are open to the public. However, until further notice no members of the public will be permitted in courtrooms unless required for a Court matter. Further, in the event that an individual, who would otherwise be allowed to be in the courtroom, shows symptoms of COVID-19, that individual will not be allowed in the courtroom. Symptoms listed by the British Columbia Centre for Disease Control for COVID-19 include cough, sneezing, fever, sore throat and difficulty breathing.

Any lawyers, parties or witnesses who are ill, in quarantine or are in self-isolation, should take steps to notify the Court and other parties as soon as possible.

The Court encourages counsel to contact their clients and any witnesses as soon as possible to allow for such adjustments to be made to the scheduled Court sittings as is required, and additionally, to advise the Court and other parties of any applications to adjourn matters as soon as possible.

We encourage counsel to work together on consent adjournments for matters scheduled between now and the beginning of June 2020. In any event, the Court may on its own initiative decide to adjourn matters that are not considered to be urgent.

We are prepared to set aside additional Court time for adjourning matters and fixing dates as is required.

Recognizing that the circumstances of a particular case may be unique, for all the below there will be the ability for counsel to ask a judge to make an exception that may be granted on terms considered to be appropriate.



Territorial Court of Yukon

Announcement

Circuits

The goal is to minimize travel for all participants in the Court process, including the Court party and to prevent the introduction or spread of COVID-19 in small communities. Therefore:

1. There will be no circuit travel by the Court party;
2. All matters where the accused is not in custody will be adjourned from the upcoming Court circuit for a period of at least two regularly scheduled Court circuits;
3. All in-custody matters will be presumed to proceed as expeditiously as possible. In cases where the matter has not been set for trial, preliminary inquiry or sentencing, the matter shall be adjourned to a Whitehorse docket court to be spoken to by counsel. In other cases, however, the expectation is that every effort will be made to have all these matters utilize technology so that travel is not required by the alleged offender and witnesses. Pre-trial conferences will be held in every case that requires judicial direction in this regard;
4. All other cases where the trial, preliminary inquiry and sentencing has already been scheduled, and the offender is not in custody, will be adjourned to a fix date court in Whitehorse at least 10 weeks from today's date; and
5. Show causes will be conducted as normal from the community.

Non-Circuit Show Causes

1. All show causes will be conducted by video-appearance for the accused from WCC.

Domestic Violence Treatment Option Court and Community Wellness Court

The Court will proceed as scheduled with modifications as follows:

1. All first appearances will be adjourned to a date in the regular course in order to determine the direction the matter will be proceeding;
2. For all individuals who are already participating in the Court, their matter will be adjourned for at least 10 weeks; and
3. Appearances by counsel acting as agent for the accused, or otherwise having the accused attend by telephone, are advised and strongly encouraged for all Court appearances.

Wednesday Docket Court

1. All matters will be adjourned for a minimum of 6 - 10 weeks for plea. Matters may be brought forward from a later docket date in order to do so;



Territorial Court of Yukon

Announcement

2. Appearances by counsel acting as agent for the accused, or otherwise having the accused attend by telephone, are encouraged for all court appearances. The accused may contact the court registry at 867-667-5441 or 1-800-661-0408, ext. 5441 to organize a telephone appearance; and
3. Matters can proceed to sentencing, and flexibility will be provided to accused attending the sentencing by telephone or video, unless otherwise considered inappropriate by the Court.

Judge's Docket

1. Matters can either proceed to sentencing or be adjourned to a judge's docket 6 - 10 weeks away; and
2. Appearances by counsel acting as agent for the accused, or otherwise having the accused attend by telephone, are encouraged for all court appearances where the attendance of the accused is not required.

Intermittent Sentences

1. Those matters for which counsel are seeking intermittent sentences will, barring exceptional circumstances, be adjourned for sentencing at a later date.

Fix Date Court

1. The Court will remain open as usual for setting dates for matters. This said, for non-urgent matters, it is most likely that these will be put to a fix date Court in June rather than to trial, preliminary hearing or sentencing date.

Applications

1. All non-urgent applications shall be adjourned to a later date; and
2. All urgent applications may proceed by video or teleconference.

Youth Docket

1. Matters can either proceed to sentencing or be adjourned to a youth docket 6 – 10 weeks away, matters may be brought forward from a later docket date in order to do so.

Pretrial and Precircuit Conferences

1. All pre-trial and pre-circuit conferences shall be held by teleconference.



Territorial Court of Yukon

Announcement

Small Claims Court

1. All non-urgent small claims court matters are canceled and shall be scheduled for dates after May 31, 2020. Matters that are considered by the Court to be urgent shall be dealt with on a case-by-case basis.

Child Protection

1. Urgent child protection matters shall proceed. Where possible, parties shall attend by teleconference; and
2. All other matters shall be adjourned to a date a minimum of 6 – 10 weeks away.

Emergency Intervention Orders and Other Protective Orders

1. Urgent applications for emergency orders will proceed. The parties will attend the hearing by teleconference.

Traffic, ticket and Bylaw Matters

1. Matters scheduled shall be adjourned without the person having to attend court and will be adjourned to a later date; and
2. A notice of new court date will be sent to the disputant by mail to the address on file with the Court.

Emergency Matters

1. Any emergency or time-limited matters that arise at any location in the Yukon will be dealt with as the circumstances may require.

CHISHOLM, P.
CHIEF JUDGE OF THE
TERRITORIAL COURT OF YUKON

Dear Allan Lucier,

I hope you are keeping well, and managing through this unprecedented time. I want to commend you for the extraordinary work that you and your teams are doing at a very challenging time. I recognize that you have likely been facing substantial pressure to identify ways to support the transition of incarcerated individuals to the community in response to COVID-19. I would like to acknowledge the work that the Justice Department is doing, and recognize that you are striving to make the best decisions possible for the health and safety of staff, incarcerated people, and the general public.

With this, I wanted to highlight to you that the John Howard Society is available and willing to support in communities around the province of BC and in the Yukon. We have been fortunate that our staffing levels remain strong through this crisis, and we have the experience and resources to work collaboratively to support your efforts. We understand and acknowledge the importance of weighing the interests of incarcerated people and the public. Through our long history of work within this context we are well aligned to support you in the planning and decisions that you are making and in the support for individuals who may be released in response to COVID-19.

We have extensive experience supporting individuals in the criminal justice system and working in collaboration with government and community partners in supporting community safety. We currently provide Community Case Management Services for the Canada Border Services Agency as part of their alternatives to detention initiative. We operate several community-based residential facilities (halfway houses) and reintegration programs in partnership with the Correctional Service of Canada. Furthermore, we have extensive outreach and community services for vulnerable or at-risk populations including Forensic Outreach in partnership with the Provincial Health Services Authority, Community Living residential and outreach services for Community Living BC, and a number of employment, housing, and education initiatives. We are also very pleased to be working with your Government to provide services to individuals transitioning from Correctional Facilities in the Yukon, and have recently begun providing supervision to an individual who is on bail from federal custody.

Understanding the exceptionally challenging times for our sector and our community, we can offer our experience and support to you in providing supervision and services for individuals leaving custody on temporary absences, bail, electronic monitoring or other legislative means. In the past three weeks we have developed innovative responses to the changed situation including sourcing alternative properties to house self-isolating people, including exploring rental of RVs and trailers. We are proactively identifying additional staffing resources through security personnel to complement the restructuring that we have implemented to accommodate the additional needs of our CBRF residents. We are optimistic in continuing to work with the Yukon Government to further expand these innovative practices and hope that we can contribute to the planning and design of the optimal solution for all stakeholders.

Do not hesitate to contact me if you would like to discuss this further,

Sincerely,



Mark Miller

Executive Officer



SUPREME COURT OF YUKON

NOTICE TO PUBLIC AND LEGAL PROFESSION

March 17, 2020

The Supreme Court of Yukon is closely monitoring the situation with COVID-19 in Yukon.

Chief Justice Veale met with court staff Monday morning to discuss practicing social distancing and taking the advice of Chief Public Health Officer, Dr. Theresa Tam.

At the present time, in the Supreme Court of Yukon, currently scheduled cases will continue to be heard by telephone appearance only, conditional on court staff, lawyers and litigants being healthy. Judicial settlement conferences will be adjourned.

Counsel and their clients shall all attend by telephone. Counsel and self-represented litigants shall advise the Trial Coordinator if they are unable to proceed. Judges are available for case management conferences by telephone. Visitors will not be permitted in courtrooms. Accredited media may be permitted on a case-by-case basis.

In exceptional cases, if in-person hearings are requested and approved, social distancing must be maintained by those present. Please contact the Trial Coordinator.

There will be no jury trials set in March, April or May. All in-custody appearances will be by videoconference.

For urgent or emergency civil or family matters, lawyers may speak to the Trial Coordinator for a telephone case management conference with a judge to determine when and if the matter may proceed.

Court Staff will take all precautions to stay healthy, if possible, but the Court expects to be working with a minimal staff.

Contact:
Marie Gagnon
867-667-3524



Minister's Office
PO Box 2703, Whitehorse, Yukon Y1A 2C6

June 4, 2020

Rowena Pinto, UNICEF Canada
Rachel Gouin, Child Welfare League of Canada
Cheryl Milne, David Asper Centre for Constitutional Rights
Shawn Bayes, Elizabeth Fry Society of Greater Vancouver
Mary Birdsell, Justice for Children and Youth
Heather Sago, Murray McKinnon Foundation
Senator Kim Pate

Re: Youth in the Justice system

Thank you for your correspondence of May 6, 2020, regarding COVID-19 measures and their impact on youth navigating Yukon's justice system.

I have read your letter and the attached *Technical Note on COVID-19 and Children Deprived of their Liberty* and have provided a copy of each to my colleague, the Minister of Health and Social Services (HSS), whose department is responsible for Yukon's Youth Justice program.

The global COVID-19 pandemic has impacted us all. The Government of Yukon, in implementing orders under the *Civil Emergency Measures Act*, has done so with the health and safety of all Yukoners in mind. If these measures had not been implemented, there is little doubt that Yukon's outlook would be much different than it is today.

At this time, Yukon has been limited to 11 confirmed cases of COVID-19 (all now recovered), none of which were tied to community transmission. No new cases have been confirmed since April 20, 2020. This has allowed the Government of Yukon to begin to ease some of the restrictions put in place to mitigate the spread of COVID-19.

Your correspondence outlines three primary areas of concern in relation to youth and child detention as COVID-19 mitigations continue:

- children and youth entering detention facilities;
- safe release of children from conditions of detention; and
- protection of health and well-being of any children who remain in detention.

I will address these valid and important concerns in order in the following paragraphs.

Children and youth entering detention facilities

Yukon's focus on alternatives to incarceration, including community custodial sentences, have significantly reduced the number of youth in custody. Over the past year, multiple youth were never in custody at the same time. Since April 2019, the Young Offenders Facility (YOF) had 10 single admissions with remanded time or sentences ranging from less than five days to 34 days.

Yukon prioritizes alternatives to incarceration, such as community custodial sentences rooted in restorative justice, which has led to significantly lower numbers of youth being incarcerated. In Yukon, there is currently one deferred custody order. As is the case with deferred custody and community supervision, there is the potential for readmittance to YOF at the discretion of the Provincial Director (PD). Prior to initiating a PD remand, all other options would first be exhausted and incarceration would be utilized only in the direst circumstances.

Safe release of children from conditions of detention

Presently, no youth are being held in any level of custody at YOF, and HSS is not expecting any unless court ordered for a serious offence where incarceration is the only option. YOF saw zero youth incarcerated from January 9, 2020 to March 18, 2020. Prior to that, from November 15, 2019 to January 3, 2020, there were also no youth held in custody.

Since the beginning of the COVID-19 pandemic, YOF has had two youth admitted – one from March 19 to April 7, 2020, and another from May 5 to 6, 2020. Both youth were engaged in such programs as education, recreation and other daily living activities. They were encouraged to maintain connections with their identified support networks, including approved family contacts as well as professionals such as mental health counsellors, lawyers and their youth workers.

Release plans for both youth included input from caregivers and support for a safe re-entry into their residences.

Protection of health and well-being of any children who must remain in detention

In April 2020, the Family and Children's Services branch of HSS created practice guidelines for all staff during the COVID-19 crisis to ensure the health and safety of staff and clients, including those at YOF. Prior to the practice guidelines officially rolling out, the one youth admitted to the facility received education on physical distancing and other recommendations of the Yukon Chief Medical Officer of Health (CMOH).

YOF implemented health recommendations from the CMOH (for example, physical distancing, use of PPEs, routine cleaning and disinfecting) and uses Correctional Service Canada's screening questions to prevent the transmission of COVID-19. As has been the reality at YOF, whenever a single youth is in custody, existing health precautions will significantly reduce the risk of COVID-19 transmission.

I trust that this information eases any concerns you may have about children and youth currently in contact with Yukon's justice system.

Thank you for taking the time to bring this matter to my attention.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Tracy-Anne McPhee', with a stylized, cursive script.

Tracy-Anne McPhee
Minister of Justice and Attorney General

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Session Briefing Note

Spring 2020

**Justice - COVID-19 Business
Continuity Plan Update**

Justice

67(3)(a)

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Background:

- March 11, 2020: The World Health Organization calls COVID-19 outbreak a pandemic. The “Yukon Government Pandemic Co-ordination Plan” (the Plan), is being coordinated by the Yukon Emergency Measures Organization (EMO) with policy guidance provide by the Executive Committee on Pandemic Preparedness where required.

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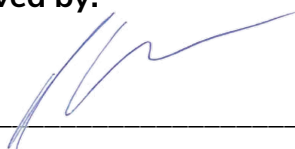
- March 17, 2020: Courts make operations changes, including:
 - the Supreme Court of Yukon notified the public, legal professionals, and the media of procedural changes resulting from the advice of Chief Public Health Officer, Dr. Theresa Tam, regarding COVID-19. Due to the need for social distancing, currently scheduled cases will continue to be heard by telephone appearance, with exceptions for in person hearings being determined on a case-by-case basis. There will be no jury trials set in March, April or May and all in-custody appearances will be held by video conference.
 - the Court of Appeal of Yukon has noted that the COVID-19 precautionary measures will be dealt with on a case-by-case basis between parties and the Court. It is expected that the Court of Appeal for British Columbia will issue a COVID-19 response as it relates to their court. This information may inform how cases may be managed in Yukon.
 - The Territorial Court has issued an announcement that states:
 - the court will use agency appearance by counsel and technology for appearances (i.e. video or telephone),
 - non-essential proceedings will be delayed,

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- the public will not be permitted in the Territorial Court unless they are required for a Court matter or the Court directs otherwise. The court has provided a list of exceptions which include support workers, probation officers, media, and others, and,
- circuits will be completed by the Court remotely and will focus on individuals who are in-custody.

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Approved by:

Deputy Minister, Justice

March 18, 2020

Date approved

Minister's Office

Date: 2020-05-06

Due Date: 2020-05-20

Routed to: J-1

Tracking Number: JUS-228

For:

- Prepare response for Minister's signature**
- Prepare departmental response**
- Prepare briefing note**
- Please consult HSS**
- FYI**
- Other**

Casework Log#:

Bring Forward Date:

Casework Close Date:

Honourable Tracy-Anne McPhee
 Minister of Justice
 Andrew Philipson Law Centre
 2134 Second Ave.
 Whitehorse, YK

May 6 2020

Who's checking in on youth in the justice system?

Dear Minister McPhee,

Community reports of youth put at risk and a lack of official information is leading children's rights organizations, advocates, and lawyers to raise concerns about how COVID-19 is affecting youth who are incarcerated in the justice system.

Similar to adult jails and prisons, communicable diseases including COVID-19 can quickly spread through youth detention centres and other forms of secure and open custody institutions, putting young people and staff at risk. Children reside in group settings that make the recommended physical distancing protocols difficult, if not impossible. Measures taken to control the spread of COVID-19 in these environments can be extremely harmful to the safety and well-being of the youth who live there. Most visits have been canceled, including family and legal representatives. Education and social programs have been canceled or reduced. Despite the reality that the use of segregation for youth is not legal in Canada, in some cases, young people have been held in isolation (segregation) for 20 or more hours a day to enforce physical distance.

The Alliance for Child Protection in Humanitarian Action recently published a *Technical Note on COVID-19 and Children Deprived of their Liberty*, providing detaining authorities with key information and steps to respond to COVID-19, including:

1. Instituting a moratorium on new children entering detention facilities;
2. Releasing all children who can be safely released; and
3. Protecting the health and well-being of any children who remain in detention.

We do not currently have a full picture of how the situation is unfolding in Canada, and require greater transparency about the health and well-being of young people in the justice system.

No province or territory has publicly committed to a moratorium on young people entering detention facilities. In fact, there were reports of youth being held in isolation or segregation while they waited for bail. In response to pleas from defence lawyers, the Manitoba government stopped holding youth in segregation at the Winnipeg Remand Centre, and are now isolating them in a cottage at the Manitoba Youth Centre for 14 days to ensure they do not spread COVID-19. Segregation for youth is prohibited by numerous international agreements to which Canada is a signatory, including the United Nations Convention on the Rights of the Child, and was never contemplated for youth jailed pursuant to the provisions of the *Youth Criminal Justice Act*. More information is needed about the situation of young people entering the justice system and those being detained in light of the possible use of isolation for public health purposes.

Similarly, no province or territory appears to have made a concerted effort to release young people from custody and/or detention during COVID-19. Early in the pandemic, the Union of BC

Indian Chiefs was calling on the province to release incarcerated Indigenous youth. In March, Alberta was allowing youth sentenced to weekend jail time to self-isolate on house arrest and was considering allowing young people found guilty of an offence to serve their sentence at home.

We are especially concerned that the pandemic response is unfolding without necessary oversight, as advocates and organizations have not been able to enter institutions to check in on youth and the conditions of their detention.

The COVID-19 pandemic compels us to call on governments to pursue all efforts to divert youth from institutions during the pandemic and to actively seek the release and reintegration of youth currently detained, whenever possible. Many of these considerations are currently being applied to the adult population.

Detaining authorities, departments of justice, and public health officers must read the Technical Note on COVID-19 and Children Deprived of their Liberty and take action to protect the rights, health, and well-being of young people who interact with the justice system.

Governments must provide information on youth in custody and detention.

How many youth are being held? How many have been released or diverted from institutions? Are young people being placed in isolation, and how are those decisions being made? Is regular movement within facilities restricted by emergency health measures, leading to *de facto* isolation for long periods of time? How many have been relocated to other facilities; are these facilities far from their home community?

Institutions must provide information on the conditions of confinement to which youth are subject.

What programming, including educational programming, is available? What supports are in place for young people experiencing anxiety and mental health challenges during the pandemic? What, if any, virtual contact exists with professionals, families, other communities of support? How many youth have what amount of dedicated time access to phones or electronic means of communication to communicate with whom? (lawyers, counsellors, family members, friends, other supports)?

Sincerely,

Rowena Pinto, UNICEF Canada
 Rachel Gouin, Child Welfare League of Canada
 Cheryl Milne, David Asper Centre for Constitutional Rights
 Shawn Bayes, Elizabeth Fry Society of Greater Vancouver
 Mary Birdsell, Justice for Children and Youth
 Heather Sago, Murray McKinnon Foundation
 Senator Kim Pate

P.S. For further information, please communicate with Terence Hamilton, UNICEF Canada, Tel: 647-648-3919, E-mail: Thamilton@unicef.ca.

Technical Note: COVID-19 and Children Deprived of their Libertyⁱ



Photo courtesy of © UNICEF/UNI117442/Estey

Introduction

Experience from previous infectious disease outbreaks indicates that new child protection risks are likely to emerge from the direct effects of COVID-19 as well as from measures to prevent and control its spread. Moreover, existing child protection risks are likely to be exacerbated. Some groups of people are more vulnerable in these circumstances, including, as discussed in this note, children deprived of their liberty, who often have compromised psychosocial, physical and mental health issues, live in crowded or unhygienic conditions and are more vulnerable to abuse and neglect.

Lessons learned from previous outbreaks emphasize the need for States to accommodate increased child protection needs when devising and implementing their response plans. Failure to address such needs or delayed implementation of coordinated responses can increase suffering, cause irreparable harm to children and can delay the recovery of whole communities.

In responding to the COVID-19 pandemic, States must ensure that the human rights of every child who is deprived of her or his liberty are fully respected, protected and fulfilled. This includes providing adequate care and protection from harm, including by taking concrete steps to reduce overcrowding in all facilities in which they are detained and ensuring safe placement in non-custodial, family or community-based settings. It also means that all decisions and actions concerning children must be guided by the principle of the best interests of the child, and children's rights to life, survival, and development, and to be heard.

This note aims to provide detaining authorities with key information and steps to respond to COVID-19 including by:

1. Instituting a moratorium on new children entering detention facilities;
2. Releasing all children who can be safely released; and
3. Protecting the health and well-being of any children who must remain in detention.

1. Understanding How to Protect the Rights of Children Deprived of their Liberty and Avoid Increased Detention of Children During the COVID-19 Outbreak

The *Convention on the Rights of the Child* (CRC) applies to all children in all contexts, including in emergency situations. On any given day, [hundreds of thousands of children](#) are deprived of their liberty in detention facilities globally. While anyone can contract the coronavirus disease (COVID-19), children deprived of liberty in locked facilities, including those detained with their parents or caregivers, those in immigration detentionⁱⁱ and those detained on national security grounds,ⁱⁱⁱ are at greater risk of contracting and spreading the disease.^{iv} Measures imposed to control the spread of the virus and its societal impacts are also likely to negatively affect their well-being and healthy development, including adequate care while detained, and family and community support.

According to Article 24 of the CRC, children have the right to the highest attainable standard of health. Children deprived of their liberty are more vulnerable to contracting COVID-19 because of the confined conditions in which they live. Deprivation of liberty makes it more difficult to self-isolate or practice physical distancing, especially in facilities that are overcrowded and unclean, and where security or infrastructure reduce access to water, sanitation and basic hygiene. Children deprived of their liberty have common demographic characteristics with generally poorer health than the rest of the population, are more likely to have or experience underlying psychosocial, physical and mental health issues that are

exacerbated by their placement in custody and face the absence of quality health services even before an emergency arises. They often receive poor nutrition and lack adequate access to quality services including mental health and psychosocial support, social and educational services. Under these conditions, detention facilities may act as a source of infection, amplification and spread of COVID-19 inside and outside the facilities.

Detention facilities not only place children at severe risk of contracting the virus, they also place staff working in these facilities (police officers, correction officers, care givers, social workers, and health workers etc.), their families and communities at risk. Staff may not be equipped with adequate protective gear. Staff may also experience fear and face stigma, especially where outbreaks occur within facilities. In numerous countries COVID-19 has begun to strike prisons, jails and immigration detention centers, as well as other places where children are deprived of their liberty,^v and in response, many countries are now taking pre-emptive steps to reduce the number of children deprived of their liberty.^{vi}

In addition, public health prevention and control measures within detention facilities may increase children's vulnerability to an already heightened risk of violence, including gender-based violence. Moreover, in many instances, detention facilities are far removed from children's families, homes and communities and regular communication is often limited. This contributes to greater fear and uncertainty, further affecting the health and well-being (including mental and psycho-social well-being) of these children and their families. Children may also face stigma if outbreaks occur within detention facilities, potentially leaving them even further behind. In addition, staff illness can lead to staff reduction below acceptable levels for care and protection of children deprived of their liberty, potentially exacerbating children's vulnerability due to lack of supervision and care, including their vulnerability to violence, abuse, and neglect, and a greater likelihood that they will be confined in smaller spaces that are easier to control or supervise.^{vii}

In some countries measures to halt the spread of COVID 19 are actually increasing the number of children deprived of their liberty and curtailing release in spite of amnesties or general release orders aimed at decongestion of detention facilities. Such measures include closures of courts, suspension of criminal trials or administrative hearings, restrictions on freedom of movement, limiting access to lawyers or families by children deprived of their liberty, border closures, or expanding the use of pre-removal detention rather than halting deportations and releasing children to non-custodial alternatives to detention.

2. Recommendations related to the use of deprivation of liberty and emergency measures during the COVID-19 outbreak

2.1 Key Considerations for Implementing Emergency Response Measures

State responses to combat the COVID-19 pandemic for children deprived of their liberty, [including emergency measures based on public health goals](#), must strictly adhere to international human rights law and standards. Any response should be proportionate, necessary, time-bound, subject to review, non-discriminatory to the evaluated risk and based on the best interests of children.

- States must not use emergency measures in a manner to unlawfully restrict or [suppress children's rights](#), including deprivation of their liberty, recognizing that certain rights are non-derogable^{viii};
- States must take particular care to address the unique vulnerabilities of [girls](#) and [boys](#), those who are discriminated against on the basis of [sexual orientation or gender identity](#), [children with disabilities](#), migrant/asylum seeker/refugee/stateless children, indigenous children, children from ethnic minority communities, children in street situations, children associated with armed groups and armed forces and any other vulnerable or marginalized groups;
- States should ensure that emergency measures taken to prevent, contain or respond to the virus do not result in continued detention of children who should otherwise be released or an increase in the number of children deprived of their liberty.

2.2 Compliance with International Human Rights Law and Standards on Justice for Children

States remain legally obliged to comply with international human rights law and standards^{ix} on justice for children, including to:

- As a general rule, use arrest, detention and imprisonment only as a measure of last resort and for the shortest appropriate period of time;
- Expeditiously and completely end the deprivation of liberty of children on the basis of their or their parents' migration status, as it is never in the child's best interests, and prohibit immigration detention of children in law, policy and practice;
- Treat every child deprived of liberty with humanity and respect for the inherent dignity of the human person and strictly safeguard their due process rights and procedural guarantees. Public authorities, including prosecutors and judges, should exercise their detention powers cautiously, considering the extreme nature of the detention measure, the heightened vulnerability of the child, and upholding the best interests of the child as a primary consideration, particularly in the current

context of COVID-19. Alternative measures should be prioritized and promoted with all the due safeguards for the children and their families at this time;

- Implement measures so that every child can maintain regular contact with her or his family through correspondence and visits;
- Provide every child deprived of his or her liberty with prompt access to specialized legal and other appropriate assistance, and the method and means to challenge the legality of the deprivation of liberty before a court or other competent, independent and impartial authority, and with a prompt decision on any such action;
- Where children cannot be released or where alternative measures are not possible, take concrete steps to improve and maintain conditions in facilities where children are deprived of their liberty so that they meet the relevant minimum international standards,^x including with respect to child/staff ratios, and to provide children with necessary services.

2.3 Safeguarding Against Discrimination

States should implement safeguards against discrimination:

- States should provide children deprived of their liberty with access to the same level of health care and other services available to children in the community, without discrimination;
- States should put in place adequate measures to ensure gender-responsive approaches in addressing the COVID-19 emergency in locations where children are deprived of their liberty, including providing for the special needs of babies and infants deprived of liberty with their mothers, in particular breastfeeding mothers;
- States should provide children who are deprived of their liberty with the same information provided to children in the community about the pandemic, as well as how to protect themselves, ensuring accessible and child-friendly information;^{xi}
- States should not detain children living on the streets, recognizing their unique situation may make it impossible to comply with some measures to halt the spread of COVID-19. In such case children should be connected to national child protection authorities or non-government services.

3. Recommendations to ensure the urgent release, use of alternative measures, and no new entries of children into detention during the COVID-19 pandemic

In accordance with binding international human rights law obligations on [child justice](#) and children deprived of liberty, and in line with the [WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention](#) (WHO COVID-19 Detention Guidelines), [IASC Interim Guidance on COVID-19: Focus on Persons Deprived of Their Liberty](#) (IASC Interim Guidance), [Minimum Standards for Child Protection in Humanitarian Action](#)^{xi}, States should *prioritize the diversion of children away from formal justice processes and the use of alternatives to detention at all stages of criminal or administrative proceedings*. To this end:

3.1 Prioritizing Children for Immediate Release

States should immediately release children who can safely return to their families and communities.

Where it is safe to do so and in consideration of the best interests of the child, including the increased risk of illness in detention, and taking into account the views of the child, States should prioritize release of children deprived of their liberty to their families, extended families, other family-based care, communities, or appropriate health care facilities:

- All children and their caregivers who are deprived of their liberty together as a result of criminal process against the caregiver for nonviolent, minor or petty offences, and those due for release or nearing the end of their sentences;^{xiii}
- All children held in pre-trial detention regardless of the type of offence, as they are presumed to be innocent;
- All children who are deprived of their liberty for status offences (offences not considered a crime if committed by adults);
- All children at highest risk of complications due to infection, including those with pre-existing physical and mental health conditions;
- All children sentenced for nonviolent, minor or petty offences, and those due for release or nearing the end of their sentences;
- All children in immigration detention;^{xiv}
- All children detained under national security frameworks only for affiliation with an armed group;^{xv}
- Any other children for whom it has been determined feasible and safe to be released.

Consideration should be given to orders to effectuate mass release based on the above criteria and on the urgency of the situation.

States should provide support and engage with families and caregivers to enable the safe reintegration of children,^{xvi} in line with their best interests, to their families and communities after release using case management processes – including: necessary travel authorizations, connecting families and children to

health care (e.g. for COVID-19), mental health and psychosocial services (e.g. clinical care), services for violence prevention and response (incl. gender-based), educational services and other opportunities.

Steps that key justice actors can take to prevent deprivation of liberty and ensure release of children from detention during the COVID-19 pandemic

Police, Corrections Immigration, border guards and other law enforcement officials can:

- Eliminate fines, reduce charges, arrests and detention of children, including for containment measures such as breaches of curfews/movement restrictions
- Employ child-friendly and gender-sensitive techniques when interacting with children
- Divert children from the formal justice system as early as possible after first contact, and at various stages throughout the justice process
- Review probation and supervision requirements of children (especially in-person visits) to enable physical distancing where appropriate (for e.g. use of technology for meetings or supervision)
- In immigration enforcement efforts, screen and immediately refer all migrant, asylum and refugee children and families, to the appropriate protection, child protection and care officials

Prosecutors, defense, and legal aid lawyers can advocate for:

- Immediate or early release of children from all detention facilities (as per recommendations)
- Diversion of children from the formal justice system as early as possible after first contact, and at various stages throughout the justice process
- Priority use of non-custodial measure, including alternatives to detention and diversion programmes (as appropriate)
- The issuance of broad pardons, amnesties, or general mass release orders

Courts can:

- Reduce public/in-person hearings by implementing alternative modalities that do not comprise a child's fundamental human rights to a fair trial
- Consider the health consequences of any custodial sentence
- Limit and minimize the use of all custodial sentences for children (both pre-trial and post-trial)
- Divert children from the justice system
- Increase use of non-custodial measures, including alternatives to detention and diversion programmes (as appropriate)
- Issue broad pardons, amnesties, or general mass release orders

During the process of release, Governments should follow recommendations contained in the WHO COVID-19 Detention Guidelines and the IASC Interim Guidance for proper prevention, containment, management and treatment of the virus.

3.2 Preventing Admission of New Children to Detention Facilities

States should undertake all appropriate measures to prevent new admissions of children to places of detention. States should place an immediate moratorium on arrests, rounding up of children in street

situations, overnight holds, and other new admissions of children to detention facilities. However, where a competent authority determines, considering the best interests of the child, that admission to a situation of a deprivation of liberty is legal, necessary, and proportionate in the individual circumstances, States must:

- Screen all children (and caregivers when they are detained together) and take all steps consistent with public health protocols issued by the World Health Organization;
- Where physical distancing, isolation or quarantine of a child is warranted for health reasons these measures should be taken at home or in a health care facility, not in a detention facility.

3.3 Protecting the Health and Well-being of Children in Detention

States should protect the continued health and well-being of children who remain in detention. Children who are not subject to immediate release measures and who are deprived of their liberty during the pandemic should be provided with access to services necessary to enable their continued health and wellbeing, including health care to address COVID-19 related needs, without discrimination. Authorities should:

- Monitor children’s health for symptoms of the disease and take appropriate treatment and containment steps for any who exhibit such symptoms consistent with WHO guidelines for health monitoring, containment and treatment;
- Make any decisions to place a child in medical isolation based only on medical necessity as a result of a clinical decision and subject to authorization by law or the regulation;
- Inform children placed in isolation for medical reasons of the reason why they are being isolated.^{xvii} If physical distancing or isolation is needed to safeguard the health of the child or others, then home-based or health-facility quarantine should be used consistent with WHO guidelines;
- Never place a child in solitary confinement for any reason, as it is forbidden under international law, including for health reasons; health-related isolation should not be used *de facto* as solitary confinement or as a punishment;
- Provide children with access to adequate health, nutrition, education, and legal services, and services to address violence (including gender-based violence) and other services adapted to the need for physical distancing or other disease containment measures;
- Provide enhanced access to water, sanitation, hygiene services and supplies, particularly soap and water, and provide facilities with necessary cleaning supplies to help prevent and manage spread of the infection;
- Provide tailored, gender-sensitive and age-appropriate [Mental Health and Psychosocial Support Services](#) (MHPSS) to children and their caregivers, including those with pre-existing mental health and psychosocial problems and those experiencing distress and fear regarding COVID-19;
- Implement procedures to allow children who are deprived of their liberty to maintain regular access and contact with their guardians and families, including by:

- Instructing facility staff to increase and provide regular updates (including by phone or computer) to families about the location, health and well-being of the child and to children about their families;
 - Supporting ways for children, in line with the WHO COVID-19 Detention Guideline,^{xviii} to maintain social connectedness, including in-person visits by family members, for example by extending visitation times and staggering visits to increase physical distancing or use of technology to facilitate interactions;
 - Waiving fees or costs to families that may be associated with mobile or digital resources required to facilitate communication between children and their families;
 - Considering the need for issuing special travel exemptions for parents and families to allow them to conduct visits.
- Monitor and adjust the number of staff and service providers available in facilities where children are deprived of liberty to maintain sufficient staff to provide proper care and protection of children and to prevent children from shouldering excessive responsibilities related to maintenance and upkeep of the facilities, in the event that staff and service providers are exposed, infected, or ill with the disease or otherwise prevented from continuing their duties.

States should be guided by the WHO COVID-19 Detention Guideline in respect of protection and support measures (for e.g. MHPSS including self-care orientation, and staff care support and services for their own mental health and psychosocial wellbeing) for staff of detention facilities.^{xix}

3.4 Protecting Children from Violence, Abuse and Exploitation

States should safeguard the rights of children and protect them from violence, abuse and exploitation. Authorities should take steps to protect the rights of children who are deprived of their liberty and to minimize vulnerabilities to violence, abuse, neglect and exploitation which may be exacerbated by the disease or containment measures, or which may be a secondary consequence. Authorities should:

- Develop a comprehensive coordinated plan to ensure well managed implementation and response across government to the COVID-19 pandemic and children in detention, that includes designation of child justice and social services as essential allowing continuity of such services. Cooperation and collaboration should include justice, security, interior, immigration, finance, health, social welfare and education ministries and any other relevant authorities with authority over social and health measures (including mental health and psychosocial care), resources, legal and other support, and contact with families and communities;
- Involve children in the process of developing the plan so as to effectuate their right to express their views and participate in decisions that affect them;
- Establish and implement child safeguarding policies, procedures, and complaint mechanisms, including for the prevention of violence, abuse and exploitation;
- Allow continued regular access and contact between children and their legal representatives,^{xx} for example by extending visitation times and staggering visits to increase physical distancing or using technology to facilitate interactions, while still maintaining confidentiality of the interactions; use of mobile/digital resources to facilitate communication should be free of charge;

- Uphold due process and procedural guarantees, including allow court or administrative hearings related to children, pre-trial detention periods,^{xxi} and release to continue despite the COVID-19 emergency (for example, technology solutions and flexible work arrangements to enable Emergency Courts to sit);^{xxii}
- Allow inspection of all places where children are deprived of their liberty by independent international and national human rights bodies,^{xxiii} health, and child protection authorities even in facilities and locations where infection may be present and including where individuals may be isolated for health reasons.

4. Resources

<i>IASC Interim Guidance on COVID-19: Focus on Persons Deprived of Their Liberty</i>	Operational guidance on persons deprived of their liberty and COVID-19
<i>WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention</i>	WHO COVID-19 Detention Guideline
<i>OHCHR COVID-19 and its human rights dimensions</i>	OHCHR Covid-19 Guidance
<i>United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>	Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (Advance unedited version) (adopted on 25th March 2020)
<i>Penal Reform International Briefing on Coronavirus</i>	A briefing note that contains Risks and practices from other countries
<i>ILF Coronavirus Pandemic: Guidance for Legal Aid Providers to Protect Health and Human Rights of Detainees</i>	Actions that legal aid providers can take to address the COVID-19 pandemic and limit the severity of the impact on people in detention
<i>TDH Accelerate release of children from detention</i>	Statement that contains guidance pertaining the release of children as a consequence of the COVID-19
<i>Child Protection Area of Responsibility Child Protection Resource Menu for COVID-19</i>	A collection of child protection resources related to a COVID-19 response
<i>Alliance for Child Protection in Humanitarian Action resources on COVID-19</i>	A collection of resources on COVID-19
<i>Key messages and actions for coronavirus disease (COVID-19) prevention and control in schools</i>	Operational guidance on protecting children and schools from COVID-19
<i>INEE Resource Page on Novel Coronavirus (COVID-19)</i>	A collection of COVID-19 and education in emergencies resources

<i>IASC MHPSS Reference Group's Briefing Note about MHPSS Aspects of COVID-19</i>	A briefing note about MHPSS aspects of the 2019 novel coronavirus (COVID-19) outbreak
<i>Integrating GBV risk mitigation and response actions.</i>	A collection of GBV risk mitigation/resources can be find here .

Endnotes:

ⁱ In this note children “deprived of their liberty” includes children who are in “any form of detention or imprisonment or the placement ... in a public or private custodial setting, from which [they are] not permitted to leave at will, by order of any judicial, administrative or other public authority” as per the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules), art. 11 (b), Convention on the Rights of the Child, Article 37 and CRC Committee GC No. 24 (2019) on children’s rights in the child justice system (CRC/C/GC/24), para. 8. See also the UN Global Study of Children Deprived of Liberty, UN General Assembly Resolution A/74/136, which references the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 2002 (Art 4).

ⁱⁱ “[C]hildren should never be detained for reasons related to their or their parents’ migration status and States should expeditiously and completely cease or eradicate the immigration detention of children. Any kind of child immigration detention should be forbidden by law and such prohibition should be fully implemented in practice.” Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, para 5. See also [Global Compact for Safe, Orderly and Regular Migration: UNHCR’s position regarding the detention of refugee and migrant children](#) in the migration context; UNICEF, [Alternatives to Immigration Detention of Children](#) (February 2019); and UNHCR, [Key Legal Considerations on access to territory for persons in need of international protection in the context of the COVID-19 response](#) (16 March 2020)

ⁱⁱⁱ This document focuses on children deprived of their liberty in the criminal justice systems, on the basis of national security including within military justice systems, and in immigration detention. Issues related to COVID-19 and children in residential care facilities will be addressed through separate but mutually reinforcing guidance (forthcoming).

^{iv} WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention (March 2020), p.1; See also See also Inter-Agency Standing Committee, [Interim Guidance COVID-19: Focus on Persons Deprived of Their Liberty](#) (March 2020); and The United Nations Global Study on Children Deprived of Liberty, Manfred Nowak (2019), Chapter 6: Impacts on health of children deprived of liberty.

^v See also, WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention (March 2020) “The global effort to tackle the spread of disease may fail without proper attention to infection control measures within prisons.” See also ICRC, [COVID-19: Protecting prison populations from infectious coronavirus disease](#) (11 March 2020)

^{vi} See for examples CRIN, [Coronavirus and children in detention](#) (26 March 2020); see also Penal Reform International, [Briefing note Coronavirus: Healthcare and human rights of people in prison](#) (16 March 2020)

^{vii} See generally WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention (March 2020) and -Agency Standing Committee, Interim Guidance COVID-19: Focus on Persons Deprived of Their Liberty (March 2020); and generally Human Rights Watch, [US: COVID-19 Threatens People Behind Bars](#) (March 12 2020) and [Human Rights Dimensions of COVID-19 Response](#) (19 March 2020), pp. 8-10.

^{viii} At a minimum, the right to life, the right to be free from torture and other inhumane or degrading treatment or punishment, the right to be free from slavery or servitude, and the right to be free from retroactive application of penal laws, prohibition of arbitrary detention, collective expulsion and refoulement.

^{ix} See generally Committee on the Rights of the Child, General comment No. 24 (2019) on children’s rights in the child justice system, CRC/C/GC/24 (18 September 2019); United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) GA 40/33 (29 November 1985); United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) GA 45/112 (14 December 1990); United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) GA 45/113 (14 December 1990); Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines) Economic and Social Council resolution 1997/30 (21 July 1997); Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Economic and Social Council resolution 2005/20 (22 July 2005); United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (UN Model Strategies on VAC) GA 69/194 (18 December 2014)).

x Including United Nations Rules for the Protection of Juveniles Deprived of their Liberty (GA 45/113 of 14 December 1990); United Nations Standard Minimum Rules for Non-custodial Measures (GA 45/110 of 14 December 1990); Basic Principles for the Treatment of Prisoners (GA 45/111 of 14 December 1990).

^{xii} This includes child-friendly and accessible information about the COVID-19 outbreak, symptoms of the disease, how children can protect themselves from it, treatment options and other health-related information.

^{xiii} In particular [Standard 20: Justice for children](#), and [Standard 11: Children associated with armed forces or armed groups](#).

^{xiv} Children who live with a detained or imprisoned primary caregiver – usually the mother, but at times also the father or other primary caregiver. See generally, [The United Nations Global Study on Children Deprived of Liberty](#), Manfred Nowak (2019), Chapter 10: Children living in prisons with their primary caregivers.

^{xv} This includes children (unaccompanied, separated or those with their families) and families in pre-removal immigration detention where deportations have been suspended due to the COVID-19 situation. See for example Council of Europe, [Statement by Commissioner calls for release of immigration detainees while COVID-19 crisis continues](#) (26 March 2020)

^{xvi} Children who are detained based on an actual or alleged association with armed forces or armed groups, including those designated as terrorist groups, are victims of one of the six grave violations of child rights in situations of armed conflict and should be treated as such. (Geneva Conventions Additional Protocols, Art. 77(2) AP I; art. 4(3) AP II; see also, United Nations Security Council Resolutions, 2427 (2018)).

^{xvii} This includes children in immigration detention, where the first priority is their immediate release from detention facilities.

^{xviii} See for example NASP and NSAN, [Talking to Children About COVID-19 \(Coronavirus\): A Parent Resource](#)

^{xix} [WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention](#) (March 2020), pp.8, 15, and 21-22; See also Inter-Agency Standing Committee, [Interim Guidance COVID-19: Focus on Persons Deprived of Their Liberty](#) (March 2020)

^{xx} WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention (March 2020); and Inter-Agency Standing Committee Reference group for Mental Health and Psychosocial Support in Emergency Settings, [Briefing note on addressing mental health and psychosocial aspects of COVID-19 Outbreak Version 1.1](#) (February 2020)

^{xxi} Children seeking asylum or refugees, including in cases of detention, have the right to be in contact with UNHCR, see UNHCR Detention Guidelines 2012 and UNHCR ExCom Conclusion, No. 85 (XLIX), 1998.

^{xxii} In the case of children, pre-trial detention should not be used except as a last resort in the most serious cases after release, community placement and diversion have been seriously considered, see Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system (2019) CRC/C/GC/24, para 86.

^{xxiii} See for example The International Legal Foundation, [Coronavirus Pandemic: Guidance for Legal Aid Providers to Protect Health and Human Rights of Detainees](#) (March 2020)

^{xxiv} WHO Interim Guidance on the prevention and control of COVID-19 in prisons and places of detention (March 2020), p. 5; Inter-Agency Standing Committee, [Interim Guidance COVID-19: Focus on Persons Deprived of Their Liberty](#) (March 2020); and United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic \(Advance unedited version\)](#) (adopted on 25th March 2020).

Endorsed by:





0091

Minister's Office
PO Box 2703, Whitehorse, Yukon Y1A 2C6

April 14, 2020

Tom Engel
President, Canadian Prison Law Association
#200, 10209-97 Street
Edmonton, AB T5J 0L6

Dear Tom Engel,

Re: Governmental Response to COVID-19 pandemic – Prisons and the Criminal Justice System

Thank you for your letter dated March 16, 2020, regarding the Government of Yukon's response to the COVID-19 global pandemic.

I can advise that Yukon's Corrections Branch is working diligently to respond to the rapidly evolving COVID-19 global pandemic. In consultation with the Yukon Communicable Disease Centre, and in line with the recommendations from the office of the Chief Medical Officer of Health, the Corrections Branch has implemented several precautionary measures to reduce the potential for virus exposure and transmission within the Whitehorse Correctional Centre (WCC), the territory's only correctional facility. An outline of these measures, as well as those that have been implemented by Yukon Community Corrections, is detailed in the enclosed memorandum that was circulated publicly on March 23, 2020.

In addition to the aforementioned precautionary measures, our Corrections Branch is working with other justice stakeholders to review the personal circumstances of those on remand, individuals serving intermittent sentences, and those who may be particularly vulnerable to COVID-19 due to their age or underlying health conditions. This work is being done proactively to ensure that all clients are housed in the most appropriate circumstances should there be a pandemic issue within the WCC.

I can further advise that Yukon Corrections continues to make concerted efforts to implement the principle of least restrictive measures within the WCC. As part of these efforts, the WCC is proactively conducting a detailed review of the individualized circumstances of each inmate, both sentenced and those on remand, to determine which, if any, could be released on an unescorted temporary absence. In assessing all temporary absence applications, the Corrections Branch is guided by the principle of least restrictive measures and continues to approve temporary absences for appropriately classified individuals who can be housed in the community without compromising their safety or the safety of the public.

As you know, the COVID-19 global pandemic is a dynamic situation and we will continue to take a measured, proactive approach focused on ensuring the health and safety of staff, correctional clients, and the public while also ensuring the provision of humane essential services.

Thank you for taking the time to bring this matter to my attention.

Yours truly,



Tracy-Anne McPhee
Minister of Justice and Attorney General

Attachment

Minister's Office

Date: 2020-03-26

Due Date: 2020-04-09

Routed to: J-1

Tracking Number: JUS-211

For:

- Prepare response for Minister's signature
- Prepare departmental response
- Prepare briefing note
- Please consult
- FYI
- Other

Casework Log#:

Bring Forward Date:

Casework Close Date:



Canadian Prison Law Association

March 16, 2020

#200, 10209-97 Street
Edmonton, AB T5J 0L6
Tele: 780 448-3639
Fax: 780 448-4924
Email: tomengel@engellaw.ca

Federal, Provincial and Territorial
Ministers of Justice and Correctional Services
Ottawa, Canada
K1A 0A6

Dear Ministers,

Re: Governmental Response to COVID-19 pandemic - Prisons and the Criminal Justice System

I write to you as the President of the Canadian Prison Law Association. The CPLA is an organization of lawyers who work on behalf of prisoners and who seek to protect and promote the constitutional rights, interests and privileges of prisoners by advocating on their behalf within the community and in their dealings with prison and release authorities. We promote adherence to the Rule of Law within the prison law environment in accordance with the highest standards of justice and fairness as required by and consistent with the *Charter of Rights and Freedoms*. We act as a vehicle through which members of the CPLA can, on matters of common concern, communicate with government bodies. Our membership is composed of lawyers who practice in the area of prison law. We have about 65 members across Canada.

It is in this capacity that I am writing to you about the treatment of prisoners as it relates to the COVID-19 pandemic.

A number of our members work in Nova Scotia. The East Coast Prison Justice Society, in letters dated March 15, 2020 and March 16, 2020 wrote to the Nova Scotia Minister of Justice and to other government officials about the COVID-19 crisis, calling on the Nova Scotia government to take action. I attach copies of those letters. The CPLA entirely adopts those submissions which are equally applicable nationally, provincially and territorially in the whole of Canada.

We look forward to your timely response.

Sincerely,



Tom Engel

President, Canadian Prison Law Association

From: [Tom Engel](#)
To: David.Lametti@parl.gc.ca; Bill.Blair@parl.gc.ca; justice@gov.nl.ca; DeptJPS@gov.pe.ca; Carl.Urquhart@gnb.ca; markfurey.mla@eastlink.ca; Genevieve.Guilbault.LOHE@assnat.qc.ca; Sonia.LeBel.CHMP@assnat.qc.ca; doug.downey@pc.ola.org; sylvia.jones@pc.ola.org; minjus@leg.gov.mb.ca; christine.tell@gov.sk.ca; jus.minister@gov.sk.ca; Calgary.Elbow@assembly.ab.ca; AG.Minister@gov.bc.ca; PSSG.Minister@gov.bc.ca; Tracy.McPhee; Caroline_wawzonek@gov.nt.ca; jehaloak@gov.nu.ca
Subject: Covid19 - Canadian Prisons
Date: March 16, 2020 15:57:48
Attachments: [Ministers ltr Mar 16 2020.pdf](#)
[Open Letter --ECPJS March 15 2020 letter - COVID-19 in Provincial Corrections.pdf](#)
[March 16 2020 ECPJS Open Letter COVID19 impact on ministerial police prosecutorial and judicial discretion.pdf](#)

Dear Federal, Provincial and Territorial Ministers responsible for justice and correctional facilities,
Please find attached a letter from the Canadian Prison Law Association.

We look forward to your response.

Tom Engel

President, CPLA

C/O Engel Law Office

#200, 10209-97 Street

Edmonton, AB T5J 0L6

Tele: 780 448-3639

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Website: www.engellaw.ca

"It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones." - Nelson Mandela



Canadian Prison Law Association

March 16, 2020

#200, 10209-97 Street
Edmonton, AB T5J 0L6
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Fax: 780 448-4924
Email: tomengel@engellaw.ca

Federal, Provincial and Territorial
Ministers of Justice and Correctional Services
Ottawa, Canada
K1A 0A6

Dear Ministers,

Re: Governmental Response to COVID-19 pandemic - Prisons and the Criminal Justice System

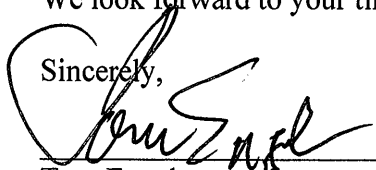
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A number of our members work in Nova Scotia. The East Coast Prison Justice Society, in letters dated March 15, 2020 and March 16, 2020 wrote to the Nova Scotia Minister of Justice and to other government officials about the COVID-19 crisis, calling on the Nova Scotia government to take action. I attach copies of those letters. The CPLA entirely adopts those submissions which are equally applicable nationally, provincially and territorially in the whole of Canada.

We look forward to your timely response.

Sincerely,



Tom Engel

President, Canadian Prison Law Association

East Coast Prison Justice Society
6061 University Avenue
PO Box 15000
Halifax, Nova Scotia B3H 4R2
eastcoastprisonjustice@gmail.com
(in association with Elizabeth Fry Societies (NS Mainland and Cape Breton), NS
Prisoners' Health Coalition, and Women's Wellness Within)

March 15, 2020

Minister of Justice Mark Furey
Nova Scotia Department of Justice
markfurey.mla@eastlink.ca

Minister of Health and Wellness Randy Delorey
Nova Scotia Department of Health and Wellness
Health.Minister@novascotia.ca

Mr. John Scoville
Executive Director, Corrections
John.Scoville@novascotia.ca

Mr. Colin Stevenson
NSHA Vice-President - Health Services, Quality and System Performance
Colin.Stevenson@nshealth.ca

Ms. Samantha Hodder
NSHA Director – Mental Health and Addictions
Samantha.Hodder@nshealth.ca

Dear Ministers Furey and Delorey, Mr. Scoville, Mr. Stevenson & Ms. Hodder:

RE: Actions urgently required to ensure health, safety and human rights of incarcerated populations as well as public safety during COVID-19 crisis

We (East Coast Prison Justice Society, Elizabeth Fry Societies - Halifax Mainland and Cape Breton, NS Prisoners' Health Coalition, and Women's Wellness Within) are writing on an urgent basis.

Provincial corrections and the NSHA -- responsible, respectively, for the safety and health of prisoners as well as public safety -- are well aware of the escalating crisis of COVID-19 and the importance of immediate measures to protect imprisoned populations (as well as staff working in provincial jails).

We concur with the recent statement of Nicole Austin-Hillery of Human Rights Watch:

"All governments . . . have an obligation to protect the rights of people deprived of their liberty, including the right to health, especially when custody heightens the risks they face. . . Officials . . . **should take immediate steps to prevent transmission of the coronavirus and consider finding alternatives to custody for those who are at high risk should they become infected.**"¹

Second, we endorse recent statements of the Ontario Human Rights Commission, on ensuring that actions aimed at mitigating risk of COVID-19 spread do not disproportionately burden vulnerable populations in an arbitrary and discriminatory manner. As provincial jails disproportionately house "individuals protected from discrimination under the *Code*, including Indigenous and racialized people, people with disabilities and addictions . . . and other vulnerable groups," it is essential that government's mitigation plans "adopt a Public Health and human rights-focused approach to addressing evidence-based risks associated with COVID-19 in government-run facilities." As the Ontario HRC further points out:

"Individuals in these facilities also have the right to be free from discrimination including harassment related to COVID-19 in the provision of services on grounds under the *Code*. Under the *Charter*, these individuals have a right to privacy, liberty and security of the person and the right to protection against discrimination, arbitrary detention, and cruel and inhuman treatment, subject to reasonable limits."²

Given the importance of ensuring that rights-respecting measures are adopted to protect those in state custody at this time, **we ask that you publicly indicate within a 48 hour period how you will exercise your joint responsibilities to respect human rights while assuring prisoner health and safety.** Specifically, we seek responses on whether Nova Scotia will commit to the following calls for action (and if so, the timelines for action):

1 - As Ontario has done, grant all intermittent inmates temporary absence from custody until this public health response is no longer required;³

2 – Using mechanisms such as temporary absences, move persons at heightened risk of complications from COVID-19 out of facilities into appropriate community settings immediately. Elizabeth Fry Societies Mainland and Cape Breton have increased capacity for this purpose; alternative forms of community release and supervision may be required in some cases, including release to private homes, to ensure the life and health of the most vulnerable prisoners is protected. **This includes all persons over age 55 (arguably, the comparable age to 65 in prisoner populations is 50⁴), those with**

¹ <https://www.hrw.org/news/2020/03/12/us-covid-19-threatens-people-behind-bars>

² www.ohrc.on.ca/en/news_centre/ohrc-policy-statement-covid-19-pandemic

³ <https://news.ontario.ca/mcscs/en/2020/03/statement-from-minister-elliott-and-solicitor-general-jones-regarding-ontarios-adult-correctional-fac.html>

⁴ See sources cited in Adelina Iftene, *Punished for Aging: Vulnerability, Rights, and Access to Justice in Canadian Penitentiaries* (Toronto: University of Toronto Press, 2019) at 24.

compromised immunity, those with respiratory conditions and other chronic health conditions rendering them more vulnerable to complications from COVID-19, and pregnant people (who are likely to be immune-compromised);

3 – Using mechanisms such as temporary absences, release from custody mothers and other primary support parents. This is required in order to ease the serious psychological stress of separation during a pandemic crisis, and to ensure safe supervision of dependent children who without a primary support parent may be in precarious living situations;

4 - Ensure that health segregation is not used as an alternative to community placement per #1-2, and that no one is placed for any duration in the most oppressive of health segregation cells – in CNSCF, the windowless pressurized cell apparently intended for immunosuppressed or contagious prisoners;

5 – Ensure that risk mitigation strategies are evidence-based and do not unduly restrict prisoners’ liberties – this means avoiding reliance on prolonged or indeterminate lockdowns / solitary confinement. Isolation / solitary confinement for any duration has been recognized to have profound, potentially permanent effects on the psychological and social functioning of persons with pre-existing mental health conditions. For other prisoners, prolonged and indeterminate isolation has been shown to have grievous effects on psychological and physical health and is recognized by Canadian appellate courts as contrary to the Charter;

6 – Ensure that prisoners have regular access to phone communications with lawyers and family – e.g., through cost-free use of additional cordless phones. The recent statement of correctional responses to COVID-19, permitting two free phone calls per week, is a start,⁵ but two calls are inadequate during a time of public health crisis, during which concerns of and about family members are likely to be intensified, as is the pressure to use phones for communications with lawyers;

7 – Ensure that prisoners have regular access to programming and other activities, modified as required by evidence-based public health considerations. We are concerned about the recent statement of correctional responses to COVID-19, placing a bar on visits from volunteer organizations.⁶ The role of organizations such as Elizabeth Fry Societies, Women’s Wellness Within, John Howard and others includes maintaining routine and enabling prisoners to focus on positive goals and relationships. This is critically important at this time of heightened stress. Justice and Corrections should work to identify ways of mitigating risk while maintaining volunteer access and programming (albeit potentially in altered forms) as far as possible.

8 – More generally, identify and implement best practices to ensure that the highest public health standards are met in a manner that is least restrictive of residual

⁵ <https://www.halifaxtoday.ca/local-news/changes-to-visits-at-correctional-facilities-implemented-due-to-covid-19-2166116>

⁶ Ibid.

liberties. This must include, at a minimum, increased rigour and frequency of sanitation measures. These responsibilities should not be delegated to prisoners but instead should be carried out by trained and adequately protected staff. At the same time, prisoners must have access to effective hygiene and sanitation products without cost;

9 – Finally, make detailed action plans for prevention and treatment of COVID-19 among incarcerated populations available to the public in a transparent and accessible manner.

We realize that a request for a response to these action items within 48 hours, on matters requiring coordination among multiple branches of government at the highest levels, would in ordinary circumstances be unreasonable. In the present context, it is the only alternative consistent with our organizations' mandates to work with and for imprisoned populations to ensure their rights and safety are protected.

If we do not hear from you within the time period noted, we will intensify our joint efforts to spur further public attention to these matters. However, as you know, with each day the challenge of taking an appropriate response escalates as do the consequences for the most vulnerable.

We will be issuing a separate statement calling on the Minister of Justice, police, courts, Public Prosecution Service and other relevant justice system actors to coordinate efforts to expedite bail hearings and revisit court-ordered pre-trial custody, and otherwise make urgent efforts to prevent new admissions to jail and reduce the numbers of people currently incarcerated. This is required in light of the pressures facing provincial jails and the heightened individual and public health consequences of incarceration at this time.

Again, we appreciate that these are trying times. As you know, it is in such times that our elected leaders and civil servants must do their utmost to safeguard human rights and protect the well being of those most vulnerable to discrimination and attendant disproportionate burdening.

We look forward to your timely response.

Yours,



Sheila Wildeman, Co-Vice Chair, East Coast Prison Justice Society
for the Boards of East Coast Prison Justice Society, Elizabeth Fry Societies (NS
Mainland and Cape Breton), NS Prisoners' Health Coalition, Women's Wellness Within

cc.: Deputy Minister of Justice, Karen Hudson; Deputy Minister of Health and Wellness, Dr. Kevin Orrell; Chief Medical Officer of Health, Dr. Robert Strang; Director, Nova Scotia Correctional Services, Mr. Chris Collette; Superintendent, Central Nova Scotia Correctional Facility, Mr. Adam Smith; Superintendent, CNSCF East Unit, Eileen Collette

East Coast Prison Justice Society
 6061 University Avenue
 PO Box 15000 Halifax, Nova Scotia B3H 4R2
 eastcoastprisonjustice@gmail.com
 (with Elizabeth Fry Societies - NS Mainland and Cape Breton - NS Prisoners' Health Coalition, NS Criminal Lawyers' Association, Women's Wellness Within)

March 16, 2020

Chief Medical Officer of Health, Dr. Robert Strang
 Chief Justice of Nova Scotia, Michael Wood
 Chief Justice of the Nova Scotia Supreme Court, Deborah Smith
 Chief Justice of the Nova Scotia Provincial Court, Pamela Williams
 Minister of Justice Mark Furey
 Deputy Minister of Justice Karen Hudson
 Minister of Community Services, Kelly Regan
 Deputy Minister of Community Services, Tracey Taweel
 Director, Correctional Services, John Scoville
 Executive Director, Correctional Services, Chris Collett
 Director of Public Prosecutions, Martin E. Herschorn
 Chair, Halifax Board of Police Commissioners, Natalie Gordon
 Vice-President - Health Services, Quality and System Performance, Nova Scotia Health Authority [NSHA], Mr. Colin Stevenson
 Director – Mental Health and Addictions, NSHA, Ms. Samantha Hodder
 Former Justice Suzanne Hood, Chair, NS Criminal Code Review Board
 President, Nova Scotia Chiefs of Police Association, Julia Checchetto
 Executive Director, Nova Scotia Legal Aid, Megan Longley

Dear Dr. Strang, Chief Justices Wood, Smith, and Williams, Minister Furey, Deputy Minister Hudson, Minister Regan, Deputy Minister Taweel, Mr. Scoville, Mr. Collett, Mr. Herschorn, Ms Gordon, Mr. Stevenson, Ms. Hodder, Ms. Hood, Ms. Cecchetto, Ms. Longley:

RE: Immediate measures to ensure that ministerial, police, prosecutorial and judicial discretion is informed by the urgency of reducing incarceration during COVID-19 pandemic

We (East Coast Prison Justice Society, Elizabeth Fry Societies - NS Mainland and Cape Breton, NS Prisoners' Health Coalition, NS Criminal Lawyers' Association and Women's Wellness Within) are writing on an urgent basis. We recognize that these are highly pressured times and that you are committed to best efforts to contain the COVID-19 virus.

We propose below **a set of initiatives through which justice system actors should immediately begin to coordinate actions to prevent the spread of COVID-19 among provincially incarcerated persons.** The recommendations we make are oriented to

protecting the health of prisoners while respecting their human rights, and moreover preventing prisoners from becoming unwilling “vectors” of contagion threatening the health of their communities on reentry.

Yesterday we issued an open letter¹ calling for a public statement from the Minister of Justice, Director of Corrections, and Nova Scotia Health Authority concerning the measures to be taken by Justice, Corrections and Health Authority officials to avert the emergence of COVID-19 inside provincial jails. We await your response.

However, we are of the further firm view that at this time the only adequate defence to the spread of COVID-19 inside our jails, and consequent preventable deaths, is strategic decarceration -- i.e., ensuring that admissions and numbers of prisoners held in facilities are as low as possible, consistent with public safety.

If the province acts now, prevention or containment of risk is more likely. We therefore propose a set of mechanisms of preventive decarceration for your urgent consideration. These include: 1) temporary absences, 2) expedited bail hearings and review of remand orders, and 3) policies to inform the discretion of Crown counsel and police.

Preventive decarceration - background

As you know, about 60% of persons in Nova Scotia jails are in pre-trial detention (about 65% of the total count of provincial prisoners in 2017-18²). A significant majority of remanded prisoners are in custody for under a month, while the average sentence is about 70 days.³ At the same time, many patients at the East Coast Forensic Hospital who have received conditional discharges from the CCRB are still awaiting community placements many months or even years on.⁴

As COVID-19 hits, incarcerated persons are particularly vulnerable. They cannot practice social isolation in the same ways that people outside of prisons can. In provincial facilities in particular, people tend to pass in and out, placing those inside and those passing through at increased risk of infection. The risk is compounded by challenges accessing health care and preventative hygiene and health measures while inside. These problems are further exacerbated by the fact that many of the outside contacts that corrections may begin to exclude as intolerable risks are nonetheless critical to prisoners’ legal rights and psychological well being. The longer this situation continues, the more intolerable it gets, as prisoners’ health and human rights are paradoxically constructed as mutually inconsistent.

Compounding the heightened likelihood of infection is the fact that prisoners are disproportionately affected by chronic health conditions rendering them susceptible to the

¹ <https://nsadvocate.org/2020/03/15/urgent-open-letter-re-health-safety-and-human-rights-of-people-in-prison-during-covid-19-crisis/>

² <https://data.novascotia.ca/Crime-and-Justice/Average-Daily-Counts-at-Adult-and-Youth-Correction/xbcp-7w2t>

³ Corrections in Nova Scotia: Key Indicators (April 2019) (average length of stay- sentenced), p.7; Remand in Nova Scotia 2005-2016.

⁴ <https://globalnews.ca/news/4254538/patients-stuck-at-forensic-hospital/>

worst of COVID-19 complications, including death. High rates of chronic conditions including respiratory problems and conditions compromising one's immune system are well documented in this population.⁵

At the same time, incarcerated people are overwhelmingly representative of marginalized populations, including Indigenous and racialized persons, and the poor. These are groups already at greater risk of virus transmission in the community, given challenges to social distancing presented to those with housing and income instability. They are, at the same time, highly vulnerable to discrimination, vilification, and exclusion.

The threat of virus spread in prisons and jails reaches beyond the critically important context of incarcerated persons who are at the mercy of the state. It also threatens to undermine efforts at public health management in the wider community. Jails are porous institutions with a constant flow of admission and release. In passing in and out of jail, prisoners become vectors for virus transmission, potentially prolonging the life of the epidemic and further corroding the health of the most marginalized and embattled communities, and the public as a whole.

Correctional responses to COVID-19 are likely to involve efforts to isolate and separate prisoners, for instance through increased time in lockdown (already a dangerously overused mechanism in facilities such as CNSCF); designation of certain dayrooms for those most susceptible; and isolation of suspected carriers. All of these options raise significant human rights, health and safety concerns.

For instance, it is broadly recognized that conditions of segregation comparable to lockdown are corrosive to mental and physical health, particularly for those with pre-existing mental health conditions. Where these measures are prolonged and indeterminate, they can have permanent significant impact on prisoners with or without a prior diagnosis. These dire effects have been recognized by Canadian appellate courts in cases deeming solitary confinement an infringement of human rights.

In pandemic conditions, government must balance a set of safety and health concerns. In particular, in the likely event of an outbreak of COVID-19 in one or more of the province's correctional facilities, correctional and health authorities are likely to face difficult questions about whether or when those suspected of or diagnosed with the virus will be transferred to hospital – and whether or when hospitals will accept those patients.

The prospect that prisoners may first be infected as a result of government reliance on incarceration despite clear threats presented by the pandemic to life and health, and then may be forced to endure solitary confinement in combination with other second-tier standards of care, inferior to those accessible in the wider community – and with this, the prospect that prisoners will die preventable deaths -- is something we urge you to take all measures to avert before it is too late.

⁵ Fiona Kouyoumdjian et al, "Health status of prisoners in Canada" (2016) 62(3)Can Fam Physician 215-222 [[Health status of prisoners in Canada: Narrative review](#)]

RECOMMENDATIONS

Sentenced prisoners

Yesterday, we wrote to Justice and Correctional Services officials on the importance of identifying provincial prisoners at high risk of complications from COVID-19, and immediately moving them to appropriate community placements, for instance by way of conditional release.⁶ Conditional release may be granted on the basis of “medical reasons,” “humanitarian reasons” or reasons of “reintegration or rehabilitation.” Our understanding is that this mechanism is available only to those under sentence.

We urge you to immediately devise a system for approving conditional release of sentenced provincial prisoners, including all prisoners currently serving intermittent sentences, and all those who are at elevated vulnerability to complications from COVID-19. While these two groups are the most obvious starting point, we emphasize the importance of including all sentenced prisoners in these measures given the immediate need to reduce the jail population to protect against the unprecedented COVID-19 threat.

We class within the category of non-intermittent prisoners who should be immediately granted conditional release (whether to private homes or other approved community-based spaces) given their heightened susceptibility in jail to complications of the illness, intensive liberty restrictions oriented to risk mitigation, or both:

- Persons aged 50+, who are at the highest risk of serious illness and death should they contract COVID-19,⁷
 - Persons with compromised immunity, respiratory conditions and other chronic health conditions rendering them more vulnerable to complications from COVID-19,
- and
- Persons who are pregnant (who are also likely to be immune-compromised).

We also take the position that

- Mothers and others who are primary support parents should be granted conditional release in light of the serious psychological stress of separation during a pandemic crisis, and to ensure safe supervision of dependent children who without a primary support parent may be in precarious living situations.

Remanded prisoners

⁶ Correctional Services Act, 2005, c. 37, s. 1, s.79

⁷ While Public Health locates the age of increased concern as 65, the health of prisoners is recognized to be equivalent to that of persons in the general population whose chronological age is 10-15 years younger. See Adelina Iftene, Punished for Aging: Vulnerability, Rights, and Access to Justice in Canadian Penitentiaries (Toronto: University of Toronto Press, 2019) at 24. And see Office of the Correctional Investigator, Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody (Feb 2019). <https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20190228-eng.aspx>

Second, we urge authorities to explore informal mechanisms for granting temporary absences to remanded prisoners. Otherwise, timely decarceration of remanded prisoners -- as a further critical defence against the COVID-19 threat -- will require coordinating expedited court hearings for those awaiting bail as well as expedited review of pre-trial detention orders.

The high remand rates in the province signal that prosecution and judicial decision-making practices are likely already inconsistent with the clear requirement in *R. v. Antic*, 2017 SCC 27 that pre-trial custody (or even placing conditions on interim release) should in all but the most serious cases be a last-resort measure, only justified where the Crown demonstrates these measures to be necessary. Reasonable bail is a constitutional right.

The need to mitigate against the spread of COVID-19 means it is even more imperative that all justice system actors remain mindful of the need to identify alternatives to incarceration at all stages of the criminal justice process. The special relevance of Gladue and s.718.2 of the Criminal Code must be central to the analysis.

Justice system authorities, including the Minister of Justice and Director of Public Prosecutions, must therefore act on an urgent basis to craft and implement policies to ensure that justice system actors are mindful of the impact of COVID-19 when exercising discretion relating to incarceration. To condemn people to await trial in an environment highly susceptible to rapid spread of a potentially life-threatening illness – and to expose their families and wider communities to enhanced risk on their return home – constitutes a grossly disproportionate intrusion on personal security, a discriminatory disproportionate burdening of the most marginalized communities, and a threat to public health.

Prisoners at East Coast Forensic Hospital

While not provincially incarcerated persons as such, patients at East Coast Forensic Hospital (which shares staff and infrastructure with CNSCF) are also subject to deprivation of liberty in conditions in which spread of COVID-19 is difficult to control. We urge NSHA officials, in cooperation with provincial community services authorities, to implement community release plans on an urgent basis. In particular, we urge Community Services authorities to ensure that ECFH patients who have received conditional discharges from the Criminal Code Review Board are provided the necessary supports and services to move into the community without delay, to protect their health and human rights, and to assist in reducing crowding and thereby relieving pressure on the correctional health care system during the pandemic.

Comprehensive Recommendations – Preventive Decarceration

Reflecting and building on the foregoing, we recommend the following urgent actions and ask that you publicly release your action plans, optimally within 48 hours:

1 – The Minister of Justice, acting in coordination with the appropriate correctional officials, should (as Ontario has done) immediately grant all prisoners given intermittent sentences conditional release / temporary absence from custody;

2 – For those sentenced to continuous custody, correctional authorities, acting in coordination with the Department of Justice, should use the power to grant conditional release (per s.79 of the Correctional Services Act) for medical and/or humanitarian reasons. A priority should be placed on identifying community-based options for those most vulnerable to COVID-19 including those of advanced age (in prison populations given comparative ill-health, 50+); those with chronic health conditions making them vulnerable to COVID's most serious effects; and those who are pregnant. We would add those with significant mental health conditions, likely to be exacerbated by subjection to near-permanent lockdown conditions anticipated as the COVID-19 epidemic plays out;

3 - Similarly, correctional authorities should use their powers under s.79 of the Correctional Services Act to grant conditional release on health and/or humanitarian grounds to mothers and others who are primary support parents, who may suffer serious psychological stress when separated from children during the pandemic and whose children may be subject to heightened anxiety and other forms of instability in the absence of parental guidance;

4 - While prisoners may potentially be released to private homes with or without supervisory conditions, government (Justice, Community Services, or both) should provide resources to non-profits in the supported housing sector on an emergency basis to increase capacity to accommodate prisoners moving out of the jails (as Elizabeth Fry NS Mainland and Cape Breton are doing);

5 – The provincial government (Ministry of Community Services), in coordination with the NSHA and East Coast Forensic Hospital, must implement community release plans on an urgent basis, to provide ECFH patients who have received conditional discharges from the Criminal Code Review Board or who have been granted temporary absences the necessary supports and services to move into the community without delay, consistent with their human rights and the urgency of reducing hospital crowding and relieving pressures on the correctional health care system during the pandemic;

6 - Court officials, including the Chief Justices of the Provincial and Superior Courts, together with the Public Prosecution Service / Crowns and defense counsel / legal aid, should coordinate efforts to expedite bail hearings as well as review of orders denying interim release – this, in recognition that maintaining incarceration in the changed conditions of the COVID-19 epidemic threatens to erode public confidence in the administration of justice;

7 - The Director of Public Prosecutions should instruct Crowns not to oppose bail or seek onerous conditions in new matters coming before the court, or to do so only in cases raising the most serious public safety concerns. The special threat posed by the COVID-19 epidemic to incarcerated populations and the public provides a further strong counterweight to pre-trial custody;

8 – Finally, public authorities with oversight of policing, including chiefs of police and boards of police commissioners, should instruct officers to give serious weight to the individual and the public health risks presented by placing an arrested person in lockup post-arrest, rather than the default liberty-respecting option of releasing them on recognizance or a promise to appear in court.

We add to this list a reminder of two core imperatives raised in our letter of March 15, 2020, directed specifically to **practices inside jails** to guard against the threat of COVID-19 spread:

-- Justice, Corrections and NSHA officials should release to the public their action plans for monitoring, preventing and treating COVID-19 inside correctional facilities;

– Justice, Corrections and NSHA officials must ensure that measures taken to mitigate risk and promote public health inside provincial jails are evidence-based and least restrictive of liberty, and do not subject prisoners to an inferior standard of care. Any measures taken must reflect concern for the mental and physical health effects of prolonged and indeterminate lockdowns in shared cells, as well as isolation in "health segregation" -- conditions corrosive to psychological and physical health and contrary to fundamental rights under the Charter.

We look forward to your timely response.

Yours,



Sheila Wildeman, Co-Vice Chair, East Coast Prison Justice Society

sheila.wildeman@dal.ca

for East Coast Prison Justice Society, Elizabeth Fry Societies - NS Mainland and Cape Breton, NS Prisoners' Health Coalition, Women's Wellness Within, Nova Scotia Criminal Lawyers' Association

From: [Jennie Cunningham](#)
To: [Andrea.Monteiro](#)
Cc: shadelle.chambers@cyfn.net; [Tracy.McPhee](#); [Jennifer Budgell](#); [Vincent Larochelle](#); [Bruce](#); [Amy Steele](#); [David Tarnow](#)
Subject: Re: Response to COVID at WCC
Date: March 23, 2020 17:57:30
Attachments: [Monteiro_March23.20.pdf](#)
[ATT00001.htm](#)
[protecting inmates from COVID-19 - letter from defence lawyers.pdf](#)
[ATT00002.htm](#)
[March_16_2020_ECPJS_Open_Letter_COVID19_impact_on_ministerial_police_prosecutorial_and_judicial_discretion.pdf](#)
[ATT00003.htm](#)
[Open Letter --ECPJS March 15 2020 letter - COVID-19 in Provincial Corrections.pdf](#)
[ATT00004.htm](#)
[Ministers ltr Mar 16 2020.pdf](#)
[ATT00005.htm](#)

Forwarded to JP at DOJ so he is aware.

Email addressed to Andrea Monteiro.

MS Mar 24-2020

Hello Ms. Monteiro,

Please find correspondence enclosed from some of the members of the Yukon defence bar.

We agree entirely with the letter sent this afternoon by our colleagues in the NWT which I attach.

Please let us know if there is anything we can do to assist and we look forward to hearing from you.

Thank you,

Jennie Cunningham

March 23, 2020

By Email: Andrea.Monteiro@gov.yk.ca

Ms. Andrea Monteiro
Director, Corrections
Yukon Government, Community Justice and Public Safety
301 Jarvis Street
Whitehorse, Yukon Territory
Y1A 2H3

Dear Ms. Monteiro,

We are writing to follow up on the letters sent to all Ministers of Justice one week ago, which are attached to this correspondence.

As criminal defence lawyers and members of the Law Society of Yukon, we regularly work with individuals who are imprisoned and their families. We are obviously concerned about the need to implement immediate protocols to protect the health of those who are imprisoned at WCC, as well as the Corrections Officers and other staff. We hope that we can all work together in the spirit of collaboration during this unprecedented time.

Our colleagues in the Northwest Territories have written today to follow up on this issue at their three institutions. We completely adopt their letter, enclosed, which is supported by the defence bar in Northwest Territories. The NWT has a similar population with similar concerns to the Yukon where the prison population is disproportionately Indigenous people.

Our legislation is different than the NWT and therefore we write to highlight some differences as follows:

The *Corrections Act* (S.Y. 2009, c. 3) already provides for lengthy temporary absences from the institution. According to s. 30(2), a temporary absence may be authorized for a maximum of 60 days and may be renewed for one or more 60-day periods on reassessment of the case. **Section 30(3) allows for the authorization of temporary absences for medical reasons for an unlimited period.** In these unprecedented circumstances, we call on corrections officials to immediately release any inmate who meets the criteria for a temporary absence from WCC (i.e. those deemed low risk). This

would apply to sentenced inmates as well as those who are in pre-trial detention, since the term "inmate" as defined in s. 1 of the *Corrections Act* covers both categories.¹

We ask that you notify all persons incarcerated at WCC that they may apply for temporary absences if they qualify under the legislation. We further request that you implement a process to prioritize and streamline assessment and decision-making in relation to any temporary absence requests. An appeal panel is also available under the legislation and will need to be streamlined as well. We are willing to assist in this regard by providing free legal advice to any person who requires information or assistance with making a temporary absence request.

As we heard yesterday from the Chief Medical Officer we cannot take a "wait and see approach".

We also look forward to hearing protocols that have been put in place (if they have not been already) to protect the health of the inmates and staff.

Please do not hesitate to contact us.

Signed,

Jennifer Cunningham - jcunningham@northwestel.net

Jennifer Budgell - jennifer@jenniferbudgell.com

Vincent Larochelle - vincent@larochellelaw.ca

Bruce Warnsby – bbruce@yukondefencecounsel.ca

Amy Steele - asteele@legalaid.yk.ca

David Tarnow - david@tarnow.ca

Enclosures:

Letter from Members of the Defence Bar in NWT dated March 23, 2020 to the Wardens of NWT Prisons

Letter to all Justice Ministers dated March 16, 2020 from the Canadian Prison Law Association with letters enclosed from the East Coast Prison Justice Society dated March 15 and 16, 2020

¹Section 1 of the *Corrections Act* defines an "inmate" as "... an offender serving a sentence at a

Copy:

Tracy-Anne McPhee
Minister of Justice
Government of Yukon
Tracy.McPhee@gov.yk.ca

Shadelle Chambers
Executive Director
Council of Yukon First Nations
shadelle.chambers@cyfn.net

Attachment - Letter from NWT lawyers from today:

March 23, 2020

John Nahanni, Warden
North Slave Correctional Centre
john_nahanni@gov.nt.ca

Warren Gillis, Warden
Fort Smith Correctional Complex
warren_gillis@gov.nt.ca

Lorraine McDonald, Warden
South Mackenzie Correctional Centre
lorraine_mcdonald@gov.nt.ca

Dear Sirs/Madam:

Re: Action needed to protect NWT inmates amidst the COVID-19 pandemic

As defence lawyers practising in the Northwest Territories, we write to you out of a grave concern for the inmates – our clients – currently held at the North Slave Correctional Centre, Fort Smith Correctional Centre, and South Mackenzie Correctional Centre. These are people of all ages and genders, some of whom are serving sentences, while others are held on remand awaiting disposition of their charges.

We write following the letter of from the Canadian Prison Law Association and attachments that were sent to Justice Minister Caroline Wawzonek one week ago. Since that letter, the situation has progressed significantly.

COVID-19 has now arrived in the Northwest Territories. The current directive from the Chief Public Health Officer is to “cancel all gatherings, regardless of size or number of participants,” and to practice social distancing by maintaining a distance of 2 metres between people. For inmates in custody, often housed two or three to a cell, sharing toilet and bathing facilities, as well as kitchen and dining areas, these directives are not an option. Our clients are at serious risk of rapid transmission and exposure to the virus, should it make its way into the institutions, and do not have the freedom to protect themselves. An outbreak of COVID-19 in any one of the territory’s jails could be catastrophic.

Numerous human rights organizations have urged jails to take action to protect the inmate population. The Canadian Civil Liberties Association has called for Canadian institutions to “use existing legal tools to reduce the prison population through conditional releases, compassionate releases, and other discretionary measures, take humane measures to mitigate the clear danger that penal institutions can become high risk breeding grounds for virus outbreak, and release emergency protocols to the public for transparency and accountability.”¹

¹ <https://ccla.org/coronavirus-update-the-jailed/>

The frightening – and potentially deadly – prospect of widespread transmission of COVID-19 within jails already looms elsewhere in Canada, and the U.S. At the Toronto South Detention Centre in Ontario, a jail guard has tested positive for the virus.² Concerns have been raised about the virus entering provincial and federal institutions in Ontario and Alberta, including the Ottawa-Carleton Detention Centre and Bowden Institution.³ In the U.S., at least 38 people have tested positive for COVID-19 at the Rikers Island jail complex in New York City, including at least 19 inmates and 12 staff. Another 58 other inmates – at least – are being monitored in the jail’s quarantine and contagion units.⁴ Reports have begun of positive tests in other facilities across facilities in the U.S.

To respond to these threats, many institutions have begun to release prisoners. In Ontario, steps are being taken to release low-risk inmates who are nearing the end of their sentence, or who are serving intermittent sentences.⁵ In the U.S., “hundreds” of inmates have been released in Los Angeles and Cleveland, and the mayor of New York City has announced that officials will work to release inmates held on minor charges, or who are vulnerable due to underlying health issues.⁶ 56 inmates have been released from Rikers Island on their own recognizance.⁷ Jails in at least a dozen other U.S. states are sending low-level offenders, as well vulnerable offenders, home.⁸ A former justice minister in the U.K. has called for the release of some prisoners and the suspension of short sentences, to avoid the rapid spread of COVID-19 through overcrowded prisons.⁹ In New Jersey, over 1,000 prisoners are expected to be eligible for release, following a sweeping order signed yesterday by the state’s Attorney General.¹⁰

In order to protect inmates, staff, and the public at large, we are calling upon the North Slave Correctional Centre, Fort Smith Correctional Centre, and the South Mackenzie Correctional Centre to take the following actions:

- **Grant temporary absences (TAs) for humanitarian reasons to prisoners serving sentences, so that they can be released:**
 - Immediately inform all serving prisoners of the temporary absence mechanism and facilitate a speedy application process;

² <https://torontosun.com/news/local-news/covid-19-arrives-in-toronto-jail-report>,

<https://www.cbc.ca/news/canada/toronto/toronto-prison-guard-covid-19-coronavirus-1.5504263>

³ <https://www.rcinet.ca/en/2020/03/20/covid-19-enters-the-canadian-prison-system/>

⁴ <https://www.theguardian.com/us-news/2020/mar/22/coronavirus-outbreak-new-york-city-jails-rikers-island>

⁵ <https://www.ottawamatters.com/local-news/low-risk-prisoners-released-to-reduce-covid-19-toll-on-ontario-jails-2185021>

⁶ <https://www.bbc.com/news/world-us-canada-51947802>

⁷ <https://www.theguardian.com/us-news/2020/mar/22/coronavirus-outbreak-new-york-city-jails-rikers-island>

⁸ <https://www.wsj.com/articles/jails-release-prisoners-fearing-coronavirus-outbreak-11584885600>,

<https://www.npr.org/2020/03/23/818581064/prisons-and-jails-change-policies-to-address-coronavirus-threat-behind-bars>

⁹ <https://www.theguardian.com/uk-news/2020/mar/21/prisons-could-see-800-deaths-from-coronavirus-without-protective-measures>

¹⁰ <https://www.nytimes.com/2020/03/23/nyregion/coronavirus-nj-inmates-release.html?referringSource=articleShare>

- Identify those prisoners who are most vulnerable (due to age or pre-existing health conditions), and process their TA applications first;
- Apply the criteria required in processing the TA applications liberally, to favour the greatest number of releases possible.
- **Grant temporary absences (TAs) for humanitarian reasons to prisoners serving intermittent sentences, so that they need not surrender themselves for weekend sentences.** Offenders who have been granted permission to serve their sentences on weekends have already been entrusted to continue living in the community, and present an increased risk of introducing the virus into jails by regular entry/exit into the institutions.
- **Identify all remand prisoners who are vulnerable to COVID-19 due to age or pre-existing health conditions, and ensure they have contacted legal counsel about bail.**

Lastly, we are calling upon each of the territory's three institutions to do the following:

- **Immediately make each institution's plan for prevention, testing, outbreak management, and treatment of COVID-19 public.** Inmates, their families, and advocates, are entitled to know what the jails are doing to protect them in this time of danger and uncertainty.

As you are aware, the inmate population in the Northwest Territories is largely Indigenous. Many, if not most, have been impacted by intergenerational trauma caused by the residential school system, and the debilitating legacy of colonialism. For many, the effects of intergenerational trauma, poverty, and lack of access to health care in their formative years has meant poorer health overall, leaving many with compromised health throughout their lives as compared to other Canadians.¹¹ The problem of over-representation of Indigenous people in Canadian institutions has been recognized by the Supreme Court of Canada as one that must be remedied. In the context of the COVID-19 pandemic, we fear that this over-representation will mean a disproportionate exposure and vulnerability to the virus.

Many of the inmates held in the Northwest Territories' jails will return home to small communities outside of Yellowknife. It is important that they be able to do so now – before the virus enters the jails and puts them at risk of infection, and transmission to the communities.

We urge you, as those responsible for the health of all inmates, to take immediate, preventative steps, before it is too late.

¹¹ <https://publichealthreviews.biomedcentral.com/articles/10.1186/s40985-016-0016-5>

Signed,

Kate Oja – kate_oja@gov.nt.ca

Peter Harte – pjharte@northwestel.net (for all media inquiries regarding this letter please contact Peter by email or at 867-446-1468)

Jennifer Cunningham – jcunningham@northwestel.net

Ryan Clements – ryan@ryanclements.ca

Tú Pham – lawyer@tupham.com

Alanhea Vogt – alanhea_vogt@gov.nt.ca

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Alyssa Peeler – alyssa_peeler@gov.nt.ca

Jay Bran – jaybranlaw@gmail.com

Baljinder Rattan – bkrattan@shaw.ca

Paul Falvo – lawyer@falvo.ca

Cc:

Caroline Wawzonek
Minister of Justice
Government of the Northwest Territories
caroline_wawzonek@gov.nt.ca

Alex Godfrey
Chief Federal Prosecutor
Northwest Territories Regional Office
Public Prosecution Service of Canada
alex.godfrey@ppsc-sppc.gc.ca

Chief Superintendent Jamie Zettler
Yellowknife Detachment
Royal Canadian Mounted Police
c/o lenora.barrett@rcmp-grc.gc.ca

Attachment- Past correspondence from March 16, 2020

East Coast Prison Justice Society
 6061 University Avenue
 PO Box 15000 Halifax, Nova Scotia B3H 4R2
 eastcoastprisonjustice@gmail.com
 (with Elizabeth Fry Societies - NS Mainland and Cape Breton - NS Prisoners' Health Coalition, NS Criminal Lawyers' Association, Women's Wellness Within)

March 16, 2020

Chief Medical Officer of Health, Dr. Robert Strang
 Chief Justice of Nova Scotia, Michael Wood
 Chief Justice of the Nova Scotia Supreme Court, Deborah Smith
 Chief Justice of the Nova Scotia Provincial Court, Pamela Williams
 Minister of Justice Mark Furey
 Deputy Minister of Justice Karen Hudson
 Minister of Community Services, Kelly Regan
 Deputy Minister of Community Services, Tracey Taweel
 Director, Correctional Services, John Scoville
 Executive Director, Correctional Services, Chris Collett
 Director of Public Prosecutions, Martin E. Herschorn
 Chair, Halifax Board of Police Commissioners, Natalie Gordon
 Vice-President - Health Services, Quality and System Performance, Nova Scotia Health Authority [NSHA], Mr. Colin Stevenson
 Director – Mental Health and Addictions, NSHA, Ms. Samantha Hodder
 Former Justice Suzanne Hood, Chair, NS Criminal Code Review Board
 President, Nova Scotia Chiefs of Police Association, Julia Checchetto
 Executive Director, Nova Scotia Legal Aid, Megan Longley

Dear Dr. Strang, Chief Justices Wood, Smith, and Williams, Minister Furey, Deputy Minister Hudson, Minister Regan, Deputy Minister Taweel, Mr. Scoville, Mr. Collett, Mr. Herschorn, Ms Gordon, Mr. Stevenson, Ms. Hodder, Ms. Hood, Ms. Cecchetto, Ms. Longley:

RE: Immediate measures to ensure that ministerial, police, prosecutorial and judicial discretion is informed by the urgency of reducing incarceration during COVID-19 pandemic

We (East Coast Prison Justice Society, Elizabeth Fry Societies - NS Mainland and Cape Breton, NS Prisoners' Health Coalition, NS Criminal Lawyers' Association and Women's Wellness Within) are writing on an urgent basis. We recognize that these are highly pressured times and that you are committed to best efforts to contain the COVID-19 virus.

We propose below **a set of initiatives through which justice system actors should immediately begin to coordinate actions to prevent the spread of COVID-19 among provincially incarcerated persons.** The recommendations we make are oriented to

protecting the health of prisoners while respecting their human rights, and moreover preventing prisoners from becoming unwilling “vectors” of contagion threatening the health of their communities on reentry.

Yesterday we issued an open letter¹ calling for a public statement from the Minister of Justice, Director of Corrections, and Nova Scotia Health Authority concerning the measures to be taken by Justice, Corrections and Health Authority officials to avert the emergence of COVID-19 inside provincial jails. We await your response.

However, we are of the further firm view that at this time the only adequate defence to the spread of COVID-19 inside our jails, and consequent preventable deaths, is strategic decarceration -- i.e., ensuring that admissions and numbers of prisoners held in facilities are as low as possible, consistent with public safety.

If the province acts now, prevention or containment of risk is more likely. We therefore propose a set of mechanisms of preventive decarceration for your urgent consideration. These include: 1) temporary absences, 2) expedited bail hearings and review of remand orders, and 3) policies to inform the discretion of Crown counsel and police.

Preventive decarceration - background

As you know, about 60% of persons in Nova Scotia jails are in pre-trial detention (about 65% of the total count of provincial prisoners in 2017-18²). A significant majority of remanded prisoners are in custody for under a month, while the average sentence is about 70 days.³ At the same time, many patients at the East Coast Forensic Hospital who have received conditional discharges from the CCRB are still awaiting community placements many months or even years on.⁴

As COVID-19 hits, incarcerated persons are particularly vulnerable. They cannot practice social isolation in the same ways that people outside of prisons can. In provincial facilities in particular, people tend to pass in and out, placing those inside and those passing through at increased risk of infection. The risk is compounded by challenges accessing health care and preventative hygiene and health measures while inside. These problems are further exacerbated by the fact that many of the outside contacts that corrections may begin to exclude as intolerable risks are nonetheless critical to prisoners’ legal rights and psychological well being. The longer this situation continues, the more intolerable it gets, as prisoners’ health and human rights are paradoxically constructed as mutually inconsistent.

Compounding the heightened likelihood of infection is the fact that prisoners are disproportionately affected by chronic health conditions rendering them susceptible to the

¹ <https://nsadvocate.org/2020/03/15/urgent-open-letter-re-health-safety-and-human-rights-of-people-in-prison-during-covid-19-crisis/>

² <https://data.novascotia.ca/Crime-and-Justice/Average-Daily-Counts-at-Adult-and-Youth-Correction/xbcp-7w2t>

³ Corrections in Nova Scotia: Key Indicators (April 2019) (average length of stay- sentenced), p.7; Remand in Nova Scotia 2005-2016.

⁴ <https://globalnews.ca/news/4254538/patients-stuck-at-forensic-hospital/>

worst of COVID-19 complications, including death. High rates of chronic conditions including respiratory problems and conditions compromising one's immune system are well documented in this population.⁵

At the same time, incarcerated people are overwhelmingly representative of marginalized populations, including Indigenous and racialized persons, and the poor. These are groups already at greater risk of virus transmission in the community, given challenges to social distancing presented to those with housing and income instability. They are, at the same time, highly vulnerable to discrimination, vilification, and exclusion.

The threat of virus spread in prisons and jails reaches beyond the critically important context of incarcerated persons who are at the mercy of the state. It also threatens to undermine efforts at public health management in the wider community. Jails are porous institutions with a constant flow of admission and release. In passing in and out of jail, prisoners become vectors for virus transmission, potentially prolonging the life of the epidemic and further corroding the health of the most marginalized and embattled communities, and the public as a whole.

Correctional responses to COVID-19 are likely to involve efforts to isolate and separate prisoners, for instance through increased time in lockdown (already a dangerously overused mechanism in facilities such as CNSCF); designation of certain dayrooms for those most susceptible; and isolation of suspected carriers. All of these options raise significant human rights, health and safety concerns.

For instance, it is broadly recognized that conditions of segregation comparable to lockdown are corrosive to mental and physical health, particularly for those with pre-existing mental health conditions. Where these measures are prolonged and indeterminate, they can have permanent significant impact on prisoners with or without a prior diagnosis. These dire effects have been recognized by Canadian appellate courts in cases deeming solitary confinement an infringement of human rights.

In pandemic conditions, government must balance a set of safety and health concerns. In particular, in the likely event of an outbreak of COVID-19 in one or more of the province's correctional facilities, correctional and health authorities are likely to face difficult questions about whether or when those suspected of or diagnosed with the virus will be transferred to hospital – and whether or when hospitals will accept those patients.

The prospect that prisoners may first be infected as a result of government reliance on incarceration despite clear threats presented by the pandemic to life and health, and then may be forced to endure solitary confinement in combination with other second-tier standards of care, inferior to those accessible in the wider community – and with this, the prospect that prisoners will die preventable deaths -- is something we urge you to take all measures to avert before it is too late.

⁵ Fiona Kouyoumdjian et al, "Health status of prisoners in Canada" (2016) 62(3)Can Fam Physician 215-222 [[Health status of prisoners in Canada: Narrative review](#)]

RECOMMENDATIONS

Sentenced prisoners

Yesterday, we wrote to Justice and Correctional Services officials on the importance of identifying provincial prisoners at high risk of complications from COVID-19, and immediately moving them to appropriate community placements, for instance by way of conditional release.⁶ Conditional release may be granted on the basis of “medical reasons,” “humanitarian reasons” or reasons of “reintegration or rehabilitation.” Our understanding is that this mechanism is available only to those under sentence.

We urge you to immediately devise a system for approving conditional release of sentenced provincial prisoners, including all prisoners currently serving intermittent sentences, and all those who are at elevated vulnerability to complications from COVID-19. While these two groups are the most obvious starting point, we emphasize the importance of including all sentenced prisoners in these measures given the immediate need to reduce the jail population to protect against the unprecedented COVID-19 threat.

We class within the category of non-intermittent prisoners who should be immediately granted conditional release (whether to private homes or other approved community-based spaces) given their heightened susceptibility in jail to complications of the illness, intensive liberty restrictions oriented to risk mitigation, or both:

- Persons aged 50+, who are at the highest risk of serious illness and death should they contract COVID-19,⁷
 - Persons with compromised immunity, respiratory conditions and other chronic health conditions rendering them more vulnerable to complications from COVID-19,
- and
- Persons who are pregnant (who are also likely to be immune-compromised).

We also take the position that

- Mothers and others who are primary support parents should be granted conditional release in light of the serious psychological stress of separation during a pandemic crisis, and to ensure safe supervision of dependent children who without a primary support parent may be in precarious living situations.

Remanded prisoners

⁶ Correctional Services Act, 2005, c. 37, s. 1, s.79

⁷ While Public Health locates the age of increased concern as 65, the health of prisoners is recognized to be equivalent to that of persons in the general population whose chronological age is 10-15 years younger. See Adelina Iftene, Punished for Aging: Vulnerability, Rights, and Access to Justice in Canadian Penitentiaries (Toronto: University of Toronto Press, 2019) at 24. And see Office of the Correctional Investigator, Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody (Feb 2019). <https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20190228-eng.aspx>

Second, we urge authorities to explore informal mechanisms for granting temporary absences to remanded prisoners. Otherwise, timely decarceration of remanded prisoners -- as a further critical defence against the COVID-19 threat -- will require coordinating expedited court hearings for those awaiting bail as well as expedited review of pre-trial detention orders.

The high remand rates in the province signal that prosecution and judicial decision-making practices are likely already inconsistent with the clear requirement in *R. v. Antic*, 2017 SCC 27 that pre-trial custody (or even placing conditions on interim release) should in all but the most serious cases be a last-resort measure, only justified where the Crown demonstrates these measures to be necessary. Reasonable bail is a constitutional right.

The need to mitigate against the spread of COVID-19 means it is even more imperative that all justice system actors remain mindful of the need to identify alternatives to incarceration at all stages of the criminal justice process. The special relevance of Gladue and s.718.2 of the Criminal Code must be central to the analysis.

Justice system authorities, including the Minister of Justice and Director of Public Prosecutions, must therefore act on an urgent basis to craft and implement policies to ensure that justice system actors are mindful of the impact of COVID-19 when exercising discretion relating to incarceration. To condemn people to await trial in an environment highly susceptible to rapid spread of a potentially life-threatening illness – and to expose their families and wider communities to enhanced risk on their return home – constitutes a grossly disproportionate intrusion on personal security, a discriminatory disproportionate burdening of the most marginalized communities, and a threat to public health.

Prisoners at East Coast Forensic Hospital

While not provincially incarcerated persons as such, patients at East Coast Forensic Hospital (which shares staff and infrastructure with CNSCF) are also subject to deprivation of liberty in conditions in which spread of COVID-19 is difficult to control. We urge NSHA officials, in cooperation with provincial community services authorities, to implement community release plans on an urgent basis. In particular, we urge Community Services authorities to ensure that ECFH patients who have received conditional discharges from the Criminal Code Review Board are provided the necessary supports and services to move into the community without delay, to protect their health and human rights, and to assist in reducing crowding and thereby relieving pressure on the correctional health care system during the pandemic.

Comprehensive Recommendations – Preventive Decarceration

Reflecting and building on the foregoing, we recommend the following urgent actions and ask that you publicly release your action plans, optimally within 48 hours:

- 1 – The Minister of Justice, acting in coordination with the appropriate correctional officials, should (as Ontario has done) immediately grant all prisoners given intermittent sentences conditional release / temporary absence from custody;

2 – For those sentenced to continuous custody, correctional authorities, acting in coordination with the Department of Justice, should use the power to grant conditional release (per s.79 of the Correctional Services Act) for medical and/or humanitarian reasons. A priority should be placed on identifying community-based options for those most vulnerable to COVID-19 including those of advanced age (in prison populations given comparative ill-health, 50+); those with chronic health conditions making them vulnerable to COVID's most serious effects; and those who are pregnant. We would add those with significant mental health conditions, likely to be exacerbated by subjection to near-permanent lockdown conditions anticipated as the COVID-19 epidemic plays out;

3 - Similarly, correctional authorities should use their powers under s.79 of the Correctional Services Act to grant conditional release on health and/or humanitarian grounds to mothers and others who are primary support parents, who may suffer serious psychological stress when separated from children during the pandemic and whose children may be subject to heightened anxiety and other forms of instability in the absence of parental guidance;

4 - While prisoners may potentially be released to private homes with or without supervisory conditions, government (Justice, Community Services, or both) should provide resources to non-profits in the supported housing sector on an emergency basis to increase capacity to accommodate prisoners moving out of the jails (as Elizabeth Fry NS Mainland and Cape Breton are doing);

5 – The provincial government (Ministry of Community Services), in coordination with the NSHA and East Coast Forensic Hospital, must implement community release plans on an urgent basis, to provide ECFH patients who have received conditional discharges from the Criminal Code Review Board or who have been granted temporary absences the necessary supports and services to move into the community without delay, consistent with their human rights and the urgency of reducing hospital crowding and relieving pressures on the correctional health care system during the pandemic;

6 - Court officials, including the Chief Justices of the Provincial and Superior Courts, together with the Public Prosecution Service / Crowns and defense counsel / legal aid, should coordinate efforts to expedite bail hearings as well as review of orders denying interim release – this, in recognition that maintaining incarceration in the changed conditions of the COVID-19 epidemic threatens to erode public confidence in the administration of justice;

7 - The Director of Public Prosecutions should instruct Crowns not to oppose bail or seek onerous conditions in new matters coming before the court, or to do so only in cases raising the most serious public safety concerns. The special threat posed by the COVID-19 epidemic to incarcerated populations and the public provides a further strong counterweight to pre-trial custody;

8 – Finally, public authorities with oversight of policing, including chiefs of police and boards of police commissioners, should instruct officers to give serious weight to the individual and the public health risks presented by placing an arrested person in lockup post-arrest, rather than the default liberty-respecting option of releasing them on recognizance or a promise to appear in court.

We add to this list a reminder of two core imperatives raised in our letter of March 15, 2020, directed specifically to **practices inside jails** to guard against the threat of COVID-19 spread:

-- Justice, Corrections and NSHA officials should release to the public their action plans for monitoring, preventing and treating COVID-19 inside correctional facilities;

– Justice, Corrections and NSHA officials must ensure that measures taken to mitigate risk and promote public health inside provincial jails are evidence-based and least restrictive of liberty, and do not subject prisoners to an inferior standard of care. Any measures taken must reflect concern for the mental and physical health effects of prolonged and indeterminate lockdowns in shared cells, as well as isolation in "health segregation" -- conditions corrosive to psychological and physical health and contrary to fundamental rights under the Charter.

We look forward to your timely response.

Yours,



Sheila Wildeman, Co-Vice Chair, East Coast Prison Justice Society

sheila.wildeman@dal.ca

for East Coast Prison Justice Society, Elizabeth Fry Societies - NS Mainland and Cape Breton, NS Prisoners' Health Coalition, Women's Wellness Within, Nova Scotia Criminal Lawyers' Association

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Halifax, Nova Scotia B3H 4R2
eastcoastprisonjustice@gmail.com
(in association with Elizabeth Fry Societies (NS Mainland and Cape Breton), NS
Prisoners' Health Coalition, and Women's Wellness Within)

March 15, 2020

Minister of Justice Mark Furey
Nova Scotia Department of Justice
markfurey.mla@eastlink.ca

Minister of Health and Wellness Randy Delorey
Nova Scotia Department of Health and Wellness
Health.Minister@novascotia.ca

Mr. John Scoville
Executive Director, Corrections
John.Scoville@novascotia.ca

Mr. Colin Stevenson
NSHA Vice-President - Health Services, Quality and System Performance
Colin.Stevenson@nshealth.ca

Ms. Samantha Hodder
NSHA Director – Mental Health and Addictions
Samantha.Hodder@nshealth.ca

Dear Ministers Furey and Delorey, Mr. Scoville, Mr. Stevenson & Ms. Hodder:

RE: Actions urgently required to ensure health, safety and human rights of incarcerated populations as well as public safety during COVID-19 crisis

We (East Coast Prison Justice Society, Elizabeth Fry Societies - Halifax Mainland and Cape Breton, NS Prisoners' Health Coalition, and Women's Wellness Within) are writing on an urgent basis.

Provincial corrections and the NSHA -- responsible, respectively, for the safety and health of prisoners as well as public safety -- are well aware of the escalating crisis of COVID-19 and the importance of immediate measures to protect imprisoned populations (as well as staff working in provincial jails).

We concur with the recent statement of Nicole Austin-Hillery of Human Rights Watch:

"All governments . . . have an obligation to protect the rights of people deprived of their liberty, including the right to health, especially when custody heightens the risks they face. . . Officials . . . **should take immediate steps to prevent transmission of the coronavirus and consider finding alternatives to custody for those who are at high risk should they become infected.**"¹

Second, we endorse recent statements of the Ontario Human Rights Commission, on ensuring that actions aimed at mitigating risk of COVID-19 spread do not disproportionately burden vulnerable populations in an arbitrary and discriminatory manner. As provincial jails disproportionately house "individuals protected from discrimination under the *Code*, including Indigenous and racialized people, people with disabilities and addictions . . . and other vulnerable groups," it is essential that government's mitigation plans "adopt a Public Health and human rights-focused approach to addressing evidence-based risks associated with COVID-19 in government-run facilities." As the Ontario HRC further points out:

"Individuals in these facilities also have the right to be free from discrimination including harassment related to COVID-19 in the provision of services on grounds under the *Code*. Under the *Charter*, these individuals have a right to privacy, liberty and security of the person and the right to protection against discrimination, arbitrary detention, and cruel and inhuman treatment, subject to reasonable limits."²

Given the importance of ensuring that rights-respecting measures are adopted to protect those in state custody at this time, **we ask that you publicly indicate within a 48 hour period how you will exercise your joint responsibilities to respect human rights while assuring prisoner health and safety.** Specifically, we seek responses on whether Nova Scotia will commit to the following calls for action (and if so, the timelines for action):

1 - As Ontario has done, grant all intermittent inmates temporary absence from custody until this public health response is no longer required;³

2 – Using mechanisms such as temporary absences, move persons at heightened risk of complications from COVID-19 out of facilities into appropriate community settings immediately. Elizabeth Fry Societies Mainland and Cape Breton have increased capacity for this purpose; alternative forms of community release and supervision may be required in some cases, including release to private homes, to ensure the life and health of the most vulnerable prisoners is protected. **This includes all persons over age 55 (arguably, the comparable age to 65 in prisoner populations is 50⁴), those with**

¹ <https://www.hrw.org/news/2020/03/12/us-covid-19-threatens-people-behind-bars>

² www.ohrc.on.ca/en/news_centre/ohrc-policy-statement-covid-19-pandemic

³ <https://news.ontario.ca/mcscs/en/2020/03/statement-from-minister-elliott-and-solicitor-general-jones-regarding-ontarios-adult-correctional-fac.html>

⁴ See sources cited in Adelina Iftene, *Punished for Aging: Vulnerability, Rights, and Access to Justice in Canadian Penitentiaries* (Toronto: University of Toronto Press, 2019) at 24.

compromised immunity, those with respiratory conditions and other chronic health conditions rendering them more vulnerable to complications from COVID-19, and pregnant people (who are likely to be immune-compromised);

3 – Using mechanisms such as temporary absences, release from custody mothers and other primary support parents. This is required in order to ease the serious psychological stress of separation during a pandemic crisis, and to ensure safe supervision of dependent children who without a primary support parent may be in precarious living situations;

4 - Ensure that health segregation is not used as an alternative to community placement per #1-2, and that no one is placed for any duration in the most oppressive of health segregation cells – in CNSCF, the windowless pressurized cell apparently intended for immunosuppressed or contagious prisoners;

5 – Ensure that risk mitigation strategies are evidence-based and do not unduly restrict prisoners’ liberties – this means avoiding reliance on prolonged or indeterminate lockdowns / solitary confinement. Isolation / solitary confinement for any duration has been recognized to have profound, potentially permanent effects on the psychological and social functioning of persons with pre-existing mental health conditions. For other prisoners, prolonged and indeterminate isolation has been shown to have grievous effects on psychological and physical health and is recognized by Canadian appellate courts as contrary to the Charter;

6 – Ensure that prisoners have regular access to phone communications with lawyers and family – e.g., through cost-free use of additional cordless phones. The recent statement of correctional responses to COVID-19, permitting two free phone calls per week, is a start,⁵ but two calls are inadequate during a time of public health crisis, during which concerns of and about family members are likely to be intensified, as is the pressure to use phones for communications with lawyers;

7 – Ensure that prisoners have regular access to programming and other activities, modified as required by evidence-based public health considerations. We are concerned about the recent statement of correctional responses to COVID-19, placing a bar on visits from volunteer organizations.⁶ The role of organizations such as Elizabeth Fry Societies, Women’s Wellness Within, John Howard and others includes maintaining routine and enabling prisoners to focus on positive goals and relationships. This is critically important at this time of heightened stress. Justice and Corrections should work to identify ways of mitigating risk while maintaining volunteer access and programming (albeit potentially in altered forms) as far as possible.

8 – More generally, identify and implement best practices to ensure that the highest public health standards are met in a manner that is least restrictive of residual

⁵ <https://www.halifaxtoday.ca/local-news/changes-to-visits-at-correctional-facilities-implemented-due-to-covid-19-2166116>

⁶ Ibid.

liberties. This must include, at a minimum, increased rigour and frequency of sanitation measures. These responsibilities should not be delegated to prisoners but instead should be carried out by trained and adequately protected staff. At the same time, prisoners must have access to effective hygiene and sanitation products without cost;

9 – Finally, make detailed action plans for prevention and treatment of COVID-19 among incarcerated populations available to the public in a transparent and accessible manner.

We realize that a request for a response to these action items within 48 hours, on matters requiring coordination among multiple branches of government at the highest levels, would in ordinary circumstances be unreasonable. In the present context, it is the only alternative consistent with our organizations' mandates to work with and for imprisoned populations to ensure their rights and safety are protected.

If we do not hear from you within the time period noted, we will intensify our joint efforts to spur further public attention to these matters. However, as you know, with each day the challenge of taking an appropriate response escalates as do the consequences for the most vulnerable.

We will be issuing a separate statement calling on the Minister of Justice, police, courts, Public Prosecution Service and other relevant justice system actors to coordinate efforts to expedite bail hearings and revisit court-ordered pre-trial custody, and otherwise make urgent efforts to prevent new admissions to jail and reduce the numbers of people currently incarcerated. This is required in light of the pressures facing provincial jails and the heightened individual and public health consequences of incarceration at this time.

Again, we appreciate that these are trying times. As you know, it is in such times that our elected leaders and civil servants must do their utmost to safeguard human rights and protect the well being of those most vulnerable to discrimination and attendant disproportionate burdening.

We look forward to your timely response.

Yours,



Sheila Wildeman, Co-Vice Chair, East Coast Prison Justice Society
for the Boards of East Coast Prison Justice Society, Elizabeth Fry Societies (NS
Mainland and Cape Breton), NS Prisoners' Health Coalition, Women's Wellness Within

cc.: Deputy Minister of Justice, Karen Hudson; Deputy Minister of Health and Wellness, Dr. Kevin Orrell; Chief Medical Officer of Health, Dr. Robert Strang; Director, Nova Scotia Correctional Services, Mr. Chris Collette; Superintendent, Central Nova Scotia Correctional Facility, Mr. Adam Smith; Superintendent, CNSCF East Unit, Eileen Collette



Canadian Prison Law Association

March 16, 2020

#200, 10209-97 Street
Edmonton, AB T5J 0L6
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Email: tomengel@engellaw.ca

Federal, Provincial and Territorial
Ministers of Justice and Correctional Services
Ottawa, Canada
K1A 0A6

Dear Ministers,

Re: Governmental Response to COVID-19 pandemic - Prisons and the Criminal Justice System

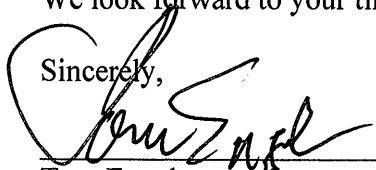
I write to you as the President of the Canadian Prison Law Association. The CPLA is an organization of lawyers who work on behalf of prisoners and who seek to protect and promote the constitutional rights, interests and privileges of prisoners by advocating on their behalf within the community and in their dealings with prison and release authorities. We promote adherence to the Rule of Law within the prison law environment in accordance with the highest standards of justice and fairness as required by and consistent with the *Charter of Rights and Freedoms*. We act as a vehicle through which members of the CPLA can, on matters of common concern, communicate with government bodies. Our membership is composed of lawyers who practice in the area of prison law. We have about 65 members across Canada.

It is in this capacity that I am writing to you about the treatment of prisoners as it relates to the COVID-19 pandemic.

A number of our members work in Nova Scotia. The East Coast Prison Justice Society, in letters dated March 15, 2020 and March 16, 2020 wrote to the Nova Scotia Minister of Justice and to other government officials about the COVID-19 crisis, calling on the Nova Scotia government to take action. I attach copies of those letters. The CPLA entirely adopts those submissions which are equally applicable nationally, provincially and territorially in the whole of Canada.

We look forward to your timely response.

Sincerely,



Tom Engel

President, Canadian Prison Law Association

From: [Tom Engel](#)
To: [David.Lametti@parl.gc.ca](#); [Bill.Blair@parl.gc.ca](#); [justice@gov.nl.ca](#); [DeptJPS@gov.pe.ca](#); [Carl.Urquhart@gnb.ca](#); [markfurey.mla@eastlink.ca](#); [Genevieve.Guilbault.LOHE@assnat.qc.ca](#); [Sonia.LeBel.CHMP@assnat.qc.ca](#); [doug.downey@pc.ola.org](#); [sylvia.jones@pc.ola.org](#); [minjus@leg.gov.mb.ca](#); [christine.tell@gov.sk.ca](#); [jus.minister@gov.sk.ca](#); [Calgary.Elbow@assembly.ab.ca](#); [AG.Minister@gov.bc.ca](#); [PSSG.Minister@gov.bc.ca](#); [Tracy.McPhee](#); [Caroline_wawzonek@gov.nt.ca](#); [jehaloak@gov.nu.ca](#); [Anne.Kelly@CSC-SCC.GC.ca](#)
Cc: [canadianpla@googlegroups.com](#); "630 Ched"; "APTN"; "Bob Weber CP"; "Canadian Press Edmonton"; "CHARLES RUSNELL"; "Chris Purdy"; "City TV #2"; "CTV"; "David Ewasuk"; "Edmonton Sun"; "Edmonton Sun City Editor"; "Globe and Mail"; "Janice Johnston"; "Jesse McLean"; "John Cotter CP"; "Kelsey Dyer"; "Pamela Roth"; "APTN"; "Bill Kaufmann"; "Chelan Skulski"; [claire.theobald@metronews.ca](#); "Emma McIntosh"; [JENNIE.RUSSELL@CBC.CA](#); "John Murray"; "Journal Cop Desk"; "Justin Ling"; "Kathy Le"; "Krugel, Lauren"; "Lost Time Media ([info@losttimemedia.com](#))"; "Meghan Grant"; "Paul McLeod"; "Scott Fralick"; [SFine@globeandmail.com](#); "Tara Bradbury"; [Wakefield, Jonny](#)
Subject: CPLA Letter - Release of Indigenous Prisoners in Response to Covid19 Pandemic
Date: March 26, 2020 10:56:41
Attachments: [March 26 2020 letter re Indigenous prisoners PDF.pdf](#)

Dear Federal, Provincial and Territorial Ministers responsible for justice and correctional facilities and CSC Commissioner,

Please find attached a letter from the Canadian Prison Law Association. The hyperlink for the APTN article is: <https://aptnnews.ca/2020/03/23/covid-19-pandemic-plan-needed-for-canadas-jails-and-prisons/>

We look forward to your response.

Tom Engel

President, CPLA

C/O Engel Law Office

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"It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones." - Nelson Mandela



CANADIAN PRISON LAW ASSOCIATION

March 26, 2020

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Federal, Provincial and Territorial
Ministers of Justice and Correctional Services
and CSC Commissioner

Dear Ministers,

Re: Release of Indigenous Prisoners in Response to Covid19 Pandemic

I write to you as the President of the Canadian Prison Law Association. The CPLA is an organization of lawyers who work on behalf of prisoners and who seek to protect and promote the constitutional rights, interests and privileges of prisoners by advocating on their behalf within the community and in their dealings with prison and release authorities. We promote adherence to the Rule of Law within the prison law environment in accordance with the highest standards of justice and fairness as required by and consistent with the *Charter of Rights and Freedoms*. We act as a vehicle through which members of the CPLA can, on matters of common concern, communicate with government bodies. Our membership is composed of lawyers who practice in the area of prison law. We have about many members across Canada.

We wrote to you on March 16, 2020 and then to Federal Minister of Public Safety Bill Blair and CSC Commissioner Anne Kelly on March 24, 2020 about the release of prisoners in general and we have received no response. Our attention now turns to the plight of Canada's Indigenous prisoners.

I have read the March 23, 2020 APTN publication of Pamela Palmater, whose opinions we respect. As the article states, she is a Mi'kmaw citizen and member of the Eel River Bar First Nation in northern New Brunswick. She has been a practicing lawyer for 20 years and currently holds the position of Professor and Chair in Indigenous Governance at Ryerson University. It is found here:

<https://aptnnews.ca/2020/03/23/covid-19-pandemic-plan-needed-for-canadas-jails-and-prisons/>.

We can do no better than to adopt her submissions in their entirety. We emphasize the following:

Many jails in Canada are notorious for over-crowding, lack of cleanliness and a critical lack of access to healthcare and mental health services meaning they are some of the worst places to be during the COVID-19 pandemic.

We know from the statistics that Indigenous peoples are incarcerated at crisis-level rates that continue to increase every year. The alarm has been raised by the John Howard Society representing male prisoners; the Canadian Association of Elizabeth Fry Societies representing female prisoners; human rights organizations, like Amnesty International; and Indigenous advocacy organizations.

Every successive federal and provincial government has failed to take substantive legislative and policy measures that would address the crisis. Now, their collective failures to act may well exacerbate the new crisis facing the country: the coronavirus pandemic.

We know from past pandemics that First Nations suffer higher infection and death rates. During H1N1, Indigenous peoples made up 28 per cent of hospital admissions during the first wave and 18 per cent of deaths despite only being 4 per cent of the population in 2009 – the majority being First Nations. In Winnipeg, Manitoba, 55 per cent of admissions to the Children’s Hospital were Indigenous people.

Multiple generations of assimilation, oppression, and dispossession have resulted in severe socio-economic conditions higher rates of infectious and chronic diseases in Indigenous peoples. These poor health outcomes compromise Indigenous health and make them more vulnerable to disease. Tuberculosis is a highly infectious disease that has relatively low rates among the Canadian population, but First Nations suffer rates 40 times and Inuit 290 times that of southerners. These health conditions are all exacerbated in prisons where access to healthcare is lacking and where the virus has taken root.

A guard at Toronto South Detention Centre, one of the largest urban jails in Canada, has reportedly tested positive for the virus. An outbreak of the virus in Canadian jails or prisons puts the lives of prisoners at significant risk – especially Indigenous peoples.

There have already been calls by others for urgent decarceration strategies to prevent an outbreak in prisons. The union representing legal aid workers and staff in Saskatchewan has already asked governments to release low-risk, non-violent prisoners on the grounds that an outbreak would threaten the health and safety of prisoners, staff and local hospitals. Similarly, the League of Rights and Freedoms also called on Quebec government to reduce the prison population to avoid the virus spreading like “wildfire”.

In Ontario, some low-risk prisoners are being released early to help stem the spread of the virus in the province’s jails.

Newfoundland and Labrador's justice minister has also indicated that the province is considering temporary absences for prisoners during the pandemic, arguing that jails are "petri dishes for the spread of the virus" and that it could spread like a "crashing avalanche" if the government doesn't act now. Even the United States, the country with the highest incarceration rate in the world, has begun to release prisoners to stem the spread of COVID-19.

This would be in line with recommendations from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, who recommends alternatives to prison, including commuting sentences, early releases, probation and release into community care.

In response to Indigenous concerns about the pandemic, Indigenous Services Minister Marc Miller promised that no Indigenous community would be left behind and that the federal government would "address vulnerabilities" explaining that, "there is a need for special support and special care for Indigenous communities and Indigenous Canadians right across the country." Yet, for all these promises, we have yet to see a plan to decarcerate Indigenous men, women and youth – especially those sitting in remand. An Indigenous decarceration plan should have been developed as part of a federal-provincial-territorial-Indigenous government pandemic measure.

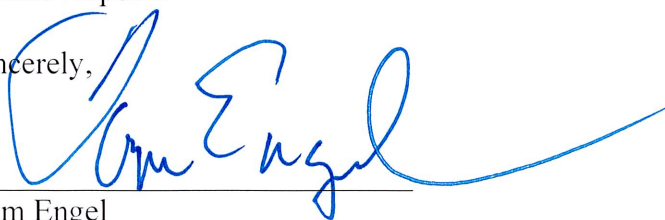
Decarceration is not about opening prison doors in the middle of a pandemic. It needs to be a planned approach that considers public health and safety, while not perpetuating systemic racism in the justice system or increasing health risks to Indigenous prisoners.

Given that Indigenous prisoners are more likely to be classified at higher risk levels due to systemic racism, any assessment of the risk level of prisoners to be released would have to be done in partnership with independent prison justice experts and Indigenous governments. Further, while some Indigenous prisoners have homes to return to, many will require social supports for themselves, their families and communities, on and off reserve.

Days matter in this pandemic. Urgent action is required right now. Will federal and provincial governments come together with Indigenous governments and develop a plan or will Indigenous men, women and youth in prisons be the community that is left behind during the pandemic? [Emphasis added]

Please respond.

Sincerely,



Tom Engel
President, Canadian Prison Law Association

C. Media

From: [Jennie Cunningham](#)
To: [Andrea.Monteiro](#)
Cc: [Jennifer Budgell](#); [Bruce](#); [David Tarnow](#); [Amy Steele](#); [Vincent Laroche](#); [Lorna Fadden](#); [shadelle.chambers@cyfn.net](#); [Tracy.McPhee](#)
Subject: Correspondence re: WCC's response to COVID crisis
Date: March 26, 2020 17:08:57
Attachments: [Monteiro March 26.20.pdf](#)
[ATT00001.htm](#)
[March 26 2020 letter re Indigenous prisoners PDF.pdf](#)
[ATT00002.htm](#)

Ms. Monteiro,

Thank you for your letter today.

Please find further correspondence enclosed.

Thank you,
Jennie Cunningham

March 26, 2020

By Email: Andrea.Monteiro@gov.yk.ca

Ms. Andrea Monteiro
Director, Corrections
Yukon Government, Community Justice and Public Safety
301 Jarvis Street
Whitehorse, Yukon Territory
Y1A 2H3

Dear Ms. Monteiro,

Thank you for your response today.

We are writing to endorse the letter sent to all Justice Ministers today from the CPLA calling for the Release of Indigenous Prisoners in Response to Covid19 Pandemic.

This is especially relevant to the Yukon where the majority of prisoners are Yukon First Nations citizens.

From your letter, I understood that Yukon Justice is considering whether it is safe to release prisoners on temporary absence passes and whether to cease taking those on intermittent sentences. Thus far, we have not heard of any individual being released from WCC on a temporary absence, nor are we aware that any current intermittent sentence has been suspended.

We urge Correctional Officials to act immediately to reduce the prison population where possible, and to closely review the unique circumstances of Yukon First Nations as outlined in the correspondence today to the Justice Minister.

Releasing prisoners prior to a more serious community outbreak will have a two-fold benefit. First, the reduced density in WCC will reduce chances of transmission to both prisoners and staff. Second, releasing prisoners from WCC before an outbreak will mean safer transitions to their families and communities.

We appreciate that options are being considered, but we urge Yukon Justice to act now. The first letter from the Canadian Prison Law Association was sent on March 16, 2020.

It was disheartening to hear that there is more housing in the Correctional Centre than in the community. If a current prisoner is able to be released on a TAP but for the lack

of stable housing, during these emergency times we would request that Yukon Justice partner with other agencies to seek safe options for those people outside of the Correctional Centre.

Again, please do not hesitate to contact us if we can be of assistance in any manner during this unprecedented time.

Signed,

Jennifer Cunningham - jcunningham@northwestel.net

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Vincent Larochelle - vincent@larochellelaw.ca

Bruce Warnsby – bbruce@yukondefencecounsel.ca

Amy Steele - asteel@legalaids.yk.ca

David Tarnow - david@tarnow.ca

Lorna Fadden – 70(1)

Enclosures:

Letter to all Justice Ministers dated March 26, 2020 from the Canadian Prison Law Association

Copy:

Tracy-Anne McPhee
Minister of Justice
Government of Yukon
Tracy.McPhee@gov.yk.ca

Shadelle Chambers
Executive Director
Council of Yukon First Nations
shadelle.chambers@cyfn.net

Attachment:



CANADIAN PRISON LAW ASSOCIATION

March 26, 2020

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Federal, Provincial and Territorial
Ministers of Justice and Correctional Services
and CSC Commissioner

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In Ontario, some low-risk prisoners are being released early to help stem the spread of the virus in the province’s jails.

Newfoundland and Labrador's justice minister has also indicated that the province is considering temporary absences for prisoners during the pandemic, arguing that jails are "petri dishes for the spread of the virus" and that it could spread like a "crashing avalanche" if the government doesn't act now. Even the United States, the country with the highest incarceration rate in the world, has begun to release prisoners to stem the spread of COVID-19.

This would be in line with recommendations from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, who recommends alternatives to prison, including commuting sentences, early releases, probation and release into community care.

In response to Indigenous concerns about the pandemic, Indigenous Services Minister Marc Miller promised that no Indigenous community would be left behind and that the federal government would "address vulnerabilities" explaining that, "there is a need for special support and special care for Indigenous communities and Indigenous Canadians right across the country." Yet, for all these promises, we have yet to see a plan to decarcerate Indigenous men, women and youth – especially those sitting in remand. An Indigenous decarceration plan should have been developed as part of a federal-provincial-territorial-Indigenous government pandemic measure.

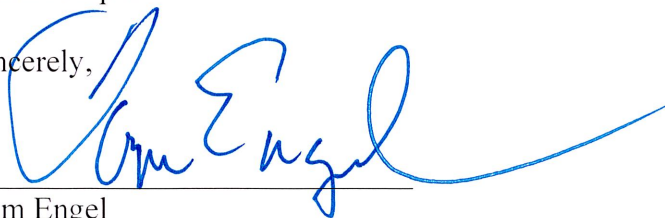
Decarceration is not about opening prison doors in the middle of a pandemic. It needs to be a planned approach that considers public health and safety, while not perpetuating systemic racism in the justice system or increasing health risks to Indigenous prisoners.

Given that Indigenous prisoners are more likely to be classified at higher risk levels due to systemic racism, any assessment of the risk level of prisoners to be released would have to be done in partnership with independent prison justice experts and Indigenous governments. Further, while some Indigenous prisoners have homes to return to, many will require social supports for themselves, their families and communities, on and off reserve.

Days matter in this pandemic. Urgent action is required right now. Will federal and provincial governments come together with Indigenous governments and develop a plan or will Indigenous men, women and youth in prisons be the community that is left behind during the pandemic? [Emphasis added]

Please respond.

Sincerely,



Tom Engel
President, Canadian Prison Law Association

C. Media

The hyperlink for the APTN article is: <https://aptnnews.ca/2020/03/23/covid-19-pandemic-plan-needed-for-canadas-jails-and-prisons/>

From: [Jennie Cunningham](#)
To: [Andrea.Monteiro](#)
Cc: [shadelle.chambers@cyfn.net](#); [Tracy.McPhee](#); [Lorna Fadden](#)
Subject: Fwd: Correspondence re: WCC's response to COVID crisis (Clarification)
Date: March 27, 2020 09:04:48
Attachments: [Monteiro March 26.20.pdf](#)
[ATT00001.htm](#)

Ms. Monterio,

I write to clarify a minor issue in the context of the significant issues you are dealing with.

On this letter, it should say Student-at-Law, beside the name of the last signatory.

Thank you for your continued consideration of the issues.

Yours truly,

Jennie Cunningham

Begin forwarded message:

From: Jennie Cunningham <jcunningham@northwestel.net>
Subject: Correspondence re: WCC's response to COVID crisis
Date: March 26, 2020 at 5:08:23 PM PDT
To: andrea.monteiro@gov.yk.ca
Cc: Jennifer Budgell <jennifer@jenniferbudgell.com>, Bruce
 <bbruce@yukondefencecounsel.ca>, David Tarnow <david@tarnow.ca>,
 Amy Steele <astele@legalaid.yk.ca>, Vincent Larochelle
 <vincent@larochellelaw.ca>, Lorna Fadden ⁷⁰⁽¹⁾,
 "shadelle.chambers@cyfn.net" <shadelle.chambers@cyfn.net>,
Tracy.McPhee@gov.yk.ca

March 26, 2020

By Email: Andrea.Monteiro@gov.yk.ca

Ms. Andrea Monteiro
Director, Corrections
Yukon Government, Community Justice and Public Safety
301 Jarvis Street
Whitehorse, Yukon Territory
Y1A 2H3

Dear Ms. Monteiro,

Thank you for your response today.

We are writing to endorse the letter sent to all Justice Ministers today from the CPLA calling for the Release of Indigenous Prisoners in Response to Covid19 Pandemic.

This is especially relevant to the Yukon where the majority of prisoners are Yukon First Nations citizens.

From your letter, I understood that Yukon Justice is considering whether it is safe to release prisoners on temporary absence passes and whether to cease taking those on intermittent sentences. Thus far, we have not heard of any individual being released from WCC on a temporary absence, nor are we aware that any current intermittent sentence has been suspended.

We urge Correctional Officials to act immediately to reduce the prison population where possible, and to closely review the unique circumstances of Yukon First Nations as outlined in the correspondence today to the Justice Minister.

Releasing prisoners prior to a more serious community outbreak will have a two-fold benefit. First, the reduced density in WCC will reduce chances of transmission to both prisoners and staff. Second, releasing prisoners from WCC before an outbreak will mean safer transitions to their families and communities.

We appreciate that options are being considered, but we urge Yukon Justice to act now. The first letter from the Canadian Prison Law Association was sent on March 16, 2020.

It was disheartening to hear that there is more housing in the Correctional Centre than in the community. If a current prisoner is able to be released on a TAP but for the lack

of stable housing, during these emergency times we would request that Yukon Justice partner with other agencies to seek safe options for those people outside of the Correctional Centre.

Again, please do not hesitate to contact us if we can be of assistance in any manner during this unprecedented time.

Signed,

Jennifer Cunningham - jcunningham@northwestel.net

Jennifer Budgell - jennifer@jenniferbudgell.com

Vincent Larochelle - vincent@larochellelaw.ca

Bruce Warnsby – bbruce@yukondefencecounsel.ca

Amy Steele - asteel@legalaids.yk.ca

David Tarnow - david@tarnow.ca

Lorna Fadden – 70(1)

Enclosures:

Letter to all Justice Ministers dated March 26, 2020 from the Canadian Prison Law Association

Copy:

Tracy-Anne McPhee
Minister of Justice
Government of Yukon
Tracy.McPhee@gov.yk.ca

Shadelle Chambers
Executive Director
Council of Yukon First Nations
shadelle.chambers@cyfn.net

Access.Analyst

From: Mark.Pindera
Sent: April 1, 2020 15:46
To: JUS-LRS-LS
Subject: Fwd: COVID-19 Update: Whitehorse Correctional Centre and Yukon Community Corrections
Attachments: COVID-19 - Update_Whitehorse Correctional Centre and Yukon Community Corrections.pdf; 2020.04.01 COVID 19 Update.pdf

FYI for those of you who advice DOJ. Thanks,

Mark Pindera
3469

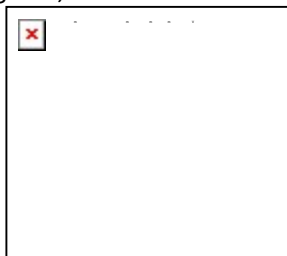
From: Claudia.Morgan
Sent: Wednesday, April 1, 2020 3:06 PM
To: jus-msb-mc; jus-msb-mca; JUS-CJPS-CC-WCC; JUS-CJPS-CC-YCC
Cc: Mitchell.Croteau-Walker; Sophie.Anderson; Deanna.Thick; 'Parkkari, Keith'; 'David Christie'; Eric.Stevenson; Shehnaz.Ali
Subject: RE: COVID-19 Update: Whitehorse Correctional Centre and Yukon Community Corrections

Good afternoon,

Further to the memo of March 23, 2020 (attached for your reference), also attached is an updated memo from Andrea Monteiro, Director of Corrections, outlining the additional steps being taken by the Corrections Branch to proactively prepare in light of COVID-19.

The memo outlines the steps currently taking place and will be updated as required.

Regards,



Claudia Morgan

Administrative Research Assistant

Justice | Community Justice and Public Safety | Corrections

T 867-667-8293 | F 867-393-6326 | Yukon.ca



March 23, 2020

COVID-19 Update: Whitehorse Correctional Centre and Yukon Community Corrections

The Corrections Branch is working diligently towards preparedness during the rapidly evolving COVID-19 global pandemic. The Branch is making concerted efforts to ensure the health and safety of staff, clients, and the public while also ensuring the provision of humane essential services.

The Corrections Branch is taking a proactive approach. In consultation with the Yukon Communicable Disease Centre and in line with the recommendations from the office of the Chief Medical Officer of Health, a number of precautionary measures have been implemented to reduce the potential for exposure and transmission. The following are some of the steps that have been taken at the Whitehorse Correctional Centre (WCC) and in Yukon Community Corrections (YCC).

The Whitehorse Correctional Centre

- WCC Health Services have delivered information sessions to inmates on COVID-19;
- WCC staff have received education sessions on the use of recommended personal protective equipment, including hand sanitizer, and this equipment has been made available throughout the facility;
- All front-line correctional staff and managers have been reminded of the direction from the Chief Medical Officer of Health on March 22, 2020 to self-isolate if they have recently returned home to the territory;
- As essential service workers, all front-line correctional staff and managers have been reminded that they are not permitted to attend any social gatherings, even those with less than 10 people;
- Additional cleaning measures in the secure area of the WCC have been implemented;
- All non-essential training for staff has been suspended until further notice;
- All inmate programming facilitated by external contractors and community partners have been suspended until further notice, although all programming facilitated by correctional officers is still available to those incarcerated at the WCC;
- A new tool has been implemented to screen all persons admitted to either the WCC or the Arrest Processing Unit upon initial intake;
- Court appearances from the correctional centre are being facilitated via video;
- Intermittent offender reporting is being closely monitored and assessed on a weekly basis. Where feasible, alternate community supervision arrangements are being made;
- Signage regarding COVID-19 has been posted throughout the facility for both inmates and visitors, additional hand sanitizing measures will be put into place for visitors and staff, and screening measures of all individuals attending the facility for visits have been implemented;

- As of Tuesday March 24, 2020, all personal visits with members of the public will be suspended until further notice;
- In order to support inmates with continued personal connections with family and friends, two free daily telephone calls are being provided to inmates as per an agreement with the inmate telephone service provider;
- Professional visits are still permitted, however, all visits are currently being offered in a secure manner, with a physical barrier between visitors and inmates to prevent droplet and contact transmission. Disinfectant products have been placed on both sides of the visiting area to enable each individual to clean the area prior to the visit. Professional visits with lawyers are also being facilitated via video conferencing. As per normal routine, all visits must be booked in advance; and,
- An order for increased canteen stock has been placed to mitigate any disruption in service delivery.

As a reminder, the kiosk located in the WCC's reception area is still available for members of the public to deposit funds into inmate trust and phone accounts. Funds may also be added to trust accounts by mailing a money order to the WCC while funds to phone accounts can be deposited by calling 1-866-713-4761 or online at www.inmatephones.ca.

Yukon Community Corrections

- Signage regarding COVID-19 has been posted throughout the YCC office;
- Additional cleaning materials have been made available for both client and staff use;
- Probation officers have begun shifting to a supervision model whereby clients check-in via phone or video depending on the individualized circumstances of the client;
- All non-essential training for staff has been suspended until further notice;
- All in-person group programming for clients has been cancelled until further notice; and,
- All travel for probation officers to conduct in-person supervision or attend circuit court has been suspended until further notice. To ensure there are no gaps in service delivery, supervision in communities will be done via phone or video technology.

The Corrections Branch will continue to work collaboratively with the Yukon Communicable Disease Centre and the office of the Chief Medical Officer of Health to ensure continuity in service delivery without sacrificing the health and safety of staff, clients, and the public.

Sincerely,



Andrea Monteiro
Director, Corrections



April 1, 2020

COVID-19 Update: Whitehorse Correctional Centre and Yukon Community Corrections

The Corrections Branch continues to work steadfastly towards preparedness during the ever-evolving COVID-19 global pandemic. The Branch remains committed to implementing measures to ensure the health and safety of correctional staff, clients, and the public while also ensuring the provision of humane essential services.

In consultation with the Yukon Communicable Disease Centre and in line with recommendations from the office of the Chief Medical Officer of Health (CMOH), the Corrections Branch has taken a carefully planned, proactive approach to reduce the potential for exposure to, and transmission of, COVID-19. Further to the precautionary measures outlined in the public memorandum released on March 23, 2020, the following are some of the additional steps that have been taken at the Whitehorse Correctional Centre (WCC) and in Yukon Community Corrections (YCC).

The Whitehorse Correctional Centre

- An updated COVID-19 screening form has been circulated and is completed for every individual admitted to the WCC. The new updates include the new direction from the CMOH regarding domestic travel;
- Updated precautionary isolation and medical monitoring procedures have been developed and implemented for both current inmates, as well as for all newly admitted individuals upon intake at the WCC;
- In collaboration with other justice stakeholders, the WCC continues to undertake a detailed review of the personal circumstances of individuals on remand, those serving intermittent sentences, and individuals who may be particularly vulnerable to COVID-19 due to their age or underlying health conditions. This proactive review is underway to ensure that all clients are housed in the most appropriate location should there be a pandemic issue within the correctional institution. This review also includes an assessment of which, if any, inmate(s) could be released on an unescorted temporary absence and housed in the community without compromising their safety or that of the public;

- In partnership with the RCMP and Health and Social Services, work is underway to appropriately manage individuals in the community who do not pose a public safety risk to others rather than have them admitted to the Arrest Processing Unit within the WCC;
- To maintain continuity of service and program delivery, substance use services, spiritual services, and First Nations services are offered, upon inmate request, in a secure manner, with a physical barrier between the service provider and the inmate to prevent droplet and contact transmission;
- All inmate disciplinary hearings are conducted on-site at the WCC using video technology. This measure reduces the risk of COVID-19 exposure and transmission between independent hearing adjudicators and inmates without sacrificing procedural fairness;
- The Forensic Complex Care Team (FCCT) has two designated members who continue to attend the WCC weekly to meet with inmates. In addition, the phone numbers for FCCT counselors have been added to the list of “free calls” and inmates have been provided with their counselor’s number to facilitate communication and essential check-ins;
- The First Nation Liaison Officer has scheduled weekly talking circles and continues to meet regularly with inmates;
- Work is underway to facilitate the online delivery of various courses offered through Yukon College;
- Work programs, as well as indoor and outdoor recreational opportunities, continue to be offered at the WCC;
- All inmates discharged from WCC will be provided with information related to COVID-19 including safe community practices; and,
- All individuals in custody at the WCC are held in their own cell that has solid walls and a solid door.

Yukon Community Corrections

- While all YCC offices remain operational, the Whitehorse, Watson Lake and Dawson City offices have reduced the hours during which they are open to the public;
- In Whitehorse, clients who are required to attend in person for reporting and intake assessments are directed to use a designated telephone within the office to liaise with their Probation Officer or Bail Supervisor. Cleaning materials are available to enable each individual to clean the area and telephone prior to beginning the session;
- In Watson Lake, intake assessments are conducted at the YCC office in a secure manner, with a physical barrier between YCC staff and clients;

- Weekly in-person staff meetings have been temporarily suspended and replaced with daily individual meetings between the YCC supervisor and staff to promote and facilitate social distancing; and,
- Weekly case consultation meetings between YCC staff and the FCCT have been temporarily suspended, though staff have been reminded and encouraged to consult the FCCT via telephone where appropriate.

The Corrections Branch will continue to work collaboratively with health and justice partners in responding to the dynamic situation presented by the COVID-19 global pandemic. As developments arise, the Branch will maintain its measured, proactive approach which prioritizes the health and safety of correctional staff, clients, and the public while also ensuring that humane essential services are provided to Yukoners.

Sincerely,



Andrea Monteiro
Director, Corrections

From: 70(1)
To: [Brendan.Hanley](#); [Tracy.McPhee](#)
Cc: [Kate.White](#); [info@yukonhumanrights.ca](#); [Marie-France.Kingsley@oci-bec.gc.ca](#); [Katherine.Alexander@cyfn.ca](#); [jcunningham@northwestel.net](#)
Subject: Whitehorse Correctional Centre and COVID-19
Date: April 14, 2020 13:57:49

April 14, 2020

Dear Minister McPhee,

Last week I wrote to Minister Frost and Dr. Hanley about the coronavirus pandemic, the critical need for testing, and my concern for the health and safety of street people, those who rely on Whitehorse Emergency Shelter and the Food Bank for meals, and the workers and volunteers who serve this vulnerable population. In that letter I also asked about coronavirus testing of staff and prisoners at Whitehorse Correctional Centre (WCC). An outbreak of COVID-19 at WCC would quickly have devastating results for everyone in the correctional system, and for the public health of the Yukon community at large.

As the Yukon's Minister of Justice, I trust that you are working with Dr. Hanley, the Health Minister, and with Yukon First Nations on a plan to avoid an outbreak at the correctional centre. What testing has been done and what measures taken to prevent widespread infection in this population?

Has Yukon Government (YG) considered the early release of people near the end of their sentence? Has YG been able to release people housed in remand at WCC if they are not a danger to the community? Will YG offer logistical and financial support to ensure everyone who is released from WCC has adequate safe housing, food and other necessities available, in order to self-isolate for 14 days after their release?

As you are aware, an overwhelming number of the Yukon and Canadian prison population is indigenous. Over-representation of indigenous persons in the criminal justice system has been flagged as a grave human rights violation by the federal [Office of the Correctional Investigator](#), among others, for many years. WCC is no exception. Now is a critical opportunity to address this discrimination and injustice.

Minister McPhee, I ask that you work with your F/P/T cohort, and with other criminal justice system colleagues, to implement the recommendations made by Pam Palmater, who advocates for a [COVID-19 pandemic plan for Canada's prisons and jails](#), and calls on governments to now take overdue measures to [decelerate the over-representation of indigenous peoples in jails](#).

I would appreciate a written response, and request these questions be addressed at a media briefing and answers posted on the YG COVID-19 website. Thank you.

Sincerely,
70(1)

Access.Analyst

From: Michele.Shaw
Sent: April 14, 2020 16:20
To: Carla.Braun
Cc: Sabrina-Jean.Fred
Subject: FW: CPLA Letter - Release of Indigenous Prisoners in Response to Covid19 Pandemic
Attachments: Ltr_April14_TomEngel.pdf; Attachment - COVID-19 - Update_Whitehorse Correctional Centre and Yukon Community Corrections.pdf

Just fyi that this one has been sent.

**Michele Shaw**

Executive Assistant to The Honourable Tracy-Anne McPhee
 Attorney General
 Minister of Justice
 Minister of Education
 Cabinet Office | Government of Yukon
 T [867-393-7488](tel:867-393-7488) | C [867-334-4175](tel:867-334-4175) | Yukon.ca

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From: Michele.Shaw **On Behalf Of** Tracy.McPhee
Sent: April 14, 2020 4:19 PM
To: 'Tom Engel'
Cc: Michele.Shaw
Subject: RE: CPLA Letter - Release of Indigenous Prisoners in Response to Covid19 Pandemic

Good afternoon,

Please see the attached letter of today's date from Minister McPhee.

Thank you,

**Michele Shaw**

Executive Assistant to The Honourable Tracy-Anne McPhee
 Attorney General
 Minister of Justice
 Minister of Education
 Cabinet Office | Government of Yukon
 T [867-393-7488](tel:867-393-7488) | C [867-334-4175](tel:867-334-4175) | Yukon.ca

Confidential Notice: This technology is directed in confidence solely to the person named above, and may not otherwise be distributed, copied or disclosed. If you have received this e-mail in error, please notify us immediately by return e-mail and permanently delete this transmission from your system without making a paper copy. 0155

From: Tom Engel <tomengel@engellaw.ca>

Sent: March 26, 2020 10:57 AM

To: David.Lametti@parl.gc.ca; Bill.Blair@parl.gc.ca; justice@gov.nl.ca; DeptJPS@gov.pe.ca; Carl.Urquhart@gnb.ca; markfurey.mla@eastlink.ca; Genevieve.Guilbault.LOHE@assnat.qc.ca; Sonia.LeBel.CHMP@assnat.qc.ca; doug.downey@pc.ola.org; sylvia.jones@pc.ola.org; minjus@leg.gov.mb.ca; christine.tell@gov.sk.ca; jus.minister@gov.sk.ca; Calgary.Elbow@assembly.ab.ca; AG.Minister@gov.bc.ca; PSSG.Minister@gov.bc.ca; Tracy.McPhee@tracy.mcphee.gov.yk.ca; Caroline.wawzonek@gov.nt.ca; jehaloak@gov.nu.ca; Anne.Kelly@CSC-SCC.GC.ca

Cc: canadianpla@googlegroups.com; '630 Ched' <chednews@630ched.com>; 'APTN' <news@aptn.ca>; 'Bob Weber CP' <Bob.Weber@TheCanadianPress.com>; 'Canadian Press Edmonton' <edmonton@thecanadianpress.com>; 'CHARLES RUSNELL' <CHARLES.RUSNELL@cbc.ca>; 'Chris Purdy' <chris.purdy@thecanadianpress.com>; 'City TV #2' <newsdesk@citytv.com>; 'CTV' <cfrnnewsassignment@ctv.ca>; 'David Ewasuk' <David.Ewasuk@ctv.ca>; 'Edmonton Sun' <edm-citydesk@sunmedia.ca>; 'Edmonton Sun City Editor' <nicole.bergot@sunmedia.ca>; 'Globe and Mail' <sstewart@globeandmail.com>; 'Janice Johnston' <Janice.Johnston@CBC.CA>; 'Jesse McLean' <jmclean@thestar.ca>; 'John Cotter CP' <john.cotter@thecanadianpress.com>; 'Kelsey Dyer' <Kelsey.Dyer@ctv.ca>; 'Pamela Roth' <pamela.roth@sunmedia.ca>; APTN <info@aptn.ca>; Bill Kaufmann <BKaufmann@postmedia.com>; Chelan Skulski <Chelan.Skulski@bellmedia.ca>; claire.theobald@metronews.ca; Emma McIntosh <emma@observermediagroup.com>; JENNIE.RUSSELL@CBC.CA; John Murray <jmurray@aptn.ca>; 'Journal Cop Desk' <copdesk@edmontonjournal.com>; Justin Ling <justinling@gmail.com>; Kathy Le <kathy.le@bellmedia.ca>; Krugel, Lauren <Lauren.Krugel@thecanadianpress.com>; Lost Time Media (info@losttimemedia.com) <info@losttimemedia.com>; Meghan Grant <meghan.grant@cbc.ca>; 'Paul McLeod' <paul.mcleod@buzzfeed.com>; Scott Fralick <scott.fralick@citytv.rogers.com>; SFine@globeandmail.com; Tara Bradbury <tara.bradbury@thetelegram.com>; Wakefield, Jonny <jwakefield@postmedia.com>

Subject: CPLA Letter - Release of Indigenous Prisoners in Response to Covid19 Pandemic

Dear Federal, Provincial and Territorial Ministers responsible for justice and correctional facilities and CSC Commissioner,

Please find attached a letter from the Canadian Prison Law Association. The hyperlink for the APTN article is: <https://aptnnews.ca/2020/03/23/covid-19-pandemic-plan-needed-for-canadas-jails-and-prisons/>

We look forward to your response.

Tom Engel

President, CPLA

C/O Engel Law Office
#200, 10209-97 Street
Edmonton, AB T5J 0L6
Tele: 780 448-3639
Fax: 780 448-4924
Website: www.engellaw.ca

"It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones." - Nelson Mandela



0156

Minister's Office
PO Box 2703, Whitehorse, Yukon Y1A 2C6

April 14, 2020

Tom Engel
President, Canadian Prison Law Association
#200, 10209-97 Street
Edmonton, AB T5J 0L6

Dear Tom Engel,

Re: Governmental Response to COVID-19 pandemic – Prisons and the Criminal Justice System

Thank you for your letter dated March 16, 2020, regarding the Government of Yukon's response to the COVID-19 global pandemic.

I can advise that Yukon's Corrections Branch is working diligently to respond to the rapidly evolving COVID-19 global pandemic. In consultation with the Yukon Communicable Disease Centre, and in line with the recommendations from the office of the Chief Medical Officer of Health, the Corrections Branch has implemented several precautionary measures to reduce the potential for virus exposure and transmission within the Whitehorse Correctional Centre (WCC), the territory's only correctional facility. An outline of these measures, as well as those that have been implemented by Yukon Community Corrections, is detailed in the enclosed memorandum that was circulated publicly on March 23, 2020.

In addition to the aforementioned precautionary measures, our Corrections Branch is working with other justice stakeholders to review the personal circumstances of those on remand, individuals serving intermittent sentences, and those who may be particularly vulnerable to COVID-19 due to their age or underlying health conditions. This work is being done proactively to ensure that all clients are housed in the most appropriate circumstances should there be a pandemic issue within the WCC.

I can further advise that Yukon Corrections continues to make concerted efforts to implement the principle of least restrictive measures within the WCC. As part of these efforts, the WCC is proactively conducting a detailed review of the individualized circumstances of each inmate, both sentenced and those on remand, to determine which, if any, could be released on an unescorted temporary absence. In assessing all temporary absence applications, the Corrections Branch is guided by the principle of least restrictive measures and continues to approve temporary absences for appropriately classified individuals who can be housed in the community without compromising their safety or the safety of the public.

As you know, the COVID-19 global pandemic is a dynamic situation and we will continue to take a measured, proactive approach focused on ensuring the health and safety of staff, correctional clients, and the public while also ensuring the provision of humane essential services.

Thank you for taking the time to bring this matter to my attention.

Yours truly,



Tracy-Anne McPhee
Minister of Justice and Attorney General

Attachment



March 23, 2020

COVID-19 Update: Whitehorse Correctional Centre and Yukon Community Corrections

The Corrections Branch is working diligently towards preparedness during the rapidly evolving COVID-19 global pandemic. The Branch is making concerted efforts to ensure the health and safety of staff, clients, and the public while also ensuring the provision of humane essential services.

The Corrections Branch is taking a proactive approach. In consultation with the Yukon Communicable Disease Centre and in line with the recommendations from the office of the Chief Medical Officer of Health, a number of precautionary measures have been implemented to reduce the potential for exposure and transmission. The following are some of the steps that have been taken at the Whitehorse Correctional Centre (WCC) and in Yukon Community Corrections (YCC).

The Whitehorse Correctional Centre

- WCC Health Services have delivered information sessions to inmates on COVID-19;
- WCC staff have received education sessions on the use of recommended personal protective equipment, including hand sanitizer, and this equipment has been made available throughout the facility;
- All front-line correctional staff and managers have been reminded of the direction from the Chief Medical Officer of Health on March 22, 2020 to self-isolate if they have recently returned home to the territory;
- As essential service workers, all front-line correctional staff and managers have been reminded that they are not permitted to attend any social gatherings, even those with less than 10 people;
- Additional cleaning measures in the secure area of the WCC have been implemented;
- All non-essential training for staff has been suspended until further notice;
- All inmate programming facilitated by external contractors and community partners have been suspended until further notice, although all programming facilitated by correctional officers is still available to those incarcerated at the WCC;
- A new tool has been implemented to screen all persons admitted to either the WCC or the Arrest Processing Unit upon initial intake;
- Court appearances from the correctional centre are being facilitated via video;
- Intermittent offender reporting is being closely monitored and assessed on a weekly basis. Where feasible, alternate community supervision arrangements are being made;
- Signage regarding COVID-19 has been posted throughout the facility for both inmates and visitors, additional hand sanitizing measures will be put into place for visitors and staff, and screening measures of all individuals attending the facility for visits have been implemented;

- As of Tuesday March 24, 2020, all personal visits with members of the public will be suspended until further notice;
- In order to support inmates with continued personal connections with family and friends, two free daily telephone calls are being provided to inmates as per an agreement with the inmate telephone service provider;
- Professional visits are still permitted, however, all visits are currently being offered in a secure manner, with a physical barrier between visitors and inmates to prevent droplet and contact transmission. Disinfectant products have been placed on both sides of the visiting area to enable each individual to clean the area prior to the visit. Professional visits with lawyers are also being facilitated via video conferencing. As per normal routine, all visits must be booked in advance; and,
- An order for increased canteen stock has been placed to mitigate any disruption in service delivery.

As a reminder, the kiosk located in the WCC's reception area is still available for members of the public to deposit funds into inmate trust and phone accounts. Funds may also be added to trust accounts by mailing a money order to the WCC while funds to phone accounts can be deposited by calling 1-866-713-4761 or online at www.inmatephones.ca.

Yukon Community Corrections

- Signage regarding COVID-19 has been posted throughout the YCC office;
- Additional cleaning materials have been made available for both client and staff use;
- Probation officers have begun shifting to a supervision model whereby clients check-in via phone or video depending on the individualized circumstances of the client;
- All non-essential training for staff has been suspended until further notice;
- All in-person group programming for clients has been cancelled until further notice; and,
- All travel for probation officers to conduct in-person supervision or attend circuit court has been suspended until further notice. To ensure there are no gaps in service delivery, supervision in communities will be done via phone or video technology.

The Corrections Branch will continue to work collaboratively with the Yukon Communicable Disease Centre and the office of the Chief Medical Officer of Health to ensure continuity in service delivery without sacrificing the health and safety of staff, clients, and the public.

Sincerely,



Andrea Monteiro
Director, Corrections



Memorandum

November 2, 2020

To: Whitehorse Correctional Centre Staff

From: Michael MacLennan
Superintendent

Subject: COVID19 Protocols for Professional Visitors and Volunteers

Due to the increasing numbers of COVID19 cases in Canada, Whitehorse Correctional Centre is implementing measures for the safety of staff, inmates, volunteers and professionals.

Starting immediately, all visitors, volunteers and professionals entering the secure portion of the facility will be required to wear a mask for the duration of their time in the building.

Masks will be made available at reception; however, professionals and volunteers are encouraged to use their own masks. Visitors will be provided masks at reception.

The Yukon government and Whitehorse Correctional Centre will continually adapt and amend policy according to the health crisis in Canada as it unfolds.

Your cooperation is greatly appreciated.

Thank you,

A handwritten signature in black ink, appearing to be "M. MacLennan", written in a cursive style.

Michael MacLennan
Superintendent



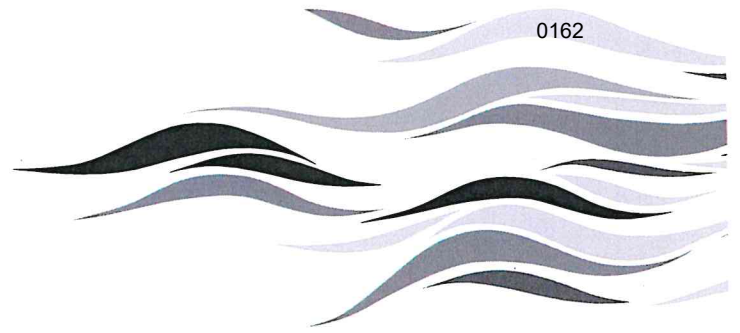
PERSONAL INFORMATION BANK

COVID-19 SCREENING FORM		SEND FORM TO HEALTH CARE
		FPS Number (if possible):
		Family name:
		Given name(s):
		Date of birth:
Region:	Institution:	Date Completed:

A. Is the person presenting with:		
<input type="checkbox"/> Yes <input type="checkbox"/> No	Fever	Date of symptom onset (YYYY/MM/DD)
<input type="checkbox"/> Yes <input type="checkbox"/> No	New onset of cough (or exacerbation of chronic cough)	Date of symptom onset (YYYY/MM/DD)

B. If yes to any of the above → In the 14 days before onset of illness, has the patient:		
<input type="checkbox"/> Yes <input type="checkbox"/> No	Traveled to an affected area Such as: China (mainland), Hong Kong, Iran, Italy, Japan, Singapore, South Korea	Date of travel (YYYY/MM/DD) Date of return (YYYY/MM/DD)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Had close contact with a confirmed case or case under investigation of COVID-19	Date of contact (YYYY/MM/DD)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Had close contact with a person with acute respiratory illness who has traveled within 14 days prior to their illness onset	Date of contact (YYYY/MM/DD)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Had laboratory exposure to biological material known to contain COVID-19 (for example, testing specimens in a laboratory setting)	Date of exposure (YYYY/MM/DD)

If yes to any one of A and B or just B then the person meets the definition of a person under investigation.	
<input type="checkbox"/> Yes <ul style="list-style-type: none"> Place inmate in a single room or cell Call health care if during opening hours / local public health if after business hours 	<input type="checkbox"/> No



Department of Justice
PO Box 2703, Whitehorse, Yukon Y1A 2C6

March 16, 2019

Re: Visits at Whitehorse Correctional Centre

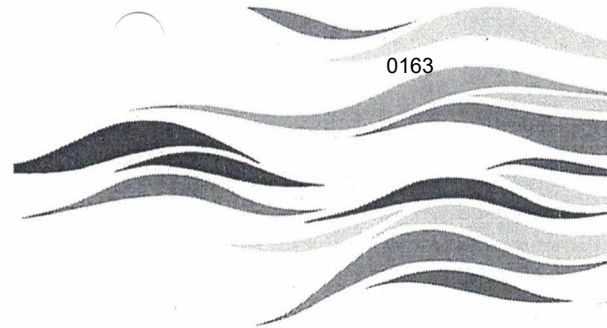
In light of COVID-19, WCC will be taking preventative measures and scheduling all visits (Family and Professional) through secure visits until further notice. Family visits hours will remain the same as normally scheduled and visitors will continue to call to schedule 24 hours prior to the visit time being requested. Professional visitors will continue to call in advance to schedule to meet with clients at WCC.

We ask that if you are experiencing any symptoms related to COVID-19 that you contact WCC immediately and cancel your appointment or visit.

Sincerely,

A handwritten signature in blue ink that reads "V. Goodkey". The signature is written in a cursive, flowing style.

V. Goodkey
Deputy Superintendent Programs



Memorandum

Date: April 11, 2020

From: Andrea Monteiro, Superintendent

Subject: Changes to Existing Daily Free Inmate Telephone Calls

The Whitehorse Correctional Centre (WCC) was recently advised that on April 19, 2020, Synergy Inmate Phone Solutions would no longer be offering inmates two free 10-minute telephone calls.

In recognition of the importance of maintaining contact with family and friends during the COVID-19 global pandemic, as of April 19, 2020, WCC will be providing all inmates with one daily 20-minute free phone call so that individuals in custody can continue to maintain contact with their loved ones.

I understand that this is a difficult time for individuals in custody. I hope that the provision of this free daily telephone call will assist in managing some of the additional stress resulting from the proactive operational measures that WCC has taken to keep inmates and staff safe from COVID-19

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Monteiro", written in a cursive style.

Andrea Monteiro
Superintendent
Whitehorse Correctional Centre



Whitehorse Correctional Centre COVID-19 Medical Isolation Precautions

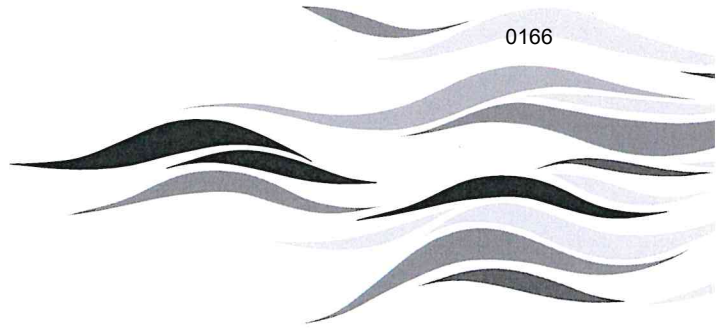
New Admissions

- All newly admitted inmates will be screened for symptoms of COVID-19 during the intake process.
- If a secondary screening by nursing staff indicates a risk, the inmate will be tested as per Yukon Communicable Disease Centre instructions.
- COVID-19 testing will be scheduled Monday-Friday 0700-1500hrs
- Based on operational requirements, the inmate will be housed in H-East or H-West pending test results and will be medically isolated from other inmates.
- Signage indicating droplet and contact precautions will be posted on the exterior of the cell door where the individual is medically isolated.
- Should a COVID-19 medical isolation be required, droplet and contact precautions must be followed by all WCC staff working in the area.
- Baring any behavioural concerns, efforts will be made to provide the inmate with meaningful human interaction.
- Baring any behavioural concerns, leisure activities/materials that can be utilized while in medical isolation (e.g. books, tv, movies, art supplies) should be provided to the inmate.
- The inmate may leave their cell once a day to shower when operations permit. They must wear a mask when going to shower and be provided with a new, dry mask after their shower. All other inmates housed on that unit or in that area must be secured in their cells at this time to minimize contact. The shower area must be disinfected as per regular cleaning procedures once the inmate has finished.
- Roll change will be provided daily. The inmate will be provided with a clear plastic bag to place their dirty linen in. This clear plastic bag will then be hand to the correctional officer. This linen must be put directly into the washing machine. In keeping with contact precautions gloves must be worn when handling the linen.
- All items removed from the cell (books etc.) must be kept separate in a marked bin for 7 days and not re-issued to other inmates.

Current Inmates

- Posters have been placed in the units asking inmates to report symptoms if they start to experience them.
- If screening by nursing staff indicates a risk, the inmate will be tested as per Yukon Communicable Disease Centre instructions.
- COVID-19 testing will be scheduled Monday-Friday 0700-1500hrs

- The inmate will be isolated per the Public Health Act in their current cell.
- The inmate's cell door is to remain closed and secure.
- Signage indicating droplet and contact precautions will be posted on the exterior of the inmate's cell door.
- Should a COVID-19 medical isolation be required, droplet and contact precautions will be followed by all WCC staff working in the area.
- Baring any behavioural concerns, efforts will be made to provide the inmate with meaningful human interaction.
- Baring any behavioural concerns, leisure activities/materials that can be utilized while in medical isolation (e.g. books, tv, movies, art supplies) will be provided to the inmate.
- The inmate may leave their cell once a day to shower when operations permit. They must wear a mask when going to shower and be provided with a new, dry mask after their shower. All other inmates housed on that unit must be secured in their cells at this time to minimize contact. The shower area must be disinfected as per regular cleaning procedures once the inmate has finished.
- Roll change will be provided daily. The inmate will be provided with a clear plastic bag to place their dirty linen in. This clear plastic bag will then hand to the correctional officer. This linen must be put directly into the washing machine. In keeping with contact precautions gloves must be worn when handling the linen
- All items removed from the cell (books etc.) must be kept separate in a marked bin for 7 days and not re-issued to other inmates.



June 2, 2020

B, D, G, H Unit

Re: Whitehorse Correctional Centre Personal Visits

Whitehorse Correctional Centre continues to monitor and follow the guidelines of the Yukon Chief Medical officer. WCC will now be accepting personal visitors for weekend visits at maximum two visitors per visiting times to ensure we follow protocols. Hours visits will be available for Saturday, Sunday and statutory holiday visits are as follows

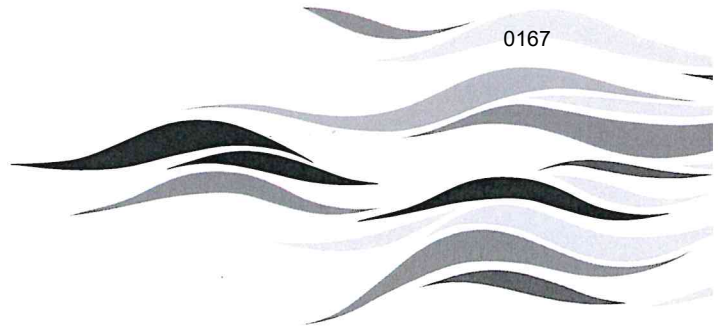
Female visits – 17:45 – 18:45

Male visits - 19:00 – 20:00

Visitors are requested to arrive at minimum 15 minutes prior to visits and will be asked to a series of COVID-19 questions and will be requested to use hand sanitizer or hand wash to guarantee we provide a safe visiting area for all who attend.

A handwritten signature in blue ink that reads "V. Goodkey".

V. Goodkey
Deputy Superintendent Programs



June 2, 2020

B, D, G Unit

Re: Whitehorse Correctional Centre Solstice Celebration

Whitehorse Correctional Centre continues to follow the guidelines of the Yukon Chief Medical officer and as such, the annual Solstice Celebration will be limited to clients and staff attending.

The celebration is scheduled for Thursday June 18, 2020. Our First Nation Liaison officer Maisie Smith will be guiding our celebration with opening prayers and providing First Nation cultural information and practices.

A handwritten signature in blue ink that reads "V. Goodkey".

V. Goodkey
Deputy Superintendent Programs



Whitehorse Correctional Centre COVID-19 Health Monitoring Sheet

Inmate Name _____ Inmate Number _____ Cell number _____

Date Placed _____

Daily symptom monitoring. Circle all that apply. Please document any other information in the inmate health file.

1 Date	2 Date	3 Date	4 Date	5 Date	6 Date	7 Date
Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____
8 Date	9 Date	10 Date	11 Date	12 Date	13 Date	14 Date
Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____	Fever T _____ Sore throat _____ Cough _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Shortness of breath _____ <input type="checkbox"/> reported <input type="checkbox"/> observed Other: _____ Nurse initials _____