



Wednesday April 22, 2020

Commissioner Anne Kelly  
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Dear Commissioner Kelly,

I am writing on behalf of the Canadian Civil Liberties Association to express our deep concern regarding the health and well-being of the inmates and staff in Canada's federal correctional institutions.

It is our understanding that, despite the fact that inmates are particularly vulnerable to COVID-19, almost no federal prisoners have been released in response to the COVID-19 pandemic.<sup>1</sup> Other jurisdictions across Canada and the world have taken significant steps to reduce their prison populations in order to allow for better infection control measures within institutions and to permit vulnerable inmates to effectively self-isolate in the community and access medical treatment that is not available within a penal institution. The failure of Correctional Service Canada (CSC) to decarcerate is directly endangering the health and lives of CSC staff, inmates, and local communities.

Over the past weeks disturbing accounts have emerged from both staff and inmates regarding the lack of infection control measures within federal institutions.<sup>2</sup> There are currently active outbreaks at multiple prisons. Hundreds of staff and inmates are infected; thousands more are at risk. The incarcerated population is particularly vulnerable during this pandemic due to the large number of people with underlying health conditions.

In our view, the continued incarceration of medically-vulnerable inmates who could be safely and conditionally released to effectively self-isolate in the community is a violation of CSC's statutory and *Charter* obligations.

CSC has the ability to grant indefinite Unescorted Temporary Absences (UTAs) for medical purposes under s. 116(1)(a) of the *Corrections and Conditional Release Act*. To our knowledge

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<sup>1</sup> <https://www.cbc.ca/news/politics/prison-covid19-blair-zinger-1.5540304>.

<sup>2</sup> <https://bc.ctvnews.ca/prevention-measures-lagged-for-weeks-at-b-c-prison-with-worst-covid-19-outbreak-in-canada-unions-1.4901683>; <https://www.thestar.com/news/canada/2020/04/21/quebec-federal-inmate-files-application-for-covid-19-class-action.html>.

only one vulnerable inmate has been released on a UTA, a measure that was only secured after significant efforts from his lawyer and on the eve of a federal court hearing alleging *Charter* violations. It is not reasonable or realistic to expect all medically-vulnerable inmates to repeat this process, particularly in the face of lockdowns and a rapidly-evolving pandemic. CSC's obligations to provide health care and ensure a safe and healthful institution requires that CSC take proactive steps to identify and provide the recommended preventative medical treatment – effective self-isolation – for those most at risk in this pandemic.

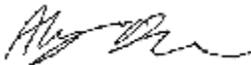
CCLA therefore endorses the call for an urgent and public directive to all institutional heads, health care staff, and case management staff, directing that the authority of the Commissioner and Institutional Heads to grant UTAs for medical reasons under s. 116(2) of the *Corrections and Conditional Release Act* should be urgently used to facilitate the release of medically vulnerable prisoners to locations in the community, where they can protect themselves against exposure to the novel coronavirus.

We also echo the recommendations of the Canadian Prison Law Association to:

- reduce prison populations through conditional pardons, parole, and expanded temporary absences;
- release of youth and immigration detainees;
- incorporate consideration of COVID-19 into all parole and correctional decisions;
- provide appropriate sanitation and hygiene supplies to prisoners, free of charge;
- ensure solitary confinement is not used to implement social distancing measures;
- implement appropriate measures to maintain contact with the community, counsel and treatment providers; and
- continue programs, in alternate delivery forms if necessary.

Thank you very much for your attention to this matter, we look forward to your timely response.

Sincerely,



Abby Dushman  
Director, Criminal Justice Program  
Canadian Civil Liberties Association