



April 13, 2020

DELIVERED BY EMAIL

The Hon. Bill Blair  
Minister of Public Safety and Emergency Preparedness

Anne Kelly  
Commissioner of the Correctional Service of Canada

Dear Minister Blair and Commissioner Kelly:

**Re: COVID-19 – Protecting Prisoner Health**

We are organizations serving the needs of and advocating with and for people living with and affected by HIV and hepatitis C (HCV), including people in federal prisons.

We last wrote to you on March 17, 2020, at which point we expressed grave concern for our clients and communities in the face of the COVID-19 crisis. Over the weeks since, that crisis has only deepened, including in corrections. When we last wrote, we urged that every possible step be taken to prevent the novel coronavirus from entering federal institutions. It is now clear that those efforts have failed. Both inmates and correctional officers in multiple institutions have been diagnosed with COVID-19, and the number grows every day. As you know, prisoners are disproportionately likely to be living with HIV, HCV, respiratory illness, hypertension and other underlying health conditions that compromise their immunity and increase their vulnerability to COVID-19. There is every reason to expect that, once present, the novel coronavirus will spread rapidly throughout institutions, with devastating effects. The window for prevention is rapidly closing. Decisive action must be taken now.

The evidence from epidemiologists and public health officials is clear: physical distancing is the most effective way to avoid transmission. **Physical distancing is also effectively impossible in prisons as**

**currently administered and populated. The only way to achieve that goal is to reduce the number of prisoners in custody.**

We are therefore writing to you again today to add our voices to the call to **release medically vulnerable prisoners to the community by authorizing indefinite Unescorted Temporary Absences (UTAs) for medical purposes**. More specifically, **we call on the Commissioner to issue 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 section 116(2) of the *Corrections and Conditional Release Act (CCRA)* should be 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.**

In particular, we ask that this directive include the following:

- A direction that all Institutional Heads, health care staff, and case management staff, are to coordinate and move urgently to identify and release suitable prisoners by recommending and authorizing medical UTAs in *every* case where it is consistent with public safety.
- A direction that the criteria of medical desirability in para. 116(1)(b) of the *CCRA* and para. 155(a) of the *Regulations* is considered to be met in any case where an inmate's age (over 50) or any underlying comorbidities (existing medical conditions) make them more prone to serious adverse outcomes from COVID-19. The direction will include a non-exhaustive list of conditions for which evidence of a diagnosis will be satisfactory to establish elevated risk of adverse COVID-19 outcomes.
- A direction that every risk assessment under s. 116(1)(a) and (c) of the *CCRA* (as to whether an inmate's risk to public safety is undue on a medical UTA, and/or whether an inmate's behaviour under sentence precludes a medical UTA) must take in to consideration the risks posed to public safety by *failing to release* the prisoner, including the following:
  1. That outbreaks in congregate living facilities such as prisons are known to happen extremely quickly and, despite CSC's commitment to take every precaution, may be impossible to effectively control once they occur.
  2. That federal prisoners, on average, tend to have much higher rates of underlying comorbidities than the general population that make them more prone to serious adverse outcomes (e.g., ICU admission or death) from COVID-19.
  3. That outbreaks in prisons pose a serious danger of overwhelming both CSC and community health care systems, meaning that scarce resources may be consumed by outbreaks in prisons before the epidemic takes hold in the general population.

4. That outbreaks in prisons can be expected to lead to or worsen generalized outbreaks in the community (as staff must come and go from the prison even after the outbreak).
- A direction that every risk assessment under sections 116(1)(a) and (c) of the *CCRA* must take into consideration the unique social conditions of the pandemic, such as the more limited opportunity for social interactions, and the fact that such medical releases can include house-arrest-type conditions.
  - A direction that certain procedural requirements (including the requirement for a Community Assessment or Community Strategy) and timeframes in Commissioner's Directive 710-3 may be abridged for urgent medical UTAs during the pandemic in order to ensure that a sufficiently urgent response is possible at existing staffing levels.
  - A direction that case management staff in the institutions and the community urgently coordinate to develop simple structured release plans for each inmate who otherwise meets the criteria for release (this would include promptly reaching out to family members and known community supports, as well as community organizations that may be in a position to assist in developing community release placements for prisoners).
  - That medically vulnerable prisoners who cannot be safely released be provided greater opportunities for physical distancing in humane conditions (such as the option of residing in a private family visit trailer, etc.)

Yours truly,



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Cc The Honourable Patty Hajdu, Minister of Health