

April 23, 2020

Hon. Sylvia Jones
Solicitor General
Ministry of the Solicitor General

Hon. Christine Elliott
Minister of Health and Deputy Premier
Ministry of Health

Hon. Doug Downey
Attorney General of Ontario
Ministry of the Attorney General

Dear Ministers:

Re: COVID-19 – Protecting Prisoner Health

We are frontline workers and organizations deeply concerned about the impact of COVID-19 on people in provincial jails and detention centres in Ontario. As a growing number of prisoners and correctional staff at different facilities in Ontario test positive for the virus, we call on the Ministry of the Solicitor General, in conjunction with the Ministry of Health, the Ministry of the Attorney General, and other government agencies, to immediately implement measures to protect the physical and mental health of all prisoners in provincial custody.

While some steps have been taken to address the pandemic in Ontario jails and detention centres, much more needs to be done. We are particularly concerned about the disproportionate number of prisoners who live with underlying health conditions that compromise their immunity and increase the severity of infection. At the same time, conditions in Ontario jails and detention centres (e.g. overcrowding, poor cleaning, poor hygiene, frequent contact with staff, sub-standard health care) mean that all prisoners are extremely vulnerable to infection because they are unable to take the same precautions that other people in Ontario are encouraged to adopt.

Prevention

As a first priority, we urge the government to take every possible step to prevent *more* cases of COVID-19 from entering provincial jails and detention centres. In particular, **non-custodial options should be sought for everyone at risk of experiencing serious complications from the virus**, including anyone who is over 50 years old, immunocompromised, pregnant, or sick. A provincial sentence must not be a death sentence. **Explicit instructions should also be provided to law enforcement to exercise restraint when choosing to lay charges** during this period so that provincial institutions are not further congested.

All prisoners who have served more than half their sentence should be released, and alternatives to custody should be considered for those incarcerated for non-violent offences, as well as for those who have been convicted of serious offences but pose no public safety risk. Fewer people in correctional facilities will decrease the risk of transmission for both prisoners and staff, and will allow the government to prioritize allocating resources for the health care institutions and essential service industries that need them most.

In prison, **measures to maintain a minimum physical distance between people, as per public health recommendations, must be adopted.** This may involve staggered mealtimes, staggered

recreational times, and at an absolute minimum, single-bunking. Where possible, prisoners must be housed in every other cell. **All prisoners should be provided with plain-language information about COVID-19, personal protective equipment (PPE) including masks, as well as sanitary supplies including soap, sanitizer with sufficient alcohol content, water, bleach, and cleaning supplies** without cost to them or further delay. **Enhanced cleaning should also be carried out by staff** who are properly trained, equipped, and protected.

Treatment

For those known to have been directly exposed to the virus or who are exhibiting symptoms, **testing and protocols to prevent further transmission should be established in line with the expert guidance provided by public health officials.** It is essential that these measures be evidence-based and not unduly restrictive of prisoners' residual liberty. In particular, the use of prolonged or indefinite lockdowns and/or segregation must be avoided. As you know, the Court of Appeal for Ontario has held that segregation for more than 15 days violates section 12 of the *Charter* due to its demonstrated and often permanent effects on prisoners' health. Any use of restrictive measures must be a last resort — after community placements and other measures have been implemented — and must be as minimally restrictive as possible. The psychological and emotional well-being of prisoners, who are disproportionately likely to be living with mental health conditions, should not be jeopardized while protective measures and protocol are being implemented.

Further, we urge the government to **ensure that sufficient medical staff and resources are available within institutions**, both to care for those who may contract COVID-19 but do not require hospitalization, and to provide uninterrupted treatment for those prisoners living with HIV, hepatitis C (HCV), and/or other underlying health conditions.

Mental health and other supports

Amid this pandemic, continued contact with family and friends is vital to prisoners' mental health and emotional well-being. With in-person visits suspended, it is especially important that prisoners have meaningful access to other means of communicating with their loved ones. At a minimum, **phone calls for prisoners should be free. The number of phones available must also be increased and access to videoconferencing facilities for prisoners' personal communications must be expanded.** For example, Ontario Telehealth Network ("OTN"), a secure video-conferencing system, is one resource already available at most correctional facilities in Ontario that may be an effective alternative to using the communal telephones.

Prisoners should also be provided with access to more mental health, public health, and legal supports via external agencies; this entails giving all prisoners a list of available agencies and government supports and their contacts.

Release planning

Finally, proper release planning is essential and all the more pressing when public health guidance recommends physical distancing. **People should be released with PPE and sanitary supplies as well as information about and links to resources that are available during the pandemic.** Moreover, your ministries must work with municipalities and agencies to **ensure people released from provincial custody have a place to safely isolate**, without exposing themselves or others to the risk of infection. As housing advocates have emphasized, physical distancing is not possible in congregate shelter settings. All people without secure shelter, including those released from provincial custody, must be moved into hotels or housing. Dedicated transitional housing for people released from provincial custody should be prioritized.

Transparency

More broadly, transparency is vital to ensuring the implementation of the most effective pandemic response, and we urge your government to **make data regarding the number of people in provincial custody tested and diagnosed with COVID-19 publicly available** and to disaggregate this data by institution, gender, and race. It is also imperative that the public and in particular the families of those who are in detention are **informed of the current COVID-19 testing and screening procedures** for new admissions and those being released.

As our provincial and municipal governments implement unprecedented measures to protect the health of Ontarians and slow the spread of the pandemic, we must not forget that prisoners are part of our communities and that prison health is public health.

Thank you for your attention to this matter.

Organizations:

ACT

AIDS Committee of Ottawa

Alliance For Healthier Communities

Alliance for South Asian AIDS Prevention

Asian Community AIDS Services (ACAS)

Banyan Tree Circles

Breakaway

Canadian HIV/AIDS Legal Network

Canadian Students for Sensible Drug Policy, Ryerson

Carceral Studies Research Collective

CATIE

Centre for Criminology & Sociological Studies, University of Toronto

Church of the Holy Trinity

CMHA Brant-Haldimand-Norfolk Branch

CMHA Champlain East Branch

CMHA Cochrane Timiskaming Branch

CMHA Durham Branch

CMHA Elgin-Middlesex Branch

CMHA Fort Frances Branch

CMHA Grey Bruce Branch

CMHA Haliburton, Kawartha, Pine Ridge Branch

CMHA Halton Region Branch

CMHA Hamilton Branch

CMHA Huron Perth Branch

CMHA Kenora Branch

CMHA Lambton-Kent Branch

CMHA Niagara Branch

CMHA Ontario Division

CMHA Ottawa Branch

CMHA Oxford County Branch

CMHA Peel Dufferin Branch

CMHA Sault Ste. Marie Branch

CMHA Simcoe County Branch

CMHA Sudbury/Manitoulin Branch

CMHA Thunder Bay Branch

CMHA Toronto Branch
CMHA Windsor-Essex County Branch
CMHA York and South Simcoe Branch
Committee for Accessible AIDS Treatment
Criminalization and Punishment Education Project
Elevate NWO
Elizabeth Fry Society of Northwestern Ontario
Elizabeth Fry Society Simcoe Muskoka
Elizabeth Fry Society Southern Ontario Region
Elizabeth Fry Toronto
HIV & AIDS Legal Clinic Ontario (HALCO)
HIV/AIDS Regional Services (HARS)
HIV/AIDS Resources and Community Health
Jail Accountability and Information Line
John Howard Society of Ontario
John Howard Society of Simcoe and Muskoka
Journal of Prisoners on Prisons
Legalish Foundation
MOSTANALYZED
Parkdale Queen West Community Health centre
PASAN
Peterborough AIDS Resource Network
Regional Support Associates
Street Health Community Nursing Foundation
Toronto People With AIDS Foundation
Toronto Prisoners' Rights Project
WellFort Community Health Services
Women and HIV/AIDS Initiative