

December 11, 2017

Right Hon. Justin Trudeau, Prime Minister of Canada
Hon. Ralph Goodale, Minister of Public Safety and Emergency Preparedness
Michael Wernick, Clerk of the Privy Council



Dear Prime Minister Trudeau, Minister Goodale and Mr. Wernick:

Re: Appointment of the next Commissioner of the Correctional Service of Canada

We write you in relation to the impending retirement of Don Head, current commissioner of the Correctional Service of Canada (CSC), in February 2018. The appointment of a new CSC Commissioner presents a key opportunity to promote prisoners' right to the highest attainable standards of physical and mental health care and to uphold prisoners' rights under the *Canadian Charter of Rights and Freedoms* ("Charter") — rights that all prisoners retain.

Many prisoners in Canada face inadequate health care, including lengthy waits for medical attention, misdiagnoses, poor pain management, a lack of mental health support, as well as inhumane living conditions. CSC also continues to deny prisoners access to essential harm reduction measures such as sterile injection and sterile tattooing equipment, despite extensive evidence (and in the case of tattooing, CSC's previous *Safer Tattooing Practices Pilot Initiative*) demonstrating the numerous health and workplace safety benefits of such measures. According to the Office of the Correctional Investigator, "On a consistent basis, delivery and access to health care services remains the number one area of offender complaint to the Office.... Under the *Corrections and Conditional Release Act*, the Service must ensure reasonable access to health care in conformity with professionally accepted standards of practice."¹[emphasis added] Not only is the inadequacy of health care in federal prisons a violation of prisoners' right to health, but it also has a disproportionate impact on Indigenous and Black prisoners, who are shamefully overrepresented in federal prisons.

As human rights advocates who work with people in prison, we believe the next CSC Commissioner must be committed to protecting the health and human rights of all federal prisoners and to ensuring full respect for and implementation of the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the "Nelson Mandela Rules") and other international human rights standards, including the principle of equivalence that requires access to health care in prison that is at least equivalent to that available outside prisons.

This should include a commitment to implementing, without delay:

- prison-based needle and syringe programs;

¹ Office of the Correctional Investigator, *Access to Physical and Mental Health Care*, March 14, 2016.

- the reinstatement of the safer tattooing initiative, that was successfully piloted before being cancelled by the previous federal government;
- universal access to opioid substitution therapy and HIV and hepatitis C treatment;
- yearly physical and dental examinations based on a standard protocol for all federal prisoners;
- prompt medical appointments leading to swift diagnoses and treatment of potentially serious conditions;
- health care that includes eye care, dental care, mental health care that includes broadly available trauma counselling, and medical care for chronic and episodic conditions such as HIV, hepatitis C virus, multiple sclerosis, Parkinson's disease, diabetes, lung disease, heart disease and Alzheimer's disease and for pain management;
- quality palliative care and simple, swift compassionate release for prisoners who are terminally ill; and
- culturally relevant and wholistic treatment for Indigenous prisoners, as recommended in the Calls to Action of the Truth and Reconciliation Commission of Canada.

The new CSC Commissioner must also ensure that conditions of detention do not violate Charter protections against cruel and unusual punishment or international human rights law, and instead protect and enhance health. This would require reducing the number of prisoners in each prison and establishing panels of independent specialist physicians and nurses (who are not affiliated with CSC) to carry out mortality reviews in the case of all prisoners who die while in the custody or control of CSC.

The health of federal prisoners would also be enhanced by transferring responsibility for prisoner health from CSC to community health care services, whereby health care decisions are made independent of correctional administration and security protocols, and equivalence of health care can be more readily measured, monitored and evaluated.

Prisoners do not lose their human rights upon incarceration, and they should not be denied access to health care that is available outside prison. The next CSC Commissioner has an opportunity to take concrete steps, including the ones outlined above, to fulfill these rights. We urge you to take this into account in the appointment.

Sincerely,

Canadian HIV/AIDS Legal Network

Prisoners with HIV/AIDS Support Action Network (PASAN)

Pivot Legal Society

Prisoners' Legal Services

Criminalization and Punishment Education Project

Journal of Prisoners on Prisons

Aboriginal Legal Services

Canadian Aboriginal AIDS Network

HIV/AIDS Regional Services

The Right Rev. Mark MacDonald, National Indigenous Anglican Bishop

Canadian Harm Reduction Network

Millhaven Lifers' Liaison Group

Department of Criminology, University of Ottawa