

FEDERAL COURT

BETWEEN:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

– and –

THE ATTORNEY GENERAL OF CANADA

Respondent

**APPLICATION RECORD
VOLUME 5 OF 5**

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Respondent

AFFIDAVIT OF EMILIE COYLE, AFFIRMED ON JUNE 16, 2020

I, Emilie Coyle, of the City of Ottawa, in the Province of Ontario, AFFIRM AS FOLLOWS:

1. I am the Executive Director of the Canadian Association of Elizabeth Fry Societies, headquartered in Ottawa, Ontario.
2. I have personal knowledge of the matters set out in this affidavit except where such matters are stated to be on information and belief, in which case I believe them to be true.

BACKGROUND OF ORGANIZATION

3. The Canadian Association of Elizabeth Fry Societies (CAEFS) is an association of self-governing, community-based Elizabeth Fry Societies that work with and for women and gender diverse people in the justice system, particularly those who are, or may be, criminalized.

4. In Canada, federal prisons designated for women incarcerate cisgender women, trans* persons and non-binary persons. For simplicity, I reference “women and gender diverse people” throughout this affidavit, and that term is meant to include all individuals held in federal prisons designated for women.

5. A key facet of CAEFS’ mandate is to reduce the number of criminalized women in Canada by promoting the decarceration of women and gender diverse people and the abolition of prisons. CAEFS strives to increase support services for marginalized, victimized, criminalized, imprisoned and otherwise vulnerable women and gender diverse people – including services which allow for alternatives to incarceration and that increase access to the earliest community integration possible for imprisoned women and gender diverse people.

6. To achieve the above-mentioned goals, CAEFS engages in a wide range of public education and legislative reform. We also monitor and report on the conditions of confinement inside federal prisons designated for women.

7. In order to monitor and report on the conditions of confinement inside the six (6) federal prisons designated for women, CAEFS has five (5) Regional Advocacy Teams that go into the federal prisons designated for women once per month. CAEFS also identifies and trains peer

advocates from within the prisons who assist women and gender diverse people in the federal prisons designated for women with individual advocacy on an ongoing basis.

8. The monthly visits are designed so that the regional advocates can meet with the peer advocates and other women and gender diverse people in each of the security levels followed by meetings with the senior management of the respective prisons.

9. The issues addressed during the meetings are then captured in a letter that is sent to the Warden and copied to me, the Commissioner of Correctional Services Canada, the Deputy Commissioner for Women's Prisons of Correctional Services Canada, the Correctional Investigator, the Chief Commissioner of the Canadian Human Rights Commission and interested Senators. These letters are based on anonymized information: the identities of individuals who provide information to the regional advocates remain confidential throughout.

10. When Correctional Services Canada suspended visits from the public into the prisons on March 14th, 2020, CAEFS' in-person monitoring of the conditions of confinement within the federal prisons designated for women was suspended.

11. Initially, CAEFS had to rely on phone calls to our regional and national 1-800 numbers when visits were first suspended, but since then we have arranged regular phone meetings with our advocates inside the prisons designated for women as well as with senior management of the prisons.

12. Despite the regular phone meetings with our advocates and the senior management of the prisons, we continue to receive daily phone calls on our regional and national 1-800 numbers.

PHONE CALLS FROM PRISONERS TO CAEFS

13. While our prison visits were suspended, our five (5) Regional Advocacy Teams across the country, and our National Office, received several phone calls a day from incarcerated women and gender diverse people reporting on their conditions of confinement and seeking our advocacy support.

14. Through these phone calls, CAEFS has collected detailed and up-to-date information from those who are most impacted by the spread of COVID-19 in federal prisons for women. The reports we receive from people incarcerated in federal women's prisons are what have guided our advocacy efforts as we seek both systemic and individual remedies.

15. The phone calls we receive are a vital source of information about the conditions inside federal prisons designated for women.

16. When incarcerated women and gender diverse people call and speak with CAEFS representatives, we assure them that their names and any identifying details will be kept confidential unless they give us explicit permission to identify them.

17. Where we need to identify an incarcerated woman or gender diverse person in order to advocate effectively for them, it is our practice to obtain explicit permission from the individual impacted.

18. Owing to the COVID-19 crisis and our inability to initiate communication with incarcerated persons, we have been unable to obtain permission from callers to use identifying information in this Affidavit. Consequently, where there is information relayed in this affidavit

from women and gender diverse people in federal prisons, the information is grouped in themes. Themes were identified if more than three people provided us with the same information.

19. The information included here reflects conversations with incarcerated women and gender diverse people across the country starting on April 2, 2020 until the date of writing (June 15, 2020) and reflects the conditions of confinement in multiple institutions designated for women.

WOMEN AND GENDER DIVERSE PRISONERS' CONCERNS DURING COVID-19

20. Women and gender diverse people in the federal prisons for women reported concerns about their health more than any other concern.

21. Women and gender diverse people in the federal prisons for women consistently advised that it is impossible to maintain physical distancing given their communal living arrangements.

22. Throughout the pandemic, women and gender diverse people in the federal prisons for women have continually expressed worry over limited access to cleaning supplies, personal protective equipment, and hand sanitizer.

23. Women and gender diverse people in the federal prisons for women expressed particular concern about the lack of cleaning supplies because they share facilities with up to a dozen people per living unit. For example, each unit shares toilets, showers, fridges, sinks, pots, pans, and utensils.

24. Many women and gender diverse people in the federal prisons for women also expressed that they do not have control over who enters their living unit.

25. We have been advised by numerous women and gender diverse people in the federal prisons for women that routine searches continue to happen by teams of CSC staff at most institutions. At one institution, women and gender diverse people reported that these teams have gone consecutively from living unit to living unit.

26. Women and gender diverse people in the federal prisons for women have expressed concern over the possibility of staff bringing in the virus and that the searches present a risk of transmitting the virus between living units.

27. Numerous women and gender diverse people in the federal prisons for women have reported that efforts to limit the spread of the virus have unduly limited their liberties and access to supports. They have expressed worry that these restrictions may impact their overall physical and mental health, and their chances of timely release.

28. Since the emergence of COVID-19, the following changes have also been regularly reported by women and gender diverse people in the federal prisons for women:

- a. The suspension of all programming and visits;
- b. Adapted movement schedules, such as only being allowed out of their living units or pods for less than an hour a day;
- c. Limited access to phones, especially in areas where the phone is located outside of the living unit / pod;
- d. Limited access to legal counsel;
- e. Limited access to video visits and reports of malfunctioning technology;
- f. The use of “cell restriction” (being confined to one’s room) for reasons that were reportedly not communicated to the general population;

- g. Limited access to health care staff, including for prenatal concerns, and a lack of onsite doctors;
 - h. Limited access to parole officers and grievance coordinators;
 - i. Limited access to elders and other cultural supports;
 - j. Lack of response and /or delayed response times to ‘inmate’ requests;
 - k. The reported use of Structured Intervention Units to isolate prisoners who were showing symptoms.
29. Many women and gender diverse people in the federal prisons for women have reported that the general environment is tense and anxious, that there is a lack of transparent communication, and that they are given insufficient information regarding COVID-19 and current conditions.

CAEFS’s COMMUNICATIONS WITH CSC

30. CAEFS representatives have had the opportunity to meet by conference call with the Wardens and/or upper management of the following federal prisons designated for women: Nova Institution for Women, Grand Valley Institution, Okimaw Ohci Healing Lodge, Edmonton Institution for Women, Fraser Valley Institution for Women.

31. During these telephone meetings with the Wardens and/or senior management, CAEFS Advocacy teams have brought forward the concerns of incarcerated women and gender diverse people to the CSC representatives. These concerns have been conveyed to CAEFS Advocacy teams through phone calls.

32. My expectation is that these meetings will continue regularly until we are able to resume in-person meetings with incarcerated women and CSC management.

33. Following each meeting, CAEFS representatives summarized the systemic concerns raised during the meeting in a letter that was then emailed to the institution's Warden, copying the Commissioner of Correctional Services Canada, the Deputy Commissioner for Women's Prisons of Correctional Services Canada, the Correctional Investigator, the Chief Commissioner of the Canadian Human Rights Commission and interested Senators. These letters are referred to below as advocacy letters.

34. The following communications have taken place since April 2, 2020:

i) Nova Institution for Women

35. On April 16, 2020, the CAEFS Atlantic Regional Advocacy Team and I participated in a teleconference with the Warden and other members of the senior management team at the Nova Institution for Women. Following this meeting, CAEFS sent a letter on April 24, 2020 to the Warden of the Nova Institution for Women outlining the systemic concerns discussed in the meeting, including movement restriction and the need to consider and implement release mechanisms. A true copy of this letter is attached to this Affidavit as **Exhibit "A"**.

ii) Grand Valley Institution

36. On April 16, 2020, CAEFS members of the Ontario Regional Advocacy Team and I met with the Warden at the Grand Valley Institution for Women and the Deputy Commissioner for Women's Prisons of Correctional Services. Following this meeting, CAEFS sent a letter on April 24, 2020 to the Warden of the Grand Valley Institution for Women outlining the systemic concerns that were discussed. A true copy of this letter is attached to this Affidavit as **Exhibit "B"**.

37. On May 14, 2020, and again on June 1, 2020, CAEFS members of the Ontario Regional Advocacy Team and I met with the Warden at the Grand Valley Institution for Women. Following these meetings, a letter was sent on June 8, 2020 reiterating CAEFS' concerns related to education and programming, communication and security, as well as the essential need to implement alternatives to detention. A true copy of this letter is attached to this Affidavit as **“Exhibit C”**.

iii) Okimaw Ohci Healing Lodge

38. On April 3, 2020, members of the CAEFS Prairie Regional Advocacy Team in Saskatchewan participated in a telephone regional advocacy meeting with the Kikawinaw at the Okimaw Ohci Healing Lodge. On April 10, 2020, members of the CAEFS Prairie Regional Advocacy Team had calls with several individuals at the Okimaw Ohci Healing Lodge.

39. On April 13, 2020, CAEFS sent an advocacy letter to the Kikawinaw at the Okimaw Ohci Healing Lodge identifying the systemic concerns revealed through the April 3, 2020 meeting and the communications with women and gender diverse people at the Okimaw Ohci Healing Lodge. A true copy of this letter is attached to this Affidavit as **Exhibit “D”**.

iv) Edmonton Institution for Women

40. On April 8, 2020, members of the CAEFS Prairie Regional Advocacy team and I participated in a conference call with the Warden at the Edmonton Institution for Women. Following this meeting, CAEFS sent an advocacy letter on April 14, 2020 to the Warden of the Edmonton Institution for Women expressing the systemic concerns discussed in the meeting. A true copy of this letter is attached to this Affidavit as **Exhibit “E”**.

41. On May 1, 2020, members of the CAEFS Prairie Regional Advocacy team participated in a conference call with the Warden and management staff at the Edmonton Institution for Women. On May 8, 2020, CAEFS sent another letter to the Warden of the Edmonton Institution for Women, reiterating CAEFS' concerns related to the use of Structured Intervention Units, and requirements to qualify for parole by exception. A true copy of this letter is attached to this Affidavit as **Exhibit "F"**.

v) *Fraser Valley Institution for Women*

42. On April 16, 2020, the CAEFS Pacific Region Advocacy Team and I participated in a conference call with the Warden of the Fraser Valley Institution for Women. And on April 18, 2020 the Warden provided more information as a follow up to the April 16, 2020 meeting.

43. On June 8, 2020, CAEFS sent a letter to the Warden of the Fraser Valley Institution for Women outlining the systemic concerns discussed in the April communications, including prisoner-specific health concerns, access to programming, education and employment, access to parole officers, concerns regarding participants in the mother-child program, and the necessity of considering alternatives to incarceration. A true copy of this letter is attached to this Affidavit as **Exhibit "G"**.

44. Some Wardens have responded to our letters. A true copy of all Warden responses to date are attached to this Affidavit as **Exhibit "H"**.

DEPOPULATING PRISONS

45. As articulated in the attached letters, CAEFS encourages the use of alternative measures to incarceration. Specifically, the letters urge the appropriate authorities to apply sections 99 and 121 of the *Corrections and Conditional Release Act* to grant parole to women and gender diverse

people who are immunocompromised, at a high risk of experiencing negative effects of COVID-19, or pregnant.

46. On April 2, 2020, I sent an email (“April 2nd email”) to the Chairperson of the Parole Board of Canada, the Commissioner of Correctional Services Canada, and the Deputy Commissioner for Women’s Prisons of Correctional Services Canada requesting information about Correctional Service of Canada’s and the Parole Board of Canada’s release planning. In this email I also reiterated CAEFS’ belief that decarceration would be the best course of action and shared the resources CAEFS could provide to help with the process.

47. On April 3, 2020, the Deputy Commissioner for Women’s Prisons of Correctional Services Canada replied to my April 2nd email on behalf of the Commissioner, the Regional Deputy Commissioners and the Warden of the Grand Valley Institution for Women, stating that Correctional Service of Canada was working with the Parole Board of Canada to explore options with respect to the safe release of offenders into the community. She also outlined Correctional Service of Canada’s dedication to the safety of staff and inmates of correctional facilities. A true copy of that email exchange from April 2 and 3, 2020 is attached to this Affidavit as **Exhibit “I”**.

48. On April 17, 2020, I emailed the Deputy Commissioner for Women’s Prisons of Correctional Services Canada and the Commissioner for Correctional Services Canada inquiring about authorization for unescorted temporary absences for medical treatments and its effect on depopulating prisons. In this communication, I outlined that it was CAEFS’ understanding that self-isolation and social distancing are the most effective preventative treatments available to vulnerable people to combat COVID-19. I asked whether there had been a directive from

National Headquarters to prisons explaining the definition of “medical treatment” in light of the recommended self-isolation and social distancing practices for COVID-19. Finally, I expressed CAEFS’ view that any steps taken to depopulate prisons would help protect healthcare resources thus protecting the health and safety of the public. I received no response to this email. A true copy of that email is attached to this Affidavit as **Exhibit “J”**.

CAEF’S COMMUNICATION WITH THE PUBLIC

DEPOPULATING PRISONS

49. On March 15, 2020, CAEFS published a press release calling for the release of prisoners at risk due to COVID-19. The statement identified at-risk populations as recognized by the Public Health Agency of Canada that are also prevalent in federal prisons. These populations include: individuals aged 65 and over; individuals with compromised immune systems; and individuals with underlying medical conditions. The statement specifically advocated for the following actions to be taken:

- a. The immediate release of any person with complex or chronic medical conditions to community for treatment;
- b. The release of people aged 50+ who are at the highest risk of serious illness and death into the community on conditional release;
- c. The use of sections 81 and 84 of the *Corrections and Conditional Release Act* to transfer Indigenous women and gender diverse people into community, and the provision of ample supports to these communities to respond;

d. The use of Community Residential Facilities, Community Based Residential Facilities, Transitional Housing, and ‘Parole to Other’ to release incarcerated people as quickly as possible.

e. The immediate release of incarcerated mothers and their children in the mother-child program to their homes or Conditional Residential Facilities;

f. The immediate release of any incarcerated person who is currently at their parole eligibility day, who has completed their correctional programming, OR who could access programming to meet their correctional plan in community, and resources should be provided in community. A true copy of the press release is attached to this Affidavit as **Exhibit “K”**.

50. On March 31, 2020, CAEFS published an open letter to the Honourable Bill Blair, the Minister of Public Safety, the Honourable David Lametti, the Minister of Justice, the Honourable Catherine McKenna, the Minister of Infrastructure and Communities, and the Honourable Ahmed Hussen, the Minister of Families, Children, and Social Development calling for the depopulation of federal prisons. The letter explained why, in CAEFS’ opinion, Correctional Service of Canada health care is not equipped to care for prisoners who have contracted COVID-19, why the safety of women and gender diverse people is further jeopardized by the pandemic, and that community release options are available for federally incarcerated women to help depopulate federal prisons. A true copy of the letter is attached to this Affidavit as **Exhibit “L”**.

51. On April 18, 2020, CAEFS published a press release about the infection rates at Joliette Institution for Women (“Joliette”). This release explained the concerns raised by women incarcerated gathered from the calls discussed above as well as the outbreak at Joliette. At the time of publication, over 60% of prisoners at Joliette were infected with COVID-19. The release

encouraged depopulating prisons as a compassionate and dignified response that aims to preserve human health and life. A true copy of the press release is attached to this Affidavit as Exhibit "M".

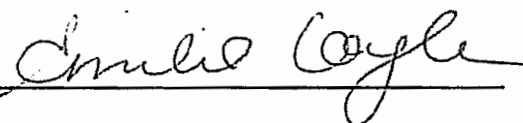
AFFIRMED BEFORE ME by
videoconference in the City of Ottawa,
in the Province of Ontario,
this 16th day of June, 2020



A Commissioner for taking affidavits, etc.

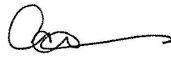
ADRIEL WEAVER

LSO 541737



Emilie Coyle

This is **Exhibit "A"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, consisting of a cursive 'C' followed by a horizontal line that ends in a small flourish.

A Commissioner, etc.



Canadian Association of Elizabeth Fry Societies™
 Association canadienne des sociétés Elizabeth Fry
 190 Bronson Avenue, 3rd Floor, Ottawa, Ontario K1R 6H4
 Telephone : (613) 238-2422
 Facsimile : (613) 232-7130
 Home Page : www.caefs.ca

April 24, 2020

Claude Demers
 Warden
 Nova Institution for Women
 180 James Street
 Truro, Nova Scotia
 B2N 6R8

Dear Claude:

Re: April 2020 Teleconference – RA-AAC

Thank you for participating in a teleconference with our Regional Advocacy team and CAEFS Executive Director on April 16, 2020. During our call, we canvassed a number of important issues and began to develop a virtual advocacy strategy so we may continue to fulfil our mandate to support the women incarcerated at Nova.

Advocacy Visits: During our meeting, we discussed various options for facilitating communication between inside Advocacy Workers, the Women’s Committee Chair and the RA team. You advised that management would determine a suitable schedule for separate video calls with KM (Women’s Committee Chair) and EG (minimum security Advocacy Worker). You informed us that each of these women has the opportunity to speak to other prisoners in their respective units on a daily basis, and will be equipped to bring systemic issues to our attention.

You further advised us that your team would review your schedules and determine availability for a half-hour weekly conference call with the RA team and our Executive Director, Emilie Coyle. We shared our view that a half-hour weekly call is critical for keeping abreast of the fast-developing landscape of COVID-19 and its impacts on prisons. We look forward to management’s confirmation of availability for the requested weekly meeting.

Access to Counsel: Thank you for confirming that legal calls can still be arranged through V&C, and that women have access to the *CCRA*, *CCRR* and Commissioners’ Directives by request. We appreciate Kelley O’Neill’s confirmation that she will advise all women of the method for sending documents to their legal counsel, in particular, that women can request photocopies and mail them

to their counsel. We were also advised that when a woman has asked for a consent to release form, we can send Kelley the blank form, and she will facilitate its completion and return to us. This will surely expedite the process of obtaining consent forms, and we appreciate your assistance.

We request clarification on the costs associated with sending documents to counsel, and what would happen if a prisoner could not afford the fees associated with copying and mailing documents. These unique circumstances, which are beyond the control of the women, should not present an obstacle to women sharing documents with their lawyers.

Movement Restrictions: We were very concerned to learn during our meeting that the women are only guaranteed to receive one hour per day outside their house. These conditions constitute a state of segregation. We appreciate the challenge of respecting prisoners' rights to movement while following public health guidelines, however the lockdowns, coupled with the fear of contracting COVID-19, will cause serious mental and physical health repercussions for women in prison. It is urgent that prisons are depopulated quickly so that physical distancing can be practiced without the onerous conditions of lockdown imposed.

Day Parole: We learned that there are women currently at Nova that have been granted day parole by the Parole Board of Canada but remain incarcerated due to a shortage of beds in the CRF. Given that these women have been identified by the Parole Board as people whose risk can be managed in the community, CSC should do everything possible to ensure their immediate release.

Some women have identified that they have safe and secure homes where they could be released to. Section 99 of the *Corrections and Conditional Release Act* provides for prisoners being released on day parole to 'other location'. We urge CSC to submit alternative release plans to the Parole Board on an expedited basis for these women to be released to a private home. The Parole Board has committed to completing Community Assessments within 30 days, so we have every hope that alternative plans can be approved on a timely basis. We informed you during our call that many community organizations are now offering telephone and internet-based treatments and supports, which will support women who are released to private homes.

NHQ has stated that they are fast-tracking parole hearings for certain individuals deemed especially vulnerable to experiencing harm due to COVID-19. We have also been hearing about fast-tracking parole from community parole offices. It is our understanding that Nova has submitted a list of vulnerable individuals to NHQ, but we are uncertain as to the timeframes we can expect, and which women will benefit from this expedited process. Kindly advise if a written policy exists, and how we can access it.

Other Release Mechanisms: Although Nova does not have any known cases of COVID-19 at present, there is significant urgency to avoiding the spread of COVID-19 inside penitentiaries. We call upon CSC to take every possible step to release as many prisoners as possible. We encourage you to expedite cases to the Parole Board of women who are already minimum security and ensure that all women are having their cases heard by the Parole Board at their earliest possible dates. Likewise, we encourage you to utilize Parole by Exception (Section 121 of the *CCRA*) for any women who are immunocompromised, pregnant or at a high-risk of experiencing the deleterious impacts of COVID-19. Where parole is unavailable for vulnerable women, we

encourage you to consider extended UTAs and other forms of conditional release to depopulate Nova in an effort to stop the spread of COVID-19.

We look forward to working with you to set up a video and/or telephone Regional Advocacy visit with the women, along with a follow-up management meeting at your earliest convenience.

Sincerely,

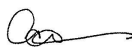


Jessica Rose,

On behalf of the Atlantic Advocacy Committee – CAEFS Regional Advocacy Team

- c. Emilie Coyle, Executive Director – CAEFS
- Dawn Ferris, President – CAEFS
- Denise Durette, Emma Halpern, Darlene MacEachern, Judy Murphy – CAEFS
- Angela Connidis, Deputy Commissioner for Women – CSC
- Monica Symes, Kelley O’Neill – CSC
- Ivan Zinger, Correctional Investigator
- Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission
- Dr. Colin Cameron, CSC National Medical Advisory Board

This is **Exhibit "B"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, consisting of a cursive 'C' followed by a horizontal line that ends in a small flourish.

A Commissioner, etc.



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April 24, 2020

Dave Dunk, Warden

Grand Valley Institution for Women

1575 Homer Watson Blvd

Kitchener, ON N2P 2C5

Re: COVID-19 & Advocacy – Meeting on April 16, 2020

Dear Mr. Dunk

This letter is follow-up to our meeting on Thursday, April 16th. Thank you to both you and Nikki Smith for taking the time to meet with Emilie and I. While we are unable to proceed with our usual Regional Advocacy visits because of COVID-19, we have been in regular contact with people incarcerated at GVI who have been updating us on their conditions of confinement. This letter, and our discussion, reflects their concerns.

Alternatives to incarceration: Alternatives to incarceration during this pandemic state of emergency are essential. As you are likely aware, many advocates, and now over 100 medical professionals, from across the country have called on correctional authorities to release those with manageable risk back to community in order to reduce the spread of COVID-19.

We call upon GVI to take every possible step to release as many prisoners as possible. We encourage you to expedite cases to the Parole Board of women who are already minimum security and ensure that all women are having their cases heard by the Parole Board at their earliest possible dates. Likewise, we encourage you to utilize Parole by Exception (Section 121 of the CCRA) for any women who are immunocompromised, pregnant or at a high-risk of experiencing the deleterious impacts of COVID-19. Where parole is unavailable for vulnerable women, we encourage you to consider extended UTAs and other forms of conditional release to depopulate GVI in an effort to stop the spread of COVID-19. We are heartened by the decision out of the Bath Institution to release Mr. Snow last week and encourage GVI to accept the same interpretation of that decision. These are matters of life and death.

Alongside these efforts, we urge you to revisit the classification of all prisoners at GVI with a view to ensuring that they are able to be considered for conditional release as quickly as possible,

particularly in light of the COVID-19 pandemic.

We were pleased to hear that no one was in the SIU at the time of our meeting.

Access to programming, education, and employment: We heard that programming, school, and some employment has been suspended. As per Commissioner's Directives ("CD") 720, 726, and 735, Correctional Services Canada ("CSC") has an obligation to ensure appropriate correctional programming, school, and employment is available to incarcerated people. We were pleased to hear from you that you intend to prioritize programming for certain prisoners and are considering a return to group programs with a reduced class size, soon. In the event that a return to in-person meetings is not possible in the short-term, we ask what GVI intends to do to ensure that everyone is able to remain on track with their programs so that no one's parole will be adversely impacted as indefinitely suspending programming, education, and employment would work against both the security of the institution and have undue adverse impacts on the correctional plans of many of the women. Many women have called us to express their concerns about the long-term effects of the suspension of programming, education, and most employment.

We have also heard from many women that accessing their parole officers has been extremely challenging, if not impossible. We understand that parole officers are usually working from home and are on a rotation schedule to attend the institution. Given the increased anxiety around release given the urgency and the impact of a suspension of programming, access to parole officers is crucial. We urge you to find a more consistent way for women to reach out to their parole officers.

Internal Communication: We have heard from multiple women that they do not feel that they are not being properly informed of the measures GVI is taking to respond to the pandemic. I am sure you can appreciate that, in this frightening time, it is particularly frightening for the those who do not have control over their liberty. It would alleviate the women's concerns if the Institution took care to inform and educate them about the steps GVI is taking to respond to COVID-19, and the rationale for those steps - including strategies for release. It would be ideal if information could be communicated to the women in a way that ensures all women are receiving the same information about general steps taken by the Institution to respond to COVID-19.

Moreover, non-COVID related communication should continue with as little disruption as possible; including information about national phone uploads and the delivery of paystubs (both of which have been identified by some women as current gaps in communication). Also, we know that having a way for women to ask questions and make non-emergency requests would go far to improve morale and reduce anxiety. Many women have reported being threatened with institutional charges for using the house phone for this purpose, though it seems unclear to them what other options are available to them.

External Communication: We have been receiving numerous phone calls from prisoners on the main compound; however, we have not received any direct communication from those at the MSU or in the secure unit. You advised that you had created a system whereby women at the MSU were being brought a phone to use for a limited time per day. While we are sure that this

system is appreciated as a way of contacting their family, we recognize that limiting the amount of time spent on the phone also ensures that women are forced to make challenging decisions about reaching out to loved ones, or reaching out for advocacy and / or legal supports. We are concerned that this is inadvertently limiting the women at the MSU's access to legal counsel and advocacy support and urge you to find a solution – this is especially pressing given that the current GVI COVID-19 outbreak is at the MSU.

As discussed on our call, we hope to be able to meet with you on a bi-weekly basis until such a time that we might be able to visit the institution in person. If you can increase this to weekly meetings, it would be appreciated. As an alternative, we would be happy to meet with Sarina Randall on alternating weeks so that we might support her efforts to release women back into community.

We are also hoping to coordinate phone calls with our internal advocates, house reps, and committees. Please advise how we can best coordinate this.

As we have seen from the outbreak at Joliette, the impact of a COVID-19 outbreak inside of a prison is grave. We are here to offer our advocacy support to ensure that GVI does not end up in a similar position. We hope that we can work together to ensure that any response to COVID-19 is grounded in dignity and a respect for human life and health.

Respectfully submitted,



Jackie Omstead
Ontario Regional Advocate

c. Emilie Coyle, CAEFS

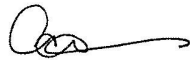
Angela Connidis, Deputy Commissioner for Women, CSC

Dr. Ivan Zinger, Correctional Investigator

Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission

Kim Pate, Senator, Standing Senate Committee on Human Rights (in prisons)

This is **Exhibit "C"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, consisting of a stylized initial 'C' followed by a horizontal line that ends in a small arrowhead.

A Commissioner, etc.



June 8th, 2020
 Dave Dunk, Warden
 Grand Valley Institution for Women
 1575 Homer Watson Blvd
 Kitchener, ON N2P 2C5

Re: COVID-19 & Advocacy – Meeting on May 14th and June 1st, 2020

Dear Mr. Dunk,

This letter is a follow-up to our meetings on Thursday, May 14th and Monday, June 1st, 2020. Thank you to you and Nikki Smith for taking the time to meet with Habon Muse Gayad, Emilie Coyle, Jackie Omstead, Kelly Potvin, Michelle Smith and I. While we are unable to proceed with our usual Regional Advocacy visits because of COVID-19, we have been in regular contact with people incarcerated at GVI who have been updating us on their conditions of confinement. This letter, and our discussion, reflects their concerns.

Alternatives to Incarceration: Alternatives to incarceration during this pandemic state of emergency continue to be essential. We call upon GVI to take every possible step to release as many prisoners as possible. We are disheartened to hear that there have been significant delays in processing Medical UTA's due to a reported internal confusion about who is responsible to provide a medical opinion. As this is a matter of life and death, we again request you to expedite these requests as well as cases to the Parole Board of women who are already minimum security. It is imperative that all women are having their cases heard by the Parole Board at their earliest possible dates. Likewise, we encourage you to utilize Parole by Exception (Section 121 of the CCRA) for any women who are immunocompromised, pregnant or at a high-risk of experiencing the deleterious impacts of COVID-19.

Along with this, we encourage you to continue to work to reclassify prisoners to lower security levels so that more might qualify for release. While you have reported that there are no longer any active cases of COVID-19 at GVI, the possibility of the virus being transmitted by a staff member remains a risk. We encourage you to communicate with us during these processes – before decisions are made – so that we might support the timely and supportive reintegration of anyone who is released back to their home communities.

Education & Programming: We understand that there continues to be minimal programming available to women during the COVID-19 pandemic. We also understand that steps have been taken to ensure that some individuals who require programming to meet an upcoming parole date have been identified and that plans are being put into place to help meet their programming needs on a 1-1 basis. We were pleased to hear that an Elder has been



brought back into the institution part-time. We remain concerned about the potential long-term impact of this pause in programming on parole decisions and other release options for women. We hope that we can work together – and with the parole board – to ensure that programming interruptions do not cause any undue delays to release.

We wish to reiterate that any frameworks put in place in the name of safety and security must account for the mental health repercussions to the women. Since our last meeting, we have seen the significant mental health impacts of the existing limitations exhibited in the overall morale of the woman and recent incidences of self-harm within the prison.

You advised that there is a team currently working on a return to programming plan. At this time, our team of advocates is ready to return to monthly visits to the institution and await permission to schedule such a visit at the earliest possible date.

Internal Communication & Security: We continue to hear from multiple women that they do not feel that they are being properly informed of the measures GVI is taking to respond to the pandemic. It is our understanding that it would alleviate some of the prisoners' concerns if the Institution took care to inform and educate them about the steps GVI is taking to respond to COVID-19, and the rationale for those steps - including strategies for release. It would be ideal if information could be communicated to the prisoners in a way that ensures all prisoners are receiving the same information about general steps taken by the Institution to respond to COVID-19.

Many prisoners have expressed that masks and social distancing guidelines are being used as a mechanism to further police and punish, rather than to support their safety. Many prisoners have reported being threatened with institutional charges for not properly wearing their mask and have also received formal written warnings for improperly wearing the mask, even when social distancing is maintained. You have also reported that you have charged prisoners for not maintaining the suggested physical distance while out of their living units. This speaks to a culture that has been articulated to us where many correctional officers are meeting prisoner's heightened anxiety and stress with responses that seek to punish, rather than address their concerns and prioritize their wellbeing

Updates regarding the implementation of any restrictive measures should also be provided to the prisoners in advance so as to allow the prisoners time to make adequate preparations and ask questions if the expectations are unclear.

External Communication: We have also received reports that some prisoners are finding it challenging to access their legal counsel family, and other forms of community support because they are unable to afford to place phone calls. As you are aware, access to legal representation is a Constitutional right in Canada. The ability to instruct and retain counsel without delay (pursuant to section 10(b) of the Charter of Rights and Freedoms) is vital especially in a custodial setting. As you may appreciate, the violation of this basic right is of great concern to us. While we were advised that there is a process in place to request to make phone calls to lawyers and service providers, it would seem that the processing time for these requests to be fulfilled is unreasonable, when they are fulfilled at all.

As advocates continue to receive numerous phone calls from prisoners on the main compound; however, we have received little direct communication from those at the MSU or in the secure unit. .

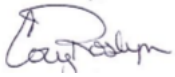
We are also hoping to coordinate phone calls with our peer advocates, house reps, and committees to ensure we are representing the concerns of all of the prisoners at GVI. Please advise how we can best coordinate this.



We appreciate you making the time to meet with us on a bi-weekly basis, and continue to be available for weekly meetings should your schedule allow, until such a time that we might be able to visit the institution in person. We also remain available to meet with Sarina Randall on alternating weeks so that we might support her efforts to release women back into community; please let us know if she is interested.

We hope that we can work together to ensure that any response to COVID-19 is grounded in dignity and a respect for human life and health.

Respectfully submitted,

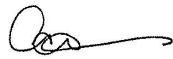


Cory Roslyn
Ontario Regional Advocate

c. Emilie Coyle, CAEFS Angela Connidis, Deputy Commissioner for Women, CSC Dr. Ivan Zinger, Correctional Investigator Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission Kim Pate, Senator, Standing Senate Committee on Human Rights (in prisons)



This is **Exhibit "D"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, consisting of a cursive 'C' followed by a horizontal line that ends in a small arrowhead pointing to the right.

A Commissioner, etc.



Canadian Association of Elizabeth Fry Societies™
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190 Bronson Avenue, 3rd Floor, Ottawa, Ontario K1R 6H4
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Home Page : www.caefs.ca

April 13, 2020

Rachel Parker, Kikawinaw
Okimaw Ohci Healing Lodge
PO Box 1929
Maple Creek, Saskatchewan

Dear Ms. Parker:

Re: CAEFS Regional Advocacy Visit

Thank you for facilitating our telephone Regional Advocacy visit on April 3, 2020, and subsequent call with various women on April 10, 2020.

Programming: A number of women expressed concerns about how they will complete their correctional plan in light of the fact that all programming is currently on hold due to COVID-19. Now more than ever, it is crucial to ensure that women are adequately prepared for community release. Please advise how you intend to offer programming as required by Section 15 of the *Corrections and Conditional Release Act* (i.e. using technology, distance education, etc) to ensure that women are able to complete their correctional plans to reduce barriers to release at this critical time.

Overclassification: We heard from more than one woman that when they arrived at OOHL their Custody Rating Scale identified them as minimum security and yet, the prison overrode their security classification and classified them as medium security. The reason given by the parole officer was that if they remained minimum security they wouldn't have anything to work towards. We are very troubled by these reports. Both women who reported this to us are Indigenous. We have encouraged them to submit grievances in relation to their overclassification. We remind you of the staggering statistics as released by the Office of the Correctional Investigator on January 21, 2020 in relation to the overrepresentation of Indigenous women in federal prisons and the disproportionate numbers of indigenous women who are overclassified, which often results in them serving a higher proportion of their sentence behind bars before being granted parole. Please advise how many women at OOHL received a minimum security classification based on the Custody Rating Scale, but have been classified as medium. We urge you to revisit these overclassifications with a view to ensuring women are able to be considered for conditional

release as quickly as possible, particularly in light of the COVID-19 pandemic.

Release: We learned that there are women currently in OOHL that have been granted day parole by the Parole Board of Canada but remain at OOHL due to a lack of bedspace availability in the CRF. The women we spoke to have identified that they have safe and secure homes where they could be released to. Given that these women have been identified by the Parole Board as people whose risk can be managed in the community, CSC should do everything to ensure their immediate release. In addition to the commonly used Community-based Residential Facility, Section 99 of the *Corrections and Conditional Release Act* provides for prisoners being released on day parole to ‘other location’. We urge CSC to submit alternative plans to the Parole Board on an expedited basis for these women to be released to a private home. Given the COVID-19 pandemic we call upon CSC to put forward release plans for women that include releases to a private home, wherever possible.

Although OOHL does not have any cases of COVID-19 at present, there is significant urgency to avoiding the spread of COVID-19 inside penitentiaries. We call upon OOHL to take every possible step to release as many prisoners as possible. We encourage you to expedite cases to the Parole Board of women who are already minimum security and ensure that all women are having their cases heard by the Parole Board at their earliest possible dates. Likewise, we encourage you to utilize Parole by Exception (Section 121 of the CCRA) for any women who are immunocompromised, pregnant or at a high-risk of experiencing the deleterious impacts of COVID-19. Where parole is unavailable for vulnerable women, we encourage you to consider extended UTAs and other forms of conditional release to depopulate OOHL in an effort to stop the spread of COVID-19.

We look forward to working with you to set up a video Regional Advocacy visit for our May 8, 2020 visit.

Respectfully Submitted,

Sandra Stack

Patti Tait, Sandra Stack, and Gillian Gough
CAEFS Regional Advocates – Prairie Region

c. Emilie Coyle, CAEFS

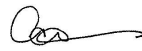
Angela Connidis, Deputy Commissioner for Women, CSC

Dr. Ivan Zinger, Correctional Investigator

Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission

Kim Pate, Senator, Standing Senate on Human Rights (in prisons)

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A Commissioner, etc.



Canadian Association of Elizabeth Fry Societies™
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Home Page : www.elizabethfry.ca

April 14, 2020

Rob Campney, Warden
Edmonton Institution for Women
11151 178 Street
Edmonton, AB
T5S 2H9

Re: Regional Advocacy – COVID-19

Dear Mr. Campney,

To begin our letter, we would like to acknowledge the land upon which Edmonton Institution for Women (EIFW) is built. EIFW is a temporary home for the women who live there, located on Treaty 6 territory. We honour this traditional land and the signed treaties, made in good faith.

As a result of the COVID-19 pandemic, we have been as of late unable to attend at EIFW to conduct Regional Advocacy visits, however, we have received multiple calls from women at EIFW, all of whom have raised serious concerns. Thank you for accommodating a conference call with you on April 8, 2020, wherein we discussed many issues as follows:

1. **Access to programming, education, and employment.** We heard that correctional programming, school, and some employment has been put on hold, and, that the women are not being given adequate information about this, specifically, when and if programming, school, and employment will resume in the near future. As per Commissioner's Directives ("CD") 720, 726, and 735, Correctional Services Canada ("CSC") has an obligation to ensure appropriate correctional programming, school, and employment is available for the women. As I am sure you are aware, there is the possibility the pandemic will last for months. Understandably, EIFW must take steps to protect the women and staff, however, it will not be maintainable to restrict correctional programming, school, and employment indefinitely. To do so would work against both the security of the institution and the rehabilitation of the women. We were pleased to hear from you that you intend to prioritize programming for certain women, and possibly use an expedited approach to programming. We ask what EIFW intends to do to ensure correctional programming, education, and employment opportunities are made available to those women who do not meet the standard for prioritization, while still protecting the health and safety of the women.

2. **Alternatives to incarceration.** We wish to elevate the priority of alternatives to incarceration during this pandemic state of emergency. You may be aware that many prison advocates across the Country, including in Alberta, and now over 100 medical professionals, have called to correctional authorities to release low-risk, non-violent offenders to reduce the risk of COVID-19 spreading throughout prisons. Section 121 of the *CCRA* allows parole to be granted to an offender at any time for reasons including where the physical or mental health is likely to suffer serious damage if the offender continues to be held in confinement. Section 121 also allows parole to be granted in circumstances where continued confinement would constitute an excessive hardship that was not reasonably foreseeable at the time the offender was sentenced. Women who are at high risk, including older women, women who are immunocompromised, or women who are at risk due to a medical condition such as heart disease or diabetes, are at risk of suffering serious damage to physical and mental health if they continue to be held in confinement. As well, continued confinement of low risk, non-violent women would, given the pandemic, at this time, constitute an excessive hardship not reasonably foreseeable at the time of their being sentenced. A principle of the *CCRA* is to consider alternatives to custody in a penitentiary (s. 4(c.1)), so, actively considering whether s. 121 can be utilized is consistent with one of the stated principles of the *CCRA*.

We were pleased to hear from you that you are taking steps to decarcerate women, including supporting women for UTAs and day parole. We discussed your supporting women for parole by exception under s. 121, including a minimum security woman with initials DP. You invited us to share other potential candidates for parole by exception with Debbie Willard. While we will advise Ms. Willard of potential candidates as we become aware of them, as you advised us you are making an effort to go to houses everyday, we ask that you, when speaking to the women, take note of those women who are possible candidates and take steps to support those women in applying for parole by exception.

3. **Housing high-risk women together.** We heard from multiple women that EIFW is housing all high risk women together. We heard that no explanation is being given and when women resist, they are being threatened with a move to GP or Max. You told us there was no plan to move all high risk women together. We ask that you communicate this to the women as at least some women are currently under the impression this is going to happen, which is a cause of stress and anxiety.

For the record, if in the future a decision is made to move all high risk women together, we would have grave concerns that if one of those women is infected with COVID-19, she would then spread that to all high risk women who would then become extremely sick and possibly die. I am sure you are familiar with the Pinecrest Nursing Home situation in Bobcaygeon, Ontario, where 29 residents have died since March 25, 2020, and dozens are ill. The situation at the Nursing Home has been described as a “war zone” by Dr. Michelle

Snarr, the medical director at the nursing home. It is not difficult to imagine such a situation occurring if all high-risk women are housed together at EIFW.

4. **Cleaning supplies.** We heard that hand sanitizer is being provided only to staff and not to women, and that extra soap is not being made available free of charge. The women should be given access to extra soap and cleaning supplies at no cost. You advised that extra cleaning product was being given to the women. You confirmed hand sanitizer was available to staff but not the women and the rationale was due to hand sanitizer containing 70% alcohol. You advised women are free to use the hand sanitizer under the supervision of a guard. We ask that you communicate this to the women as at least some women are under the impression the hand sanitizer is not available for their use.
5. **Access to Grievance Coordinators.** We did not address this during our phone conversation however we heard information that grievance coordinators are not being given opportunities to speak to women in Max. Please advise what your plan is to ensure the women in Max are given opportunities to communicate with the grievance coordinators while still maintaining the health and safety of the women.
6. **Communicating Information about COVID-19.** We heard generally that the women feel they are not being properly informed of the measures EIFW is taking to respond to the pandemic. I am sure you can appreciate this is a frightening time, and that this must be particularly frightening for the women, all of whom do not have control over their liberty. It would alleviate the women's concerns if the Institution properly informed and educated them about the steps EIFW is taking to respond to COVID-19, and the rationale for those steps. You advised you are making efforts to visit the women every day to answer questions. You also advised you provided information in response to a complaint made. In addition to your efforts it would be ideal if information could be communicated to the women in a way that ensures all women are receiving the same information about general steps taken by the Institution to respond to COVID-19. This would go a far way to alleviate stress and anxiety amongst the women. We would appreciate a response as to whether you plan to take this step to provide women with information and if so how you plan to do so.
7. **Principal Entrance Policy.** The following was not addressed during our conference call however we heard there is a policy that only 3 people are permitted to be in the principal entrance area. We understand why there would be such a policy. We heard that on one occasion 3 women were present in the principal entrance area, and despite this, staff permitted other staff from the outside to enter the building, resulting in there being more than 3 people in the entrance area. This is not in accordance with social distancing and thus endangered the health of the women. We ask that you ensure staff follow social distancing requirements.

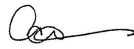
We were pleased to hear you are willing to accommodate weekly 30 minute updates to ensure we remain informed about EIFW's efforts to respond to COVID-19 while at the same time ensuring the liberty and human rights of the women living there are restricted in the least way possible.

Respectfully submitted,

Toni Sinclair, Emilie Coyle, and Kate Engel
CAEFS Regional Advocates – Prairie Region

- c. Kelley Blanchette, Deputy Commissioner for Women, CSC
Dr. Ivan Zinger, Correctional Investigator
Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission
Kim Pate, Senator, Standing Senate Committee on Human Rights (in Prisons)
Dr. James Worthington, Medical Advisor, CSC National Medical Advisory Committee
Dr. Colin Cameron, Senior Psychiatrist, CSC National Medical Advisory Committee

This is **Exhibit "F"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, appearing to be a cursive name, positioned above a horizontal line.

A Commissioner, etc.



Canadian Association of Elizabeth Fry Societies™
 Association canadienne des sociétés Elizabeth Fry
 701-151 Slater Street, Ottawa, Ontario K1P5H3
 Telephone : (613) 238-2422
 Facsimile : (613) 232-7130
 e-mail : caefs@web.ca
 Home Page : www.elizabethfry.ca

May 8, 2020

Rob Campney, Warden
 Edmonton Institution for Women
 11151 178 Street
 Edmonton, AB
 T5S 2H9

Re: Regional Advocacy – May 1, 2020 Conference Call

Dear Mr. Campney,

To begin our letter, we would like to acknowledge the land upon which Edmonton Institution for Women (EIFW) is built. EIFW is a temporary home for the women who live there, located on Treaty 6 territory. We honour this traditional land and the signed treaties, made in good faith.

As a result of the COVID-19 pandemic, we have been as of late unable to attend at EIFW to conduct Regional Advocacy visits, however, we continue to receive multiple calls from women at EIFW, all of whom continue to raise concerns about conditions of imprisonment. Thank you for accommodating a conference call with you on May 1, 2020. Debbie Willard was present during the call. During that call we discussed issues including the following:

1. **Structured Intervention Units (“SIU”).** At the time of our call, you advised there were, at that time, three women in the SIU. It is CAEFS’ position that the use of segregation and other forms of isolation, including but not limited to SIUs, is harmful for women and is particularly harmful for Indigenous women and/or women with mental health disabilities.

As our inability to conduct face-to-face meetings severely inhibits our ability to meaningfully advocate for the women, we are unable to focus on specific issues relating to the SIU. Therefore we remind you of CSC’s general obligations to ensure the following:

- a. An inmate is entitled to be, without delay, informed of their right to legal counsel and given an opportunity to, as soon as practicable, contact legal counsel;
- b. An inmate’s transfer to the SIU is to be for the shortest time possible, and there must be a focus on returning the inmate to a mainstream population at the earliest possible time;

- c. An inmate in the SIU must be provided opportunities to continue or commence programming, interventions, and services, which includes educational, social, correctional, cultural, and spiritual programs and services;
 - d. Restrictions on liberty while in the SIU must be the least restrictive possible;
 - e. Inmates must be given an opportunity to be out of their cell a minimum of four hours daily, and a minimum of two of those hours must include opportunities for meaningful human contact. All reasonable efforts must be made to provide inmates with time out of their cell beyond the four hour minimum, and to provide meaningful human contact beyond the two hour minimum. Although COVID-19 is an issue, it is still possible to provide meaningful human contact while protecting the safety of the women and staff; and
 - f. An assessment of health within 24 hours of the transfer to the SIU, and then daily visits by a registered health care professional thereafter.
2. **Parole by Exception.** Ms. Willard advised that the candidates we put forth for parole by exception did not meet the requirements. We asked who assessed whether the women met the requirements. Ms. Willard advised that “health care” made the decision about whether the criteria was met. To our knowledge, the women put forth as possible candidates are at increased vulnerability in light of COVID-19, and as such we have concerns with the adequacy of the assessment completed by CSC health care, including whether the women were assessed by a doctor.

Are the women being advised of their right to seek a second opinion from health care professionals in the community? If not, we ask that you ensure the women are advised of this right and the mechanism as to how CSC will facilitate that right, all of which is consistent with Commissioner’s Directive 800. CD 800 states that health services shall be provided in accordance with “professionally accepted standards”. The Canadian Medical Association Code of Ethics and Professionalism requires physicians to “Respect the patient’s reasonable request for a second opinion from a recognized medical expert”. The College of Physicians & Surgeons of Alberta Standards of Practice requires regulated members to “respect a patient’s reasonable request for referral to another healthcare provider for a second opinion about the medical care provided”. So, it is clear that professionally accepted standards includes respecting a patient’s reasonable request for a second opinion. It is important, especially now, that women are informed of their right to seek a second opinion. We look forward to hearing from you about action you are taking on this issue.

Further, it appears from s. 121(1) of the *Corrections and Conditional Release Act* (“CCRA”) that it is only s. 121(1)(a) or (b) that requires medical evidence. Section 121(1)(c), on the face of it, does not require there to be strict satisfaction of a medical

component to qualify for parole by exception. Surely, a woman who possesses certain characteristics that put her at increased risk of fatality as a result of COVID-19, such as advanced age and/or medical disorders, would “constitute an excessive hardship that was not reasonably foreseeable at the time the offender was sentenced”. We ask for a response on what is being done by CSC to assess whether women are potential candidates for parole by exception under s. 121(1)(c).

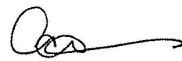
We were pleased to hear you are willing to make efforts to accommodate an advocacy visit via video conference. We discussed that efforts would be made to schedule that for May 13, 2020. We look forward to hearing from you about setting that up.

Respectfully submitted,

Toni Sinclair and Kate Engel
CAEFS Regional Advocates – Prairie Region

- c. Emilie Coyle, Executive Director, CAEFS
- Angela Connidis, Deputy Commissioner for Women, CSC
- Dr. Ivan Zinger, Correctional Investigator
- Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission
- Kim Pate, Senator, Standing Senate Committee on Human Rights (in Prisons)
- Dr. James Worthington, Medical Advisor, CSC National Medical Advisory Committee
- Dr. Colin Cameron, Senior Psychiatrist, CSC National Medical Advisory Committee

This is **Exhibit "G"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, appearing to be a cursive name, positioned above a horizontal line.

A Commissioner, etc.



June 8, 2020

Attila Turi, Warden
Fraser Valley Institution for Women
33344 King Road
Abbotsford, British Columbia

Re: CAEFS Pacific Region Advocacy Call

Dear Mr. Turi;

Thank you for facilitating a conference call with the CAEFS Pacific Region Advocacy Team on April 16, 2020, and for the follow-up you provided by phone on April 18, 2020. While the COVID-19 pandemic has prevented CAEFS from conducting our regular Regional Advocacy visits at FVI, we have been in touch with multiple people incarcerated at FVI who have raised issues related to the conditions of confinement at the institution. This letter serves as follow-up to our April 16 and 18th conversations, and the issues that have been raised to us by prisoners.

I. ALTERNATIVES TO INCARCERATION

1. While we have identified specific areas of concern (listed below), each of these specific issues point to an overarching urgency for FVI to make use of alternatives to incarceration. As you are likely aware, over 100 medical professionals from across the country have called on correctional authorities to release those with manageable risk back to community in order to reduce the spread of COVID-19 (*Release Prisoners to Protect Public Health: Open Letter from Medical Professionals to Canadian Federal, Provincial and Territorial Governments* (April 2020), <<https://prisonjustice.org/wp-content/uploads/2020/04/Health-professionals-call-for-decarceration-20200407.pdf>>.).
2. Prisoner justice advocates and legal professionals across the country have echoed this, calling on CSC to meaningfully engage alternatives to incarceration (See, for example: Janet Rowe (Executive Director: PASAN), Ryan Peck (Executive Director HALCO), Sandra Ka Hon Chu (Director of Research & Advocacy: Canadian HIV/AIDS Legal Network) *COVID-19: Protecting Prisoners Health*, (March 2020), <<http://www.aidslaw.ca/site/open-letter-to-government-covid-19-protecting-prisoner-health/?lang=en>>.).



3. We join these advocates and call on FVI to take every possible step to release prisoners into the community. We urge you to expedite Parole Board hearings for individuals who have minimum security classifications and whose statutory release dates are in the near future. We also urge you to ensure that all women are having their cases heard by the Parole Board at their earliest possible dates. Likewise, we encourage you to utilize Parole by Exception (Section 121 of the CCRA) for any women who are immunocompromised, pregnant or at a high-risk of experiencing the deleterious impacts of COVID-19. Where parole is unavailable for vulnerable women, we encourage you to consider extended UTAs and other forms of conditional release to depopulate FVI in an effort to stop the spread of COVID-19.
4. We are heartened by the decision from Warden Ryan Beattie Bath Institution to release Mr. Derrick Snow under an extended UTA. We encourage you to accept the interpretation of the UTA provisions of the CCRA applied (by Warden Beattie, and urge you engage this same interpretation in your UTA decisions (More information about the Derrick snow decision can be found here: <<https://www.thelawyersdaily.ca/articles/18659>>). We also urge you to revisit the classification of all prisoners at FVI with a view to ensuring that they are able to be considered for conditional release as quickly as possible, particularly in light of the COVID-19 pandemic. The unprecedented health emergency created by COVID-19 calls for unprecedented problem-solving and creative innovation from FVI as it considers alternatives to incarceration, and the health and safety of prisoners at the institution. In order to best ensure the health and safety of the institution and those incarcerated there, we suggest that at the heart of this problem solving should be an emphasis to engaging alternatives to incarceration.

II. PRISONER-SPECIFIC HEALTH CONCERNS

5. In our meeting we discussed a prisoner with the initials T.H. TH is about 67 years old, she had major back surgery in March of 2020 and lost one of her kidneys to cancer in 2005. Since then, her other kidney remains in constant distress. She has high blood pressure, which she takes medication for daily. She was diagnosed with congestive heart failure while undergoing back surgery. This directly affects her breathing (via WebMD: A damaged heart can't pump blood as effectively from your lungs out to your body. Blood backs up, raising pressure in the veins inside your lungs. This pushes fluid into your air sacs. As liquid builds up, it gets harder to breathe. This is called pulmonary edema.) TH uses Advair (a steroid inhaler) every day to be able to breathe well. She lives in the medical house at FVI.
6. TH is currently serving year six of an 11-year life sentence. She will be eligible for parole in two years and is currently classified as medium security. She was in the process of applying for ETA's, and recently had a positive psyche assessment completed. TH has been happily married for 36 years. If released, she will live with her husband in their home in Maple Ridge. Her husband is a retired engineer for CP rail. She reports her husband's CA would most definitely be positive. TH will be applying for parole by exception and UTA with support of PLS. In consideration of the above we ask that you support TH for parole by exception.



III. ACCESS TO PROGRAMMING, EDUCATION AND EMPLOYMENT

7. We have heard that correctional programming, school, and some employment have been put on hold at FVI. While we appreciate the challenges the COVID-19 pandemic has created for group program facilitation, we remind you of the obligation CSC has under Commissioner's Directives ("CD") 720, 726, and 735 to ensure appropriate correctional programming, school, and employment is available for prisoners (Correctional Service of Canada, "Education Programs and Services for Inmates", Commissioner's Directive No 720 (Ottawa: CSC, 2015); Correctional Service of Canada, "Correctional Programs", Commissioner's Directive No 726 (Ottawa: CSC, 2018); Correctional Service of Canada, "Employment and Employability Programs", Commissioner's Directive No 735 (Ottawa: CSC, 2017)). Many people incarcerated at FVI have called to express their concerns about the suspension of these programs and the barriers this will pose to the completion of their correctional plans.
8. We were pleased to hear that you have prioritized programming for 5-6 identified women through one-on-one program delivery. However, access to programming, education and employment must be made available to all prisoners at the institution. As I am sure you are aware, there is a possibility that the Covid-19 pandemic will last for months. It will not be maintainable to restrict correctional programming, school, and employment indefinitely. To do so would work against the institution's obligation to support the rehabilitation of prisoners to prepare them for reintegration into the community under CD 726. We have also been informed that while one-on-one programming has started for the identified group of women, there has been no access to Elders.
9. Please advise how you intend to facilitate correctional programming, education, and employment opportunities for prisoners at the institution, as well as how you intend to facilitate prisoner's access to Elder support during this trying time. We also ask that you advise how you plan to address the impact that the current suspension of programming may have on prisoner's ability to complete their correctional plan, and by extension be supported for parole by their parole officers.

IV. ACCESS TO PAROLE OFFICERS

10. Many women have told us that they have had difficulties connecting with their parole officers. We understand that parole officers may be working from home or on rotating schedule to attend the institution; however, given the heightened anxiety amongst the prisoner population and the impact of a suspension of programming, access to parole officers is crucial. We urge you to find a more consistent way for women to reach out to their parole officers.



V. MOTHER-CHILD PROGRAM

11. In our meeting we emphasized our concerns regarding three participants in the mother-child program at FVI with the initials: A.L, C.M, and S.D.

A. SD

12. Because of S.D.'s custody order with her child's father, her child has historically participated in the Mother-child program through two week stay at the institution. We understand that S.D. has been told that because her child would be returning to the institution for two weeks at a time he would be considered a visitor at the institution. We understand that she has been told that unless she is able to have her child with her for 2-3 weeks he will be unable to come to the institution. We understand that the rationale that has been provided to Ms. S.D. is that he is considered a visitor, and there are no visitors allowed in the institution at this time.

13. We urge you to reconsider this decision. CSC's own policy recognizes that children are *participants* in the Mother-Child just as mothers are participants. By framing S.D.'s child as a visitor rather than a participant, you are in conflict with CSC's own policy. And, not permitting S.D.'s child from being with her is in violation of a court order regarding custody (See Para 2 (g,k,m), 16, 38, 53, CD 768).

B. AL

14. At the time of our meeting AL was 7 months pregnant, and hadn't had a medical appointment in six weeks. In a follow up call with AL she stated that she had been diagnosed with gestational diabetes. This is a concern for us, as research indicates that pregnant women are at increased risk for respiratory illness and have higher rates of mortality, ICU admissions, and other infectious morbidity (vs. non pregnant population). Furthermore, research shows infants are more susceptible to severe illness from COVID-19 than older children We are strongly advocating for AL's release via s.121 parole by exception or via UTAs.

VI. CONCLUSION

15. Although FVI does not have any cases of COVID-19 at present, there is significant urgency to avoiding the spread of COVID-19 inside penitentiaries. We call upon FVI to take every possible step to release as many prisoners as possible. We encourage you to expedite cases to the Parole Board of women who are already minimum security and ensure that all women are having their cases heard by the Parole Board at their earliest possible dates. Likewise, we encourage you to utilize Parole by Exception (Section 121 of the CCRA) for any women who are immunocompromised, pregnant or at a high-risk of experiencing the deleterious impacts of COVID-19. Where parole is unavailable for vulnerable women, we encourage you to consider extended UTAs and other forms of conditional release to depopulate FVI in an effort to stop the spread of COVID-19.



16. As discussed on our call, we hope to be able to meet with you on a bi-weekly basis until such a time that we might be able to visit the institution in person. We look forward to are meeting on June 26, 2020. We are also hoping to coordinate phone calls with house reps, and committees within the institution. Please advise how we can best coordinate this.
17. As we have seen from the outbreak at Joliette, the impact of a COVID-19 outbreak inside of a prison is grave. We are here to offer our advocacy support and to help ensure that FVI does not end up in a similar position. We hope that we can work together to ensure that any response to COVID-19 is grounded in dignity and a respect for human life and health.
18. Our May 2020 Advocacy Letter will be provided by June 19, 2020. We apologize for the delay.

Respectfully submitted,

Emily Dutton and Nicole Obrigavitch
CAEFS Regional Advocates – Pacific Region

- c. Emilie Coyle, Executive Director, CAEFS
Anne Kelly, Commissioner, CSC
Angela Connidis, Deputy Commissioner for Women, CSC
Dr. Ivan Zinger, Correctional Investigator
Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission
Kim Pate, Senator, Standing Senate on Human Rights (in prisons)



This is **Exhibit "H"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

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A Commissioner, etc.



Correctional Service
Canada
Ontario Region

Service correctionnel
Canada
Région de l'Ontario

Our File 158-16

Grand Valley Institution for Women
1575 Homer Watson Boulevard
Kitchener, ON N2P 2C5

May 15, 2020

Ms. Jackie Omstead
Ontario Regional Advocate
Canadian Association of Elizabeth Fry Societies
119 Bronson Ave. 3rd fl.
Ottawa Ontario K1R 6H4

RE: Letter April 24, 2020

Dear Ms. Omstead,

Thank you for the meeting on April 16, 2020, the discussion with Nikki Smith and I, and thank you for the follow up letter.

Though it is difficult to follow up on some of your observations in the absence of specific facts, I will review your comments and feedback with my management team resulting from our meeting and your most recent letter.

As you have copied in the Deputy Commissioner for Women, I will follow up with her on the areas within your letter referencing national policy applications.

I appreciate your work and acknowledge your efforts to our common endeavour to the Creating Choices principles.

Thank you for your commitment to corrections and to the women in our care and custody.

We look forward to your next visit.

Sincerely,

Dave Dunk,
Warden GVI

To: Canadian Association of Elizabeth Fry Societies

RE: letter received April 14, 2020 for April 3 Regional Advocacy teleconference

Programming: In response to the COVID-19 containment efforts and corresponding measures, the delivery of correctional programs in group format has been suspended for a period of time. We are putting measures in place to the extent possible to mitigate risk associated with temporary program interruption. E.G. Educational packages have been provided to learners and Moderate Program is being facilitated to residents with upcoming Parole hearings.

Over classification: Some women do not have FPS sheets and as such, the Custody Rating Scale is completed in the community without inclusive information on criminal history. The CRS is only one part of what needs to be considered when determining security level/risk. When the intake assessments is completed, information is received from provincial partners or court documents. Criminal history significantly affects the Criminal Risk Indicators (CRI). The Parole Officers continue to complete their assessments against the policy requirements and assessment tools available for completing the initial Offender Security Levels. At OOHL, we incorporate Indigenous Social History into all aspects for the case planning and often the results produce overrides in security level.

Releases: The Correctional Service of Canada (CSC) and the Parole Board of Canada (PBC) are working collaboratively to facilitate the safe release of federal inmates into the community with public safety being paramount in all discretionary release decisions. As mandated by the *Corrections and Conditional Release Act (CCRA)*, all releases to the community happen within existing authorities. CSC and PBC continue to process eligible inmates for release in accordance with the law. A number of considerations go into release decision-making. CSC must ensure that comprehensive community release plans are in place and that offenders are prepared for their release. The PBC has posted on their [website](#) recent [statistics](#) that speak to the increase in applications received for conditional release that you may find informative.

We appreciate your continued support for the residents and will ensure telephone/video visit calls are facilitated to provide continued contact with your team during this uncertain time.

Kindest Regards,

Rachel

Rachel Parker

Kikawinaw

Okimaw Ohci Healing Lodge



2020.05.08

This is **Exhibit "I"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, appearing to be 'C. Coyle', written over a horizontal line.

A Commissioner, etc.

From: Emilie Coyle <ecoyle@caefs.ca>
Sent: Friday, April 3, 2020 3:15 PM
To: Connidis Angela (NHQ-AC)
Cc: Kelly Anne (NHQ-AC); Pyke Jay (ATL); Harris Scott (ONT); Page Alessandria (QUE); Gratton France (PRA); Boucher Denis (PAC-RDC); Dunk Dave (ONT)
Subject: Re: Planning for release information

Thank you Angela I appreciate your response and I look forward to hearing back from you on any new developments.

Sincerely,

Emilie

From: "Connidis Angela (NHQ-AC)" <[REDACTED]>
Date: Friday, April 3, 2020 at 3:00 PM
To: Emilie Coyle <ecoyle@caefs.ca>
Cc: "Kelly Anne (NHQ-AC)" <[REDACTED]>, "Pyke Jay (ATL)" <[REDACTED]>, "Harris Scott (ONT)" <[REDACTED]>, "Page Alessandria (QUE)" <[REDACTED]>, "Gratton France (PRA)" <[REDACTED]>, "Boucher Denis (PAC-RDC)" <[REDACTED]>, "Dunk Dave (ONT)" <[REDACTED]>
Subject: RE: Planning for release information

Hello Emilie,

I am responding to you on behalf of the Commissioner, as well as on behalf of the Regional Deputy Commissioners and the Warden of Grand Valley Institution for Women, to whom you have sent separate letters.

The Correctional Service of Canada (CSC) is committed to protecting the safety of staff, inmates, and the public in all of its operations. While being a full participant in the Canada-wide public health effort to keep Canadians safe from COVID-19, CSC continues to fulfill its obligations with respect to the care and custody of inmates to prepare them for safe release into the community.

We are working closely with the Parole Board of Canada to examine all options with respect to the safe release of offenders into the community. We appreciate your continued support as we do this.

We know that you share our concern for the women in our institutions and we thank you for the efforts of your organization in this very challenging time. Like you, we are all very busy and working hard.

To allow our sites to maintain focus on critical operations, it would be helpful if you would direct your questions to me for follow up.

Thank you very much.

Angela

Angela Arnet Connidis

Deputy Commissioner for Women
Correctional Service Canada / Government of Canada
[REDACTED]

Sous-commissaire des délinquantes
Service correctionnel Canada/Gouvernement du Canada
[REDACTED]

From: Emilie Coyle <ecoyle@caefs.ca>
Sent: April 2, 2020 6:40 PM
To: Oades Jennifer (PBC-CLCC NO-BN) <[REDACTED]>; Anne Kelly, Commissioner/Commissaire <[REDACTED]>; Connidis Angela (NHQ-AC) <[REDACTED]>
Subject: Re: Planning for release information

Dear All,

I am writing to the three of you in the hopes that you will be able to provide me with some insight into the release planning that I believe is happening at the moment. It was my understanding that PBC and CSC were working on this together and I was hoping that something could be shared with me that would help the E-Fry societies across the country to prepare for release.

In particular we are interested in understanding the need. How many women are being considered for release? What does that look like? Are there populations of women who are being considered (pregnant women, women with babies, immune-compromised women, etc)? The more we know about the federal women who fall under a release planning strategy, the more we can prepare to assist them when they get out.

Of course, we believe that the best course of action is to release women who have homes to their homes, and then the second is to connect with halfway houses, as I understand is happening through the CRF reps. However, I am also cognizant of the fact that many CRFs are closing their doors and that there are not enough spaces for women to be released. We do not want women to be released to homelessness. The E-Fry network has been meeting regularly to confirm that the ones running the CRFs will stay open and will accept women and there are some E-Fry locals that are able to open CBRFs quickly in order to assist.

I understand that it is a busy time for everyone and I am also run off my feet every day. I am very worried about the women in prison, many of whom are calling us. They are expressing that they are terrified and I can understand where they are coming from. This is an unprecedented and scary time for everyone. We want to be part of the solution to keep people safe.

After the announcement made by Minister Blair the other day, we are very interested in knowing how we can be part of the planning for release. If you can point me to the people we need to speak with to get the numbers of women being considered for release in the various regions, then we are happy to work with them.

Sincerely,

Emilie Coyle
Executive Director
Canadian Association of Elizabeth Fry Societies

This is **Exhibit "J"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, consisting of a cursive 'C' followed by a horizontal line and a small flourish.

A Commissioner, etc.

From: Emilie Coyle <ecoyle@caefs.ca>
Sent: Friday, April 17, 2020 5:05 PM
To: Connidis Angela (NHQ-AC)
Cc: Anne Kelly, Commissioner/Commissaire
Subject: Re: UTAs for medical purposes

Importance: High

Dear Angela,

Happy Friday to you. I am sorry to be writing such an important email so late on a Friday afternoon, but I have spent the day trying to ascertain how we might be able to assist with your efforts to depopulate the prisons using the UTA for medical purposes decision out of Bath Institution yesterday.

It was very heartening to see that decision to release Mr. Snow to the community and we want to ensure that this is a way to get women out as well.

I am wondering if there has been a subsequent directive from NHQ to the prisons that informs them of this new decision and perhaps could explain that the definition of medical treatment for the authorization of the UTA for medical purposes for medically vulnerable people was argued to be that both “self-isolation” and “social distancing” are the most effective preventative and potentially life-saving treatments that can be pursued to combat COVID-19, and such isolation cannot reasonably and humanely be provided in a densely-populated penitentiary, even where the most exceptional and extensive precautionary measures have been taken.

For medically vulnerable individuals, social-distancing and self-isolation are not simply public health measures. They are vital forms of medical treatment to ensure that their pre-existing medical conditions do not become serious and mortal threats to their lives in combination with COVID-19.

The life and health of many medically vulnerable offenders may depend on the opportunity for self-isolation, which is only practically and humanely available in private residences in the community. The authority to grant urgent UTAs for medical purposes under s. 116 of the *CCRA* provides an efficient and effective tool for CSC to quickly transfer appropriate low-risk offenders to safe locations in the community for the purpose of self-isolation.

The other bonus in this decision is that CSC is the releasing authority for all UTAs for medical reasons and we do not have to rely on the PBC to make the decision, as we understand that they are extremely busy trying to get through existing and new cases.

I am certain that you would agree that Institutional heads and parole officers should not each be not be left to wrestle with this common issue of statutory interpretation impacting hundreds of prisoners across Canada without advice or guidance. Which is why

The release of vulnerable prisoners on a medical UTA is also consistent with the broader purpose of conditional release set out in s. 100 of the *CCRA*, which is “to contribute to the maintenance of a just, peaceful and safe society by means of decisions on the timing and conditions of release that will best facilitate the rehabilitation of offenders and her reintegration into the community as law-abiding citizens.” It is now a matter of common knowledge that we may soon be facing a situation in which many people in our society in need of urgent care may be denied such care due to lack of available resources.

Any steps that can be taken to safely avoid the spread of this infection among prisoners will help our society achieve the goal that there may be resources to treat all who need treatment, and that outbreaks of COVID-19 in prisons do not become the tinder for broader outbreaks in outside communities. At this time, protecting limited healthcare resources for the health and safety of the public, both within and outside prison, is a paramount consideration. This is a concern that I am also certain that you share.

All this to say, could we get some assurance that the directive is going from NHQ to the prisons to inform them of this interpretation so that we can get more vulnerable people to safety? It would make our shared work much more efficient.

Sincerely,

Emilie Coyle

This is **Exhibit “K”** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, consisting of a stylized 'C' followed by a horizontal line that ends in a small arrowhead pointing to the right.

A Commissioner, etc.



Canadian Association of Elizabeth Fry Societies™
 Association canadienne des sociétés Elizabeth Fry
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FOR IMMEDIATE RELEASE

OTTAWA, SUNDAY, MARCH 15, 2020- COVID-19 & Incarcerated Peoples

We are currently in the midst of a global outbreak of COVID-19.

As an organization dedicated to advocating for federally incarcerated women, **CAEFS is concerned about the Correctional Service of Canada's (CSC) preparedness to manage this outbreak and reduce the harm to people inside.**

While Public Health has indicated that risk is low for the general public, they have identified several groups who are at increased risk of more severe outcomes; these include those who:

- are aged 65 and over
- have compromised immune systems
- have underlying medical conditions

These same groups are also prevalent within our federal prisons. In their most recent report, the Office of the Federal Investigator (OCI) noted that on 2017-18, **25.2% of the federally incarcerated population was 50 years of age and over.** Previous OCI reports also remind us that is it “universally established that **correctional facilities house a number of health-compromised and vulnerable individuals**”. The report also addresses the rapid aging of prisoners, making the link between prisoners aged 50-55+ having comparative health risks and those who are 65+ living outside of prisons, due to the overrepresentation of chronic health issues and lack of access to adequate health care.

Furthermore, Public Health has identified the risk of COVID-19 may be **increased for certain settings including, “large gatherings in enclosed spaces”**. Canadian provincial prisons are chronically overcrowded and both federal and provincial prisons are places where people cannot practice social isolation in the same ways that people outside of prisons can, it is nearly impossible. That all incarcerated people are at increased risk for infection is especially concerning given the past reports we have received from women inside indicating **ongoing challenges with accessing adequate health care and preventative health measures inside,** including even the most basic of necessities such as soap.

CAEFS advocates that:

- Any person with complex or chronic medical conditions be immediately released to community for treatment;

- People aged 50+ who are at the highest risk of serious illness and death should be released into the community on conditional release;
- Section 81 and 84 should be utilized to transfer Indigenous women into community, and that ample supports be provided to these communities to respond;
- The use of Community Residential Facilities, Community Based Residential Facilities, Transitional Housing, and ‘Parole to Other’ should be utilized to release incarcerated people as quickly as possible.
- The immediate release of incarcerated mothers and their children in the mother-child program to their homes or Conditional Residential Facilities;
- The immediate release of any incarcerated person who is currently at their parole eligibility day, who have completed their correctional programming, OR who could access programming to meet their correctional plan in community and resources should be provided in community.

Section 121(1.b) of the Corrections and Conditional Release Act states that “parole may be granted at any time to an offender [...] whose physical or mental health is likely to suffer serious damage if the offender continues to be held in confinement”. We urge correctional authorities to release as many prisoners as they can using the tools that are at their disposal in order to alleviate the potentially severe negative mental and physical health impacts that come from being incarcerated at a time of national and global health emergency.

It is the responsibility of the government of Canada to protect the people for whom incarceration heightens the urgency of the danger that they face from a global pandemic.

-30-

Contact information:

Emilie Coyle

Executive Director

Canadian Association of Elizabeth Fry Societies

ecoyle@caefs.ca

Tel:613-316-6785

This is **Exhibit "L"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, consisting of a stylized initial 'C' followed by a horizontal line that extends to the right and then curves upwards.

A Commissioner, etc.



Canadian Association of Elizabeth Fry Societies™

FOR IMMEDIATE RELEASE

March 31st, 2020

Hon. Bill Blair, Minister of Public Safety
Hon. David Lametti, Minister of Justice
Hon. Catherine McKenna, Minister of Infrastructure and Communities
Hon. Ahmed Hussen, Minister of Families, Children, and Social Service

House of Commons
Ottawa, ON
K1A 0A6

Open Letter: Depopulation of Federal Prisons

Dear Ministers,

As we write this, we have been made aware of more than one federally incarcerated woman with a confirmed case of COVID-19, and several others with presumptive cases. We fear that these cases mark the beginning of a potential public health emergency. As an organization dedicated to advocating for federally incarcerated women, Canadian Association of Elizabeth Fry Societies (CAEFS) is concerned about the Correctional Service of Canada's (CSC) preparedness to manage this outbreak and reduce the harm to people inside prisons.

We write to you to insist on immediate action and offer our collaboration, along with our network of over 20 local Elizabeth Fry Societies, in devising a plan to ensure that we are able to safely depopulate federal women's prisons in Canada.

The time for bold, decisive, and life-saving action is now.

CSC health care is not equipped to treat prisoners who become ill with COVID-19: Long before this public health crisis, our Regional Advocates have reported on the substandard healthcare provided to women in federal prison. Moreover, the Office of the Correctional Investigator has consistently reported on a lack of adequate health care in federal prisons. A system that was already failing to meet the needs of the people in their care cannot reasonably claim that they can manage a public health crisis. Given the substandard access to healthcare and the potential for rapid spread within prisons, as prisoners become ill

they will need to be transferred to hospitals, putting even greater pressure on an already strained health care system. This puts everyone at greater risk.

Women are not safer in prison: It is impossible to practice physical distancing in prison. This is particularly concerning as incarcerated people fall within the groups that Public Health have deemed to be at an increased risk of more severe outcomes; including: those who are aged 65 and over, those who have compromised immune systems; and those who have underlying medical conditions. We have already seen devastating examples in our long term care facilities about the impacts that an outbreak can have on a population that is older and / or has underlying health conditions when living in close quarters. Medical experts across Canada have continuously expressed concerns for the safety of prisoners and staff once COVID-19 enters the prisons, and now it has.

There are community release options for Federally incarcerated women: There are over 20 local Elizabeth Fry Societies across Canada who provide programming and support for criminalized women. Many of these locals already have housing options for women leaving prison and are working tirelessly to provide safe and supportive housing - but we can do more.

Our local Elizabeth Fry Societies are willing and ready to be part of the solution to depopulate prisons in partnership with the Canadian Government. With adequate support, we are confident that we can work with you to facilitate the release of many federally incarcerated women in Canada.

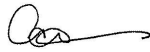
There are options already available to help facilitate these releases; including: the extension of unaccompanied temporary absences, the use of Section 81 and 84 of the Corrections and Conditional Release Act (CCRA), expedited hearings for suspension and revocation cases, and section 121(1.b) of the CCRA states that “parole may be granted **at any time** to an offender [...] whose physical or mental health is likely to suffer serious damage if the offender continues to be held in confinement”. We urge you to use the tools that are at your disposal to depopulate now.

As an organization dedicated to prison abolition, we understand that prisons have never served to keep our communities safe or address harm. Especially now, we echo the calls from prisoners, families, legal professionals, health care workers, senators, advocates, organizers, unions, and other service providers to release as many people from prison as possible. We do not have the death penalty in Canada, but inaction on the part of the government during this critical time will effectively sentence some of our country’s most marginalized people to death.

Canadian Association of Elizabeth Fry Societies

Cc. Anne Kelly - Commissioner of the Correctional Service of Canada
 Cc. Angela Connidis - Deputy Commissioner for Women, Correctional Service of Canada
 Cc. Marie Claude Landry - Chief Commissioner - Canadian Human Rights Commission
 Cc. Senator Kim Pate - Standing Committee on Human Rights (in prison)
 Cc. Ivan Zinger - Correctional Investigator of Canada
 Cc. Jennifer Oades - Chairperson of the Parole Board of Canada

This is **Exhibit "M"** referred to
in the Affidavit of **EMILIE COYLE**,
affirmed before me this 16th day of June, 2020

A handwritten signature in black ink, appearing to be a cursive name, positioned above a horizontal line.

A Commissioner, etc.



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For Immediate Release
 April 18th 2020
 Ottawa, Ontario

Re: Alarming Infection Rates at Joliette Institution for Women

For over 40 years the Canadian Association of Elizabeth Fry Societies (CAEFS) has been advocating with and for federally incarcerated women. During the COVID-19 pandemic, this work has become even more urgent and necessary.

CAEFS is regularly in contact with incarcerated women. During the COVID-19 crisis, our six Regional Advocacy teams across the country, along with our National Office, have each been receiving **dozens of phone calls a day** from incarcerated women reporting on their conditions of confinement and seeking our advocacy support. **This means that we have detailed and up-to-date information from those who are most impacted by the spread of COVID-19 in prisons.**

The reports that we receive from people incarcerated in federal women's prisons are what guide our advocacy efforts as we work on both systemic and individual remedies.

We are raising the alarm about the rate of infection in Joliette Institution for women. The situation there is dire and swift action needs to be taken. On April 7th there were 10 confirmed cases of COVID-19, now there are 50. While the rated capacity of Joliette is 132, there are currently approximately 80 people incarcerated inside - this means that **over 60% of prisoners at Joliette have been infected with COVID-19.** In fact, these number are likely higher given delays in test results.

The example that Joliette is so sadly demonstrating is that by the very nature of prisons (lack of hygienic environment, impossible to physically distance), once COVID-19 enters into a prison, it is extremely difficult - if not impossible - to stop its rapid spread. This puts an already vulnerable population at even more risk.

We have been told that **the Structured Intervention Units (SIU) in Joliette have been used to isolate prisoners who are ill.** SIUs are what once were called 'segregation units', which is extremely troubling as this means confining people who are sick in ways that are cruel and

punishing. This kind of response to managing an infection lacks humanity and any form of dignity. It has also, clearly, proven ineffective in containing the spread.

The Grand Valley Institution for Women currently has 9 confirmed cases and, yesterday, the Fraser Valley Institution for Women reported their first confirmed case of COVID-19. **Joliette is an example of where these other institutions may be in a short time.**

In most cases, we have been told by prisoners that CSC continues to **only test individuals who are symptomatic**, which ignores what we know from public health officials about the possibility of asymptomatic carriers.

“CAEFS, along with many others - including doctors, lawyers, other advocacy organizations, and prisoners themselves - have been saying that prisons are dangerous, especially during a pandemic. **We have been speaking out about the danger of COVID-19 and demanding immediate and swift action in the federal prison system for weeks.** If our calls had been heeded a month ago, this outbreak in Joliette may have been avoided.” Emilie Coyle, Executive Director of CAEFS

All responses to COVID-19 must be grounded in compassion, dignity, and the preservation of human health and life. We need immediate action and the safe release of as many people as possible.

- END -

For more information, or for comment, please contact CAEFS Executive Director, Emilie Coyle.

Email: ecoyle@caefs.ca

Cell: 613-316-6785

Court File Number: T-539-20

FEDERAL COURT

B E T W E E N:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

-and-

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF CATHERINE LATIMER

I, Catherine Latimer, of Kingston, Ontario, in the Province of Ontario, AFFIRM THAT:

1. I provide these statements in my capacity as the Executive Director of the John Howard Society. This affidavit provides information about the living conditions in federal prisons since the onset of the community spread of COVID-19 throughout Canada, the Correctional Service of Canada's (CSC) response to COVID-19, and the John Howard Society's efforts to encourage the Federal Government to depopulate prisons in the face of the risks posed by COVID-19 to the prison population. I have personal knowledge of the matters deposed to in this Affidavit, or have received the information from others, as I describe below, in which case I verily believe it to be true.

I. ABOUT THE JOHN HOWARD SOCIETY

2. The John Howard Society is a national non-profit charity whose mission is effective, just and humane responses to the causes and consequences of crime. In support of that mission, the John Howard Society works directly with prisoners and people who have come into conflict with the law, reviews, evaluates and advocates for changes in the criminal justice process, engages in

public education on matters relating to criminal law, and promotes crime prevention through community and social development activities.

3. The John Howard Society has a network of 65 offices across Canada that provide rehabilitative and reintegrative services to released prisoners and a number of front-line programs under contract with CSC.

4. Through the work described above, the John Howard Society is connected directly with people living in prison. The information I provide below is based on my conversations directly with prisoners, with the family and loved ones of prisoners, and with front-line staff of the John Howard Society who speak with prisoners regularly. While there are differences between the institutions across Canada, the information I provide below applies generally to the institutions, and where it does not, I have tried to specify which institutions I understand to be impacted.

II. CURRENT CONDITIONS IN FEDERAL PRISONS

5. At the beginning of March it became clear that COVID-19 had begun to spread through community contact in Canada. Prisons are intimately tied to the communities where they are located and beyond. In the ordinary course, staff, volunteers, and visitors come into and out of the prisons daily. Some visitors travel a significant distance from their home communities, to which they then return.

6. At the best of times, federal prisons are not clean or sanitary places. In general, cells are close together, and air is circulated through a central system. Prisoners are offered one shower a day, in shared shower facilities, and in the common areas it is almost impossible to physically distance. Many people in prison have underlying conditions and are especially vulnerable to severe health complications or death if they contract COVID-19. Given the densely populated conditions in federal penitentiaries it is impossible to impose sufficient distancing measures between prisoners to prevent the rapid spread of the virus.

7. For this reason, and as discussed in detail below, the John Howard Society has advocated for measures to reduce the population in federal prisons. Instead, the Correctional Service of Canada's response to COVID-19 has been effectively to lock down institutions.

8. On March 14, 2020, CSC suspended visits for prisoners and volunteers at all federal institutions. In practice, this has meant the suspension of all programing, including addictions counselling, educational programs, and community integration programs. Temporary absences and work releases have also been suspended. All transfers, except emergency, have been discontinued, and prison gyms, libraries and other common spaces were closed. Restrictions on out of cell time have been imposed. We have heard reports that some prisoners have not had consistent access to mail.

9. Despite these harsh restrictions, COVID-19 entered a number of institutions, apparently through staff members who live in the community.

10. By March 30, 2020, COVID-19 had infiltrated the federal prison system at Port-Cartier Institution in Quebec, a maximum security facility where two inmates were diagnosed with COVID-19, and nine employees also tested positive. The inmates who tested positive were put in segregation to isolate them from the rest of the population.

11. Since that time, hundred of other prisoners at several institutions have tested positive for COVID-19, and I understand that segregation has been the common practice in all federal prisons for these prisoners, prisoners showing symptoms, and those prisoners awaiting tests results. Additionally, any prisoners transferring into a new facility are put in a 14-day quarantine, equivalent to an administrative segregation. These prisoners are only permitted to leave their cells for 20 minutes per day to shower or make a phone call. The CSC describes this as “medical isolation”, but segregation or observation cells are not hospital or infirmary beds. Yet this is where prisoners who are ill – as well as those who are simply in preventive quarantine – are held.

12. Prisoners who are not on “medical isolation” are nonetheless being kept on excessive and extended lockdowns, in tiny cells, for up to 23 hours per day. When they are let out of lockdown, there are no activities or programs for them participate in. Even access to yard has been significantly curtailed. In his April 23 2020 COVID-19 Status Update, attached hereto as **Exhibit “A”**, Ivan Zinger, the Correctional Investigator, reported that for institutions experiencing an outbreak, access to yard has been offered only every second day, twice per week for half an hour, or suspended outright.

13. I have spoken to the wife of one prisoner at Dorchester Penitentiary in New Brunswick, who tells me her husband is double bunked and only allowed out of lock down for 45 minutes twice per day. The lockdown is lifted for everyone in the range at the same time. With everyone in the common areas at the same time it is not possible to properly socially distance, and therefore many prisoners are foregoing even this small break from their cells. The sad irony of the lockdown practices is that they do nothing to meet public health standards to prevent the spread of COVID-19, while creating intense mental suffering for the prisoners.

14. The lockdowns have been ongoing for months in most institutions, since end of March and early April. According to the Office of the Correctional Investigator's June 19, 2020 COVID-19 Status Update, attached as **Exhibit "B"**, these restrictions "show little sign of abatement. Indefinite lockdowns or extended periods of cellular isolation continue at many facilities, even those that have not experienced an outbreak. Ongoing monitoring by my Office indicates pent-up frustration and rising tensions in a number of facilities" (p 7).

15. This is consistent with the reports we have received since these measures were imposed. The impact of constant lockdowns, segregation, lack of access to proper protective gear, suspension of visits, programs and services, not to mention the stress and fear of contracting COVID-19 has been mentally crushing for prisoners. Because of the suspension of visits, and the limited time out of their cell to make calls, prisoners are cut off from their support systems.

16. Tensions are rising, and there has been an increase in violence in the prisons, an expression of the anxiety and fear that prisoners are feeling. Attached as **Exhibit "C"** is an article from Canadian Press concerning two use of force incidents, one at Collins Bay Institution in Kingston, Ontario, and one at Donnacona Institution in Quebec, in response to prisoner protests.

III. JOHN HOWARD SOCIETY ADVOCATES FOR PRISON DEPOPULATION

17. The John Howard Society takes the position that the measures taken by CSC thus far have not been adequate to protect the health and well being of prisoners, and in fact, are having serious adverse impact on prisoner mental and physical health. We believe that the best strategy to prevent infection and death in Canadian prisons is the depopulation of prisons.

18. On behalf of the John Howard Society, I have been calling on the federal government to

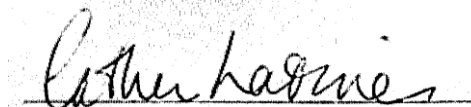
quickly and safely depopulate since at least March 18, 2020 and recommending a release strategy prioritizing:

- a) Offenders who already have been identified as low risk and already have been approved for full parole, day parole or unescorted temporary absences.
 - b) Offenders who have residences or families where they could be placed under house arrest and subjected to electronic monitoring, or other conditions deemed necessary to protect public safety.
 - c) Offenders who are particularly vulnerable, such as those who are elderly, immunocompromised or have chronic illnesses.
19. On March 18, I emailed Minister of Public Safety and Emergency Preparedness, Bill Blaire, Commissioner of the CSC, Anne Kelly, and the Chairperson of the Parole Board of Canada, Jennifer Oades, in a formal plea from the John Howard Society for action and depopulation. In that email I pointed out the higher risks for individuals in prisons, and the challenges to protecting those individuals from contracting COVID-19 in current prison conditions. A copy of the email is attached hereto as **Exhibit “D”**.
20. On June 15, 2020, I appeared before the House of Commons Standing Committee on Health on CSC’s response to COVID-19. In my evidence to the Committee, I stressed the need for depopulation, and the impact of prolonged lockdowns and other measures on prisoners’ health, wellbeing, and rights. A transcript is attached hereto as **Exhibit “E”** (my comments begin at page 18).
21. I make this affidavit in good faith and for no improper purpose.

Affirmed before me by video conference
from the City of Ottawa of Province of
Ontario, to the City of Toronto in the
Province of Ontario on July 20, 2020



Commissioner for Taking Affidavits



Catherine Latimer

This is **Exhibit "A"** to the
Affidavit of Catherine Latimer,
affirmed before me by videoconference
this 18th day of July, 2020

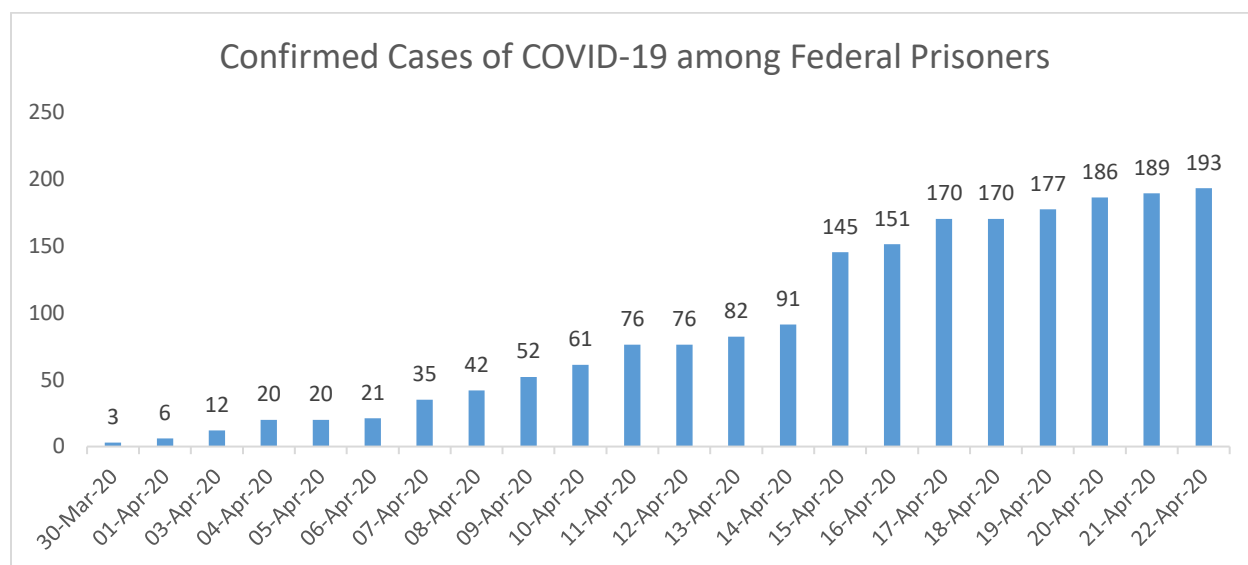


A Commissioner, etc.

COVID-19 Status Update

Current Situation

As of April 23, 2020, there are 193 confirmed cases of COVID-19 in federal penitentiaries, representing 1.4% of the total inmate population (n = 13,869). Five of 43 penitentiaries have experienced or are currently managing an active outbreak. Infection rates reflect transmission trends found in the general community, with outbreaks in penitentiaries located in Quebec, Ontario and British Columbia. There are currently no active COVID-19 cases in federal prisons in the Prairie and Atlantic regions of Canada.



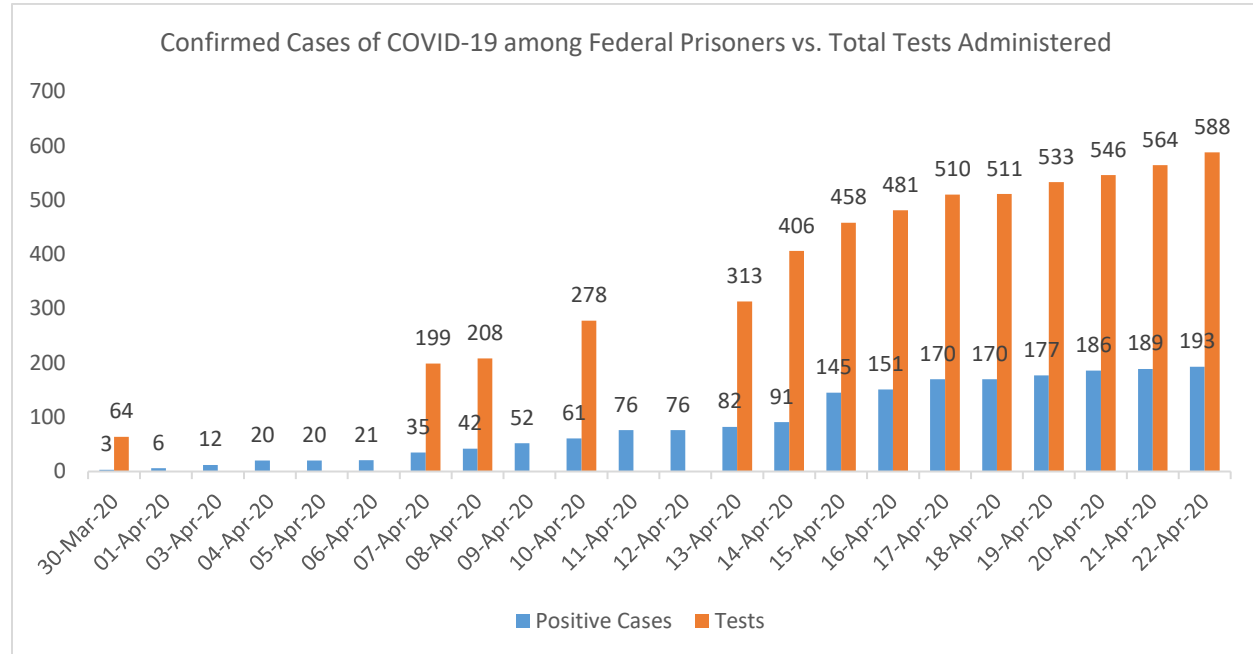
Affected Institutions

Institution	COVID-19
Mission Institution (British Columbia)	65
Federal Training Centre (Quebec)	54
Joliette Institution for Women (Quebec)	51
Port-Cartier Institution (Quebec)	15
Grand Valley Institution for Women (Ontario)	8

According to data maintained but not publicly released by the Correctional Service of Canada (CSC), even though there are 193 confirmed cases of COVID-19 contraction, there are close to 400 inmates flagged as being under some form of medical isolation, a term which expansively incorporates five categories:

1. New Warrant of Committals>Returns to Federal Custody Inmates.
2. Inmates with symptoms of influenza or COVID-19.
3. Inmates with diagnosed COVID-19 (laboratory or clinical diagnosis).
4. Inmates diagnosed with other viral illness such as influenza.
5. Inmates who are close contacts of other inmates (for example, on the same range).

CSC data further confirms that 588 federal inmates have been tested for COVID-19, representing roughly 4% of the total inmate population. The congruence between number of inmates tested and positive results is high, approximately 33%. Testing continues across the country as do medical isolation placements (not limited to facilities experiencing an outbreak) where early or presumptive indicators of infection appear to be present or in instances where other precautionary or separation measures dictate. It is still too early to say whether infection numbers and rates have peaked, but the cumulative and rising number of recovered cases to date (n = 45) and the overall lengthening of the period between doubling of cases are encouraging developments in flattening the transmission curve of this disease behind bars. To date, only one inmate has succumbed to COVID-19, though a number of cases have required hospitalization.



As we have seen in COVID-19 outbreaks in long-term care facilities, stopping the introduction of this virus once it is introduced from the outside in places where people live in shared but confined spaces has proved immensely challenging. On March 31, CSC issued national instruction (*Principles: COVID-19*), which included suspension of all visits. All transfers, except emergency, were discontinued. Prison gyms, libraries and other communal spaces were closed as preventative measures. Programs were suspended. Communal serving and eating were stopped, where feasible. Modified routines were implemented across the country, with a set of restrictions on out of cell time generally ranging from 2 to 4 hours. These routines remain largely in place at 38 non-affected institutions across the country.

At institutions experiencing an outbreak, the daily regime is much more restrictive and onerous. Daily access to the yard and fresh air exercise have been extremely curtailed, offered only every second day, half hour twice per week or sometimes simply suspended outright. For those under medical isolation, time out of cell is limited to just 20 minutes per day.

Additional and separate COVID-19 guidance was issued to all CSC staff members. All non-essential staff are working from home. Staff movement on and between units is restricted. Community contact is to be minimized. Elders and Chaplains are not on site

providing their services. National direction for staff indicates that soap and hand sanitizer were to be made available to everyone, though the Office has subsequently confirmed that inmate access to the latter has been denied on the basis of its high alcohol content, even though bittering agents can be added to the mixture. But even with all these measures in place and despite some contradictions and inconsistencies in their application (protective masks initially issued only to staff and inmates being an obvious example), practicing safe physical distancing in a prison context is to expect the impossible. It is remarkable that the virus has been contained to five penitentiaries.

Update on Office Activities and Emergent Findings

As an independent oversight and ombudsman body, my Office continues to provide an essential public service and critical activities through this pandemic. We remain vigilant, engaged and accessible. At a time when prisons are closed to the wider public, my Office is committed more than ever to shine a light on Canada's prisons. Though visits by staff to institutions remain suspended, Investigators are in contact with their assigned institutions on a weekly, and, in some instances, daily basis. Collaboration at the site level has been generally very good. The Office continues to take calls from inmates, engage directly with members of Inmate Welfare Committees and follow up on complaints. Investigators have reached out and have managed to speak with a few infected inmates only in Quebec Region so far in an attempt to hear first-hand accounts of how they are being treated. Investigators are collecting data, tracking cases and monitoring incidents.

Since mid-March, the Office has received nearly 500 complaints from inmates. To be expected, more than 25% of the issues brought forward to the Office over this time period are COVID-related. Complaints and allegations range from staff not wearing proper protective gear or not practicing safe physical distancing to loss of yard time, lack of access to programs, chaplaincy and overall restrictive routines and conditions of confinement.

The Office continues to closely monitor incident trends (e.g. self-harming, attempted suicides, and overdoses) that are often indicative of how imprisoned people adapt or cope with prolonged and uncertain periods of idleness, extended cellular confinement or lockdown. Conditions approaching or even surpassing solitary confinement (23 hours

in cell) are hard on mental health. I would encourage the Service to closely monitor the overall health and resiliency of the inmate population, including quickly responding to what appear to be clusters of self-injury at some non-affected sites. While I appreciate that the Service's over-riding priority is containing and controlling this virus, there appears to be an overall spike in incidents involving unusual or non-compliant inmate behavior at a number of sites, including disciplinary problems, protests, threats against staff, assaults on inmates, hunger strikes and other disturbances. The fact that all hearings by Independent Chairpersons in serious disciplinary cases have been suspended through COVID-19 remains a source of concern.

On the issues of testing and providing masks/facial coverings to inmates, I have recommended that all inmates and staff at institutions experiencing outbreaks be tested ([Letter from the Correctional Investigator of Canada to the President of the Public Health Agency of Canada](#)) and that masks be provided to inmates as an additional protective measure. These recommendations, which have been accepted by the Government, are consistent with public health measures in the rest of Canada. At the same time, mandatory testing and provision of masks to inmates (not just staff) recognizes that the spread and severity of COVID-19 infection in settings such as prisons and long-term care facilities is far more likely to be serious and widespread. Even still, the equivalency of care principle demands that the same measures and protections recommended by national public health authorities should be provided to the inmate population. For an outbreak to end, a facility must remain free of any COVID-19 cases for a period of 28 days (the sum of two incubation periods of the virus) after the onset of the first symptoms (or date of diagnosis) in the last confirmed case. As good prison health is also good public health, we cannot afford to leave anybody behind in the fight against this pandemic.

With respect to institutions experiencing COVID-19 outbreaks, conditions of confinement are extremely difficult. For affected or suspected cases, medical isolation is akin to a public health quarantine order. For infected inmates it means as little as 20 minutes out of cell time each day, and, on instruction of local public health authorities, even denial of access to the yard or opportunity for fresh air exercise. These conditions obviously violate universal human rights standards and though perhaps justifiable in context of a public health emergency, the stark choice for many infected inmates comes

down to taking a shower, or making a call to a lawyer, my Office or a family member. Even still, fundamental human rights and dignity adopted through a public health emergency must be respected.

It is very troubling that some infected inmates at Mission Institution have been subjected to periods of 24-hour lock-up with no access to phones, fresh air, lawyers or family members. Holding detained people incommunicado with the outside world in conditions of solitary confinement is a violation of universal human rights safeguards, and can never be considered justifiable, tolerable or necessary in any circumstance. To date, none of the 65 inmates infected with COVID-19 at Mission Institution have made or been able to contact my Office.

The practice of placing or housing infected with presumptive cases in medical isolation ranges, living units or so-called “COVID houses” (for women inmates) remains deeply concerning and perhaps speaks to prevailing limitations in resources, staffing and infrastructure. Though restrictions are gradually being eased at some affected institutions, including opening up of the yard and more time on the living units for the general population, daily routines and conditions in institutions where COVID-19 is present remain extremely depriving.

I continue to engage regularly with the Commissioner, Minister, media and senior levels of the federal public service. On April 16, I visited Port Cartier institution, which is the site of a major COVID-19 outbreak. I did not take the decision to drive to or visit this remote facility lightly. I chose to inspect this facility because it was the first institution to experience an outbreak, and simultaneously report a major incident related to COVID-19 that included deployment of the Emergency Response Team. In truth, it took a number of weeks for my Office to secure proper Personal Protective Equipment and thus be in a position to safely visit an affected institution. Donning protective gear and my temperature duly taken before entry, I personally witnessed the challenges of how one maximum-security institution was managing after the first presumptive inmate infection there was detected on March 26. I was well-received by staff and was impressed by the Warden’s leadership. The resolve and dedication of front-line essential staff who literally put their lives on the line to serve is deeply commendable. At this facility, 150 of 200 of front-line Correctional Officers were sent home for 14 days by local public health authorities in an effort to contain the spread of the contagion.

More than 30 staff have been infected. Eight Correctional Officers from three different Quebec institutions were called in to assist as an emergency measure. Though still severely under-resourced, remaining staff have stepped up to provide essential services; some have volunteered to help out in the kitchen. The local community has also responded by donating much-needed sanitizing equipment. The solidarity and coming together of a tight-knit community in a time of need were genuinely heartening to witness.

Through these extraordinary circumstances, some general best practices have emerged, first and foremost among them include daily and frequent checks by registered health care staff. To CSC's credit, mitigating measures have been introduced at all prisons, including extension of phone and video-visitation privileges, increased access to canteen and snacks, and, in some institutions, provision of televisions and/or radios for inmates that lack them in their cells. Inmate pay has also been restored to pre-COVID levels, in line with interventions I have made to the Commissioner and Minister of Public Safety. It is a sign of the times that some prison industries are retooling to fabricate protective facial coverings. These measures recognize the extraordinary circumstances, but also the resiliency and adaptability of staff and inmates alike living or working under the constant threat of contracting a potentially deadly disease.

Concluding Observations and Recommendations

I would offer three concluding observations and two recommendations based on my recent institutional visit, which are confirmed by findings across a number of sites. First, it is not clear that CSC was resourced or fully prepared to deal with this pandemic when it eventually and predictability was introduced from the outside. Though CSC prepares for seasonal influenza each year, with all respect COVID-19 does not behave like a normal virus. At Port Cartier, prior to March 26th, there was just one registered nurse, one part-time physician and one psychologist on staff to care for 175 inmates, many of whom have underlying mental and/or chronic physical health conditions. Following the outbreak, two nurses were subsequently deployed to fill existing vacancies, but the capacity and contingencies to manage what had become a full blown health crisis were, by this time, quickly overwhelmed. This is also the experience at other penitentiaries that are dealing with outbreaks. There is much that we do not know about this virus, but speed and preparedness appear to be essential ingredients in containing its spread.

We knew from outbreaks in other countries that COVID-19 hits vulnerable people and closed settings hard, fast and indiscriminately.

Secondly, linked to my first observation, CSC's infection prevention and control (IPC) protocols and procedures need to be independently verified, audited, inspected and tested by outside expert bodies as a matter of emergent priority. There is an urgent requirement for an external audit of IPC procedures to be conducted, including cleaning, hygiene, staff awareness, education and training. Local and/or national public authorities need to visit, inspect and confirm that federal institutions have the capacity, resources, staffing and equipment to deal with an outbreak, when or if it occurs. Though it is encouraging that these inspections are occurring at some institutions experiencing an outbreak, it is important that IPC verification by an independent expert body is completed at all sites to provide assurance that CSC is prepared and that policy and procedure is consistent with appropriate public health guidance.

I recommend that local, provincial or national public health authorities immediately visit, inspect and verify that proper infection prevention and control procedures are in place in all federal penitentiaries in Canada.

Thirdly, it is clear that a pandemic of this nature, which has affected multiple sites at different times, cannot be managed or controlled centrally. Even through multiple outbreaks, there has been a general lack of proactive and regular information-sharing from CSC. The Service has not been as transparent or responsive through this crisis as it should be. A centralized (and often sanitized) approach to crisis communications does not serve the public interest well; indeed, top down command-and-control hierarchies can easily contradict or conflict with the direction of local public health authorities. In most cases, Wardens or their Deputies are best positioned to provide timely information and give accurate updates to concerned local communities, staff, families and other stakeholders. More than ever, this is a time to decentralize rather than control communications.

I recommend that CSC enhance its public communications during this crisis, including allowing Wardens (or their Deputies) to address the media on a regular basis to provide real-time information, updates and situation reports through the course of this pandemic.

Office of the Correctional Investigator**April 23, 2020**

Finally, going forward, my Office will continue to do what we do best. In a time like this it is important that the substance of our work is known and communicated widely, especially considering the lack of information released by CSC to the public so far. My office will consider conducting exceptional visits, as required and consistent with directives of local public health authorities. In due course, I expect restrictions to be gradually lifted at non-affected sites. The imposition of any new restrictions related to COVID-19 will be vigilantly monitored to ensure they have a legal basis, are necessary, proportionate, respectful of human dignity, and restricted in duration. Finally, my Office will continue to seek the advice and expertise of national public health authorities and bring forward concerns and issues as they arise.

Dr. Ivan Zinger
Correctional Investigator

April 23, 2020

This is **Exhibit "B"** to the
Affidavit of Catherine Latimer,
affirmed before me by videoconference
this 18th day of July, 2020



A Commissioner, etc.

COVID-19 Update for Federal Corrections – June 19, 2020

Introduction

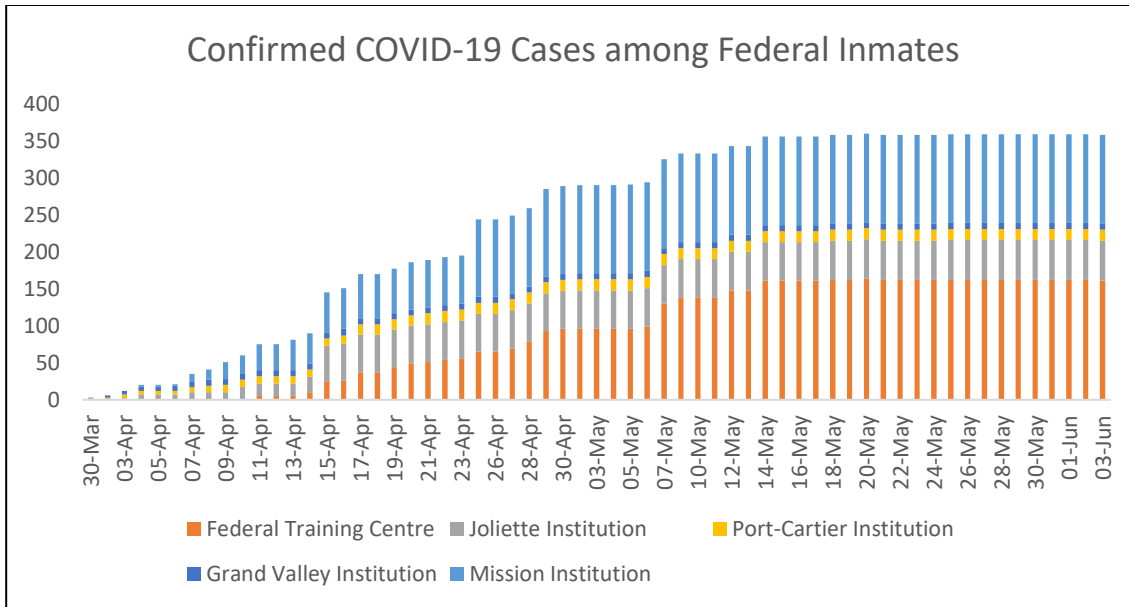
This report assesses the situation, trends and developments for COVID-19 in federal corrections. It serves as an update of my initial status report of April 23, 2020.¹ This update has three sections:

1. A statistical overview of COVID-19 in federal corrections, as of June 19, 2020.
2. Demographic profile of federal inmates who have tested positive for COVID-19 over the course of the pandemic.
3. Assessment of CSC business resumption plans and priorities for shaping the ‘new normal’ in federal corrections, including easing of restrictions.

1. Statistical Overview

As of June 19, 2020, there is just one known active case of COVID-19 among federally sentenced inmates. Overall, since the start of the pandemic, there have been 360 confirmed cases of COVID-19 among federal inmates, representing approximately 2.7% of the total inmate population (n= 13,245). The outbreak is still contained to five penitentiaries, three of which have undergone mass testing as recommended by this Office – Mission (Pacific), Joliette prison for women (Quebec) and the Federal Training Centre (Quebec).

¹ See, Office of the Correctional Investigator, COVID-19 Status Update (April 23, 2020) <https://www.ocibec.gc.ca/index-eng.aspx>

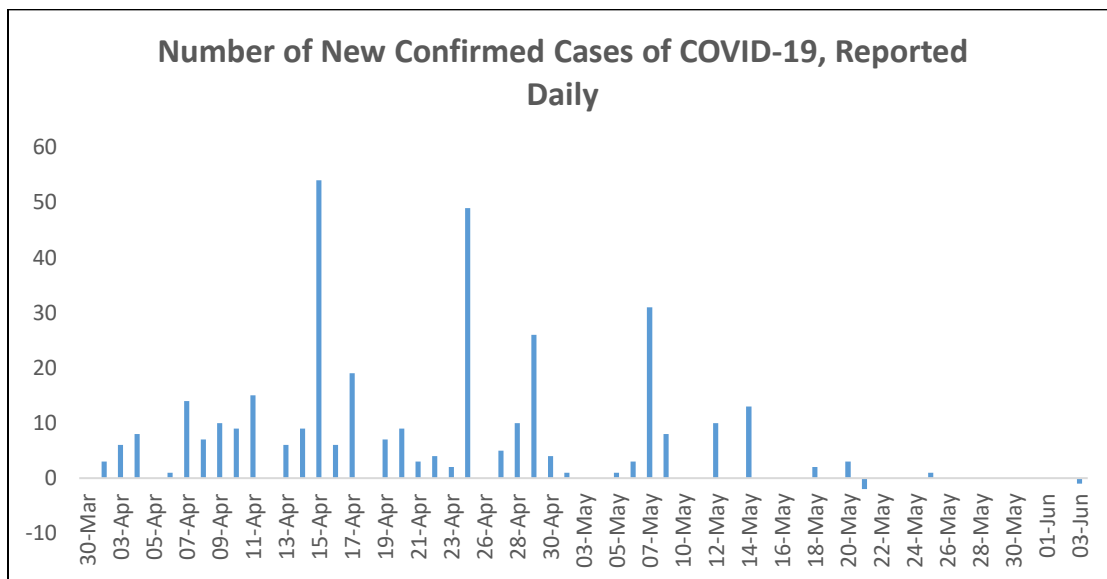
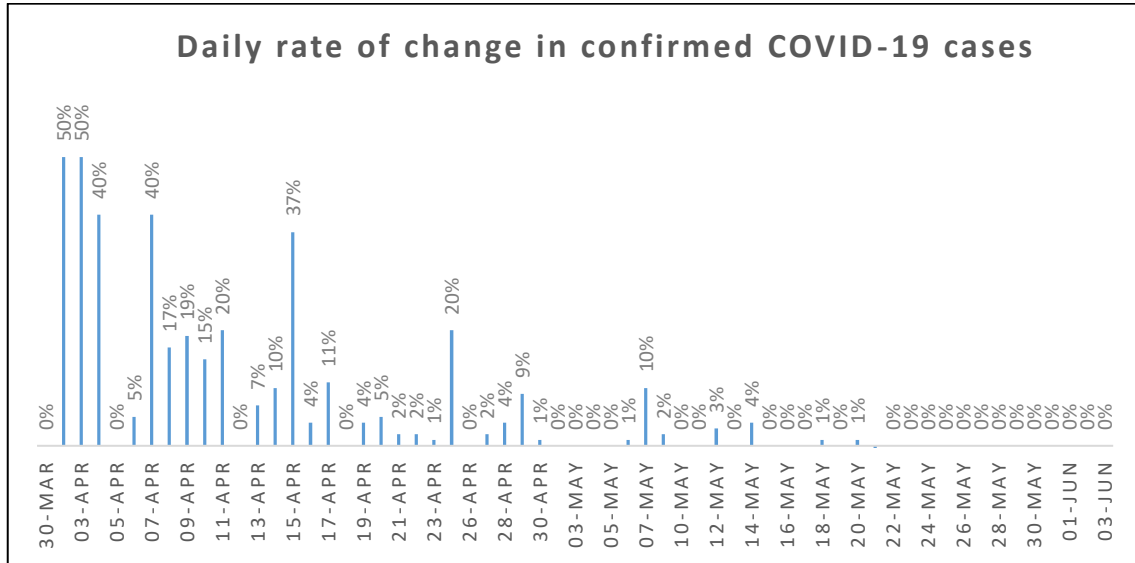


To date, close to 1,300 COVID-19 tests were administered in federal correctional facilities (almost 10% of the total inmate population). There have been two inmate deaths attributed to the disease.² The second and still latest COVID-related inmate death occurred on May 3 at the Federal Training Centre. It serves as a tragic reminder that we are dealing with a potentially deadly disease. The fact that this Quebec facility also houses a high proportion of aging and elderly individuals (approximately half of the population is over 50 years of age) amplifies the need for caution and vigilance among CSC staff and administrators.

Incidence data indicates that the total number of confirmed COVID-19 cases among federal inmates appears to have stabilized and is holding relatively stable since the end of April. Indeed, there have been relatively few new daily-confirmed cases from about mid-May onward. In fact, the daily rate of change in confirmed cases of COVID-19 has continued to drop over the course of the pandemic. From April 29 onward, the rate of change in positive cases has remained between 0-1% (with the exception of the 10% spike on May 7, which appears to be due to mass-testing from the week prior). At the time of writing, Joliette and the multi-level facility at the Federal Training Centre (FTC),

² For updated COVID-19 test results in federal correctional facilities, including total number of positive cases (recovered and active) see <https://www.csc-cc.gc.ca/001/006/001006-1014-en.shtml>. CSC’s decision to publish this data and to maintain a live record through the pandemic is a best practice in public transparency and accountability.

though not reporting any new cases in weeks, are still considered outbreak sites until confirmed otherwise by regional health authorities.



Though CSC does not publicly report the number of staff infections, I understand that the majority of these cases are also now considered resolved or recovered. Overall, these trends and developments are positive and indicative of the mobilization of tremendous effort, commitment and resolve of CSC staff and management in recent

months to flatten the curve in federal corrections. Though I urge CSC to remain vigilant, like the rest of Canadian society, I believe it is also time to shift focus and begin the phased and prioritized process of restoring services, programs, rights and other statutory obligations that were interrupted or suspended as preventive measures by the pandemic. The third section of this update addresses these issues.

2. Demographic Profile of Inmates Who Have Tested Positive for COVID-19

The following is a general profile of demographic and sentencing characteristics of inmates who tested positive for COVID-19 since the start of the outbreak (n=344).³

As shown in Table 1, the majority of cases involved White/Caucasian (61.6%) males (83%) housed in medium security facilities (86%). Quebec region has experienced the highest number of COVID-19 cases. The average age of those infected was 45.7 (median age = 46), with ages ranging from 21 to 83. Most individuals who tested positive for COVID-19 were serving their first federal sentence and had an average sentence length of 3.69 years. The majority of individuals were classified as high risk (79%) and/or high need (76%). Approximately 17% of individuals had a flag on their file indicating the presence of mental health concerns; however, given data quality/consistency issues associated with flags, this number is likely an under-estimate of need.

It should be noted that there is an over-representation of Inuit inmates who contracted the virus, compared to their representation in the incarcerated population. Specifically, while Inuit individuals account for less than 1% of the total incarcerated population, they represent 5% of all COVID-19 cases in federal corrections. The majority of positive COVID-19 cases involving Inuit inmates occurred at one Quebec institution.

³ Office analysis is based on N=344 vs. CSC reported data N=360.

Table 1. Population profile of inmates infected with COVID

	# (Median)	%
Average Age	45.7 (46)	-
Gender		
Male	284	83
Female	57	16.6
Other	-	<1
Ethnicity		
White/Caucasian	212	61.6
Indigenous	74	21.5
Black	20	5.8
Other	38	11
Security Classification		
Minimum	26	7.6
Medium	297	86.3
Maximum	16	4.7
Average Sentence Length (years)	3.69 (2)	-
Sentence Number	1.58 (1)	-
Region		
Quebec	221	64.2
Pacific	112	32.6
Ontario	7	2
Atlantic	-	<1
Prairie	0	0
Risk level		
High	272	79
Medium	66	19
Low	6	1.7
Need level		
High	260	75.6
Medium	76	22
Low	8	2.3

Note: Indigenous ethnicity category includes First Nations, Inuit, and Metis individuals. Ethnicity “other” category includes thirteen categories with numbers too small to provide in the table.

Though average age among those infected appears elevated (perhaps to be expected), no other demographic factor stands out in this profile. COVID-19 is an

indiscriminate disease, though we know that the elderly, immuno-compromised and individuals with an underlying health condition are more vulnerable. In closed, high-risk transmission environments like a prison, much depends on how, when and where the disease was first introduced into the institution and what steps were taken to contain it. As I have said previously, the fact that outbreaks were limited to just five institutions is itself remarkable, but we need to better understand why these five, and not others. A site-by-site epidemiological review of federal inmates who contracted COVID-19 would be extremely beneficial in shoring up CSC's pandemic defences and response, and is even more necessary and urgent in light of the risk for a second wave of the virus.

I recommend that the CSC conduct a COVID-19 epidemiological review before September 2020.

3. Shaping the 'New Normal' in Federal Corrections

CSC has recently convened a high-level internal working group overseen by a Steering and Advisory Committee. Its mandate is to shape the 'new normal' in federal corrections by providing national plans, framework and guidance for how and when to return CSC to full operations. With respect to easing of restrictions imposed by CSC to control and contain the virus, including lockdowns, suspension of visits, limits on out of cell and yard time, CSC "will begin with those that support our legislated mandate and pose the lowest health and safety risks." The principles guiding this "phased and gradual" restoration of interventions, programs and services will be "dynamic, adaptive, coordinated, collaborative and transparent."

The planning assumptions, principles and risk management framework governing the implementation of the new normal in corrections seem reasonable. The public needs and has a right to know how and when CSC intends to resume 'normal' operations, including when the easing of restrictions at each site will occur. Ultimately, as the planning documents make clear, CSC will "decide which measures can be eased, maintained or if additional restrictions are needed." I believe there is room and need for public scrutiny in this exercise, including some degree of Ministerial oversight or government accountability.

I recommend that CSC's *'Shaping the New Normal'* plans, priorities and principles, to the fullest extent possible, be made accessible and available to the public, including posting of meeting minutes and Records of Decisions of the various planning and working groups on CSC's public website.

As the situation stands today, restrictions imposed by the pandemic show little sign of abatement. Indefinite lockdowns or extended periods of cellular isolation continue at many facilities, even those that have not experienced an outbreak. Ongoing monitoring by my Office indicates pent-up frustration and rising tension in a number of facilities. My Office is looking for an overall lifting of restrictions on conditions of confinement and a return to some kind of 'normality' in institutional routines, including opportunities for more out of cell time as a matter of priority. It is important to acknowledge that a number of statutory obligations, including programs, services and even basic human rights, were suspended, violated or withdrawn as temporary emergency measures to deal with the pandemic. In some affected institutions, public health authorities imposed restrictions that included near total cellular confinement, and even denial of fresh air exercise. It needs to be said that some of these restrictions reach beyond measures or controls contemplated in either domestic or international law. Public health emergencies must be managed within a legal framework. Rights need to be respected and restored.

Other priority areas of concern for my Office include the Structured Intervention Units or SIUs. These units, which replaced administrative segregation shortly before the outbreak, were intended to provide an enhanced level of services and interventions, increased out of cell time and more opportunities for meaningful human contact for those who require separation from others because of safety or security concerns. Unfortunately, through the course of this pandemic, SIUs have largely returned to their former function, as places of near total isolation and deprivation. Elders and chaplains, not considered an essential or critical service by CSC, have not been able to provide in person spiritual counsel to their clients since the start of the pandemic. Access by phone or videoconference has been negligible. This situation is unacceptable. Independent Chairpersons (ICPs) have not heard or adjudicated serious disciplinary cases in months and it is not acceptable or legal for this function to continue to be assumed or ignored by CSC. For prisoners, the pause in programming has had a freezing effect on release planning and community reintegration. These critical services and interventions must be

restored without further delay. Overall, as in the wider community, the gradual resumption of services, while continuing to adhere to public health guidance, will have a positive impact on coping and conditions behind bars.

I welcome the fact that external infection prevention and control inspections have now been completed by public health authorities at most penitentiaries, a measure that I called for in my initial COVID-19 update. These audits undoubtedly hold valuable lessons and good practices and identify gaps or vulnerabilities with respect to preparedness at the site level.

The results of external infection prevention and control audits/inspections are a matter of public interest and therefore I recommend that they be publicly disclosed.

Going forward, these reviews could also help CSC identify those who met or could have benefited from priority release (either for health or vulnerability reasons or to meet earliest parole eligibility dates), a notable shortcoming thus far in CSC and the Parole Board's response to the pandemic. Even as new admissions and total population counts declined through April and May, there was no corresponding increase in the number of releases through this time. The population decline noted since the start of the pandemic is mostly attributable to the fact that the courts have not been functioning or sending individuals to federal custody in usual numbers.

The public release of numbers showing a decline of approximately 700 inmates (about 5% of the total inmate population) since the start of the pandemic would benefit from being placed in their full and proper context. Warrant of committal admissions are down about 500 cases since when the pandemic was declared. The federal inmate population is decreasing largely because of the drop in admissions and fewer revocations rather than any major increase in releases.⁴ My Office anticipates that when the courts start sitting again that there will be a significant increase in warrant of committal admissions.

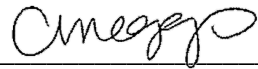
In anticipation of the pandemic, greater and closer collaboration between CSC and the Board could have been expected. There simply was no advanced, coherent or

⁴ Day parole releases are slightly up in the last six weeks. There is also an uptick in compassionate releases.

concerted effort or plan in place to thin the federal prison population in order to slow the transmission of COVID-19 in federal corrections. Many provincial correctional authorities led the way in this regard, with no apparent or lasting impact on public safety. The federal response in this respect has been slow, contradictory, confused and deficient. This is a situation that can be easily resolved now that the virus spread has appeared to have been contained and before the expected next wave.

Finally, in terms of next steps and priorities for my Office, as soon as it is safe to do so, I intend to conduct short, but targeted inspections of institutions in the Ontario and Quebec regions, visits that can be completed by same day travel. These inspections will target priority areas and concerns addressed above, including a review of business resumption plans and progress in restoring services at the site level.

This is **Exhibit “C”** to the
Affidavit of Catherine Latimer,
affirmed before me by videoconference
this 18th day of July, 2020



A Commissioner, etc.

Federal prison tensions rise amid COVID lockdowns; activists want releases

Colin Perkel / The Canadian Press

APRIL 23, 2020 09:21 AM



A correctional officer looks on at the Collins Bay Institution in Kingston, Ont., on Tuesday, May 10, 2016, during a tour of the facility. Efforts to contain the rapid spread of COVID-19 in Canada's federal prisons have led to an increase in tensions that have prompted correctional officers to use force on at least two occasions in recent days, according to a prominent prisoner rights group. THE CANADIAN PRESS/Lars Hagberg

TORONTO — Efforts to contain the rapid spread of COVID-19 in Canada's federal prisons have led to an increase in tensions that have prompted correctional officers to use force on at least two occasions in recent days, according to a prominent prisoner rights group.

Information from prisoners, the John Howard Society said, was that guards at the Donnacona maximum security prison in Quebec used tear gas and rubber bullets on inmates on Tuesday to quell unrest, leaving at least one injured. In another incident, they said guards used percussion grenades at the medium security Collins Bay institution in Ontario.

Severe virus outbreaks have occurred at the Joliette prison in Quebec among other penal institutions. Although testing and information has been sparse, at least 193 federal inmates have been infected — only 588 have been tested — as have 79 guards, according to latest available figures. At least one prisoner has died.

The data suggest the spread among the 14,000-strong prison population far exceeds that of the general population. Authorities have responded by locking down inmates and placing those infected in "medical isolation." In some cases, inmates have been placed in segregation cells.

The result has been a disruption in routines, depriving inmates of normal activities and interpersonal contact, causing stress and exacerbating mental health concerns.

"If prisoners are locked down for extended periods of time, which they are being with no activities and no visits and limited access to canteens and things like that, they get agitated," said Catherine Latimer, the society's executive director. "It's not a good thing."

One inmate at Donnacona Institution told The Canadian Press on Thursday that the prison stopped allowing outside visitors several weeks ago. Renford Farrier said frustrated inmates protested by using garbage cans to stop their cell doors from closing.

Guards reacted by firing tear gas and then rubber bullets, said Farrier, who is serving a life sentence for second-degree murder for killing a man and has spent 29 years behind bars. One inmate needed stitches in the leg at an outside facility, while another was shot in the back and bruised, he said.

"There was no threat to the staff," Farrier insisted.

Latimer said prisoners at Collins Bay were protesting the failure of guards to wear masks last week by refusing to return to their cells. Correctional officers arrived at five o'clock in the morning and used percussion grenades, she said inmates told her.

"That's very heavy-handed use of force," Latimer said of the incidents. "The excessive force was significant."

Correctional authorities did not respond to a request for information on the reported incidents.

Prison ombudsman, Ivan Zinger, refused to discuss the situation: "We are aware and we are investigating," Zinger said in an email.

To ease the situation, several groups have called on the federal government to use its executive powers to release large numbers of low-risk inmates. They say those already on some form of parole or allowed unescorted absences as well as others could be let out on conditions such as strict house arrest.

Older inmates and those with medical conditions — groups known to be particularly vulnerable to the virus — should be given priority for release, advocates say. Unused student residences or military barracks could be used to house them, they suggest.

"To date, nothing like that has been implemented," said Sen. Kim Pate, who has been calling for immediate action since March 13. "It's very late."

Pate said the government could release lower-risk inmates. Correctional Service Canada said it was "conducting an analysis of the offender population" so it could make release recommendations.

A spokeswoman for Public Safety Minister Bill Blair said authorities had asked the Parole Board of Canada to do its part.

In response, the board said it had been trying to streamline processes and speed up decisions. In some cases, parolees might be allowed to move home instead of to a half-way house, the board said.

Activist David Milgaard, who spent 23 years in prison for a murder he did not commit, called on Prime Minister Justin Trudeau and correctional authorities to act urgently.

"It's documented that 80 per cent of the people that are in there are no real threat," Milgaard said from Alberta. "They weren't sentenced to death."

In a statement Thursday, the union representing guards said the prison system had been unprepared for the emerging pandemic and slow to react.

"A reactive and slow response only endangers staff, inmates and the general public," said Jeff Wilkins, president of the Union of Canadian Correctional Officers.

On Tuesday, a COVID-positive prisoner at Joliette filed a proposed class-action lawsuit against Correctional Service Canada's handling of the pandemic.

This report by The Canadian Press was first published on April 23, 2020.

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This is **Exhibit “D”** to the
Affidavit of Catherine Latimer,
affirmed before me by videoconference
this 18th day of July, 2020



A Commissioner, etc.

----- Forwarded message -----

From: **Catherine Latimer** <clatimer@johnhoward.ca>

Date: Wed, Mar 18, 2020 at 9:51 AM

Subject: COVID19 and Federal Prisons

To: <Bill.Blair@parl.gc.ca>

Cc: Anne.Kelly@csc-scc.gc.ca <Anne.Kelly@csc-scc.gc.ca>, Oades Jennifer (PBC-CLCC NO-BN) <Jennifer.Oades@pbc-clcc.gc.ca>

Minister Blair, Commissioner Kelly, and Chairperson Oades

The spread of Covid 19 poses a significant risk to the health of Canadians. The casualties from the virus would likely be severe should it enter our prisons due to the densely populated conditions, many higher risk individuals and limited health care capacity that is already strained given the physical and mental health issues of federal prisoners.

I commend your efforts aimed at preventing the pandemic from reaching prisoners. Limiting visitors, screening of staffers and others who enter prisons, and restricting social interaction among prisoners would likely be helpful in reducing the spread of the disease but the resulting isolation for prisoners poses its own risks. While video conferencing might relieve some of the known negative consequences of such isolated confinement, how many of the 14,000 prisoners would have access to these services?

Efforts must be made to reduce the number of prisoners. I would encourage the Parole Board of Canada to expedite its releases particularly for those who have been recommended for parole and for those who are approaching their statutory release date. If there is a capacity issue in community residential facilities which could delay prisoners leaving prison, I encourage you to seek access to resources allocated to respond to the pandemic to ease this problem. If the prisoner has a home willing to accept him or her, I would urge the Board place those individuals in those homes accompanied by enhanced supervision, electronic monitoring, or whatever else is thought needed to safeguard the public.

Recognizing both the independence of parole board members and the limits on its capacity, the number of prisoners released into the community in a timely manner through parole board decisions might be limited. Given the exigencies of the circumstances and the need to protect the lives of Canadians, I urge the Minister to consider recommending the use of the Royal Prerogative of Mercy. The Letters Patent preserved this prerogative for the Governor General of Canada. Upon your recommendation, the Governor General has the authority to grant to a prisoner "any respite of the execution of the sentence ... for such period as to our Governor General may seem fit". You could recommend that respites from serving a sentence in a prison be granted for certain prisoners during this public health emergency as an efficient mechanism to protect lives. It would be especially useful for protecting

prisoners who might be at high risk of death if they contracted the virus in prison, such as those who might have two or more of the following conditions: immunosuppression, chronic illness, or are elderly. It could also be used to move other prisoners out of custody and into the community under some form of house arrest since many prisoners have families and homes who would want to receive them. (I have been contacted by wives and mothers who are anxious to have their loved ones at home during the pandemic and I would be pleased to forward those names to you.) Recommending respites from serving sentences in prisons pursuant to the Royal Prerogative of Mercy is an exceptional tool which would allow you to act expeditiously to protect lives.

We wish you all the best during this difficult time. If there is anything the John Howard Society of Canada can do to assist you or your agencies help with the crisis and save lives, please let us know.

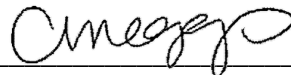
Yours sincerely,

Catherine Latimer,

Executive Director,

John Howard Society of Canada

This is **Exhibit "E"** to the
Affidavit of Catherine Latimer,
affirmed before me by videoconference
this 18th day of July, 2020

A handwritten signature in black ink, appearing to read "C. Meago", written over a horizontal line.

A Commissioner, etc.



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
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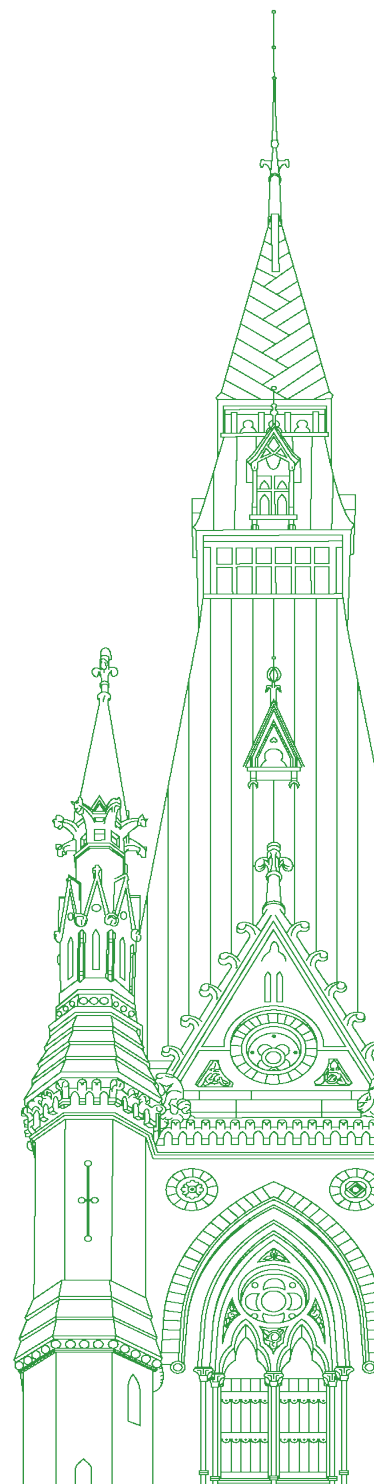
Standing Committee on Health

EVIDENCE

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Monday, June 15, 2020

Chair: Mr. Ron McKinnon



Standing Committee on Health

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• (1200)

[English]

The Chair (Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.)): I call this meeting to order. Welcome, everyone, to meeting number 27 of the House of Commons Standing Committee on Health. Pursuant to the order of reference of May 26, 2020, the committee is resuming its briefing on the Canadian response to the outbreak of the coronavirus.

To ensure an orderly meeting, I would like to outline a few rules to follow.

Interpretation in this video conference will work very much like in a regular committee meeting. You have the choice at the bottom of the screen of either floor, English or French.

As you are speaking, if you plan to alternate from one language to the other, you will need to also switch the interpretation channel so that it aligns with the language you are speaking. You might want to allow for a short pause when switching languages.

Before speaking, please wait until I recognize you by name. During questioning, the questioner will indicate to whom they want the question directed.

When you are ready to speak, you can click on the microphone icon to activate your mike.

As a reminder, all comments by members and witnesses should be addressed through the chair, and when you're not speaking, your mike should be on mute.

I now welcome our first panel of witnesses. From the Correctional Service of Canada, we have Ms. Anne Kelly, commissioner; Alain Tousignant, senior deputy commissioner; and Jennifer Wheatley, assistant commissioner, health services. As well, from the Parole Board of Canada, we have Sylvie Blanchet, executive vice-chairperson; and Daryl Churney, executive director general.

We will start with the Correctional Service of Canada. You have 10 minutes, please.

Ms. Anne Kelly (Commissioner, Correctional Service of Canada): Good afternoon, Mr. Chair and members of the committee. We appreciate the opportunity to update you on the current status of COVID-19 cases in our institutions, before continuing with an overview of the Correctional Service of Canada's, or CSC's, testing approach and plans moving forward.

Mr. Chair, I am very pleased to be able to report that thanks to the tireless efforts of staff, and because of the exceptional measures

taken, we have only one remaining active COVID-19 case among inmates across our 43 institutions.

Since the pandemic began, we have had outbreaks in five of our 43 institutions, with 360 inmates testing positive out of a total of 13,900 inmates. There are 357, or 99%, who have fully recovered. One inmate from the federal training centre in Quebec remains in hospital, but not in the intensive care unit, and we have had two deaths.

Of the five outbreaks, four are fully resolved, meaning that 28 days have elapsed since the last positive case. Our last outbreak at the federal training centre in Quebec will be declared over tomorrow, if there are no new cases. It is worth noting that we had no outbreaks in the Atlantic and the prairie regions, and the one in Ontario was limited to eight inmates in one institution.

Among CSC staff, out of 142 of our employees who have tested positive to date, 132, or 93%, have fully recovered.

I want to take this opportunity to recognize the extraordinary efforts made by our employees for their ongoing work under these exceptional and challenging circumstances.

From the outset of the pandemic, CSC took a proactive approach, guided by public health authorities and working closely with our union partners, to ensure the health and safety of staff and offenders in all of our institutions. When the pandemic was declared on March 11, we focused heavily on preventing the introduction of the virus in our institutions by quickly suspending visits from the public, temporary absences except when medically necessary, work releases and inter-regional transfers.

At the end of March, the virus was introduced into one of our facilities, and the goal became the prevention of its spread. Over time, that included measures such as strengthening infection and prevention control measures, and cleaning and disinfecting protocols; actively screening all staff at the front entrance; moving to unit-based staffing to prevent staff rotation throughout the institutions; training staff on donning and doffing PPE; limiting the movement of inmates; conducting daily wellness checks for signs of symptomatic inmates; immediately testing for COVID-19 anyone reporting symptoms; medically isolating, for 14 days, inmates with symptoms or who had tested positive for the virus, or who were being admitted to federal custody; working with local public health authorities to ensure inmates' access to local hospital care, if required; issuing masks to staff, symptomatic and positive inmates, and then to all inmates; implementing our own tracing capability by training over 200 of our employees; and reconfiguring our COR-CAN shops to produce disposable and washable masks and gowns.

CSC has also worked with the Public Health Agency and local health departments and community experts to have independent, expert-led reviews completed in all of its facilities. To date, all 43 of CSC's institutions have had an infection prevention and control review or an environmental health review completed. The reviews acknowledge that COVID-19 is difficult to contain in closed environments and recognize the strong front-line leadership and the commitment of CSC staff to prevent and contain the spread of the virus.

- (1205)

There's also a reminder of the importance of training staff on donning and doffing PPE, having strong cleaning and disinfecting practices, and limiting the movement of staff and inmates to prevent spread. None of the findings are insurmountable but they will require continued focus to be sustainable in the months to come. Work is currently under way to ensure CSC is well positioned moving forward.

Now I'd like to speak briefly about CSC's testing strategy. First, health care staff actively screen and monitor all inmates for COVID-19 symptoms. As previously mentioned, CSC medically isolates inmates who are newly admitted to CSC or returning to CSC as a result of a suspension or revocation of their release, inmates who have symptoms or who have tested positive and their close contacts until medically cleared, and inmates who are released into the community from an institution in which there is an outbreak, on the recommendation of local public health.

With respect to staff, any employee who is symptomatic or who has tested positive as well as their close contacts must self-isolate for a minimum of 10 days including two consecutive days symptom-free. Currently, symptomatic inmates and staff get tested. Contact tracing is then completed and testing is offered to those in close contact. Inmates and staff who are at risk of contracting COVID-19 when there is an outbreak also get tested. Following any positive test, contact tracing is completed and testing is offered.

Moving forward, CSC will offer testing based on its recently expanded testing strategy. The strategy is responsive to CSC's closed environment, is well received by the unions and exceeds most, if not all, provincial testing strategies. In addition to the testing cur-

rently completed, the expanded testing strategy includes testing of all inmates at time of admission or return to federal custody. This is in addition to the 14-day medical isolation that will continue. It also includes testing of all inmates prior to their release into the community. Positive results will be reported to the local public health authorities and a plan jointly developed.

Finally, the expanded testing strategy also includes expanding the testing of staff and inmates in institutions located in areas where the rate of community transmission is elevated, which is called asymptomatic surveillance. For any positive tests, contact tracing will be completed and testing offered. The testing will be offered again over several weeks or months as long as communities in which the institutions are found continue to have elevated transmission. There are currently four areas in the Quebec region that have high rates of community transmission, and there are seven institutions located within those four areas. Testing has been offered to all staff working in the institutions in the Laval area.

CSC currently has sufficient capacity to test all symptomatic inmates, which it is currently doing. However, the expanded testing capacity will be achieved through partnerships. CSC has already begun reaching out to health partners to increase its capacity through MOUs with public health authorities as well as contracts with private labs. The strategy will be implemented in a phased approach over the next several weeks and months as MOUs and contracts are finalized. In order to prevent and contain the spread of COVID-19 in the months to come, especially as CSC starts easing some of the restrictions it has imposed, the expanded testing strategy will be of critical importance. Although the institutions were never closed, measures were taken to prevent and contain the spread of the virus. Visits were suspended and programming was curtailed.

To shape our new normal, I've put in place a governance structure made up of subject matter experts, union partners and senior managers from different sectors of CSC, including regional representatives. External stakeholders are also involved, including our citizens' advisory committee chair and non-governmental organizations. This approach allows us to examine what needs to resume and when, as well as the safeguards that need to be put in place. Our approach will be gradual, likely vary across different regions, and take into account public health advice.

• (1210)

As a first step, we would be looking at reinstating small group programming for inmates at some institutions, as this is key to their successful rehabilitation and to public safety.

In conclusion, as I say often, there is no greater responsibility than having the care and custody of other human beings. As commissioner, I appreciate the work of our staff, partners, stakeholders and volunteers for their amazing efforts during these extraordinary times.

Thank you, Mr. Chair and members of the committee. I'll be happy to respond to any questions you may have.

• (1215)

The Chair: Thank you.

We will go now to the Parole Board of Canada.

You have 10 minutes. Please go ahead.

Ms. Sylvie Blanchet (Executive Vice-Chairperson, Parole Board of Canada): Thank you, Mr. Chair and members of the committee.

With me today is the board's executive director general, Daryl Churney. We are pleased to appear before this committee as part of its study into Canada's response to the COVID-19 pandemic. I will use my opening statement to outline the various measures taken by the Parole Board of Canada since the outset of COVID-19 to ensure the continuity of its operations and the delivery of its important public safety mandate.

However, before I do so, I would like to provide committee members with some information about the PBC's mandate, as the board has not previously appeared before this committee. The PBC is an independent administrative tribunal that reports to Parliament through the Minister of Public Safety and Emergency Preparedness. We are part of the public safety portfolio, which also includes the Correctional Service of Canada.

The board has the authority, under the Corrections and Conditional Release Act, CCRA, to make conditional release decisions for federal offenders serving—

[*Translation*]

Mr. Luc Desilets (Rivière-des-Mille-Îles, BQ): Mr. Chair, I rise on a point of order.

Would it be possible to slow down the pace a little bit?

The content is very interesting. Unfortunately we're missing some of it. Unless it's only in French—

[*English*]

The Chair: Thank you, Mr. Desilets.

If the speaker could slow down a tad, that would be helpful. Thank you.

Ms. Sylvie Blanchet: I will, thank you.

The board has authority, under the Corrections and Conditional Release Act, CCRA, to make conditional release decisions for federal offenders serving sentences of two years or more. Some authorities in law, for the release of offenders, are the responsibility of the Correctional Service of Canada. The Parole Board also makes parole decisions for provincial and territorial offenders serving sentences of less than two years in all provinces and territories except Ontario and Quebec, which have their own parole boards.

PBC also has legislated responsibility to make decisions on record suspensions under the Criminal Records Act and the Criminal Code of Canada, to order or refuse to order the expungement of a conviction under the Expungement of Historically Unjust—

[*Translation*]

Mr. Luc Thériault (Montcalm, BQ): Mr. Chair, I rise on a point of order.

I'm sorry, but the sound quality of the interpretation is very poor. This should be fixed. We can't hear the presentations properly.

[*English*]

The Chair: Madam Clerk, is this a problem we can address right now, or do we need to suspend?

The Clerk of the Committee (Ms. Erica Pereira): Thank you, Mr. Chair. It should be fine to go now.

The Chair: We'll try again. Monsieur Mr. Desilets, please don't hesitate to let us know if it's not working.

Go ahead, Madam Blanchet.

Ms. Sylvie Blanchet: Thank you.

—and to make recommendations for the exercise of clemency through the royal prerogative of mercy.

The PBC consists of both GIC-appointed board members as well as public service employees who support them in their decision-making role. The PBC is a community board. We are, by law, to reflect the diversity of Canadian society. Our board members have diverse backgrounds spanning the fields of criminology, law, corrections, education, psychology, social work and the private sector, to name but a few.

Our conditional release program represents the majority of our work. In 2019-20, the Parole Board conducted 15,174 conditional release reviews. On a weekly basis, the PBC conducts an average of 281 federal reviews and renders a total of 407 federal decisions. These include reviews and decisions for temporary absences, day and full parole, post-suspension, detention and the varying of conditions for release.

In making conditional release decisions, the law requires the Parole Board to take into consideration all relevant available information related to an offender's case. Board members must consider and weigh information such as court and sentencing information, the nature and gravity of the offence and information obtained from victims, the offender and other components of the criminal justice system, including assessments provided by correctional authorities.

No single factor in a conditional release review is ever determinative in the PBC's decision-making. Public safety is the paramount consideration in all decisions and must be balanced against a rigorous risk assessment of the offender's ability to safely reintegrate into the community.

The board does not prepare offenders for release, nor does it manage or supervise offenders on release. That is the responsibility of the Correctional Service of Canada. The Parole Board's conditional release outcomes reflect the high quality of its decisions. Last year, 99% of day parole supervision periods and 98% of full parole supervision periods were not revoked for reoffending, and these numbers have remained consistent over the past 10 years.

I will turn my attention now to the Parole Board's operations and the measures we've taken during the COVID-19 pandemic. Since the outset of COVID-19, the PBC has taken measures to protect the health and safety of the public, the offenders, its board members and staff while continuing to deliver its important public safety mandate. In doing so, we have been informed and guided throughout by the advice and recommendations of public health officials.

During this unprecedented period, the PBC has streamlined its operation to focus on core functions in the areas of conditional release decisions, operations and appeals, pardons and record suspensions, board member appointments and essential internal services. These core functions are primarily being delivered by board members and staff working remotely and by a small number of board members, executives, managers and critical staff working in PBC offices while practising social distancing.

Parole hearings are being conducted remotely via video conference or teleconference, as applicable, outside of correctional institutions. The PBC has also worked to streamline its processes and has modified some of its policies to provide additional flexibility to CSC and community—

• (1220)

Mr. Darren Fisher (Dartmouth—Cole Harbour, Lib.): I have a point of order, Mr. Chair. I have had no volume coming through for the last two minutes, and I'm checking everything here. I don't know if anyone can hear me, but I can't hear a thing. Perhaps it's just on my end. I lost the last things that this wonderful witness has just said for the last two minutes.

The Chair: We'll suspend for a few minutes and get this sorted out.

The meeting is now suspended.

• (1220)

(Pause)

• (1230)

The Chair: We will now resume the meeting.

Ms. Blanchet, you may continue with your statement. If you'd like to back up a couple of minutes, because Mr. Fisher wasn't able to hear it all, that would be acceptable.

Ms. Sylvie Blanchet: Sure. Thank you very much.

Parole hearings are being conducted remotely via video conference or teleconference, as applicable, outside correctional institutions. The PBC has also worked to streamline its processes and has modified some of its policies to provide additional flexibility to CSC and community partners. For example, for offenders already in the community on day parole who become eligible for full parole, the PBC has implemented efficiencies to expedite those decisions by proceeding by way of paper review.

The PBC has also amended its policy to allow Correctional Services Canada to authorize emergency medical leave privileges for offenders residing in the community for up to 30 days rather than the current maximum of 15 days.

The PBC also continues to process parole-by-exception cases as expeditiously as possible. Parole by exception is a mechanism in law to permit parole consideration for offenders who have not yet reached their parole eligibility date, in exceptional circumstances including for offenders who are terminally ill or whose physical or mental health is likely to suffer damage if the offender continues to be held in confinement. Since March 1, 2020, seven parole-by-exception cases have been granted. There are currently 33 pending decisions. In comparison, only four parole-by-exception cases were granted in all of last year.

The PBC is also working with CSC to better accommodate the circumstances of offenders during the pandemic, such as imposing a condition to reside in a home or family environment where such placement is risk appropriate rather than in a community-based residential facility. Since March 1, we have been making an average of 11 day-parole-to-other-location decisions per week compared to five per week in 2019-20.

Further, the PBC has worked closely with CSC to review cases in which offenders residing in community-based residential facilities may have had their residency condition change to specify another location such as a family home. Since March 1, 2020, we have been averaging seven such decisions per week compared to an average of one decision per week last year.

Given the current restrictions due to COVID-19, the deadline for an offender to submit an appeal to the appeals division has been extended from two months to three months in order to assist the offenders in preparing their appeal, especially if they need to seek the support of outside resources. In accordance with the CCRA, offenders have the right to an assistant at their hearing. We have been able to facilitate participation of offender assistance remotely by teleconference.

The PBC remains committed to ensuring that victims' voices are heard during this unprecedented situation and that they continue to receive all legislated information to which they are entitled. The PBC has implemented technological and procedural enhancements, as an interim measure, in order to provide victims the ability to participate at PBC hearings via telephone and to have their victim statement considered by board members. Because our hearings are being held remotely, this means that a typical hearing can have six or more individuals connected from different locations. For victims who prefer not to attend a hearing, the PBC continues to accept victim statements in various formats including audio and video recording.

In these unprecedented times, the PBC has taken measures to ensure that it continues to deliver its important safety mandate under extraordinary circumstances. I am extremely proud of the resilience and commitment demonstrated by our board members and staff in the face of these challenges.

On a final note, I would also like to invite committee members interested in attending a full hearing, once we are back to conducting in-person hearings, to get in touch with us and we would be happy to facilitate that.

Thank you.

• (1235)

The Chair: Thank you, Ms. Blanchet.

I should mention that this meeting will have a hard cap at three o'clock Eastern Standard Time, because the facilities are required for another meeting.

We will do two rounds of questions with this panel. We'll start the questions with Mr. Paul-Hus.

[*Translation*]

Mr. Paul-Hus, you have the floor for six minutes.

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

The members will recall the case of Marylène Levesque. Ms. Kelly and Ms. Blanchet, I think that this brings back memories for you. The government requested an internal investigation. I'd like to know the status of this investigation.

What has been done since March as part of this investigation?

• (1240)

Ms. Anne Kelly: As a result of COVID-19, the investigation was suspended until further notice. Since people needed to travel, there were issues. The work that could be done from home is still being carried out. However, as I said, the investigation was suspended because of the travel required to conduct the interviews.

Mr. Pierre Paul-Hus: Can you update me on the progress so far? How many meetings have been held? You said that the investigation is suspended. So nothing is happening anymore. When did you stop working on the investigation?

Ms. Anne Kelly: Probably around mid-March, when the COVID-19 situation was declared a pandemic. In terms of the status of the investigation, I'll need to respond to you later.

Mr. Pierre Paul-Hus: As you can see right now, we can hold committee meetings. I imagine that your department could organize virtual meetings with witnesses using Zoom, for example, as we do here.

Why can't this be done?

Ms. Anne Kelly: I'll ask Mr. Tousignant to answer your question.

Mr. Alain Tousignant (Senior Deputy Commissioner, Correctional Service of Canada): Thank you, Mr. Paul-Hus.

I think that there's a difference between holding a committee meeting such as this one and speaking to employees as part of an investigation to hear their version of traumatic events. This creates a significant amount of nervousness. I think that it's difficult to make this comparison.

That said, in some cases, a few interviews can be conducted by telephone or video conference. However, certain interviews must be conducted in person to continue and conclude the investigation.

Mr. Pierre Paul-Hus: Thank you, Mr. Tousignant.

I'd like you to give the committee an update on your investigation. Of course, we can't have the information disclosed. However, you can at least provide an update so that we know the status of this important case. This is also very important for the family of Marylène Levesque.

In relation to this issue, Ms. Blanchet, you spoke earlier about the various paroles granted to date. We know that Minister Blair requested expedited parole for prisoners nearing the end of their sentences, seniors and people with medical issues. However, we've learned that dangerous prisoners were released into the community in the midst of the COVID-19 pandemic, even though we know that all the services are much harder to obtain.

Can you confirm that all the paroles were really granted to people who were sick or who had reached the end of their sentences? Could some cases have slipped through the cracks in the system?

Ms. Sylvie Blanchet: For the Parole Board of Canada, the risk assessment hasn't changed as a result of COVID-19. If cases are brought before us, we'll certainly take into consideration all the information provided.

I spoke earlier about cases of parole by exception. These may be the cases you were talking about.

The law hasn't changed. The risk assessment conducted by our members remains the same. The minister told you that he asked us to expedite the process. We expedited these processes.

Correctional Service Canada and the Parole Board of Canada worked together to expedite the process of obtaining a recommendation from the board for the release of the individual. The board's decision-making process remains based on risk assessment. The law hasn't changed.

• (1245)

Mr. Pierre Paul-Hus: Ms. Blanchet, I want to address the release of Jimmy Bouchard a few weeks ago in the Chicoutimi area. The victim wasn't informed of his release.

In your statement, you said that all the processes were in place to ensure contact with the victims. In this situation, it seems that this didn't happen.

Can you confirm that all the victims are contacted before the parole hearing?

Ms. Sylvie Blanchet: I can confirm that the victims who registered with the board to receive the information are contacted. Certainly some victims don't know that they have access to the information from the Parole Board and Correctional Service Canada.

When victims are registered with the board, we contact them to ensure that they can participate in the process or that they can share their concerns regarding the offender's release conditions.

I can't assure you that all victims are registered because not all victims have registered with the board.

Mr. Pierre Paul-Hus: Thank you, Ms. Blanchet.

Mr. Chair, I think that my time is coming to an end. I want to take this opportunity to formally move two motions submitted to the committee.

Can I do so now?

[*English*]

The Chair: It depends on the motion. The motions for which we received notices of motion can be moved now.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you.

These two motions were indeed submitted to the clerk a few days ago. The motions have already been before the committee.

I can read them, or you can ask the clerk to read them. It's up to you, Mr. Chair.

[*English*]

The Chair: Please move them. It's probably best to read them, and do them one at a time please.

[*Translation*]

Mr. Pierre Paul-Hus: Perfect, Mr. Chair.

The text of the first motion is as follows:

That, pursuant to Standing Order 108(1)(a), the committee order all documents, specifically briefing notes, background documents, memos and emails, prepared for the Deputy Minister of Public Safety and the Minister of Public Safety regarding the closure of the Canada – United States border which first came into effect on March 21, 2020, and for each subsequent extension; and that these documents be provided no later than August 10, 2020.

The text of the second motion is as follows:

That Public Safety Canada provide the committee with the total number of RCMP, CBSA and Correctional officers infected with COVID-19, broken down by cohort and province, between March 11 and June 15, 2020, and that these statistics be presented to the committee no later than July 10, 2020.

[*English*]

The Chair: Thank you, Mr. Paul-Hus.

I would ask members, if anyone wishes to speak to this, to use the “raise hand” function. I will try to deal with interventions as they arise.

Mr. Thériault.

[*Translation*]

Mr. Luc Thériault: In terms of the two motions, which I believe were previously referred to as Mr. Kitchen's notices of motion, I think that the second motion is perfectly fine.

With respect to the first motion, we want to remove the reference to emails. That way, the motion regarding the border closure would be realistic in terms of the information that must be recorded. Emails may be somewhat relevant, and we could drown in this amount of information. I'd therefore move an amendment to the first motion:

That the motion be amended by deleting the words “and emails”.

• (1250)

[*English*]

The Chair: Thank you. We'll only—

Mr. Marcus Powlowski (Thunder Bay—Rainy River, Lib.): Point of order, Mr. Chair.

The Chair: One moment, please. We'll deal with one motion at a time.

I'm sorry. Whose point of order was that?

Mr. Marcus Powlowski: It was mine, but I think you're getting to it, which is, can we do one at a time; otherwise, I'm confused as to which one is the first and which is the second. Can we do them one at a time?

The Chair: There is one motion on the floor at this time. That's the one on which we are debating and so forth. We now have an amendment put forward by Mr. Thériault. Debate will now be on the amendment.

Mr. Thériault has moved to amend the original motion by dropping the words “and emails”. Is there any discussion on this?

I see that Mr. Fisher has his hand up.

Mr. Darren Fisher: Thank you, Mr. Chair, and thank you, Mr. Thériault, for that suggestion, which I fully agree with and will support.

Mr. Chair, I'm sorry to be seeking clarity here, but Mr. Paul-Hus moved two motions. Are we only dealing with the first motion that he put forward in the name of Mr. Kitchen on the closure of the Canada-United States border? Is that the only motion we're dealing with at this point? Will we pass or not pass that particular motion and then will we deal with the second motion today as well, while our witnesses are here?

I'd just like some clarity.

The Chair: Yes. Mr. Paul-Hus mentioned both motions. He only moved one.

He moved the one regarding the border closure, so we will be dealing with the motions when moved, one at a time.

[*Translation*]

Mr. Pierre Paul-Hus: Mr. Chair, I read two motions. The first concerned information on the border closure, and the second concerned the health of officers working for the RCMP and border services.

We can look at the first motion, which concerns the border closure. We're currently debating the amendment proposed by the Bloc Québécois regarding emails.

[*English*]

The Chair: You may have mentioned both motions, but we can only deal with one at a time. I believe that you actually moved the one on border closures. We are dealing with that motion, and there is an amendment to that motion made by Mr. Thériault to drop the words “and emails” from the text.

On the amendment, Mr. Fisher, your hand is still up.

Mr. Darren Fisher: Yes, I am again just seeking clarity on this.

We have one motion on the floor and there is now an amendment. That is what we are speaking to, not to the motion, but only to the amendment and whether we support it. The debate will be on the amendment by Mr. Thériault. Is that correct?

The Chair: That is correct.

Mr. Darren Fisher: If we have other amendments that we would like to make, we would make them after we deal with Mr. Thériault's amendment.

The Chair: That is correct. Once we vote on Mr. Thériault's amendment, whichever way that vote goes, that will be the new motion. Then we can amend it further if desired.

Mr. Darren Fisher: Thank you, Mr. Chair. I'm happy to come back with potential further amendments.

The Chair: Thank you, Mr. Fisher.

We will go now to Mr. Jeneroux.

Mr. Matt Jeneroux (Edmonton Riverbend, CPC): Mr. Chair, I think the confusion was that when Mr. Paul-Hus asked you if he should move both motions or one motion, you said two motions.

The Chair: Correction: I said move one motion. We can only deal with one motion at a time.

Mr. Matt Jeneroux: I'll argue with you, Mr. Chair. We can go back to the blues. I think you're wrong.

However, that isn't my intervention. My intervention is based on Mr. Thériault's amendment.

I'm not sure if he is simply looking for less work to do or what, but requesting the removal of “emails”.... I think it's pertinent to essentially what we're trying to get at. There is certainly a lot of back and forth over email. If you remember, this is the same member who brought up the removing of “text messages” as well—both times.

This is certainly something that I would argue is important for us at the committee level to understand. We're looking at the overall response of this thing.

If Mr. Thériault doesn't want to read a whole bunch of emails, then he simply doesn't have to read those emails. We'll do that work for him. I certainly don't support his amendment, and I will be voting against it.

• (1255)

[*Translation*]

Mr. Luc Thériault: Mr. Chair, I rise on a point of order.

[*English*]

The Chair: Monsieur Thériault, on a point of order.

[*Translation*]

Mr. Luc Thériault: Mr. Chair, the Conservatives have already tried to tarnish my reputation once. I won't accept, in front of witnesses who are waiting to appear, the insinuation that I'm making an amendment because I don't want to work.

I'm asking Mr. Jeneroux to retract his comments immediately. His comments are disgraceful. It's pointless to make these types of comments, which show a lack of respect for his colleagues. I said earlier why I wanted to delete the words. Since Mr. Fisher said that he agreed with me, does this mean that he doesn't want to work either?

I explained that this was strictly related to the series of motions moved and that we had to be able to finish our work and process the information. I speak from experience. I've made access to information requests in the past. Following these requests, I've drowned in a sea of completely irrelevant documents. I don't see the relevance of the text messages related to the first proposal, which was blocked several months ago. We can determine this during the debate based on the arguments.

I'm asking Mr. Jeneroux to show respect for his colleagues. I work and I'm known for being hard-working. I'd like him to retract his comments and insinuations, which once again seek to tarnish my reputation. The Conservatives were disgraceful last time, and they didn't even apologize. Yet three weeks later, they proposed the same thing.

Can we have a calm and substantive debate instead of ascribing motives to the individuals moving amendments?

Mr. Chair, I urge you to handle this properly, because this time it won't fly.

[*English*]

The Chair: Are there any comments or responses to Monsieur Thériault's point of order?

Mr. Webber.

Mr. Len Webber (Calgary Confederation, CPC): Yes, Mr. Chair.

Mr. Thériault is referring to Conservatives talking poorly about him. I have not once made any comment on Mr. Thériault in a disrespectful manner, so I would ask that Mr. Thériault please retract those statements referring to Conservatives. I am a Conservative, and a proud one, and I have not once said anything poorly against Mr. Thériault.

Thank you.

The Chair: Are there any other comments?

Mr. Thériault, go ahead.

[*Translation*]

Mr. Luc Thériault: Mr. Chair, I encourage Mr. Webber to read Mr. Bellavance in *La Presse*, along with the comments made by his colleagues, Mr. Paul-Hus and Mr. Rayes. He'll understand that I'm stating facts. That said, can we please stick to rational arguments?

Mr. Pierre Paul-Hus: Mr. Chair—

[*English*]

The Chair: I am actually in error in allowing this to go to debate. This is a point of order. It's not a point that we want to debate.

If Mr. Jeneroux wishes to apologize, that will be up to him, but we will not carry on with our...

Mr. Matt Jeneroux: Sure, Mr. Chair. I'll just address Mr. Thériault's.... I'm not sure what he's—

Mr. Marcus Powlowski: Point of order.

The Chair: We have a point of order already on the floor.

Mr. Marcus Powlowski: Point of order. We're getting French translation over the English. I am, anyhow. I don't know if you are. We can't understand two languages at the same time.

The Chair: Mr. Jeneroux, please make sure that your language is on English, if you're speaking English.

We'll try again. Go ahead, Mr. Jeneroux.

Do you want to respond quickly to Mr. Thériault? And please, let's not get into debate.

• (1300)

Mr. Matt Jeneroux: Okay. Thank you, Mr. Chair.

To address Mr. Thériault's point, I'm unaware of what article he is referring to. I'd ask him to table that at either this meeting or a future meeting, and I would be happy to look in more detail at what that means.

I am certainly happy to address any issues he has with me.

The Chair: Okay. We'll leave this to be resolved between the members.

I would urge everyone to remember proper decorum and to be respectful of each other.

We will resume debate on the amendment proposed by Mr. Thériault.

I have on my list now, Dr. Jaczek.

Dr. Jaczek, please go ahead.

Ms. Helena Jaczek (Markham—Stouffville, Lib.): Thank you, Chair.

Certainly I echo your comments in terms of respecting each other. Through the very many meetings of the health committee that I've attended, I think we have had a very respectful dialogue among us. I hope that continues.

In speaking to the amendment proposed by Monsieur Thériault, I would certainly agree that removing the reference to “emails” is a good one. With the kind of quantity that could be generated by including emails—it would be a huge amount, of course—I really don't see how that would add to what we all want to see, which are the briefing notes, the background documents and memos that relate to the closing of the United States-Canada border.

As it would read with the amendment—though I'm wondering, again, about the timing of this—certainly we would have enough information. I will be supporting Monsieur Thériault's amendment.

The Chair: Thank you, Dr. Jaczek.

On my list now, I have Mr. Kelloway.

Mr. Kelloway, go ahead.

Mr. Mike Kelloway (Cape Breton—Canso, Lib.): Thanks, Mr. Chair.

To the witnesses, my personal apologies for the delay here, but this is democracy at work and sometimes it gets a little messy.

I would support the amendment that Mr. Thériault has put forward. It's logical, as Dr. Jaczek said. It is one that is based on common sense, at least from my perspective.

My understanding as well.... Mr. Fisher mentioned, and I think this is accurate once again, that we're voting on this amendment. I have a couple of other items with respect to an additional amendment, and that will be forthcoming.

The Chair: Thank you, Mr. Kelloway.

We go now to Ms. Sidhu.

Ms. Sonia Sidhu (Brampton South, Lib.): Mr. Chair, I want to echo, with my colleagues, that I support Mr. Thériault's amendment and we should be respectful with each other.

The Chair: Thank you, Ms. Sidhu.

We go now to Mr. Fisher.

Mr. Darren Fisher: Mr. Chair, I had my hand raised from before, but I want to say that since this committee has been formed, Mr. Thériault has been incredibly professional, very prepared, and is known in the House as one of the hardest-working members of Parliament.

I want to make sure that's on the record, Mr. Chair.

The Chair: Thank you, Mr. Fisher. Let's try to keep our comments to the amendment.

We go now to Dr. Powlowski.

Mr. Marcus Powlowski: Mr. Chair, I want to further support the amendment.

I have to preface my remarks by saying that my riding extends all the way from Thunder Bay, so from Lake Superior to the Manitoba border. I have the total border. I can say that no issue comes up more frequently than border issues do. People who have a business across the border or family members across the border want to go across the border.

People call my office and say they saw someone with a licence plate from Minnesota towing a boat and they think they're coming up here as tourists, and they say aren't we supposed to be allowing just essential people to come into Canada. There's this non-stop questioning about what's happening at our borders. I would think, similarly, the people working at Canada Border Services Agency would face the same number of questions every day.

These are people who evidently have a lot to do and a lot of issues come up before them, and to ask them, rather than to address these very real issues, to take a lot of time going over every email would seem like diverting their attention from where it should be at this time.

I fully support the amendment.

• (1305)

The Chair: Thank you, Dr. Powlowski.

We'll go now to Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

I won't wade into the debate between Mr. Jeneroux and Mr. Thériault.

The purpose of the motion I moved on Mr. Kitchen's behalf is to shed light on the lead-up to the closing of the border, especially regarding how long it took. Why did it take so long?

This is a public health issue. I can't understand why the honourable member from the Bloc wants to strike the request for emails and thus take relevant information away from the committee. The opposition parties should stand up and demand that the

Liberal government provide as much information as possible. To be sure, the Liberal members will support any amendment that limits the information provided to the committee and, by extension, to the opposition parties. I think that's unfortunate.

Personally, I would like Mr. Thériault to withdraw his amendment, simply so that the government has to provide as much information as possible to the opposition parties. I think that even the Bloc Québécois needs the information.

[*English*]

The Chair: Thank you, Mr. Paul-Hus.

Monsieur Thériault cannot remove his amendment. Doing that would require unanimous consent.

We are debating the amendment, and it will be voted on one way or another in due course.

We go now to Mr. Van Bynen.

Mr. Tony Van Bynen (Newmarket—Aurora, Lib.): Mr. Chair, I support the amendment as well, and I can give you a very classic example.

In the last week, in one day, I received as many as 91 emails. It took me most of the day to get those 91 emails down to 21.

If we start to look at an issue as broad as this one, I simply can't imagine the number of emails that will be clouding the issue. I think we need to maintain our focus on information that is relevant, and not necessarily dilute the value of the information by overloading it with other information, which can all be gathered and could be sifted through in the documentation that this motion requests.

One minor change is that if we are going to be deleting "and emails", we should add the word "and" in front of the word "motions". I don't know whether or not that needs another motion—I'm not as familiar with parliamentary process as many of us are—but I think that would have to be a consideration as well.

I will leave it to you, Mr. Chair, to decide on that.

I do want to say that what's being proposed here, to eliminate the emails, is a very legitimate request. I think it's putting an unfair and heavy burden of reporting on people who should be focusing on doing the right things during this current emergency.

We have a pandemic in front of us, ladies and gentlemen, and therefore, we should not be overloading the system. We should respect the time and the energy of all the people who are working on this. I think removing the emails is a significant step in doing so.

The Chair: Thank you, Mr. Van Bynen.

Mr. Webber, please go ahead.

Mr. Len Webber: Mr. Chairman, of course, I do not support this amendment to the motion. I'm not going to reiterate what my colleagues on the Conservative side have said. Mr. Paul-Hus said it quite eloquently. We need to get as much information as possible. Withholding information just doesn't make sense to me, so eliminating emails is not what we should be doing.

Mr. Van Bynen, with all due respect, on sifting through emails and only pulling out information that is relevant, I don't understand who you think should be doing that. Who should be sifting through these emails?

• (1310)

The Chair: I remind everyone to speak through the chair and not to each other.

Mr. Len Webber: Yes, Mr. Chair.

I'm referring to what Mr. Van Bynen indicated, which was the fact that these emails should be sifted and only information that is relevant should be distributed to us, but who makes the decision on what is relevant and what is not?

The Chair: Thank you, Mr. Webber.

Ms. Jansen, please go ahead.

Mrs. Tamara Jansen (Cloverdale—Langley City, CPC): Mr. Chair, I know that all of us here at this committee are very much in solidarity in regard to transparency and openness. I think the whole point of this committee is to ensure that we understand exactly what went on, and the idea of removing emails because it's too much work would stand in the way of that ultimate goal that we all have, which is to ensure that we have complete openness and transparency on what has happened here.

I live right at the border, and these things are extremely important to all of the constituents in my riding. I think it's imperative that we show we truly are dedicated to transparency and openness and ensure those emails are available.

The Chair: Thank you, Ms. Jansen.

Mr. Davies, go ahead.

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Chair, I think there have been some points made on both sides of this. I have noted the pattern where generally opposition wants more disclosure and government seeks to limit disclosure, and I see that pattern repeating itself here today.

I'm going to support the amendment only because if the disclosure of information that we get is not sufficient, I think it's open to Mr. Kitchen or Mr. Paul-Hus to move another motion requesting the emails. I don't find it persuasive to.... This is the second or third time I've heard the government side argue that it's too onerous to provide emails. Disclosure and accountability are foundational concepts, and I believe Mr. Trudeau has famously said that his government should be "transparent by default". That's what he told the Canadian public.

Just because it's difficult or just because it's onerous to get emails, that's not a sufficient reason to override the need for transparency. I also think that with emails what's behind my Conservative colleague's motion is that there's a degree of frankness, granularity and detail that is usually found in emails that is not found in other documents. In supporting this motion to move this meeting forward, that in no way doesn't mean I don't think the emails are a valid source of information, and we could be pursuing those later on.

I do want to comment, and ask the clerk to comment, on redaction. When this committee passed a motion before for disclosure from the government, in my opinion, we had illegitimate and, frankly, I thought unjustifiable redactions by the government. I want to make sure that the documents being sought here come in unredacted form, and that it's the clerk of this committee who will determine if anything ought to be redacted or not.

Last time, I think the privileges of these committee members, of us, were violated when we received documents that someone else, prior to sending them to us, had redacted for all sorts of reasons, many of which were way beyond the grounds that are normally given for redaction. If we're going to hold the government to account—and I think it's a good motion on behalf of my colleague to do so, particularly when the border is affecting so many Canadians in so many ways, both on an economic and a personal level—then I want this committee to get the unvarnished information we seek. I want to be very clear that I'll be looking for documents that are not sanitized to protect the government's political interests like they were last time.

Finally, I want to say that I don't find emails to be that difficult to get. There are search functions that exist in our computers, such that if a particular individual were asked to provide all emails that bore on the subject of border controls, I would point out to Mr. Van Bynen that it's a simple matter to use search functions to produce those documents. In fact, because emails are, by definition, stored on computers, it's actually very quick and easy to produce documents by email, so that is not an argument that I find persuasive.

To move this forward, I think we should have the vote on this. I'll support Monsieur Thériault's amendment to remove emails at this point, on the proviso that I reserve the right to pursue those emails later on if we find that the documents that are produced to the committee are not sufficient for the purposes of my Conservative colleagues.

• (1315)

The Chair: Thank you, Mr. Davies.

We'll go now to Monsieur Thériault.

[*Translation*]

Mr. Luc Thériault: I agree with Mr. Davies. The motion in and of itself is quite substantial and extensive. The committee is asking for all relevant documents, specifically, briefing notes, background documents and memos.

If nothing in those documents helps the committee understand why it took so long to close the border, it points to a serious problem somewhere. If that's the case, we can ask the necessary questions. I want to point something out. Poor legislation is often unenforceable legislation—hence, my comment.

The same party even wanted text messages to be provided the last time. If we look back over all the motions that have been put forward—and there's a good few—we see that, every time, the goal is to obtain all the emails from all the stakeholders. I think we should limit ourselves to the information that's relevant. In this case, the motion sets out everything we need to gain a very clear understanding of what happened, all while ensuring the necessary transparency. If not, we will take up the issue then.

Coming back to Mr. Webber's question, I would refer him to the April 23, 2020 edition of *La Presse*. Then, he'll understand what I was referring to.

[*English*]

The Chair: Thank you, Mr. Thériault.

Dr. Powlowski, your hand is up. Go ahead.

Mr. Marcus Powlowski: Mr. Chair, the issue of transparency has come up. I want to say that I don't think the issue in asking to not include emails is one of transparency.

I certainly agree [*Technical difficulty—Editor*] we're talking about our relations with the United States. It's a totally different country. When we're talking about the reasons for reopening the border, I think we're going to have to discuss what the United States is doing with respect to control of the disease. There are 50 different states in the United States. There is the federal government. They are all potentially doing different things with respect to COVID-19.

When people start talking about when to open the border and when not to open the border, of course they're going to have to reference what is being done in the United States. I don't know whether we want, as a government, to make public everything everybody said in discussing what the United States is doing in managing the outbreak. Certainly, our relations with the United States are exceedingly important. The United States is our best friend. It's obviously our major trading partner. We have to be very sensitive to our relationship with them.

I'm not sure a requirement to open all these up to the public is really in our best interest, as a nation.

• (1320)

The Chair: Thank you, Dr. Powlowski.

Mr. Paul-Hus, you're up.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

I think we can proceed. We've debated the motion for the record. I would just like the record to reflect my disbelief at the Bloc Québécois's helping the government do less work. I sense some dislike on Mr. Thériault's part for the Conservative Party, which is totally inappropriate under the circumstances.

Regardless, I am now ready for the committee to vote on Mr. Thériault's amendment and the final version of the motion.

Mr. Luc Desilets: Mr. Chair, I had asked for the floor.

[*English*]

The Chair: Mr. Desilets, I didn't see your hand. I apologize. Go ahead.

[*Translation*]

Mr. Luc Desilets: First, I agree with Mr. Paul-Hus. We should go ahead and vote, because everything has already been said. I fully support Mr. Thériault's amendment.

I would also like to apologize to the witnesses for Mr. Jeneroux's cheap shot, for which, we expect an apology, of course.

I suggest we vote, Mr. Chair.

[*English*]

The Chair: Thank you, Monsieur Desilets.

Mr. Van Bynen, go ahead.

Mr. Tony Van Bynen: Mr. Chair, I just wanted to clarify some comments made earlier by some of my colleagues.

Yes, I understand how email works. Yes, I know how to sort your email and how to sort subject lines, etc., but my concern is around the scope and the scale of these types of discussions and the volumes that would be added to the review. When I take a look at the datelines that are imposed on this motion, I think it's virtually impossible to thoroughly go through all of that information, and I genuinely believe that the other documents that have not been taken out of the motion would be sufficient to come to a conclusion.

I fully support transparency, and I think it can be achieved with the documents that are being requested.

The Chair: Thank you, Mr. Van Bynen.

Seeing no more interventions—

Mr. Len Webber: One more point of order, Mr. Chair.

The Chair: Is it a point of order or...?

Mr. Len Webber: It's a point of order on an earlier comment from Mr. Desilets from Quebec.

You know, you talk about Mr. Jeneroux making, as you say, cheap comments. I think that requires an extraction as well, and an apology there, too, if you're asking for an apology.

Mr. Chair, we are bickering here and it is ridiculous. Let's just move on with the vote. Making comments like that is just inappropriate. If you're going to criticize others, just think about what you say as well, through the chair.

Thank you.

The Chair: Thank you, Mr. Webber.

Once again, I remind everyone to be aware of and duly recognize of the correct protocol and courtesy.

Seeing no further interventions, I will ask the clerk to conduct the vote on the amendment.

(Amendment agreed to: yeas 7; nays 4 [*See Minutes of Proceedings*])

• (1325)

The Chair: Is there any debate or comment on the motion as amended?

Mr. Kelloway, please go ahead.

Mr. Mike Kelloway: Mr. Chair, I'm not sure if it's the right time, but speaking of timing, can I speak to the timeline of August 10 or would that be something separate?

The Chair: Yes, it is in order at this point. The motion—

Mr. Marcus Powlowski: Can I make a point of order?

The Chair: Go ahead, Dr. Powlowski.

Mr. Marcus Powlowski: There was already the suggestion by Mr. Van Bynen that there was a need for an “and” in there. If we're going to amend it further, are we going to deal with this issue next?

The Chair: The amendment has already passed as moved by Mr. Thériault. If you require further amendments, we have to move further amendments.

I believe Mr. Kelloway was in the process of asking a question.

If you wish to talk about the timeline, Mr. Kelloway, it would be appropriate to do so now.

Mr. Mike Kelloway: Okay, wonderful.

In terms of the documents being submitted by August 10, given many of the points that have been made this afternoon in terms of timelines and the volume and girth of documents to be reviewed, I'm wondering if it would be helpful to extend the timeline by two weeks, to the end of August, to enable staff to do the work they need to do, which will be quite a lot.

I'd put forth an amendment for discussion to extend the deadline for producing said documents to by or on August 31.

The Chair: The amendment is to modify the timeline and change the date to August 31.

We will go to debate on the amendment.

Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

I think the deadline that was chosen is acceptable. If the government can't turn over the documents within the time frame set by the committee, it's up to the government to request an extension. Bear in mind that the situation at the border is very pressing. Bear in mind, as well, that Canada could experience a second wave of COVID-19. All that to say, I think it's important to speed things up. I know working remotely isn't easy, but the fact of the matter is that public servants, the people responsible for doing this work, have access to the information and the ability to provide it, even if they have to work from home. I think August 10 is a reasonable deadline if people get to work.

[*English*]

The Chair: Thank you.

Mr. Fisher, go ahead.

Mr. Darren Fisher: Thank you, Mr. Chair.

I just want to get clarification on Mr. Kelloway's amendment. Is he saying “on” August 31 or is he keeping the words the same as what Mr. Paul-Hus had moved, “no later than” August 31?

Mr. Mike Kelloway: I was thinking “on”, Mr. Fisher.

Mr. Darren Fisher: If all the subject matter is put together prior to the 31st, you want it held until the 31st?

Mr. Mike Kelloway: That's a good question. My original intent was to have it submitted on August 31.

Mr. Darren Fisher: Thank you for that clarity.

The Chair: Dr. Powlowski, please go ahead.

Mr. Marcus Powlowski: Well, now you have me confused. I think the amended version is “on”. Can we clarify that? Is “on” what we're debating now?

The Chair: The debate is on the amendment as provided by Mr. Kelloway.

Maybe I'll ask Mr. Kelloway to restate his amendment.

Mr. Mike Kelloway: I'd be open to having the documents provided no later than August 31.

Mr. Chair, I'll clarify my original statement to say “no later than August 31, 2020”.

• (1330)

The Chair: The motion before us, then, is that the wording be changed to “no later than August 31, 2020”. I think we require unanimous consent to accept that.

Do we have unanimous consent?

[*Translation*]

Mr. Pierre Paul-Hus: Mr. Chair, I think some of the honourable members wanted to speak.

[*English*]

The Chair: Yes, I'll get to those. I just want to make sure we're clear on the amendment.

Mr. Kelloway has clarified the amendment that he was making. I wish to ensure that everybody is in agreement with the wording of the amendment as it is now.

Seeing nothing to the contrary, I shall take that as unanimous consent.

We will go now to the speakers list.

Dr. Powlowski, you're still on the list. Do you wish to carry on?

Mr. Marcus Powlowski: I'm not sure if someone wanted to speak to the proposed amended amendment, because I see a bunch of hands coming up. I'm not sure whether Mr. Paul-Hus is saying that people want to speak to the motion, or to the proposed amendment “no later than”, or to the original. I'm not sure what we're debating.

Assuming that the debate is still on the date by which documents have to be submitted, I agree with the extension. I would go back to the same reasoning that these people have a lot of work to do to begin with. This is a big issue. There are so many border points between Canada and the United States, and not a lot of people working in this job. They have a sufficient number of things to do without their lives being made so much more complicated by having to divert those issues instead of addressing them, having to put them all on the back burner, because they have to produce documents.

I realize that for the sake of transparency they are important, but this means you're prioritizing this function of producing documents over what I think ought to be their priority, which is dealing with the issue of border closure—who's allowed to go across the border and who isn't—that justifiably, I think, takes a good deal of their time.

The Chair: Thank you, Dr. Powlowski.

We go now to Dr. Jaczek.

Dr. Jaczek, please go ahead.

Ms. Helena Jaczek: Thank you, Chair.

Again, to speak to Mr. Kelloway's amendment, which is "not later than August 31", if possible, of course, we could get the documents sooner. I think that's important to make sure we all understand that.

Our goal is to get the very best information we possibly can. We know that many other committees are also looking at similar motions in terms of production of documents. Though, of course, this is important work to be done, I think we want quality, thoroughness, in the name of truly understanding what the government's response has been, and obviously planning to look to the future. I'm sure we all hope we could open that border as soon as is feasible.

However, as Dr. Powlowski said previously, it is a very delicate issue, obviously in terms of the trade involved that's so important to both our economies, but also, of course, to the health of the population and not being sure of what exactly is happening to the south of us at any one time, from so many different states and so on.

I think what we're after is production...that is transparent, that is full and of good quality. I think the timing as proposed in Mr. Kelloway's amendment makes a great deal of sense.

• (1335)

The Chair: Thank you, Dr. Jaczek.

We go now to Ms. Sidhu.

Ms. Sonia Sidhu: It's the same thing. We also need good quality reports, and we should give flexibility to staff. If the department finishes before, that's great, but we should provide the department with the time that they need. I agree with the amendment for "August 31".

The Chair: Thank you, Ms. Sidhu.

I've been advised by the clerk that the time for panel number one has expired.

I will thank the witnesses for their statements.

Regrettably, we are unable to question you further at this time, but thank you for joining us. I appreciate your time.

We go now to Mr. Fisher.

Mr. Darren Fisher: I'm good now that I have clarity.

As Dr. Jaczek said, and as MP Sidhu said, if these documents are put together in a pile before August 31, I think then it's prudent to get them out before the 31st. So, "no later than" works for me.

The Chair: Ms. Jansen, please go ahead.

Mrs. Tamara Jansen: I have to say that I am completely shocked at the lack of urgency that the Liberals are showing here. Unless they have information that there won't be a second wave coming, I am absolutely appalled that we are suggesting we have time.

I am against the idea that we're just going to give ourselves a couple of extra weeks. We don't have a couple of extra weeks. That's what happened in the beginning of the pandemic as well.

The Chair: Thank you, Ms. Jansen.

[*Translation*]

Mr. Thériault, you may go ahead.

Mr. Luc Thériault: Mr. Chair, when I said earlier we had to be reasonable in our request, I thought the cutoff should be August 10, since we have a report to table, information to go through and a work plan to prepare.

Today is June 15, and I think the government can provide the documents requested in the motion on time, and that's important. I agree with Mr. Paul-Hus and Mrs. Jansen. I think it's doable and that there is enough time, especially since it doesn't involve many departments, unlike other motions we will eventually deal with.

This is an important issue, and we're going to have to review the information. We have a report to submit, so I think we should stick to August 10.

[*English*]

The Chair: Thank you, Monsieur Thériault.

Mr. Van Bynen, please go ahead.

Mr. Tony Van Bynen: Thank you, Mr. Chair.

My concern is around getting clarity in terms of the information that's being covered. If we say anything up to August 31, or August 10 for that matter, these are ongoing negotiations, so what happens if there are discussions that go on after that? Shouldn't we be spending some time defining the start date and the finish date for when these documents are covered, or do we intend for these documents to be available in the interest of full transparency? What happens if something comes forward or if there's a document that's eligible for review on August 31? Should we define August 31 as the timeline for the review of the documents that we have in place and then have a timeline for reporting?

I'm a bit confused in terms of the "up to". If it said August 31 specifically, then we would know we're dealing with information from the time that the discussion started with COVID and for what length of time we're going to be including the information. It's not clear to me how much information we're seeking, because we don't have a start date and a finish date. I'd like some clarity on that from the person who proposed the motion.

The Chair: I'd like to clarify a point Mr. Thériault made, and I would ask the clerk to weigh in if she feels it's appropriate. I believe the documents we're requesting here are not part of the study we're undertaking on COVID-19. The report we will be getting out of that study will be derived from witnesses who have appeared before the committee, and from briefs submitted by those witnesses and by other people to the committee specifically for this study. The document matter is, I believe, completely separate.

Unless the clerk wishes to offer an opinion, I will go to our next speaker, Mr. Davies.

• (1340)

Mr. Don Davies: Thank you.

I support the August 10 date. I really am flabbergasted that anybody would think it would take two and a half months to produce this documentation. It's June 15. We don't need to go until August 31. Frankly, I think the documents could be produced much sooner than August 10 as well.

In some ways, it's arbitrary. We're just picking dates here, but if Mr. Kitchen's motion was that he wants documents by August 10, then I think we should respect that. Whether it's August 1 or August 15, none of us has any basis for determining if that's enough time or not. I think we should respect the intent of the original motion and, as Mr. Van Bynen said, obviously by picking a cut-off date we are limiting what's going to come after that. Mr. Kitchen must have recognized that in his motion. There's no bureaucratic reason that we can't have these documents prepared in the next two months. I'm going to support the motion as August 10.

I also want to reiterate again that responsible government requires oversight by democratically elected politicians. I'm getting concerned at this repeated point and argument being made that by requesting disclosure for us to carry out our obligation to oversee the civil service, or oversee the behaviour and response of government, we somehow are derogating or taking away from the government's ability to deal with the pandemic. The government can chew gum and walk at the same time. I haven't heard any member of this government say that transparency and accountability are not possible right now because they're too busy dealing with the pandemic.

I want to in the strongest terms possible indicate my opposition to this false dichotomy between taking away our civil servants' ability, somehow, to deal with the pandemic and discharging our responsibility to have parliamentary oversight. This is a minority government we're in right now. No party enjoys the majority support of the House of Commons. I think it's unfair to suggest that by us as parliamentarians discharging our duties, as this motion seeks to do for transparency and accountability, somehow we are harming the government's ability to deal with the pandemic. There's not a shred of evidence of that and it doesn't pass muster.

I'm going to support the motion as is and suggest that we move on to the vote. We've already lost one panel. That's fine, by the way. I want to also say that committee members have the right to move motions at committee, and it's unfortunate that sometimes it happens when we're in the middle of a study, but I'm also a bit troubled when people apologize to witnesses as if what we're doing here is somehow inappropriate. This is the only time we have to move motions—during committee meetings—and it's a totally appropriate use of our committee time to do so.

Unfortunately, it does take away from witness time, but since we have witnesses scheduled at every meeting, there's no other time for us to do this. I respect my colleagues' right to move motions and I respect the right to debate them, but I think we've heard a lot about this motion already and I would hope that we could move to vote on it as soon as we can.

The Chair: Thank you, Mr. Davies.

Mr. Fisher, please go ahead.

Mr. Darren Fisher: Thank you, Mr. Chair.

I think Don made some very good comments there, as did Mr. Thériault. If the 10th is arbitrary and the 31st is arbitrary, my personal belief is that I want our public servants working on the matter in front of them—the pandemic.

Mr. Van Bynen talked about in one day getting 91 emails; that's as an MP. In our office, if you add up the emails that come in with our various accounts, it's several hundred a day. Imagine those public servants having to.... Maybe Don is right. Maybe they don't have to stop their work. Maybe they can walk and chew gum at the same time. However, the important job here right now is taking care of Canadians during this pandemic and providing good advice.

Yes, the 10th and the 31st could be very arbitrary, and again, we have the “no later than” in this amendment, so I would suggest that we consider supporting the 30th and no later than the 31st and we give these public servants the time they need to focus on their jobs, on what they're tasked with doing every single day.

Don's right. We're probably at the end of the debate on this. Again, I want to thank him for his comments. This is the important stuff. This is the only time we get a chance to get together and hammer these things out. We are in a minority and we are finding ways. This committee has done a very good job since we formed. We were the first committee that formed and we've been able to get together, figure things out and make things work pretty well. Maybe there's a bump in the road every now and again, but I think what we've got on this committee is a group of MPs who really do want to get to the same place, maybe not exactly in the same way.

• (1345)

The Chair: Thank you, Mr. Fisher.

We'll now go to Mr. Thériault.

[*Translation*]

Mr. Luc Thériault: Thank you, Mr. Chair.

Without dragging out the debate too much longer and with all due respect, of course, I would say that, during a pandemic and a public health crisis, border management is a fundamental issue, as we saw around the world. The biggest hotspot in the world is our neighbour to the south. We talked about the border extensively with the witnesses we met with, and to claim that it's irrelevant and doesn't have a bearing on our report strikes me as wrong. I'm certain the report that's tabled will guide discussions on how Canada manages the border with the U.S. in relation to the pandemic.

That said, I'm ready to vote.

[*English*]

The Chair: Thank you, Mr. Thériault.

We'll now go to Mrs. Jansen.

Mrs. Tamara Jansen: Mr. Fisher was talking about the importance of ensuring that staff are able to focus on their jobs, and I want to mention that we also need to focus on our job, which is to consider the safety of Canadians.

That is why we need to get this done as quickly as possible. Any delay could mean further problems with COVID-19 in our country during a second wave. We need to understand what happened. That is our job. We're focusing on the safety of Canadians, and we need the staff to help us by providing us with these documents.

The Chair: Thank you, Mrs. Jansen.

Mr. Paul-Hus, go ahead, please.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

I think everyone heard what the three opposition parties—the NDP, the Bloc Québécois and the Conservatives—had to say. We all agree on the motion, and it makes sense that the Liberal members want to extend the deadline. It's perfectly normal; they are the party in power.

I think we can vote on the amendment and on the final motion.

[*English*]

The Chair: Thank you, Mr. Paul-Hus.

We'll go to Mr. Kelloway.

Mr. Mike Kelloway: Mr. Paul-Hus took the words right out of my mouth. I think we're at a point now where we should vote on the motion. I thank my colleagues for a spirited debate. There were a lot of great points and some that I'll consider different from mine, but that's what democracy is about. I recommend that we put this to a vote.

The Chair: Thank you, Mr. Kelloway.

We'll now go to Ms. Sidhu.

Ms. Sonia Sidhu: Mr. Chair, as you know, it's National Public Service Week. I really want to recognize all staff who are working very hard—including the House interpreters, who are trying to keep up—to meet deadlines, with a number of motions passed in multiple committees. I really thank them.

Also, I thank all my colleagues. We are also working very hard on the government's response to COVID-19. I agree that if staff are working hard, we are working hard.

Of course, we need a quality report. That is why, as I said, if we had them before, that is well and good, and I support the same thing. Staff need time to make a report, so this is an important vote. Then we can be ready if the second wave comes.

● (1350)

The Chair: Thank you, Ms. Sidhu.

I'm seeing no further interventions, so we can have the vote. I will ask the clerk to conduct the vote. The vote is on the amendment to change the date.

(Amendment negatived: nays 6; yeas 5 [*See Minutes of Proceedings*])

The Chair: We are back to the original motion, as previously amended. We will carry on with the debate on it.

Go ahead, Mr. Van Bynen.

The Chair: Madam Clerk, can that amendment be part of the general housekeeping by the motion; or do we need to debate that particular change?

Mr. Tony Van Bynen: Thank you, Mr. Chair.

I'm proposing a housekeeping amendment. We didn't insert the word "and" when we deleted the emails, so I'd suggest we clean that up.

The Clerk: Mr. Chair, if the committee sees fit to allow me to clean up the grammar, then I would be certainly willing to do that.

The Chair: Do we have an agreement so far to do that?

Okay, very well.

We now have Mr. Fisher.

Mr. Darren Fisher: Thank you very much, Mr. Chair.

I would like to propose the following amendment. I would like to add, after "August 10, 2020" the words "provided that the department does its assessment and vetting in gathering and releasing the documents as it would be done through the access to information process".

This amendment has been added to several of the other committees when they've done motions just like this. John Barlow moved in AGRI on Friday, June 5:

That, given the Department of Agriculture and Agri-Food's written response to M.P. Philip Lawrence's question on the cost of the carbon tax to the agriculture industry, in which their analysis and estimates do not reflect the federal backstop, the committee send for a copy of all reports, briefing notes, memorandums, emails and documents related to the federal carbon tax and its cost, directly or indirectly, to the agriculture industry, to be provided in both official languages by Saturday, August 1, 2020, provided that the Department does its assessment and vetting in gathering and releasing the documents as it would be done through the access to information process.

This was done also in several other motions. I'm not sure if you want me to read them all into the record, but Mr. Barlow moved them in two or three different motions. Kelly Block moved:

That, in the context of its study of the government's response to the COVID-19 Pandemic and pursuant to Standing Order 108(1)(a), the committee send for the following documents to be provided by the government by Monday, August 3, 2020 and that the documents be published publicly on the committee's website by Monday, August 10, 2020 and that departments tasked with gathering and releasing the following documents do their assessment and vetting as would be done through the access to information process:

I've got several more here, Mr. Chair. It seems that is the way most of the motions have gone, both in English and French, from Madam Block and Mr. Barlow as well. So I would suggest that we tag that on to the end of this motion as well.

So moved. Thank you, Mr. Chair.

• (1355)

The Chair: Thank you, Mr. Fisher.

We go now to Mr. Jeneroux.

Mr. Matt Jeneroux: Thank you, Mr. Chair.

Anytime Mr. Fisher wants to move more Conservative motions into the public record, I certainly welcome him to do so. However, yes, certainly that seems like a fair amendment, and we'll be supporting it.

The Chair: Thank you, Mr. Jeneroux.

Dr. Powlowski, please go ahead.

Mr. Marcus Powlowski: Given the fact that the Conservatives seem willing to accept the amendment I don't have anything further to say.

The Chair: Thank you, Dr. Powlowski.

Dr. Jaczek, please go ahead.

Ms. Helena Jaczek: I would agree. It seems to me that this amendment is clearly done to ensure that privacy is protected, and I think we can all understand the sensitivity potentially, so I think this is a very good amendment.

Thank you.

The Chair: Ms. Sidhu, I see your hand up. Please go ahead.

Ms. Sonia Sidhu: Thank you, Chair.

I think it's a reasonable request that will help narrow the scope to relevant information, which would be beneficial to our committee. I support my colleagues.

The Chair: Thank you, Ms. Sidhu.

Monsieur Thériault, please go ahead.

[*Translation*]

Mr. Luc Thériault: Mr. Chair, I'm having some trouble understanding what the amendment has to do with privacy. What do memos and background documents given to a deputy minister or minister, not to mention briefing notes, have to do with privacy?

When emails are involved, I can appreciate that they might contain some compromising information and would have to be scrutinized. I'd like to hear from members who have more committee experience than I do. I am open to their views.

Earlier, Mr. Davies referred to documents that contained way too many redactions. Doesn't this actually open the door to overly redacted documents, considering that emails were stricken from the motion? I would understand if emails were still being requested, since people have a tendency to say certain things in an email because it's like chatting with a co-worker at the office. The contents of an email could go beyond the scope of what we're looking for. However, I'm having trouble understanding how accessing these formal documents could breach privacy.

It's a simple question. Can anyone answer or reassure me?

[*English*]

The Chair: Monsieur Paul-Hus, your hand is up.

Please go ahead.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

I think we've been discussing the motion long enough. I take Mr. Thériault's point, and my fellow members can talk about it further off-line. Clearly, we want to have as much information as possible, and we don't want redacted documents. We are willing to support Mr. Fisher's amendment.

I would like us to vote now, please.

[*English*]

The Chair: Mr. Fisher, you're up.

Mr. Darren Fisher: Thank you, Mr. Chair.

Basically, any agreements that we have on the Canadian border and the United States border are bilateral. They require an ongoing agreement with the United States. Decisions have to be made with that in mind.

If we apply the ATIP rules, that would ensure that any sensitive materials pertaining to the Canada-U.S. border are not released to the public.

I would suggest, Mr. Chair, that this is a good time to vote.

• (1400)

The Chair: Thank you, Mr. Fisher.

Seeing no further interventions, I will ask the clerk to conduct the vote, please.

This is a vote on the motion itself, as previously amended.

The Clerk: From my understanding, this is a vote on the amendment by Mr. Fisher.

The Chair: Sorry, you are correct.

(Amendment agreed to: yeas 9; nays 2 [*See Minutes of Proceedings*])

The Chair: Thank you, Madam Clerk.

The amendment has passed.

We're now back to the original motion as twice amended.

Is there any further debate on this motion?

Seeing no interventions, I will ask the clerk to conduct the vote on the motion, as twice amended.

The Clerk: Thank you, Mr. Chair.

I will go right to it.

(Motion as amended agreed to: yeas 10; nays 1 [*See Minutes of Proceedings*])

The Chair: Thank you, Madam Clerk.

The motion as twice amended has now passed.

Do we have time now to start our second panel?

[*Translation*]

Mr. Pierre Paul-Hus: Mr. Chair—

[*English*]

The Chair: Go ahead, Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

You didn't hear it at the beginning, but I read both motions. The question on the second one should be put forthwith, since the motion has already been moved.

[*English*]

The Chair: Thank you. I forgot that.

Mr. Darren Fisher: Just on a point of order, Mr. Chair, the other motion wasn't moved. It was read, but it wasn't moved.

The Chair: Mr. Paul-Hus, move the motion as you read it, please.

[*Translation*]

Mr. Pierre Paul-Hus: All right, Mr. Chair. It reads as follows:

That Public Safety Canada provide the committee with the total number of RCMP, CBSA and Correctional officers infected with COVID-19, broken down by cohort and province, between March 11 and June 15, 2020, and that these statistics be presented to the committee no later than July 10, 2020.

Mr. Chair, before you go ahead, I would just like to point out that the motion deals only with the officers of the three agencies. The information isn't hard to find. The government should have already provided it.

• (1405)

[*English*]

The Chair: Thank you, Mr. Paul-Hus.

Is there any debate?

Mr. Fisher, please go ahead.

Mr. Darren Fisher: Mr. Chair, I think this notice of motion by Mr. Kitchen is a pretty good motion. I'm inclined to support this.

Thank you, Mr. Chair.

The Chair: Thank you.

Are there any further interventions? Seeing none, I will ask the clerk to conduct the vote.

(Motion agreed to: yeas 11; nays 0)

The Chair: Thank you, Madam Clerk.

I understand that we have a hard cap at 3 p.m. eastern, so we have less than an hour to go. I guess we can start the second panel and do what we can in that hour or in less than an hour.

That being said, I will suspend the meeting right now while we bring in the next panel.

• (1405)

(Pause)

• (1425)

The Chair: We will continue.

We have a hard cap at the top of the hour, so it's likely we'll get statements and maybe an abbreviated first round.

Having said that, I will introduce our panel of witness.

From the Native Counselling Services of Alberta, we have Ms. Marlene Orr. From the John Howard Society of Canada, we have Ms. Catherine Latimer. From the Union of Safety and Justice Employees, we have Mr. Stanley Stapleton and Mr. David Neufeld.

Thank you all for coming. We were delayed with committee business, but we'll try to give everything our full attention.

The Native Counselling Services of Alberta, please go ahead. You have time for a 10-minute statement, but if you can abbreviate it at all, that would be appreciated.

Ms. Marlene Orr (Director of Corrections, Native Counselling Services of Alberta): Good afternoon, Mr. Chair and members of Parliament. I'm honoured to speak to you today.

My name is Marlene Orr. I'm speaking to you from Treaty 6 territory, the traditional lands of the Cree, Nakoda Sioux, Métis and many other indigenous peoples. As a member of the Beaver Lake Cree Nation and Treaty 6, I'm especially proud to acknowledge the traditional territory of my people.

I'm the director of corrections for the Native Counselling Services of Alberta.

[*Translation*]

Mr. Luc Thériault: Mr. Chair, I have a point of order.

My apologies for interrupting the witness, but the sound quality is quite poor. Can we get that fixed?

[*English*]

The Chair: Yes. Can we take a quick look at the French interpretation? We're good.

I'm sorry, but could the witness try again, please?

Ms. Marlene Orr: I am the director of corrections for Native Counselling Services of Alberta, a not-for-profit that has provided programs and services for indigenous people in conflict with the law, for over 50 years.

Native Counselling Services of Alberta runs the largest healing lodge for male federal offenders in Canada and the first section 81 healing lodge for federal female offenders. Healing lodges are minimum-security federal institutions in which the care and custody of minimum-security federal offenders is transferred to the indigenous community under the Corrections and Conditional Release Act.

Focusing on indigenous culture and ceremony, section 81 healing lodges work to reintegrate indigenous federal offenders into the community using an indigenous world view. We are better equipped to deal with indigenous offenders than the Correctional Service because we understand historic trauma and take our [*Technical difficulty—Editor*] reintegration because we know our communities. Section 81 healing lodges are the face of reconciliation and indigenous reintegration for federal offenders.

Today I'll speak about the impacts of COVID-19 on [*Technical difficulty—Editor*] service providers in particular. The wider impact is important for understanding the impact on offenders.

Since the Truth and Reconciliation [*Technical difficulty—Editor*].

• (1430)

The Chair: Madam Orr, your sound has gone. I'm not sure if it's on your end or my end. Are you there?

Madam Clerk, maybe we can get somebody to give her a call. We'll carry on with another witness.

Let us now go to the John Howard Society.

Please go ahead, Ms. Latimer.

Ms. Catherine Latimer (Executive Director, John Howard Society of Canada): The John Howard Society of Canada is a charity committed to just, effective and humane criminal justice systems. I am grateful for the committee's invitation to share our concerns about the response to the outbreak of coronavirus in Canada. For many Canadians, the pandemic has caused fear and significant disruption to our lives. For others, it has had tragic consequences, and we send our condolences to all those who have lost friends and family to this disease.

The federal government has direct responsibility for prisoners in its care, and the impact of the coronavirus on the federal prisons has been profound. Two people have died, more than 360 people have been sickened, and five institutions have been contaminated. The rate of infection was assessed at 13 times the rate in the general population.

According to the correctional investigator's April 23 release, 400 prisoners were held in medical isolation in extreme conditions that violated their rights. Hundreds more are locked down in their cells for 22-hours a day, with inadequate meaningful human contact, which is inconsistent with the UN definition of solitary confinement and its prohibition. Prisoners protesting the conditions were met with force in some cases, resulting in prisoners having to seek medical assistance outside of the prison. Visits with family and volunteers were cancelled, and chaplaincy services were suspended, all of which increased feelings of isolation. Programs and opportunities to make progress on correctional plans were suspended, leading to increased feelings of hopelessness and frustration.

We are experiencing the worst crisis in Canadian corrections since the Kingston Penitentiary riots almost 50 years ago. The tragedy is that we were forewarned by epidemiologists and other medical experts about the amplifying effect that prisons have on the virus. The medical and human rights advice was to remove as many people from prisons as possible and give the remainder a chance, through prevention, by permitting social distancing.

As soon as the pandemic was labelled as such in mid-March, there were calls on the federal government to safely release prisoners. These were ignored. The first two prisoners at Port-Cartier tested positive on March 30. On March 31, Minister Blair asked CSC and the Parole Board of Canada to consider ways to expedite releases. Other more expeditious measures, like respites under the Governor General's clemency authority, were not considered.

While other jurisdictions and provinces released hundreds and thousands of prisoners following the advice of medical experts, Canada did not. Canada has duties to prisoners. Section 215 of the Criminal Code provides that those who are detaining individuals have a legal duty to provide the necessities of life to those under their charge and could be criminally liable if they, without lawful excuse, fail to discharge that duty and it endangers the life of the prisoner or his or her health in a permanent manner.

The Corrections and Conditional Release Act obligates the service to provide essential health care and reasonable access to non-essential health care that conform to professionally accepted standards. A core purpose of the correctional system, as set out in the CCRA, is to carrying out sentences in a "safe and humane" manner. CSC is required to use the least restrictive measure consistent with the protection of society, staff members and offenders.

The World Health Organization and other international bodies released a joint statement about how COVID-19 should be managed in prisons. Among other things, it stated that COVID-19 responses in prisons must respect the human rights of people deprived of their liberty, and the disruptive impact of restrictions should be actively mitigated. It provided that any intervention should comply with the UN's standards for the treatment of prisoners, the Nelson Mandela Rules. Those rules define solitary confinement as "22 hours or more" in cells "without meaningful human contact", and prohibit prolonged solitary confinement, 15 days or more, which is understood as a form of cruel treatment. Canadian courts have recently recognized the harm that such isolated confinement can cause and have found charter violations.

There are hundreds of prisoners who have experienced isolated confinement for well over 15 consecutive days as a response to the COVID-19 virus. Many would like to see an in-depth, independent inquiry into the government's handling of the COVID-19 crisis in our federal prisons to assess whether obligations were met, how people died and became ill, both from the virus and the strict isolation imposed in response to it, and to assess what should be done in future for a second wave or another pandemic.

• (1435)

Based on the concerns I heard from prisoners and their families, the inquiry could provide much-needed answers. In the interest of time, I will give you categories rather than go into the issues raised by the prisoners and their families. Those include issues associated with the prevention of the disease from getting into the prison, dealing with the infected prisoners once the prisons were contaminated, dealing with the other prisoners, and reopening the prisons and bringing back some of the strict measures that had been put aside during the pandemic.

In conclusion, individuals in our federal prisons have suffered as a result of the government's response to the coronavirus. It is questionable whether the duties and obligations to prisoners have been met during this period. I hope this committee will recommend that an in-depth, independent inquiry be held to examine and learn from this crisis during which the physical and mental health of our prisoners were imperiled and their rights disregarded.

Thank you so much.

The Chair: Thank you, Ms. Latimer.

We go now to the Union of Safety and Justice Employees.

You have 10 minutes, but if you could do it faster, that would be great. Thank you.

Mr. Stanley Stapleton (National President, Union of Safety and Justice Employees): Good afternoon. My name is Stan Stapleton. I am the national president of the Union of Safety and Justice Employees, also known as USJE. As a national organization representing employees working on the front lines of the pandemic, I am immensely appreciative of the opportunity to be here with my colleague David Neufeld, who is the national vice-president.

USJE represents over 16,000 federal public service employees who work for 18 federal departments and agencies in a safety or justice capacity. However, the largest number of our employees work for the Correctional Service of Canada.

Unlike the Union of Canadian Correctional Officers, UCCO, which plays a security function at federal penitentiaries, USJE represents a diverse range of employees with crucial rehabilitative and administrative functions. These include food service officers, parole and program officers, teachers, managers of assessment and intervention, facilities and maintenance crew, and licensed practical nurses. Hundreds of federal parole officers and case management teams from coast to coast oversee the reintegration of federal offenders. Their job is to ensure that federal offenders across the country adhere to their supervision plans and are not at risk of reoffending.

I will be very honest with you. When COVID-19 hit, I do not believe we were prepared. Whatever pandemic protocols may have been in place were not immediately applied within CSC. On March 18 I wrote a letter to Commissioner Anne Kelly, appealing to her to immediately implement proactive measures to minimize the spread of COVID in federal prisons and contain the footprint in the community. We needed CSC to do what was effectively being done in Canada's long-term homes—namely, heavily control who was coming in and out of federal penitentiaries; significantly increase clean-

ing and sanitization protocols; ensure appropriate use of PPE, and encourage face coverings within; begin widespread testing; stop employees from working at multiple sites; and isolate presumptive cases among employees or offenders.

For several weeks, we found that new protocols were not always applied consistently. For example, there was limited access to testing and PPE, sanitization was inadequate, employees were moving between sites, food delivery within affected prisons was presenting opportunities for further infection, and there were not enough laptops to enable work from home. Quite frankly, when considering the living and working conditions at CSC during this pandemic, it is remarkable that major outbreaks were contained to five federal sites and two deaths. Although extremely unfortunate, it could have been much worse.

USJE's senior leaders worked around the clock for several weeks to highlight the challenges, gaps, oversights and opportunities to do things better when it came to COVID. One could say we were relatively lucky this time. However, many CSC employees working at full capacity and under enormous stress during the past few months would not view the situation so favourably.

Thankfully, at this stage CSC and its union partners are in a much better place. This is in part because of the creation of a joint transition task force established by CSC, USJE and other labour partners. The task force is something that USJE called for in order to keep employees and offenders safe. The work of this task force has been very encouraging in terms of the level of respect and engagement. We commend Bev Arseneault's leadership with this task force. I believe it could represent a new direction in how CSC treats its labour partners, who have first-hand knowledge of the challenges on the ground.

I will now turn it over to my colleague David Neufeld.

• (1440)

Mr. David Neufeld (National Vice-President and Regional Vice-President, Correctional Service of Canada Community and Parole Board of Canada - West, Union of Safety and Justice Employees): As we begin to enter a reset phase of this pandemic, it is imperative that USJE work very closely with CSC and other stakeholders to, first, critically evaluate the effectiveness of the protocols put in place because of COVID-19 and determine what could be done better and how, and second, assess what is needed in this new normal environment for operations to continue efficiently and safely while also beginning to prepare immediately for future waves and challenges. To do so, we have identified the following recommendations.

First, USJE is encouraged to seek greater collaboration between our organization and CSC. This meaningful joint work is already yielding positive outcomes for employees, offenders, institutions and facilities as a whole. USJE is committed to working closely with all stakeholders to ensure we take the time to critically reflect on the past few months as well as to act now to mitigate the impacts of potential future pandemics. We believe the work of the task force must continue for a minimum of one year, until this pandemic is safely behind us.

Second, from the onset, safety measures must meaningfully take into account input from front-line employees who work within the institutions, community corrections centres and community parole offices. In the early days, USJE members across the country reported immense frustration in having their feedback disregarded by CSC management. Many felt that the lives of offenders and employees were on the line, especially in outbreak sites, where hundreds of offenders became ill. Our members are often the people who will be putting the new protocols into place, so their buy-in is absolutely paramount. No one understands operational considerations better than those who see their impacts daily. Their input matters a great deal and needs to be treated with respect.

Third, for service levels to continue at their pre-pandemic standards, more resources—especially human resources—will be required. Many CSC employees have adapted their work to be in line with social distancing and other COVID-19 requirements. For example, a CSC program officer in the community who is in charge of delivering a weekly rehabilitation program to a group of 10 offenders now has to meet individually with each one every week through video conference or teleconference. Not only will this require far more time to accomplish, but it means that each offender must have access to a smartphone or device, a reliable Internet connection and a quiet place to speak with the instructor. Sufficient human resources are imperative to maintaining the required frequency of contact with offenders. Meaningful frequency of contact is absolutely critical to ensuring proper supervision and rehabilitation, as well as public safety. For some, COVID-19 has only worsened workload issues and stress levels, given the realities of working differently.

Fourth, sanitation processes must be improved. COVID-19 has forced us to take a much closer look at cleaning protocols within CSC. CSC has just recently committed to the Public Health Agency of Canada standard. Over the past few months, employees have worked hard to contribute to enhanced cleaning efforts, even if it

was not part of their official duties. However, the current practice of relying on a small number of offenders to do the majority of sanitization in very large penitentiaries, with little or no training in pandemic standards, is irresponsible. Contracting these critical tasks to outside agencies with highly transient employees is also not the answer. Using outside cleaning contractors who enter a number of sites increases the chances of spreading the virus between institutions. We witnessed this during the outbreak in Mission Institution in B.C., where cleaners were going between two different penitentiaries during the same week. Additionally, interview rooms for multiple staff to meet offenders in federal prisons are often extremely small and not cleaned regularly. CSC penitentiaries and CCCs carry the same risk as Canada's long-term care homes. We urge CSC to hire full-time properly trained cleaning professionals in each institution, community parole office and community correctional centre.

Last, in terms of the community footprint, community parole officers and case management teams have significantly decreased their footprint and have reduced community contagion through delivery of programs by telephone or video. They are also providing supervision by reducing the number of times an offender travels to a community parole office or by meeting with the offender in the community at a safe distance. In many instances, case management teams can effectively work from home.

• (1445)

In light of the prospect of a second wave, USJE strongly recommends no meaningful change to this modified approach to overseeing offenders in the community until Canada is confident that we are past a second wave.

In closing, we urge committee members to consider how the federal government can assist the federal correctional system with proper resources to maintain this new normal. Additional human resources, a contained footprint and more robust cleaning practices are imperative to keeping offenders, employees and Canadians safe. The federal government must also ensure that public health agencies throughout Canada offer widespread testing to offenders and employees. CSC must continue to foster ongoing collaboration with its labour partners and front-line employees.

Thank you for your time. We are pleased to answer any of your questions.

The Chair: Thank you.

I see Ms. Orr has rejoined us. I understand she had a power surge in her building, and that sounds very bad.

Please go ahead. We'll make do the best we can. If you'd like to start your presentation over, you have 10 minutes. Please speak slowly and carefully. Thank you.

Ms. Marlene Orr: Good afternoon, Mr. Chairperson and members of Parliament.

I am honoured to speak to you today. My name is Marlene Orr, and I am speaking to you from Treaty 6 territory. As a member of the Beaver Lake Cree Nation in Treaty 6, I am especially proud to acknowledge the traditional territory of my people.

I am the director of corrections for Native Counselling Services of Alberta, a not-for-profit that, for over fifty years, has provided and continues to provide programs and services for indigenous people in conflict with the law. Native Counselling Services of Alberta runs the largest healing lodge for male federal offenders in Canada and the first section 81 healing lodge for female federal offenders.

Healing lodges are minimum-security federal institutions, in which the care and custody of minimum-security indigenous federal offenders is transferred to the indigenous community under the Corrections and Conditional Release Act. Focusing on indigenous culture and ceremony, section 81 healing lodges work to reintegrate indigenous federal offenders into the community using an indigenous world view. Our healing lodges are better equipped to deal with indigenous offenders than are Correctional Service Canada or their other partners because we understand historic trauma. We take guidance from our elders on how we should address those issues of trauma and the relationship those issues have to criminal activity. We are better at the reintegration of indigenous federal offenders than are Correctional Service Canada. Section 81 healing lodges are the face of reconciliation and indigenous reintegration for federal corrections.

Today I will speak about the impacts of COVID-19 on indigenous people in general and on indigenous offenders and service providers in particular. It's important to understand the wider impacts so that we can understand the impact on offenders.

Since the Truth and Reconciliation Commission hearings and calls to action, we've become better informed regarding the social issues seen in the indigenous community and the direct link those issues have to historic trauma. We understand that the myriad impacts, such as loss of culture, fragmented families, lack of parenting models, addictions, poverty and violence in all forms, are directly tied to legislation in Canada that sought to strip indigenous people of their very cultural and legal identity in order to have access to their lands.

The onset of COVID-19 left us all unprepared for the upheaval in day-to-day life. Rapidly changing government and corporate policies left us in fear, anxiety and isolation for months. The impact was widely felt amongst Canadians but particularly amongst in-

igenous people and communities, who still struggle with poverty and other historic trauma impacts.

With the measures put in place by Canada, the provinces, municipalities and first nations communities, mental health concerns and loneliness have added increased stress. The impact on our communities, where the intergenerational effects continue, has exacerbated existing mental health concerns for indigenous people, perhaps to a greater degree than for others. Unresolved issues of trauma have surfaced and have been magnified. Lack of access to the cultural and spiritual community have left many indigenous people unable to cope with their emotional and mental health challenges without supports. That is especially true for indigenous offenders in institutions.

As restrictions ease, the use of masks and gloves has been stressed by provincial and federal authorities. With many provinces moving into relaunch, the use of masks will become increasingly necessary for people to access services. For example, in Alberta, persons attending court are required to wear masks, yet no masks are supplied by government agencies. Given the level of poverty many indigenous people experience, they are not likely to have the resources to purchase this protective equipment. Many indigenous not-for-profits are expected to bear the cost of providing this.

● (1450)

Very early on in the pandemic, schools closed down, and the expectation was that classrooms would move online. Students were expected to continue their studies while isolating. While laudable, these efforts come from a very privileged perspective.

According to the Canadian Poverty Institute, indigenous peoples in Canada experience the highest levels of poverty. A shocking one in four indigenous peoples are living in poverty. Speaking from lived experience, I can assure you that luxuries like electronic devices and Wi-Fi or phone data are not financially attainable for those in poverty.

This need for devices and data to stay connected became an issue for us as well. The online supports necessary for marginalized people excluded indigenous people because of their lack of access to connectivity. As we've seen here today, those are issues that our organization faces providing services out of a federal building.

Funders forced many organizations to bear the real cost of setting up online services and, when you consider that many indigenous people are too poor to stay connected virtually, it does not really make sense. Many indigenous communities have connectivity issues because of the lack of quality internet within their communities. One example is a Métis settlement in Alberta, where the Wi-Fi services do not extend beyond the governance office because of lack of internet infrastructure in their remote community.

This lack of connectivity was felt by us as well. At the very start of the pandemic, corrections staff were ordered to work from home, using Correctional Service Canada laptops to remain connected to the offender management system. Staff were kept safe and supported by corrections supplying them the equipment necessary to do their jobs in isolation.

Indigenous community partners in corrections didn't have the same assets and, as a result, couldn't work from home. Healing lodge staff had to go to work daily and risk exposing themselves and offenders in a residential facility. Despite numerous requests for laptops and connectivity, the two healing lodges I oversee were not provided with them. We were told by CSC that there was no equipment available, yet we received reports that approximately 20,000 laptops were purchased during the pandemic by CSC and are sitting stockpiled in Ottawa. The unspoken message is that the government is concerned about the safety of its staff, but not concerned about the safety of its indigenous partners.

While corrections staff were working at home, some of their responsibilities were deemed too unsafe for them to undertake. One example is the urinalysis testing performed on inmates and conditionally released offenders. This responsibility was devolved to my staff because, apparently, the task is not unsafe for indigenous people.

One of our healing lodges is in this old federal building. CSC is responsible for the maintenance. We had an electrical fire that burned out our entire camera security system. Correctional maintenance staff refused to enter our building, even though we implemented precautions long before CSC did. We were left to deal with that on our own.

CSC was slow to implement a COVID-19 response. We couldn't get answers to questions we had about policy, practice or testing. As our healing lodges are also, in part, community residential facilities, we have both inmates and conditionally released offenders. We were the only Alberta-based community residential facility that has remained open during the pandemic. We implemented policies around COVID-19 weeks before CSC did, and we continued to accept offenders released from the federal institution.

Our policies included a requirement for institutional health care to attest that offenders being released were COVID-free, or at least symptom-free. For three solid weeks institutional and community parole staff were dismissive of our policy and fought us on every transfer case. We asked that they attest that the transfer of released offenders occurred in a CSC vehicle that had been sanitized after the previous use. For three weeks, every federal institution we received released offenders from fought my staff about this. This speaks to the lack of pandemic policies and practices within CSC. It also speaks to the lack of health and safety practices in general.

• (1455)

The pandemic exposed cracks in the relationships among CSC, the indigenous community and community partners.

With tremendous political pressure mounting, CSC and the Parole Board rushed to depopulate the prisons for fear of COVID-19 spreading. In this rush there was little understanding of the reality of how this would affect indigenous people in communities. The rush to depopulate was a rush towards displacement and increased risk of offender exposure to the virus and to poverty.

It is well documented that my people are predisposed to a number of health issues like diabetes, tuberculosis and respiratory issues. Because of this, indigenous people in our communities are particularly vulnerable to COVID-19, and the risks of contracting the virus are much greater in the presence of these health concerns. This led to first nations taking unprecedented steps to safeguard their communities by locking down their borders and restricting access to those who did not live in the community. The increased cost of implementing security and ensuring food sovereignty has been enormous and a challenge for our communities.

If you did not live in the community when the pandemic hit, you were not likely allowed to go there. CSC did not have the relationship with indigenous communities to fully understand the impact of releasing indigenous offenders to closed communities.

The Chair: Ms. Orr, we're out of time.

Could you please wrap it up?

Ms. Marlene Orr: Sure.

What we are recommending is that a number of things take place.

Ensure that indigenous communities have good-quality Internet access. Ensure stockpiles of PPE are for not-for-profits. Ensure work-at-home policies for government workers apply to contractors as well. Ensure a thorough review of the fast-tracking of indigenous offender releases and ensure that a return to the systemic barriers faced by people in corrections does not happen again. Ensure that indigenous offenders remain connected to their families and cultural supports, keeping in mind community issues of connectivity. Ensure solid health and safety practices in corrections that are sustainable during normal and/or non-pandemic times.

Thank you for hearing me out today. I am open to any questions you may have.

• (1500)

The Chair: Thank you.

Thank you to all the witnesses.

Unfortunately, we are completely out of time. We have a hard cap on these video conferencing facilities at 3:00 p.m. EST.

I would encourage all the witnesses to submit additional material in a written brief through the clerk. We would certainly appreciate hearing more from you. I regret that we're not able to ask questions at this point. Thank you for your time and thank you for your patience.

Thanks to all the members.

With that, we are adjourned.

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Court File Number: T-539-20

FEDERAL COURT

BETWEEN:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

-and-

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF SIMON CHEUNG

I, Simon Cheung, of the City of Coquitlam in the Province of British Columbia, AFFIRM THAT:

1. I am a Legal Advocate with Prisoners' Legal Services ("PLS") in British Columbia. I have personal knowledge of the matters to which I depose in this Affidavit, or have received the information from others, as I describe below, in which case I verily believe it to be true.
2. I affirm this Affidavit in support of the Application brought by the Canadian Civil Liberties Association ("CCLA"), the Canadian Prison Law Association ("CPLA"), the HIV&AIDS Legal Clinic Ontario ("HALCO"), HIV Legal Network, and Sean Johnston, Federal Court File No. T-539-20.
3. This Affidavit will address the living conditions experienced by prisoners in federal penitentiaries in British Columbia since the beginning of March 2020.



I. BACKGROUND

4. PLS is operated by the West Coast Prison Justice Society. It is the only clinic for prisoners in Canada that administers all prison-related legal aid in its jurisdiction (other than court appeals). Our services range from offering summary legal advice to prisoners who contact us with questions to offering them legal representation at hearings.

5. As one of the Legal Advocates at PLS, my role is to make sure people in federal and provincial prisons across British Columbia are treated with dignity and that their rights are respected. I assist with issues that affect prisoners' liberty rights under the *Canadian Charter of Rights and Freedoms*, such as solitary confinement, involuntary transfers, parole suspensions, disciplinary hearings and more. I also assist prisoners with human rights and health care issues.

6. PLS opened 3,277 new "issues" for prisoners last year, a monthly average of 273 new issues. The number of telephone calls we received from prisoners is much higher than that. Advocates receive hundreds of calls from prisoners each month. I would estimate we field an average of about 60 calls each day. Usually, the calls arrive to our intake worker who assigns them out to the Legal Advocates according to the different institutions or types of issues to which we are assigned. I am the Advocate for all federal men's medium- and minimum-security institutions, as well as Pacific Institution, which is multi-level. It is a flexible division of labour. Everyone on the team will address any call that comes in if they are available and support is needed. In the past few months, we have been working remotely, so calls are channeled through the Legal Service Society's general line to us.

7. For each call we receive from a client, we record in a memorandum the issue or issues the client is calling about, any summary advice we provide, the client's instructions and any further services we will provide. We place each memorandum in the client's file. The memoranda are prepared as we speak with clients and comprise a contemporaneous set of notes of our conversations with the prisoners we serve.

8. The evidence below is based on those memoranda, my contemporaneous notes of recent phone calls I had in my role as Legal Advocate with prisoners from several different institutions in British Columbia. I am always very careful to take accurate notes. I know that with so many



calls arriving, I may need to refresh my memory from these notes in future, or my colleagues may rely on them when they have subsequent involvement with the same client. The issues are important to the prisoners and accurate detail is often significant in dealing with their cases. I frequently prepare draft legal documents based on my notes of our telephone conversations. I am confident in my ability to record my conversations accurately. Before my work as a Legal Advocate, I worked as a journalist and I have a Master's Degree in Journalism granted by the University of Western Ontario in 2006. I thus have training and experience in conducting interviews and maintaining accurate records of those interviews. Client feedback since I started in this position in June 2012 has consistently been positive regarding the accuracy of materials I drafted.

9. I have had many more conversations with clients than those I summarize below about the conditions in British Columbia penitentiaries since the beginning of March. These clients, however, have given me permission to share the information they discussed with me in these specific calls. They do not waive solicitor-client privilege regarding the content of their files with PLS.

II. MISSION INSTITUTION, MINIMUM SECURITY

10. Mission Institution is located in Mission, British Columbia and is operated by the Correctional Service of Canada ("CSC"). There are two sites for Mission Institution: a medium-security and a minimum-security site.

a. Call with Quoc Huynh (May 1)

11. I received a call from Quoc Huynh, a prisoner at Mission Institution's minimum security site, on May 1, 2020.

12. He expressed two principal concerns about prisoners in this facility being exposed to COVID-19. First, he told me that staff don't consistently wear masks as they should.



13. Second, he told me that there is a lot of movement between his facility and the Mission medium security site. Both prisoners and staff move back and forth between the sites. For example, he saw Mission Institution's Warden, Shawn Huish, arrive at the minimum security site from the medium security site a few days ago. He just walked right in and to a halfway point between the two facilities to meet the Assistant Warden responsible for Operations.

14. To try to limit contact between prisoners, management has divided the minimum security population into two groups. In this facility, prisoners live in houses. Mr. Huynh explained that half of the prisoners are allowed to leave their houses and have access to the yard in the morning while the other half go out in the evening.

b. Calls with Daniel Nette (April 29 and May 25)

15. I received a call from Daniel Nette, a prisoner at Mission's minimum security facility, on April 29, 2020.

16. Mr. Nette explained he lives in a house of eight prisoners. He is bothered by the fact that prisoners are frequently moved into and out of his house. He described it as a "never-ending cycle". It was his experience at Mission that when a prisoner starts to get sick, everything is shut down until his test results come back "negative" for COVID-19. Other than that, he said that prisoners could leave their houses quite freely. He said, "it's pretty open."

17. We spoke about Mr. Nette's health concerns. He told me that since birth, he has had "very excitable" asthma (that is, he reacts easily to any contaminants or allergens). He uses two inhalers, Ventolin and Symbicort. He often finds it difficult to breathe; even just walking to the phone, he finds himself wheezing. His asthma worsens when he has a cold or flu or when he is exposed to pollen, animal dander, or other contaminants. He has substantial physical problems with his lungs. He described how his chest collapses visibly inwards at the sternum.

18. We were assisting Mr. Nette with preparing an application for an Unescorted Temporary Absence for medical reasons. He has never been on a conditional release. Earlier in the year, Mr. Nette and his Case Management Team were planning to apply for Escorted Temporary Absences to allow him to attend Narcotics Anonymous and LINC (Long Term Inmates Now in the Community Society, a support programme), but that was abandoned because of the COVID-19



outbreak. It was my assessment that with a solid institutional record, over two decades passed since his index offence, many successfully completed programmes, his current placement in a minimum security facility, and a good release plan (to reside in a guest unit in the basement of a house owned by his mother and step-father), his Application was very promising.

19. Mr. Nette and I spoke again on May 25, 2020. We had asked Mission Minimum to decide on his UTA application within two weeks and they hadn't, so he had mailed Legal Services Society's Appeals Division a copy of the draft Application materials for a possible court action. At that point, LSS Appeals had not yet received them.

III. MISSION INSTITUTION, MEDIUM SECURITY

20. Below, I will summarize the telephone conversations I have had with prisoners at Mission Institution's medium security site. In general, I can report that the prisoners there were very scared, and since the beginning of the outbreak, have consistently reported a lack of reassurances, articulated plans or, indeed, much meaningful communication at all from the institution's upper management. There has been widespread media coverage of a very serious COVID-19 outbreak at this penitentiary. There are approximately 300 prisoners in this institution. 120 have tested positive for COVID-19. The outbreak was declared "over" on May 28. CSC reported that there are now no active cases remaining at the Institution. I understand that at the time I affirm this Affidavit, prisoners remain locked in their cells for all but 45 minutes each day on the tier (up slightly from the 20 minutes permitted per day in recent weeks.) and 45 minutes or an hour possibly twice per week in the yard.

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b. Call with David Cote (April 15)

27. On April 15, 2020, I received a call from David Cote, a prisoner at Mission Institution's medium security site.

28. He said they had been on lockdown for weeks. For the first five or six days of the lockdown, they were not allowed out of their cells at any time. Since then, they had been allowed out for an average of 20 minutes every third day or so.

29. Mr. Cote had heard that they were going to start "rotating people out", but he did not know what that meant in practice. When he called me, he was the first one allowed to leave his cell. He was out of his cell, by himself, at the time he called me but he did not know how long he would be out for.

30. Mr. Cote said the canteen had been closed for the past fourteen or fifteen days. However, the day before he called, the prisoners had handed in canteen forms and he expected to receive his canteen order some time that week.

31. I know that "canteen orders" include food items (like instant noodles, potato chips, and confectionary items), stationary items like paper and pencils, and also sanitary or hygiene products like soap and shampoo.



32. Mr. Cote told me that the prisoners were told at the beginning of the COVID-19 outbreak that individuals would be isolated if they had COVID-19. On his unit, the only person who tested positive had been taken out in an ambulance. However, he knows that people with COVID-19 were left on other units.

33. In terms of cleaning, Mr. Cote said that the routine on his unit had not changed since the COVID-19 pandemic began. His perception is that the prisoner cleaners probably do their best, but as soon as they are done, other prisoners create messes again. The living space is thus never really a clean environment, COVID-19 or not, though that has created greater concern about the issue. For example, the prisoner cleaners use the same mop head every single day.

34. Mr. Cote told me that he had just received masks and gloves the day before he called.

c. Call with Jonathan Campbell-Ball (April 16, April 20)

35. I received a call on April 16, 2020 from Jonathan Campbell-Ball, a prisoner who was in Mission Institution's new "Social Isolation Unit" or "Social Distancing Unit" (which was formerly the segregation unit), at the medium-security site. Mr. Campbell-Ball reported that he had been held there since April 1, 2020 after testing positive for COVID-19.

36. Mr. Campbell-Ball reported the following issues in his unit:

- a) He did not have time out of his cell apart from three showers in the past 16 days (April 7, 13 and 15), despite there being only four individuals on the unit;
- b) Staff refused to allow him to make phone calls, even with his own funds;
- c) He had not received any soap or cleaning supplies;
- d) The meals he received were small and cold; and



e) He had not been told when he might be released from the Social Isolation / Social Distancing Unit. Staff told him it was up to the health care personnel, and a staff member on the health care team said it was up to management, but neither the correctional manager nor a representative from the Warden's office had attended the unit during his entire period of confinement there;

37. Based on my knowledge and understanding of the usual circumstances at Mission Institution, these descriptions of the conditions of this unit are more restrictive than that of the former segregation unit, and possibly even worse than Mission's usual lockdown practices. Those practices do vary, but typically prisoners are locked down for 22 hours per day, often without access to the telephones (including for legal calls) or showers, for three or four days at a time.

38. I forwarded an e-mail to Warden Huish that same day outlining these concerns. I have received no response to this e-mail, nor in fact to any of the many e-mails I have sent him about conditions at Mission Institution since the lockdown began.

39. Mr. Campbell-Ball called me again on April 20, 2020. He told me that the guards were told by the Institution in March that they could not wear personal protective equipment ("PPE") or they would be "kicked off the site". He said this policy did not change until on or around April 4, 2020 when a memo went out that said they could wear PPE.

d. Call with Anthony Blais (April 17)

40. On April 17, 2020, I received a call from Anthony Blais, a prisoner in Unit 5 at Mission Institution's medium security site. He reported on several issues at Mission Institution.

41. Mr. Blais's unit had been on lockdown in their cells for 20 days as of April 17, 2020. During that time, prisoners had 20 minutes out of their cells every two to three days and had no access to the yard at any time.



42. For two weeks, the prisoners were receiving only two meals per day. The prisoners protested by “barking” (which I understand to mean commenting forcefully on the perceived unfairness of a situation) and making threats (which I did not learn any details about), and just the week before they had started to receive three meals per day again.

43. Throughout the lockdown, until the day before he called (so, until April 16, 2020), the prisoners did not have access to canteen. This included during the two weeks that they only received two meals per day. When canteen reopened, it was only for dry goods.

44. Mr. Blais suspected there were prisoners on his unit with COVID-19 but he said that the Institution would not tell them.

45. Mr. Blais did not have a shower for the first week or so of the lockdown, then he had one. After that, it was another five days before he could have his next shower.

46. Mr. Blais is a shower cleaner. He did not receive a mask until two days before he called me. He had not received any gloves.

47. Mr. Blais said that there would sometimes only be one staff member per unit. When that is the case, the prisoners cannot get anything. Mr. Blais said he saw piles of ants on the floor because food and trays were just left sitting on the floor for long periods of time.

48. Mr. Blais said that although the Institution was bringing lots of cleaning supplies, the only cleaners were the prisoner cleaners. There were no professionals or outside hired cleaners.

49. Mr. Blais said staff from the health care unit come by about half an hour or an hour before breakfast. They bang on the cell doors and they flick on the lights, which is annoying. If he actually needs health care, he can put in a request and it will usually take them an hour to get down to the unit.

50. Mr. Blais said that staff at Mission Institution had not presented any plan to the prisoners about how they would address the COVID-19 pandemic. He said he and other prisoners are left going by what they hear on the news.



e. Call with Jason McGinn (May 4)

51. I received a call from Jason McGinn, a prisoner at Mission Institution's medium security site, on May 4, 2020. He told me the prisoners there were not provided with any rubber gloves and they only received one mask. He said there were five or six prisoners on his unit who tested positive for COVID-19, and they continued to interact with the same people as those who had not tested positive for COVID-19, such as the servers who bring their meals.

52. Mr. McGinn told me his statutory release date is June 11 or 12, that he had set up a halfway house that he could go to up to that point, and that he had a job to go to once he was released. He told me he had written to his Parole Officer about three weeks earlier. However, Mr. McGinn told me CSC would not let him out early.

f. Call with Sean Ryan (May 5)

53. I received a call from Sean Ryan, a prisoner at Mission Institution's medium security site, on May 5, 2020. Mr. Ryan told me he was transferred from Bath Institution in Ontario about two or three months ago. He reported the following issues at the Institution and with his own attempts to be released on parole.

54. He told me that the prisoners are locked in their cells and only get out for 20 minutes per day. He said that they are getting these 20 minutes out pretty much every day at this point, which I understand was not the case earlier in the COVID-19 pandemic. He told me that he wears a mask.

55. Mr. Ryan said he was up for parole in April 2020 but things got "messed up" and he was not released. He said his next parole date is not until September 2020. He told me that he did not know if he would live for six more months in prison because he has cancer in his throat and vocal chords. He said that he had finished his radiation treatment before he transferred to Mission Institution and he lost 40 pounds while on radiation. He said he does not know what stage his cancer is at, what his prognosis is, or whether the cancer has spread. He said he was supposed to continue to see a specialist after his radiation was complete but he has not had any follow up since he arrived at Mission Institution. He said he does not know if the radiation has had an impact on his immune system. Mr. Ryan told me he is Indigenous. He also told me that



his public safety risk has been assessed as “low” for approximately 20 years. He said that because of his cancer, different people have been trying to help him get to a minimum institution and he thought he had full support, but the Warden at Mission Institution put his escape risk up to moderate.

g. Call with Kyle Johnson (May 15)

56. I spoke with Kyle Johnson, a prisoner at Mission Institution’s medium security site, on May 15, 2020.

57. Mr. Johnson told me he tried to get tested earlier in the outbreak but even though he was coughing frequently and “felt like shit”, they would not test him. He was tested only when the Institution did their first round of mass testing (which the Institution waited three weeks to do) and the result then was negative.

58. He told me there was some confusion regarding the protocols that applied on his range right now. For example, he said there were 26 prisoners all trying to do their laundry at the same time and there is no schedule. He said he had to wait for a guard to come by and ask to be let out to do laundry. He put his laundry in at 1 p.m. the day before and got it out at 7 p.m. They are allowed out of their cells for 20 minutes per day (“if they’re lucky”) but it seems like laundry does not count. Guards just let the prisoners run over to the laundry area when they choose. He has heard that the practice of keeping them in their cells for all but 20 minutes might last another two or three weeks, or maybe another two or three weeks after they have no new positive tests.

59. Mr. Johnson told me many prisoners think the outbreak started in the kitchen. He had noticed one of the stewards (a kitchen staff worker who comes in from the outside) was suddenly gone and replaced by another woman they had never seen before. Shortly after that, the prisoners were all locked down.

h. Call with Robert Bomba (May 15)

60. I received a call from Robert Bomba, a prisoner at Mission Institution’s medium security site, on May 15, 2020.

61. Mr. Bomba told me he tested positive for COVID-19 at the end of April.



62. He told me when the outbreak first happened there was almost a full week when prisoners were not permitted to leave their cells for any reason.

63. A communication recently went out through their internal newsletter or communication channel which said they had hand sanitizer. Mr. Bomba said none of the prisoners have seen any of it. He has asked several times and got no response. They are given a new mask every five days. His requests for gloves have been denied. Prisoners have only been provided gloves twice, without having to ask, since the outbreak began.

i. Call with Kenneth Hammond (May 20)

64. I received a call from Kenneth Hammond, a prisoner at Mission Institution's medium security site, on May 20, 2020

65. Mr. Hammond told me that he had tested positive for COVID-19 during the first week of the outbreak in the Institution, around the same time that a prisoner there passed away from the virus. His sister died after she was infected by COVID-19 on April 30. (He was not informed by the Institution until May 5.)

66. After he tested positive, he was then locked up. In the two weeks prior he had been performing his job as "the biohazard guy." He followed instructions – it's his job – to move about the facility and he was "cleaning everything".

67. Mr. Hammond is serving a life sentence. He was supposed to have a parole hearing recently, and received a negative paper decision. He had hoped to have his hearing in person, but could not mail in the required request for this because he had no access to a printer.

68. Mr. Hammond reported that prisoners are currently allowed out of their cells for 20 minutes per day. Ten days previously (so, May 10), they started to allow prisoners access to the yard for 45 minutes, once per week.

69. Mr. Hammond told me he perceives the Institution to be making efforts to "hush people up." Prisoners are threatened with being sent to segregation if they talk. (I interpreted this to



mean communicating complaints to media, prisoners' rights advocates like me, or counsel involved in the various cases contemplating litigation related to conditions in federal penitentiaries now.) In segregation, prisoners are not allowed out of their cells to use telephones.

j. Call with David Whitstone (May 22)

70. I received a call from David Whitstone, a prisoner at Mission Institution's medium security site, on May 22, 2020. He reported the following issues at Mission Institution.

71. He told me he was tested for COVID-19 on April 8, 2020. He said he received the test results on April 10 and found out he had tested positive. He said he was sent to the Abbotsford General Hospital on April 11 and was there for approximately five days. He said he was then transferred to Regional Treatment Centre isolation and was there for approximately five days. He said he was released from isolation on April 23. He told me that he has asthma.

72. Mr. Whitstone told me that he had seen on the news that there had been no more active cases in Mission Institution in the past two weeks, but that he had also heard that according to Health Canada the Institution is still an outbreak site. He had heard that the current lockdown, which I understand to be that everyone is locked in their cells with only 20 minutes out per day and 45 minutes of yard per week, will continue to the end of May and the Institution will reassess in June whether this level of restriction will continue. He said he does not know what they will do after that. He told me the Unit Representative (a prisoner selected to liaise between prison management and the other prisoners on the unit) said that after next week the Institution will let three prisoners out of their cells at a time so they can have a full hour out each day.

73. In terms of personal protective equipment, Mr. Whitstone told me that prisoners only get one mask, once per week. He said they are not given gloves but can get them if they ask for them. He said they have no hand sanitizer.

k. Call with Darren Bauer (May 22)

74. I received a call from Darren Bauer, a prisoner on Unit 6 at Mission Institution's medium security site, on May 22, 2020.



75. Mr. Bauer told me that he tested positive for COVID-19. He was experiencing nausea and asked to be tested, but at first was refused because he was told this is not a symptom of the virus. It seemed to him the Institution didn't want to test prisoners then, earlier on. He'd heard from other prisoners that they had gone to the health care unit, saying they were sick, and met a similar response. They would not get tested. Instead, they would be given a Motrin. The Institution knew there was a problem long before they acted on it. When he met another nurse, she agreed to test him and it was positive. This was about two weeks before all prisoners were tested for COVID-19. Now they know about one-third of prisoners have COVID-19.

76. Mr. Bauer told me that as long as there are no new cases, they might try to open things up a bit more. He is worried some prisoners do have symptoms but do not want to tell health care personnel because they want to get out. A Keeper (formally known as a "Correctional Manager") told them that as of yesterday or the day before, if there were no new cases for 10 days and no one was having new symptoms, they might change the routine to a form of "unit restrict", allowing one hour outside of the cells per tier and there would be more rotation on the yard. When 20 prisoners are released from their cells, however, they will have access to only two showers and two telephones.

77. Mr. Bauer told me that communication throughout the pandemic has been poor. The Warden came down to the cells within the first two weeks of the crisis and addressed the prisoners on the intercom. He said he would keep them posted, but he hasn't been back since. Messages forwarded by management and the Commissioner are spotty and full of contradictions.

I. Call with Brody Muncey (May 25)

78. I received a call from Brody Muncey, a prisoner at Mission Medium Security Institution, on May 25, 2020. He reported the following issues at the Institution.

79. Mr. Muncey told me that he had been feeling sick on and off for the last month or so. He said that he and his neighbour had been tested for COVID-19 but the tests came back negative. Mr. Muncey said in his view the Institution gave the prisoners masks way too late.

80. Mr. Muncey said the prisoners have been locked in their own cells for 55 days. He said the Institution does not send mental health services around to the cells. He said that a few days

before he called me, the Unit Representative came around to the cells and told them that in the best-case scenario they would be allowing three prisoners out of their cells at the same time for one hour per day near the end of May or early June. Mr. Muncey said the Unit Representative told him that otherwise the current lockdown would go on for three to four months at least. Despite this, he said, the Corrections Officers fall behind on the daily routine and end up letting prisoners out more than one at a time for their time out of cell so that the COs can catch up on the schedule.

m. Call with Casey Clark (May 25)

81. I received a call from Casey Clark, a prisoner in Unit 5 at Mission Institution's medium security site, on May 25.

82. He told me he had tested positive for COVID-19 around April 22. He waited two days for the result. He had already asked twice before that to be tested but was refused. They told him they were not testing any prisoners.

83. Mr. Clark told me he had sleep apnea, that he stops breathing during his sleep. He has been told it could cause heart disease, stroke, or even death. He had a machine that helped regulate his breathing overnight. Dr. Dawson has not allowed him to use his machine for about a month and a half. The doctor said he was concerned that COVID-19 could be spread through his use of his oxygen machine, even though he is locked in his cell. Mr. Clark has observed that the nurses who are working in the Institution now are not the same ones they used to deal with on a regular basis.

84. Mr. Clark is concerned by how long all the prisoners were being kept locked up in their cells. The communications are unclear. Last week, a range representative told him he'd heard it could continue for two or three months. He has also heard two or three weeks. They have not heard a message from the Commissioner of Corrections for over three weeks.

n. Call with James Roper (May 25)

85. I received a call from James Roper, a prisoner at Mission Medium Security Institution, on May 25, 2020. He told me that he had a sore throat, a symptom of COVID-19, but he had not



tested positive. He had heard on the news that the Institution was outbreak-free now, but he said there were three prisoners tested recently and they had not heard anything about the outcome of those tests or how much longer the Institution would keep going with the current routine, which I understood to be that the prisoners are locked in their cells all the time except for 20 minutes out on their own cell per day and 45 minutes of yard per week.

o. Calls with Cassidy Field (April 23, May 11, May 21, and May 25)

86. I spoke with Cassidy Field, a prisoner at Mission Institution's medium security site, on April 23, May 11, May 21, and May 25. He only arrived at Mission on March 26, having been transferred from Kent Institution.

87. Mr. Field arrived at Mission just before the lockdown began. Prisoners have only been allowed out of their cells for 20 minutes per day, which is the only time they have to shower and to use the phone. He described this as very difficult to deal with. He could only have minimal contact with his fiancée and his children. He could not exercise. He said he had not been able to sleep for three days, and felt he was "starting to lose [his] mind."

88. Mr. Field told me he had tested negative for COVID-19 about two or three weeks prior to our call on April 23, and was tested again just recently but did not yet have that result.

89. On May 11, we spoke again. He described having continuing emotional difficulties. He told me that the "other day [he] had a breakdown." He refused to return to his cell to be locked up again and stayed out on the range for 3 hours, but was locked up again after that.

90. Mr. Cassidy called me again on May 21. He said he was now placed in isolation, along with four or five other prisoners, for behavioural issues. He gave me some more detail about the incident he described on May 11. He said he had refused to return to his cell, demanding that someone come down from management to answer the prisoners' questions about what was happening. They called it "taking the range hostage."

91. Mr. Cassidy's frustration with poor communication continued. He said a guard told them that that Mission would no longer be considered an "outbreak site" as of May 28. However, they were also told by someone in management or the regional office (and his tier representative also

told him this) that the routine would remain the same, even though there are no new positive test results. There remains confusion about what the current procedures are – some guards think they might be allowed out for 30 minutes daily now. He did not trust the information they were provided. He gave the example of the Warden announcing on the Public Address system at the start of the outbreak that he could assure the prisoners that none of his colleagues or staff brought the virus into the institution. Three weeks later they heard on the news that 12 staff members had tested positive.

92. He told me that guards have begun taping the refrigerators closed. Apparently, they think this might be how COVID-19 has been shared. There is now an outside cleaning crew working at the facility.

93. I spoke most recently with Mr. Cassidy on May 25. He said he had been “pretty quiet” for the prior week, but that his security classification is being reviewed, that the mental health problems he has experienced are being used against him. An addendum to his A4D (“Assessment for Decision” document, a report which summarizes all information relevant to a transfer decision) noted how he refused to be locked up, that he covered his window and has been cutting his arms and chest.

94. He reiterated that he heard that Mission would no longer be considered an “outbreak site” as of May 28. Three days after we spoke, on May 28, that declaration was in fact made by CSC.

p. Calls with Dain Campbell (May 4, 14, 22, and 26)

95. On May 4, 2020, I received a call from Dain Campbell, a prisoner in Unit 5 at Mission Institution’s medium security site. Mr. Campbell told me that he had tested positive for COVID-19 around April 16, 2020. He said he had chest pain, diarrhea, and headaches. He said he has a brain aneurysm and asthma, but he does not have an inhaler. He told me that shortly before the Institution went on lockdown in March, he had chest pains and he tried to wear a mask when he went to the cafeteria. Mr. Campbell said the Corrections Officers told him that if they can’t wear masks then he can’t wear a mask either and nearly charged him with “inciting”. Mr. Campbell told me he would be eligible for parole in July.



96. On Thursday, May 14, 2020, Mr. Campbell called me again. He told me that on Monday May 11, 2020, his Institutional Parole Officer (“IPO”), Jason Strijack, came to see how he was doing. He said Mr. Strijack went to healthcare services after their visit and told them Mr. Campbell did not look good, so healthcare personnel came down to Mr. Campbell’s unit and tested him for COVID-19 again that day. He said that after he was tested, the Institution wanted to put him in segregation until they received the test results. However, he said there were a lot of prisoners who had tested positive that were still in the unit, including two prisoners on his range who had tested positive, so he told them he wanted to be isolated in his cell as well. He said that each prisoner on his unit is allowed out for 20 minutes at a time at different times and, after each of those times, everything the prisoner touches is sanitized. Further, he said most of the units’ common facilities were divided up for separate use by prisoners who tested positive and prisoners who tested negative. Mr. Campbell said he did not want to go to segregation due to the mental hardship that would cause for him. He said the Institution allowed him to stay in his own cell, but placed him on 24-hour lockdown with no access to the showers or phones. One of the Keepers, (a Correctional Manager) had come to speak with him on Tuesday or Wednesday and told him they had to keep him in his cell because he was not willing to go to segregation, so he would get no shower, phone calls or yard time. The Keeper said if he wanted yard time, showers, or phone calls he would have to go to segregation. Mr. Campbell was able to access a phone to call me on May 14 because his COVID-19 test had just come back negative that morning.

97. On May 14, 2020, I e-mailed Warden Shawn Huish about the conditions Mr. Campbell described and how he was locked up for 24 hours per day for three days, until his test came back negative, simply because he opted not to be segregated away from his regular cell. I explained that this is not in accordance with relevant legislation or CSC’s own policy, and I noted PLS’s position that the Institution should not allow this to happen to anyone else. I received no response to this e-mail, like all my others, as I noted above.

98. On May 22, 2020, I received another call from Mr. Campbell. He told me that two days before he called, the Warden had sent a Keeper to see him and ask about phone calls that he had requested and not been able to make during the time that he was on full lockdown while awaiting his COVID-19 test results. Mr. Campbell believed this was due to the letter I sent to the Warden. Usually when prisoners request phone calls, they fill out a form and they retain a copy



of the form which is on a pink sheet of paper. Mr. Campbell said he did not have any pink copy for phone calls because he was not allowed to make any phone calls. Mr. Campbell said he could tell the Keeper was upset that someone on the outside had said something.

99. Also on this call, Mr. Campbell told me about the telephones on his range. There are 48 people on his range and two phones. He said about a month ago the Institution said they would add another phone, but that had not yet happened and, further, one of the two phones broke after that and had been broken for the past two weeks. He said that prisoners had complained about it, but nothing was done. He also said that he can see the yard from his cell window and he had not seen anyone go out for yard in the last two days (Thursday and Friday). He said this was unusual because, since COVID-19 began to be an issue in the Institution, there were usually rotations of prisoners going out for their 45 minutes per week of yard beginning at 8:00 and going throughout the day, Monday to Friday. He told me there was some speculation that they may open up the movement routine a bit in the near future if the few outstanding COVID-19 test results come back negative, however there was no official notification of this change.

100. I received another call from Mr. Campbell on May 26, 2020. He said that the movement routine had not yet changed. Consistent with reports I received from other prisoners at Mission Medium, Mr. Campbell told me that the prisoners are on lockdown with only 20 minutes out per day and 45 minutes of yard per week. He heard the Institution would have a new plan on May 28, but he said this seemed to be just the guards speculating as no one knew what the plan was or could answer any questions definitively. Mr. Campbell told me on this call that some Corrections Officers had told him they are short-staffed. He said some of them appear to be from other institutions. He said he does not think they are short-staffed because they have very little work to do in managing prisoner's movements with the prisoners in lockdown all the time. He said he had complained to the Warden, but the Warden told him to bring his complaints to the unit staff. He told me that he had been approved to move into a halfway house in Abbotsford if his parole is approved in July.

101. During this call, Mr. Campbell explained in further detail what happened with the mask in March, the incident that he had mentioned when he called me on May 4, 2020. He said he had received a mask from a nurse at Abbotsford General Hospital when he was there in January 2020



for chest pain. He said he kept the mask and then tried to wear the mask when going to the kitchen on or around March 26 or 27, 2020. He said that two Corrections Officers told him that they had been asking management for masks but they were not getting them, so they told Mr. Campbell he could not wear his or it would create tension. Mr. Campbell said he took his mask off after they said this. He said they also would not let him wear the mask on the unit. He said he asked the guards for masks and gloves but they said to take the complaints to the Warden. At the time that I spoke with Mr. Campbell, he said the Institution was allowing the prisoners to wear masks but only gave them one mask per week. The Institution did not give the prisoners gloves.

102. During this call, Mr. Campbell also told me about cleaning and testing. In terms of cleaning and sanitizing, Mr. Campbell told me that there is a spray bottle with clear liquid that they can use to spray and wipe things down. He said the prisoners do not receive hand sanitizer and cannot buy it at the canteen. He said they can get bars of soap.

103. In terms of testing, Mr. Campbell told me that because he was put on full lockdown when he had asked to be tested a couple weeks earlier, he did not ask to be tested again even though he was exhibiting some symptoms. He said he thought some prisoners on his unit might be sick but they were pretending they were not so that the lockdown wouldn't last longer. He told me he thinks a lot of the prisoners still have COVID-19.

104. He told me that this was a mental health issue as well because people are "going crazy" in their cells and beating on the doors. He said a lot of the prisoners were complaining about a lack of communication from the Institution.

q. Call with Simranpreet Dhillon (May 28)

105. I received a telephone call from Simranpreet Dhillon, a prisoner at Mission Institution's medium security facility, on May 28, 2020.

106. Mr. Dhillon reported that prisoners are currently allowed out of their cells for 20 minutes daily. They are allowed access to the yard for 45 minutes, once per week.

107. To speak with a lawyer, a request must be filed the day before.



108. He reported complaints about the food. Prisoners are fed three times a day, but people are getting hungry. The portions are smaller than they once were. When they used to go to the cafeteria, they could get a larger portion from the servers, but all of the food is now pre-portioned. Also, they used to be able to buy food from the canteen but now there are limits. The Institution removed items from the canteen that you could cook in ovens or microwave, and there are no frozen or refrigerated foods available any more.

109. Regarding cleaning supplies and personal protective gear, Mr. Dhillon reported that prisoners have to look for supplies themselves or put in a request. He personally has not bothered. They receive a new mask every two or three weeks. He said this has been the same since the beginning of the lockdown.

110. Third party cleaners are still present at Mission Institution. They do not clean the floors and walls however (like to get rid of hair or dirt). Prisoner cleaners are still employed to do that cleaning. The prisoners hesitate to ask the cleaners to clean more deeply, worried about facing an institutional charge for “muscling.”

111. Mr. Dhillon told me he had asked three times to be tested for COVID-19, most recently during the second week of May. He said he was told flat out that they are not doing any testing right now and that people have recovered from the virus. He has not been tested.

112. Mr. Dhillon asked a nurse why they are all still locked up if what she said was true, that everyone had recovered. She had no answer and said the decisions were coming down from above.

r. Call with Paul Delorme (May 29)

113. Paul Delorme, a prisoner at Mission Institution’s medium security site, telephoned me on May 29, 2020.

114. Mr. Delorme told me he had been tested for COVID-19 several times. Most recently, he tested negative. He was told that the first time they tested him, the viral load was so low it might have been a false positive.



115. He told me there is an organization inside Mission now cleaning the institution all day. They did not arrive until after all the prisoners were tested for COVID-19. Until then, it was just the prisoner cleaners responsible for the task, things like wiping doors down.

116. In terms of personal protective gear, Mr. Delorme told me that guards are now wearing masks and most of the prisoners wear masks also. He has only received three masks since the start of the outbreak. They've only gone around to deliver masks three times in the last two months. Mr. Delorme heard the Warden say in the media that every prisoner in the institution was given a mask. He didn't have one then, about one or one and a half weeks after the lockdown began. He got his first mask then, when he asked for one.

117. Mr. Delorme thought no one in his unit had COVID-19 when the lockdown started. They had also cut off visits. It was only essential services personnel who were coming in, not even chaplains. Then someone tested positive 4 or 5 days later. This led prisoners to think it must have been a guard who introduced the virus into the institution. The staff and the prisoners were not practicing social distancing before the lockdown.

118. Circumstances have changed somewhat over these two months. When the lockdown started, it was four or five days until they were allowed their first shower. Three or four days after that, they were allowed out of their cells for 20 minutes per day. It was not until May 6 that they started getting limited access to the yard again.

119. The most recent change has been that just last week they shut and locked down the kitchens. The microwave and hot pot were taken out into the range. There is no access to the fridge, although there is still a floor freezer on the range.

IV. PACIFIC INSTITUTION

120. Pacific Institution is a federal penitentiary in Abbotsford, BC operated by the CSC.

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b. Call with Rodney Abraham (April 20)

124. I received a call from Rodney Abraham, a prisoner at Pacific Institution, on April 20, 2020. He reported the following issues at Pacific Institution.

125. Mr. Abraham told me that he has asthma and has been trying to distance himself from others. He is very concerned about his health and what will happen if he gets COVID-19.

126. Mr. Abraham told me that they were currently on lockdown, but there were still issues with social distancing. The staff were wearing masks, but they were continuing to congregate. Prisoners do not wear masks and are let out to congregate.

127. When they first went on lockdown, Mr. Abraham had drafted a proposal for how the staff could run the unit and enforce social distancing, but this was not implemented. He said he and other prisoners have brought up concerns but nothing has been addressed. In fact, he said that when prisoners argue with the staff about what they should be doing to maintain personal distance, the staff give them institutional charges.

128. In terms of cleaning and hygiene products, Mr. Abraham said that the staff have been replenishing sanitizer, bleach, and disinfectant on their usual schedule. When they run out of any of these products they have to wait until the next weekly re-stocking before they are refilled.

129. Regarding personal protective equipment, Mr. Abraham said the prisoners have no masks and no gloves. He was aware of the information from the Chief Public Health Officer of Canada, Dr. Tam, that wearing masks will help to protect others. The prisoners had asked for masks, but



they were told that they could not have them due to safety concerns and identification concerns. He said the Institution had not implemented any alternative strategies to protect the prisoners.

130. Mr. Abraham said that he was in the Institution when SARS was a concern in 2003 and at that time they regularly disinfected areas that are commonly touched. He said this was not happening in the same way now.

c. Call with Omar Mouait (April 20)

131. I received a call from Omar Mouait, a prisoner at Pacific Institution, on April 20, 2020. He reported the following issues at Pacific Institution.

132. Mr. Mouait told me that he has chronic asthma and he applied for a compassionate release. Mr. Mouait told me that he is on parole suspension. He said if he got sick with COVID-19, he would be fighting for his life just because of a parole suspension.

133. Mr. Mouait explained that three weeks earlier the Institution proposed to move people with symptoms to the unit Mr. Mouait was on. There were seventy-one prisoners in the unit at the time, and they got together to say they did not want that. However, he said the Institution was continuing to put people who could spread COVID-19 on the unit. He said that when someone shows symptoms, they do not move them to another unit. They just lock that unit down and isolate those with symptoms within the unit.

134. Mr. Mouait felt the Institution was not doing anything to protect the prisoners. He said the guards were not wearing masks and he did not think they got tested. The prisoners also did not receive masks.

135. In terms of hygiene and cleaning, Mr. Mouait explained that the Institution would not give them sanitizer because they say that some prisoners will drink it. Prisoners were cleaning each range once per day.

136. Mr. Mouait explained that they had stopped doing programs. He was not concerned for himself because he would not be there for much longer, but others needed to get programs done.



d. Calls with Matthew Glada (April 17 and May 1)

137. I spoke with Matthew Glada, a prisoner on Delta range at Pacific Institution, on April 17 and May 1, 2020. This is the range where the Indigenous Initiatives programme is hosted.

138. Mr. Glada told me that his range had been put on lockdown for a couple of days because there were some presumptive cases. He described being “freaked out” by how the Institution was handling suspected cases, especially as he had prisoners on either side of his cell who were awaiting test results. He told me the prisoners have heard about the outbreak at Mission Institution and it has put everyone on edge.

139. Three days prior (so, April 14), one prisoner complained about symptoms so he was locked down. Then, someone else also complained Wednesday (so, April 15) and then all the prisoners were locked down. The day we spoke (April 17), they had been returned to a regular routine, though he knew at least one prisoner with a test result still pending who was stuck in his cell and he is worried about what that prisoner did before he was isolated.

140. Mealtime routines have changed. For a time, they were given meals in their cells. One meal, the guards brought the food up, but then they realized this was too much work and after that used two prisoner servers instead. They did wear masks. They also handed coffee and milk to prisoners at the bottom of the stairs. By the time we spoke, their food came in disposable “clamshell” containers. There are three or four ranges on each unit. Four servers for each grab the food and put it on the range. That morning, they brought the food up to the top, leaving it on tables. The prisoners had to go out of their cells to pick up their meals. They also had an idea for the prisoners to put their chairs near their cell doors where servers could drop off a meal and they could pick it up, but the servers ended up just handing the food to them directly.

141. That week, Mr. Glada was told that the Institution was soon going to let three prisoners out of their cells at the same time. They are instructed to take social distance. Mr. Glada expressed concerns about this. He had been trying to self-isolate but now they are off “unit restrict”, he had to come out of his cell to use the telephone and to get meals.

142. That day, for the first time, spray bottles were placed near the telephones to allow prisoners to clean them. Four telephones are used by 96 prisoners.



- V. On May 1, 2020, I spoke with Mr. Garda again. He worried “we’re one step away from Mission.” (I interpreted this to mean that he thought his institution was risking an outbreak of COVID-19 like that which had affected Mission Institution.) It was only the previous week that they said everyone had to wear a mask. And in the first few days, staff had refused to wear them.

VI. MOUNTAIN INSTITUTION

143. Mountain Institution is a medium-security federal penitentiary in Agassiz, BC operated by CSC.

a. Calls with Shane Hinton (April 14, 15, and May 22)

144. I received calls from Shane Hinton, a prisoner in Unit 2 at Mountain Institution, on April 14 and 15 and May 22, 2020. He reported the following issues at Mountain Institution.

145. During our first conversations, Mr. Hinton told me that the units were being kept separated from one another. Prisoners are allowed out of their cells during the day until “count” and they get 60 minutes of yard/tier time, but they are having all their meals in their cells. He told me that neither staff nor prisoners are social distancing. Although they were expecting this to happen any day, they were not yet on lockdown. He had heard that they were going to open a new unit to house prisoners with COVID-19 separately. He told me that he is a staff member in the kitchen. He spends most of his time out of his cell working in the kitchen.

146. In terms of personal protective equipment, he said that guards had started wearing masks just two days before he called me, but the prisoners do not have masks. Regarding hand hygiene, he said that they had hand sanitizer at one point, but this had been taken away and they were told it was because hand sanitizer is too expensive.

147. He told me that he was trying to get early parole for medical reasons because his underlying health issues could put him at serious risk if he became sick with COVID-19. He told me he had anxiety that COVID-19 would “get him” before he was released, which should be in about eight months. However, he could not see his Institutional Parole Officer because they

worked on a different unit than where he was. He was eventually able to submit an application regardless.

148. Mr. Hinton called me again on May 22, 2020. He told me that the prisoners had been told about the first case of a prisoner having COVID-19 in Mountain Institution on Wednesday, May 20, 2020. He said it was someone who was on Unit 4 that he heard had been transferred from Matsqui Institution and that he had been let out into the unit before they realized he had COVID-19. Mr. Hinton told me that he was not sure how long the COVID-19-positive prisoner was out on the unit before they realized, but he had heard it was for about a day. He told me that the prisoners were locked on their units and could not go anywhere, such as to the yard, the gym, or their jobs, since the announcement on Wednesday. He said the Institution had not provided any updates on whether there had been other positive COVID-19 tests and he does not know if the Institution would even tell them if there were.

149. During this call, Mr. Hinton said the Institution now gives the prisoners new masks each day. However, he said the Institution was not enforcing the obligation to wear masks or any social/physical distancing rules. He said people use the phones, which they all share, without wearing masks. He said the Institution is still not providing gloves or hand sanitizer and the prisoners do not have access to these items. He said the Institution has not brought anyone in from outside the prison to clean; the prisoners clean everything, including the shared phones. He said the Institution checks on prisoners who are high risk every three days.

b. Call with Brandon Hamvai (May 28)

150. I received a telephone call from Brandon Hamvai, a prisoner at Mountain Institution, on May 28, 2020.

151. Mr. Hamvai was recently returned to custody due to an alleged parole violation. He told me that even though he had tested negative for COVID-19 three times, he was kept in isolation for 14 days. He said there were eight prisoners in isolation at that time. They were all close to the time they could be released into the general population or transferred out, when some prisoners from Matsqui Institution's isolation unit were transferred in. It turned out one of them had COVID-19, but they didn't know it at first. They were locked down then for another three days,



during which they were allowed out of their cells for only one hour per day. When they were in the yard, only two prisoners were allowed out simultaneously and they had to stand on opposite walls. (He was in isolation from May 5 or 6 until May 25.)

152. During that time, the prisoners had been sharing a telephone. The Institution had the prisoners cleaning things they used in common, like the phone. All the cleaners did was spray the surfaces of areas like the countertops, fridges, and shower bars. He did not know what the product used was. It did not smell of bleach.

153. In terms of personal protection gear, Mr. Hamvai told me that prisoners in open population could get masks from guards if they asked. Prisoners were issued a mask when they arrived in isolation. They did run out at one point, and he had to re-use his mask for five days to a week until new ones were supplied. In terms of sanitary products, Mr. Hamvai told me that the soap provided in the isolation unit had caused the prisoners to have skin irritations, like rashes and hives. It was really low quality. They tried to buy different soap from the canteen but they could not.

154. The prisoners are still on “unit restrict.” Mr. Hamvai had heard a prisoner tested positive for COVID-19 on Tuesday of the week before (so, May 19) so now they are only allowed access to the yard for an hour. In his experience, all the prisoners are grouped together when they are allowed out on the yard. There are 120 people in a unit, so it is 120 people, or 60 if only half the population is let out at a time.

155. On the tiers, prisoners are now allowed out all day.

VII. MATSQUI INSTITUTION

156. Matsqui Institution is a medium-security prison in Abbotsford, BC operated by CSC.

a. Calls with Brandon Stucka (April 6 and 20)

157. I received a call from Brandon Stucka, a prisoner at Matsqui Institution, on April 6, 2020.

158. Mr. Stucka told me that he was trying to apply for Parole by Exception (“PBE”) due to a medical condition. He said he would not apply for an Unescorted Temporary Absence (“UTA”)



because his Institutional Parole Officer had told him that the prison was not doing UTAs right now.

159. Mr. Stucka explained that he was born with underdeveloped lungs that would not open and close on their own. He said he had to be hooked up to an oxygenation machine that breathed for him for six days, and then, up to approximately age ten, he had to be on a nebulizer or ventilator six times a day that put medicine and air into his lungs. He said that he now has severe asthma, for which he is prescribed the highest dose of medication that one can get. He described that sometimes just going up a couple flights of stairs he can get winded and has to use a “puffer”.

160. He told me that the Institution was restricting prisoners’ movements more and more every few days. He said they were currently on “floor restriction”, but that he thought they would be locked in their cells soon. He told me that Corrections Officers were not wearing masks and not practicing social distancing; he said it basically seemed the prisoners were on this restricted protocol while the staff were not.

161. Mr. Stucka called me back on April 20, 2020 to discuss the details of his PBE request. During this call, he told me that five prisoners had been transferred to Matsqui from Pacific Institution. He said he was not sure how long they were quarantined before arriving, but that they were only isolated for three days at Matsqui before they were let out into the units. He said the Corrections Officers threatened to walk off the job when this happened, and then it got resolved. He said the solution was that the new prisoners were not allowed out beyond the range on which their cells were located and they were locked up in their cells before the Corrections Officers conducted count.

b. Calls with Lawrence Bembin (April 7 and 30)

162. I received a call from Lawrence Bembin, a prisoner at Matsqui Institution, on April 7, 2020.



163. Mr. Bembin told me he received a memo from Health Care Services which said he was identified as high risk if he contracted COVID-19 due to his age and medical history and that he should report experiencing any symptoms. He told me that he has chronic obstructive pulmonary disease (“COPD”) and bronchitis. He said he had approximately 80 days left until his statutory release into a treatment centre. He wondered about whether he could get Parole by Exception. He was concerned about Corrections Officers’ behaviour because he said they would stand about a foot away from one another and laugh about it.

164. Mr. Bembin called me again on April 30, 2020. He told me he was now 56 days away from his statutory release date. He said he was accepted at all treatment centres in Abbotsford but identified only one with single-occupancy rooms.

165. He reiterated that he has COPD and bronchitis. He also told me that he has diabetes, stage four cirrhosis in his liver, and sleep apnea. He told me that he cannot use a sleep apnea machine because he finds it impossibly uncomfortable to sleep with anything on his face so he basically stops breathing intermittently at night. He said he also occasionally has acute angina pectoral, which feels like a heart attack. He has a nitro inhaler for this and when it comes up he puts two squirts under his tongue, waits, and then puts two more squirts. If this does not have any effect then he requires an ambulance. He said on or around October 4, 2019, when he was at a different institution, he woke up in the middle of the night and he was choking, he could not breathe. He said he was hospitalized at Lion’s Gate Hospital and required oxygen and nebulizers. He said he has also had to go to the hospital for nebulizers before when his COPD and bronchitis act up.

166. Mr. Bembin told me there was no “specialized cleaning” at the Institution, which I take to mean that prisoner cleaners continue to clean the prison rather than professionals hired from outside the prison. He also told me that guards were not wearing masks.

c. Calls with Randy Ryle (April 17, May 1 and 4)

167. I received a call from Randy Ryle, a prisoner at Matsqui Institution, on April 17, 2020. He reported the following issues at Matsqui Institution.

168. Mr. Ryle told me that his unit was on “unit confine”. He said this meant prisoners would have 15 minutes to one hour on yard, and otherwise they were restricted to their unit. He said

they also had canteen restrictions. Mr. Ryle said the Institution was threatening to put everyone on “range restrict”, rather than “unit confine”. He said this would be like segregation, which he had previously experienced for an entire year. He was concerned about having nothing to do, including no access to library books or games.

169. Mr. Ryle told me the Institution was not doing anything to address mental health concerns. He said no one has been checking up on them to see how they are doing. He had to go to the health unit during mealtime to talk to mental health staff and they said there’s nothing they can do unless he puts in a written request. He was concerned about this requirement because he said in his experience, it takes up to fourteen days to get a response to the written request.

170. Mr. Ryle told me that the prisoners are doing everything they can to keep things clean, but that guards are not socially distancing. He told me that he had told guards that the signs that say to keep one metre distance are for the guards as well, but they did not like that.

171. Mr. Ryle called me again on May 1, 2020 because he was experiencing a medical issue that he did not feel the Institution was adequately addressing. During this conversation, he also expressed concern about the Institution’s response to COVID-19. He told me staff come around at 4:15 pm and ask, by yelling at the cell door, whether he is OK. He said it seems they do not really care and there is no urgency.

d. Calls with Rajan Singh (May 20 and 25)

172. I received a call from Rajan Singh, a prisoner at Matsqui Institution, on May 20, 2020. He reported the following issues at Matsqui Institution.

173. He said the Institution provides for one and a half hours of yard each day. There are four units there, and they only allow one unit out at a time. However, they are allowed out in their range for the regular amount of time they would be allowed out of their cells.



174. He said the Institution was providing masks, but only for prisoners who go out of their unit. When they stay on their own ranges, even in the common areas, they do not get masks. He said the only time anyone checks to see whether the prisoners are wearing masks is when they are attending interventions or meetings with staff. He said the Institution had appointed prisoner cleaners, but he did not know what kind of disinfectant they were using.

175. Mr. Singh called me again on May 25, 2020. He told me the Institution was no longer giving masks for prisoners who were going to yard. He said the Institution was saying they do not have any masks. He also said that nurses had previously been checking on their symptoms, but that the nurses were not doing that any more.

e. Call with Dustin Lindgren (May 28)

176. I received a telephone call from Dustin Lindgren, a prisoner on Unit 3 East at Matsqui Institution, on May 28, 2020.

177. Mr. Lindgren told me prisoners had received a communiqué from the Warden that day. It said masks were issued to prisoners on April 20, 2020 and were expected to be worn whenever they were outside of their cells. This was intended to minimize the spread of the virus. The instruction had been largely ignored however. The memo said any prisoner who was seen outside of their cell without a mask would be charged with an institutional offence. He wondered aloud whether they were expected to wear them also in the shower?

178. Mr. Lindgren said he did not understand why these measures were being taken now. (I understood him to be questioning why these steps were not taken earlier.)

179. He told me that last week he had the flu. He was vomiting. Mr. Lindgren told me he reported this to personnel at health care but they did not test him for COVID-19 and just gave him a Gravol. He said that none of the prisoners are getting tested at Matsqui now. He knows of only one person tested recently. In contrast, he knows about 15 prisoners who have asked and been refused. They report various reasons being given: they don't have the capability to test, or they don't have the time, it's always a different excuse.



180. Mr. Lindgren lives on the third floor of the facility. He told me that the first floor had been quarantined a few days ago because they suspected someone had COVID-19. On his floor, movements are allowed around the range as usual. Prisoners are out on tier all the time and they are allowed one hour of access to the yard each day.

181. Mr. Lindgren's perception is that the cleaning operations are "okay". The Institution uses prisoner cleaners, not outside or professional staff.

182. He had applied for an Unescorted Temporary Absence but was refused. He said the reason for the refusal was that there was no health risk in the Institution, it was not dangerous, but now it seems they are acknowledging the opposite.

VIII. KENT INSTITUTION

183. Kent Institution is a maximum-security prison in Agassiz, BC operated by CSC. It is the only maximum-security prison in the Pacific Region (i.e. British Columbia and the Yukon).

a.

184.

185.

186.

SC

b. Call with Jason Halsey (May 15)

187. I spoke with Jason Halsey, a prisoner at Kent Institution, on May 15, 2020.

188. Mr. Halsey told me there was a great deal of tension at the Institution right now. The prisoners are reacting to the continuation of a very restrictive regime. They know if they were in the SIU they would have more freedoms than they do in Kent now, even though they do not cause any security problems. (The SIU or "Structured Intervention Unit" is the mechanism for restricting liberty inside the Institution permitted by legislation, which replaced administrative segregation.) Their regular routine would be to have two hours outside their cells daily, plus an hour allowed for access to the yard daily. Now, they are allowed only two visits to the yard per week, and two or three times per week they are allowed out of their cells into the range, for only one hour each time.

IX. CONCLUSION

189. I make this affidavit in support of the Application filed by CCLA, CPLA, HALCO, the HIV Legal Network, and Sean Johnston, and for no other or improper purpose.

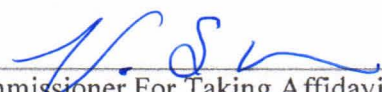
AFFIRMED BEFORE ME by video conference

From the City of BURNABY,
in the Province of British Columbia,

To the City of Toronto,

in the Province of Ontario,

On JUNE 4, 2020


Commissioner For Taking Affidavits

VANORA SIMPSON


SIMON CHEUNG

FEDERAL COURT**BETWEEN:**

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

– and –

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF MELANIE WYN ANDERSON

I, **MELANIE WYN ANDERSON**, of the City of Ottawa, in the Province of Ontario, **AFFIRM THAT:**

1. I have knowledge of the facts herein deposed to, except where stated to be on information and belief, in which case I state the source of my information and declare that I believe them to be true.
2. I am a lawyer in the Province of Ontario. From August 6, 2019 to June 5, 2020, I was a Student-at-Law at Goldblatt Partners LLP in Toronto, Ontario.
3. On June 1, 2020, I spoke to Wendy Penasse on the telephone and reviewed her affidavit with her. I discussed the nature of an affidavit and the consequences of providing a false affidavit and I ensured Ms. Penasse understood these. I then told Ms. Penasse that I would read the draft affidavit aloud to her in its entirety and I would ask her to indicate to

me verbally after each paragraph whether the paragraph was accurate and true, or whether she had any concerns or required removal, correction, or addition. I then read the draft affidavit to Ms. Penasse slowly, paragraph by paragraph, in its entirety. Ms. Penasse listened and told me whether the paragraphs were accurate and true or if they required any revisions. I made revisions to the affidavit in real-time in accordance with her responses and suggestions, and then read the final wording out loud to her again and she verbally confirmed her assent. Ms. Penasse verbally confirmed her assent to every line of the final affidavit.

4. On June 1, 2020, a copy of the affidavit was faxed to Ms. Penasse at Mountain Institution.
5. On June 5, 2020, Ms. Penasse called me. She told me she had reviewed the affidavit and wanted to make one minor change to ensure its accuracy. I made the revision, read it out to her, and then reaffirmed that the affidavit was true and accurate. The final copy of the affidavit was also faxed to Ms. Penasse and she has not made any additional requests for revision.
6. A copy of the same (unsigned) affidavit of Wendy Penasse, orally confirmed on June 5, 2020, is attached at **Exhibit "A"** to my affidavit.
7. On June 5, 2020, I spoke to Jonathan Jarvis on the telephone and reviewed his affidavit with him. I discussed the nature of an affidavit and the consequences of providing a false affidavit and I ensured Mr. Jarvis understood these. I then told Mr. Jarvis that I would read the draft affidavit aloud to him in its entirety and I would ask him to indicate to me verbally after each paragraph whether the paragraph was accurate and true, or whether he

had any concerns or required removal, correction, or addition. I then read the draft affidavit to Mr. Jarvis slowly, paragraph by paragraph, in its entirety. Mr. Jarvis listened and told me whether the paragraphs were accurate and true or if they required any revisions. I made revisions to the affidavit in real-time in accordance with his responses and suggestions, and then read the final wording out loud to him again and he verbally confirmed his assent. Mr. Jarvis verbally confirmed his assent to every line of the final affidavit.

8. A copy of Mr. Jarvis' affidavit was sent to him by fax on June 5, 2020.
9. A copy of the same (unsigned) affidavit of Jonathan Jarvis, orally confirmed on June 5, 2020, is attached at **Exhibit "B"** to my affidavit.
10. I am advised by Helen Falbo and verily believe that on June 12, 2020, Goldblatt Partners received by fax the signed but not commissioned final page of Mr. Jarvis' affidavit. A copy of that page is attached as **Exhibit "C"** to my affidavit.
11. I make this affidavit in good faith and for no improper purpose.

AFFIRMED BEFORE ME by video conference
 from the City of Coquitlam,
 in the Province of British Columbia,
 to the City of Toronto, in the Province of Ontario,
 this 16th day of July, 2020.


 A Commissioner for taking Affidavits
 Adriel Weaver LSO#: 54173P


 Melanie Wynn Anderson

This is **Exhibit "A"** to the
Affidavit of Melanie Anderson,
affirmed before me by videoconference
July 16, 2020

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a horizontal line that ends in a small arrowhead pointing to the right.

A Commissioner, etc.

FEDERAL COURT

B E T W E E N:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

-and-

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF WENDY PENASSE

I, Wendy Penasse, of the Town of Agassiz, in the Province of British Columbia, AFFIRM THAT:

1. I am a prisoner at Mountain Institution, a federal penitentiary operated by the Correctional Service of Canada (“CSC”) in Agassiz, British Columbia. I have personal knowledge of the matters deposed to in this Affidavit, or have received the information from others, in which case I verily believe it to be true.
2. I affirm this Affidavit in support of the Application brought by the Canadian Civil Liberties Association (“CCLA”), the Canadian Prison Law Association (“CPLA”), the HIV&AIDS Legal Clinic Ontario (“HALCO”), HIV Legal Network, and Sean Johnston, Federal Court File No. T-539-20.

3. This affidavit addresses the living conditions I have experienced at Mountain Institution since the outbreak of COVID-19 in Canada on March 13, 2020.

I. INTRODUCTION

4. I am 39 years old. I have been at Mountain Institution since approximately 2013. I am serving a life sentence. I will become eligible for day parole in 2024. The earliest I could be eligible for full parole would be 2027.

5. I am concerned that the conditions in Mountain Institution and the Institution's response to the COVID-19 pandemic do not adequately protect prisoners and will not prevent the virus from spreading.

6. Due to my concerns about the conditions in Mountain Institution and the likelihood of contracting COVID-19 here, I applied for an exceptional release under s 121 of the *Corrections and Conditional Release Act*. My application was denied by letter dated May 6, 2020. The response I received on my application said that my case would not be considered because my "parole eligibility dates are in the past" (I am quoting from the letter, my parole dates are not in the past because, as I said, I am not eligible until 2024 for day parole and 2027 for full parole).

II. THE INSTITUTION

7. Mountain Institution is a medium security institution.

8. My cell is in Unit 1, which is shaped like a plus sign with two ranges on each of the lines jutting out from the middle. Each range has 10 people, so there are 80 people in total in Unit 1 when it is at full capacity, which it currently is.

9. In the middle of the "plus sign" is the console where the Corrections Officers work with a desk from which they can get a clear view of all the ranges. There is also a closed-off area behind the desk with offices and a staff area.

10. In Unit 1, each cell has its own toilet and sink and window that can be opened to the outdoors. Each cell also has its own door with a solid window. During the day when we are on

“unit release”, which means we are allowed to leave our cells and move about the common areas, we can also choose to stay in our cells and then we are allowed to close and lock our doors.

11. While we are all single-bunked in Unit 1, meaning each of us in Unit 1 has their own individual cell, this is not the case in the other units. Units 2, 3, and 4 all have what the Institution calls “shared accommodation”, but in reality, the prisoners are double-bunked. On units 2, 3, and 4, there is space for 120 prisoners in each unit of 60 cells, but I do not know how many prisoners are currently in each.

III. RESTRICTIONS AND COVID-19 CASES

12. On or around March 13, 2020, Mountain Institution put prisoners on what they call “unit restriction”. We were told that, to minimize the risk of transmission, each unit would be isolated from the other units. Since then, we have not participated any activities, such as eating meals, as a population outside of our own units. However, as I describe in further detail below, prisoners from different units do still interact in ways that could spread COVID-19 throughout the Institution.

13. On March 25, 2020, the healthcare unit issued a notice to everyone who they deemed to be at a higher risk of medical complications if they were to come in contact with COVID-19 due to their age and/or medical history. I noticed that a lot of people in my unit received this notice. I received a copy of this notice. It is a stock notice and does not say what my risk is. I think I received it because, although I am only 39, I was born with bronchitis, which developed into an asthmatic-like lung condition that causes my breathing to be strained. It may also be because I have had Hepatitis C in the past, but I do not know because it does not say on the notice and no one has told me.

14. On May 20, 2020, the Warden of Mountain Institution issued a memo stating a prisoner, who was in segregation, tested positive for COVID-19. Following this, they put us on a more restricted routine. Unit 4 was put on full lockdown because someone who had recently been in segregation at the same time as the person who tested positive had been released to Unit 4. We were told Unit 4 would be on lockdown until a professional team was hired to sanitize the entire unit. Units 1, 2, and 3 remained on unit restriction and all work assignments (except cleaners),

video visits, yard, and canteen were temporarily suspended. We were told the additional restrictions would remain until the prisoner tested negative. These additional restrictions were lifted in all units on May 22, 2020.

15. We received a memo from the Commissioner of the CSC on May 21, 2020, where she named other institutions with cases of COVID-19, but she did not mention there was a case in Mountain Institution. I was surprised by this given that Mountain Institution had told us about the case the day before.

16. On or around May 22, 2020, the Chief of Health Services at Mountain Institution came to Unit 1 and took the temperature of everyone who had received the letter on March 25 warning them they are considered at higher risk of medical complications if they contract COVID-19. They had us all line up in the middle of the range, where we were not physically distanced, and they took our temperatures one-by-one with a forehead temperature reader.

17. We have not heard anything about the prisoner who tested positive for COVID-19 or if anyone else has contracted the virus since May 20, 2020. On May 27, 2020, I wrote a request to the Warden for information about the positive test. I asked him to tell us how the virus came into the institution and what measures have been implemented to prevent spreading of the virus. I asked him to send the information not just to me, but to everyone in the Institution. I have not yet received a response.

IV. CLEANING AND HYGIENE

18. My job at Mountain Institution is as a unit cleaner. I had this job before the COVID-19 pandemic and I continue to have the job. I work in this job from Monday to Friday. Before the COVID-19 pandemic, I was paid part-time wages for this work, which was five days at \$5.80 per day and five days at \$2.50 per day.

19. Since the COVID-19 pandemic, I have continued to be employed as a unit cleaner but I am now paid full-time wages, which is \$5.80 per day for ten days. I continue to work in this job from Monday to Friday. The prisoner who used to clean the same ranges as me on the weekends has been redeployed to a different job, so there are no unit cleaners working on the weekends in the area where I work.

20. There are very few other changes to my unit cleaner job since the COVID-19 pandemic. I spray down the common areas more often and I change the garbage three to four times per day now instead of one or two times per day, but otherwise my role is the same and I work approximately the same amount.

21. When I started the job, Mountain Institution gave me a list of job duties with instructions for how to clean the unit. In March, when concerns about the COVID-19 pandemic began, the Institution again provided me with a copy of this same document with these job duties and instructions. The Institution has not provided me with any instructions, different than these usual instructions, about how to clean the unit in light of the COVID-19 pandemic. The instructions do not say anything about sanitizing surfaces. The cleaning instructions include:

- a) Sweep and wet mop floors, stairs, and vacant cells;
- b) Remove garbage to outside containers as needed;
- c) Dust and wipe down surfaces;
- d) Clean brooms;
- e) Soak and rinse mops and buckets after use, leave mop to air dry;
- f) Maintain institutional supplies in secure manner, issuing to individuals as required; and
- g) Wipe down outside of garbage bins once per week.

22. Before the COVID-19 pandemic, I was cleaning the unit with very diluted bleach. On or about March 13, 2020, I was provided antibacterial soap to clean the unit with. However, Mountain Institution did not provide me with any information about how to safely use the product or any information that confirmed that it would be effective. I had to ask multiple times to get this information, and it wasn't until approximately three days later that they finally provided me with a 12-page Ecolab safety data sheet on the product. I do not understand a lot of the language on this sheet, but I can see the product is "14 Antibacterial all-purpose cleaner and disinfectant". It says it is reserved for industrial and professional use, flammable, dangerous if

swallowed, and causes extreme skin burns and eye damage. I knew from having to use this product a few years ago that it should only be used with gloves and a mask. The product is supposed to be diluted but they have not told me whether they diluted it already or if I was supposed to dilute it, so I ended up diluting it to be safe but at the same time I do not know at what point diluting will diminish the effectiveness of the product.

23. Mountain Institution has hired additional prisoner cleaners during the COVID-19 pandemic. These cleaners tend to have been re-assigned from other work that they cannot do during the pandemic, such as gym and recreation workers, chapel workers, and librarians. They have generally been assigned to clean various specific items, such as the phones, showers, chairs, doorknobs, and handrails.

24. While there are now prisoners assigned to clean the phones, there are also notices near the phone bank that tell us it is extremely important for the safety of ourselves and others to clean the phone, including the number pad and chair, before using the phone. There is a spray bottle of antibacterial cleaning product and brown paper towels near the phone for this purpose. While the spray bottle is regularly refilled, on one occasion it was empty when I wanted to use the phone and I was unable to get additional cleaner for several hours so I had to use the phone without cleaning it so I put my own sock over the phone.

25. Prisoners are responsible for cleaning their own cells. There is a closet on the unit with cleaning products, a mop, and other cleaning materials. Staff leave some of the antibacterial soap at the front desk that prisoners can access themselves. In my experience, this soap is regularly refilled, however, as mentioned above, it did run out one day and I was unable to get anyone to refill it for several hours.

26. To the best of my knowledge, Mountain Institution has not hired any professional cleaners. Even though the memo from the Warden on May 20, 2020 said they would hire professional cleaners, I do not believe they actually did this. I know for certain there have been no professional cleaners in Unit 1. I also know that some of the prisoner cleaners have been asked to go and clean staff offices, such as in the Operations Division, and other areas outside the unit, such as the Visits and Correspondence, Admissions and Discharge, Healthcare Services,

and the front foyer, which leads me to believe the Institution has not hired professionals to do this work.

27. Prisoners do not have access to hand sanitizer, except when they are accessing healthcare or medication services. The only reason that I have been told for why we do not have access to hand sanitizer is that it is a “restricted item”. I have not been provided with any justification for why it is a restricted item, either before or during the COVID-19 pandemic.

28. Prisoners do have regular access to hand soap. There is a dispenser in the common area of the unit that is well-stocked. There is a hygiene basket near the entry to the unit, and this usually has bars of soap in it, which prisoners can take for use in their own cells. We can also purchase soap from the canteen.

29. Before COVID-19, prisoners had access to canteen daily. However, during COVID-19 access has been restricted to once per week.

V. PERSONAL PROTECTIVE EQUIPMENT

30. Mountain Institution has not issued any disposable gloves for prisoners to use. Even as a cleaner, I have not been provided disposable gloves to use when performing my job. I have been provided heavy-duty rubber gloves to wear while spraying down the common areas, but I was only provided one pair which I have to re-use every time I clean.

31. At the beginning of the pandemic, I saw that very few prisoners were given face masks. I am not sure how they selected who received them. As a cleaner, I was not issued a face mask.

32. Since April 24, 2020, Mountain Institution has provided masks to all prisoners. The Warden provided prisoners, including myself, a memo on issuing and wearing surgical masks April 24, which said the Institution would be issuing one mask per day to each prisoner. On that day, we also got a paper bag to keep the mask in when not in use, such as when a prisoner is in their cell or in the shower. The memo said that prisoners are required to wear masks whenever they are outside their cells, but that if a staff person asks us to remove it to confirm our identity we must comply. It also told us to wash our hands with soap and water before and after touching the mask.

33. Staff members have been wearing masks since approximately March 13, 2020. However, staff members, including healthcare staff, do not wear disposable gloves. Approximately one-half of the Correctional Officers will wear their standard-issue leather gloves when they do their rounds.

VI. LACK OF SOCIAL DISTANCING AND ISOLATION

34. As I mentioned above, since March 13, 2020, Mountain Institution has placed prisoners on “unit restriction”, which supposedly means that prisoners in each unit are isolated from the prisoners in the other units.

35. However, the units are not actually isolated because some prisoners from different units still interact in at least the following ways:

- a) Prisoners from different units work on the same shifts in the same jobs together, such as in the kitchen, where they may be unable to maintain physical distancing.
- b) The canteen is open and all prisoners access the same canteen. While each unit has a different shift when they can go to the canteen, they are interacting with the same canteen workers and interacting with the same physical space.

36. Prisoners in each unit are also not isolated from prisoners in other units because they are exposed to the same staff:

- a) Staff members are not assigned to a single unit. Staff are often assigned to different units, even on the same shift.
- b) Healthcare staff, including those that interact with prisoners being isolated due to possible infection, service every unit for medications. The same healthcare staff end up interacting with, more or less, the entire prisoner population. I do not usually see the healthcare staff wear gloves when issuing medication, but they do wear masks.

- c) Prisoner cleaners are assigned to clean areas outside of their units, such as the Visits and Correspondence office and other parts of the Operations building, where they end up interacting with many different staff members.

37. Even within the units, physical distancing is not strictly practiced and not always possible. Prisoners have less space to move around in because they are restricted to their units. Prisoners share the kitchen area, couches, phones, and showers. Prisoners often have to line up for things like medicine and canteen, where prisoners who are trying to respect physical distancing may have their spot in line taken by someone who is not respecting physical distancing and does not understand why they aren't closer to the person ahead.

VII. PRISONER FRUSTRATION

38. Those who run Mountain Institution do not communicate with the prisoners about what is going on, which leads to a lot of confusion and frustration.

39. Prisoners in Unit 1 are supposed to raise any concerns about their conditions with Matt Sanderson, the Correctional Manager for Unit 1 (also known as the Unit Keeper). In my experience, when prisoners have brought concerns about safety during COVID-19, Mr. Sanderson says that he agrees with our concerns. However, the Institution has not made any changes to address these concerns. I have addressed questions to Mr. Sanderson, such as why the same nurses attend to prisoners on every unit, but the issues are building up and up without answers.

40. Prisoners are also becoming restless because there are fewer activities and outlets, such as school or chapel. Basically, we have been told to stay in our units and find ways to keep ourselves busy.

41. Unit 1 houses the "Pathways Prisoners", which is the spiritual program for Indigenous prisoners, and the Institution has cut down on their access to elders and Aboriginal liaison officers ("ALO"). I have not seen an elder in weeks and I only see the ALO once per week, and they usually only drop off smudging products at the CO console for those that use them. Elders and the ALO would normally be on site daily Monday to Friday.

42. There is also less access to caseworkers. I have been trying to get my offender security level acknowledged and re-done. My original Institutional Parole Officer (“IPO”) just left the role and I was supposed to be assigned to a new IPO in early April. However, I have yet to meet them so my security re-assessment is even further delayed. I think a lot of people are in the same boat. The only prisoners who I have seen access an IPO, and to the best of my knowledge the only ones who have had such access since the COVID-19 pandemic began, are prisoners who are pending release, and they just need to get their paperwork for their release date or parole board denial. Currently, there is one IPO at the institution per day, but we are not told which one or where we can find them.

43. With less to do and less spiritual and other support, prisoners are getting into more trouble. While Unit 1 is usually considered a lower-conflict unit, there have now been fights on this unit. Prisoners have also had more conflicts with staff than is usual in this unit.

VIII. CONCLUSION

44. I am deeply concerned that the potential for virus exposure is unknown to an exponential variable when prisoners, who are already removed from society, are exposed and forced to work around and with persons who can come and go, thereby transporting and introducing the virus to the prison population through the cruelest vessel possible: one of our own.

45. I make this affidavit in support of the Application filed by CCLA, CPLA, HALCO, the HIV Legal Network, and Sean Johnston, and for no other or improper purpose.

46. If I have the opportunity to do so, I will sign this affidavit in front of a Commissioner of Oaths. I am concerned that this may not be possible, however, before the application is heard. Due to the cancellation of visits during the COVID-19 pandemic, I cannot meet with counsel. I have also heard from staff that there are delays with the mail system.

47. Even if I am not able to hold this affidavit and affirm it in person due to these circumstances that are beyond my control, I still solemnly declare that it is true as of May 27, 2020. I am also prepared to attest to the content of this affidavit personally by video or telephone to a judge of this Honourable Court, or other appropriate person, if CSC staff are able and willing to facilitate that in these difficult circumstances.

AFFIRMED BEFORE ME at _____,
_____ this day of _____, 2020

Commissioner for Oaths for the Province
of _____.



WENDY PENASSE

This is **Exhibit "B"** to the
Affidavit of Melanie Anderson,
affirmed before me by videoconference
July 16, 2020

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a horizontal line that ends in a small flourish.

A Commissioner, etc.

Court File Number: T-539-20

FEDERAL COURT

B E T W E E N:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

-and-

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF JONATHAN JARVIS

I, Jonathan Jarvis, of the Town of Agassiz, in the Province of British Columbia, AFFIRM THAT:

1. I am currently a prisoner at Mountain Institution, a medium-security institution in Agassiz, British Columbia. I have personal knowledge of the matters deposed to in this Affidavit, or have received the information from others, in which case I verily believe it to be true.
2. I affirm this Affidavit in support of the Application brought by the Canadian Civil Liberties Association (“CCLA”), the Canadian Prison Law Association (“CPLA”), the HIV&AIDS Legal Clinic Ontario (“HALCO”), HIV Legal Network, and Sean Johnston, Federal Court File No. T-539-20.
3. This Affidavit will describe my experience living at Mountain Institution since I moved here from another penitentiary in April 2020, after the start of the COVID-19 outbreak in Canada in March 2020.

I. LIVING CONDITIONS

4. I was transferred from Pacific Institution, which is in Abbotsford, BC, to Mountain Institution on April 22, 2020. Therefore, the COVID-19 pandemic has been a concern throughout my time at Mountain Institution.

5. At Mountain Institution, I am in Range Echo in Unit 3. The Unit is “open concept” – there are six different ranges, but there are no gates or doors separating the ranges, so we are all together as a unit. There are 41 prisoners in Unit 3 right now. We do have doors to our individual cells or “houses” which we can close to be alone. In the cells we have our own toilet and sink. No one in my unit is double-bunked, but I know that there are prisoners in other units that are double-bunked and have to share a single toilet and sink between two prisoners in one cell.

6. There are two showers that the prisoners in Range Echo share with the prisoners in Range Bravo, which is currently for a total of 16 prisoners. All the prisoners in Unit 3 share a common area with sinks, microwaves, fridges, phones, cleaning supplies, computers, tables and chairs. It is impossible to maintain physical distance from other prisoners in the common area.

7. There are six phones for all of Unit 3, although it is rare that all six work. The phones are approximately twelve inches away from each other so when multiple prisoners are on the phone they are always within 6 feet of each other.

8. Food is prepared by other prisoners and they bring the food to the unit. Occasionally we can see that they are wearing gloves, but that is very rare. Each range is unlocked, we all go and stand in line for food together. Our unit is not long enough for us all to stand two metres away from each other while lined up for food. The food is in plastic or paper food containers and it is always cold. Coffee and milk come with the meals, but they are in one big container and we put our cups under the nozzle while the prisoner serving pours it out. Most prisoners stay out of their cells and eat in the common area. The space is not large enough for all the prisoners to sit at least two metres away from one another while eating.

9. Prisoners in Mountain Institution are on a limited movement schedule in response to the COVID-19 pandemic. We are only allowed on our units, we do not participate in any activities with the other units. Usually, prisoners have full schedules every day between visits with people

from outside the Institution, gym, meals at the cafeteria, school, employment, hobby shop, and programs. Now, all of these things are cancelled, we cannot access them. The only time we leave our unit is for yard once per day (where the whole unit goes out together at the same time) and for canteen once every two weeks. Otherwise, we are locked in our unit with very little to do.

10. When there are potential cases on a unit, it seems the response is to put them on full lockdown. For example, the Inmate Committee at Unit 3 was told that Unit 2 was on a full lockdown on or around May 29, 2020, due to two potential cases there. Again on or around June 4, 2020, we were told Unit 2 and Unit 4 went on lockdown due to suspected cases on those units.

II. PERSONAL PROTECTIVE EQUIPMENT

11. Mountain Institution has provided masks for prisoners since I arrived. In my unit, prisoners can go to the console where the staff are and ask for a new mask whenever they want. I do not remember the exact date but at some point in late May, the Institution started to make it mandatory for prisoners to wear masks when leaving their cells. In my experience, the Correctional Officers (COs) have all worn masks at Mountain Institution, except at times they will pull the mask down off their nose and mouth.

12. Mountain Institution does not provide prisoners with gloves. In my experience, COs rarely wear gloves. When they do wear gloves, they do not wear disposable gloves but, rather, their standard-issue black leather gloves.

13. Since I arrived, COs have searched my cell for what they call a “routine brew search” on average approximately once every two days, although there is no consistent schedule for this. I understand a “brew search” to be one where they are checking to see if prisoners are making alcohol in their unit. This search should only require them to walk in and sniff, as the making of alcohol is quite potent and obvious. However, not all these searches were conducted that way. For some of these searches the COs touched and rummaged through my things, including my clothes, things out on my desk, and my hygiene products. While conducting these searches the COs did not wear disposable gloves and very rarely wore their black leather gloves. Sometimes, two COs would enter together to conduct the search. Sometimes, the COs would not ask me to leave my room first so I would be in close proximity to one or two COs, certainly not six feet

apart, for the duration of the search. Usually the COs wear masks during these searches, but on one occasion two COs went into my room at once to conduct a “brew search” and one CO had pulled his mask down off his nose and mouth.

III. HYGIENE AND CLEANING

14. Prisoners do not have any access to hand sanitizer.

15. Prisoners do receive generic hand soap from the Institution when they first arrive at the Institution. After that, if they need more, they need to purchase soap from the canteen.

16. Prisoners are responsible for cleaning their own cells. Each unit has a mop and a bucket that is shared between all of the prisoners. There is a bottle of soap around that we can use but I do not know what the content of the soap is and I cannot always find it. I usually end up using my own shampoo to clean my cell.

17. There are three prisoner cleaners that are responsible for cleaning the common areas in the unit. This includes the showers, phone area, and other common areas. When I arrived at Mountain Institution, I asked to be a unit cleaner and I was hired. On the second day, I received a list of all the things we had to clean four times per day, and I was told we had to check each item off each time we cleaned it. I told the Correctional Manager that this was too much to ask from a prisoner cleaner on the wages that we receive. I said there was no way that I was going to be responsible to ensure this was done four times per day. I think because they are being told they have to ensure this happens four times per day, the Institution hired a different prisoner to do the cleaning. To my knowledge, the new prisoner cleaner and the other prisoner cleaners are only cleaning the items once per day and the Institution is no longer following up with them to make sure that they do the cleaning four times per day. The Institution has not hired any professional cleaners.

IV. LACK OF ACCESS TO SERVICES

18. Since I arrived at Mountain Institution, I have been asking for mental health services. On one occasion in May I was freaking out and yelling to the COs that I needed to see mental health staff urgently. I have not yet been seen by any mental healthcare providers at Mountain

Institution. I have been put on waiting list after waiting list. It seems to me that mental health therapy and counsellors are completely unavailable right now at the Institution. I was told by a CO and several nurses that mental healthcare staff are not essential staff so they are not working at the moment.

19. I have also been asking to see a doctor about the medication I am on. I have pain in my hand related to nerve damage, so I am on medication to deal with that. I want to talk to a doctor about the medication type and dosage because I have been on the medication for several years and the pain is getting worse. I put in a formal request on or around May 22, 2020. I was told that access to a doctor is on an absolute emergency basis. They told me that I'll see a doctor "soon", but they will not give me an appointment date. On May 29, 2020, I was called to the doctor's office without any advanced warning. I was in the middle of a phone call and had to end my conversation early to immediately go to see the doctor. I was grateful to see a doctor then because he fixed my prescription, but he told me that if I needed follow up it would be a long wait.

20. For prisoners who seek spiritual support, these services are either canceled or greatly diminished. The chapel is currently closed. I have been told that the Aboriginal Liaison Officer ("ALO") is still attending at the Institution, but I have not seen him at Unit 3 since I arrived. I have been asking to see the ALO because, although I am not Indigenous, I practice smudging and the Institution refuses to provide me with the available smudging materials until I speak to the ALO and he tells them I can have the materials. The ALO has not yet visited me. I understand from others on my unit who are Indigenous that the ALO has not been around to this unit in weeks.

V. CONCLUSION

21. I make this affidavit in support of the Application filed by CCLA, CPLA, HALCO, the HIV Legal Network, and Sean Johnston, and for no other or improper purpose.

22. If I have the opportunity to do so, I will sign this affidavit in front of a Commissioner of Oaths. I am concerned that this may not be possible, however, before the application is heard. Due to the cancellation of visits during the COVID-19 pandemic, I cannot meet with counsel. I

have also heard from staff that there are delays with the mail system.

23. Even if I am not able to hold this affidavit and affirm it in person due to these circumstances that are beyond my control, I still solemnly declare that it is true as of June 4, 2020. I am also prepared to attest to the content of this affidavit personally by video or telephone to a judge of this Honourable Court, or other appropriate person, if CSC staff are able and willing to facilitate that in these difficult circumstances.

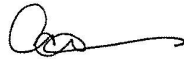
AFFIRMED BEFORE ME at _____,
BC this day of , 2020

Commissioner for Oaths for the Province
of British Columbia.

JONATHAN JARVIS



This is **Exhibit “C”** to the
Affidavit of Melanie Anderson,
affirmed before me by videoconference
July 16, 2020

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a horizontal line that ends in a small hook.

A Commissioner, etc.

V. CONCLUSION

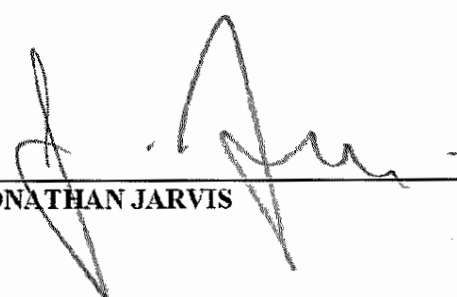
21. I make this affidavit in support of the Application filed by CCLA, CPLA, HALCO, the HIV Legal Network, and Sean Johnston, and for no other or improper purpose.

22. If I have the opportunity to do so, I will sign this affidavit in front of a Commissioner of Oaths. I am concerned that this may not be possible, however, before the application is heard. Due to the cancellation of visits during the COVID-19 pandemic, I cannot meet with counsel. I have also heard from staff that there are delays with the mail system.

23. Even if I am not able to hold this affidavit and affirm it in person due to these circumstances that are beyond my control, I still solemnly declare that it is true as of June 4, 2020. I am also prepared to attest to the content of this affidavit personally by video or telephone to a judge of this Honourable Court, or other appropriate person, if CSC staff are able and willing to facilitate that in these difficult circumstances.

AFFIRMED BEFORE ME at Agassiz,
BC this 10 day of JUNE, 2020

Commissioner for Oaths for the Province
of British Columbia.

} 

JONATHAN JARVIS

FEDERAL COURT

BETWEEN:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

– and –

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF PAUL ROBERT QUICK

I, **PAUL ROBERT QUICK**, of the Village of Bath, in the Province of Ontario, **AFFIRM**

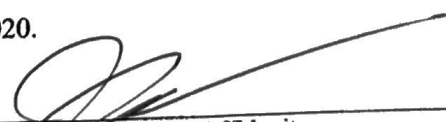
THAT:


1. I have knowledge of the facts herein deposed to, except where stated to be on information and belief, in which case I state the source of my information and declare that I believe them to be true.
2. I am a staff lawyer and litigation counsel at the Queen's Prison Law Clinic located in Kingston, Ontario.



3. On June 10, 2020, I spoke to Mr. Ross Evans on the telephone and reviewed his affidavit with him. I discussed the nature of an affidavit and the consequences of providing a false affidavit and I ensured Mr. Evans understood these. I then read the draft affidavit aloud to him in its entirety, slowly, line by line. I asked Mr. Evans to indicate to me verbally after each line, whether the line was accurate and true, or whether he had any concerns or it required removal, correction or addition. Mr. Evans did this diligently, and I made revisions in real time in accordance with his responses and his suggestions, and then read the final wording out loud to him again, and he verbally confirmed his assent to every line of the final affidavit.
4. I also reviewed with Mr. Evans Exhibit "A" to his affidavit and confirmed that Exhibit "A" as referenced in his affidavit is the same Exhibit "A" attached to his unsigned affidavit.
5. Although Mr. Evans could not sign the affidavit to formally affirm it in my presence, and I am accordingly unable to commission it, I asked him if he solemnly affirmed and declared that he believed the affidavit as read to him was entirely true and accurate, and he stated that he so affirmed. A copy of this same (unsigned) Affidavit of Ross Evans, orally confirmed on June 10, 2020 is attached at **Exhibit "A"** to my Affidavit.
6. I make this affidavit in good faith and for no improper use.

AFFIRMED BEFORE ME by video conference from the Village of Bath, in the County of Lennox and Addington, in the province of Ontario, to the City of Toronto, in the province of Ontario, this 16th day of June, 2020.

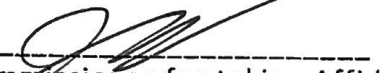

 A Commissioner for taking Affidavits
 Jody Brown LSUC#:58844D


 Paul Robert Quick

This is Exhibit "A" referred to in the affidavit of Paul Quick, affirmed before me by video conference, this 16th day of June, 2020.

2059

Court File No. T-539-20


A Commissioner for taking Affidavits
Jody Brown LSUC#:58844D

FEDERAL COURT

BETWEEN:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

- and -

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF ROSS EVANS

I, **ROSS EVANS**, of Bath Institution, in the Province of Ontario, **AFFIRM THAT:**

1. I have personal knowledge of the facts written in this Affidavit, or I have been given information from other people that I believe to be true.

I. BACKGROUND

2. I am 56 years old and I am currently an inmate at Bath Institution, a federal medium security penitentiary outside Kingston Ontario.
3. I have not been able to affirm this affidavit in person. If I have the opportunity to do so in a safe manner consistent with physical distancing, I will sign this affidavit in front of a Commissioner of Oaths. In person visits are currently not permitted at Bath

Institution. Even if I am not able to affirm this affidavit in person due to these circumstances that are beyond my control, I still solemnly declare that it is true.

4. Prior to affirming this affidavit, it was read to me by Paul Quick of the Queen's Prison Law Clinic in Kingston and I orally affirmed its contents to be true to Mr. Quick over the phone.
5. I am also prepared to attest to the contents of this affidavit personally by video or telephone to a judge of this Honourable Court, or other appropriate person, if correctional staff are able and willing to facilitate that.

II. UNDERLYING HEALTH CONDITIONS

6. I have been told by a nurse at Bath Institution that due to my serious underlying health conditions that I should "be careful" and that if I contracted COVID-19 I would likely die.
7. I have been diagnosed with multiple chronic medical conditions, including:
 - a. Hypertension (high blood pressure);
 - b. Heart disease;
 - c. Asthma. I have three different puffer medications which I can get refilled once a month. I have one puffer which lasts me the entire month and I take once a day. My other two puffers usually run out by the fourth week in a month and then I do not have access to this medication until they get refilled;
 - d. COPD (chronic obstructive pulmonary disease), which affects my lungs and ability to breathe;
 - e. Diabetes. I take insulin in the morning and evening; and

- f. Severe obesity. When I was last weighed, I weighed 377 lbs and was 5'8" tall. I have not been weighed in several years to my knowledge, and have lost some weight during that time, but I believe I am still in the range of approximately 300 lbs., give or take.
8. I live in fear each day that I may contract COVID-19. I am not a doctor, but I believe that my health conditions put me at higher risk of death from COVID-19 and a COVID-19 infection could be a death sentence.

III. PHYSICAL SPACE of the INSTITUTION

9. I reside in a congregate living space with 7 other inmates. I am currently in Unit 4, "G" pod, of the Institution.
10. In my pod the washrooms are communal and available to all the inmates. Recreation and programming, when available, is also in communal spaces. The kitchen and eating area are also in a shared space.
11. In my unit, we are single bunked, meaning one person lives in a cell. The cells in the houses at the institution and the cells on units 1 and 2 are sometimes double bunked, but I do not know how many. The cells in my pod are directly beside each other without any space between them. Each normal cell in my pod is approximately 6 or 7 feet wide. My cell is wider than normal due to my disability and the need for me to use a wheelchair in my cell. The cell beside me in the pod is occupied by another inmate and from what I can recall all cells in the unit are typically occupied.

12. The unit and pod are built in such a way that inmates are regularly closer than six feet to each other, along with guards.
13. I cannot effectively distance myself from other inmates and guards unless I am in my cell at all times. Even when on lockdown, the pod is full of other inmates, and guards make a walk through the pod every hour. Sometimes the guards wears masks for their walk, but other times they do not. Sometimes they warn us, so that we have time to go into our cells, but other times they just walk through. I live in constant fear of contracting COVID-19 from others in the pod.

IV. PPE AND PERSONAL SANITATION SUPPLIES

14. The availability of Personal Protective Equipment (PPE) and personal sanitary supplies for inmates is limited.
15. There has been very little communication about COVID-19 protection and prevention from the institution until very recently, when one of the other prisoners on my range received a package of information from health care. To date, all I have personally received is a piece of paper regarding COVID-19, which I have difficulty reading due to my dyslexia and learning disabilities.
16. The institution does not provide hand sanitizer to inmates and it is not available for purchase in the canteen. Hand soap must be purchased from the canteen and it is not antibacterial.

17. I have requested hand sanitizer and antibacterial soap. My request has been denied. I was told my request was denied because hand sanitizer and antibacterial soap has alcohol in it.
18. The institution has not provided me with a face mask I can wear. I am allergic to cotton and cannot wear a cotton face mask (this is well-documented in my healthcare file – I have polyester clothes instead of the usual institutional cotton clothes for this reason). I have requested a non-cotton face mask and I have not been provided one as of the date I affirmed this affidavit orally over the telephone with Mr. Quick (on the 11th of June 2020). I originally requested a non-cotton face mask on April 27, 2020. Attached as **Exhibit “A”** is a copy of my Inmate Request Form for a non-cotton face mask (I cannot see the exhibit over the phone, but Mr. Quick read it to me and described its contents so that I could confirm it was the Request I sent).
19. While cotton masks are available to some other inmates at the institution, there are no strict requirements for inmates to wear a mask when they cannot distance. Other inmates sometimes wear a mask and sometimes they do not wear a mask. The Correctional Manager tells inmates to either wear a mask or stay six feet apart, but not everyone follows this direction.
20. The institution has not provided me with gloves for protection from COVID-19. I have a supply of gloves to help with bowel movements, but no gloves are generally available for protection from COVID-19.
21. Correctional officers sometimes wear masks but sometimes they do not. The Unit Correctional Manager, Judd Henry, Unit 4, advised inmates that staff are not required to

wear a mask, unless less than 6 feet from us. I have noticed that not all correctional officers wear a mask on all shifts, even when less than 6 feet away.

V. LOCKDOWNS BECAUSE OF COVID

22. I am now on lockdown and confined to my pod, along with the other inmates in my pod. The lockdown started in April of this year and is ongoing. We can leave our cells and go to the yard for 1.5 hours a day and the common area for 2 hours a day. On some days, we get a total of 4 hours in the common area. We are otherwise confined to our pod. I believe other inmates at the institution are also confined to their pods and units.
23. Lockdowns in cells are also happening at the institution because of COVID-19. If the lockdown is because someone is sick, inmates are locked in cells and only allowed out to shower and use the washroom. We cannot use the kitchen or the telephones during this time, because these are in the common areas.
24. For example, an inmate on "E" range was recently taken to the hospital when sick and everyone on that range was locked in their cells until he tested negative for COVID-19.
25. When we are locked down like this, we cannot even call a lawyer. The last time we were locked down in our cells, I asked to call my lawyer (because we had a scheduled telephone appointment), and the Correctional Manager (Judd Henry) advised me that we could not make any telephone calls or leave our cells other than to go to the bathroom.
26. I recently asked to see a psychologist to assist with my anxiety as a result of COVID-19 and my fear that an infection would likely kill me, while we were locked down in our cells. I was told I could not see a psychologist during the lockdown because no one was

allowed into our pod while we were confined to our cells. (After that in-cell lockdown, I was able to have a telemedicine visit with a psychiatrist.)

27. I make this affidavit in good faith and for no improper use.

AFFIRMED BEFORE ME at Bath Institution, in the County of Lennox and Addington, in the Province of Ontario, this day of , 2020.

A Commissioner for taking Affidavits *(or as may be)*

} _____
Ross Evans



Correctional Service Canada

Service correctionnel Canada

PROTECTED / PROTÉGÉ A ONCE COMPLETED / UNE FOIS REMPLI

A Commissioner for taking affidavits

NOTE: Reference document GL 710-2-4 / NOTA: Document de référence LD 710-2-4

PERSONAL INFORMATION BANK / FICHIER DE RENSEIGNEMENTS PERSONNELS

INMATE'S REQUEST

REQUÊTE DU DÉTENU

PUT AWAY ON FILE - CLASSER AU DOSSIER / Offender file to which request pertains OR Offender CM file / Dossier du délinquant relatif à la demande OU Dossier GC délinquant

To - A Name - Nom: Korru; Title - Titre: Head of Healthcare (Both Inst.); Date (YYAA-MM-DJ): 2020-04-27; Place of work - Lieu de travail: Healthcare

From - De FPS number - Numéro SED: 416239B; Family name - Nom de famille: EVANS; Given name(s) - Prénom(s): ROSS William; Cell no. - N° cellule: G1; Unit no. - N° de l'unité: 4

SUBJECT: / OBJET: New Cotton Mask

Provide specific reasons for requesting an interview in accordance with relevant CSC policy. / Fournir en détails les raisons qui motivent votre requête selon la politique du SCC.

The mask that are presently being given out are Cotton. Can we please find an alternative for me if possible. Thank you!

Inmate's Signature - Signature du(de la) Détenu(e): [Signature]; Date (YYAA-MM-DJ): 2020-04-27

REQUEST RECEIVED BY - REQUÊTE REÇUE PAR: A. GIGGS; CSC staff who receives request (print) - Employé du SCC qui reçoit la requête (en lettres moulées); Date (YYAA-MM-DJ): 2004-28

Response to be provided within 15 working days of receipt of request. / À la réception de la requête, une réponse doit être fournie dans un délai de 15 jours ouvrables.

I have forwarded your question to the Regional Public Health Team. Please see enclosed COVID-19 Offender Information for things you can do to limit your risk.

Staff name (print) - Nom de l'employé (en lettres moulées): Karen; Signature: [Signature]; Date (YYAA-MM-DJ): Apr 20/20

CSC/SCC 1122 (R-2018-03) (Stocked Form Only) (Formulaire imprimé seulement) Information may be accessible or protected as required under the provisions of the Access to Information Act and the Privacy Act. / Les renseignements peuvent être accessibles ou protégés selon ce que prescrit la Loi sur l'accès à l'information et la Loi sur la protection des renseignements personnels.

DISTRIBUTION Copy 1= Inmate (when completed) / Copie 1= Détenu (lorsque complète) Copy 2= Inmate (on request only) / Copie 2= Détenu (sur demande seulement)

COVID-19

OFFENDER INFORMATION

COVID-19 is a respiratory illness caused by a **coronavirus**.

LIMIT THE RISK



Wash your hands often with soap and water for at least 20 seconds



Cough or sneeze into your arm



Avoid touching your eyes, nose or mouth with unwashed hands



Avoid close contact with people who are sick

Talk to Health Services immediately if you have symptoms (fever, cough, difficulty breathing).



Court File Number: T-539-20

FEDERAL COURT

BETWEEN:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

-and-

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF ALEX MAXWELL

I, Alexander Maxwell, a prisoner at Beaver Creek Institution, in the Town of Gravenhurst, in the Province of Ontario, AFFIRM THAT:

1. I am currently a prisoner at Beaver Creek Institution, a medium-security institution in Gravenhurst, Ontario. I make this Affidavit in support of the Application brought by the Canadian Civil Liberties Association (“CCLA”), the Canadian Prison Law Association (“CPLA”), the HIV & AIDS Legal Clinic Ontario (“HALCO”), HIV Legal Network, and Sean Johnston, Federal Court File No. T-539-20.
2. I have personal knowledge of the matters deposed to in this Affidavit except where I indicate that I am relying on information I received from other people, in which case I explain the source of that information and declare that I believe it to be true.
3. If I have the opportunity to do so, I will sign this Affidavit in front of a Commissioner of Oaths. I am concerned that this may not be possible, however, before the Application is heard. Due to the cancellation of visits during the COVID-19 pandemic, I cannot meet with counsel. I am also aware that there have been delays with the mail system.

4. Even if I am not able to hold this Affidavit and affirm it in person due to these circumstances that are beyond my control, I still solemnly declare that it is true. I am also prepared to attest to the content of this Affidavit personally by video or telephone to a judge of this Honourable Court, or other appropriate person, if CSC staff are able and willing to facilitate that in these difficult circumstances.

I. MY HEALTH CONDITION

5. I am currently 45 years old. I suffer from hypertension and migraines. For most of my life, I have had a propensity towards getting bronchitis. I have had three major bouts of bronchitis since 1997 that required hospitalization and countless others where I was not hospitalized. As a result of my health conditions, I understand that I am at a higher risk of having a severe case of COVID-19. I also have borderline personality disorder and Post-Traumatic Stress Disorder (“PTSD”).
6. I am very afraid of getting COVID-19. I am also finding that the way the prison is handling the pandemic is affecting my mental health. In the past, I have had issues with self-harm. I am afraid not only that my life and safety are being jeopardized, but also my potential to earn a living in my chosen field may be seriously impaired or completely destroyed, as COVID-19 may have permanent lasting effects. It is my hope to become a deep-sea welder when I am released, and this goal is set out in my release plan. This would allow me to work offshore on oil rigs and pipelines. The job pays up to \$4,000 per day and I could support my family and my elderly mother, which is very important to me. However, I won't be able to get certified if my respiratory function goes down. Based on the news reports that I have seen, COVID-19 can do long-term damage to the lungs, and if I get it, I may not be able to achieve my goal.
7. These fears are causing me to have suicidal thoughts once again. I am able to see a psychologist once per week, but this is not enough.

II. LIVING CONDITIONS

8. I have been in Beaver Creek Institution since January 29, 2020. Before that, I was at the Milhaven Regional Treatment Centre from July 23, 2019 to January 29, 2020, and prior to that I was incarcerated in Warkworth Institution from February 5, 2010 to July 23, 2019.
9. I am currently living in the “Tundra” unit. There are approximately 96 other prisoners on this range. I am currently alone in my cell. The cells on either side of mine are occupied.

III. PERSONAL PROTECTIVE EQUIPMENT

10. We have not been provided with any personal protective equipment other than masks, which we eventually received after a possible COVID-19 case was identified on the “Granite” unit within the Institution sometime in April 2020. I do not have access to gloves or safety glasses, despite having requested them.
11. We have been given surgical masks, not N95 masks. Masks are issued on a one-for-one basis – meaning that I have to turn a mask in to get another one.
12. The use of mask by prisoners varies. Prisoners generally don’t wear them when they are alone. When prisoners are together, about half the prisoners regularly wear them and half don’t.
13. Staff have cloth or surgical masks, but do not always wear them or wear them properly. Some of them wear them over their mouths but not their noses.
14. When staff are sitting in the control room they are often sitting close together and are not wearing their masks. Likewise, when we are out in the yard for recreation, there are four guards sitting in a shack that is about 10 square feet. They are not social distancing in that shack, and they are not wearing masks.
15. I also recall an incident on May 8, 2020 when I went to Admittance and Discharge (“A&D”) to deal with personal property issues. The officer on duty refused to let me in because I wasn’t wearing a mask and she told me that no one could be in A&D without a mask. I went back later and wore my mask. When I entered, there were 2 female officers

wearing surgical masks, and 2 male officers who were not wearing masks. These two male officers left after about five minutes. This is the only place in the prison where I have been required to wear a mask.

16. On May 29, 2020, I requested permission to purchase an M2 mesh mask, which is a mask that is advertised to filter up to 99.9% of air, dirt and dust particles. I wanted to buy this mask because it seems to be superior to the surgical masks that CSC is giving us. My understanding is that the surgical masks that we are given may protect others from getting COVID-19 from me, but they do protect me from getting the disease from others. I believe that the mask that I requested to purchase would provide better protection against for me against getting COVID-19. These masks seem similar to the masks that the kitchen stewards, who are staff members, wear. I have seen people wearing masks like these in the news and in the media. My request was denied by the Deputy Warden on June 5, 2020, and learned about the denial on June 11, 2020. In the denial letter, the Deputy Warden said that my request was “not supported at this time. Determination that the [illegible] masks currently issued meets the standards by the public health agency.” The denial of this request has increased my anxiety as I feel that CSC is even less understanding about the need for personal protective equipment.

IV. HYGIENE AND CLEANING

17. I am concerned about the lack of hygiene and cleaning supplies.
18. I have not been provided with hand sanitizer, despite requesting it. The explanation given was that hand sanitizer has alcohol in it and inmates will drink it. A correctional officer told me that inmates will never get hand sanitizer.
19. The only hand soap we have available is bar soap. They used to have liquid hand soap available in the canteen but they have not had it for several months. Since I cannot get hand sanitizer, I would like to have liquid pump soap so that I can put it on my hands in situations where I don't have access to water to use bar soap.
20. Due to COVID-19, I have been going through hand soap at a quicker rate because I have been washing my hands much more frequently. I have also been using Dawn dish soap

because it is anti-bacterial, and I am going through that more quickly as well. Normally a bottle lasts me approximately 4 months, but now I am going through a bottle about once per month.

21. I have not been given any extra soap or extra money for hygiene products at canteen. Every two weeks we are given \$4 to spend on hygiene products from the canteen. My family sends me extra money for canteen, but I am only allowed by CSC to spend \$90 every two weeks for all canteen items (including stationary, food and hygiene products). Hygiene items that are sold in the prison canteen are very expensive, and the amount we are allowed to spend is generally not enough for our needs. There have been multiple occasions since the pandemic began when I was not able to buy the hygiene products I needed because I had reached my spending limit.
22. We do not have access to any kind of cleaning wipes. When I was at Millhaven RTC, and while I was at Warkworth, Clorox wipes were available on the Christmas canteen list (the list of items is available in mid-October for delivery in November or December). However, these wipes have not been available since I have been at Beaver Creek.
23. Further, the canteen does not have any specialized cleaning products and the prison does not provide it. If prisoners wish to do any additional cleaning, they must do it themselves and use whatever they can find. I have been using Dawn dish soap and ripped up institutional t-shirts to clean my cell.
24. We do not have our own cell kits here (consisting of a toilet brush and mini broom and dust pan), unlike other institutions that I have been to. There are communal brooms and mops we can use. If I want to clean them before using them, I have to do it myself, if I have any supplies to do so. There is no spray bottle provided to clean them.
25. Some prisoners have been using the bleach that is available as part of the needle exchange program to allow prisoners to clean their needles. The bleach is only refilled once a month and it usually runs out very fast. When the bleach is refilled, a number of prisoners come by and fill up their own bottles with it. Some of them use that bleach in their laundry.

26. I have not seen any changes to the cleaning done in the range. There is one prisoner who is a range cleaner that sweeps and mops the floor every few days, and one prisoner who cleans the shower every couple of days. No one from CSC is supervising the quality of that work. The cleaners have not been given additional cleaning products, or a new mandate on how to clean in light of COVID-19. For all intents and purposes nothing has changed in the cleaning practices on the range the pandemic began. I have been told by the prisoner doing the cleaning that the cleaning product they use is standard floor soap.
27. Some prisoners will take the initiative to clean the common spaces that they use. They will have to use whatever cleaning products they can get their hands on, such as the bleach used for the needle exchange, if they can get some.
28. There is one cleaning spray bottle left by the phones, but I do not know what kind of cleaner is in it. There are 96 prisoners that use a total of 4 phones, and there is a high volume of prisoners using the phones. Some people clean the phones before and after they make calls, and other people don't. No one from CSC enforces how the phones are cleaned and how often.
29. When I have requested additional cleaning supplies from staff I have been denied.

V. PHYSICAL DISTANCING

30. It is not possible for prisoners to physically distance ourselves from one another all the time. Most common areas are not very big and are odd shapes, so it is hard to stay 6 feet away from each other in these areas. The hallways at the far end of the range are about 5 feet wide, so if I am in that area, it is not possible to stay 6 feet apart when walking past a prisoner or a staff person. The phones are only about 4.5 feet apart and most of the time there is another prisoner on the phone beside me. The only time that I am able to distance from other prisoners is when I am in my cell, or down in the central common area (which is quite wide).
31. Some prisoners try to practice physical distancing and others don't. There are a good number of prisoners who are concerned about catching COVID-19 but I have seen others who get together to play poker or do drugs. Many of the prisoners are ignoring physical

distancing and are congregating in groups. As a result, I find that being around other people is increasing my anxiety. I am keeping to myself more, and spending more time than normal in my cell.

32. Meal times are not staggered. We all have to congregate to pick up our meals, and then we return to our cells to eat them. We are locked down during meal times, which is the normal practice. After the count, the cell doors are opened and we all return our trays to the meal carts.
33. People line up for a number of things, including for supplies from Supplies and Institutional Services (“SIS”) (such as clothing, bedding, and cleaning supplies), and for canteen. People don’t usually stay 6 feet apart in these lines. Although I try to stay 6 feet behind the person in front of me, someone might line up behind me and they are not 6 feet away and there is nothing I can do about that.
34. Because of COVID-19, we are limited to only interacting with prisoners in our unit, and prisoners in different units are not allowed to intermingle. All five units are given yard time separately throughout the day. However, despite restrictions on intermingling, prisoners are being moved around from unit to unit.
35. However, despite the fact that the units are separated, our food is prepared by prisoners in the “Granite” range. A person who was moved to my unit from “Granite” told me that the kitchen staff has not been given any additional personal protective equipment and is not taking any additional hygiene measures when preparing food.
36. Staff have told us that all transfers between institutions have been suspended, but this is not the reality. I have seen several prisoners transfer in and out of the unit since the COVID-19 crisis began. I had submitted an application for transfer to Bath institution before COVID-19 and was denied once the restrictions were put in place. I asked a correctional officer why some prisoners were still being transferred despite the restrictions, and he told me they were emergency transfers. I have spoken with some of the new prisoners who transferred after the pandemic began and they told me they were not isolated prior to their transfer to our unit, with the exception of prisoners who have transferred from Joyceville.

37. It is also hard to physically distance from staff. When they patrol the halls, the only way I can stay 6 feet away from them is to duck into a cell. I am also patted down any time I meet with someone, such as parole officers, the psychologist or a manager. This is the one time where the guards always wear gloves and a mask.
38. In addition, some of the staff, including nurses, parole officers, and maintenance staff interact with prisoners from multiple units.
39. Staff are not distancing from each other. I have seen staff often congregating in groups of more than 5, not wearing masks. In the yard, the staff often sit together on our exercise equipment and tables. I have not seen them wipe down these areas after use or wear a mask. When staff are sitting in the control room, they are about 3 feet apart from each other and are not wearing masks.

VI. EXPOSURE TO COVID-19 AND TESTING

40. After we heard in the media that a staff member at Beaver Creek Institution had tested positive for COVID-19 in late March/early April, several prisoners, including myself asked to be tested. The nursing staff told us that only “probable cases” would be tested and our request for testing was denied.
41. On May 29, 2020, I was called to see a nurse. This conversation happened in a common area, where other prisoners could hear. She tried to get within 6 feet of me and I had to ask her to keep her distance. She told me that I may have been exposed to someone who might have COVID-19 and that person had been isolated and told to self-monitor. The nurse would not tell me who the person was. The rumour between prisoners is that the person was the prison psychologist. This is based on the fact that all of the people who were told about the exposure are people who see her.
42. I know that two other prisoners were locked in their cells and were monitored. They were later cleared and released from lock-down. I don't know if those prisoners were tested.
43. I asked if I could get a test for COVID-19 and was told that I would not be tested unless I was showing symptoms.

44. On June 4, 2020, a prisoner on my unit, started feeling unwell. He was tested and was then told that he would be locked in his cell for 48 hours until he got the test results back. He was later cleared. To my knowledge, none of the prisoners who had contact with him were told by CSC. I only learned about it through another prisoner who is a mutual friend of me and that prisoner. I have had recent contact with the prisoner who locked down – we spoke on June 4th for a few minutes.
45. Because symptoms of the common flu and cold are similar to COVID-19, I have heard several prisoners in the unit threaten violence toward any prisoner who shows symptoms out of fear that the unit will go into lockdown. I am concerned that this could prevent prisoners who are sick from coming forward. I am also concerned that my conversation with the nurse about my own possible exposure took place out in the open where other prisoners could overhear.

VII. CANCELLATION OF PROGRAMS AND VISITS

46. All access to programs, schooling, hobby craft, libraries, the gym, the inmate committee, chaplaincy, and photocopying have been cancelled due to COVID-19. Visits with family have also been cancelled. Many work assignments have been cancelled.
47. These cancellations have caused a lot of anxiety among prisoners. I have good literacy skills so I help a lot of prisoners with things like their release plans or letters to their families. As a result of these relationships, other prisoners often come and talk to me about their problems. One prisoner even says jokingly, “therapy session” before we talk. I am finding that a lot of them are talking to me about the stress and anxiety that they are feeling as a result of not having access to their programs and schooling. They are worried that they won’t get parole because they won’t be able to complete their correctional plans. They are also afraid about dying in the institution. One prisoner said to me that he didn’t want to die alone in prison. Prisoners are saying to me that they are scared that there are not enough ventilators in the prison, and that if they get sick, they will be locked in their cell without a ventilator.

48. I am very concerned that the cancellation of programs will affect my chance of getting parole. I was eligible for parole in 2014 but was told that I was too high risk at that time. In 2015, I completed the CORE program. I have to complete the maintenance program in order to lower my risk score and I have not been able to do so because of the program cancellations. My next parole review is supposed to take place in October 2020. My parole officer told me that she will not support me for parole until my public safety risk is rated as minimum. I have a stable place to live and a huge support network in the community. My institutional behaviour has been stellar and I have a number of positive program and group reports. However, because of what my parole officer told me, I am concerned that I will not be eligible for parole if I haven't completed the maintenance program by my next parole review.
49. Due to the cancellation of programs and most work, there are more prisoners around the unit and more demand than normal for the phones. While we often had to wait to use the phones before the pandemic, it is worse now. In my unit, we share 4 phones between 96 people. There are times where I have had to wait several hours to use the phone and was not able to call people, such as the legal counsel involved in preparing this Affidavit, during the two-hour window when she was available.
50. Regular contact with my family is important because it is one of my coping strategies that help me deal with my PTSD. With outside visits cancelled, I have not been able to see my wife who normally visits biweekly if not weekly. Now, I can only talk to her on the phone. This has impacted our relationship.
51. I am not the only prisoner who has been negatively affected by the lack of programming, family visits and work. I have noticed an increase in violence, fights and suicide attempts in Beaver Creek Institution since programming was stopped due to COVID-19. There have been 3 suicide attempts, 2 emergency transfers to the Regional Treatment Centre (which is where people are sent when they are having issues with self-harm or are having a major mental health issue) and an increase in brews (i.e. moonshine) and drunkenness. Some prisoners have said they don't know if they can carry on through the pandemic, especially

if they are denied parole. Now that programs are cancelled, prisoners are bored and anxious.


VIII. ACCESS TO MAIL AND LEGAL SERVICES

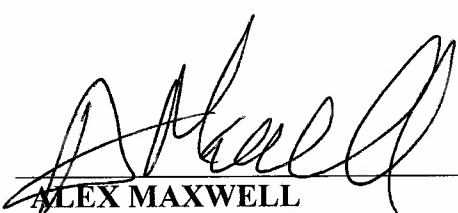
52. We have also had several delays in accessing our mail. Mail is often held for a significant period of time, from 72 hours to a week. Mail is only being delivered to the living units once or twice a week.
53. Mail from my legal counsel has been delayed. My lawyer, Todd Sloan, mailed me documents on April 28, 2020 with overnight express, but I did not receive the documents until May 8, 2020.
54. On April 17, 2020, I submitted a request to swear an affidavit before a commissioner of oaths in the prison. It took several weeks for that request to be granted.

IX. CONCLUSION

55. The contents of this Affidavit were read to me line by line by Kelly Doctor, on June 11 and June 12, 2020 and I agreed that it is true.
56. I make this Affidavit in support of the Application filed by CCLA, CPLA, HALCO, the HIV Legal Network, and Sean Johnston, and for no other or improper purpose.

AFFIRMED BEFORE ME at Beaver
Creek Institution, Gravenhurst, Ontario
this *2nd* day of *July*, 2020


Commissioner for Oaths for the Province
of Ontario.


ALEX MAXWELL

Janet Mary Strength, a Commissioner, etc.,
District Municipality of Muskoka, for the
Government of Canada, Correctional
Service of Canada. Expires January 6, 2023

FEDERAL COURT

B E T W E E N:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

-and-

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF MARK A. JOHNSTON

I, **MARK A. JOHNSTON**, of the City of Toronto, in the Province of Ontario, AFFIRM THAT:

1. I was recently released from Warkworth Correctional Institution (“Warkworth” or the “Institution”), a medium-security facility, which is located outside of Campbellford, Ontario. I was incarcerated at Warkworth from March 1, 2020 to May 21, 2020.
2. I have personal knowledge of the matters deposed to in this Affidavit, or have received the information from others, in which case I verily believe it to be true.
3. I affirm this Affidavit in support of the Application brought by the Canadian Civil Liberties Association (“CCLA”), the Canadian Prison Law Association (“CPLA”), the HIV & AIDS Legal Clinic Ontario (“HALCO”), HIV Legal Network, and Sean Johnston, Federal Court File No. T-539-20.
4. This affidavit addresses the conditions I experienced at Warkworth during the COVID-19 pandemic.

I. INTRODUCTION

5. I am 55 years old, and currently live in Toronto, Ontario.
6. On March 1, 2020, I was transferred from the Toronto South Detention Centre (“TSDC”) to Warkworth following the suspension of my statutory release. I was at Warkworth for 110 days.
7. The COVID-19 pandemic was a constant source of anxiety for me while I was at Warkworth, particularly because of the lack of control I had over cleanliness and physical distancing. This anxiety was compounded by the barriers I faced in accessing medications, cleaning supplies, and personal protective equipment.
8. CSC provided me with very little COVID-19 related information while I was at Warkworth. In fact, the only formal communication I received from CSC related to the COVID-19 pandemic was a one-page letter from Commissioner Anne Kelly released on April 24, 2020. Beyond this letter, most of the information I received regarding COVID-19 came from the news I watched on the television in my cell.
9. I have an undefined bronchial issue that requires me to use two types of inhalers (ventolin and symbicort). I also have high blood pressure, which I take ramopril to manage. At no point during my time at Warkworth was I provided with information about the relationship between underlying health issues and COVID-19. It was only through watching the news that I became aware that my bronchial issue heightened my vulnerability to COVID-19.
10. I have real concerns about the conditions I experienced at Warkworth because they did not seem to comply with the directives from Chief Public Health Officer, Dr. Theresa Tam on the news. I worry that Warkworth’s response to the COVID-19 pandemic is failing to keep prisoners safe and healthy.

II. HEALTH SERVICES

A. Denied prescriptions

11. When I arrived at Warkworth on March 1, 2020, I had prescriptions for both ventolin and symbicort. However, I was not provided with these medications until May 5, 2020. Despite

submitting multiple written requests asking for these medications, it was almost two months before the Institution provided me with a medical release form to fax to my family doctor. After my family doctor confirmed these prescriptions, I was provided with these ventilators. At no point during my time at Warkworth did I see a doctor.

B. Treatment of COVID-19 symptoms and suspected exposure

12. During my time at the TSDC, I believe that I was exposed to someone with COVID-19 (there was a confirmed COVID-19 case at TSDC four days after I transferred to Warkworth). In late February, 2020, while I was still at TSDC, I became ill with COVID-19 symptoms - I had a sore throat and was achy and tired. When I reported my symptoms to health services, I was treated as if I had a common cold and was told to drink lots of fluids. When I asked to see a doctor, my request was denied. When I was transferred to Warkworth on March 1, 2020, I asked to be tested for COVID-19 and was told that testing was not being provided to prisoners.

C. Limited access to health services

13. In late March or early April 2020, I was informed by CSC staff that health services at the Institution were “closed” and that regular health services would not be available to prisoners until the COVID-19 pandemic ended. There was one nurse that came to the unit every morning to provide methadone and refill prescriptions, but beyond this, there were no health services available. When I submitted medical requests, I received replies stating that health services were accessible to prisoners on an “emergency basis only”.

14. The one instance where I was able to access health services was in early May 2020, when one of my fillings fell out. I was able to see the dentist, but he told me that all he was able to do was pull my tooth. He told me that if I wanted to get my filling repaired I would have to wait until COVID-19 was over. Neither of the two guards who did a pat-down search of me when I entered the health facility were wearing masks. And, I was shocked that when I walked in to the health facility wearing a mask (in the midst of a pandemic), the nurse’s response was to ask me why I was wearing a mask.

III. LIVING CONDITIONS

D. Cell

15. While I was at Warkworth, I was housed on Unit 1, which has 6 ranges, and houses approximately 170 prisoners. Movement between the six ranges is not restricted. I spent time on Ranges A, F, and C, which house approximately 17 prisoners. I was double-bunked the entire time I was at the Institution. Some of the other cells surrounding me were also double-bunked, while others were not.

16. My cell, which was identical to all the other cells on the range, was about 7 feet wide by 10 feet long. It had a toilet, sink, bunkbed, and a solid sliding door that could be locked by CSC staff. There was a small hatch on the cell door which CSC staff could use to pass items like food or mail.

17. In approximately mid-April 2020, I was assigned a new cellmate who had been living on the streets prior to his incarceration. From the time he arrived, he had COVID-19 symptoms, including respiratory issues and a constant cough. I asked him if he had gone through any screening for COVID-19 when he arrived at Warkworth. He informed me that he had not had his temperature checked, nor had he been tested for COVID-19 during the admission process. This made me worry about my health, as well as his.

E. April 1, 2020 lockdown

18. On April 1, 2020, the entire Institution was put on lockdown. We were informed that this lockdown was because of a presumptive case of COVID-19. This news was delivered by a prisoner “Unit Representative” who walked down the range yelling out this information. This lockdown lasted three days and was lifted when it was verified that the person who was suspected to have COVID-19 had tested negative.

19. During the lockdown, I was confined to my cell for 24 hours a day and was given food through the hatch in my cell door. I was not able to shower and was unable to communicate with my family or my lawyer. Neither my family nor my lawyer were provided with any information about the lockdown or the presumptive COVID-19 case.

20. During the lockdown, CSC staff provided me with very little information about what was going on, and I was left to worry about whether I had been exposed to the person who was suspected to have COVID-19. Without information coming from CSC, gossip from other prisoners was the only way to gather information. I tried to stay calm, but being on lockdown with very little to do is hard on your mental health.

IV. HYGIENE AND CLEANING

F. Hygiene

21. As soon as I arrived at Warkworth, I began requesting hand sanitizer. Despite submitting multiple requests, I was never provided with hand sanitizer. The only information I was provided in relation to this request came from a CSC staff member who told me that CSC National Headquarters had only authorized hand sanitizer for staff use, not prisoner use.

22. Beyond the hand soap included in the standard hygiene supplies received by all prisoners, I was never provided with any extra soap (or any other extra hygiene products) during the COVID-19 pandemic.

G. Cleaning on the range

23. Cleaning the shared spaces on the range is the responsibility of prisoners who have jobs within the Institution as “range cleaners”. These cleaners are in charge of cleaning and disinfecting areas of common usage, including: showers, floors, eating areas, phones and railings.

24. While I did witness an increase in how often the floors were being mopped, I did not see CSC staff checking to make sure that range cleaners actually finished their assigned cleaning. The cleaning that I witnessed on the unit was sporadic and inconsistent. I noticed that how thoroughly the range was cleaned largely depended on which range cleaner was working and how motivated they were to do a good job.

25. It is particularly troubling to me that I never saw doorknobs, hand railings, or telephones (all points of frequent contact) being cleaned or disinfected by range cleaners or CSC staff.

26. At no point during my time at Warkworth did I see CSC staff cleaning in any of the prisoner-designated areas. The only time I witnessed a CSC staff member cleaning was when I saw the Unit Manager cleaning the guard area on the unit.

H. Access to cleaning supplies

27. Despite asking on numerous occasions, I was never provided with any additional cleaning supplies during the COVID-19 pandemic. I was told by CSC staff that because Warkworth is organized into ranges (and not cottages), no additional cleaning supplies would be provided to prisoners. The only prisoners that had access to cleaning supplies were range cleaners, who had access to cleaning supplies while they were working.

28. I found it especially troubling that the Institution did not provide anything to prisoners to allow them to clean the phones in between uses. To put this in perspective, each range has 1 telephone for approximately 17 people; however, prisoners from every range on the Unit can access the 6 phones. This means that over 100 prisoners could have contact with a single phone. Because of the high-frequency of telephone use, and the close-proximity required to use a telephone, I believe cleaning supplies should have been provided to sanitize telephones.

29. The only way I was able to access cleaning supplies was through someone who had stolen disinfectant and given me a small bottle in mid April. Once I had this cleaning solution, I would put some on a rag and use it clean to the telephone whenever I used it. I also used it to clean my cell door and inside my cell.

V. PERSONAL PROTECTIVE EQUIPMENT

I. Prisoner access to personal protective equipment

30. I began requesting personal protective equipment (specifically, a mask and gloves) on April 1, when we were informed of the presumptive case of COVID-19 at Warkworth. While I was never provided with gloves, I finally received a cloth mask on April 24, 2020.

31. From April 24 onwards, I was provided with a new mask at varying intervals. Sometimes I was provided a new mask every day, other times I was provided a new mask after four or five days. The longest I used a single mask before receiving a new one was one week.

32. While masks began to be provided to prisoners on April 24, 2020, there was no requirement that prisoners wear them. The majority of the people on my range did not wear masks. And, I never saw CSC staff encourage or require prisoners to wear masks.

33. Prior to April 24, the prisoners who worked serving food were not wearing masks. After April 24, whether or not those serving food were wearing masks depended on who was working. I also found it concerning that in the midst of a pandemic people were serving food (including items like lettuce and potatoes) using their hands (with only a thin glove on) rather than a proper serving utensil.

J. CSC staff use of personal protective equipment

34. While I did see some CSC staff wearing masks, the majority of the staff I encountered did not wear them. The use of masks by CSC staff was inconsistent. For example, sometimes the staff working the day shift would wear masks, but those working the night shift would not. And, as I noted above, when I went to the Institution's medical facility (where I would assume safety precautions would be higher), I saw two guards who were not wearing masks.

35. I recall having a conversation with a guard about why he was not wearing a mask. He explained that because he lived in a small community where no one had tested positive for COVID-19, he did not believe it was necessary to wear a mask. However, this guard also told me that his wife was a frontline healthcare worker in the emergency department of the hospital, which concerned me. Other guards told me that they were not wearing masks because they found them uncomfortable.

VI. LACK OF PHYSICAL DISTANCING

K. Physical distancing from other prisoners

36. Because of COVID-19, there were some changes to how prisoners congregated and moved around the Institution. For example, rather than everyone eating together in the meal hall, mealtimes were staggered, and food was served on the unit. However, the room that was used to serve food on my unit was very small and confined space. And, in order to get our meals, everyone

on the unit (about 110 people) had to line up at the same time in a narrow hallway. Often, we were lined up arm to arm, and CSC staff did not enforce physical distancing.

37. There were many instances where I was unable to physically distance from other prisoners. I found it to be the most difficult to do so when everyone was lined up for meals, medications, mail, pay stubs or hygiene supplies. It was also difficult to practice physical distancing during 'range time' (when everyone on the range was let out of their cells).

L. CSC staff and physical distancing

38. Although it was possible to physically distance myself from other prisoners *some* of the time, the only time when I felt that I was able to physically distance myself from CSC staff was when I was in my cell. I did not see staff make an effort to follow physical distancing. And, I found it challenging to physically distance in any interaction I had with staff, especially when I was called up to the control area, when staff were walking through the halls, and in the meal line.

39. I did not see CSC staff practice physical distancing at all when interacting with other staff.

VII. ATMOSPHERE WITHIN THE PRISON

40. All activities at the Institution were cancelled because of the COVID-19 pandemic, including: work, programming, education, and chaplain and religious services. I was not provided with any information about when these activities would resume, and there was no use of alternative program delivery methods. The library and gym were also closed.

41. Because of the COVID-19 pandemic, there were adjustments to yard time. Instead of the entire unit being in the yard at once, every range had their yard time separately. We were given 1 hour of yard time per range, where previously we would be able to get out at various times during the day. As a result of these restrictions, I don't think I was outside more than 6-7 times in the four months I was at Warkworth. The amount of time I was able to be out of my cell and on the range was also limited because of COVID-19 precautions.

42. Tension was very high at Warkworth because of everything being shut down. People were not working, getting their programming, or able to access the gym and exercise equipment. People who had been trying to get parole were being told to push back their parole (and being told if they

did not do so, they were not going to be supported by their Parole Officers). The suggestion to push back parole dates seemed stem from the fact that there were no Parole Officers working at the Institution, requests to Parole Officers were not being responded to, and because people were unable to complete their required correctional programming because of things being shutdown. The combination of all of these factors created lots of tension and many fights – you never knew what was going to erupt.

43. One of the main causes of tension was phone use. With only one phone for 17 people, prison limits your ability to talk to family in the best of times. But, because everything was cancelled and there was nothing to do, the phone was in increased demand. CSC staff did not monitor phone use, so one person could monopolize the phone for hours at a time, which would create tension. During the COVID-19 pandemic, I witnessed many fights revolving around the phone, including one fight that ended with someone getting his jaw broken.

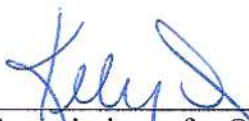
44. Prior to the COVID-19 pandemic, my lawyer could meet with me in person at the Institution. However, outside visitors were not permitted at the Warkworth because of COVID-19. As I mentioned above, it was very difficult to access the phone (especially during daytime hours when my lawyer would be available). Because of this, I had a very hard time speaking to my lawyer if I needed advice, and had to rely on my sister contacting him for me.

VIII. CONCLUSION

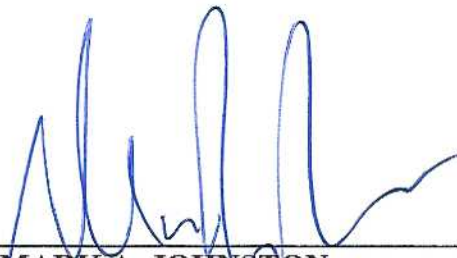
45. Because of my experience at Warkworth during the COVID-19 pandemic, I worry about the health and safety of those who remain incarcerated there.

46. I make this affidavit in support of the Application filed by CCLA, CPLA, HALCO, the HIV Legal Network, and Sean Johnston, and for no other or improper purpose.

AFFIRMED BEFORE ME at Toronto,
Ontario, this 12th day of June, 2020



Commissioner for Oaths for the Province
of Ontario.



MARK A. JOHNSTON

Court File Number: T-539-20

FEDERAL COURT

B E T W E E N:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

-and-

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF DENNIS PEARCE

I, Dennis Pearce, a prisoner at Bath Institution, located in Loyalist Township, in the Province of Ontario, SWEAR THAT:

1. I am currently a prisoner in Bath Institution, a medium security facility located just outside of Bath, Ontario. I make this Affidavit in support of the Application brought by the Canadian Civil Liberties Association (“CCLA”), the Canadian Prison Law Association (“CPLA”), the HIV & AIDS Legal Clinic Ontario (“HALCO”), HIV Legal Network, and Sean Johnston, Federal Court File No. T-539-20.
2. I have personal knowledge of the matters deposed to in this Affidavit, or have received the information from others, in which case I verily believe it to be true.
3. If I have the opportunity to do so, I will sign this Affidavit in front of a Commissioner of Oaths. I am concerned that this may not be possible, however, before the Application is heard. Due to the cancellation of visits during the COVID-19 pandemic, I cannot meet with counsel. I am also aware that there have been delays with the mail system.

4. Even if I am not able to hold this Affidavit and affirm it in person due to these circumstances that are beyond my control, I still solemnly declare that it is true. I am also prepared to attest to the content of this Affidavit personally by video or telephone to a judge of this Honourable Court, or other appropriate person, if CSC staff are able and willing to facilitate that in these difficult circumstances.
5. This Affidavit will describe my experience living at Bath Institution after the start of the COVID-19 pandemic in March 2020.

I. LIVING CONDITIONS

6. I have been a prisoner at Bath Institution for more than five years. I currently live in Unit 3, which is divided into upper and lower sections. The lower section consists of 6 townhouses which prisoners share. I live in house “M” with 9 other prisoners.
7. In my house, there are 3 double cells and a single cell upstairs and 3 double cells and a single cell downstairs, which means that 8 prisoners are double-bunked. I have a single cell.
8. In my house, I share a bathroom, shower, kitchen, and common room with the 10 other prisoners living in the same house. In addition, I share utensils, dishes, appliances, and cleaning supplies with the other prisoners in my house.
9. There is a laundry facility that is shared by all the houses in the lower unit 3. That building, is separate from my house, and also contains mailboxes, and phones which are shared by prisoners in the other houses in the lower unit. There are four washers, four dryers, and four phones that are shared between approximately 56 prisoners. However, the phones are often broken and it is very rare for all four phones to be working.
10. Since about the second week of March, we have been confined to our houses for most of the day. We are permitted to leave our houses for two hours in the morning, and two hours in the afternoon to use the phones and laundry facility. We also have one hour a day to use the yard. Since around early May, we have been allowed to leave for medical appointments

as well. This means that for approximately 19 hours a day, I am in the house with the other prisoners living with me.

II. PHYSICAL DISTANCING

11. It is impossible to do physical distancing within the house. We share a kitchen where we cook our own food. The kitchen is approximately 10 feet by 8 feet. If more than 2 people are in the kitchen, then you cannot be more than 6 feet apart. Sometimes there are 3, 4 or 5 guys in the kitchen at a time.
12. The common area in my house has a shared kitchen table, and a set of couches, and a TV. This is where people spend time unless they are in their cell. In this space we are often within 6 feet of someone else.
13. In the laundry facility, the washing machines and dryers are very close together. If more than one person is doing laundry, you cannot stay 6 feet apart.
14. The phones are also very close together. When I am on the phone, I can literally touch the person on the phone next to me.
15. Unless I am alone in my cell, I am almost always within 6 feet of someone else.

III. PERSONAL PROTECTIVE EQUIPMENT

16. Around the end of April/early May, we were given face masks. These are surgical blue face masks, not N95 respirators. I put in a request to Supplies and Institutional Services (“SIS”) for gloves and hand sanitizer but did not get a response. I asked my unit Correctional Manager and he told me that the institution does not have enough supplies to give inmates gloves or hand sanitizer.
17. Very few prisoners wear masks. We do not wear masks in my house since we are already sharing close quarters. On the yard, most people don’t wear masks. I will wear a mask when I interact with staff.

18. Some staff wear masks and others don't. Health care staff do generally wear their masks. However, I would say that the majority of Correctional Officers do not wear them. My unit Correctional Manager, does not. One day when in was in the yard with other prisoners, I spoke to the warden in the yard. He was holding his mask in his hand instead of wearing it, as I spoke to him. Other prisoner went to speak to him afterwards and I did not see him put the mask on when he was speaking to them.

IV. CLEANING AND HYGIENE

19. In or around March 2020, I got a job as a cleaner in the institution. I am responsible for cleaning "high touch" areas, such as phones, counter tops, door handles and mailboxes, in the building with the phones and the laundry room. I do this several times a day. I am one of four prisoner cleaners in the unit. No one from Correctional Services Canada ("CSC") monitors how well we do the cleaning.
20. When I started this job, I did not have a mask. As I mentioned above, I first got a mask around end of April/early May. I have not been given gloves. I have been given a bottle of disinfectant and rags.
21. The phones are cleaned sometimes by the unit cleaners a few times a day, but no one is responsible for cleaning the phone in between each use. There is a bottle of cleaner and rags near the phone, but it is up to each prisoner to clean it before and after they use it. Some people do but some people don't.
22. There is also a prisoner who has a job as the house cleaner. He is responsible for cleaning the common areas within the house. To my knowledge, no one from CSC monitors his work.

V. MOVEMENT OF STAFF AND PRISONERS

23. Since the pandemic began in mid-March, prisoners have largely been confined to our unit.

24. However, prisoners are still being transferred between houses, units and institutions. Since March, there have been 3 or 4 people who have left my house and 3 or 4 new prisoners who have been brought in from Unit 1 or 2. There have been about a dozen or more new prisoners who have come into the “Lower 3” unit.
25. Since early May, I’ve gone to medical five times. When I am in the waiting room, I have seen and spoken with prisoners from other units. The waiting room is about 6 feet by 10 feet and there may be up to 8 inmates in there from multiple units at the same time. Prisoners are not required to wear masks in the waiting room. When I was there, none of the other prisoners were wearing masks.
26. Staff are also moving between units in the institution. For example, nurses will visit multiple units twice a day to give meds. They are escorted by Correctional Officers when they do this. The nurses wear masks but the Correctional Officers don’t, which seems counterproductive to me since they are travelling together.
27. Correctional officers also work in multiple units. Sometimes they will be in my unit, and in the same week they might work in another unit in the institution. I know this because I’ve asked them about it and I’ve seen them working on other units.

VI. LACK OF ACCESS TO SERVICES

28. Before the pandemic began, I was taking a number of college courses through Northern College. I have been taking courses for several years, and have been working towards a diploma in either business management or science and art. These classes were cancelled in mid-March.
29. Sometime in April, I requested access to the dentist because I had a sore tooth. I was told that it was not possible unless it was an emergency, and so my request was denied. My tooth is still sore and I think I might have a cavity.
30. Programs, school, library, family visits, and all non-essential work assignments have been cancelled since mid-March. There has been a lot more tension in the institution since that

happened. Prisoners seem to be stressed and overwhelmed. Prisoners are worried about getting sick or their families getting sick. I have seen multiple fist fights, as well as prisoners yelling at each other.

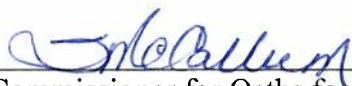
31. Since January 2020, prisoners are not allowed to use the phones for more than 2 hours per day. This has impacted prisoners' ability to speak with their families and legal counsel. In my case, I have a number of different legal cases ongoing with 7 different counsel, and I often have to choose whether I am going to speak with my lawyer or with my family that day because I don't have time to do both. This feels like an unreasonable choice to make. On or around March 3, 2020, I requested permission to have additional time to access the phone. I've made a number of additional requests since then. These requests were denied in early June.
32. With the cancellation of programs and family visits it is even more difficult to use the phone. People have more time during the day with nothing to do so there are more people who want to use the phones. As I mentioned before, at least one if not more of the four phones available to the prisoners in my unit is often broken, and there are limited hours in the day when we can use the phones. There may be days where there are long waits to use the phone or where its not possible to use the phones, which means that I can't connect with my family to find out if they are ok. This elevates my stress and anxiety.

VII. FEAR OF REPORTING SYMPTOMS

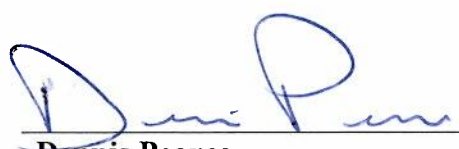
33. Prisoners have told me that they would not come forward if they thought they had COVID-19 symptoms. Some people have told me that they don't believe that health care staff would actually help them, as they have had bad experiences with health care staff in the past. I don't trust the health care staff and have filed several grievances against nurses. Others have said that they are worried that they would be transferred to isolation.
34. In fact, sometime in April, our Correctional Manager told us that anyone who reported COVID-19 symptoms would be transferred to Trenton and would be under military guard.

- 35. I have heard a number of prisoners make general threats about people who report symptoms. They have said things like, "if you get us locked down, there will be consequences".
- 36. If I came down with symptoms, I don't think that I would report them. I would probably just stay in my house.
- 37. I make this Affidavit in support of the Application filed by CCLA, CPLA, HALCO, the HIV Legal Network, and Sean Johnston, and for no other or improper purpose.

SWORN BEFORE ME at Bath
 Institution, in Bath, Ontario, this 25th
 day of June, 2020



 Commissioner for Oaths for the Province
 of Ontario



Dennis Pearce

**Sherrie Janice McCallum, a Commissioner,
 etc., Province of Ontario, for the Government
 of Canada, Correctional Service of Canada,
 Expires July 7, 2022.**

FEDERAL COURT

B E T W E E N:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

-and-

THE ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF DERRICK SNOW

I, Derrick Snow of the City of London, in the Province of Ontario, AFFIRM THAT:

1. I was an inmate at Bath Institution, a federal prison operated by the Correctional Service of Canada ("CSC"), until April 21, 2020 when I was released on an Unescorted Temporary Absence ("UTA"). I have personal knowledge of the matters to which I depose in this Affidavit, or have received the information from others as indicated, in which case I verily believe it to be true.
2. I affirm this Affidavit in support of the Application brought by the Canadian Civil Liberties Association ("CCLA"), the Canadian Prison Law Association ("CPLA"), the HIV&AIDS Legal Clinic Ontario ("HALCO"), HIV Legal Network, and Sean Johnston, Federal Court File No. T-539-20.
3. This Affidavit will address the living conditions I experienced at Bath Institution after the outbreak of COVID-19 in Canada in March 2020, with reference to my previous health conditions.

I. INTRODUCTION

4. I am 53 years old. I have spent about 30 of those 53 years in jails and prisons. Most recently, I was an inmate at Bath Institution.

5. Due to serious health concerns, which I describe below, on April 2, 2020, a lawyer representing me submitted an urgent application to the Warden of Bath Institution for my release through a UTA for medical reasons for the duration of the COVID-19 pandemic.

6. As of April 12, 2020, the Warden had not yet rendered a decision. My lawyer applied to the Federal Court on my behalf for judicial review of the anticipated decision. My lawyer then filed a motion for a mandatory injunction ordering the Warden of Bath Institution to grant the UTA and release me from custody as interim relief on the judicial review application.

7. The Federal Court was going to hear the motion for interim relief on April 17, 2020. On April 16, 2020, CSC agreed to release me on a UTA as of April 21, 2020 and for the duration of the COVID-19 health crisis, or until my statutory release date (July 25, 2020), whichever comes first, to live with my sister, Crystal Pirie, in London, Ontario.

8. I am grateful to be out of Bath Institution so that I can better protect myself against COVID-19. However, I am worried for everyone still inside CSC institutions based on what I know of the conditions in Bath Institution as of the time of my release on April 21, 2020.

II. HEALTH CONCERNS

9. I am getting older now, and my health is deteriorating fast. I have always had respiratory problems, but in the last few years I was diagnosed with chronic obstructive pulmonary disease ("COPD"). COPD is a lung disease, characterized by long-term breathing problems and poor airflow. I have struggled with it for years, and even before I was diagnosed with COPD I was prescribed "puffers" to assist my breathing. At one point I was on three different types of "puffers" which administered different medications, but currently I am prescribed only one. I still find that I periodically lose my voice and my breathing can be labored at times, even in normal circumstances. I understand that it is considered a "progressive" disease, which means it gets worse over time, which has definitely been my experience.

10. I also have type-2 diabetes. I did not receive any treatment for my diabetes while I was incarcerated at Bath Institution. Health care staff did not monitor my blood sugar. They did not provide me with a modified diet.

11. I have been diagnosed with post-traumatic stress disorder (“PTSD”) and anxiety. My PTSD is particularly triggered by situations where I am in close proximity to a group of men, or when men are shouting, or when I am using the toilet, or just being jostled. I can’t cope with dormitory rooms – I can’t sleep in them and my mind just races with fear and paranoia. I have nightmares every week, and intrusive images that I can’t shake. But almost all my life I have been surrounded by men – in prison, or at a halfway house or residential treatment centre – so I try to deal with it the best I can, but I always have felt afraid and insecure.

12. In or around February 27, 2020, after several weeks of expressing concern to staff at Bath Institution about extreme pain in my leg, I was rushed to the Kingston General Hospital (“KGH”) in an ambulance. I spent five days at KGH. I was put on morphine and gabapentin for the pain. The staff at KGH ran multiple kinds of tests and scans on me – including an ultrasound, CAT scan, x-ray and an MRI. The MRI results indicated that I had a blood clot and a malignant tumor in my leg. The biopsy confirmed that I have cancer. It was diagnosed as a sarcoma. I saw the radiologist and oncologist at the cancer clinic, and they confirmed that there is a further complication with my cancer diagnosis because the tumor is resting on my iliac vein. The x-ray also found two nodules in my chest. There is some concern that the nodules may be cancerous, so I am required to have a follow up appointment in about three to six months.

13. My leg remains incredibly painful. I have needed a wheelchair to get around most of the time since the beginning of March. I can barely lift my leg onto the footrest of my wheelchair sometimes, the pain is so intense. In Bath Institution, when attempting to get up to use the toilet in the evenings, I experienced extreme and overwhelming pain as I walked just the short distance from my bed to the toilet. Sometimes, I am able to move about relying on the support of a cane rather than my wheelchair but this is not easy; I have no feeling in a large portion of my right leg and also have dropfoot on that same side.

14. On or around March 23, 2020, I was sent to KGH to have a follow up MRI to examine the blood clot in my leg. The blood clot was extending up my leg. I required injections twice

daily to thin my blood to prevent further clots from developing and to try to eliminate the clot in my leg that was progressing. I was told that staff at Bath Institution could not accommodate this injection schedule on the weekends due to staffing limitations related to COVID-19. On the weekends, I was reduced to one injection daily.

15. Bath Institution assigned me another inmate as caregiver to help me out, get my meals, clean my cell, and wheel me around. However, once we were locked down, I did not have a caregiver because we were out of our cells at different times of the day.

16. I understand that the COVID-19 pandemic poses a very serious threat to my health, because of the medical conditions I have. I sought the UTA due to the increased risk of exposure I faced when in Bath Institution.

17. Before I obtained the UTA, I was often concerned and consumed by the thought that I may not make it to my release date on July 25, and that I may die in prison before I could see my sister and other family members again.

18. I have seen similar patterns many times with colds and flus during my three decades in prison. First one person gets something, and then soon the whole range has it.

III. LOCKDOWNS

19. On Wednesday, 8 April 2020, I heard from other inmates (so it may have been a rumour) that there was a suspected case of COVID-19 at Bath Institution, and that we were all going to be locked down the next day. I do not know if anyone had tested positive or not, but I know that in fact we were all locked down the following day, Thursday, April 9.

20. After that, there was a new routine for movements around our unit. Each of us was only allowed to be out of our cell for two hours a day, for showers, telephone, exercise, or just a chance to speak to other people in there. One day, I had made an appointment to speak with my lawyer in the morning about my urgent court matter, but I did not get my two hours out of my cell until 6:00 p.m. that day, when my lawyer was no longer available. This was not the only time this occurred.

21. I know it is important to try to keep people separated, and I wanted to stay safe in Bath Institution, but I was worried that my mental health would deteriorate if I was locked in my small cell for 22 hours a day without any way to connect with people or speak to my loved ones. I have never done well during long lockdowns. I find that after a few days being locked down I get really paranoid and I grow angrier and angrier, absolutely furious, which is not usually the way I am in my life, and it scares me. I lose control over my emotional state and I go to a bad place in my mind, and I get stuck there. It's torture for me.

22. On April 9, I heard a guard at Bath Institution tell another prisoner that as soon as there is an actual COVID-19 case in our unit, we would all be locked down 24 hours a day. I don't know if that is true, but I didn't think I could bear it.

IV. LACK OF SOCIAL DISTANCING

23. I am very afraid that there is nothing that CSC will be able to do to stop the spread of this disease once it gets in Bath Institution, just because of the nature of the space itself.

24. When I was at Bath Institution, I was on Unit 5, which is a kind of mental health unit. Many people there were afraid. It was hard to keep separate and keep clean there, because the space is so small for so many people. We each had our own room on the unit, but there was only so much space in the common areas, and everyone had to use the same phones and the same showers.

25. Until Thursday, April 9, 2020, everyone in the unit was regularly milling about and it was impossible to keep social distance from anyone. We did not have masks to wear. We did not have gloves. I witnessed some inmates ask for masks and gloves. They were told that they would not receive them and that masks and gloves would only be given to people working in health care.

26. I witnessed one inmate who was so terrified of COVID-19 that he isolated himself as much as possible from all contact. He made himself a mask out of a shirt or bandana. At first, the Corrections Officers tried to stop him from wearing the mask, but he was persistent so they eventually gave up.

27. Many people in Unit 5 struggle with mental health challenges (as do I), and not everyone there seemed to be able to understand the importance of social distancing or to comply with those recommendations, and it seemed that staff chose not to enforce those kinds of restrictions. If they did so by physically handling people, that of course would only make it riskier for all of us.

28. Unit 5 is single-bunked, which is fortunate, because I know that some other units at Bath Institution are double-bunked. But even so, we are all in a confined space all day, breathing the same indoor air, and staff have to come and go each day back and forth to their homes and the outside world. I am afraid it is just a matter of time before someone brings the virus in without meaning to or knowing they are doing it, and I am very concerned it will not take long for everyone there to get sick.

29. While I was there, some staff would wear masks but some did not. Most Corrections Officers wore their standard-issue black leather gloves. Some would wear purple disposable gloves, which are the same ones they wear when conducting searches.

30. The common areas for Unit 5 are common to the whole 96-person unit. There are 8 ranges: 4 upper, 4 lower.

31. There is a kitchenette/dining area on each of the lower ranges with four tables that each seat four people. The stools and tables are all bolted to the ground as one fixed unit and cannot be separated. The stools are about four feet apart from each other. People were using these tables and stools every day because they are the only tables and stools available (except for the stools to sit on while using the telephone).

32. Each Kitchenette has two or three fridges, a microwave, a kettle, a washer, two driers and a sink. Everyone shares these appliances in common. It is impossible to use any of this equipment if anyone else is using any of it, without coming into close proximity with each other. Everyone is expected to do their own laundry, so it is unavoidable. I would estimate that each of these kitchenette/dining areas is about 15 by 30 feet. The appliances are not cleaned between uses.

33. There is also a fenced-in yard that we could use during our 2-hour recreation period, but it is relatively small – I would guess it measures about 30 by 30 feet, with a single basketball hoop. On or about April 9, Bath Institution opened up a larger portion of the area surrounding the unit compound for our use, but not many people used it at first because of the unpleasant weather, and because they also needed to use the limited time out of their cells to phone loved ones, take showers, and do laundry.

34. There are six phones, and four of these phones are grouped in pairs less than 6 feet apart, I would guess they are about 3 feet apart.

V. INADEQUATE CLEANING AND HYGIENE PRODUCTS AND PROCESSES

35. All common areas on the unit are cleaned only by inmates and not by staff or professional cleaners, so the quality of cleaning really varies even at the best of times. When we go on lockdown, the cleaners go on lockdown as well and nothing gets cleaned as frequently as usual.

36. Each range has communal showers. The lower level, where I was, has stalls designed for handicapped access – one for each of the four ranges. No one cleans these shower stalls between uses. The showers are also cleaned by inmate cleaners.

37. Given that many people on Unit 5 have serious mental health challenges, hygiene can be a problem on the unit any time, including personal hygiene. I felt that I could not trust anything that that I touched in the common areas.

38. There was no hand sanitizer available to us. There was sometimes soap in the common areas, but it was often empty.

39. I had soap in my cell that I purchased with my own funds at the Canteen.

40. There is a 2L bleach dispenser in one of the kitchenette areas that staff put out on Friday mornings. It dispenses about an ounce at a time, but by Friday afternoons it is always empty and then stays empty for the rest of the week. I think some people horde it for their own use – I have seen people stand at this dispenser for a long time filling up their own containers.

41. Normally the shower areas and phones are supposed to be cleaned once a day by an inmate cleaner, but this doesn't always happen, and even less so during the lockdown. Bath Institution put a spray bottle of all-purpose cleaner by the phones for people to use themselves. I use it, but I don't know how often other people use it or how well it works. We are also less likely to do a thorough clean during our limited opportunity to access the phones.

VI. CONCLUSION

42. I did not feel that I was safe in Bath Institution given the state of vulnerability that I am in with my health. I did not want to die in there. I fear for the inmates that I left behind when I was released.

43. I make this affidavit in support of the Application filed by CCLA, CPLA, HALCO, the HIV Legal Network, and Sean Johnston, and for no other or improper purpose.

AFFIRMED BEFORE ME at London, ON
this 13th day of JUNE 2020

Commissioner for Oaths for the Province
of Ontario.

PETER BEHR.



DERRICK SNOW

FEDERAL COURT

BETWEEN:

**CANADIAN CIVIL LIBERTIES ASSOCIATION,
CANADIAN PRISON LAW ASSOCIATION,
HIV & AIDS LEGAL CLINIC ONTARIO,
HIV LEGAL NETWORK,
& SEAN JOHNSTON**

Applicants

– and –

THE ATTORNEY GENERAL OF CANADA

Respondent

**APPLICATION RECORD
VOLUME 5 OF 5**

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