

Solicitor General

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EX-2020-851
By email

July 27, 2020

Sandra Ka Hon Chu
Director of Research & Advocacy
Canadian HIV/AIDS Legal Network
schu@aidslaw.ca

Dear Sandra Ka Hon Chu:

Thank you for your email enclosing a letter on behalf of frontline workers and 63 organizations regarding protecting inmates from COVID-19. I apologize for the delay in responding.

I would like to begin by assuring you that the Ministry of the Solicitor General has policies and procedures in place for the delivery of health care services. These policies and procedures ensure that inmates receive necessary health assessments when they are admitted to institutions, and as needed during their period of incarceration. Inmates have access to health care practitioners, such as nurses, nurse practitioners, physicians and psychiatrists. The ministry ensures those in its custody are treated fairly, respectfully and with the same access to health care services as those in the community.

I can tell you that the ministry has implemented a number of measures at all of our provincial institutions to keep our staff, and those in our custody, safe. This includes proactive work to address overcrowding in our facilities, with the objective to decrease the risk to public health while ensuring public safety.

Intermittent inmates who serve time on the weekends are required to attend their reporting facility for their first reporting date, where they will be given a Temporary Absence Permit (TAP) from custody and allowed to return home. The TAP has been extended until August 26, 2020, or the sentence end-date, whichever comes first. This means those serving intermittent sentences will not have to report to a correctional facility every weekend, reducing the number of individuals entering the institution.

The ministry is proactively performing a temporary absence review for all sentenced offenders to determine whether they are eligible for early release. Offenders chosen must be near the end of their sentences (less than 30 days remaining) and be considered a low risk to reoffend. Those who have been convicted of serious crimes, such as violent crimes or crimes involving guns, will not be considered for early release. Unlike the standard process, sentenced offenders are not required to apply for release and will be notified if they qualify. They must agree to the terms and conditions of their release prior to leaving the institution.

Since March 16, 2020, these measures have helped reduce the population at all facilities across Ontario from 8,344 to 5,945 (as of July 24, 2020). Since April 2, 2020, 40 low-risk inmates close to the end of their sentences have been released early from institutions across the province (as of July 24, 2020). A centralized team continues to review cases to assist with the release of additional low-risk inmates.

To reduce the movement of inmates in and out of the institutions, the Ministry of the Solicitor General, in partnership with the Ministry of the Attorney General, has moved all court appearances to video or telephone (unless required by the court). As the province continues its path to recovery, both the Superior Court and Ontario Court of Justice are planning to reopen their courts on a limited basis. The ministry will be working with the courts to facilitate the attendance of inmates at court as required.

The Ontario Parole Board is conducting all hearings remotely by video or teleconference. We are continuing to work with the courts and police to reduce the number of individuals coming into our custody and the ministry is working closely with Correctional Service Canada to continue the movement of federal inmates from our custody.

As you may know, the Ministry of the Solicitor General has a legal responsibility to uphold the orders of the courts and to ensure the safety and security of all those in its custody. The ministry, however, does not determine which individuals will be admitted into our custody nor which individuals are eligible for release unless the court deems eligible. Sentencing and judicial decisions are imposed through the judiciary and court system, which fall under the responsibility of the Ministry of the Attorney General.

All adult correctional institutions across Ontario have an individualized pandemic plan, which is used in consultation with local public health partners. The ministry has implemented a number of measures at all provincial correctional facilities to stop the spread of COVID-19, including a requirement for staff and visitors to wear masks at all times; masks are also being provided to inmates as required.

Everyone entering a correctional facility is subject to a screening process that aligns with the latest direction from the Ministry of Health (MOH). This includes staff, new admits and professional visitors. A process has also been implemented to ensure that staff are self-monitoring and affirming they are not experiencing symptoms that are consistent with COVID-19. Inmates are screened for COVID-19 at admission and are housed in a special intake unit for 14 days, where they can be monitored for symptoms and tested for COVID-19, prior to joining the general population.

Inmates are carefully monitored on an ongoing basis, and should they exhibit symptoms consistent with COVID-19, they are temporarily placed in medical isolation for further assessment and testing, when appropriate. In addition, all non-essential transfers are cancelled until further notice. As the situation evolves, these measures will undergo regular review to ensure they are aligned with MOH and Public Health Ontario direction.

All inmates continue to receive appropriate medical attention as required. Inmates who have been placed in temporary medical isolation are managed in accordance with ministry policy and still receive access to court and counsel, fresh air (yard), showers, use of telephone, and access to personal belongings, as well as canteen.

In addition to routine testing described above, since May 24, 2020, the ministry has offered voluntary COVID-19 testing to all inmates and all staff members.

There are also processes in place to address environment cleaning at all of our facilities. All institutions are inspected and thoroughly cleaned daily and as required. In addition, third-party cleaning services are secured to perform additional deep cleaning in our institutions as required. Inmates are also educated on methods to reduce the spread of illness, including COVID-19, and are provided with cleaning products to keep their living areas clean, as well as toiletries such as soap, shampoo and toothpaste.

It is our policy to treat inmates in a responsible, just and humane manner that recognizes their inherent dignity as human beings and affords them the rights, privileges and protections prescribed by law. Out of an abundance of caution to prevent the spread of COVID-19, the ministry temporarily cancelled personal visits at all correctional facilities. As of July 7, 2020, personal visits have resumed at all institutions. The ministry has established guidelines, which include scheduling all visits, an active screening process for visitors and a mandatory face covering requirement. Visitation will be prioritized for vulnerable inmates.

The ministry is temporarily providing all inmates with calling cards for \$20 per month, in addition to their regular access to personal phone calls. This began in April 2020 and will continue at the discretion of the ministry.

The ministry will continue to protect victims of crime, witnesses and other members of the public from harassment and intimidation by inmates while in correctional institutions using the same safeguards that have always been in place.

The ministry is also working collaboratively with other justice sector partners to ensure that inmates have access to their lawyers through the use of remote technologies, such as video and audio conferencing.

The ministry issued a *Correctional Services COVID-19 Information Sheet* and a *Correctional Services COVID-19 Question and Answers for Inmates* document for posting within our institutions. These accessible reference materials provide valuable information to our inmate population that will enable them to assist in stopping the spread of this virus and assist them in protecting themselves and others.

Regarding your concerns about release planning, the ministry works with community service providers, municipalities, Indigenous communities, and Indigenous organizations to help inmates who need local assistance. To support the safety of offenders who are being released into the community, the ministry will, where possible:

- Support travel home and help them find housing, take medication, and continue with programming and/or treatment in their communities;
- Help them make connections with friends or family members who can assist with housing and/or transportation;
- Identify and connect them with local community service providers (such as shelters and transportation services), and Indigenous organizations that are continuing operations during the pandemic;
- Connect with community health care providers for follow-up care, including public health, and provide them with local health services and Telehealth contact information at discharge; and
- Provide health education and resources on COVID-19 symptoms, self-isolation, physical distancing, hand hygiene and when to wear a mask.

It may interest you to know that the ministry has signed a Memorandum of Understanding with the Nishnawbe-Aski Legal Services Corporation and the Nishnawbe Aski Nation (NAN) to support discharge planning and the safe return home of individuals to NAN territories during the COVID-19 pandemic.

As an added effort to proactively promote personal safety during the COVID-19 pandemic, cloth masks are being provided to inmates upon release. Non-symptomatic and non-medically isolated inmates being released into the community are provided with one cloth mask at the time of their release and are educated on its proper use. Inmates who are released into the community from medical isolation are released wearing a surgical/procedure mask; they are provided with an additional mask for later use.

We liaise closely with the local Public Health Unit when patients are being discharged. Again, as part of our discharge process, inmates are provided with information about COVID-19, as well as how to self-monitor or self-isolate, as appropriate.

The ministry has been releasing statistical information related to COVID-19 cases upon request. I have taken the liberty of enclosing statistical data related to inmate and staff COVID-19 cases in Ontario's Correctional Institutions.

I assure you that the health and safety of our staff and those in our custody is our top priority. We recognize and thank our dedicated staff who are working hard to keep our correctional facilities and our communities safe.

We continue to monitor this situation, work closely with our public health partners as this situation evolves, and evaluate additional measures that may further reduce risk. We are committed to ensuring our frontline corrections staff and those in our custody remain informed while we respond to COVID-19 and the unique challenges it presents. We all need to stay vigilant and do our part to ensure the health and well-being of all Ontarians.

Thank you for bringing your concerns to our attention.

Sincerely,



Sylvia Jones
Solicitor General

Enclosure

c: The Honourable Christine Elliott
Deputy Premier and Minister of Health

The Honourable Doug Downey
Attorney General