

Third COVID-19 Status Update

Office of the Correctional Investigator

Introduction

This is the Office's third public update reporting on the ongoing impact of COVID-19 on federal corrections.¹ This update reports on the "second wave" of the pandemic, which for federal corrections began to emerge in early November 2020.² It also includes a stand-alone investigation into the resumption of correctional interventions suspended or interrupted due to the pandemic, from late March 2020 onward.

This update has four main sections:

1. Statistical and Demographic Overview – First vs. Second Waves
2. Update of Office Activities (from July 2020 onward)
3. Investigation into the Resumption of Correctional Interventions
4. Findings and Recommendations

1. Statistical and Demographic Overview: First vs. Second Waves³

In the first wave of the COVID-19 pandemic (end of March to end of May 2020), federal corrections experienced outbreaks at six penitentiaries (out of 43). Over that period, 361 inmates tested positive and two died from COVID-19. Between May 25 and November 10, 2020, there were no reported cases of the disease in Canadian federal prisons. A second, more virulent wave of prison outbreaks took hold in early November

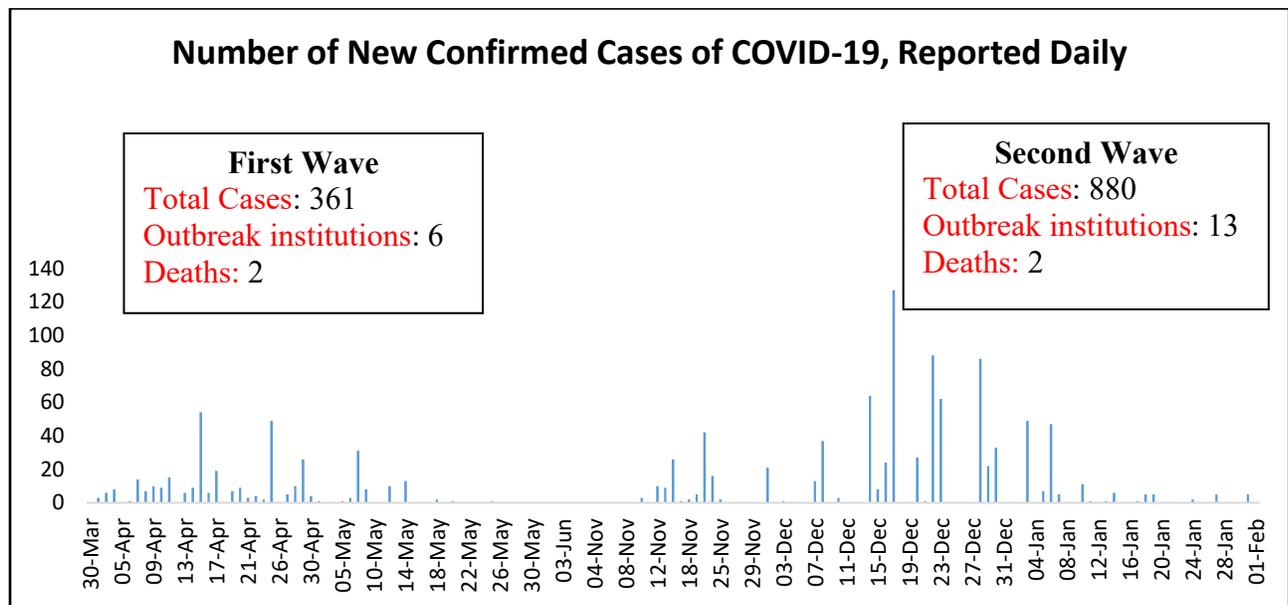
¹ The Office's other COVID-19 Status Reports are available on-line at www.oci-bec.gc.ca

² Unless otherwise indicated, this update includes demographic data, information and findings as of February 1, 2021.

³ The statistical data presented in this update is largely taken from the Correctional Service of Canada's (CSC) public dashboard, *Testing of inmates in federal correctional institutions for COVID-19*. Data was also extracted from CSC's internal Corporate Reporting System (CRS-M). Demographic data was provided by CSC Health Services.

2020. New positive case counts peaked in mid-December. In the second wave, 13 different federal institutions experienced outbreaks. By February 1, 2021, the second wave case count among federal inmates stood at 880.⁴

Cumulatively since the start of the pandemic, there has been a total of 1,241 reported cases of COVID-19 among federally sentenced individuals (1,225 recovered). Overall, this case count represents just over 10% of the total inmate population (N = 12,500). By comparison, approximately 2% of the Canadian population have so far contracted the disease. These demographics would suggest that, like other congregate living settings, prisons are much more susceptible to the widespread transmission of COVID-19.⁵



⁴ Note that in the graphs presented in this report, data for the period between June 4th and November 1st is not included, as there were no reported cases of COVID-19 during this period.

⁵ See, for example, A. Blair et. al., [A time-series analysis of testing and COVID-19 outbreaks in Canadian federal prisons to inform prevention and surveillance efforts](#), Canada Communicable Disease Report (CCDR), Public Health Agency of Canada (January 2021).

Significantly, the six institutions that experienced an outbreak in the first wave have not reported any re-infections. Similarly, all four of the Atlantic Region penitentiaries have remained COVID-free since the start of the pandemic. In fact, the majority of second wave infections among federal inmates ($n = 688$ of 880 total) have taken place in institutions in the Prairies Region (Manitoba, Saskatchewan and Alberta). Seven of 12 penitentiaries in this region have experienced second wave outbreaks.

Region	Institution	# Cases 1 st Wave	# Cases 2 nd Wave
Quebec	Port-Cartier Institution	15	
	Joliette Institution	54	
	Federal Training Centre	163	
Ontario	Grand Valley Institution for Women	8	
Pacific	Mission Institution	120	
	Matsqui Institution	1	
Quebec	Drummond Institution		18
Ontario	Collins Bay Institution		6
	Beaver Creek Institution		1
	Joyceville Institution		160
	Warkworth Institution		3
Prairies	Edmonton Institution for Women		7
	Stony Mountain Institution		370
	Edmonton Institution		1
	Saskatchewan Penitentiary		247
	Drumheller Institution		53
	Willow Cree Healing Centre		8
	Bowden Institution		2
Pacific	Fraser Valley Institution for Women		4

The majority of second wave case counts (617 of 880 or 70%) occurred at just two Prairie facilities: Stony Mountain Institution in Manitoba ($n = 370$) and Saskatchewan Penitentiary, Prince Albert ($n = 247$). Nearly 70% of inmates residing in these two institutions are of Indigenous ancestry: 506 of 752 at Stony Mountain Institution and 473 of 703 at Saskatchewan Penitentiary. These two multi-security facilities also happen to be the two largest penitentiaries (by inmate population) in the country. Each site contains some of the oldest and archaic physical infrastructure in the federal prison system (Sask. Pen. opened in 1911 and Stony Mountain in 1877).⁶

Indeed, there appears to be some connection between the uneven transmission and spread of COVID behind bars and the physical infrastructure and layout of prison living spaces.⁷ For example, the medium security sector at Sask. Pen., which is the oldest part of that facility, is known to have poor ventilation and large congregate living areas. It is prone to prison crowding and has cells with open bars. The virus spread so fast within the medium security sector that CSC was unable to isolate inmates to a specific range. By contrast, the spread of the virus through Sask. Pen.'s maximum-security sector, which is a newer, stand-alone facility, was slower, less virulent and more contained. The maximum-security sector has more modern ventilation, cells with doors and smaller congregate living areas. Undoubtedly, elevated community transmission rates also play a role in prison transmission rates. These preliminary findings of disease transmission and spread suggest the need for a more comprehensive and independent review of COVID-19 surveillance, prevention and suppression measures in federal corrections that could inform future response.

Demographic Profile

The following is a general demographic profile of the 1,230 federally incarcerated individuals who tested positive for COVID-19, as well as a comparison of characteristics

⁶ Dorchester Penitentiary in New Brunswick, which opened in 1880, is the other federal prison in Canada that is more than 100 years old.

⁷ See, for example, Justin Piché et. al., [Covid's Uneven Spread in the Federal Penitentiary System Has One Solution](#), Policy Options (February 3, 2021).

between those who contracted the virus in the first wave (344 individuals) versus those who were infected in the second wave (886 individuals).⁸

As shown in Table 1, the majority of all individuals infected with COVID-19 since the start of the pandemic were male (93.7%), housed in medium security facilities (87.3%), from the Prairie region (54.5%), serving their first federal sentence (66.3%) with an average length of 3.65 years. The majority of these individuals had high risk and high needs ratings (59% and 70%, respectively). Indigenous individuals accounted for nearly half of all cases (47.2%). The average age of those infected was 39.5 years (median of 37), with ages ranging from 18 to 83. The proportion of individuals aged 60+ who contracted the virus accounted for 9% of the total population of cases.

First versus Second Waves

The most apparent difference between first and second waves was the sheer increase in the number of infections. Specifically, the number of individuals who tested positive for the virus in the second wave was more than 2.5 times the number of those in the first wave.

Consistent with the first wave, the majority of those who contracted the virus in the second wave of the pandemic were mostly in medium security settings (88.6%), serving their first federal sentence (67.7%) and were rated as having high risk (51%) and high needs (67%). Those infected in the second wave, however, were considerably younger; specifically, second wave individuals were approximately ten years younger on average, compared to those in wave one (36.8 versus 46.3 years). Furthermore, individuals in the highest-risk age group (i.e., aged 60+) accounted for a smaller proportion of infections in the second wave compared to the first (5.8% versus 16.1% of all cases). Women prisoners also accounted for a significantly smaller proportion of cases in the second wave (16.6% of first wave cases versus 1.7% in second wave).

⁸ The number of individuals captured in the demographic profile (1,230) does not match the publicly reported cumulative case count (1,241) as there were some known discrepancies in the data file provided by CSC Health Services.

Table 1. Population profile of inmates infected with COVID overall and by wave of infections

	Wave 1 (n = 344)		Wave 2 (n = 886)		Overall (N = 1,230)	
	# (Median)	%	# (Median)	%	# (Median)	%
Average Age	45.7 (46)	-	36.8 (34)	-	39.5 (37)	-
Gender						
Male	284	83	871	98.3	1153	93.7
Female	57	16.6	15	1.7	72	5.9
Other	-	<1	0	0	-	<1
Ethnicity						
White/Caucasian	212	61.6	251	28.3	461	37.5
Indigenous	74	21.5	506	57.1	580	47.2
Black	20	5.8	39	4.4	59	4.8
Other	38	11	90	10.2	130	10.5
Security Classification						
Minimum	26	7.6	67	9.3	93	8.9
Medium	297	86.3	635	88.6	908	87.3
Maximum	16	4.7	15	2.1	39	3.8
Average Sentence Length (years)	3.69 (2)	-	3.65 (3)	-	3.65 (3)	-
First time federal offender	214	62.2	600	67.7	814	66.3
Region						
Quebec	221	64.2	27	3.0	233	18.9
Pacific	112	32.6	10	1.1	113	9.2
Ontario	7	2	171	19.3	181	14.7
Atlantic	-	<1	0	0	-	<1
Prairie	0	0	665	75.1	669	54.5
Risk level						
High	272	79	451	50.9	721	58.6
Medium	66	19	371	41.9	437	35.5
Low	6	1.7	28	3.2	34	2.8
Need level						
High	260	75.6	597	67.4	858	69.8
Medium	76	22	240	27.1	314	25.5
Low	8	2.3	11	1.2	18	1.5

Notes: Availability of information for profile characteristics varied across waves and individual designations for some characteristics may have changed since first wave (e.g., region, risk, need level). Indigenous ethnicity category includes First Nations, Inuit, and Metis individuals. Ethnicity "other" category includes thirteen categories with cell sizes too small to provide in the table.

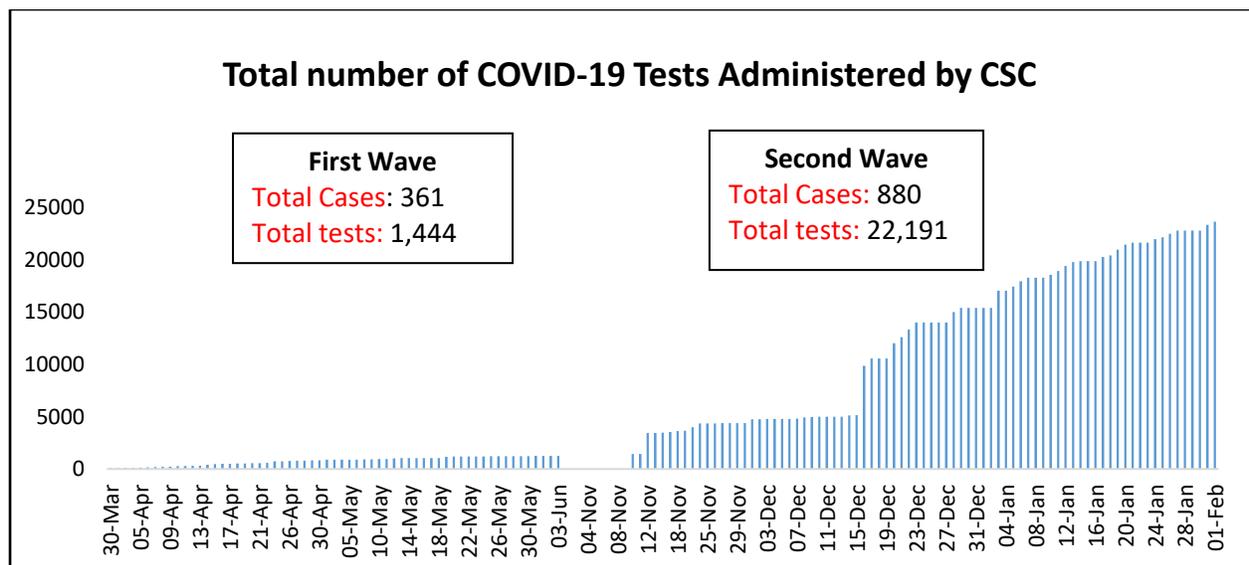
Primarily due to second wave outbreaks in the Prairie region, the number and proportion of Indigenous individuals who contracted the virus increased dramatically. Specifically, while accounting for 21.5% of infections in the first wave, Indigenous inmates accounted for 57.1% of those who tested positive in wave two. Of the total 580 Indigenous individuals who have contracted the virus since March 2020, 72% were serving their sentence at Saskatchewan Penitentiary and Stony Mountain Institution, facilities where the largest of second wave outbreaks occurred.

Overall, the population of federally sentenced women have experienced a slightly higher proportionate rate of infection (11%) compared to male facilities (9.8%), likely a feature of the congregate housing and living arrangements at the regional women’s sites.

As of February 1, 2021, there were just 11 active cases of Covid-19 in three CSC institutions: Drumheller Institution (Prairies) (n=8); Edmonton Institution for Women (n=2); and Federal Training Centre (Quebec) (n=1).

Testing

During the second wave, testing numbers and rates have increased significantly with distribution of point of care testing (PCR) capacity at CSC institutions. A major spike in tests occurred on November 12, 2020 (1,444 to 3,442), and again on December 16 (5,155 to 9,860). Testing numbers have continued to increase. By end of January 2021, CSC had administered 23,323 tests.



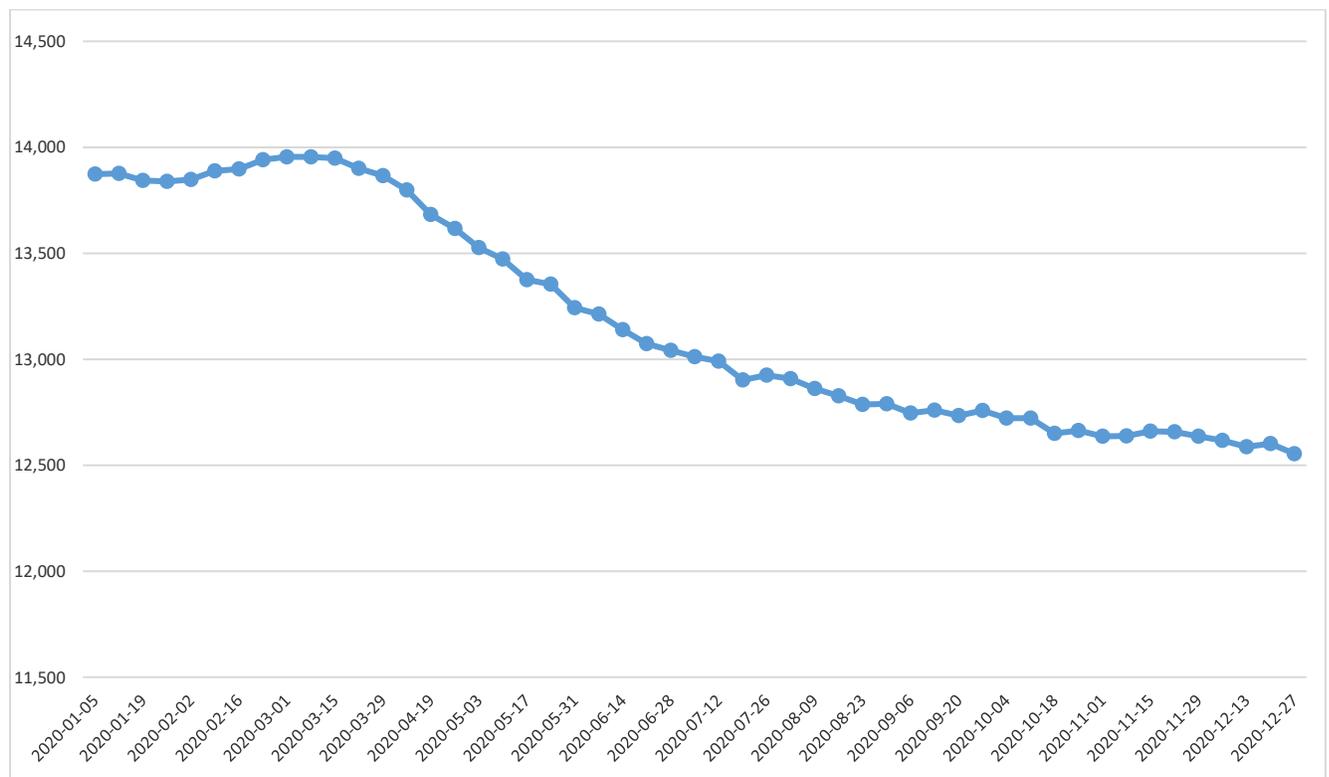
Most Severe Outcomes due to COVID-19

Four inmates have died from COVID-19 since the beginning of the pandemic.⁹ Those who have succumbed to the disease were 50 years or older and their cases appear to be complicated by underlying or pre-existing health conditions.¹⁰

Admissions and Release Data

The federal in-custody population has declined significantly over the course of the pandemic ($n = - 1,319$ or $- 10.5\%$). The total inmate population now stands relatively stable at around 12,500 inmates, which is the lowest count for the past decade (11,800 men and 650 women).

Total Federal Inmate Population Week by Week since Start of Pandemic

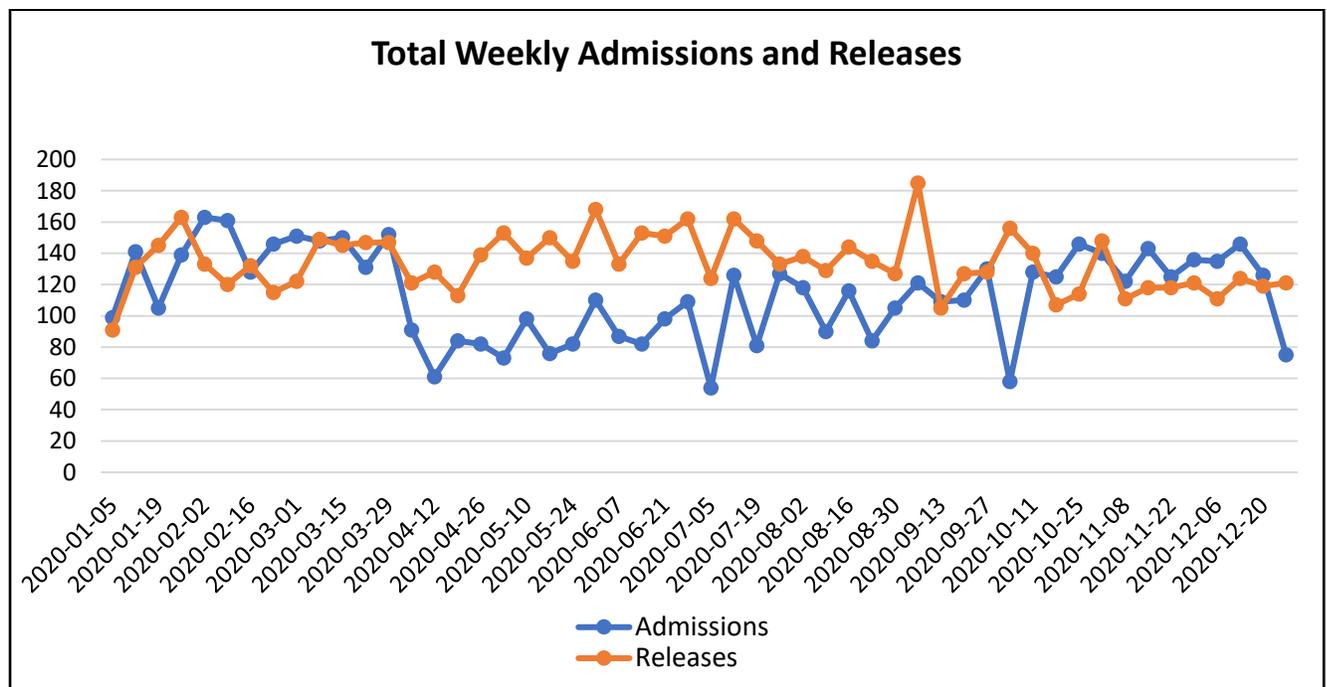


⁹ A fifth inmate diagnosed with COVID-19 died at Stony Mountain Institution on December 27, 2020. However, it was determined that the disease was not the cause of his death.

¹⁰ CSC does not publicly report the number of hospitalizations due to COVID-19. This data is only available through health care records and subject to the *Privacy Act*.

A review of weekly admissions and release from March to December 2020, coinciding with the pandemic, reveals the following trends:

1. Warrant of committal admissions to custody and returns to custody (e.g. revocations) have declined steadily.
2. The number of monthly releases from prison are generally consistent with historic averages.
3. There have been 1,053 more releases than admissions over this time period.



Fewer warrant of committal admissions and declining revocations over the course of the pandemic account for the overall net decline in the federal inmate population. For much of the pandemic, courts across the country have not been sitting or have significantly reduced their caseloads. More than any other factor, the decline in the inmate population is attributable to reductions in sentencing and admissions rather than to any increase in the release of inmates.¹¹

¹¹ From the start of the pandemic, and in collaboration with both governmental and community partners, a number of provinces and territories have made deliberate efforts aimed at mitigating COVID-19 transmission in

The demographics of inmate population decline over the course of the pandemic reveal other differences and imbalances. Between February 2020 and February 2021, the Indigenous inmate population declined by 7.6% (from 4,213 to 3,915). In comparison, the total inmate population declined by 12.3% (from 13,944 to 12,419) and the non-Indigenous population declined by 14.4% (from 9,731 to 8,504). In other words, the *non*-Indigenous inmate population declined at twice the rate of the Indigenous inmate population.¹²

As the inmate population declines, there is a corresponding increase in net cell capacity (the difference between rated capacity and in-custody counts). In men's prisons, there is a net difference of 3,800 unoccupied cells/bed space, which includes more than 1,600 spaces at minimum security. Put another way, there is the combined equivalent bed/cell space for seven average size male prisons (500 capacity per prison) now sitting unoccupied. Now may be the time for the federal government to consider closing a number of prisons and reallocate staff and resources to better support safe, timely and healthy community reintegration.

2. Update of Office Activities (July 2020 to February 2021)

Despite ongoing travel, health and workplace safety restrictions in place due to the pandemic, the Office continues to maintain an essential and uninterrupted level of services and operations, including regular contacts with inmates and weekly situational briefings with CSC management. This section reports on Office activities since our last public update.

In early June, CSC adopted a national governance framework (*Shaping the New Normal*) to assist institutions in restoring access to inmate services, interventions and

their jails. From February to May 2020, [Statistics Canada recorded a 28% decline](#) in the average count of adults in provincial/territorial custody (from 24,085 to 17,320). These “thinning” or “depopulating” efforts include early release, temporary absences, identification of individuals at-risk, and enhancing casework to accelerate the reduction of in-custody populations. See, [Sapers, H. \(2020\). The case for prison depopulation: Prison health, public safety and the pandemic. *Journal of Community Safety and Well-Being*, 5\(2\), 79-81.](#) There has been no corresponding depopulation effort/strategy at the federal level.

¹² As of mid-February 2021, Indigenous inmates account for 31.5% (3,915 out of 12,419) of the total inmate population. Indigenous women make up 6.7% of the total Indigenous inmate population, and 42.25% of the total in-custody women population.

programs affected by the nation-wide shutdown at the end of March. The risk management framework called for a phased, gradual and proportionate approach to prison re-openings and the easing of restrictions. The approach included different levels of response and mitigation depending on the assessed level of risk of COVID-19 in prisons and in the community by public health authorities. Considerable discretion was afforded to Wardens to adapt national plans and guidance, including timelines, to local circumstances.

Office reporting confirms considerable variation in how the easing of restrictions on visits, programs and other inmate services, beginning in late July, has rolled out across sites and regions. In monitoring CSC's transition to the "new normal," the Office developed its own set of guidance for investigators, embarking on a series of one-day inspections of institutions in the Ontario and Quebec regions that could be reached by same day travel from Ottawa. The first of these prison inspections, conducted by the Correctional Investigator, took place on July 22 at Millhaven Institution (MI). It set direction and expectations for how the Office's physical return to CSC facilities would proceed. The MI inspection included a number of preliminary findings, confirmed by subsequent site visits:

1. Slow, inconsistent and uneven pace of easing restrictions, resuming programs, restoring visits, opening of gyms, yards and prison libraries.
2. Gradual or part-time return of staff (chaplains, Elders, program officers) and staff shortages at many sites resulting in significant delays in reinstating programs and services.
3. Occasional lack of compliance with mandatory mask wearing (inmates and staff).
4. Long wait lists to access a range of health services, especially dentistry.
5. Significant compliance issues with the Structured Intervention Unit (out of cell time, "meaningful" human contact, inadequate yards).

In all, nine Ontario and Quebec institutions were inspected in the summer of 2020. Though more inspections were scheduled, Office plans were interrupted by the closing of prisons in the Quebec region on September 26, 2020. A series of new

restrictions, including suspension of in-person visits, followed with the resurgence of COVID across most parts of Canada.

Starting in January 2021, the Office pivoted to a virtual visit model which, for the foreseeable future, will guide how assigned investigators conduct business through COVID-19. The manner in which we are proceeding is similar to our regular way of conducting scheduled on-site visits. At each facility, we have endeavoured to ensure a secure means to conduct confidential inmate interviews, as much as possible through visual electronic platforms. Our plan is to have virtually visited most if not all sites at least once by end of March 2021.

COVID-related Complaints

Since the start of the pandemic, the Office has received nearly 500 inmate complaints or inquiries pertaining to COVID-19. Complaints and investigations cover a wide range of pandemic-related issues:

- Restricted access to health care and medications due to lockdowns.
- Potential maladministration of medical isolation measures.¹³
- Cancellation of visits.
- Low video visitation capacity.
- Slow return to services (programs, school, libraries, gym).
- Lack of or limited access to fresh air exercise and yard.
- Availability and access to sanitation supplies and personal protective equipment.
- Staff non-compliance with protective measures (not wearing masks/gloves/PPEs, use of pat-downs/strip searches, mixing with symptomatic inmates).

¹³ The Office has raised a series of concerns regarding the use of medical isolation measures in CSC facilities, including: placing symptomatic and asymptomatic inmates on the same unit; inability to identify or track in real time 'active' cases or time spent in isolation reaching beyond 14 days; potential for overuse; authority to designate medical isolation status (Warden vs. Health Care). More than 6,000 medical isolation flags have been assigned to unique inmate identification numbers between March and December 2020. This investigation is ongoing.

- Not enough information being shared with inmate populations (daily routine, quarantine procedures and operational updates)
- Reinstated Private Family Visits or other contact visits postponed or cancelled due to lack of capacity to accommodate mandatory self-isolation periods.
- Access to computer rooms, gymnasium and library.
- Disruptions in routine and excessive time spent in-cell.
- Limited access to programs and potential impacts on parole eligibility.

Resolution of these matters in an evolving, uncertain and volatile risk environment is extremely challenging. It bears repeating that a wide range of statutory obligations continue to be temporarily suspended, interrupted or indefinitely withdrawn as emergency measures are deployed to deal with potential or active outbreaks in federal prisons. As of January 22, 2021, only eight of 60 facilities listed on CSC's public website were accepting in-person visits. In my last update, I noted that some of these exceptional measures – denial of fresh air exercise or solitary isolation/confinement – breach domestic and international human rights standards. As a matter of priority, the Office continues to identify and report on COVID-19 measures that impact on the life, liberty and health interests of the inmate population, particularly: the incidence of lockdowns; use of isolation for health purposes; incidents involving work stoppages, and; CSC's workforce capacity and operational readiness to ensure safe and humane care and custody.

To its credit, CSC's pandemic response continues to evolve as more is learned about the disease, and how its spread can be avoided or contained in prisons. Key second wave developments in federal corrections include:

1. The Service has deployed a range of population management strategies based on a cohort model that allows groups on the same range or living units to attend work, school or programs together. Yard, gym and recreation time use similar cohort strategies to reduce mixing and mingling among inmate groups.
2. With suspension of in-person visits from end of March to early August, the Service augmented its video visitation capacity. Even at sites where contact visits

were restored, demand for the service remains high (it is safe, and inmates do not have to self-isolate for 14 days like they must following a private family visit). That said, everyone understands that virtual visits are no substitute for the real thing.

3. In response to a recommendation from this Office, external infection prevention and control experts conducted inspections of all CSC facilities, providing site-specific recommendations to enhance prevention efforts and reduce risks associated with COVID-19 (cleaning, disinfecting, ventilation, sanitation supplies, guidance and training on personal protective equipment).
4. In early November, CSC received and began use of universal point of care (PCR) or rapid tests. Mass testing (without lab confirmation) allows for real-time test results that can more rapidly inform efforts to manage potential or active outbreaks.
5. CSC has begun to collaborate with the Canadian Red Cross to help the Service manage prison outbreaks and provide additional onsite guidance, advice and support.
6. CSC is making more extensive use of its website to help keep families, stakeholders, media and the public updated and informed of latest COVID developments.
7. In early January 2021, vaccination of older, medically vulnerable inmates was initiated using first quarter supply of federally allocated Moderna vaccine (1,200 doses/sufficient for 600 people). Though the supply allocated to date represents less than 5% of the inmate population, it is an important first step in protecting the most vulnerable and those at highest risk of severe disease outcome behind bars.

The Office continues to monitor these and other developments closely. The lessons, insights and even missteps observed from earlier in the pandemic, including the need for continued and rigorous adherence to infection prevention and control measures (including mandatory wearing of masks for both staff and inmates), give the agency a more complete set of tools, information and strategies to prevent or contain

outbreaks. The combined, if unstated goal, of these measures should be to limit, as much as possible, resorting to indiscriminate measures like general lockdowns and other potentially harmful practices such as cellular isolation or even unlawful solitary confinement.

3. Report of an Investigation into the Resumption of Correctional Interventions

Introduction

Following the March 2020 institutional shutdowns resulting from COVID-19, all correctional interventions (correctional programming, education and CORCAN) were suspended in an attempt to ensure the health and safety of inmates and CSC staff. Over time, we heard from CSC staff and inmates alike that program waitlists were growing, backlogs increasing, and tensions rising among the inmate population (e.g., some institutions noted an increase in incidents). It seemed clear that correctional interventions needed to resume, in order that CSC meet its statutory requirements to rehabilitate offenders and prepare them for safe and timely reintegration.

In October 2020, the Office received complaints regarding conditions and access to correctional programs (i.e., slow resumption, long waitlists, reduced number of sessions, limited number of participants, program access and priority focused on statutory release rather than first eligible parole date).¹⁴ My Investigators heard from inmates and CSC staff that the restrictions put in place to ensure the safe resumption of programming were having significant impacts on an individual's ability to complete their correctional programming, make progress toward their correctional plan and gain the support of their case management team for community reintegration.

Following receipt of these complaints and concerns, the Office immediately launched an investigation to examine the resumption of correctional interventions, including correctional programming, education and CORCAN (prison industry) operations. Data and information was obtained from twenty-one institutions in January 2021 regarding the resumption of correctional programs, education and CORCAN. The consolidated responses are included in the findings below, which represent all regions, all levels of security (reception, minimum, medium and maximum) and include federally sentenced women's institutions and Regional Treatment Centres. The following are the main themes and findings that emerged from the investigation.

¹⁴ The second wave of COVID-19 infections began to hit CSC institutions in early November (November 10, 2020), which shut down correctional interventions once again in several institutions, however, all CSC institutions were free of COVID-19 from approximately May 25, 2020 to November 10, 2020.

1. Most restrictions are similar to those implemented within the community

Following direction provided in CSC's *Integrated Risk Management Framework: Shaping the New Normal*, institutions reported implementing numerous health and safety measures similar to those followed in the community. Among others, institutions are sanitizing programming space before/after use, requiring the use of masks (shields are required to be worn by staff at some institutions), social distancing of three metres, use of cohorts, smaller groups based on the size of the room, hand hygiene, restricted lessons plans (no group work/shared materials), and electrostatic cleaning. The resumption of correctional interventions began for most reporting institutions between May and June, however most institutional schools did not resume until August/September. In resuming interventions, institutions were required to first reorganize programming/work space to ensure social distancing, regroup individuals into cohorts and coordinate schedules for movement to ensure cohorts would not mix. Of the twenty-one reporting institutions, most started several new correctional programs and restarted those that had begun prior to the shutdown between May 2020 and November 2020. Only three institutions appeared to resume correctional programming more slowly, where the number of correctional programs running between May and November seemed low compared to the number of available Correctional Program Officers.

While most of the safety measures are similar to what has been recommended and implemented within the community, the requirement to socially distance three metres from others rather than the Health Canada recommended distance of two metres has been one of the biggest challenge for CSC. The Union representing some CSC staff requires social distancing of three metres for its members. Adhering to this requirement has meant that participation in correctional interventions is further reduced because numbers are based on the size of the room/space and setting up workstations that are three metres apart. The three-metre requirement appears somewhat arbitrary and unnecessary, specifically amongst the inmate population, given that correctional interventions are delivered based on cohorts and/or those within the same living unit. While on living units, individuals are encouraged to socially distance two metres apart. It may be reasonable to require a distance of three metres between CSC staff members and inmates; however, amongst the inmate population, it would be more efficient and as safe to apply a distance of two metres. This would enable CSC to

increase the number of participants in correctional interventions. Furthermore, the three metre requirement appears only to apply to correctional interventions (correctional programming, school, and CORCAN) as institutions reported that it did not apply to other areas such as Chaplaincy or Indigenous groups or living units.

2. Programming capacity has been significantly reduced during COVID-19

Under normal circumstances, a Correctional Program Officer would deliver correctional programming to ten to twelve participants and a teacher would have a class size of twelve to fifteen students. A limited amount of programming space means that only so many programs can run at any one time and the size of these spaces means that groups must be small to ensure the three-metre distancing. COVID-19 measures have meant that programming group sizes have generally been reduced to three to five individuals. At best, the Office estimates that correctional programming and education classes are running at 30%-50% capacity. Several institutions reported smaller group size (2-3 participants) and of the twenty-one reporting institutions, nearly three-quarters ran at least one correctional program with only one participant. One institution was running nearly half of its correctional programs with only one participant.

Though institutional schools reduced their group sizes, they were able to continue to offer instruction to about the same number of students by decreasing the frequency that students attend school. Students are now required to complete more work independently in their cells. Some institutions reported that library hours had been reduced as well as the number of individuals allowed in the library at any one time. Between March and December 2020, my Office received complaints from individuals at three institutions indicating access to the library (including computers, legal resources, access to CSC policies, etc.) was limited or entirely restricted due to COVID measures. CORCAN shops also reported reducing the number of employees working at any one time (one institution reported a reduction from 35 to 20 employees) or reducing the number of hours worked by each employee to maintain the three-metre distance requirement (e.g., one cohort works in the morning and another in the afternoon).

3. Interruptions causing significant delays and extending completion times

Institutions reported that operating correctional interventions in the new normal has lengthened the amount of time it takes to complete a correctional program, education exams or credits and to attain vocational certification. Programming may be suspended or interrupted for a number of reasons, including CSC staff who have tested positive and are required to self-isolate or must provide care for family members, outbreaks among the inmate population or inmates showing symptoms that require them to self-isolate. Of the twenty-one reporting institutions, half had to stop correctional interventions again, some for several weeks, following the March 2020 shutdown.

The use of cohorts, while practical for health and safety reasons, can mean that open program spaces go unfilled until an individual from the same cohort can be identified. Some institutions reported following a schedule whereby each cohort participates in correctional programming for two weeks followed by a two-week break while another cohort participates in programming. One institution estimated that correctional programs now take two to three months longer to complete. Several others reported that COVID-19 measures were negatively impacting inmate motivation, group dynamics, uptake of concepts and the required intensity at which programs are intended to be delivered.

A number of institutions reported that the COVID-19 measures have impacted their ability to assess incoming offenders' education needs. As a result, these individuals have not yet been placed on the waitlist and therefore cannot be accommodated should a space open up. Education exams have also been postponed. Two institutions reported that some students were released before they could reschedule the exam thereby missing their opportunity to complete their high school education. Institutions with CORCAN shops reported that the number of days it takes to achieve certification training has been extended and that vocational certifications have been impacted as part of reducing their overall footprint within CORCAN shops. Smaller group sizes has also reduced the capacity to have the same numbers of offenders complete CORCAN in-person training.

The impact of COVID-19 measures has been particularly challenging for correctional programming as the shutdown created significant backlogs and many institutions reported already having long waitlists (15 of 21 reporting institutions reported correctional programming waitlists with over 100 individuals and 6 of 21 institutions reported correctional program waitlists with over 250 individuals). The reduction in capacity and longer completion times, particularly for correctional programming, means that individuals will:

- Remain at higher levels of security rather than cascade to lower levels.
- Languish in assessment centres longer, under harsher conditions of confinement rather than being transferred to their parent site.
- Not be able to make progress on their correctional plan.
- Be unprepared for their first eligible parole date.¹⁵

My Office has heard from a number of inmates over the past several months, the frustration and anxiety they are feeling because they are not able to participate in programming or work through their correctional plan at the same pace as pre-COVID-19.

4. Need to reprioritize individuals for correctional interventions

Given the issues with respect to program capacity and the additional time required to complete programming, several institutions reported reprioritizing access to programs. Although most institutions continue to try to prioritize access and participation in correctional programming based on the first eligible parole date, many reported that they are now prioritizing based on the statutory release date (SRD). One institution reported that they even had to "... skip some inmates whose impending SRDs would not allow them to complete the program prior to release." Another reported that "...some inmates are getting out with only primers as we just can't knock the list down with only 5 in each program. We prioritize now by SRD." Institutional schools reported prioritizing those completing ABE level 4 who are close to graduation. Individuals requiring ABE 1, 2 or 3, or those who would like to take pre-requisites for post-

¹⁵ Pre-Covid, many institutions struggled to provide or meet required correctional programming to those nearing their first eligible parole date. Additional health and safety measures resulting from COVID-19 has made this goal even more unattainable.

secondary, have been put on hold. Those capable of working more independently have also been prioritized leaving those requiring extra assistance to wait.

5. Institutions have implemented some promising practices

Among the reporting institutions, it is clear that significant efforts are being made by CSC staff to safely resume correctional interventions and ensure that as many individuals as possible benefit. The biggest challenge however, reported by most institutions, is the lack of technology to quickly pivot to remote learning. One CSC education staff member summed it up best stating that the “Lack of access to technology for offenders (computers, tablets, digital media etc.) has made adapting to the COVID-19 pandemic more difficult than schools in the community experienced. If offenders had access to technology it would be much easier for them to be provided with assignments and assistance when teachers are unable to attend the site, or when there are restrictions on distributing materials for class. Additional technology could allow for more direct contact with teachers when they are unable to attend the site.” Another stated that the “COVID-19 pandemic has highlighted the impact a lack of access to technology for education purposes has on offenders’ ability to complete education programming. Community schools were able to quickly adapt to in-person restrictions caused by the pandemic, however this is not possible in a correctional environment without appropriate technological access.”

Despite these obstacles, institutions reported implementing a number of innovative practices, including the following:

- Repurposing of areas to use as programming space (e.g., gymnasium, library, dining hall, boardrooms and group rooms).
- Correctional and education programming delivered via video and telephone.
- Prepare cell study workbooks to ensure programming can continue independently.
- Delivering correctional programs in morning and afternoon where one facilitator can deliver to two groups simultaneously.
- Delivery of programming one-on-one.
- Implementation of a hybrid distance/in-class model in order to serve the greatest number of potential students.

- Utilizing room dividers to enable more than five students to write the GED.

Broader implementation of some of these practices could help increase the number of individuals participating in programming. Programs could be delivered through a number of methods including pre-recorded sessions, video conference, in-cell work, and in-person groups. Expanded use of remote video conferencing could increase the number of participants per group, as there would no longer be a need for a physical distance of three metres. Comprehensive release and reintegration plans could be developed for the Parole Board of Canada that identify community resources that could substitute institutional correctional programming for others offered in the community. This would allow, where appropriate, individuals to return to the community rather than wait in prison for a correctional program. Through no fault of their own, inmates are being denied or delayed access to parole hearings and community release because they have not completed their programming requirements.

4. Findings and Recommendations

The second wave of COVID-19 in federal corrections has resulted in more affected institutions and higher case counts than experienced in the first wave.¹⁶ Though active COVID cases are now down to a dozen or so, suggesting that the worst of the second wave may be behind us, the Office remains concerned by the cumulative, and, in some cases, indefinite nature of restrictive confinement and extended periods of lockdowns on inmate physical health and mental well-being. The measures that have been adopted to contain or control active prison outbreaks – near total cellular isolation, fresh air exercise once every two or three days, 20 minutes of out of cell time every other day to shower or use the telephone – are exceptional and difficult.

There can be little doubt that people inside prisons, like other congregate living settings, such as long-term care facilities, shelters or group residences, are significantly more vulnerable to transmission and spread of COVID-19. The difference is that prisons are enforced congregate settings where people are held in close proximity with one

¹⁶ It is difficult, and perhaps too early, to assess how Canada measures up against other countries that are also fighting to keep COVID-19 out of their respective prison systems. One [international organization reports](#) that, as of February 1, 2021, more than 500,000 prisoners world-wide tested positive for COVID-19 in 121 countries. The vast majority of COVID cases (roughly 75%) and deaths (60%) among incarcerated persons have occurred in the United States. The rate of infection in Canadian federal prisons stands at approximately 10% of the total inmate population, which places Canada on the high end of the international scale, more than double the reported global average.

another. As the experiences at Stony Mountain and Saskatchewan Penitentiaries have demonstrated, once the virus is introduced inside prison, it spreads quickly and indiscriminately. Prisoners do not necessarily have the ability or means to practice safe distancing, and maintaining hygiene and sanitation behind bars can be challenging at the best of times. The daily movement of staff from outside communities experiencing outbreaks creates potential vectors of disease transmission inside prisons. For elderly and medically compromised inmates, the risk of contracting COVID inside prison can be life-altering, or even deadly.

The fact that these pandemic realities could not have reasonably been foreseen at the time when the sentence was imposed creates additional duty of care obligations for correctional authorities. It is this same duty of care – to protect society’s most vulnerable or at highest risk of severe outcome – that creates the imperative for vaccinating prisoners. In the context of limited and uncertain supply of vaccine, it is critical that CSC adheres to guidance and recommendations of the National Advisory Committee on Immunization (NACI). At the same time, it would be enormously helpful if CSC were to make its inmate vaccination plans and priorities public,¹⁷ in a manner that is consistent with NACI principles:

- Protect those most vulnerable.
- Protect healthcare capacity.
- Minimize spread.
- Protect critical infrastructure.

Finally, as the investigation into correctional interventions during the COVID-19 pandemic demonstrates, criminogenic, educational and vocational programs are still only running at half their normal capacity. With fewer and shorter sessions and more time in between programs, an inmate’s ability to make meaningful and measureable progress on their correctional plan is severely compromised. Wait lists for all manner of program access are lengthy and growing. Reduced or interrupted access to other services, such as libraries or classrooms, has negative knock-on effects for program delivery and completion. Solitary cell studies, like classes conducted on screens, do not make for ideal learning conditions. Through no fault of their own, inmate access to

¹⁷ The Office understands that CSC staff will be vaccinated according to schedules and priorities determined by the provinces and territories in which they work and serve.

programs is shaping up to become an emergent human rights concern in Canadian corrections.

Recommendations

1. In recognition of the undue hardship, unusual circumstances and extraordinary measures imposed by the COVID-19 pandemic on the federal inmate population, I recommend that CSC develop and fund a plan that significantly shifts program access and delivery to the community rather than prison. This approach is consistent with evidence-based research, which suggests that the same programs delivered in the community yield better outcomes than those delivered in prison.
2. I recommend that CSC collaborate with the Parole Board of Canada on early and prioritized release of elderly and medically compromised inmates who pose no undue risk to society.
3. I recommend that CSC develop and immediately make public its plans and priorities for a national inmate vaccination strategy.
4. I recommend that CSC immediately release the results of external infection prevention and control audits/inspections that have been conducted at each penitentiary.
5. I recommend that the Minister of Public Safety examine alternatives to incarceration, and address the failings of Canada's aging, antiquated and costly federal prisons. Beyond the impacts of COVID-19, a more rigorous, humane and cost-effective community-based approach to corrections is long over-due. With more than 3,800 cells sitting empty across the country (equivalent to seven average size penitentiaries), the timing is now to reallocate staff and resources to better support safe, timely and healthy community reintegration and to examine the gradual closing of some aging and antiquated penitentiaries.