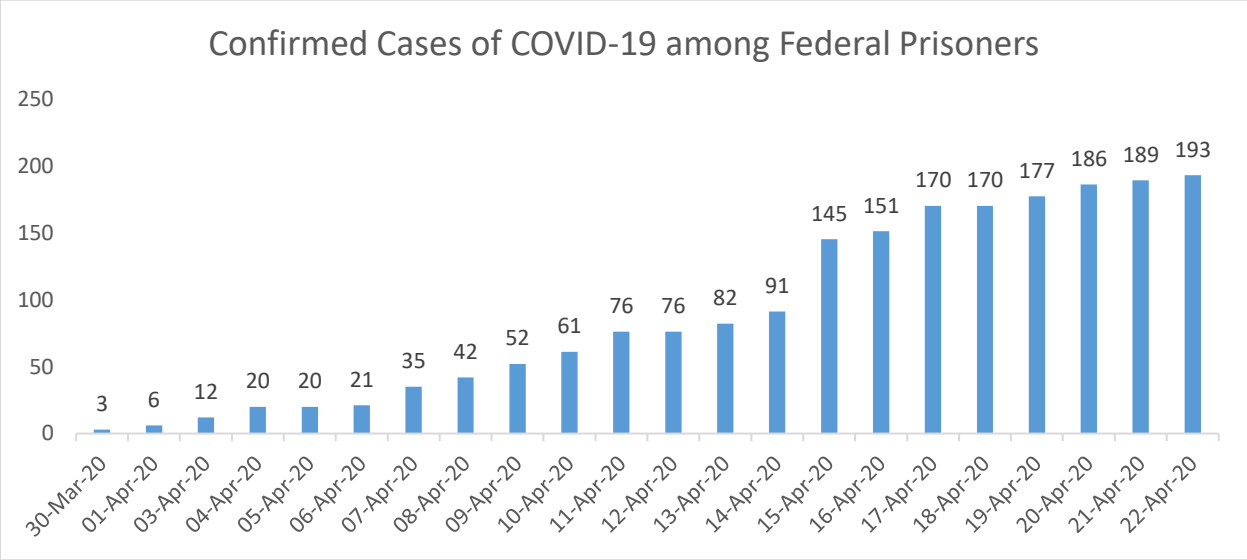
COVID-19 Status Update

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.



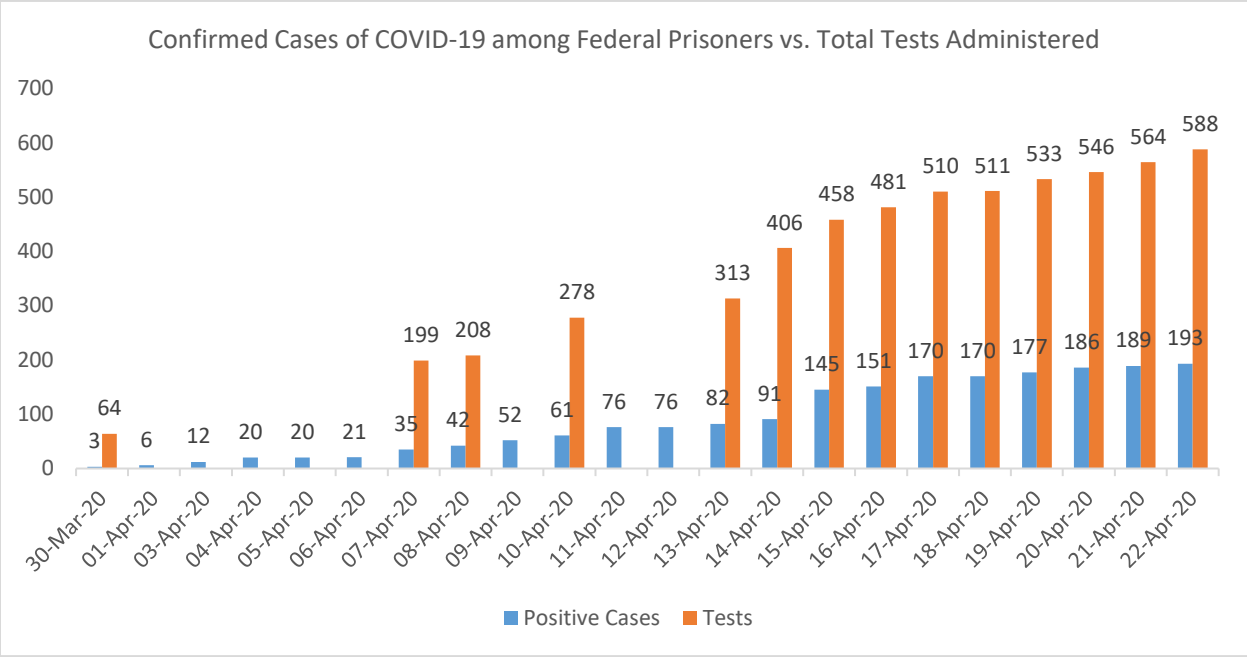
Affected Institutions

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.

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