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.

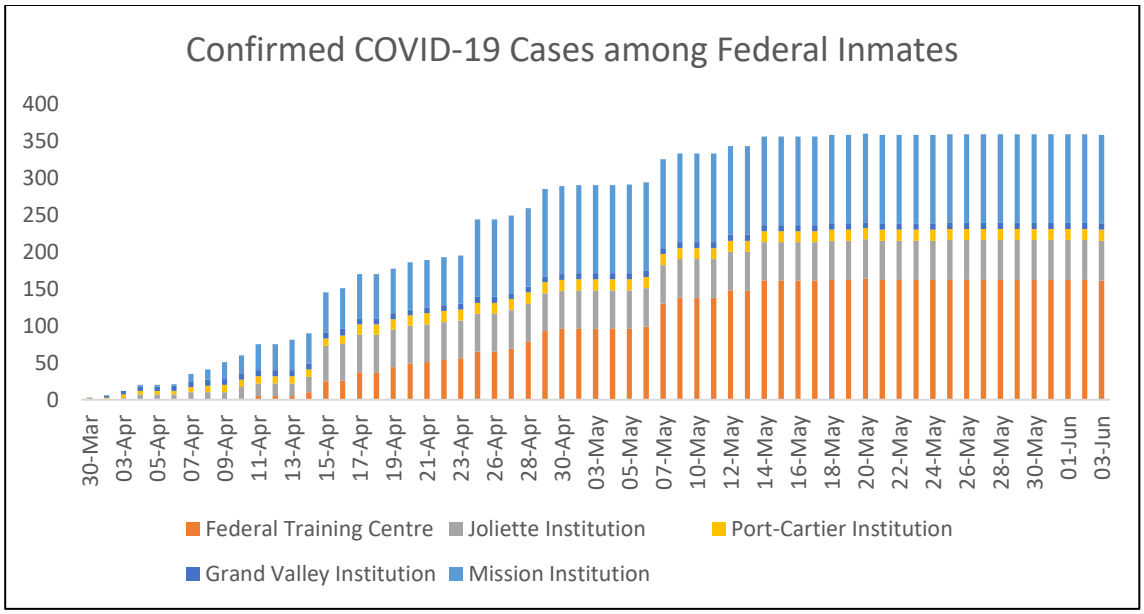
2. Demographic profile of federal inmates who have tested positive for COVID-19 over the course of the pandemic.

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.oci-bec.gc.ca/index-eng.aspx

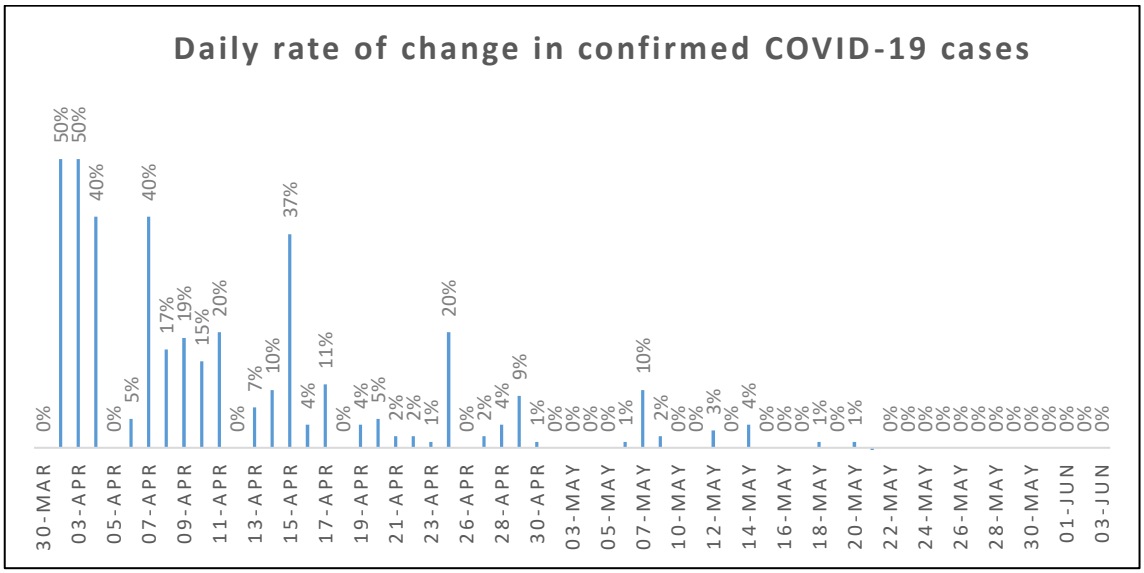


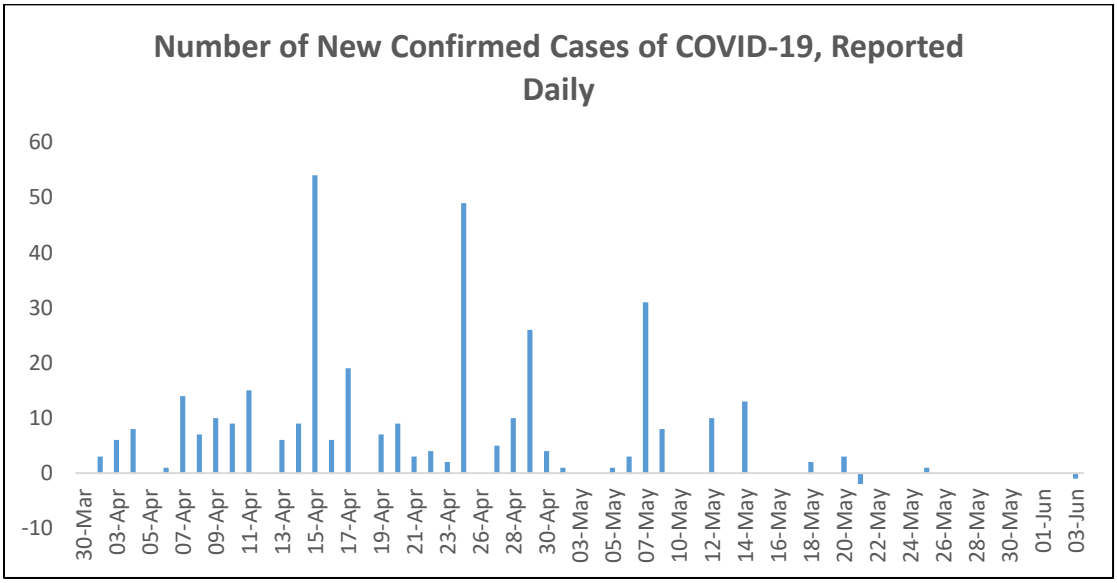
To date, close to 1,300 COVID-19 tests were administered in federal correctional facilities (almost 10% of the total inmate population). There have been two inmate deaths attributed to the disease.[2] The second and still latest COVID-related inmate death occurred on May 3 at the Federal Training Centre. 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-scc.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.