



“I Didn’t Feel Like a Human in There”

Immigration Detention in Canada and its Impact on Mental Health

HUMAN
RIGHTS
WATCH

AMNESTY
INTERNATIONAL



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FW: [EXTERNAL] BC Corrections - Stakeholder Consultation - CBSA Review

From: Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
To: Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>, Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>, Lapsley, Amy PSSG:EX <Amy.Lapsley@gov.bc.ca>, Gunnarson, Erin N PSSG:EX <Erin.Gunnarson@gov.bc.ca>
Sent: March 9, 2022 11:13:18 AM PST
Attachments: image001.jpg, CBSA Review - Stakeholder Consultation - Canadian Red Cross.pdf
Hello!

This just arrived—is there anything you'd like me to include in a reply other than thanking him for letting us know?

Thank you,

Shawna

From: Denis Akoulov <Denis.Akoulov@redcross.ca>
Sent: Wednesday, March 9, 2022 10:58 AM
To: Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
Cc: Mahak Mahmoodi <Mahak.Mahmoodi@redcross.ca>
Subject: FW: [EXTERNAL] BC Corrections - Stakeholder Consultation - CBSA Review

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Shawna,

Thank you for reaching out to us with invitation to stakeholder consultation and to provide a written submission specific to the detention of individuals detained for immigration reasons in provincial correctional facilities in British Columbia, detailing our role or interest in this subject and any relevant information relating to human rights, public safety or any other factor considered important to include. While we appreciate the Province inviting us to give our feedback, we unfortunately are unable to participate in the process.

The Canadian Red Cross provides independent monitoring of detention facilities holding individuals detained for immigration reasons, to promote a protective environment in which detained people are treated humanely and where their human rights and their inherent dignity are respected. The Red Cross routinely visits detention centers to monitor and assess the system of immigration detention, based on international and Canadian standards, in four core areas: the conditions of detention; treatment of detained people; access by detained individuals to legal guarantees and procedural safeguards; and the ability for detained people to contact and maintain contact with family members. Due to confidentiality provisions outlined in our Agreement on detention monitoring services with the CBSA and in order to ensure the continued trust and protection of the individuals who are detained, the Canadian Red Cross is limited in publicly disclosing the details on specifics of detention conditions or on incidents within the detention facilities. Our standardized process is based on bilateral confidential communications with the CBSA where feedback, expert advice and recommendations are shared solely and confidentially with the concerned authorities. When necessary, detention monitoring personnel may engage local and national authorities in the provinces as well as from the federal government to ensure proper follow-up occurs.

However, the CRCS' Annual Reports are submitted to CBSA which the CBSA then makes publicly available on CBSA/Government of Canada website. You may wish to consult our Annual Reports on CBSA website which include provisions on immigration detention conditions in provincial correctional facilities across the country as well as other related information.

I appreciate your understanding and please do not hesitate to revert should you have any questions.

Regards,



Denis Akoulau

Manager, Canadian Operations Programs

Immigration Detention Monitoring Program
Canadian Red Cross | Croix-Rouge canadienne
denis.akoulov@redcross.ca
T 6043584033 |
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From: "Laursen, Shawna PSSG:EX" <Shawna.Laursen@gov.bc.ca>

Date: February 25, 2022 at 5:10:40 PM PST

To: Mahak Mahmoodi <Mahak.Mahmoodi@redcross.ca>

Cc: "Ooms, Tracey L PSSG:EX" <Tracey.Ooms@gov.bc.ca>, "Anderson, Lisa R PSSG:EX" <Lisa.R.Anderson@gov.bc.ca>

Subject: [EXTERNAL] BC Corrections - Stakeholder Consultation - CBSA Review

ATTENTION: This email originated from outside the Canadian Red Cross. Use caution when clicking links or opening attachments.

Ce courriel provient de l'extérieur de la Croix-Rouge canadienne. Soyez prudent lorsque vous cliquez sur des liens ou ouvrez des pièces jointes.

Good afternoon,

I am forwarding the attached letter on behalf of BC Corrections' Assistant Deputy Minister, Lisa Anderson.

Thank you,

Shawna Laursen *she / her*

Executive Administrative Assistant | ADM Lisa Anderson
BC Corrections | Ministry of Public Safety & Solicitor General
250 882 8229 (mobile) | 250 387 6366 (office)



Ref #628894

February 25, 2022

Mahak Mahmoodi
Officer, Immigration Detention Monitoring Program
Canadian Red Cross
By email: mahak.mahmoodi@redcross.ca

Dear Mahak Mahmoodi,

I am writing to invite you to engage in consultation regarding a review of the arrangement between Canada Border Services Agency (CBSA) and the Ministry of Public Safety and Solicitor General (PSSG), BC Corrections, Adult Custody Division (ACD), respecting the management of individuals subject to lawful detention under the Immigration and Refugee Protection Act (IRPA).

The CBSA is responsible for managing the immigration detention process for individuals subject to lawful detention under the IRPA. British Columbia's provincial correctional centres are designated holding facilities for individuals under the IRPA. CBSA has engaged in an arrangement with BC Corrections for the past several decades to hold individuals subject to a detention order under the IRPA who have been determined by CBSA to require an increased level of security.

As you may be aware, the Minister of Public Safety and Solicitor General recently confirmed that a review of the arrangement with CBSA will be undertaken. The findings of the review will be used to inform decisions related to the future of immigration detention in British Columbia's provincial correctional centres.

You have been identified as a key stakeholder with knowledge and experience that will be important to consider as part of the review. We are hereby inviting you, on behalf of your organization, to provide a written submission specific to the detention of immigration detainees in provincial correctional centres in BC. In your submission, please detail your role or interest in this subject and provide any relevant information as it relates to human rights, public safety or any other factor you consider important to include. Please provide your succinct submission on or before March 25, 2022 to Tracey.Ooms@gov.bc.ca.

Protect Communities, Reduce Reoffending

**Ministry of
Public Safety and
Solicitor General**

BC Corrections
Office of the
Assistant Deputy Minister

Mailing Address:
PO BOX 9278 STN PROV GOVT
Victoria BC V8W 9J7

Location Address:
7th Floor, 1001 Douglas Street
Telephone: 250-387-5354
Facsimile: 250 387-5698

Your time and perspective on this important subject is greatly appreciated, and we look forward to receiving your submission. Please do not hesitate to contact me directly if you have any questions regarding the process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa Anderson', with a stylized, flowing script.

Lisa Anderson
Assistant Deputy Minister

pc: Tracey Ooms, Policy and Program Analyst, BC Corrections



March 15, 2022

295-01

Tracey Ooms
BC Corrections
Ministry of Public Safety and Solicitor General
By email: Tracey.Ooms@gov.bc.ca

Dear Tracey,

Thank you for the opportunity for the Investigation and Standards Office (ISO) to provide a submission as part of the consultation regarding the detention of immigration detainees in provincial correctional centres in B.C.

As the oversight body for BC Corrections, ISO receives and investigates complaints from individuals in custody. ISO does not keep records of individuals' legal hold status when they call or write our office, so we cannot report on complaints made by individuals on an immigration hold specifically. Anecdotally, however, we can report that such complaints are infrequent.

ISO's interest in the detention of immigration detainees falls within the broader context of conditions of confinement for all individuals in custody. As you are aware, ISO is developing a systemic quality review (SQR) framework to provide for independent, external inspections (reviews) of B.C. correctional centres. Reviews will be conducted against a set of standards based on fundamental human rights principles and guided by the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules). Our office expects that immigration detainees, along with all individuals in custody, will be treated in accordance with generally accepted good principles and practice in the treatment of individuals in custody.

Please do not hesitate to contact me if you have any questions about the above.

Sincerely,

Katherine Regan
Deputy Director
Investigation and Standards Office

- c. L. Anderson, Assistant Deputy Minister, BC Corrections
M. Marchenski, Director, Investigation and Standards Office

March 24, 2022

Lisa Anderson
Assistant Deputy Minister
BC Corrections
Ministry of Public Safety and Solicitor General

Re: The government of BC should stop CBSA from incarcerating immigration detainees in provincial jails

I arrived in Canada in late 2012, and CBSA arrested and detained me the day after I made a refugee claim. The officers came to the Welcome Centre in Vancouver where I was staying, they asked me to step outside and arrested me as soon as my feet were off the premises of the Welcome Centre.

The CBSA officer that was handling my case was aggressive and accused me of lying. He told me to “get ready to be deported” because they deport “98% of Mexicans.” He decided that I was a liar and undeserving of protection before even hearing my story. I never refused to cooperate with CBSA, and I answered every question I was asked. My refugee claim was eventually approved and today I’m living and working in BC as a Permanent Resident.

I am making this submission because I believe that Canadians can and must do better to welcome people who come to this country in search of protection or a better life.

When I was detained in 2012, CBSA transferred me to the Allouette Correctional Centre for Women in Maple Ridge. I was aware that it was a maximum-security jail, and I was terrified. I was treated in the same way as all the other detainees – whether on immigration hold or for criminal charges or convictions. I felt that I had just turned into a number, an inmate, a faceless nobody.

I remember that there were some fights between some of the detainees. I remember one woman tried to take her own life in the shower; she cut her wrists and her blood was everywhere. No one explained the rules to me and there was no interpretation support. As an inmate, you were expected to automatically know the rules and abide by them all, or risk being punished.

At the jail, I asked for mental health support, but there was no interpreter available. I met representatives from the Canadian Red Cross, but I received no support from them. They just asked me some questions, but I felt they could not do anything meaningful to help me.

The first time I had a chance to speak with my lawyer, she told me, “Your detention is a mistake.” These words brought me so much relief because I felt that finally someone believed me. Finally, someone recognized the injustice I was experiencing. I felt heard. But these words were also agonizing because they confirmed to me that Canada was not the north star that I hoped it would

be. My lawyer told me that the CBSA officers and the tribunal adjudicators were not reading the full statement I submitted for my refugee claim.

I was in immigration detention for about three months. But at the time, I never knew when I would be released. I met one woman in jail who was also detained on immigration hold, and she had been there for six months. I met another woman who was simply waiting for authorities from her country of nationality to send her identity documents, waiting out a cross-border bureaucratic procedure in jail. I understood that CBSA wanted to keep me in jail until my refugee claim was completed, on the assumption that my claim would fail. At my final detention review hearing, I was afraid to believe that I would be released because my hope had been crushed already.

I was released from detention nearly a decade ago. But it never feels very far. Hearing the sound of key jangling takes me right back to the jail, with guards on their rounds. I can't wear jewelry on my wrists or green clothes, because it reminds me of being handcuffed in my green jail uniform. Bright lights remind me of the harsh constant light in jail. When I see a border officer, I start shaking and I have panic attacks. I spent thousands of dollars on years in therapy.

The same year I was released from detention, a woman named Lucia Vega Jimenez took her life in immigration detention. She was from Mexico like me. I was detained in the same CBSA facility in BC where Lucia took her life. I was also detained in the same jail in BC where Lucia spent her last two weeks. I came close to losing my opportunity to find safety in this country, and I came close to losing hope. Lucia was not as lucky. Lucia's story broke my heart. And it hurts to think about how many others may lose their hope, their faith in Canada, and even their lives, because of immigration detention.

Back home in Mexico, I was persecuted for investigating human rights abuses. In Canada, I experienced them firsthand. While I was in detention, I kept thinking, "how can I find safety in this country if I was sent to jail for nothing? How can I trust authorities here?"

I believe in a better Canada. Today, I work as s.22

at the s.22

s.22

In this capacity, I support many refugee claimants and newcomers, including people who were in immigration detention. Many of them come to this country with the same hope I had, and I work to pave a better way for them. I feel a responsibility to protect them. I want to pay forward the kindness that was shown to me by those who helped me find my way despite the injustice of immigration detention during my first few months in Canada. Being a refugee is not an option; it's just a circumstance.

Canada has the opportunity to become the place we know it could be – a country that treats all people with compassion and humanity. I implore the BC government to stop allowing CBSA to incarcerate immigration detainees in provincial jails.

Sincerely,



s.22

Sara Maria Gomez Lopez, D.S.

March 24, 2022

Lisa Anderson
Assistant Deputy Minister
BC Corrections
Ministry of Public Safety and Solicitor General

Re: BC should stop allowing CBSA to incarcerate immigration detainees in provincial jails

I arrived in Canada in late 2017 to seek refugee protection. My life changed on that day in ways that I am still trying to comprehend.

I fled from ^{s.22} because my life was in danger in that country. I am ^{s.22} and I love my country fiercely, but I knew I could not survive with the ^{s.22} military regime in power. I left behind my beloved wife and two boys. It breaks my heart to be apart from them, five years on.

I have a hearing disability, and I depend on hearing aids. Without my hearing aids, I am in complete silence. I have lived this way since I was a child.

When I landed at the Vancouver International Airport, I was filled with hope and anticipation. I knew Canada was a country that stood for freedom and human rights, and I felt deep in my bones I would finally be at home and safe.

But instead of finding freedom, I was arrested without charge. I was handcuffed and shackled. My belongings were taken away, including the rechargeable batteries to my hearing aids. Suddenly, I was in jail, confused and scared. Not only did I have to try to navigate my way through jail with a language barrier, but I also could not hear anyone or anything.

I didn't know why I was arrested and detained. I didn't know why I was put in handcuffs. I didn't know why I was being incarcerated in a jail. I didn't know how long I would be detained. I didn't know who I could ask these basic questions; I didn't know who I could trust. I spent my first night in Canada in the Vancouver Jail. My faith in Canada was violently shattered, and I was alone, incarcerated, in silence. That jail cell will always be my introduction to Canada.

The next morning, I couldn't hear the guard who was trying to wake me up. I woke up to him trying to shake me awake. I looked at him and I couldn't hear him. I didn't know what was happening. It was a terrifying reality check: I was imprisoned in the country where I thought I would find freedom; the country where I thought refugees find safety.

That morning, CBSA officers were waiting for me, and they took me back to the airport to continue questioning me. The interpreter that CBSA provided for my questioning spoke a different dialect, so I could only understand about half of what was being said. The officers didn't care about this and proceeded with the questions. They were aggressive and cruel. After I explained that I fled ^{s.22} because my life was at risk, one of the officers accused me of being selfish for leaving my wife and

children behind. They also violated my privacy and my solicitor-client privilege: without seeking permission, they searched through all my emails between myself and my lawyer.

Before he began his questioning, the officer gave me a battery for my hearing aid, but it was not rechargeable. Over the following weeks, CBSA only provided me with one hearing-aid battery at a time, and only for CBSA meetings and hearings. CBSA would let me keep the battery and take it back with me to the jail to use whatever remained of it (each battery would only last me about 10 hours in total). I would try to save the battery as much as possible and turn on my hearing-aids only for very important situations.

At the end of that first day, the CBSA officer asked me if I wanted to speak with a lawyer. I said yes, and the officer got a lawyer on the phone. After five minutes, the lawyer said he can only help me if I paid him. It was difficult for me to hear him, and I was sobbing with exhaustion and fear. The officer handcuffed and shackled me and took me back to jail.

I was always cooperative with CBSA and answered all the officers' questions. I thought I could trust Canadian authorities. But I later learned that CBSA contacted ^{s.22} authorities and revealed my name, even though I was fleeing ^{s.22} authorities and seeking protection in Canada. My family in ^{s.22} was then targeted. Not only was I not there to protect my family, but because of CBSA my refugee claim in Canada put my family in danger in ^{s.22}. I will never be able to forgive this.

I provide the details of how CBSA treated me because I would like BC Corrections to consider whether CBSA is the kind of partner the province deserves, particularly in carrying out the most invasive act a state can take against a person: to deprive them of liberty. I have already submitted a complaint to CBSA about the way I was treated, but the Agency does not have independent civilian oversight.

During my first weeks in Canada, each time CBSA officers took me to and from jail, they handcuffed and shackled me.

After several days in the Vancouver Jail, CBSA came again to the jail and took me to a detention review hearing. I had no idea what was going on, and this was quickly becoming a theme of my first few days in Canada. By the time I arrived for my hearing, the hearing aid battery that CBSA provided me ran out. I couldn't hear anything. I told the lawyer that was assigned to me that I couldn't hear anything. I had a few minutes with her before the hearing was supposed to start. She wrote on a piece of paper, "you're going to have a detention review hearing." I didn't know what that meant. The hearing started, but the tribunal adjudicator adjourned it until the next day when I could get a battery. The next day, CBSA brought me back for my hearing, I still had no idea what was happening.

After my first hearing, CBSA took me to the North Fraser Pretrial jail. No one told me why this was happening. They strip searched me. This was absolutely humiliating, and I could not wrap my mind around why any of this was happening to me. At the North Fraser Pretrial jail, I was only allowed out of my cell for two hours a day. I understood that it was a maximum-security facility. I was terrified of the people around me, and I had no idea why I was there. I just cried.

About two weeks later, I was transferred to Fraser Regional Correctional Centre. Again, I had no idea why. Like in the previous jails, I mostly stayed in my cell.

One of the most difficult aspects of detention was that I had no idea when I would be released. I met some people who had been in jail for immigration reasons for months, and they also didn't know how much longer they would be locked up. I didn't know how to cope with this reality. What's the point of counting the days if you are not counting towards anything? I lost all sense of time, and along with it my hope. The days became shapeless, amorphous, never-ending.

I managed to call my family once when the jail Champlin allowed me to use the phone in his office. I told my wife not to worry about me. After that, I couldn't contact my family for the rest of my time in detention. No one knew about me. I didn't know what to do. I wanted to speak with my family, but I had no battery for my hearing aids. The phones are old and very hard to use, and they are also very expensive.

I stayed in immigration detention for almost two months. I couldn't contact anyone for weeks while I was locked up in jail because I had no hearing-aid batteries. I couldn't hear anything or anyone around me. I sent requests to the jail Champlin, but he responded that the jail couldn't afford to give me batteries. CBSA seized all my belongings and refused to give me my rechargeable batteries.

When I was finally released and was able to use my hearing aids with my re-chargeable batteries, I felt so happy. I could hardly believe it. I felt like my life was back again. The first thing I did was call my family. I just sobbed. Eventually, I found my way to the Welcome Centre in Vancouver.

For most of my life, I only knew about human rights in the abstract. In ^{s.22} I could only dream of human rights. I thought that in Canada I would feel the texture of human rights; what it's like to have human rights protected and respected. But while I was in immigration detention, moving from one jail to another, I experienced such deep injustice that I questioned whether I should have come to Canada at all. The fear that was instilled in me in detention has stayed with me all these years later. I always think, "maybe they will come after me and arrest me again, even though I didn't do anything wrong."

Once I got a work permit, I started working very hard to try to forget. Day by day I moved forward. I know this is a beautiful country. There is something wrong with this system, but this is a beautiful country. I feel like I belong here. I feel like my life is here. I am a human being. I have a hearing disability. I have a family, like anyone else. I live everyday thinking about my family, and my heart aches for them. But I have the right to live in a peaceful way. Like one of you.

I urge the BC government to do the right thing and stop allowing CBSA to incarcerate immigration detainees in provincial jails.

Sincerely,

s.22



SWAN Vancouver

**Submission to the
Review of Immigration Detention in Provincial Jails and the
Province of British Columbia's Agreement with Canada Border Services Agency**

Submitted March 25, 2022
by SWAN Vancouver

Authored by: Alison Clancey, Executive Director

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Support of the #WelcometoCanada Campaign

From: Garry Janzen <garryjanzen@mcbc.ca>
To: Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>, Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>
Cc: Emilio Rodriguez <emilio@cpj.ca>
Sent: March 24, 2022 1:35:26 PM PDT
Attachments: BC Provincial Letter.docx

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Lisa and Tracey,
Please find my letter of support and invitation to action attached.

Let's keep living in hope,

Garry Janzen

Executive Minister

Mennonite Church BC

garryjanzen@mcbc.ca

(778) 242-1185

Lisa Anderson
Assistant Deputy Minister
BC Corrections
Ministry of Public Safety and Solicitor General
March 24, 2022

Dear Minister Anderson,

I am writing on behalf of Mennonite Church British Columbia to draw your attention to the call from faith communities across Canada for the government to end the practice of incarcerating immigration detainees in provincial jails. As you know, hundreds of immigration detainees have been held in British Columbia provincial jails since 2017. Widespread human rights violations have been documented in immigration detention and our province should not be complicit in these acts.

Here you will find [a letter demonstrating support from 160 Canadian faith leaders, individuals and religious organizations](#) calling for an end to this mistreatment of people seeking safety or a better life in this country. As people of faith, we share values of love and justice, particularly for the most vulnerable in our society. Immigration detention criminalizes and violates the rights of migrants and refugee claimants while holding them in provincial jails. Newcomers and those fleeing persecution and oppression should be treated with dignity.

We call on you to end BC's agreement with the federal government, and to stop the incarceration of immigration detainees in provincial jails.

Thank you,

A handwritten signature in black ink, appearing to read 'Garry Janzen', written in a cursive style.

Rev. Garry Janzen

Executive Minister

Mennonite Church British Columbia



March 25, 2022

Lisa Anderson
Assistant Deputy Minister
BC Corrections
Ministry of Public Safety and Solicitor General
1001 Douglas Street, 7th Floor
Victoria, BC

By email: Tracey.Ooms@gov.bc.ca

Re: Review of the arrangement between Canada Border Services Agency and the BC Ministry of Public Safety and Solicitor General, BC Corrections, Adult Custody Division, respecting the management of individuals subject to lawful detention under the Immigration and Refugee Protection Act.

Dear Assistant Deputy Minister Lisa Anderson:

The BCCLA's mandate is to preserve, defend, maintain and extend civil liberties and human rights in Canada. As Canada's oldest active civil liberties association, the BCCLA has a long history of work in the areas of Canada Border Services Agency ("CBSA") accountability and oversight, prisoners' rights, mental health, and has long advocated for migrant rights.

The BCCLA has significant expertise in the law and policy governing the CBSA, as well as correctional facilities in Canada. The work that BCCLA has done regarding CBSA oversight and accountability, prisoners' rights and mental health, and migrant rights includes:

- Recommending models of effective civilian oversight and accountability for the CBSA.¹
- Challenging the expansion of powers for US customs and border agents and the CBSA at preclearance sites in Canada and at the border.²

¹ Oversight at the Border: A Model for Independent Accountability at the Canada Border Services Agency (2017), <https://bccla.org/wp-content/uploads/2017/06/FINAL-for-web-BCCLA-CBSA-Oversight.pdf>

² Written Submission to the Standing Committee on Public Safety and National Security Regarding Bill C-23, the Preclearance Act (2016), <https://bccla.org/wp-content/uploads/2017/05/BCCLA-submission-Bill-C23-precleanance-May-9.pdf>

- Opposing the closure of the Canada-US land border to asylum-seekers during the COVID-19 pandemic.³
- Successfully suing Canada, alongside the John Howard Society of Canada, for laws governing administrative segregation that violated the Charter because they were inhumane and permitted prolonged, indefinite solitary confinement.⁴
- Filing a lawsuit against Canada to stop the wardens at federal prisons from unlawfully placing people in long-term solitary confinement through lockdowns and “restrictive movement routines.”⁵
- Advocating against the arbitrary imprisonment and cruel treatment of migrants with mental health issues.⁶

It is in the context of this continuing work that BCCLA calls on the province to cancel their agreement with CBSA allowing immigrants and refugees to be held in provincial jails.

In reviewing the agreement, the province of BC has the opportunity to stand up for human rights and to stand out as a role model for the rest of the country. We urge the province to take advantage of this review to send a clear message to the federal government that the current immigration detention regime is inhumane, ineffective, and contravenes international law and protocols. The provincial government has enabled this cruel and deliberately opaque system for too long.

The BCCLA’s position, explained in further detail below, is that the agreement should come to an end because of Canada’s international law obligations, the extensive evidence of harm caused by CBSA policies and practices, and the lack of independent oversight of the CBSA.

1) Canada’s International Law Obligations

Canada is a party to several international human rights conventions and has a legal obligation to implement provisions that protect the rights of migrants, including their right to liberty to be free from arbitrary detention. Article 9 of the International Covenant on Civil and Political Rights (ICCPR) states:

³ Letter to Prime Minister Trudeau regarding: Shutting the Canada-US Border to Refugees (2020), <https://bccla.org/wp-content/uploads/2020/04/BCCLA-Opposes-Border-Closure-March-2020.pdf>

⁴ *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2019 BCCA 228 (CanLII), <https://canlii.ca/t/j14gg>

⁵ Rights Group Sues to Stop Wardens from Placing Prisoners in Long-term Solitary Confinement (2021), <https://bccla.org/news/2021/10/press-release-rights-group-sues-to-stop-wardens-from-placing-prisoners-in-long-term-solitary-confinement/>

⁶ “We Have No Rights”: Arbitrary Imprisonment and Cruel Treatment of Migrants with Mental Health Issues in Canada (2016), https://bccla.org/our_work/we-have-no-rights-arbitrary-imprisonment-and-cruel-treatment-of-migrants-with-mental-health-issues-in-canada/

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.⁷

International human rights law establishes that immigration detention should be used only in exceptional circumstances and as a measure of last resort. The UN special rapporteur on torture concluded that detention based solely on migration status is outside of the legitimate interests of the state and should be considered arbitrary.⁸ In 2015, the United Nations Human Rights Committee expressed grave concerns about Canada's immigration detention regime, as well as prison conditions, and recommended that Canada should refrain from indefinitely detaining migrants and observe a reasonable time limit and should ensure that detention is used as a measure of last resort, with non-custodial measures and alternatives to detention being used.⁹

2) Extensive Evidence of Harm Embedded in CBSA Policies and Practices (including use of prolonged segregation)

Evidence of harm enacted by Canada's immigration detention regime has been detailed extensively through tribunal and court decisions—including an inquest into the death of immigration detainee Lucía Vega Jiménez—as well as audits and reports stemming from exhaustive research and submissions. All of these reports and decisions have condemned the policies, practices, and culture of CBSA and advocated for reform.

2018 Audit Report Exposed Cruelty of Detention System

In 2018, an external audit commissioned by the chair of the Immigration and Refugee Board ("IRB") condemned the culture and practices of CBSA and the Immigration Division and recommended that authorities "address the enormous problem of affording fair and humane treatment to persons in detention who are living with mental illness."¹⁰

The audit found that cases involving persons with substance use issues and psychosocial disabilities faced persistent lack of treatment and counselling services in provincial correctional institutions, and that lack of access to these services not only impacted their health, but their ability to demonstrate certain factors supporting their release. Canadian courts have found that

⁷ ICCPR, <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> (accessed March 7, 2022)

⁸ UN Human Rights Council, "Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment," (2018), UN Doc. A/HRC/37/50, para. 24.

⁹ United Nations Human Rights Committee, "Concluding observations on the sixth periodic report of Canada", (2015), UN Doc.

CCPR/C/CAN/CO/6, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhskswUHe1nBHTSwwEsgdxQHJBoKwgsS0jmHCTV%2FFsa7OKzz9yna94OOqLeAavwpMzCD5oTanJ2C2rbU%2F0kxdos%2BXCyn4OFm3xDYg3CouE4uXS> (accessed March 7, 2022).

¹⁰ Immigration and Refugee Board of Canada, *Report of the 2017 / 2018 External Audit for Detention Reviews*, July 20, 2018. <https://irb-cisr.gc.ca/en/transparency/reviews-audit-evaluations/Pages/ID-external-audit-1718.aspx> (accessed March 7, 2022).

continued detention without treatment could constitute cruel and unusual punishment contrary to s. 12 of the Charter¹¹ or would violate ss. 7 and 9 Charter rights due to the unavailability of treatment.¹²

The audit also found that detention decision-making had strayed from CBSA's mandate of ensuring public safety and the presence of persons for deportation purposes and called for greater transparency in decisions and rigorous detention reviews in alignment with the principle that release is the default position.

The audit further concluded that the Immigration Division tended to rely, uncritically, on the submissions of CBSA Hearings Officers. These submissions often misstated facts and other critical details in the file and can play a significant role in a decision to continue detention, especially when the bar to continue detention was dangerously low. People were often continually detained on the basis that *any* risk of failure to appear was enough risk to justify continued detention. The audit recommended that detention based on mere risk that the person will miss an appointment or commit a minor offence was not enough—the evidence must establish that the risk is greater than 50%. The audit also noted that in many cases, the reason for continued detention is unclear—and that is in cases where there were any reasons at all. In many detainee files, reasons and decisions recommending continued detention were often missing.

2014 BC Coroners Inquest Revealed Fatal Flaws in BC Corrections and CBSA Relationship

In 2014, a BC Coroners Inquest into the death of Lucía Vega Jiménez, who committed suicide while in immigration detention in December 2013, exposed the fatal flaws in the relationship between BC Corrections and CBSA, and demonstrated the myriad ways immigration detainees are mistreated and subject to inhumane treatment.

Lucía worked as a cleaner in Vancouver, sending most of her earnings back home to Mexico to support her family. She was detained on the Skytrain for failing to pay the fare, and transit officials contacted CBSA. She was not afforded the opportunity to speak to counsel before being questioned by a CBSA officer that purported to be a liaison. The information Lucía provided was subsequently used against her in a detention hearing. She then spent 3 days at the Vancouver Immigration Holding Center ("IHC") at the airport before being transferred to Alouette Correctional Centre for Women in Maple Ridge.

While at Alouette Correctional Centre for Women, Lucía made several visits to mental health services due to her distress about returning to Mexico, and eventually met with a nurse complaining of chest pain. The nurse, concluding that the pain was related to stress and emotional trauma, made an appointment for Lucía to meet with the mental health coordinator at Alouette. However, due to the presence of inmates needing to be seen on an urgent basis, Lucía was taken back to the IHC in Vancouver and her appointment was not rescheduled. About

¹¹ *Ebrahim Toure v. Minister of Public Safety*, 2017 ONSC 5878

¹² *Ali v. Canada (Attorney General)*, 2017 ONSC 2660

one week later, she made an urgent request to see a doctor for neck and face pain, but again was transferred back to the Vancouver IHC before she could be seen.

Throughout her time in immigration detention, there was no communication between Alouette and CBSA about Lucía's condition, despite the fact that one of her detention hearings was ended early due to her uncontrollably sobbing. The verdict following Lucía's inquest detailed a number of recommendations, including the creation of a civilian oversight body to investigate critical incidents and the elimination of the use of jails to detain migrants.

Lucía Vega Jiménez is not alone—at least 16 people have died in immigration detention since 2000, and most of them were in provincial jails.¹³

BCCLA opposes the use of prolonged, indefinite lockdowns and restrictive movement routines in all carceral contexts, including immigration detention. They are devastating to the physical, psychological, social, and spiritual health of incarcerated people. Those who are subjected to extended usage of these procedures suffer from a wide variety of adverse effects, including: anxiety; hallucinations; panic; paranoia; ruminations and intrusive obsessional thoughts; self-harm; social withdrawal; suicidal thoughts and behaviours; and mental illness.

Not only is the presence of psychosocial disabilities and suicidality in immigration detainees often used by CBSA to justify continued detention and placement in provincial jails, it is also often the basis for using prolonged segregation. BCCLA condemns this practice and calls on the provincial government to cease enabling it.

3) Lack of independent oversight of CBSA

BCCLA has consistently called for an independent, civilian-led oversight commission with a mandate to provide real-time oversight for the CBSA. There is no justification for the continued unfettered discretion and latitude afforded to the CBSA, and any steps to limit that discretion should be taken immediately.

In addition to cruel treatment of those with psychosocial disabilities and substance use issues, the 2018 IRB audit found an inconsistent, regionally-specific approach to detention demonstrated by the CBSA where it may be more likely to recommend release from detention in certain parts of the country rather than others, where they were more biased towards continuing detention. The report also discussed the culture of delay at CBSA that can unnecessarily extend detention *by years*, in certain cases. These inconsistencies and delays have resulted in egregious infringements of human rights, and warrant extensive oversight.

¹³ Human Rights Watch, *Death of Immigration Detainee an Urgent Wake-Up Call for Canada*, February 4, 2022, <https://www.hrw.org/news/2022/02/04/death-immigration-detainee-urgent-wake-call-canada#:~:text=What%20we%20do%20know%20is,detention%2C%20most%20in%20provincial%20jails> (accessed March 10, 2022)

The federal government has previously stated its support for the creation of an accountability mechanism for CBSA, and the Senate Standing Committee on National Security and Defence also made this recommendation in its report *Vigilance, Accountability and Security*, stating that the agency should ensure appropriate compliance with legislation and policy. So far, national initiatives including the National Immigration Detention Framework (NIDF), the Alternatives to Detention Program, and the Ministerial Direction to CBSA on Minors in Immigration Detention indicated the possibility of structural and institutional change but ultimately failed to deliver.

Since the NIDF was implemented, the number of immigration detainees has steadily increased each year and more than one fifth of immigration detainees have been held in provincial jails across the country, with the vast majority being detained on the basis of being a flight risk. Since the onset of the COVID-19 pandemic, the CBSA has relied even more heavily on provincial jails, incarcerating 40% of immigration detainees there in the 2020-21 fiscal year and more than doubling the average length of detention. If the immigration detainees are to be treated fairly, humanely, and provided with the requisite support, there must be extensive, independent, and external oversight of CBSA.

Summary and Recommendations

The agreement between the provincial government and CBSA ensures British Columbia's complicity in breaching international law, perpetuating harm, and violating human rights. Permitting the agreement to stand protects a critical piece of Canada's inhumane immigration regime and endorses the CBSA's cruel status quo that costs people their lives. We are calling on the provincial government to choose progress and to prioritize the health, safety, and well-being of immigrants and refugees.

Finally, BCCLA wants to be clear that in recommending a dissolution of the agreement between the province and the CBSA, we are not advocating for more IHCs, increased detention in the IHCs already built, or increasing reliance on alternatives to detention. Detention in the immigration regime remains an option of last resort and enforcement measures should not be used against people who should otherwise be released. If detention is required, the least intrusive method of doing so is to be employed.

The BCCLA endorses all the recommendations set out in *I Didn't Feel Like a Human in There*,¹⁴ the report on immigration detention published by Human Rights Watch and Amnesty International, and for the purposes of the BC review recommends the following be adopted immediately:

- End the use of provincial jails and other criminal incarceration facilities for immigration detention. Cancel all agreements and contracts between the federal and provincial governments in relation to detention of immigration detainees in provincial jails.

¹⁴ Human Rights Watch and Amnesty International, *I Didn't Feel Like a Human in There* (2021), https://www.hrw.org/sites/default/files/media_2021/06/canada0621_web.pdf (accessed March 7, 2022)

Regardless of the outcome of the review by the BC government, the BCCLA will continue to advocate for the following changes outlined in *I Didn't Feel Like a Human in There*¹⁵ to be adopted by the relevant government bodies without delay:

- Transform IHCs into open and safe reception facilities. In particular, immigration detainees should be allowed access to their personal cellphones and electronic devices; immigration detainees should not be restricted to mandatory mealtimes and wake-up times; and visitations should be in-person and with privacy.
- Replace detention with community-based case management for those with pending immigration proceedings. Expand localized programs of community-based alternatives to detention that provide support rather than surveillance, and that are operated by local non-profit organizations independently from CBSA.
- End the use of solitary confinement in immigration detention.
- End the use of handcuffs and shackles for immigration detainees.
- Maintain effective, supportive, voluntary, and culturally-appropriate mental health services in the community that are available and accessible to citizens and non-citizens alike. Consider reallocating funding from the CBSA budget to Support community-based health services and alternatives to detention.
- Acknowledge the existence of systemic racism within the CBSA and the immigration detention system, develop in close and transparent collaboration with communities of color a meaningful plan to address systemic racism within CBSA and the immigration detention system, including the collection and publication of de-identified race- and ethnicity-based data about immigration detainees with their free and informed consent.
- Publish CBSA's annual budgets with a breakdown of all significant expenditures. Publish all other expenditures related to immigration detention, including all fees paid to the provinces in exchange for hosting immigration detainees in provincial facilities.
- In line with the guidance of the UN Working Group on Arbitrary Detention, stop holding persons with physical or psychosocial disabilities in immigration detention. Persons' disabilities should also be taken into account when determining the legality, necessity, and proportionality of any non-custodial migration enforcement measure.

¹⁵ Human Rights Watch and Amnesty International, *I Didn't Feel Like a Human in There* (2021), https://www.hrw.org/sites/default/files/media_2021/06/canada0621_web.pdf (accessed March 7, 2022)

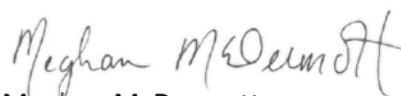
- Ensure that all CBSA officers, immigration holding center personnel, and provincial jail authorities receive regular and effective training on how to interact with people with different disabilities, in particular on engaging with and responding to the requirements of people with psychosocial, intellectual, or developmental disabilities. These officers should receive training not only during their initial formation but also on an ongoing basis. Trainings should be developed in consultation with people with disabilities.
- Improve mental health services in IHCs and provincial jails by ensuring that services are available to anyone, regardless of whether they have a medical diagnosis of a disability, there are sufficient numbers of qualified mental health professionals, treatment is based on free and informed consent, that there are adequate resources, and that levels of care meet standards of community health care.
- Ensure that full facility inspections and full and complete investigations of deaths in custody or with links to in-custody treatment are available to the public within three months of being finalized. Provide public reporting on suicide attempts, hunger strikes, work program stoppages, use of solitary confinement, use of force, and other significant events involving immigration detainees in provincial jails and immigration holding centers.
- Require that all facilities where immigration detainees are held—including provincial jails and IHCs —grant non-profit organizations access to immigration detainees to provide legal education, programming, and monitoring of conditions.

Thank you for inviting the BCCLA to participate in this important consultation. We would be pleased to provide further clarification, context and/or commentary as needed.

Sincerely,



Mara Selanders
Staff Counsel



Meghan McDermott
Policy Director



Prisoners' Legal Services

A Project of the West Coast Prison Justice Society

March 24, 2022

VIA EMAIL: Tracey.Ooms@gov.bc.ca

Lisa Anderson

Assistant Deputy Minister

Ministry of Public Safety and Solicitor General

BC Corrections

PO BOX 9278 STN PROV GOVT

Victoria BC V8W 9J7

Dear Assistant Deputy Minister Anderson:

Re: BC Corrections - Stakeholder Consultation - CBSA Review

Thank you for inviting the West Coast Prison Justice Society ("WCPJS") to engage in consultation regarding a review of the arrangement between Canada Border Services Agency ("CBSA") and the Ministry of Public Safety and Solicitor General ("PSSG"), BC Corrections, Adult Custody Division ("ACD"), respecting the management of individuals subject to detention under the Immigration and Refugee Protection Act ("IRPA"). We are pleased that the government of BC is reviewing this intergovernmental arrangement, as it enables significant and detrimental impacts on the human rights of people detained by the CBSA.

The WCPJS operates Prisoners' Legal Services ("PLS"), the only clinic in Canada that provides all prison-related legal aid in its jurisdiction. PLS works to help people in federal and provincial prisons across British Columbia have their dignity and rights respected. We assist about 1,000 people in prison each year with issues that affect their liberty rights under the *Canadian Charter of Rights and Freedoms*, such as solitary confinement, involuntary transfers, parole suspensions, disciplinary hearings and more. We also assist people in prison with human rights and health care issues to be free from discrimination on the basis of race, national or ethnic origin, colour, religion, age, sex, gender identity and expression, sexual orientation, marital status, family status and mental or physical disability is respected.

Prisoners' Legal Services is located on unceded Coast Salish territory
302 – 7818 6th Street, Burnaby, BC V3N 4N8 • T: 604-636-0470 • F: 604-636-0480
www.prisonjustice.org



Prisoners' Legal Services

A Project of the West Coast Prison Justice Society

As a result of our mandate and experience as advocates for those in BC prisons, we are keenly aware of how traumatic it is for individuals detained in the system. Prisons often exacerbate issues related to poverty, colonialism, and mental health, exposing people to violence and harsh treatment, isolation, poor medical care, and other violations of their rights. Given these realities, the WCPJS does not support the arrangement between BC and Canada to incarcerate people subject to the IRPA in BC prisons even though they have not violated any criminal laws and pose no public safety risk.

We have reviewed the submissions that the British Columbia Civil Liberties Association ("BCCLA") have prepared for the purposes of this important consultation, and we endorse them without reservation. We agree with the BCCLA that the existing agreement should come to an end without delay because of Canada's international law obligations, the extensive evidence of harm caused by CBSA policies and practices, and the lack of independent oversight of the CBSA.

The WCPJS strongly urges the BC government to use this occasion to end its complicity in breaching international law, perpetuating harm, and violating human rights.

Yours truly,

PRISONERS' LEGAL SERVICES

Jennifer Metcalfe
Barrister & Solicitor
Executive Director



March 24, 2022

Via email: Tracey.Ooms@gov.bc.ca

Tracey Ooms
Policy and Program Analyst
Strategic Operations Division
Ministry of Public Safety & Solicitor General
PO Box 9278 Stn Prov Govt
Victoria BC V8W 9J7

Dear Tracey Ooms:

Re: PSSG review of immigration and refugee detainee practices

I am writing in response to the invitation to provide a written submission to the Ministry of Public Safety and Solicitor General's review of its practice of using provincial correctional centres as holding facilities for individuals detained under the federal *Immigration and Refugee Protection Act* (IRPA).

As you are aware, my Office has broad jurisdiction to receive and investigate complaints about provincial public authorities, including from individuals held in provincial correctional facilities pursuant to IRPA. My office has received and investigated complaints from individuals who, in the course of their complaint, have identified themselves as being detained under IRPA. Most of these complaints over the past ten years have come from Fraser Regional Correctional Centre, and some of the issues raised in these complaints have included access to health care; visits with family members; access to the services needed to prepare their immigration case; and concerns about treatment by staff in the correctional facility. My office has investigated, and where appropriate, sought to resolve these complaints. As such, my office provides essential oversight to this system.

I am aware of the joint report, *"I Didn't Feel Like a Human in There": Immigration Detention in Canada and its Impact on Mental Health*, issued by Amnesty International and Human Rights Watch in June 2021 (the Amnesty/HRW Report). This report raises a number of concerning questions about the conditions of detention for people who are held under IRPA. Particularly given the unclear and undefined consequences to oversight that might arise following the review, I am not in a position to advise whether or not the province should continue holding people detained under IRPA in provincial correctional facilities. However, in light of my oversight role and the concerns raised in the Amnesty/HRW Report, should the outcome of the ministry's review be a continuation of the current practice, I anticipate that I will at that time initiate an

investigation to examine in detail the conditions of detention for IRPA detainees by BC Corrections. I expect that the investigation would, in part, seek to determine the extent to which BC Corrections has taken concrete steps to address the types of matters raised in the Amnesty/HRW Report.

Should you wish to meet to discuss this letter, arrangements can be made through my Executive Coordinator, Alycia Bockus-Vanin, at abockus-vanin@bcombudsperson.ca or 250-356-1559.

Yours sincerely,



Jay Chalke
Ombudsperson
Province of British Columbia

cc: Doug Scott, Deputy Solicitor General
Lisa Anderson, Assistant Deputy Minister, BC Corrections

RE: BC Corrections - Stakeholder Consultation - CBSA Review

From: Samer Muscati <muscats@hrw.org>
To: Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>
Cc: Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>, Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
Sent: March 25, 2022 7:58:02 AM PDT
Attachments: Joint Submission by HRW & AI to BC Corrections Regarding Immigration Detention.pdf, Attachment B - Legal Memo.pdf, Attachment A - Report.pdf

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear all, apologies for emailing you again – we made a small change to one of the documents so wanted to make sure you had the final version before today's deadline.

Please accept this joint submission by Human Rights Watch and Amnesty International to British Columbia Corrections' review of its agreement with Canada Border Services Agency, regarding individuals detained under the Immigration and Refugee Protection Act in British Columbia correctional facilities.

Human Rights Watch defends the rights of people worldwide. We scrupulously investigate abuses, expose the facts widely, and pressure those with power to respect rights and secure justice. Human Rights Watch is an independent, international organization that works as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all.

Amnesty International is a global movement of more than 10 million people who campaign for a world where human rights are enjoyed by all. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest, or religion and are funded mainly by our membership and public donations.

Thank you,

Samer

Samer Muscati (he/him)
Acting Deputy Director, Disability Rights Division
Human Rights Watch

From: Samer Muscati
Sent: Thursday, March 24, 2022 6:56 PM
To: Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>
Cc: Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>; Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
Subject: RE: BC Corrections - Stakeholder Consultation - CBSA Review

My pleasure, Tracey,

And attached please find the joint submission by HRW/AI to the BC review.

Please feel free to reach out at any time for more information or to clarify anything. In addition, two people with lived experience have asked me to send you their submissions on their behalf. I will do so in subsequent emails.

Thanks again,

Samer

From: Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>
Sent: Thursday, March 24, 2022 4:56 PM
To: Samer Muscati <muscats@hrw.org>
Cc: Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>; Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
Subject: RE: BC Corrections - Stakeholder Consultation - CBSA Review

Many thanks Samer!

Regards,

Tracey Ooms | Policy & Program Analyst | Admissions & Discharge
Ministry of Public Safety & Solicitor General | BC Corrections | Strategic Operations Division
Headquarters | 1001 Douglas Street | Victoria, B.C. | V8W 2C5
W.: 778-974-3020 | C.: 250-415-3517 | F.: 250-952-6883
Email: Tracey.Ooms@gov.bc.ca
Pronouns: she/her/hers

I am grateful to work on the traditional unceded territory of the Lekwungen people, known today as the Esquimalt and Songhees Nations.

From: Samer Muscati <muscats@hrw.org>
Sent: Wednesday, March 23, 2022 8:39 AM
To: Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>; Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
Cc: Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>
Subject: RE: BC Corrections - Stakeholder Consultation - CBSA Review

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Good morning, Lisa and Tracy,

I hope you are both well.

As requested below, I wanted to give you a heads up about some of the submissions you should expect to receive on Friday (apart from us and other civil society in BC):

- A joint submission by mental health experts, doctors, nurses, social workers, healthcare providers, healthcare trainees and health researchers from across Canada;
- A joint submission by lawyers and legal representatives, as well as academic scholars with expertise in migration law and policy, refugee protection, human rights, prison law and policy, and criminology, from across Canada;
- A joint submission by Canadian faith leaders, individuals and religious organizations; and
- Individual submission(s) from people with personal experiences in immigration detention.

Thank you very much,

Samer

Samer Muscati (he/him)
Acting Deputy Director, Disability Rights Division

From: Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>
Sent: Friday, March 4, 2022 12:24 PM
To: Samer Muscati <muscats@hrw.org>; Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
Cc: Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>
Subject: RE: BC Corrections - Stakeholder Consultation - CBSA Review

Good morning Samer,

Thank you for your email. I appreciate you reaching out. With respect to the areas of focus for your submission, we are leaving it up to stakeholders to provide us with information they feel is relevant in relation to their responsibilities or interests in immigration detention in BC. The report, *"I Didn't Feel Like a Human in There" – Immigration Detention in Canada and its Impact on Mental Health* will of course also be fully considered as part of our review.

If there are other agencies, or persons with lived experiences, that were not included in our initial call out for submissions (noted below) please do not hesitate to advise them that we would welcome a submission from them as well. They may make written submissions directly to Tracey Ooms at tracey.ooms@gov.bc.ca by March 25, 2022. It would be appreciated if you do share this information with others, that you let Tracey and I know who we may also expect a submission from.

To date, we have invited the following agencies to make submissions:

- Amnesty International Canada
- Canada Border Service Agency
- Canadian Red Cross
- Connective (Connected, inclusive community support across BC and the Yukon)
- Human Rights Commissioner
- Human Rights Watch
- Investigation and Standards Office
- John Howard Society of Victoria
- Office of the Ombudsperson
- Prisoners' Legal Services
- BC Civil Liberties Association

Please do not hesitate to reach out if you have any further questions.

Take care,

Lisa

From: Samer Muscati <muscats@hrw.org>
Sent: Wednesday, March 2, 2022 4:39 PM
To: Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
Cc: Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>; Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>
Subject: RE: BC Corrections - Stakeholder Consultation - CBSA Review

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Ms. Anderson,

Thank you again for this opportunity to participate in the upcoming review. We were hoping that you or your colleagues could help us answer three questions on the substance and procedure related to submissions:

1. Are there any particular areas of concern or interest you would like us to focus on as part of our submission?

2. A few key BC groups and individuals with lived experience have expressed an interest in making submissions to the review but have not been invited to do so yet. Can you tell us what the process is for these groups and individuals (ie. Can they also send submissions directly to Ms. Ooms?). We believe that the review would greatly benefit from the inclusion of these voices.
3. Related to the second question, would it be possible to get a list of all the key stakeholders that have been invited to make submissions?

Thank you again and we look forward to hearing from you.

Samer

Samer Muscati (he/him)
Associate Director, Disability Rights Division
Human Rights Watch

From: Laursen, Shawna PSSG:EX <Shawna.Laursen@gov.bc.ca>
Sent: Friday, February 25, 2022 8:07 PM
To: Samer Muscati <muscats@hrw.org>
Cc: Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>; Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>
Subject: BC Corrections - Stakeholder Consultation - CBSA Review

Good afternoon,

I am forwarding the attached letter on behalf of BC Corrections' Assistant Deputy Minister, Lisa Anderson.

Thank you,

Shawna Laursen *she / her*
Executive Administrative Assistant | ADM Lisa Anderson
BC Corrections | Ministry of Public Safety & Solicitor General
250 882 8229 (mobile) | 250 387 6366 (office)

MARCH 2022

HUMAN
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WATCH

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INTERNATIONAL



Joint Submission by HRW & AI to BC Corrections on Immigration Detention in Provincial Jails

Overview

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Page 159 of 247 to/à Page 164 of 247

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**AMNESTY
INTERNATIONAL**



Legal Analysis of Agreements Allowing Immigration Detention in Canadian Provincial Jails

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Page 166 of 247 to/à Page 191 of 247

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March 25, 2022

Lisa Anderson
Assistant Deputy Minister
BC Corrections
Ministry of Public Safety and Solicitor General

Re: BC must stop jailing immigration detainees in correctional facilities – open letter by members of the healthcare community

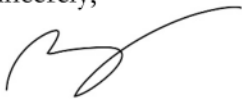
Please accept this submission to the review by British Columbia Corrections regarding the province's agreement with Canada Border Services Agency, pertaining to immigration detainees incarcerated in British Columbia correctional facilities.

I'm writing to submit an open letter signed by mental health experts, doctors, nurses, social workers, healthcare providers, healthcare trainees and health researchers. The letter calls on provincial authorities to stop the incarceration of immigration detainees in provincial jails. Over the span of the past 8 days, the letter has received 140 signatures from across Canada, and we will continue to collect signatures over the coming months.

As a primary care physician for many newcomers, including migrants and refugees, I join my colleagues across the country in expressing alarm at the abusive practice of incarcerating individuals who are awaiting resolution of their immigration or refugee matters in Canada. The severe mental health consequences of this practice are widely recognized in medical literature.

In 2018, I joined more than 2,000 of my colleagues and dozens of organizations to call on the federal government to put an end to immigration detention. BC must take this opportunity to stop its complicity with the federal government's abuses in this system.

Sincerely,



Mei-ling Wiedmeyer, MD, CCFP (she/her/hers)
Clinical Assistant Professor, UBC Department of Family Practice
Family Physician, Umbrella Multicultural Health Cooperative
Clinician Scientist, IRIS project, Centre for Gender and Sexual Health Equity | cgshe.ca

I acknowledge the land on which I am privileged to live and work is the unceded traditional territory of the Coast Salish Peoples, including the territories of x̱məθkwəy̱əm (Musqueam), Skwxwú7mesh (Squamish), and Səlilwətał (Tsleil-Waututh) Nations.

March 25, 2022

To: Premier of British Columbia, John Horgan
Premier of Alberta, Jason Kenney
Premier of Manitoba, Heather Stefanson
Premier of New Brunswick, Blaine Higgs
Premier of Newfoundland, Andrew Furey
Premier of Nova Scotia, Tim Houston
Premier of Ontario, Doug Ford
Premier of Prince Edward Island, Dennis King
Premier of Québec, François Legault
Premier of Saskatchewan, Scott Moe

C.C.: Minister of Public Safety, Marco Mendicino
Minister of Immigration, Refugees and Citizenship Canada, Sean Fraser
Prime Minister of Canada, Justin Trudeau

Re: Request to terminate the federal-provincial agreements that allow for the incarceration of immigration detainees in provincial jails

We are mental health experts, doctors, nurses, social workers, healthcare providers, healthcare trainees and health researchers from across Canada, writing to bring to your attention our shared concerns around immigration detention. While there are many serious issues in this arena, we specifically wish to raise the ongoing incarceration of immigration detainees in provincial jails. This practice constitutes a human rights violation that adversely impacts the health of a vulnerable population. Immigration detainees include refugee claimants, survivors of severe trauma or persecution, and persons with mental health conditions. It is alarming that individuals awaiting resolution of their immigration or refugee matters in Canada are incarcerated in jails. We call on you to put an end to this practice and stop your province's complicity in these abuses, and to urge the federal government to end immigration detention.

Over the past five years, the Canada Border Services Agency ("CBSA") has detained tens of thousands of individuals under the authority of the Immigration and Refugee Protection Act, the Agency that has the sole discretion to determine where immigration detainees are held. Many immigration detainees are held in dedicated immigration holding centres, which resemble medium-security prisons, leading to negative health impacts.¹ However, each year, CBSA also routinely transfers hundreds of immigration detainees to medium- or maximum-security provincial jails, where they are held in the custody of provincial authorities.

Among those transferred to provincial jails are immigration detainees with mental health conditions. CBSA has justified this policy and practice by claiming that immigration detainees

have “access to specialized care” in provincial jails, where authorities can “effectively manage them in light of their behavior.”² CBSA’s enforcement manual explicitly links “instability ... associated with mental imbalance” with “danger.”³ This means that immigration detainees with conditions such as schizophrenia and bipolar disorder, or those who are perceived to be suicidal, may be incarcerated in provincial jails because of their health symptoms or condition.

CBSA’s policy and practice of incarcerating immigration detainees in provincial jails is egregiously discriminatory and profoundly inhumane. Simply put, jails are not healthcare facilities, and they are harmful for individuals undergoing immigration and refugee proceedings.

The severe mental health consequences of immigration detention are consistently recognized in medical literature in Canada and abroad.⁴ Imprisonment in a penal institution has adverse effects on health, and imprisonment of people with pre-existing mental health conditions, including those seen among survivors of trauma and persecution, is particularly troublesome. Refugee claimants and migrants are highly vulnerable to the toxic stress of incarceration in jails - where violence is widespread and lockdowns are frequent - as many have already experienced prolonged and repeated trauma, including torture, in their countries of nationality. Incarceration, especially without end in sight, is experienced as an ongoing threat to personal safety that detainees can neither escape nor overcome. Even for people with no previous trauma or pre-existing mental health condition, being deprived of the basic ability to control one’s life contributes to feelings of depression, helplessness, and lack of self-worth. Brief periods of time in immigration detention may also add to the cumulative effect of exposure to trauma, leading to an increased likelihood of developing mental health conditions such as post-traumatic stress, depression, and anxiety. Given that there is no maximum time limit for how long immigration detainees can be held, immigration detainees are at risk of indefinite detention, sometimes for years, and this inherent uncertainty in the system can have severe implications for detainees’ mental health, especially within carceral settings.

Incarceration in jails often has a profound and debilitating impact on persons with suicidal ideation or psychotic symptoms, who may be placed in solitary confinement within these institutions. Solitary confinement causes significant mental distress and may lead to long-term mental health conditions. Since 2000, there have been at least 16 cases of immigration detainees who died through suicide or died for other reasons while in custody, and most of them were incarcerated in provincial jails.

More than 2,000 healthcare providers and dozens of medical organizations across the country have already called on the federal government to put an end to immigration detention.⁵ We now call on provincial authorities to end their complicity in these human rights violations and stop the inhumane and harmful practice of incarcerating people for immigration matters. We urge you to cancel the federal-provincial agreement that allows for the incarceration of immigration detainees in provincial jails.

We would be very pleased to meet with you to discuss these urgent concerns.

Yours sincerely,

1. *Mei-ling Wiedmeyer, MD, Family Physician, Unceded territory of the Coast Salish peoples/ Vancouver, BC*
2. *Rachel Kronick, MD, FRCPC, MSc, Child and Adolescent Psychiatrist, Montreal, Québec*
3. *Janet Cleveland, PhD, Researcher on refugee rights and health, Montreal, Québec*
4. *Sarah Reaburn, RM, RNC, Registered Midwife, Registered Nurse, Vancouver, BC*
5. *Wendell Block, MD, Family Doctor, Toronto, Ontario*
6. *Natalie Blair, RN-m, NP Student, Vancouver, BC*
7. *Samantha Green, MD, CCFP, Family Physician, Toronto, ON*
8. *Monika Dutt, MD, Physician, Sydney, Nova Scotia*
9. *Kate Hayman, MD, MPH, FRCPC, Emergency Physician, Toronto, ON*
10. *Katrina Hui, MD, MS, FRCPC, Psychiatrist, Toronto, ON*
11. *Ahmed Bayoumi, MD, Physician, Toronto, Ontario*
12. *Vanessa Redditt, MD, Physician, Toronto, ON*
13. *Priyadarshani Raju, MD, FRCPC, Psychiatrist, Toronto, ON*
14. *Melanie Spence, RN, Registered Nurse, Toronto, Ontario*
15. *Michaela Beder, MD, FRCPC, Psychiatrist, Toronto, ON*
16. *Gaibrie Stephen, MD, Emergency Physician, Toronto, Ontario*
17. *Lynn Farrales, MD, Physician, BC*
18. *Ruth MacLeod, RN, Nurse, Educator, Toronto, Ontario*
19. *Michael Stephenson, MD, FCFP, Family Physician, Kitchener, ON*
20. *Ellen Wiebe, MD, FCFP, Physician, Vancouver, BC*
21. *Edward Xie, MD, Physician, Toronto, ON*
22. *Rita McCracken, MD, PhD, Physician, Vancouver, BC*
23. *Lise Loubert, MD, Physician, Vancouver, BC*
24. *Annette Floyd, BScN, MScPH, Registered Nurse, Vancouver, BC*
25. *Dorota Nowodvorski, MD, Emergency Physician, Ottawa, ON*
26. *Megan Saunders, MD, CCFP, Physician, Toronto, Ontario*
27. *Marcia Zemans, MD, FRCPC, Physician, Child and Adolescent Psychiatrist, Toronto, Ontario*
28. *Fatima Uddin, MD, Family Physician, Ottawa, ON*
29. *James Deutsch, MD, PhD, FRCPC, Psychiatrist, Toronto, ON*
30. *Lois Didyk, MSW, RSW, Social Worker, Toronto, ON*
31. *Alice Cavanagh, Medical Student, Toronto, ON*
32. *Michelle Cohen, MD, CCFP, FCFP, Family Physician, Brighton, Ontario*
33. *Michaela Hynie, PhD, Researcher, Toronto, ON*
34. *Katherine Bertram, MD, Family Physician, Vancouver, BC*
35. *Shannon Willmott, RSW, Social Worker, Ontario*
36. *Alyson Holland, MD, Physician, Halifax, Nova Scotia*
37. *Elene Lam, Social Worker, Executive Director, Butterfly, Asian and Migrant Sex Workers Support Network, Toronto, ON*
38. *Suzanne Shoush, B. Eng, MD, CCFP, Family Practice, Toronto, ON*
39. *Jeanette Arends, RPN, Nurse, Ontario*

40. *Yassie Pirani, RSW, RCC, Social Worker, BC*
41. *Kathleen Deering, PhD, Epidemiology, Vancouver, BC*
42. *Crystal Pinto, MD, FRCPC, Psychiatrist, Toronto, ON*
43. *Tim Holland, MD, CCFP(EM), Physician*
44. *Alison Clancey, MSW, Executive Director, SWAN Vancouver Society, Vancouver, BC*
45. *Jenny Hernandez, MD, Physician, New Westminster, BC*
46. *Shezeen Suleman, RM, Registered Midwife, Toronto, ON*
47. *Kika Otiono, BA, Medical Student, Hamilton, ON*
48. *Mona Haidar, MD, MPH, CCFP, Family Physician, Toronto, ON*
49. *Ryan Herriot, MD, CCFP, Physician, Victoria, BC*
50. *Caitlin Hunter, MD, Physician, Vancouver, BC*
51. *Amanda Whitten, MD, Family Physician, Vancouver, BC*
52. *Maeve Trudeau, MD, Pediatric Surgeon, Montreal, Quebec*
53. *Verity Buskard, RN, Vancouver, BC*
54. *Mabli Brindamour, MD, Pediatrician, Saskatoon, Saskatchewan*
55. *Brenda Hardie, MD, Family Medicine, Vancouver, BC*
56. *Jaswant Guzder, MD, Child Psychiatrist, Victoria, BC*
57. *Laurence J. Kirmayer, MD, FRCPC, FCAHS, FRSC, Psychiatrist, Montreal, Quebec*
58. *Tamar Wolofsky, TSP, Social Worker, Montréal, Quebec*
59. *Kaberi Dasgupta, Physician, Quebec*
60. *Ranjit Lehal, MSN, Nurse Practitioner, Burnaby, BC*
61. *Semir Bulle, MD Candidate, Medical Student, Toronto, ON*
62. *Nadia Revelo, Clinic Coordinator, Public Health Clinic Coordinator, New Westminster, BC*
63. *Adnan Al Mhamied, Ph.D Candidate, Social Work, Montreal, QC*
64. *Cécile Rousseau, Psychiatry, Montréal, QC*
65. *Shaina Schafers, MPH, Public Health, Vancouver, BC*
66. *Heather Thomson, NP, PHC, Ottawa, ON*
67. *Niki Beamish, NP, Nurse Practitioner, Ottawa, ON*
68. *Katherine Hughes, NP, Family Nurse Practitioner, Surrey, BC*
69. *Lucy Manchester, MD, Physician, Sioux Lookout, ON*
70. *Prudence Caldaïrou-Bessette, PhD/PsyD, Psychologue clinicienne et chercheure, Québec*
71. *Micah Peters, MD, CCFP, Family Physician, Halifax, NS*
72. *Danyaal Raza, MD, Physician, Toronto, ON*
73. *Krista Lemke, MD, FRCPC, Child and Adolescent Psychiatrist, Toronto, ON*
74. *Patricia Gabriel, MD, Family Physician, Coquitlam, BC*
75. *Márcia Maciel Santiago, Psychiatrist, Oakville, ON*
76. *Paul Caulford, MD, Medical Director, Ontario*
77. *Jeanette Pedersen, MD, Physician, Vancouver, BC*
78. *Parul Agarwal, MD, FRCPC, Child and Adolescent Psychiatrist, Toronto, ON*
79. *Harsh Naik, MPH, Medical Student, Toronto, ON*
80. *Elia Abi-Jaoude, MD, PhD, FRCPC, Psychiatrist, Toronto, ON*
81. *Lucy Doan, NP, Nurse Practitioner, Toronto, ON*
82. *Claire Bodkin, MD CCFP, Family Physician, Hamilton, ON*
83. *Nabeed Dosani, MD, Physician, Toronto, ON*

84. *Srinivas Murthy, MD, Physician, Vancouver, ON*
85. *Saadia Sediqzadab, MD, SM, Psychiatrist, Ontario*
86. *Bilal Bagha, MD, Family Medicine Resident, Victoria, BC*
87. *Rupinder Brar, MD CCFP(AM), Physician, Vancouver, BC*
88. *Kelsey Martin, RM, Registered Midwife, Vancouver, BC*
89. *Peri Shaw, Nursing Student, Registered Nursing Student, Ottawa, ON*
90. *Vashti King, MD, Physician, Ontario*
91. *Robert Bourrier, MD, Family Physician, Ottawa, ON*
92. *Gillian Prouse, B.Mw., Ottawa, ON*
93. *S. Emond, Social Worker, Ontario*
94. *Barbara Harvey, RN, Nurse, Vancouver, BC*
95. *Jocelyn Gallagher, Registered Midwife, North Vancouver, BC*
96. *Eva Gracia-Turgeon, Coordinatrice - Foyer du Monde, Montréal, Qc*
97. *Kayla Charlery, RN, Registered Nurse, Ottawa, ON*
98. *Nadja Agabbanaei, SSW, Social Service Worker, Toronto, ON*
99. *Paula Schikkerling, RM, IBCLC, Registered Midwife, Vancouver, BC*
100. *Shireen Soofi, RSW, Social Worker, Vancouver, BC*
101. *Anne Egger, RNEC, Nurse Practitioner, Toronto, ON*
102. *Rachel Rees, RM, Registered Midwife, Vancouver, BC*
103. *Grace Chammas, Professeure en travail social UQO, Montréal, QC*
104. *Laura Callaghan, RN, NP, Pediatric Nurse Practitioner, Halifax, Nova Scotia*
105. *Alixandra Bacon, RM, Registered Midwife, Vancouver, BC*
106. *Katrina Blommaert, MPH, Student Midwife, Vancouver, BC*
107. *Adrienne Carruthers, RM, Registered midwife (non-practicing), MSW student, Traditional territory of WSANEC peoples*
108. *Marella Falat, RM, Midwife, Vancouver, BC*
109. *Beth Duncan, RM, Registered Midwife, Vancouver, BC*
110. *Germaine Tuyisenge, PhD, Assistant Professor/ Sexual and Reproductive Health, Vancouver, BC*
111. *Joanne Gillies, RM, Registered Midwife, Invermere BC*
112. *Clara Lu, MD, FRCPC, Physician, Hamilton, Ontario*
113. *Vanessa Johnson, RN, Nurse, Victoria, BC*
114. *Lee Saxcell, RM, Midwife, Vancouver, BC*
115. *Breanna Dixon, SMW3, Student Midwife, Vancouver, BC*
116. *David Eisenach, PhD, Psychologist, Toronto, ON*
117. *Pamela Ngoga, Chargée des communications et de la vie communautaire à Foyer du Monde, Quebec*
118. *Christy Reynolds, RM, Registered Midwife, Courtenay, BC*
119. *Terra Larence, RN, Primary Care, Ottawa, ON*
120. *Kara Giesbrecht, RM, Midwife, Vancouver, BC*
121. *Genevieve Brooks Legault, Family Doctor, Montreal, Quebec*
122. *Mariana Martinez Vieyra, RCC, Trauma Counsellor - Clinical Supervisor, Vancouver, BC*
123. *Elena Hack, Expressive Arts Therapist, Vancouver, BC*
124. *Maxine Jones, RM, Midwife, Kelowna, BC*
125. *Sara Maria Gomez Lopez, B.Sc. (Psych), Outreach and Intake Supervisor, British Columbia*
126. *Sarah Liu, PhD, Psychologist, Vancouver, BC*

127. Maria Medrano, RCC, Clinical Counsellor, Vancouver, BC
128. Luke Felczak, ExAT, Expressive Arts Therapist, Vancouver, BC
129. Peter Butler, MSW, JD, Socio-legal Intervention Worker, Montreal, QC
130. Cello Lukey, RM, Registered Midwife, Vancouver, BC
131. Lisa Wiley, RM, Registered Midwife, Nelson, BC
132. Ritika Goel, MD, MPH, CCFP, Physician, Toronto, ON
133. Meb Rashid, MD, Physician, Toronto, ON
134. Kearston Bergeron, RM, Registered Midwife, Toronto, Ontario
135. Shira Goldenberg, PhD, MSc, Assistant Professor and Research Scientist, Vancouver, BC
136. Ruth Lavergne, PhD, Associate Professor, Halifax, Nova Scotia
137. Yasmin Bozorgi, BSc, Healthcare Researcher, North Vancouver, BC
138. Ketan Vegda, MD, Psychiatrist, Toronto, ON
139. Jaycie Dalson, BSc, Medical Student, Toronto, ON
140. Jael Roy, RM, Midwife, British Columbia

¹ Janet Cleveland, "Not so short and sweet: Immigration detention in Canada," in Amy Nethery and Stephanie J Silverman, eds., *Immigration Detention: The Migration of a Policy and its Human Impact* (New York: Routledge, 2015). See also, "'I Didn't Feel Like a Human in There': Immigration Detention in Canada and its Impact on Mental Health," Human Rights Watch and Amnesty International, June 2021, <https://www.hrw.org/report/2021/06/17/i-didnt-feel-human-there/immigration-detention-canada-and-its-impact-mental>; Hanna Gros, "Invisible Citizens: Canadian Children in Immigration Detention," 2017, International Human Rights Program, University of Toronto's Faculty of Law, https://ihrp.law.utoronto.ca/utfl_file/count/PUBLICATIONS/Report-InvisibleCitizens.pdf; Hanna Gros and Yolanda Song, "'No Life for a Child': A Roadmap to End Immigration Detention of Children and Family Separation," 2016, International Human Rights Program, University of Toronto's Faculty of Law, https://ihrp.law.utoronto.ca/utfl_file/count/PUBLICATIONS/Report-NoLifeForAChild.pdf; Hanna Gros and Paloma van Groll, "'We Have No Rights': Arbitrary imprisonment and cruel treatment of migrants with mental health issues in Canada," 2015, International Human Rights Program, University of Toronto's Faculty of Law, <https://ihrp.law.utoronto.ca/sites/default/files/PUBLICATIONS/IHRP%20We%20Have%20No%20Rights%20Report%20web%20170615.pdf>.

² "'I Didn't Feel Like a Human in There': Immigration Detention in Canada and its Impact on Mental Health," Human Rights Watch and Amnesty International, June 2021, <https://www.hrw.org/report/2021/06/17/i-didnt-feel-human-there/immigration-detention-canada-and-its-impact-mental>, at p. 35.

³ Canada Border Services Agency, "ENF 20: Detention," <https://www.canada.ca/content/dam/ircc/migration/ircc/english/resources/manuals/enf/enf20-det-en.pdf>, section 6.4.

⁴ See Janet Cleveland and Cecile Rousseau, "Psychiatric symptoms associated with brief detention of adult asylum seekers in Canada," *Canadian Journal of Psychiatry*, vol. 58 (2013), pp. 409–16. See also Branka Agic, Lisa Andermann, Kwame McKenzie, Andrew Tuck, "Refugees in Host Countries: Psychosocial Aspects and Mental Health," in *An Uncertain Safety* (2018), pp. 187–211; Janet Cleveland, Rachel Kronick, Hanna Gros, Cecile Rousseau, "Symbolic violence and disempowerment as factors in the adverse impact of immigration detention on adult asylum seekers' mental health," *International Journal of Public Health*, vol. 63 (2018); von Werthern, M., Robjant, K., Chui, Z. et al., "The impact of immigration detention on mental health: a systematic review," *BMC Psychiatry* 18, 382, 2018, <https://doi.org/10.1186/s12888-018-1945-y>, p. 14; Mary Bosworth, "Mental Health in Immigration Detention: A Literature Review," in *Review into the Welfare in Detention of Vulnerable Persons*, (2016) Cm 9186. London: HSMO., Criminal Justice, Borders and Citizenship Research Paper No. 2732892, <https://ssrn.com/abstract=2732892>, pp. 3-4; Royal College of Psychiatrists (UK), (2021) "Position Statement: Detention of people with mental disorders in immigration removal centres," PS02/21, https://www.rcpsych.ac.uk/docs/default-source/improving-care/better-mh-policy/position-statements/position-statement-ps02-21---detention-of-people-with-mental-disorders-in-immigration-removal-centres---2021.pdf?sfvrsn=58f7a29e_6.

⁵ Michaela Beder, Michelle Cohen, Katrina Hui, Carolina Jimenez, "End immigration detention: an open letter," *The Lancet*, July 12, 2018, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(18\)31567-8/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)31567-8/fulltext).

Lisa Anderson
Assistant Deputy Minister
BC Corrections
Ministry of Public Safety and Solicitor General
March 24, 2022

Dear Minister Anderson,

I am writing on behalf of Mennonite Church British Columbia to draw your attention to the call from faith communities across Canada for the government to end the practice of incarcerating immigration detainees in provincial jails. As you know, hundreds of immigration detainees have been held in British Columbia provincial jails since 2017. Widespread human rights violations have been documented in immigration detention and our province should not be complicit in these acts.

Here you will find [a letter demonstrating support from 160 Canadian faith leaders, individuals and religious organizations](#) calling for an end to this mistreatment of people seeking safety or a better life in this country. As people of faith, we share values of love and justice, particularly for the most vulnerable in our society. Immigration detention criminalizes and violates the rights of migrants and refugee claimants while holding them in provincial jails. Newcomers and those fleeing persecution and oppression should be treated with dignity.

We call on you to end BC's agreement with the federal government, and to stop the incarceration of immigration detainees in provincial jails.

Thank you,

A handwritten signature in black ink, appearing to read 'Garry Janzen', written in a cursive style.

Rev. Garry Janzen

Executive Minister

Mennonite Church British Columbia

Submissions for BC Corrections Review of Immigration Detention in BC Correctional Facilities

From: Arbel, Efrat <arbel@allard.ubc.ca>
To: Ooms, Tracey L PSSG:EX <Tracey.Ooms@gov.bc.ca>
Cc: Anderson, Lisa R PSSG:EX <Lisa.R.Anderson@gov.bc.ca>
Sent: March 25, 2022 12:03:14 PM PDT
Attachments: Letter to BC Corrections - FINAL.pdf

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Ms. Ooms and Ms. Anderson,

Please find attached submissions for the review by British Columbia Corrections regarding the province's agreement with the Canada Border Services Agency, pertaining to immigration detainees incarcerated in British Columbia correctional facilities.

I would be grateful if you could confirm receipt. The attachment is 11 pages in length.

With best wishes,
Efrat

Dr. Efrat Arbel, JD, LLM, SJD (she/her)
Associate Professor, Peter A. Allard School of Law
University of British Columbia | Unceded xʷməθkʷəy̓əm (Musqueam) Territory
1822 East Mall | Vancouver, BC Canada | V6T 1Z1
604.822.6287 | arbel@allard.ubc.ca | @earbel

March 25, 2022

Lisa Anderson
Assistant Deputy Minister
BC Corrections
Ministry of Public Safety and Solicitor General

Re: The BC government should stop the incarceration of federal immigration detainees in its provincial jails – open letter by lawyers and academic scholars

Please accept this submission to the review by British Columbia Corrections regarding the province's agreement with Canada Border Services Agency, pertaining to immigration detainees incarcerated in British Columbia correctional facilities.

I'm writing to submit an open letter signed by lawyers and legal representatives, as well as academic scholars with expertise in migration law and policy, refugee protection, human rights, prison law and policy, and criminology. The letter calls on provincial authorities to stop the incarceration of immigration detainees in provincial jails. Over the span of the past 4 days, the letter has received 123 signatures from across Canada, and we will continue to collect signatures over the coming months.

As an academic scholar specializing in Canadian refugee law, prison law, border law, constitutional law, tort law, and the law of immigration detention, I have researched and written about the abuses within the immigration detention system extensively. Canada's prided reputation as a multicultural haven has long hidden some of the country's most serious abuses against those who come here seeking protection or a better life. The immigration detention system – and particularly, the practice of incarcerating people under immigration law in provincial jails – causes anguish, pain, and devastating effects on the mental health of some of the most vulnerable and marginalized members of our communities. Statistics and legal analyses of these deeply embedded structural issues are only a useful measure of scale; the gravity of pain and hurt caused by this system is immeasurable.

BC now has an opportunity to take the lead on breathing life into Canada's prided reputation as a welcoming and safe place for those to whom this country represents a hope and home.

Sincerely,



Dr. Efrat Arbel, Associate Professor, University of British Columbia Peter A. Allard School of Law, Member of the Bar of British Columbia (Vancouver, BC)

March 25, 2022

To: Premier of British Columbia, John Horgan
Premier of Alberta, Jason Kenney
Premier of Manitoba, Heather Stefanson
Premier of New Brunswick, Blaine Higgs
Premier of Newfoundland, Andrew Furey
Premier of Nova Scotia, Tim Houston
Premier of Ontario, Doug Ford
Premier of Prince Edward Island, Dennis King
Premier of Québec, François Legault
Premier of Saskatchewan, Scott Moe

C.C.: Minister of Public Safety, Marco Mendicino
Minister of Immigration, Refugees and Citizenship Canada, Sean Fraser
Prime Minister of Canada, Justin Trudeau

Re: Request to stop the incarceration of immigration detainees in provincial jails

We are lawyers and legal representatives, as well as academic scholars with expertise in migration law and policy, refugee protection, human rights, prison law and policy, and criminology, from across Canada. We are writing to add our voices to the demand for an end to the incarceration of immigration detainees.

As you know, over the past several years, the Canada Border Services Agency (CBSA) has detained tens of thousands of non-Canadian citizens under the Immigration and Refugee Protection Act, most commonly because authorities believe they may not appear for an immigration or refugee proceeding. Immigration detainees include families and children, refugee claimants fleeing traumatic experiences and persecution, and persons with mental health conditions. Individuals from communities of colour are disproportionately represented in immigration detention and may face more restrictive conditions of confinement. Despite the non-criminal and purportedly non-punitive nature of immigration detention, many immigration detainees experience the most restrictive forms of incarceration in the country – including maximum security provincial jails and solitary confinement – and they do so without end in sight because Canada does not have a legislative cap on the length of time immigration detainees can be held.

We are gravely concerned that there are no laws or regulations governing when and under what circumstances an immigration detainee can be transferred to, and incarcerated in, a provincial jail. Instead, these vital decisions regarding immigration detainees' residual liberty rights are within the discretion of CBSA, which remains the only major law enforcement agency in Canada without independent civilian oversight. CBSA's decisions regarding where immigration detainees are incarcerated appear to be implemented in an ad hoc, inconsistent, and even discriminatory manner. Immigration detainees are rarely given any notice that they are going to be transferred to a jail;

they are provided with no disclosure of any evidence used to inform the transfer decision; they often receive no written reasons for why the transfer occurred; and they cannot challenge these decisions at detention review hearings. From one day to the next, a person fleeing to this country to seek safety could be wearing a prison jumpsuit behind bars in a maximum-security facility.

We are alarmed by what appear to be CBSA's arbitrary detention practices and we are committed to seeking substantial reform at the federal level. We are equally concerned that provincial authorities would agree to incarcerate anyone in a provincial jail for purely administrative matters under immigration law. There is no valid legal reason to justify such placements, and indeed, this practice is contrary to international law. This practice is particularly shocking when applied to immigration detainees who have a pre-existing mental health condition or disability. There is no legal basis on which to subject immigration detainees to criminal punishment, and yet immigration detainees in provincial jails are regularly handcuffed, shackled, endure lockdowns and constant surveillance, and even solitary confinement.

The conditions immigration detainees face in many provincial jails are profoundly disturbing. The data from medical literature and research is clear that immigration detention can cause serious harm, particularly when incarceration is prolonged and without end in sight. Immigration detainees can develop anxiety, depression, despair, psychological distress, psychosis, catatonic withdrawal, self-harm and suicidal ideation. The mental-health impacts of detention are so severe that even a relatively short hold in detention can be devastating to the mind and cause long-term – and sometimes permanent – damage. Immigration detainees experience these harms no matter where they are held, but the research has long confirmed that detainees are affected most acutely when they are held in jails.

In a scathing recent report, Human Rights Watch and Amnesty International called on authorities to acknowledge and address systemic racism within CBSA and the immigration detention system. The report raises serious concerns about the fact that immigration detainees from racialized communities, and in particular Black men, are confined in more restrictive conditions and for more prolonged periods of time. According to CBSA data, in 2019 most immigration detainees held for 90 days or longer were from countries in Africa or the Caribbean. And the longer people were detained, the more likely they were to be incarcerated in provincial jails rather than dedicated immigration detention facilities. Because there are no legal time limits on immigration detention, detainees may languish in jail for months or years.

Following the onset of the Covid-19 pandemic, immigration detainees were released at unprecedented rates. However, those who remained behind bars have been subjected to harsher conditions: in the year following the onset of the pandemic, CBSA has relied more heavily on provincial jails to incarcerate immigration detainees – doubling the portion of detainees held in those facilities as compared to the years before the pandemic – and the average length of detention also doubled.

Detention under the *Immigration and Refugee Protection Act* is a strictly federal domain; there is no requirement for provincial authorities to be involved or to provide jail cells for immigration detainees. But provincial involvement in this practice makes provincial authorities complicit in the human rights abuses immigration detainees endure in their facilities. In fact, in a 2016 decision,

the Ontario Superior Court found that the province was jointly and severally liable with the federal government for the treatment of immigration detainees in the province's jails.

We call on provincial governments to bring an end to this harmful practice immediately. We urge you to cancel the federal-provincial agreement that permits the incarceration of immigration detainees in provincial jails, and in the interim, during the one-year cancellation notice period, to immediately stop accepting transfers of any immigration detainees to these facilities.

We would be very pleased to meet with you soon to discuss these concerns, and look forward to your prompt reply.

Yours sincerely,

1. *Lloyd Axworthy, Former Foreign Minister, Chair of World Refugee and Migration Council*
2. *Allan Rock, President Emeritus and Professor of Law, Faculty of Law, University of Ottawa*
3. *Efrat Arbel, Associate Professor, University of British Columbia Peter A. Allard School of Law, Member of the Bar of British Columbia (Vancouver, BC)*
4. *Audrey Macklin, Director, Centre for Criminology & Sociolegal Studies, Professor of Law and Chair in Human Rights, University of Toronto (Toronto, ON)*
5. *Tom Engel, President, Canadian Prison Law Association, Member of the Bar of Alberta (Edmonton, AB)*
6. *Dr. El Jones, Department of Political and Canadian Studies, Mount Saint Vincent University (Halifax, NS)*
7. *Adelina Iftene, Assistant Professor, Schulich School of Law, Associate Director, Health Law Institute, Dalhousie University (Halifax, NS)*
8. *Colin Grey, Associate Professor, Queen's University Faculty of Law, Member of the Law Society of Upper Canada (Kingston, ON)*
9. *Gail Super, Assistant Professor, University of Toronto (UTM), Sociology (Toronto, ON)*
10. *Randall Kent Cohn, Lawyer, Edelmann & Co. Law Offices, Member of the Bar of British Columbia and the State Bar of Washington (Vancouver, BC)*
11. *Jennifer Metcalfe, Executive Director, Prisoners' Legal Service, Member of the Bar of British Columbia (Vancouver, BC)*
12. *Shauna Labman, Associate Professor Human Rights, Global College, University of Winnipeg, Member of the Bar of Manitoba (Winnipeg, MB)*

13. *Debra Parkes, Professor & Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia (Vancouver, BC)*
14. *Jamie Chai Yun Liew, Director, Institute of Feminist and Gender Studies, University of Ottawa (Ottawa, ON)*
15. *François Crépeau, Professor, McGill University, Member of the Québec Bar (Montreal, QC)*
16. *Robert Russo, Lecturer, University of British Columbia Peter A. Allard School of Law, Member of the Bar of British Columbia (Vancouver, BC)*
17. *Antje Ellermann, Professor of Political Science and Director, Centre for Migration Studies, University of British Columbia (Vancouver, BC)*
18. *Mitchell Goldberg, Former President of the Canadian Association of Refugee Lawyers, Lawyer and Member of the Barreau du Québec (Montreal, QC)*
19. *Delphine Nakache, Associate Professor, University of Ottawa, Faculty of Law (Ottawa, ON)*
20. *Sean Rehaag, Director (Centre for Refugee Studies) & Associate Professor (Osgoode Hall Law School), York University (Toronto, ON)*
21. *Lisa Kerr, Assistant Professor, Queen's University, Faculty of Law (Kingston, ON)*
22. *Erica Olmstead, Partner, Edelmann & Co. Law Offices, Adjunct Professor at the University of British Columbia Peter Allard School of Law, Member of the Bar of British Columbia (Vancouver, BC)*
23. *Benjamin Perryman, Assistant Professor, University of New Brunswick Faculty of Law, Member of the Bar of Ontario and Nova Scotia (Fredericton, NB)*
24. *Dorab Colah, Lawyer, Safe Harbour Immigration Law, Member of the Bar of Alberta and British Columbia (Vancouver, BC)*
25. *Kathryn Ferreira, Director, Queen's Prison Law Clinic, Queen's University, Member of the Bar of Ontario (Kingston, ON)*
26. *Paul Quick, Staff Lawyer, Queen's Prison Law Clinic, Queen's University, Member of the Bar of Ontario (Kingston, ON)*
27. *John Luscombe, Staff Lawyer, Queen's Prison Law Clinic, Queen's University, Member of the Bar of Ontario (Kingston, ON)*
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29. *Jeffrey Hartman, Lawyer, Hartman Law Prison Lawyers, Member of the Law Societies of Ontario and British Columbia (London, ON)*
30. *Nicholas Blenkinsop, Supervising Lawyer, Community Legal Assistance Services for Saskatoon Inner City Inc. (CLASSIC), Member of the Bar of Saskatchewan (Saskatoon, SK)*
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33. *Joshua Blum, Barrister & Solicitor, Member of the Bar of Ontario (Toronto, ON)*
34. *Esther Lexchin, Barrister & Solicitor, Jared Will and Associates, Member of the Law Society of Ontario (Toronto, ON)*
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36. *Idil Atak, Associate Professor, Department of Criminology and Lincoln Alexander School of Law at Ryerson University (Toronto, ON)*
37. *Sheila Wildeman, Associate Professor, Schulich School of Law, Dalhousie University (Halifax, NS)*
38. *Me Pierre-Olivier Marcoux, Immigration lawyer, Member of the Barreau du Quebec (Montreal, QC)*
39. *Sarah Turnbull, Assistant Professor, Department of Sociology and Legal Studies, University of Waterloo (Waterloo, ON)*
40. *Raymond Lo, Barrister & Solicitor, Lo & Associates, Member of the Law Society of Ontario (Richmond Hill, ON)*
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42. *Emma Halpern, Executive Director, Elizabeth Fry Society of Mainland Nova Scotia, Member of the Nova Scotia Barristers Society (Halifax, NS)*
43. *Idil Abdillahi, Assistant Professor, School of Disability Studies at X [Ryerson] University (Toronto, ON)*
44. *Hélène Mayrand, Associate Professor, Faculty of Law, University of Sherbrooke (Sherbrooke, QC)*

45. *Julien Labrie-Masse, Lawyer, Member of the Barreau du Québec (Montreal, QC)*
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51. *Meghan McDermott, Lawyer and Policy Director, BC Civil Liberties Association, Member of the Law Society of BC (Vancouver, BC)*
52. *David Paterson, Lawyer, Member of the Bar of British Columbia (Surrey, BC)*
53. *Kristina Cooke, Barrister and Solicitor, Member of the Law Society of Ontario (Ottawa, ON)*
54. *Samira Salem, Immigration lawyer, Member of the Bar of Quebec, Member of l'AQAADI (Montreal, QC)*
55. *Me Samuel McAuliffe, Immigration & Criminal Defence Lawyer, Member of the Barreau du Quebec (Montreal, QC)*
56. *Grace Pastine, Litigation Director of the BC Civil Liberties Association, Member of the Bar of British Columbia and the State Bar of Oregon (Vancouver, BC)*
57. *Me Odette Desjardins, Barrister & Solicitor, Member of the Barreau du Quebec (Montreal, QC)*
58. *Me Alima Racine, Attorney, Member of the Barreau du Quebec (Montreal, QC)*
59. *Peter Showler, Director (ret.), the Refugee Forum, Human Rights Research and Education Centre, University of Ottawa Law School (Ottawa, ON)*
60. *Asad Kiyani, Assistant Professor, University of Victoria Faculty of Law, Member of the Law Society of Ontario (Victoria, BC)*

61. *Ellen Bolger, Criminal Defence Lawyer, Member of the Bars of British Columbia and Yukon (Vancouver, BC)*
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63. *Emilie Coyle/Executive Director, The Canadian Association of Elizabeth Fry Societies, Member of the Nova Scotia Barristers' Society (Ottawa, ON)*
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68. *Eileen Myrdahl, Lawyer, Member of the Bar of British Columbia (Vancouver, BC)*
69. *Fadi Yachoua, Barrister & Solicitor, Yachoua Law Corporation, Member of the Law Society of British Columbia (Vancouver, BC)*
70. *Lily Tekle, Refugee and Immigration Lawyer, Member of the Law Society of Ontario (Hamilton, ON)*
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78. *Sarah O'Leary, Lawyer, Member of the Bar of British Columbia (Vancouver, BC)*
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83. *Erin Simpson, Partner, Landings LLP, Barrister & Solicitor, Member of the Law Society of Ontario (Toronto, ON)*
84. *Warda Shazadi Meighen, Partner, Landings LLP, Barrister & Solicitor, Member of the Law Society of Ontario (Toronto, ON)*
85. *Jackie Swaisland, Partner, Landings LLP, Barrister & Solicitor, Member of the Law Society of Ontario (Toronto, ON)*
86. *Amanda Aziz, Lawyer, Migrant Workers Centre, Member of the Bar of British Columbia (Vancouver, BC)*
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88. *Megan R. Ellis, Lawyer, Member of the Bar of British Columbia (Vancouver, BC)*
89. *John Norquay, Immigration and Refugee Lawyer, Member of the Law Society of Ontario (Toronto, ON)*
90. *Keith MacMillan, Refugee and Immigration Lawyer, Member of the Law Society of Ontario (Hamilton, ON)*
91. *Aviva Basman, President, Canadian Association of Refugee Lawyers, Member of the Law Society of Ontario (Toronto, ON)*
92. *Anthony Navaneelan, Vice-President, Canadian Association of Refugee Lawyers, Member of the Law Society of Ontario (Toronto, ON)*
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112. *Aidan Campbell, Lawyer, Edelmann & Co, Member of the Law Society of British Columbia (Vancouver, BC)*
113. *El-Farouk Khaki (he/him), reverend, Immigration and Refugee Lawyer, Member of the Law Society of Ontario and the Law Society of BC, (Toronto, ON)*
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116. *Sarah L. Boyd, Barrister & Solicitor, Member of the Law Society of Ontario (Toronto, ON)*
117. *Max Berger, Barrister & Solicitor, Member of the Law Society of Ontario (Toronto, ON)*
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119. *Alyssa Manning, Barrister and Solicitor, Member of the Law Society of Ontario (Toronto, ON)*
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British Columbia's
**Office of the Human Rights
Commissioner**

Submission regarding immigration detention in provincial correctional centres

Submitted to the Minister of Public Safety and Solicitor General on March 25, 2022

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March 25, 2022

RE: Review of BC Corrections' contract with Canada Border Services Agency (CBSA)

Dear Members of the BC Corrections Policy Review Committee

Please consider this submission from Rainbow Refugee in your review of BC Corrections current contract with Canada Border Services Agency. We are grateful for the opportunity to provide our perspective and appreciate your careful consideration.

Rainbow Refugee supports and advocates with refugees seeking protection from persecution based on sexual orientation, gender identity or expression, sex characteristics (SOGIESC) or HIV status. Since 2001 we have supported LGBTQI refugees to navigate the refugee system and rebuild their lives here in British Columbia. We add our voice to the calls from Human Rights Watch, Amnesty International and legal scholars across the country when we urge you to end BC Corrections' contract with Canada Border Services Agency (CBSA).

Over the past decade, Rainbow Refugee has witnessed with alarm the use of increasingly punitive border and immigration controls by CBSA. Expanded powers to detain potential refugees for longer periods have not been balanced with oversight or review. CBSA's actions have life and death consequences. Yet, to date, CBSA has no independent civilian oversight. This was promised in 2015 by then Minister of Public Safety Ralph Goodale, but no concrete progress has been made. Canada's use of prolonged and indefinite immigration detention has been criticized by the UN as a violation of basic human rights and the rights of migrants. Federal and Provincial Supreme Courts have been harshly critical of the lack of independence and justice in the immigration detention review system. For example, the Ontario Supreme court has called the system Kafkaesque (Fine, Globe & Mail, August 2017). In the current immigration enforcement system, refugees and other migrants are subject to punitive measures and deprivation of basic rights without the protections of public oversight or the legal protections of the criminal system.

We are deeply concerned that LGBTQI refugee claimants in detention, particularly those in provincial jails, face extremely high barriers to accessing legal counsel and due process. We have seen that CBSA has used its enforcement power to gather questionable evidence against LGBTQI refugee claimants, to unnecessarily prolong detention and to rush deportations of



LGBTQI refugees before they have had access to due process. LGBTQI refugee claimants detained in provincial jails have difficulties contacting or speaking confidentially with lawyers who are LGBTQI competent and knowledgeable of the specific issues LGBTQI forced migrants face. Provincial jails are located far from the downtown Vancouver hearing rooms for refugee and immigration matters. People in immigration detention in Maple Ridge or Abbotsford jails face 4 hour drives, often hand cuffed and shackled, in the early morning hours before their hearings. For all displaced persons in detention, and in particular for survivors of SOGIESC persecution, these hours in transit cause intense distress and can trigger trauma responses. This in turn can undermine their chance of giving accurate, straightforward testimony.

CBSA's practices for detaining and questioning refugee claimants represent potential breaches of Canadian charter and human rights. For example, while under CBSA authority one of our members, a young woman who had fled a country that uses torture and capital punishment against LGBTQI people, was placed for 72 hours in an isolation cell with no clothing, no mattress and no blanket, apparently as a form of "suicide prevention." She was not connected with medical or psychological supports. She was questioned extensively over 18 hours without breaks for food or rest. She was then held in a provincial jail where she could not access competent legal counsel. The transcripts from these interviews were used by the CIC representative at her hearing to discredit her and she lost her refugee claim. She was at risk of being returned to a country where she faced arrest, torture and potentially death. Fortunately, she was eventually connected with competent counsel, and the Federal Court and the Refugee Appeal Division upheld her claim. We are sharing this anonymized example with consent, and would be willing to provide further detail to corroborate if needed.

As an organization that works with LGBTQI refugees from many different regions, we have noticed patterns of systemic racism in both the likelihood and length of detention. We see that LGBTQI migrants from African countries are more likely to be detained and detained longer than people from other regions.

Further, we have concerns about the safety of LGBTQI migrants in detention, particularly those who are Trans and Gender Diverse (TGD). The risks of harassment and violence while in detention is increased by the intersections of racism, homophobia or transphobia. We have seen that measures designed to create safety for TGD people, such as administrative segregation, can in practice exacerbate stigma, isolation and risk.

We share these concerns in hopes that you will give weight to the experiences of LGBTQI refugee claimants in your decision. The ramifications of BC Corrections' cooperation with CBSA are profound—lives, human rights and safety are at stake. Until CBSA has independent



civilian oversight and reforms its practices, contracting with CBSA to use provincial jails for immigration detention risks making BC Corrections and its staff complicit with human rights abuses.

In the longterm, Rainbow Refugee advocates community-based alternatives to detention. Seeking refugee protection is a right, and people seeking refugee protection should not be subject to detention. While these alternatives are developed, the Province of British Columbia must uphold the human rights of migrants residing here. As a critical step in making the province a place of meaningful safety and belonging for LGBTQI people seeking refuge in Canada, we urge you to end the practice of jailing people in immigration detention in BC's Corrections system.

Sincerely

Sharalyn Jordan, PhD (She/Her or They/Them)
Board Chair
Rainbow Refugee
sjordan@rainbowrefugee.ca

Aleks Doughman-Manzur (They/Them)
Co-Executive Director, Programming & Advocacy
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March 25, 2022

By email (tracey.ooms@gov.bc.ca)

Ministry of Public Safety and Solicitor General
BC Corrections

Attn: Lisa Anderson, Assistant Deputy Minister

**Re: Joint Submission to BC Corrections on Immigration Detention in
Provincial Jails**

Dear Assistant Deputy Minister Lisa Anderson:

We write on behalf of the **BC Poverty Reduction Coalition, Centre for Gender & Sexual Health Equity, Community Legal Assistance Society, Immigration and Refugee Legal Clinic, Migrant Workers Centre BC, and West Coast LEAF** to urge BC Corrections to terminate all arrangements with the Canada Border Services Agency ("CBSA") permitting the use of BC's jails for immigration detention.

The practice of detaining people awaiting the determination of their legal status in Canada is discriminatory, inhumane, contrary to principles of fundamental justice and Canada's obligations under international refugee law. Detention facilities - and particularly provincial jails - are wholly ill-equipped to meet the healthcare and socio-cultural needs of people who have come to Canada seeking refuge, safety, or opportunities to build better lives for themselves or their families. By authorizing and facilitating the use of provincial jails for immigration detention, BC is complicit in these human rights violations.

We are heartened by the province's willingness to review its immigration detention arrangements with the CBSA. As the first province to undertake such a review, the BC Government has an opportunity to turn the tide on immigration detention. For far too long, Canada has offered itself up as a safe haven for those escaping inhumane and unjust conditions abroad only to subject them to harmful and discriminatory conditions of detention here. It is long past time for BC to end its complicity in immigration detention.

We urge you to take the first step by cancelling BC's immigration detention agreement with the CBSA.

¹ Human Rights Watch and Amnesty International, *"I Didn't Feel Like a Human in There" Immigration Detention in Canada and its Impact on Mental Health* (June 2021), online (pdf): HRW <https://www.hrw.org/sites/default/files/media_2021/06/canada0621_web.pdf>.

² Migrant Rights Network, *Immigration Detention – Election Reality Check 5* (October 1, 2019), online: MRN <<https://migrantrights.ca/resources/realitycheck5/>>

³ BC Ministry of Justice, Coroner's Service, *Verdict at Coroner's Inquest, Findings and Recommendations as a Result of the Coroner's Inquest Pursuant to Section 38 of the Coroner's Act, into the death of Lucia Dominga Vega Jimenez* (October 7, 2014), online (pdf): <<https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/inquest/2014/vega-jimenez-lucia-dominga-2013-0380-0004-verdict.pdf>>.

⁴ Ministry of Public Safety and Emergency Preparedness, Canada Border Services Agency 2020-21 Departmental Plan (2020) at 20, online (pdf): CBSA <<https://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/rpp/2020-2021/report-rapport-eng.pdf>>.

⁵ CBSA, Statistics, Annual detention, fiscal year 2019 to 2020, online: <<https://www.cbsa-asfc.gc.ca/security-securite/detent/stat-2019-2020-eng.html>> and Quarterly detention statistics: Fourth quarter (Q4) fiscal year 2020 to 2021, online: <<https://www.cbsa-asfc.gc.ca/security-securite/detent/qstat-2020-2021-eng.html>>.

⁶ Kathleen Harris, “Canada Border Services Agency moves to ‘substantially’ increase deportations” *CBC News* (October 31, 2018), online: <<https://www.cbc.ca/news/politics/cbsa-deportations-border-removals-1.4873169>>.

⁷ See, e.g., Brendan Kennedy, “Canadian border agent under investigation after passport for immigration detainee deemed fraudulent” *Toronto Star* (December 11, 2020), online: <<https://www.thestar.com/news/canada/2020/12/10/canadian-border-agent-under-investigation-after-passport-for-immigration-detainee-deemed-fraudulent.html>>; Adrian Humphreys, “Canada’s bizarre – and failed – attempt to send ‘the Man With No Name’ to Africa and the mysterious fixer who made it happen” *The National Post* (January 25, 2015), online: <<https://nationalpost.com/news/canada/canadas-bizarre-and-failed-attempt-to-send-the-man-with-no-name-to-africa>>.

⁸ See, CBC Radio, *The Current*, “To No Man’s Land: The story of Saeed Jama’s deportation to Somalia” (Nov 4, 2014), online: <<https://www.cbc.ca/radio/thecurrent/a-story-of->

deportation-to-somalia-and-canada-s-voice-at-war-1.2907289/to-no-man-s-land-the-story-of-saeed-jama-s-deportation-to-somalia-1.2907291>.

⁹ *Lee v Canada (Citizenship and Immigration)*, 2022 FC 344.

¹⁰ Human Rights Watch and Amnesty International, *"I Didn't Feel Like a Human in There" Immigration Detention in Canada and its Impact on Mental Health* (June 2021) at 71, online (pdf): HRW <https://www.hrw.org/sites/default/files/media_2021/06/canada0621_web.pdf>.

¹¹ Immigration and Refugee Board of Canada, Report of the 2017/2018 External Audit (Detention Review), online: <<https://irb-cisr.gc.ca/en/transparency/reviews-audit-evaluations/Pages/ID-external-audit-1718.aspx>>.

¹² Immigration and Refugee Board of Canada, Report of the 2017/2018 External Audit (Detention Review), online: <<https://irb-cisr.gc.ca/en/transparency/reviews-audit-evaluations/Pages/ID-external-audit-1718.aspx>>.

¹³ Lisa Xing, "Canadian claiming border agency mistakenly detained him for 8 months sues for \$10M," *CBC News* (June 13, 2018) online:<<https://www.cbc.ca/news/canada/toronto/canadian-citizen-sues-border-services-agency-after-being-detained-eight-months-1.4703064>>

¹⁴ Human Rights Watch and Amnesty International, *"I Didn't Feel Like a Human in There" Immigration Detention in Canada and its Impact on Mental Health* (June 2021) at 67, fn 313,

online (pdf): HRW
<https://www.hrw.org/sites/default/files/media_2021/06/canada0621_web.pdf>.

¹⁵ Immigration and Refugee Board of Canada, Report of the 2017/2018 External Audit (Detention Review), online: <<https://irb-cisr.gc.ca/en/transparency/reviews-audit-evaluations/Pages/ID-external-audit-1718.aspx>>.

¹⁶ UN Human Rights Committee, Concluding observations on the sixth periodic report of Canada, UN Doc. CCPR/C/CAN/CO/6, August 13, 2015, para 12. See also, UN Human Rights Committee, General Comment No. 35, Article 9 (Liberty and security of the person), UN Doc. CCPR/C/GC/35, December 16, 2014, para 18.

¹⁷ See, e.g., Cleveland J. and Rousseau C., Psychiatric symptoms associated with brief detention of adult asylum seekers in Canada. *Can J. Psychiatry* 2013; 58: 409-416; Kronick R., et al., Asylum-seeking children's experiences of detention in Canada: A Qualitative Study. *Am J. Orthopsychiatry* 2015; 85: 287-94; Cleveland J. et al, Symbolic Violence and Disempowerment as Factors in the Adverse Impact of Immigration Detention on Adult Asylum Seekers' Mental Health. *International J of Public Health* (2018); 63: 1001-1008.

¹⁸ Melanie Griffiths, "Living with Uncertainty: Indefinite Immigration Detention," *Journal of Legal Anthropology* 1, no. 3 (2013): 263-86.

¹⁹ Efrat Arbel and Ketty Nivyabandi, "Will British Columbia address systemic racism in immigration detention?" (op ed) *Vancouver Sun* (March 14, 2022), online: <https://vancouver.sun.com/opinion/efrat-arbel-and-ketty-nivyabandi-will-british-columbia-address-systemic-racism-in-immigration-detention>.

²⁰ Harsha Walia, "Canada's managed migration policy" in Teresa Healy and Stuart Trew (eds.) *The Harper Record 2008-2015* at 163 (Ottawa: Canadian Centre for Policy Alternatives, 2015) online (pdf): https://policyalternatives.ca/Harper_Record_2008-2015/09-HarperRecord-Walia.pdf.

²¹ Barbra Schlifer Commemorative Clinic, Submission to the Federal Standing Committee on Citizenship and Immigration, "Migration Challenges for Canada in the 21st Century" (October 31, 2018) at 9-10, online (pdf): <https://schliferclinic.com/wp-content/uploads/2018/12/Migration.Challenges_and_Opportunities.Canada_21st-Century.pdf>

²² Barbra Schlifer Commemorative Clinic, Submission to the Federal Standing Committee on Citizenship and Immigration, "Migration Challenges for Canada in the 21st Century" (October 31, 2018) at 9-10, online (pdf): <https://schliferclinic.com/wp-content/uploads/2018/12/Migration.Challenges_and_Opportunities.Canada_21st-Century.pdf>

²³ Susan Snyder, "Looking through the Bars: Immigration Detention and the Ethics of Mysticism," *Journal of the Society of Christian Ethics* 35, no. 1 (Spring/Summer 2015): 167-87.

²⁴ Cecilia Menjivar and Leisy Abrego, *Legal Violence in the Lives of Immigrants: How Immigration Enforcement Affects Families, Schools, and Workplaces* (Washington DC: Center for American Progress, 2012).

Salina Abji and Lindsay Larios, "Migrant Justice as Reproductive Justice: Birthright Citizenship and the Politics of Immigration Detention for Pregnant Women in Canada," *Citizenship Studies* 25, no. 2 (2021): 253-72

²⁵ Ana Ballesteros-Pena, “‘Same Content in New Bottles’ in the Immigration Detention System in Canada: Impacts on Young Adults and Adult Undocumented Migrants,” in Silvia Gomes, Maria João Leote de Carvalho, and Vera Duarte (eds.) *Incarceration and Generation, Vol. 1: Multiple Faces of Confinement* (Cham: Palgrave Macmillan, 2021).

²⁶ Salina Abji and Lindsay Larios, “Migrant Justice as Reproductive Justice: Birthright Citizenship and the Politics of Immigration Detention for Pregnant Women in Canada,” *Citizenship Studies* 25, no. 2 (2021): 253-72.

²⁷ Robjant K, Hassan R and Katona C (2009) Mental health implications of detaining asylum seekers: Systematic review. *The British Journal of Psychiatry* 194: 306–312.

We urge you to cancel BC's immigration detention agreement with the CBSA. BC's jails are no place for people who have come to Canada seeking refuge, safety, or opportunities to build better lives for themselves or their families.

Yours truly,



Raji Mangat

Submitted on behalf of the following organizations:

BC Poverty Reduction Coalition
Centre for Gender & Sexual Health Equity
Community Legal Assistance Society
Immigration and Refugee Legal Clinic
Migrant Workers Centre
West Coast LEAF

About us:

The **BC Poverty Reduction Coalition** comprises 100+ organizations and community mobilizations that collectively advocate for public policy solutions to end poverty, homelessness and inequality in BC. We aim to improve the health and well-being of all living in British Columbia. The Coalition advocates for a targeted and comprehensive poverty reduction strategy that prioritizes equity-seeking groups and a whole government, cross-ministry approach to ending poverty. Our work is grounded in the foundation of universal human rights.

The **Centre for Gender & Sexual Health Equity** is a University of British Columbia and Simon Fraser University academic centre housed at Providence Health Care. The CGSHE's mission is to provide leadership in gender equity and sexual health for all in BC, Canada and globally, through rigorous community-engaged research that meets the highest scientific and ethical standards, evidence-based policy development, and the implementation of innovative, patient-centred and equity-oriented clinical and community practices through guidelines and education.

The **Community Legal Assistance Society** (CLAS) provides legal assistance to low-income and marginalized people in British Columbia in the areas of housing, income security, workers' rights, mental health, and human rights law. CLAS's activities are carried out through service and test cases; systemic advocacy and law

reform; legal supervision services to advocacy organizations; and public legal education and training. CLAS's BC Human Rights Clinic provides information, referrals, legal advice, advocacy, and legal representation services to eligible complainants.

The **Immigration and Refugee Legal Clinic** provides free legal advice and representation, with interpretation services, for low-income people whose cases are not covered or easy to serve in the traditional legal aid system. Alongside our casework, we advocate for change on issues that repeatedly come up for our clients by engaging in systemic litigation and law reform efforts. We provide legal education to community groups and service providers across BC. Clinic staff also serve as mentors to law students and junior lawyers interested in the refugee and immigration law field.

The **Migrant Workers Centre** is a non-profit organization dedicated to legal advocacy for migrant workers in BC. Established in 1986, MWC facilitates access to justice for migrant workers through the provision of free legal advice and representation. MWC also works to advance fair immigration policy and improved labour standards for migrant workers through public legal education, law and policy reform, and test case litigation.

West Coast LEAF uses legal strategies to address gender-based discrimination and harm in BC and across Canada. Founded in 1985, we work to connect communities directly impacted with efforts to reform the laws, policies and government actions that shape their experiences of gender justice. In 2018, the organization's mandate expanded to recognize that gender-based inequalities threaten the safety, well-being and human rights not only of women, but also of Two-Spirit people, intersex people, gender non-conforming people, trans people of all genders and people with non-binary gender identities.

March 28, 2022

Assistant Deputy
BC Corrections
Ministry of Public Safety and Solicitor General
PO Box 9278 Stn Prov Govt
Victoria, BC V8W 9J7

Dear Lisa Anderson,

Thank you for your letter of February 25, 2022, and the opportunity for John Howard Society (JHS) of British Columbia (BC) to provide input on the province's contract arrangements with the Canadian Border Services Agency (CBSA) to house immigration detainees in BC's correctional facilities. We understand this invitation to flow from Deputy Solicitor General Michael Farnworth's January 2022 commitment to review these arrangements pursuant to the Human Rights Watch/Amnesty International report *"I Didn't Feel Like a Human in There: Immigration Detention in Canada and its Impact on Mental Health"*.

We understand that, like the general population, new entrants to Canada may include some individuals who pose a degree of public safety risk. Most will not. We believe the system that serves them needs to be both sensitive and appropriately responsive, on an individual-by-individual basis, to the degree of risk. We fundamentally oppose the criminal treatment of people who are not criminals. JHSBC supports the province's decision to review its arrangements with CBSA and suggests that continuing arrangements be guided by the following.

1. Any arrangement should be fully assessed against, and modified as needed to align with the *UN Universal Declaration of Human Rights* <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
2. The assessment of individual immigrant risk should fully recognize that one-size does not fit all. Community-based residential options, along with necessary health, mental health and social supports, should be available in addition to or instead of prisons.
3. Processes that lead to arrest, limitations on privacy and restrictions on fundamental personal freedoms including incarceration need to be transparent and subject to criminal standards of accountability, due process, proof and evidence.
4. Incarceration is not the preferred, and should not be the default option for immigrant detainees. Criminalization and stigmatization of people who are not criminals, including restrictive and punitive measures on par with those imposed on people who have been convicted in a criminal court, should not be permitted.

.../2

5. The treatment of people in Canada's immigration system should be sensitive to their human needs, including avoidance of re-traumatisation and access to health and mental health supports when needed.

Thank you for the opportunity to provide our views. JHSBC remains available to participate in further discussions and consultations as BC's policy in this area develops.

Yours truly,



Henry Mathias
Board Chair
The John Howard Society of British Columbia

MM:scb

Stakeholder	First name	Last name	Title	Email
Amnesty International Canada	Ketty	Nivyabandi	Secretary General	knivyabandi@amnesty.ca
Association of World Citizens	Bernard	Henry	External Relations Officer	awc.externalrelations@yahoo.com
Attorney General and Minister responsible for Housing (joint submission with Migrant Workers Centre)	Marcia	Marchenski	Investigation and Standards Office	marcia.marchenski@gov.bc.ca
BC Civil Liberties Association	Meghan	McDermott	Policy Director Barrister & Solicitor	meghan@bccla.org
	Mara	Selanders	Staff Counsel	Signed their response too
BC's Office of the Human Rights Commissioner	Kasari	Govender	Commissioner	commissioner@bchumanrights.ca
Canada Border Services Agency	Scott	Harris	Vice President, Intelligence and Enforcement Branch	scott.harris@cbsa-asfc.gc.ca
Connective	Pat	Alexander	Board Chair	info@connective.ca
Human Rights Watch	Samer	Muscatti	Associate Director, Disability Rights Division	muscatts@hrw.org
Immigration Detention Monitoring Program, Canadian Red Cross	Mahak	Mahmoodi	Officer	mahak.mahmoodi@redcross.ca
	Denis	Akoulov	Manager, Canadian Operations Programs	Denis.akoulov@redcross.ca
John Howard Society of Victoria	Hank (Henry in response)	Mathias	Board Vice President	jhs@jhsvic.ca
Migrant Rights Network				info@migrantrights.ca
Migrant Workers Centre (Joint submission with AG and Minister Responsible for Housing/Marcia Marchenski)	Natalie	Drolet	Executive Director	info@mwcbc.ca
Mosaic BC	Olga	Stachova	Chief Executive Officer	info@mosaicbc.org
Office of the Ombudsperson	Jay	Chalke	Ombudsperson	jmchalke.OMBD@bcombudsperson.ca
Prisoners' Legal Services	Jennifer	Metcalfe	Executive Director	jmetcalfe@pls-bc.ca
Sanctuary City Vancouver				sanctuaryhealthvancouver@gmail.com
SWAN Vancouver	Allison	Clancey	Executive Director	info@swanvancouver.ca

Commented [SLL1]: Yellow = they submitted something

Also submitted to review (but we didn't email them directly):

Healthcare providers open letter – 140 co-signers	Mei-ling	Wiedmeyer	MD	(top name on list)
Mennonite Church British Columbia	Rev. Garry	Janzen	Executive Minister	Garryjanzen@mcbbc.ca
Investigations and Standards Office	Katherine	Regan	A/Deputy Director	Katherine.Regan@gov.bc.ca
BC Poverty Reduction Coalition; Centre for Gender & Sexual Health Equity; Community Legal	Raji	Mangat	ED of West Coast LEAF	info@westcoastleaf.org

Assistance Society; Immigration and Refugee Legal Clinic; Migrant Workers Centers; West Coast LEAF			Submitted on behalf of all those organizations ←	
"Lawyers and legal representatives [...] academic scholars [...] from across Canada"	Dr. Efrat	Arbel	Associate Professor, UBC	arbel@allard.ubc.ca 123 co-signers
Rainbow Refugee	Sharalyn	Jordan, PhD	Board Chair	sjordan@rainbowrefugee.ca
	Aleks	Doughman-Manzur	Co-Executive Director	Programming.director@rainbowrefugee.ca
Private citizen	Abdelrahman	Elmady		Submitted by HRW/AI
Private citizen	Sara Maria	Gomez Lopez		Submitted by HRW/AI

Recent CBSA-related correspondence:

Human Rights Watch	Subhajit	Saha	(and co-signers)	Sahas@hrw.org