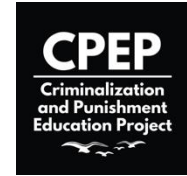




CANADIAN
CIVIL LIBERTIES
ASSOCIATION



ASSOCIATION
CANADIENNE DES
LIBERTES CIVILES



Update on COVID-19 and prison settings: Increased crowding behind bars, outbreaks with new COVID-19 variants, most prisoners remain unvaccinated

20 March 2021 marks the one-year anniversary since reports emerged that a staff member at [Toronto South Detention Centre](#) and a contractor at [South West Detention Centre](#) contracted COVID-19, the first coronavirus cases linked to Canadian prisons. Days later, an incarcerated person at [Toronto South Detention Centre](#) became the first prisoner to test positive for COVID-19 in Canada. Since that time, [more than 7,000 cases](#) of COVID-19 have been linked to Canadian prisons, including over 5,000 infections amongst prisoners.

At the outset of the pandemic, all Canadian jurisdictions reduced their prison populations in an effort to increase the space available to promote physical distancing and decrease the number of prisoners that could be exposed to COVID-19 should outbreaks occur. After an initial decrease in prison population counts at the provincial-territorial level, by September 2020 the number of people held in most of Canada's provincial-territorial jails and prisons steadily increased.

Despite higher rates of COVID-19 transmission during the second wave and the spread of new variants as we enter a third wave, the best available data shows that provincial jails and prisons in Nova Scotia, Ontario, and British Columbia are detaining more individuals than they were at the end of the first wave. In most jurisdictions, vaccination campaigns targeting prison settings have yet to begin.

The combination of three factors – increased crowding, the continued spread of COVID-19 including variants of concern, and low levels of vaccination – are a threat to the health of prisoners, prison staff, as well as the broader community. The Prison Pandemic Partnership is calling upon federal, provincial and territorial governments to act now by ramping efforts to divert and decarcerate people from custody accompanied by supports in the community such as housing. We also call on governments to offer vaccines to prisoners and prison staff at the earliest opportunity based on the advice of public health officials. Such measures are needed to limit further spread of the coronavirus and any further deterioration of conditions of confinement, which undermine public health and safety behind and beyond prison walls.

Incarceration rates have been rising in many parts of the country since the end of the first wave

While prison populations decreased in many provinces and territories during the first few months of the pandemic, the most recent report by [Statistics Canada](#) shows that by September 2020 the number of prisoners had increased in several jurisdictions (see *Table 1*). Based on [limited data](#) made available by some governments in recent months, several provincial-territorial prisons have continued to become more crowded as COVID-19 cases surged.

Table 1: Prisoner Count Changes During the Pandemic Across Canada

	February 2020 (pre-pandemic)	June 2020		September 2020		2021 data, various dates	
	Prisoner count	Prisoner count	% change from pre-pandemic	Prisoner count	% change from pre-pandemic	Prisoner count	% change from pre-pandemic
Overall	37,976	30,580	-19.5%	32,141	-15.4%	TBD	N/A
Correctional Service Canada (Federal)	13,891	13,141	-5%	12,761	-8.1%	12,500 (11 January 2021)	-10%
Newfoundland and Labrador	310	187	-40%	332	+7.1%	Not publicly disclosed	N/A
Prince Edward Island	114	94	-17%	115	+0.9%	93 (15 March 2021)	-18.4%
Nova Scotia	440	268	-39%	325	-26.1%	334 (10 January 2021)	-24.1%
New Brunswick	450	358	-20%	417	-7.3%	Not publicly disclosed	N/A
Quebec	4,381	3,383	-23%	3,961	-9.6%	3,683 (18 March 2021)	-15.9%
Ontario	8,269	5,811	-30%	6,315	-25.8%	7,111 (2 March 2021)	-14%
Manitoba	2,238	1,688	-25%	1,804	-19.4%	Not publicly disclosed	N/A
Saskatchewan	1,984	1,537	-23%	1,771	-10.7%	1,631 (1 January 2021)	-17.8%
Alberta	3,384	2,370	-30%	2,582	-23.7%	Not publicly disclosed	N/A
British Columbia	2,193	1,474	-33%	1,445	-34.1%	1,550 (22 January 2021)	-29.3%
Nunavut	122	118	-3%	135	+10.7%	Not publicly disclosed	N/A
Northwest Territories	143	112	-22%	120	-16.1%	Not publicly disclosed	N/A
Yukon	56	39	-31%	45	-19.6%	Not publicly disclosed	N/A

* February to September 2020 data compiled by Statistics Canada ([10 March 2021](#)).

Based on the limited data disclosed in 2021, prison populations have decreased in Prince Edward Island, Quebec, and Saskatchewan in recent months. Neither PEI nor Saskatchewan, however, has returned to the lower rates of incarceration achieved in those jurisdictions in April and May respectively, and Quebec has maintained relatively high in-custody counts throughout the pandemic. Incarceration rates in Ontario, British Columbia and Nova Scotia have continued to rise since September. The data also indicates that the federal penitentiary population continued to modestly decline as recently as January 2021. It is unknown whether the size of prison populations have changed recently in Newfoundland and Labrador, New Brunswick, Manitoba, Alberta, and the territories, but incarceration rates increased in all these jurisdictions between June and September 2020. Nunavut and Newfoundland and Labrador are the only jurisdictions that were imprisoning more people in their jails and prisons by September 2020 than prior to the start of the pandemic.

The rising incarceration rates in some jurisdictions, particularly in Ontario where a number of provincial jails and prisons have experienced large outbreaks since [December 2020](#), is deeply concerning. Crowded congregate settings are susceptible to large outbreaks of COVID-19. Infection control measures like physical distancing and cohorting cannot be put in place without significantly reducing the number of people behind bars. Higher incarceration rates also increase the likelihood that prisons will rely on torturous conditions of confinement to respond to possible or confirmed cases of COVID-19, including prolonged solitary confinement.

Continued COVID-19 outbreaks linked to carceral settings, including outbreaks of variants of concern

Cases of COVID-19 linked to carceral settings have continued to increase over the past few months. In the federal prison system, COVID-19 cases more than doubled during the second wave of the pandemic according to the [Office of the Correctional Investigator of Canada](#). As of 18 March 2021, there had been over 5,000 prisoners in Canada infected with COVID-19 among the more than 7,000 cases are linked to Canada’s jails, prisons and penitentiaries (see *Table 2*).

New outbreaks in provincial and federal institutions continue to emerge, including confirmed outbreaks of some COVID-19 variants of concern. According to [public health officials](#), a variant becomes a “variant of concern” when its changes affect one or more of: “transmissibility (spread), virulence (severity of disease), vaccine effectiveness, and diagnostic testing”. The currently identified variants of concern seem to render the virus more infectious, which allows the virus to spread more easily, and may also impact the severity of the disease.

In Ontario, there have been at least 16 outbreaks at provincial jails and prisons since [December](#). Two of these outbreaks – one at Toronto South Detention Centre in mid-March and the second at Maplehurst Correctional Complex in Milton, Ontario – have involved variants of concern. At [Toronto South Detention Centre](#) site-wide testing at the jail confirmed that of the 70 cases linked to the outbreak as of March 16, just over half screened positive for variants of concern.

Table 2: Canadian Jurisdictions with Reported COVID-19 Cases Linked to their Prisons as of 18 March 2021

Jurisdictions	Prisoners	Staff	Contractors	Unspecified	Total
Overall	5,045	1,713	6	265	7,029
Correctional Service Canada	1,424	566	0	0	1,990
Nova Scotia	<u>1</u>	0	0	0	1
New Brunswick	0	<u>2</u>	0	0	2
Quebec	530	294	0	0	824
Ontario	1,034	338	4	0	1,376
Manitoba	468	119	0	0	587
Saskatchewan	454	136	0	0	590
Alberta	1,006	209	2	265	1,482
British Columbia	128	49	0	0	177

* As of 18 March 2021 the following jurisdictions had no reported COVID-19 cases linked to their provincial-territorial jails: Newfoundland and Labrador; Prince Edward Island; Nunavut; Northwest Territories; and Yukon.

In Alberta, the ongoing outbreak at Drumheller Institution, a medium-security federal institution, prompted the Public Health Agency of Canada and Correctional Service of Canada to request assistance from the [Canadian Red Cross](#). As of 18 March 2021, Correctional Service of Canada reported there were a total of 151 prisoners who had been infected, with [21 active cases](#) remaining at the institution. At least [20 staff cases](#) have been linked to this outbreak.

The vast majority of prisoners and prison staff are still waiting to be vaccinated

Canada’s National Advisory Committee on Immunization states that, where vaccine supply is limited, governments need to prioritize and protect the most vulnerable populations including those in long-term care facilities, prisons, hospitals and shelters. It is not clear, however, that this guidance is being followed in all jurisdictions. Only some provinces and territories clearly include vaccinations in jails and prisons in their phased roll out plans (see *Table 3*).

In [mid-January](#) it was reported that only two jurisdictions – the Northwest Territories and the Yukon – planned to provide vaccinations to prisoners immediately. Since then, Prince Edward Island has indicated that its provincial prisons would be included in phase 1 of the province’s vaccine roll-out plan. The Nunavut government also indicated that crowded facilities such as homeless shelters and prisons would be among the first to receive the vaccine, but no timeline has been provided. British Columbia, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador are targeting prisoner and staff vaccinations for phase 2 in each of the respective jurisdictions.¹ Manitoba has hinted at possible April

¹ Ontario, along with Newfoundland and Labrador, have indicated that vaccinations in provincial jails and prisons will occur in phase 2, which is expected to begin in April in both provinces. Nova Scotia has also included these facilities in phase 2, which is expected to begin in May. New Brunswick has not provided a timeline for prisoner vaccinations, but the [Canadian Press](#) has reported that they are targeted for phase two, which is expected to begin in April.

vaccinations in provincial jails and prisons. To our knowledge, Quebec and Saskatchewan have not published any information regarding the plans for prisoner vaccinations.

Table 3: Prison vaccination plans and timelines as of 18 March 2021

Jurisdiction	Plans for prisoner vaccinations	Progress on prisoner vaccinations
Correctional Service Canada (Federal)	Phase 2	600 prisoners thus far
Newfoundland and Labrador	Phase 2	Province targeting April for phase 2 of vaccine roll out
Prince Edward Island	Phase 1	No clear reports, but phase 1 should be almost complete
Nova Scotia	Phase 2	Province targeting May for phase 2 of vaccine roll out
New Brunswick	Phase 2	Province targeting April for phase 2 of vaccine roll out
Quebec	No plans disclosed	Unknown
Ontario	Phase 2	Province targeting April for phase 2 of vaccine roll out
Manitoba	No plans disclosed	Unknown
Saskatchewan	No plans disclosed	Unknown
Alberta	Phase 2C	Province targeting April for phase 2C of vaccine roll out
British Columbia	Phase 2	Phase 2 roll out began in March, with vaccinations in jails and prisons slated to begin in April
Yukon	In early January government stated vaccinations would start in mid-January	No reports, but all adults currently eligible
Northwest Territories	In early January government stated vaccinations would start in mid-January	No reports, but all adults currently eligible
Nunavut	Government has identified this group as a priority	Unknown as no timeline provided for priority vaccination plans

To date, not one province or territory has publicly reported what progress, if any, has been made in offering vaccines to prisoners. Based on the vaccine distribution plans reviewed above, however, it is clear that in most jurisdictions the vast majority of prisoners have not yet been offered a vaccine. It is possible that larger scale prison vaccination efforts have begun in British Columbia, Prince Edward Island, the Yukon and the Northwest Territories.² Other jurisdictions have not entered the stage of their

² [British Columbia](#) began phase 2 of their vaccination roll out on March 8. Vaccinations in its provincial jails and prisons are to begin in April 2021. Prince Edward Island expects phase 1 of vaccinations to be complete by the end of March, so all prisoners should be vaccinated by then, in line with their vaccination plan. All adults over 18 in Yukon are currently eligible

vaccine roll out that includes prisons, and there have only been [sporadic reports](#) of some prisoners being vaccinated where they are part of other priority groups (e.g. elderly, Indigenous people) identified for phase 1 of the vaccine distribution plans.

Based on information disclosed by the [Correctional Service of Canada](#) earlier this year, 600 federal prisoners deemed most at-risk of severe complications should they contract COVID-19 were vaccinated during phase 1 based on the advice of Canada's National Advisory Committee on Immunization to prioritize elderly people housed in congregate care settings. Details concerning the roll-out of phase 2 of vaccinations in federal penitentiaries for prisoners is unknown, while staff in these federal institutions will be vaccinated by the provinces according to their respective vaccination guidelines.

Ongoing lack of transparency with respect to COVID-19 infections, prison population counts and vaccination efforts

Throughout the past year, the Prison Pandemic Partnership has been researching the impact of COVID-19 on jails, prisons and penitentiaries across Canada. For the past several months, this research has involved filing Access to Information and Freedom of Information requests with federal, provincial, and territorial authorities. We have encountered significant barriers to accessing government data on the depth of the crisis behind prison walls and the measures taken to mitigate it.

As we enter the second year of the pandemic, many jurisdictions are still not providing basic information such as the number of prisoners and prison staff who have contracted COVID-19 in a timely manner. While some jurisdictions like Prince Edward Island have fulfilled their commitment to information disclosure by releasing previously unpublished records in a timely and accessible fashion, other jurisdictions are restricting the release of information. For instance, although Ontario does proactively release some data on COVID-19 spread in provincial jails and prisons amongst incarcerated people, the government has indicated that the more detailed information we have requested will incur several thousands of dollars in processing fees. These records are most certainly in the public interest as matters pertaining to public health and community safety, however, at this time we are seeing secrecy and obfuscation more than transparency. Governments across the country should be proactively disclosing all records concerning the impact and management of COVID-19 behind prison walls.

About the Prison Pandemic Partnership

The Prison Pandemic Partnership brings the Centre for Access to Information and Justice (CAIJ), the Criminalization and Punishment Education Project (CPEP), and the Canadian Civil Liberties Association (CCLA) together to examine the impact of COVID-19 on jails, prisons, and penitentiaries across the country. The Social Sciences and Humanities Research Council of Canada funds the partnership.

to be vaccinated, so prisoners should currently be receiving vaccinations. Northwest Territories has indicated that all eligible adults are able to get the vaccination as of the beginning of March, which should include prisoners.