

Mouvement Communitas  
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March 26, 2020

The Honourable Bill Blair  
Minister of Public Safety  
House of Commons  
Ottawa, Canada  
K1A 0A6

Commissioner Anne Kelly  
Correctional Service Canada  
340 Laurier Avenue West  
Ottawa, ON  
K1P 0P9

Re: Corrections and Conditional Release during COVID-19

Dear Minister Blair and Commissioner Kelly,

Communitas is a non-profit community organization operating CoSA and various other social reintegration programs in Montreal in collaboration with the criminal justice system, faith communities, and other relevant actors for the safe and lawful return of federal offenders into free society. We are writing today out of concern over the impact of the COVID-19 crisis on Canada's prison population, and, by extension, on the health and safety of all Canadians.

The heightened threat COVID-19 constitutes for our prison populations has been acknowledged by all the involved parties, including your offices. We recognize that this challenge to your responsibility to protect Canadians, both inside and outside the walls, is a daunting one, and we are aware that you are actively struggling to meet it. Yet, like the many organizations who have already written on this issue, we are convinced there are other crucial steps which should be taken.

A number of legal avenues exist which would allow you to effect a drastic reduction in the populations of the penitentiaries and residential facilities without, however, throwing out the bedrock principle of public safety. At the same time, we contend that in this new reality, the traditional approach to evaluation of risk serving to maintain current levels of incarceration would create a deadly different sort of risk coming from another direction. The judiciary have begun to abide by this imperative in their own risk assessments. In *R. vs. J.S.*, 2020 ONSC 1710, the Ontario Superior Court, in granting bail, ruled,

"In my view, the greatly elevated risk posed to detained inmates from the coronavirus, as compared to being at home on house arrest is a factor that must be considered in assessing the tertiary ground. I want to be clear that

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I am not suggesting any failure of the correctional authorities to take appropriate steps to attempt to keep inmates healthy, and to attempt to limit the spread of the virus. But I take notice of the fact, based on current events around the world, and in this province, that the risks to health from this virus in a confined space with many people, like a jail, are significantly greater than if a defendant is able to self-isolate at home. (...) I note that this factor concerns not only Mr. S.'s own health, but also the preservation of scarce hospital resources to treat patients. If more people are infected, those resources will be more strained. This factor must, of course, be balanced with the other tertiary ground factors.”

The message here is that it now is legitimate, indeed, required, to place the dangers of continued incarceration on the scale when weighing the risk of release.

It is patent that a safe way to release a great number of offenders could be found if the competent authorities were to cast an expeditious eye in their direction. A glaring example is found in the residential facilities, where offenders already judged safe to circulate in the community are often triple bunked, and are denied all hope of practicing safe hygiene. But the potential for release is not limited to the halfway houses, or even to the minimum security institutions. There are plausible candidates throughout the system waiting on parole eligibility dates, on the preparation of reports, on a date for an in-person hearing. Others, afflicted by the frailties that come with old age and pre-existing medical conditions, are pre-ordained to succumb to the coming explosion of coronavirus if they are not quickly removed from the carceral environment.

As for those who must remain incarcerated, other practical measures to enhance their safety have been proposed by the Correctional Investigator and many others. We encourage you to embrace these constructive suggestions.

We trust you will exercise courage and creativity in making novel use of the existing legal tools to get our incarcerated fellow Canadians to a safer place before they suffer the ravages of this relentless foe.

Wishing you and those around you good health throughout this crisis, I remain

Yours truly,

Peter Huish,  
Chairperson of the Board  
Communitas Inc.