

CBSA Management Response and Action Plan (MRAP) to the Canadian Red Cross 2017-2018 Annual Report

INTRODUCTION

The Canada Border Services Agency (CBSA) welcomes the Canadian Red Cross' (CRC) *2017-2018 Annual Report* including its observations and recommendations resulting from its Immigration Detention Monitoring Program. The CBSA views the program as a crucial safeguard for detainees and as a means to continually improve detainee treatment and well-being. As part of the [National Immigration Detention Framework](#) (NIDF) announced in August 2016, the CBSA is working to create a better and fairer immigration detention system whereby persons are treated with compassion and dignity while upholding public safety. With a \$138 million investment, the CBSA is taking determined action to address long-standing challenges in immigration detention related to infrastructure, policy, operational procedures and detainee health and welfare by:

- Establishing adequate, cost-effective and efficient immigration holding centres (new or retrofitted facilities) for immigration detention along with better programming;
- Expanding alternatives to detention (ATD) to establish a comprehensive, nationally available ATD program (launched July 2018) and increasing their use;
- Reducing reliance on provincial correctional facilities for immigration detention and relying mostly on CBSA Immigration Holding Centres (IHCs);
- Increasing medical and mental health care for individuals in CBSA IHCs;
- Reducing to the greatest extent possible the number of minors, vulnerable persons and long-term detainees in detention;
- Providing consistent detention standards and level of care across the country; and,
- Enhancing program transparency by publishing [immigration detention statistics](#) and strengthening engagement with [stakeholders](#) and [Canadians](#).

In reaching these goals, the CBSA has maintained a long-standing relationship with the CRC which has been monitoring the immigration detention program since 1999. In line with the objectives of the NIDF, the CBSA entered into a contractual arrangement with the CRC in July 2017. The contract allows for the CRC to provide expanded monitoring services (more visits to more facilities) for detainees held in detention facilities across Canada, to ensure they are held and treated in compliance with applicable domestic standards and international obligations to which Canada is signatory. The CRC delivers regular and robust reporting on its monitoring activities as well as a national annual report outlining its findings and recommendations. The following is the CBSA Management Response and Action Plan which outlines the actions that will be taken by the CBSA to address the CRC findings and recommendations.

RECOMMENDATION 1- Co-mingling

1. The Canadian Red Cross (CRC) recommends that the CBSA leverage the initiative taken by Fraser Regional Correctional Centre, which has a dedicated unit for persons detained under IRPA to minimize co-mingling, and to ensure that immigration detainees are separated from sentenced and remanded individuals at all times while in provincial correctional facilities. The system in place in the Quebec region is also worth considering as it lessens the incidence of co-mingling.

MANAGEMENT RESPONSE	
<p>The CBSA agrees with the recommendation and acknowledges that co-mingling in provincial correctional facilities is a persistent issue, and as such, is taking a two-pronged approach to address it:</p> <ol style="list-style-type: none"> 1. Reducing reliance on the use of provincial correctional facilities. The following initiatives support this objective: <ul style="list-style-type: none"> • Reduce detention (and by extension the use of provincial correctional facilities) through broader use of ATDs such as voice reporting, community case management and electronic monitoring (pilot in the Greater Toronto Area (GTA)). • Implement (December 2017) and update (Q1 2019-20) the national policy and procedures on detention oversight and governance to ensure detention decisions are sound, well-articulated and include regional accountability. • Apply to other regions the Quebec model (whereby only the highest risk detainees are held in provincial correctional facilities and the majority are held in the IHC) once the infrastructure replacement and retrofit initiatives in Surrey and the GTA are completed (Spring 2019). • Develop procedures to facilitate the inter-provincial or inter-city transfer of detainees to an IHC when they are being held in provincial facilities in areas not served by an IHC. 2. Improving treatment and well-being of detainees held in provincial correctional facilities. The following initiatives support this objective: <ul style="list-style-type: none"> • Replicate as widely as possible the model established by the Fraser Regional Correctional Centre in British Columbia, whereby a unit in a facility is dedicated to immigration detention. • Continue to negotiate with the remaining provinces, memoranda of understanding (MOUs) which include provisions to eliminate or minimize co-mingling to the greatest extent possible. 	
MANAGEMENT ACTION PLAN	COMPLETION DATE
Begin the transfer of some higher-risk detainees held in provincial correctional facilities to IHCs once construction of the GTA and Surrey facilities is completed.	Q1 2019-20
Develop and implement procedures for transfer of detainees between regions to optimize the use of IHCs.	Q1 2019-20
Continue to negotiate with Ontario a dedicated unit for immigration detention in one of their detention facilities within the Greater Toronto Area.	Q2 2019-20

<p>Establish immigration detention MOUs with remaining provinces that include provisions to eliminate or minimize co-mingling to the greatest extent possible when volumes and space permit and to secure access to provincial correctional facilities for CRC monitoring activities.</p>	<p>Q1 2019-20</p>
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RECOMMENDATIONS 2a) to 2c) - Legal Guarantees and Safeguards

- 2 a) The CRC recommends that the CBSA provide printed information on detainees’ rights in multiple languages to all facilities where immigration detainees may be placed. The CBSA’s “Information for people detained under the *Immigration and Refugee Protection Act*” and the CBSA’s booklet “Orientation to Immigration Detention in the Pacific Region” could be used as examples.

<p>MANAGEMENT RESPONSE</p> <p>The CBSA agrees with this recommendation and recognizes that persons detained in provincial correctional facilities do not consistently receive printed information and when they do, depending on facility rules, they may not be permitted to keep possession of the printed material.</p> <p>For persons detained in IHCs, the CBSA provides, to all individuals who are arrested and detained, an orientation kit with the publication <i>Information for People Detained Under the Immigration and Refugee Protection Act</i> (BSF5012 - available in 16 languages) which includes information about their rights and obligations and reasons for detention, as well as other information that may be helpful while in detention (i.e., meal and visiting hours, emergency and safety procedures, etc). Detainees are permitted to keep this orientation kit in their possession throughout their stay.</p> <p>For persons detained in provincial correctional facilities, the CBSA generally provides the publication (BSF5012) to individuals upon arrest and detention; however, depending on the circumstances of arrest, arresting officers may not have immediate access to the publication or may not have a copy in the desired language, or if they do, facility rules may prevent the individual from keeping the information in their possession while in detention. In this respect, the CBSA will seek to set a 48-hour service standard around first contact with a CBSA Officer to:</p> <ul style="list-style-type: none"> ○ ensure the detainee received the publication <i>Information for People Detained Under the Immigration and Refugee Protection Act</i>; ○ ensure they understand why they are being held and their legal rights while in detention; ○ answer or, where appropriate, relay to provincial correctional facility management, any questions or concerns the detainee may have about the facility, including how to access medical care, legal representation, phones, family visits, available programs and services, facility rules and disciplinary processes. <p>The CBSA DLO is a dedicated resource available to immigration detainees held in provincial correctional facilities. The role of the DLO is to meet with detainees to assess their well-being and to answer any questions or concerns that they may have with regard to their particular case and act as a liaison between the CBSA and correctional facility management.</p> <p>The CBSA will take additional actions to ensure consistency in detainee access to printed information.</p>

MANAGEMENT ACTION PLAN	COMPLETION DATE
Share the web links to the publication <i>Information for People Detained Under the Immigration and Refugee Protection Act</i> with all provincial correctional facilities used for immigration detention and emphasize the importance of detainees maintaining or gaining access upon request to this information throughout their detention.	Q4 2018-19
Implement a 48-hour service standard for first contact with a CBSA Officer to ensure that all detainees receive printed material in the preferred language and to address detainee questions or concerns related to their detention.	Q2 2019-20
Develop and implement a checklist for DLOs and IEOs working in provincial facilities and IHCs, to ensure national consistency in the delivery of information to detainees at the initial meeting.	Q2 2019-20

2 b) The CRC recommends providing additional verbal and written orientation information to immigration detainees upon admission in a language and format they understand, outlining how to access medical care and legal representation, use of phones, family visits, programs and services available, facility rules and disciplinary processes.

MANAGEMENT RESPONSE
<p>The CBSA agrees with the recommendation.</p> <p>For persons detained in IHCs, a CBSA IEO will normally within 48 hours meet with a newly admitted detainee to:</p> <ul style="list-style-type: none"> ○ ensure the detainee received the orientation kit (including the printed material and publication <i>Information for People Detained Under the Immigration and Refugee Protection Act</i>); ○ ensure they understand why they are being held and their legal rights while in detention; ○ provide orientation (with the use of an interpreter as required) on the facility, including how to access medical care, legal representation, phones, family visits, available programs and services, facility rules and disciplinary processes; and, ○ answer any questions or concerns. <p>For persons detained in a provincial correctional facility, orientation is guided by the facility and provincial procedures and standards. Upon admission, provincial facilities make every effort to communicate with the detainee in a way that facilitates an understanding of the rules and processes including using an interpreter as needed.</p> <p>In efforts to consolidate orientation received by the provincial correctional facility, the CBSA will seek to set a 48-hour service standard around first contact with a CBSA Officer to:</p> <ul style="list-style-type: none"> ○ ensure the detainee received the publication <i>Information for People Detained Under the Immigration and Refugee Protection Act</i>; ○ ensure they understand why they are being held and their legal rights while in detention;

<ul style="list-style-type: none"> ○ answer or, where appropriate, relay to provincial correctional facility management, any questions or concerns the detainee may have about the facility, including how to access medical care, legal representation, phones, family visits, available programs and services, facility rules and disciplinary processes. 	
MANAGEMENT ACTION PLAN	COMPLETION DATE
Review and assess whether additional information is required in the detainee publication and regional orientation package and update as required.	Q1 2019-20
Implement a 48-hour service standard for first contact with a CBSA Officer to ensure that all detainees receive printed material in the preferred language and to address detainee questions or concerns related to their detention.	Q2 2019-20
Develop a checklist for DLOs and IEOs working in provincial facilities and IHCs, to ensure national consistency in the delivery of information to detainees at the initial in-person meeting.	Q2 2019-20

- 2 c) The CBSA previously facilitated some detainees' access to Legal Aid, and it is recommended that the CBSA intensify these procedures and establishes them as a regular practice through connecting detainees to the relevant department at Legal Aid and supporting their access to effective legal support for their immigration cases and detention reviews.

MANAGEMENT RESPONSE	
<p>The CBSA accepts the recommendation.</p> <p>The Agency is in discussion with the legal community to provide the CBSA with a counsel contact list that may be provided to detainees upon admission to a facility. In assessing amendments to the detainee publication and orientation kit, the CBSA will review how contact lists are made available to detainees so that appropriate referrals to counsel or accredited consultants may be made.</p>	
MANAGEMENT ACTION PLAN	COMPLETION DATE
Share contact list provided by the legal community with detainees.	Q2 2019-20

RECOMMENDATIONS 3 AND 4 - Access to Services

3. The CRC recommends that the Canadian authorities ensure that immigration detainees have on-site access to medical services, including mental health support, regardless of their place of detention.

MANAGEMENT RESPONSE	
<p>The CBSA agrees with the recommendation.</p> <p>Under the National Immigration Detention Framework (NIDF), funding was provided through the Interim Federal Health Program (IFHP) to expand and standardize access to health services for immigration detainees held in an IHC. Currently the Laval (since October 2018) and GTA IHCs (since April 2016) provide 24/7 access to a nurse on-site, as well as access to a physician, psychologist and psychiatrist as required. Should detainees held in the IHC in Vancouver International Airport (maximum stay of 48 hours) require medical care, they are taken to a local health care facility (hospital or clinic). Once the Surrey IHC is operational in Spring 2019, all IHCs will provide standardized health services: 24/7 access to a nurse on-site, and access to a physician, psychologist and psychiatrist as required seven day a week.</p> <p>Detainees held in a provincial correctional facility will continue to receive basic health care coverage under provincial health care plans, through dedicated medical staff at the facility.</p> <p>Further, in 2019, the CBSA will be hiring a Medical Officer whose primary responsibility will be to support the administration of an immigration detention medical program within the CBSA, which will help ensure equitable access to health care for all detainees, regardless of their place of detention.</p> <p>The CBSA will continue to explore mechanisms to better support detainees and those released on an alternative to detention with acute medical and mental health needs, with partners in the community, provinces and other government departments.</p>	
MANAGEMENT ACTION PLAN	COMPLETION DATE
Finalize expansion and improve medical services at all IHCs.	Q1 2019-20
Hire a Medical Officer to support the administration of an immigration detention medical program within the CBSA.	Q3 2019-20
Develop options for continued care for individuals released from detention, but suffering from acute medical and mental health concerns.	Q3 2019-20

4. The CRC recommends that the CBSA ensure immigration detainees have access to recreational and educational programs regardless of their place of detention.

MANAGEMENT RESPONSE	
<p>The CBSA agrees with the recommendation.</p> <p>Access to recreational activities are currently offered at the IHCs in the Greater Toronto Area and in Laval and will be offered at the Surrey IHC once the new facility opens in Spring 2019. IHCs offer educational services to minors if their stay is longer than seven days. The Agency is also revising its National Detention Standards, including one that outlines and establishes practices for recreational activities.</p> <p>Access to recreational and educational programs in provincial correctional facilities are guided by the operating procedures of individual institutions and their governing legislation. Aligned with provisions in most provincial agreements, immigration detainees held in a provincial facility may participate in recreational activities and educational programs where applicable (e.g. immigration detainees may not qualify for some educational programs).</p>	
MANAGEMENT ACTION PLAN	COMPLETION DATE
Provide access to expanded recreational programming including a resource centre, fitness room and a space for worship in the GTA and Surrey IHCs.	Q1 2019-20
Provide access to expanded recreational programming including a resource centre, fitness room and a space for worship in Laval IHC.	Q2 2021-22
Finalize the National Detention Standards, including the standard on recreational activities.	Q4 2018-2019

RECOMMENDATIONS 5 - Family Contact

- 5 a) The CRC recommends that the CBSA ensure immigration detainees have regular and adequate access to contact family and friends, regardless of their place of detention, including through long distance and international calls, as well as the ability to call mobile numbers.

MANAGEMENT RESPONSE
<p>The CBSA agrees with the recommendation as it pertains to access to contact family and friends.</p> <p>Detainees held in IHCs have unlimited access to telephones in their individual units for local calls, and where long distance calls are required, calling cards are made available or can be arranged by onsite CBSA staff.</p> <p>Detainees held in a provincial correctional facility may make free local calls and for long distance calls, may purchase a calling card. If a detainee has no source of funds the CBSA will provide long distance calling cards free of charge, where feasible. Recognizing challenges with making calls in general (i.e.,</p>

<p>when a detainee does not know how to place a call) and calls to international mobile numbers, a DLO or other CBSA officer may assist the detainee in placing these calls. In some facilities, Chaplain Services also assist detainees with making calls. The CBSA continues to include provisions for access to telephone services in its MOUs with provincial correctional authorities and to explore options to improve the availability of telephone services for immigration detainees.</p>	
MANAGEMENT ACTION PLAN	COMPLETION DATE
Include DLO contact numbers in the orientation package so that detainees may request help with placing calls to family and friends.	Q1 2019-20
Develop solutions with provincial correctional authorities for improving access to telephones.	Q2 2019-20

- 5 b) The CRC also recommends the development of a standardized protocol to ensure all detainees are consistently provided opportunities to maintain contact with family and friends, especially for detainees whose relatives live abroad. Contact visits for immigration detainees and their families are recommended, particularly for those with children, long-term detainees, and prior to removal.

MANAGEMENT RESPONSE	
<p>The CBSA agrees with the recommendation.</p> <p>The Agency is revising its National Detention Standards, including one that establishes visitation practices such as visitation hours, frequency and contact visits. Once infrastructure replacement and retrofit initiatives are completed, detainees held in any IHC will have access to barrier-free contact visits with family, friends and other parties. Detainees held in IHCs have unlimited access to telephones in their individual units for local calls, and where long distance calls are required, calling cards are made available or can be arranged by onsite CBSA staff.</p> <p>For immigration detainees held within a provincial correctional facility, visiting hours and procedures are guided by the facility's operating practices. The CBSA continues to discuss National Detention Standards with provincial authorities to ensure that detainees have adequate access to programs and services.</p> <p>In line with objectives of the NIDF, the CBSA is implementing video conferencing for immigration hearings, and will explore the use of this technology as a means to facilitate contact with family or other parties outside of the facility for all immigration detainees, regardless of placement.</p>	
MANAGEMENT ACTION PLAN	COMPLETION DATE
Determine feasibility of the use of videoconferencing (used for immigration hearings) as a means to enable family contact.	Q3 2019-20
Finalize the National Detention Standards, including the standard on visitation.	Q4 2018-19

RECOMMENDATION 6 - Personnel Training

- 6 a) The CRC recommends staff working directly with immigration detainees be trained and to include individuals with professional backgrounds such as immigration and refugee lawyers, health care, and social work.

MANAGEMENT RESPONSE	
<p>The CBSA agrees with the recommendation.</p> <p>All CBSA officers working with immigration detainees are trained to address the vulnerabilities, needs and sensitivities of individuals in the immigration continuum. Training currently includes courses on: trafficking in persons; first aid/CPR; diversity and race relations; mental health awareness; prevention of suicide and self-harm among detainees; mental health first aid; violence prevention in the workplace; alternatives to detention and role of the community liaison officer including options for individuals with addiction, health and mental health issues or who have been victims of trauma or torture; road to mental readiness (tailored from Mental Health Commission of Canada, Department of National Defence); and on the national risk assessment for detention, and detainee medical needs (non-exhaustive list).</p> <p>The CBSA is also developing training specific to the immigration detention environment including specialized mental health training on de-escalation of situations involving detainees with mental health issues (tailored from the Centre for Addiction and Mental Health) and exploring other function-specific training.</p> <p>Discussions with internal and other external stakeholders are ongoing to identify possible curricula to respond to more specific training for staff dealing with individuals with mental health or those who have been victims of trauma or torture.</p>	
MANAGEMENT ACTION PLAN	COMPLETION DATE
Identify and launch supplementary training required for IEOs working in a CBSA IHC.	Q1 2019-20
Deliver training	Ongoing

- 6 b) The CRC recommends raising awareness among CBSA and correctional facilities' personnel on the nature of immigration detention and its differentiation from criminal detention.

MANAGEMENT RESPONSE	
<p>The CBSA agrees with the recommendation.</p> <p>The CBSA will explore opportunities to enhance awareness and understanding of immigration detention amongst correctional authorities in Canada, and seek to provide information sessions to correctional facility staff regarding administrative (immigration) detention. CBSA will explore co-facilitation with other organizations such as the UNHCR and Canadian Red Cross.</p> <p>The CBSA will ensure that DLOs are equipped to provide information to provincial correctional facility staff, as required, to enhance their understanding of the CBSA's processes and obligations related to immigration detention.</p>	
MANAGEMENT ACTION PLAN	COMPLETION DATE
<p>Prepare a presentation for DLOs and/or regional management to deliver awareness sessions to provincial correctional facility staff regarding the immigration detention program.</p>	<p>Q2 2019-20</p>