



**CANADIAN RED CROSS**  
**Immigration Detention Monitoring Program (IDMP)**  
**Annual Report**  
**Monitoring Period – April 2021 to March 2022**



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**List of Abbreviations**

AB	Alberta
ATD	Alternatives to Detention
BC	British Columbia
CBSA	Canada Border Services Agency
CRCS	Canadian Red Cross Society
DLO	Detention Liaison Officer
IDMP	Immigration Detention Monitoring Program
IFHP	Interim Federal Health Program
IHC	Immigration Holding Centre
IRB	Immigration and Refugee Board of Canada
IRPA	Immigration and Refugee Protection Act
MB	Manitoba
NRAD	National Risk Assessment for Detention
NS	Nova Scotia
NGO	Non-Governmental Organization
ON	Ontario
PCF	Provincial Correctional Facility
POE	Port of Entry
PRRA	Pre-Removal Risk Assessment
QC	Quebec



## Executive Summary

Within the Canadian Red Cross Society (CRCS), detention monitoring is administered by the Immigration Detention Monitoring Program (IDMP) in accordance with the Contract between the CRCS and the Canada Border Services Agency (CBSA) encompassing the period from February 23, 2021, to February 22, 2024, inclusive. Pursuant to the Contract, this report reflects CRCS IDMP activities carried out between April 2021 and March 2022.

According to this agreement, CRCS monitoring activities focus on the following four key areas in the detention of people under the Immigration and Refugee Protection Act (IRPA):

- The conditions of detention – the state of the detention environment and services offered (e.g., facility, lighting, food, recreation, health care, and well-being of detained individuals in that environment);
- Treatment of detained individuals by facility staff, contractors, and other detained people;
- The legal guarantees and procedural safeguards – the ability of detained people to exercise their human rights, access to procedural safeguards (under e.g., Canadian Charter of Rights and Freedoms, Article 36 of the Vienna Convention on Consular Relations, and effective legal remedies and protection from arbitrary detention); and
- The detained person's ability to contact and maintain contact with family.

This report highlights the observations and recommendations of the CRCS following a total of sixty-four (64) monitoring activities, including fifty-nine (59) planned visits and five (5) unanticipated visits in response to a notification. The CRCS performed eleven (11) monitoring activities to Immigration Holding Centres (IHCs)<sup>1</sup>, thirty-nine (39) monitoring activities to Provincial Correctional Facilities (PCFs)<sup>2</sup>, and fourteen (14) monitoring activities to short-term detention facilities. These activities were conducted at three (3) IHCs, twenty-five (25) PCFs, and fourteen (14) short-term detention facilities, holding persons detained under the IRPA, between April 2021 and March 2022. Observations and recommendations are grouped into the following main themes:

- COVID-19: Impact on areas of detention monitoring;
- Immigration holding centres and provincial correctional facilities;
- People in vulnerable situations and people detained for longer periods; and
- Short-term detention facilities.

Based on observations, the CRCS makes the following main recommendations to the CBSA within this report:

- Continue implementing measures that have reduced the number of people detained under IRPA;
- Ensure that measures are in place to maintain acceptable detention conditions during lockdowns and medical isolations;
- Ensure that people detained for immigration reasons have access to activities regardless of their place of detention;
- Review the policy on the use of restraints during transport to increase the number and types of situations where they are not applied;
- Develop a plan to end co-mingling of people detained for immigration reasons with criminal populations in the near future;
- Continue to reduce reliance on PCFs through Alternatives to Detention (ATDs) and placement in IHCs, especially for individuals in vulnerable situations;
- Ensure that persons detained under the IRPA have full and timely access to health services covered by the Interim Federal Health Program (IFHP) or equivalent coverage;
- Ensure Detention Liaison Officers (DLOs) contact all people held in PCFs, prioritizing people in vulnerable situations and those in isolation;
- Ensure the use of professional interpretation services during key moments of detention;
- Ensure that information packages are consistently provided to PCFs;
- Gather and share statistics on the outcome of Immigration and Refugee Board of Canada (IRB) hearings comparing different formats;
- Implement video calls to family and friends at all IHCs and facilitate such calls for people detained in PCFs off-site if necessary;
- When the public health situation allows it, offer in-person contact visits to all people detained under IRPA, including off-site if necessary;
- Further expand the availability of ATDs in all regions to offer them to a greater number of individuals in vulnerable situations and to offer ATDs adapted to accommodate a greater diversity of people with specialized needs;

<sup>1</sup> Eight (8) planned monitoring activities and three (3) unanticipated monitoring activities.

<sup>2</sup> Thirty-seven (37) planned monitoring activities and two (2) unanticipated monitoring activities.

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- End the practice of placing children in detention facilities and develop ATDs to permit family unity outside detention when liberty is not possible;
- Put in place an ongoing mental health screening for people detained under IRPA;
- Carry out short-term detention without resorting to the use of cells in as many cases as possible;
- Improve cell design in short-term detention facilities (port of entries and inland office cells);
- Consistently provide meals and beverages at all short-term detention facilities at the expense of the detaining authority;
- Consistently permit direct contact with consular authority, when requested, and with family and friends after detention as well as after each transfer to a new facility.

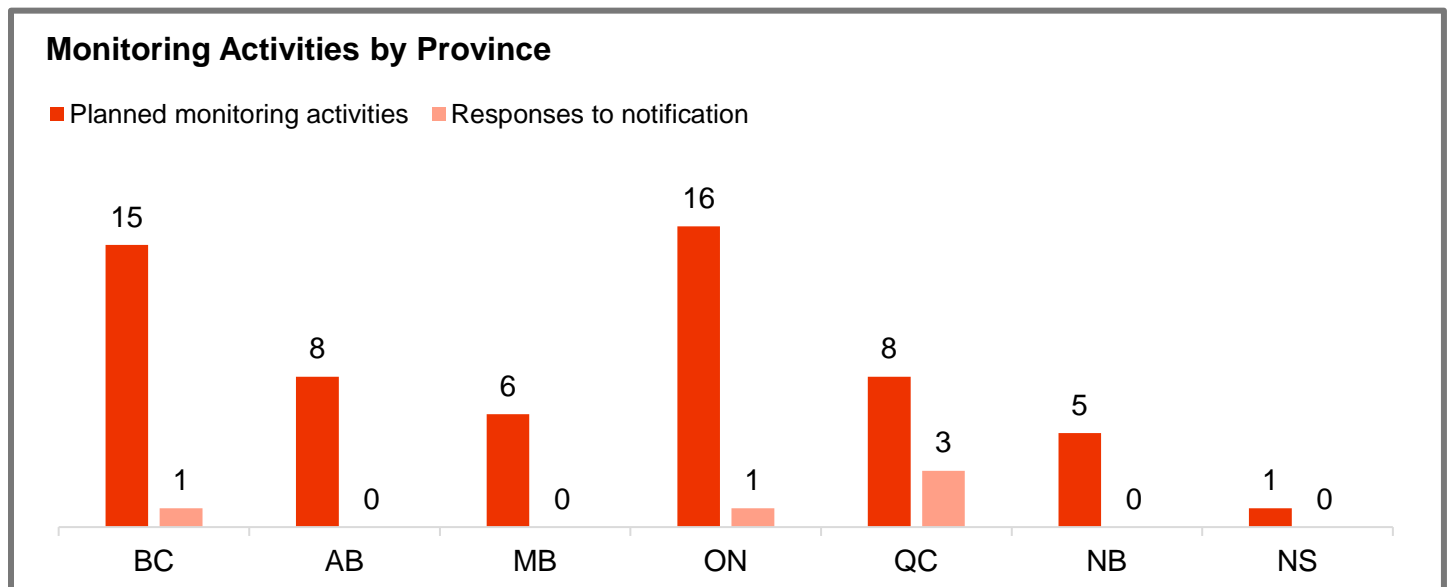


## 1. Introduction: Overview of Activity Statistics

The CRCS is an independent, neutral, and impartial humanitarian organization. Its mandate, defined in Canadian law and in the Statutes of the International Red Cross and Red Crescent Movement, is to prevent and alleviate human suffering. The CRCS provides independent monitoring of detention under the IRPA to promote a protective environment in which people detained for immigration reasons are treated humanely and where their human rights and inherent dignity are respected, in accordance with international and domestic standards. During visits to places of detention, the CRCS monitors and assesses the conditions of detention and treatment of people held administratively under the IRPA in federal government-run facilities and detention facilities under the management of provincial authorities or other authorities. In accordance with an agreement between the CRCS and the CBSA, this report reflects CRCS IDMP activities carried out between April 2021 and March 2022.

As the COVID-19 pandemic remained a major public health issue during the monitoring period, the CRCS has continued with the implementation of measures to mitigate the health risk that monitoring activities could pose to detained people, detention facility personnel, and CRCS volunteers and staff. For instance, IDMP teams follow CRCS guidelines on the use of Personal Protective Equipment and mandatory vaccination for CRCS staff members working with the public. According to the situation in the monitored facilities, and following appropriate guidelines, monitoring activities were at times in-person and at others remote. In special circumstances, monitoring activities were hybrid, with a part of the activity carried out in person and another being remote. If COVID-19 related lockdowns and generalized lack of staffing in monitored facilities – directly or indirectly attributable to the pandemic – have had an impact on IDMP’s activities, the CRCS remains confident the monitoring program was able to safely carry out its mandate, gather sound findings and propose necessary recommendations, as per its Contract with CBSA.

Despite the challenges linked to COVID-19, a total of sixty-four (64) monitoring activities were conducted during the monitoring period, including fifty-nine (59) planned monitoring activities and five (5) activities in response to notifications. Over the course of the reporting period, the IDMP team conducted some 154 interviews with individuals detained under the IRPA in IHCs and PCFs: in Ontario (61); Alberta (34); Quebec (30); British Columbia (24); Manitoba (2); and New Brunswick and Nova Scotia (3). Moreover, the CRCS carried out over thirty (30) information sessions to present its mandate to relevant authorities, and held meetings with stakeholders, such as CBSA representatives at CBSA headquarters and regional levels, as well as personnel of provincial correctional services, local NGOs supporting persons detained under the IRPA, and other stakeholders – to further promote a protective environment where people detained for immigration reasons are treated humanely and where their inherent human rights and dignity are respected.



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**List of visited facilities**

<b>British Columbia</b>	IHC	- BC Immigration Holding Centre
	PCF	- Alouette Correctional Centre for Women - Fraser Regional Correctional Centre - Surrey Pretrial Services Centre - Vancouver Island Regional Correctional Centre
	POE	- Douglas POE - Abbotsford POE - CBSA Vancouver Island Office - Pacific Highway POE - Vancouver International Airport
<b>Alberta</b>	PCF	- Calgary Remand Centre - Edmonton Remand Centre
	POE	- CBSA Edmonton Inland Office - Coutts POE
<b>Manitoba</b>	PCF	- Headingley Correctional Centre - Milner Ridge Correctional Centre - Winnipeg Remand Centre
	POE	- Emerson POE - Winnipeg Inland Office - Winnipeg James Armstrong Richardson International Airport
<b>Ontario</b>	IHC	- Toronto Immigration Holding Centre
	PCF	- Central East Correctional Centre - Central North Correctional Centre - Maplehurst Correctional Complex - Niagara Detention Centre - Ottawa Carlton Detention Centre - Toronto East Detention Centre - Toronto South Detention Centre - Vanier Centre for Women
	POE	- CBSA Ottawa Inland Office - Ottawa Macdonald-Cartier International Airport - Toronto Lester B. Pearson International Airport
<b>Quebec</b>	IHC	- Centre de surveillance de l'immigration de Laval
	PCF	- Établissement de détention de Rivière-des-Prairies - Établissement de détention Leclerc
	POE	- Aéroport international Pierre-Elliott-Trudeau de Montréal

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New Brunswick	PCF	<ul style="list-style-type: none"> <li>- Dalhousie Regional Correctional Centre</li> <li>- Madawaska Regional Correctional Centre</li> <li>- New Brunswick Women’s Correctional Centre</li> <li>- Saint John Regional Correctional Centre</li> <li>- Southeast Regional Correctional Centre</li> </ul>
Nova Scotia	PCF	<ul style="list-style-type: none"> <li>- Central Nova Scotia Correctional Facility</li> </ul>

IDMP methodology focuses on the needs of detained people. In order to make a comprehensive analysis of conditions of detention, the IDMP researches and gathers as much background information as possible through various sources: individuals detained for immigration reasons, CBSA and provincial officials, professionals involved in detained person care, and observations made by the IDMP personnel. Findings are assessed and triangulated to make sure data obtained is credible and systemic. With this analysis, IDMP develops practical recommendations to the detaining authority. Following up with the authorities through regular meetings at national and provincial levels is an important component of IDMP methodology and critical to measuring its impact.

Visits follow a standard procedure that includes the following steps<sup>1</sup>:

- An initial discussion with the facility management;
- A tour of accommodations and facilities used by detained people (cells, rooms and dormitories, common areas, healthcare facilities, etc.);
- Private conversations with detained people who wish to speak with IDMP team members;
- A concluding discussion with the detaining authority to discuss observations and recommendations.

During visits to places of detention, the CRCS assessed places of detention against four areas of its mandate:

1. Conditions of detention;
2. Treatment of detained people;
3. Access to legal guarantees and procedural safeguards; and
4. Ability to contact and maintain contact with family.

Related to these areas, IDMP explored the following themes which are discussed in the following sections of this report: 1) COVID-19: Impact on areas of detention monitoring; 2) Immigration holding centres and provincial correctional facilities; 3) People in vulnerable situations and people detained for longer periods; and 4) Short-term detention facilities.

Through these visits and meetings at the local, provincial and national levels, the goal of the Red Cross is to encourage authorities to improve detention conditions and to promote the rights of those held under their authority. The IDMP team continues to acknowledge the support of CBSA and PCFs staff and management for the facilitation of access to detention facilities and to the individuals detained therein.

<sup>1</sup> Some stages were not possible during remote monitoring.





## 2. COVID-19: Impact on Areas of Detention Monitoring

During the period under review, the COVID-19 pandemic continued to pose a health risk to people being detained, facility staff, and the general population. Therefore, the implementation of adequate public health measures to prevent the spread of the virus remains essential to help safeguard everyone's well-being. To ensure they are effective, such measures should be developed and applied in consultation with medical personnel and public health authorities. They must also be enforced in a predictable, transparent, and non-discriminatory manner. As with all other restrictive measures implemented in detention, they should be legal, necessary, proportionate, and respect human dignity<sup>1</sup>. Provisions aimed at mitigating their harmful effects should be implemented<sup>2</sup>. Finally, detaining authorities must provide information to detained individuals on their efforts to respond to the pandemic and inform them of measures they must take to protect themselves<sup>3</sup>.

The CRCS emphasizes that IDMP does not provide assessment of COVID-19 response measures or public health guidance. Regarding public health measures, CRCS defers to public health authorities. However, in some sections of this report, the CRCS may highlight good practices and the impact of COVID-19 response measures in detention facilities on the IDMP's four key areas of focus.

### 2.1. Observations: COVID-19 and the Four Key Areas of Monitoring

The numbers of detained people in the monitored PCFs continued to trend up after initial declines early in the pandemic. In nine (9) of the thirty-seven (37) planned monitoring activities to PCFs, the total population was at 95% or more of the pre-pandemic average<sup>4</sup>. In seven (7) of these monitoring activities, it had even surpassed it. At the IHCs, numbers have also gone up when compared to the previous monitoring period<sup>5</sup>, which coincided with the first year of the pandemic. The rise of numbers in IHCs in some regions may be attributable, in part, to a greater reliance on IHCs rather than PCFs, which is desirable. However, it may also be due to an increase in detentions in the current monitoring period when compared to the previous one<sup>6</sup>.

All the monitored facilities continued to liaise with public health authorities and put in place public health measures with the aim of reducing the risk of COVID-19 transmission within the centres. Although the figures may not be complete, COVID-19 outbreaks were reported<sup>7</sup> during the monitoring period in nearly three quarters of the visited PCFs<sup>8</sup> as well as two (2) of the three (3) IHCs<sup>9</sup>. In one case, during an outbreak, detained people who contracted COVID-19 were reportedly not permitted to be released under an ATD, as was previously agreed to by the authorities, and had to remain detained until they were not deemed contagious anymore.

With greater availability of tests, preventative isolation<sup>10</sup> was reduced in many facilities during the monitoring period, going from fourteen (14) days to ten (10) days if the detained person accepted testing – and even down to 24 – 48 hours in certain facilities. It was reported that, in some instances, preventative isolation was extended due to lack of space on non-isolation units, or when another cellmate was placed in the isolation cell and the isolation period had to start anew – in some cases the new person coming to the cell had tested positive for COVID-19, which extended the isolation period for both detained individuals. Of note, the number of people present in PCFs

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<sup>1</sup> The Inter-agency Standing Committee mentions in its March 2020 Interim Guidance, COVID-19: Focus on Persons Deprived of their Liberty, "Isolation or quarantine measures in places of detention must be legal, proportional and necessary, time-bound, subject to review and should not result in de facto solitary confinement. Information about the whereabouts and condition of detainees should be communicated to the families. Quarantines should be time limited and should only be imposed if no alternative protective measure can be taken by authorities to prevent or respond to the spread of the infection.", p. 5, [IASC Interim Guidance on COVID-19: Focus on Persons Deprived of Their Liberty \(developed by OHCHR and WHO\) | IASC \(interagencystandingcommittee.org\)](https://www.interagencystandingcommittee.org/).

Also, the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment states that "Any restrictive measure taken vis-à-vis persons deprived of their liberty to prevent the spread of COVID-19 should have a legal basis and be necessary, proportionate, respectful of human dignity and restricted in time. Persons deprived of their liberty should receive comprehensive information, in a language they understand, about any such measures" - Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, 20 March 2020, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe, CPT/Inf (2020) 13, <https://rm.coe.int/16809cfa4b>.

<sup>2</sup> For example, "in cases of isolation or placement in quarantine of a detained person who is infected or is suspected of being infected by the SARS-CoV-2 virus, the person concerned should be provided with meaningful human contact every day" – Ibid.

<sup>3</sup> COVID-19 and Immigration Detention: What Can Governments and Other Stakeholders Do? UN Working Group on Alternatives to Detention COVID-19, April 2020, p. 7, [UN network on migration wg atd policy brief covid-19 and immigration detention 0.pdf](https://www.unhcr.org/refugees/wp-content/uploads/2020/04/UN-network-on-migration-wg-atd-policy-brief-covid-19-and-immigration-detention-0.pdf).

<sup>4</sup> A baseline was established with numbers from visits prior to 13 March 2020.

<sup>5</sup> Both comparing averages observed during monitoring activities and the same quarter in different years.

<sup>6</sup> The number of people detain in Q1 and Q2 of 2021/22 was 1225, compared to 929 in the first two quarters of 2020/21, and the days of detention were respectively 29,729 and 23,248 (<https://www.cbsa-asfc.gc.ca/security-secureite/detent/menu-eng.html#s8>).

<sup>7</sup> Directly by facility management or through press releases.

<sup>8</sup> Eighteen (18) of the twenty-five (25) PCFs that were visited.

<sup>9</sup> IDMP defines an outbreak as one or more cases occurring outside preventative isolation.

<sup>10</sup> Also referred to as intake isolation.

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and measures in response to COVID-19 in these facilities were determined by authorities who are independent from CBSA. Accordingly, measures and outcomes varied greatly from one province to another.

In nearly three quarters of the monitoring activities to PCFs where interviews were conducted<sup>1</sup>, people detained in COVID-19 isolation (preventative isolation or isolation in response to an outbreak) said they were allowed out of their cell less than two (2) hours a day<sup>2</sup>. This extremely restrictive regime greatly limited access to basic hygiene requirements such as showers, contact with family or lawyers through the telephone, as well as access to open air and other services and activities. During nearly half of these monitoring activities<sup>3</sup>, people detained under IRPA reported not being permitted to go out daily while in COVID-19 isolation; in extreme cases, they mentioned periods of up to two (2) weeks without being permitted out of their cells. When allowed out, the short periods of time allotted meant that different needs competed with one another; for example, people being detained had to choose between showering, calling a relative, or placing a request with a correctional officer for basic hygiene products. People interviewed reported to have used the sink located in their cell to clean themselves and wash their clothes due to being limited to their cells for long periods. Some expressed frustration at having to pray next to a toilet since they did not have regular access to the prayer room or common areas. While in COVID-19 isolation, access to the yard, which is the only outdoor space available at many correctional facilities, was either very limited or not possible at all, depending on staffing levels, the location and the number of yards. In over three quarters of the monitoring activities to PCFs where interviews were conducted<sup>4</sup>, physical, recreational, and educational activities in COVID-19 isolation were described as limited to non-existent. For example, some interviewed reported sitting on their beds and looking at the wall for hours.

In over a quarter of the monitoring activities to PCFs where interviews were conducted<sup>5</sup>, detained people described extreme conditions where they were allowed out of their cell for less than two (2) hours per day and were held alone without meaningful human contact. These conditions may amount to solitary confinement. In some cases, it lasted for up to two (2) weeks. Such conditions have a strong deleterious impact on an individual's mental health, potentially more so for those already suffering from mental health issues.

The situation was markedly different at the IHCs. During the eight (8) planned monitoring activities at these facilities, it was reported that people in isolation were allowed out of their rooms at will, or at controlled intervals to avoid people congregating. Access to basic services and hygiene was reported to be unimpeded – including telephones and showers, although in one facility it was reported that people had to go out one by one. If some activities were suspended, such as the gym, others remained possible, the library for example.

With regards to procedural safeguards, during five (5) monitoring activities to PCFs, people described remote telephone IRB hearings and calls to lawyers as not allowing for the confidentiality of information, since a detained person was handed a mobile phone in their cell and had to talk in front of their cellmate, or where others could overhear their conversation. In other cases, a correctional officer was holding the mobile phone on the other side of an opening in the cell door, rather than handing it to the detained individual, and was therefore able to listen to the conversation. In one of the PCFs, remote hearings for individuals in COVID-19 isolation were carried out in a bathroom due to infrastructural limitations as well as COVID-19 restrictions. Even if the space was confidential, it did not respect the dignity of the person. IDMP notes that no issues were reported at IHCs regarding confidentiality of information during detention hearings or calls to lawyers.

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<sup>1</sup> Nineteen (19) activities to PCFs with interviews out of twenty-six (26).

<sup>2</sup> Although there is no set norm on minimum time out of cell in administrative detention, people should be allowed out of their rooms at will unless an individual assessment exceptionally justifies stricter measures.

<sup>3</sup> Eleven (11) activities to PCFs with interviews out of twenty-six (26).

<sup>4</sup> Twenty (20) activities to PCFs with interviews out of twenty-six (26).

<sup>5</sup> Seven (7) activities to PCFs with interviews out of twenty-six (26).



## **2.2. Recommendations**

*The CRCS highlights that detention centres are congregate living settings and that people being detained, as well as staff, are at greater risk of infection due to challenges in maintaining physical distancing, the number of high-touch surfaces, and the use of common areas. Reducing the number of people being detained is one of the most important measures to prevent the spread of COVID-19 in detention<sup>1</sup>. A reduced risk of COVID-19 for persons in detention will also contribute to the protection of facility personnel and the community in general. Based on that, the CRCS recommends to further rely on liberty, or ATDs, to reduce the number of people detained under the IRPA. Furthermore, the CRCS recommends doing so even after the public health emergency is resolved.*

*The CRCS notes that placement in PCFs often subjects people being detained under the IRPA to higher occupancy levels than in IHCs. Also, these individuals are under PCF measures to prevent and respond to COVID-19, which vary from one province to another and are influenced by numerous entities independent from CBSA. This includes provincial public security ministries, provincial health services, provincial public health agencies, and the courts. To ensure people detained under the IRPA are held in conditions that are consistent across the country and are of the highest possible standards, the CRCS recommends that CBSA avoids placement of persons detained under the IRPA in facilities under the management of other authorities.*

*While recognizing that the current public health situation may temporarily justify the use of a preventative isolation or a medical lockdown period, as long as it is under the advice of medical and/or public health authorities, the CRCS recommends ensuring that measures are in place to maintain acceptable detention conditions while responding to the threat posed by COVID-19. Regular access to areas outside the cell, to showers, and to open air should be maintained even if adjusted to ensure adequate public health measures. Moreover, regular access to telephones or other means of communication must be provided to ensure continuing meaningful interaction with family, friends, and among others, to legal counsel and/or consular authorities. Confidentiality of information during contact with lawyers and detention hearings should also be ensured.*

*The CRCS highlights that placement of an individual separately from others reduces the risk of COVID-19 transmission between people in preventative isolation. Specific considerations for such placement should include, among others, vulnerability to COVID-19 and other vulnerabilities<sup>2</sup>, the person's situation preceding placement in detention, and the preference of the person being detained. Also, if individuals are detained separately from others, this must be done in a manner that avoids solitary confinement.*

*Given the difficulties experienced by some PCFs dealing with COVID-19 outbreaks, the CRCS recommends that when placement in these facilities cannot be avoided, contact with Detention Liaison Officers (DLOs) be prioritized for people being detained in preventative isolation and in units under medical isolation due to COVID-19 (including unit lockdowns). Individual needs may be greater in these instances due to the reduced time out of cell to access most basic services.*

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<sup>1</sup> See "Note on the Protection of Migrants in Light of the COVID-19 Pandemic", International Committee of the Red Cross, 5 October 2020, p. 2-3, <https://shop.icrc.org/note-on-protection-of-migrants-in-light-of-the-covid-19-pandemic-pdf-en>; COVID-19 and Immigration Detention: What Can Governments and Other Stakeholders Do? UN Working Group on Alternatives to Detention COVID-19, April 2020, p. 3-5, [UN network on migration wg atd policy brief covid-19 and immigration detention 0.pdf](#) and "Statement of Principles Relating to the Treatment of Persons Deprived of their Liberty in the Context of the Coronavirus Disease (COVID-19) Pandemic" 20 March 2020, European Committee on the Prevention of Torture and Inhumane or Degrading Treatment or Punishment, Council of Europe, CPT/Inf(2020)13, Principle no 5, [16809cfa4b \(coe.int\)](#)

<sup>2</sup> Specific vulnerabilities are reviewed in section of the present Report "Vulnerable people, people in long-term detention and the four key areas of monitoring".



### **3. Immigration Holding Centres and Provincial Correctional Facilities**

In line with its administrative nature, conditions of immigration detention should be minimally restrictive and non-punitive; furthermore, authorities must provide for adequate services. People detained for immigration reasons should be subject to treatment respecting the administrative nature of their detention<sup>1</sup>. Procedural safeguards must be in place, including access to information on the detention facility and the immigration process, the possibility to communicate confidentially with one's lawyer and consular representatives, and adequate interpretation for those not understanding the official language spoken in the region they are detained. Finally, people being detained for immigration reasons must be allowed to maintain contact with the outside world, in particular contact with family through, among others, telephone and video calls as well as in-person contact visits.

The use of correctional facilities, including but not limited to prisons, jails, and facilities designed or operated as prisons or jails, should be avoided since these environments expose people detained for administrative reasons to policies and procedures designed to manage people within the criminal justice system. Given the administrative nature of their detention, people detained under the IRPA<sup>2</sup> and held in correctional facilities should be separated from people who are being held under the Criminal Code<sup>3</sup> – which is a well-established principle under international law.

#### **3.1. Area of Monitoring 1: Conditions of Detention**

As reported in the interviews conducted during the monitoring period, as well as in previous monitoring periods, conditions at the IHCs were much less restrictive than those existing in PCFs. Generally, people detained in IHCs reported enjoying greater freedom of movement and quicker access to services than those detained in PCFs. For example, people held at the IHCs slept in rooms and not cells, they were provided with unrestricted access to common areas during the day and the infrastructure was less institutional than in the monitored PCFs. People detained in an IHC reported having unrestricted access to a telephone, to televisions, regular access to the yard, and could see a nurse shortly after making a request. Additionally, they reported having access to a library, board games, and the ability to do their own laundry, all of which provided a greater sense of normalcy when compared to the monitored PCFs conditions.

A significant issue reported in most PCFs during the monitoring period was lack of staff – notably correctional officers. The reasons shared by facility managements to explain these shortages varied, such as isolation after exposure to COVID-19, preventative withdrawals, reassignments related to health, burnouts, resignations, early retirements, and vacations during the summer months. Shortages of correctional officers led to frequent lockdowns – in addition to those linked to security which are a regular occurrence in many PCFs – and created difficult conditions for detained people. In nearly 40% of the activities in PCFs where interviews were conducted<sup>4</sup>, detained people outside of COVID-19 isolation said they were not allowed to go out of their cell every day due to lockdowns. In another seven (7) of these activities in PCFs, time out of cell ranged from one (1) to four (4) hours daily, which remains a restrictive practice and especially so when considering the regime applies to people under administrative detention. These conditions had a negative impact on basic freedom of movement and services available to detained people – for example, limited, decreased or non-existent access to basic hygiene requirements such as showers, to services such as the use of a telephone to call family and legal representative – as well as having an overall impact on mental health of people being detained under IRPA. Lockdowns were harder for people held in maximum-security units, and less so for those placed in the dorms where they can move around freely, as was seen in a limited number of monitored PCFs. In over two thirds of the monitoring activities to facilities where people were not let out of their cells every day<sup>5</sup>, IDMP noted the presence of people who mentioned suffering from mental health issues, which is a major concern for the CRCS.

Triple bunking, which is the placement of three (3) individuals in a cell intended for two (2), was reported in roughly a quarter of the monitoring activities in PCFs<sup>6</sup>. The third person was given a mattress to sleep on the floor. In some cases, it reportedly occurred during preventative isolation or isolation in response to a COVID-19 outbreak.

<sup>1</sup> ICCPR 10(2)(a); PBPPDLA XIX; CMW 17(2),(3); SMR 11; UNHCR DG 48 (iii); GCM 29 (a)-(c).

Also see Human Rights Council Working Group on Arbitrary Detention, A/HRC/7/4, 10 January 2008 "Furthermore, the Working Group feels inclined to remind Governments of the principles developed in its Deliberation No. 5, particularly principles 3, 6, 7, 8, and 9: (...) On the obligation of States to place asylum-seekers or immigrants in premises separate from those persons imprisoned under criminal law", paragraph 52.

See, in addition, the Inter-American Commission on Human Rights, Human Rights of Migrants, resolution 03/08, 25 July 2008, "As international law establishes, migrants may not be held in prison facilities. The holding of asylum seekers and persons charged with civil immigration violations in a prison environment is incompatible with basic human rights guarantees", p. 2.

<sup>2</sup> Immigration and Refugee Protection Act (S.C. 2001, c. 27).

<sup>3</sup> Criminal Code (R.S.C., 1985, c. C-46).

<sup>4</sup> Ten (10) of the twenty-six (26) activities to PCFs where interviews were conducted.

<sup>5</sup> Seven (7) activities to PCFs out of ten (10) where people were found not to be let out of their cells every day.

<sup>6</sup> Seven (7) activities to PCFs with interviews out of twenty-six (26) and nine (9) out of all thirty-six (36) activities to PCFs.

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Noting that people detained for administrative reasons should have access to open air at will, subject to reasonable limits, the CRCS observed that in over two thirds of the monitoring activities at PCFs where interviews were conducted<sup>1</sup>, people detained were not even able to have access to open air for one (1) hour every day. Moreover, as mentioned in the previous report, and understanding there are security concerns, the yards in certain PCFs do not constitute open air and more closely resemble a closed room with a window that can be open or a roof that is partially retractable.

For most of the monitoring period, activities at the monitored facilities were limited, reportedly because of COVID-19 restrictions. For example, gyms and exercise machines were not accessible, classrooms were not in use, and volunteers who provided programs at the facilities did not feel safe to return. However, towards the end of the monitoring period, many facilities were going back to their normal schedules and access to a fuller range of activities was again possible. Also, it was observed that at certain PCFs, detained people could voluntarily engage in work – without being further co-mingled – which, based on what was shared by people being detained, gave them a sense of purpose and allowed them to remain out of cell for a longer period of time, even during lockdowns. For example, some detained people shared they were the cleaners on their unit.

The pandemic motivated certain facilities to innovate or accelerated certain developments. For example, at certain PCFs, tablets are available with limited internet access. At these facilities, individuals were permitted to bring them to their cells to watch movies, play games, submit requests to the facility, access legal library and other resources, as well as send emails regarding legal issues. However most recreational content remained on paid basis.

### **3.1.1. Health**

Access to health care is another area where a strong contrast was observed when comparing IHCs and PCFs. As mentioned above, delays for medical care in IHCs were rarely reported, although in some cases delays existed for certain specialized care (1-2 weeks)<sup>2</sup>. In nearly a quarter of the monitoring activities to PCFs where interviews were conducted<sup>3</sup>, detained people reported that it can take up to a month to see a general practitioner.

Beyond delays, available medical services differed between IHCs and PCFs. The services offered at IHCs were those covered by the Interim Federal Health Program (IFHP) and its supplemental coverage. Those offered at PCFs were services proposed by provincial health coverage. Some services, such as optometrists, were covered under IFHP supplemental coverage but not under provincial plans. Accordingly, people being detained in PCFs who benefit from provincial health coverage reported having to pay for services that should have been at least partially covered by IFHP had they been in an IHC. Moreover, if psychological services were available in all the IHCs and certain PCFs, they were not in others either because of staff shortages or because the PCF did not offer these services.

At all the IHCs and the monitored PCFs, COVID-19 vaccines were made available during the monitoring period. The schedule and modalities depended on the relevant authorities. The level of acceptance was not possible to track, given medical confidentiality and the high rotation of detained people in the monitored places of detention. Although efforts by relevant authorities were made to inform detained people of the benefits and risks of vaccinations, some of those who were interviewed by IDMP shared very precise concerns regarding their fears that the vaccine would interact with a medication they were taking or be counter indicated due to a medical condition, and stated that they were not able to obtain answers in the facility in which they were detained.

Finally, regarding health, management at some of the monitored PCFs as well as some individuals interviewed during the activities mentioned the extreme difficulty caused by the prolonged isolation and reduced possibility for meaningful human contact related to the pandemic. Strong levels of emotional distress and higher rates of suicide attempts were reported at some of the monitored locations. The damage caused by highly restrictive regimes to the mental health of people being held in detention under IRPA is a major concern for the CRCS, especially since the suffering may continue after release.

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<sup>1</sup> Eighteen (18) activities to PCFs with interviews out of twenty-six (26).

<sup>2</sup> Without having done a rigorous comparison, IDMP note that these delays could be comparable to what exists outside detention.

<sup>3</sup> Six (6) activities to PCFs with interviews out of twenty-six (26).



### **3.2. Area of Monitoring 2: Treatment of Detained People**

General observations presented in the 2020-21 Annual Report regarding treatment remained unchanged<sup>1</sup>. As previously outlined, the treatment of detained people at IHCs was different compared to PCFs. During the monitoring period under review, receiving threats or falling victim to violence at the hands of other detained people, or witnessing such events, were regularly reported at nearly two thirds of the monitoring activities to PCFs where interviews took place<sup>2</sup>. Similar incidents were rarely reported at IHCs, IDMP being aware of one event in one (1) of the eight (8) planned monitoring activities at this type of facility. Also, witnessing use of force by facility staff, or being subject to it, was reported not to be uncommon at nearly one third of the monitoring activities to PCFs where interviews took place<sup>3</sup> compared to one event being reported at one (1) of the eight (8) planned monitoring activities in IHCs<sup>4</sup>. Highlighting the violence in PCFs, an interview with a person held under IRPA was delayed during one of IDMP's monitoring activities because a person on their unit, detained under the Criminal Code, had been murdered.

Strip searches were not reported at IHCs; however, people detained under IRPA at many PCFs shared that they were regularly subjected to them, as well as to other security measures. Moreover, they were under the same disciplinary regime as those detained under the Criminal Code.

Restraints were used during transport outside of facilities in an overwhelming majority of cases and it was reported that the type of restraints depended on individual assessments. Of note, as shared by facility staff, the evaluation of the level of risk at certain PCFs considered people detained under IRPA as higher risk, leading to them having a higher level of restraint while transported outside a facility<sup>5</sup>.

#### **3.2.1. Co-mingling in PCFs**

In absolute numbers, placement of people detained under IRPA in PCFs in 2020/21 and 2021/22 remained relatively at the same level after falling sharply compared to 2019/20<sup>6</sup>. While a reduced reliance on PCFs is welcomed and was recommended by the CRCS in the previous reports, however, as of writing this report, CBSA has not shared with the CRCS the intention to put an end to the use of PCFs to detain people under IRPA.

Co-mingling remains a central issue of concern to the CRCS. As previously reported, at all but one of the twenty-five (25) PCFs visited by IDMP, people detained under IRPA were co-mingled with people held under the Criminal Code at the unit and the cell level. When asked about dedicated immigration detention units, some PCF managers stated they did not view them as possible since numbers were not high enough to justify them. Another obstacle was related to classification, whereas, according to PCF managers, there could be compatibility issues, or in other words, the fact that people are detained for immigration reasons does not guarantee they will get along.

All the visited PCFs had different types of units, separating people, for example, based on their status (pre-trial or convicted), their level of security, their behaviour, their charges, etc. The decision of placing a detained person in a particular unit depends on the evaluation made by the PCF staff. IDMP observed that the policies and practices governing placement of people under IRPA varied greatly from province to province and from one facility to the next. Some facilities tended to treat people under immigration detention as a lower security risk, others did not take their immigration status into consideration and placed them based solely on the PCFs classification process, finally some facilities considered people under immigration detention as a higher risk even though they are not detained in relation to the Criminal Code. In these cases, the decision was at times taken at the facility level, at other times it was a provincial policy. The assumption shared by some PCF staff to explain these policies was that people awaiting their removal were automatically considered higher risk as they were seen as potentially dangerous or unstable. However, IDMP observed that a confusion seems to exist regarding the expression "flight risk", which may not always be interpreted in the right context. If, for CBSA it means an "individual is unlikely to appear for an examination"<sup>7</sup>, some PCF staff may interpret it as meaning that these individuals posed a risk of escaping detention and were thus deemed as dangerous.

Finally, the CRCS found people detained under IRPA with no prior convictions nor criminal accusations placed in PCFs. The observation was surprising since their National Risk Assessment for Detention (NRAD) score would likely make them eligible for a voluntary transfer to an IHC.

<sup>1</sup> For more information see Canadian Red Cross IDMP Annual Report 2020-21, p. 12 (to be published by CBSA).

<sup>2</sup> Sixteen (16) activities to PCFs with interviews out of twenty-six (26).

<sup>3</sup> Eight (8) activities to PCFs with interviews out of twenty-six (26).

<sup>4</sup> IDMP is not qualifying whether the use of force was legitimate or not, but only underlining the number of times it was reported during its activities.

<sup>5</sup> See 3.2.1 Co-mingling in PCFs for further information of this topic.

<sup>6</sup> See CBSA's detention statistics at <https://www.cbsa-asfc.gc.ca/security-securite/detent/menu-eng.html#s8>.

<sup>7</sup> ENF 20 p.18, the definition is based on the wording in the Immigration and Refugee Protection Act.



### **3.3. Recommendations on Conditions of Detention and Treatment**

*The CRCS recommends that the CBSA ensures people detained for immigration reasons have access to leisure, cultural, and educational activities regardless of their place of detention. Such activities are highly encouraged in a detention context as they are important for an individual's well-being, including personal development, physical and mental health, and social and cultural inclusion. Moreover, they can contribute to reducing the negative effects of detention by relieving stress and promoting positive interactions with others.*

*The CRCS recommends that the CBSA, regardless of the place of detention, provides people detained under the IRPA with full and timely access to health services covered by the IFHP or equivalent coverage. Special attention should be given to meeting the healthcare needs of the most vulnerable individuals, including those diagnosed with mental health conditions and those who have declared a need for mental health support. Moreover, it would be important to consider extending this coverage to people under ATDs.*

*The CRCS recommends the CBSA review its policy on the use of restraints during transport to increase the number and type of situations where restraints are not applied while transporting people being detained under IRPA. The CRCS highlights that the application of restraints should only be permitted when they are legal, necessary, and proportionate, after an evaluation of the risk posed by the person and the specific situation. Use of restraints should be the last recourse and less incapacitating means should be preferred.*

*The CRCS re-emphasizes that co-mingling individuals detained for immigration reasons with other detained persons, remanded or sentenced under the Criminal Code is a harmful practice contradicting provisions of international legal instruments. This practice exposes people being detained under the IRPA to a greater risk of inappropriate treatment and it places them in conditions that are more restrictive than what is strictly necessary and that are determined by authorities independent from CBSA. The CRCS is particularly concerned with observed PCF classification practices in certain regions and facilities resulting in placement of people detained under IRPA in maximum security units.*

*The CRCS reiterates its recommendations included in previous reports to CBSA to go beyond reducing reliance on PCFs and develop a plan to eliminate the placement of people detained for immigration reasons in this type of facility in the near future. The CRCS welcomes announcements made by some provincial authorities planning to end their arrangements with CBSA to hold people detained under IRPA in their PCFs, as this initiative contributes to end the fundamentally problematic practice of co-mingling people under administrative detention with those under criminal detention. At the same time, the CRCS urges the CBSA to organize a smooth and steady transition to a system that does not rely on co-mingling people detained for immigration reasons in correctional facilities.*

*While working on ending reliance on PCFs, should CBSA continue to place individuals detained under the IRPA in these facilities, in order to reduce the negative impact of such a placement as much as possible, the CRCS recommends that CBSA ensures individuals are held in a specialized unit where they are entirely separated from the remaining population being held under the Criminal Code, while avoiding situations of solitary confinement. In addition, these units must offer non-punitive conditions and adequate access to activities and services.*

*Furthermore, the CRCS recommends CBSA continues to reduce reliance on PCFs by:*

- *Continuing to expand the availability of specialized Alternatives to Detention (ATDs) which are equipped to respond to a larger variety of needs<sup>1</sup>;*
- *Providing all three IHCs with infrastructure, personnel, and procedures that permit holding people with even more complex profiles, while ensuring they are held in accordance with international and national rules;*
- *Improving the detention placement assessment process determining if a person is eligible to be placed in an IHC rather than in a PCF, taking into account all available factors that can lead to a more precise assessment of their current behavior and level of risk as well as tools to mitigate such risks<sup>2</sup>; and*
- *Mandatorily offering a transfer to an IHC to individuals whose NRAD score permits such a placement, including across provinces or regions, while considering proximity to family and in cooperation with other authorities involved<sup>3</sup>.*

<sup>1</sup> Specific vulnerabilities are reviewed in section of the present Report "Vulnerable people, people in long-term detention and the four key areas of monitoring".

<sup>2</sup> Including correctional authority's evaluation of their rehabilitation, adherence to a drug or alcohol rehab program and the level of security where they were placed at the end of their criminal sentence.

<sup>3</sup> Such as, for example, the Immigration and Refugee Board of Canada (IRB) and courts (in cases, where a person charged with a criminal offence is released on bail but remains detained under the IRPA).



### **3.4. Area of Monitoring 3: Access to Legal Guarantees and Procedural Safeguards**

Difficulties communicating with facility staff for people not speaking the language(s) mainly used in the region they were detained were reported in over a quarter<sup>1</sup> of the monitoring activities to PCFs and IHCs where interviews were carried out. These led to delays or the inability for non-fluent immigration detainees to obtain a basic item or a service, such as an appointment with a doctor, clean clothes, or a prayer mat.

In addition, many IRB hearings were held over the phone given the public health situation did not permit in-person hearings and video hearing systems were not readily available at all the monitored facilities. IDMP notes that some detained people expressed their concerns about hearings over the phone stating they felt they did not fully understand the proceedings. Delays in the timing of detention hearings were not reported during activities at the IHCs. They were, however, reported by people in immigration detention in two of the monitored PCFs. While it is possible that COVID-19 lockdowns and lack of staff may have been a factor behind these delays, it must be noted it is difficult for IDMP to monitor the delays in hearings since detained people sometimes do not have complete or accurate information about such delays.

The lockdowns and limited time out of cells noted above also had an impact on procedural safeguards. For example, many people reported difficulties contacting their legal representatives because they could not access a telephone. It can also cause a person to miss a deadline to submit important documents such as the Pre-removal risk assessment (PRRA) because they cannot talk to their lawyer on time.

During several monitoring activities to PCFs, it was reported that CBSA info packages were not available, or that they were only available in English. In many cases, due to frequent staff rotation, personnel at admissions were not aware such document existed.

It was observed that Detention Liaison Officer (DLO) interviews continue to be effective in supporting people being detained under IRPA at PCFs, helping with, among others, the provision of information, interpretation, access to medical care, and international calls. DLO's presence varied from one region to the next and one facility to another. For example, for most of the monitoring period, due to the absence of a designated CBSA DLO position in one of the Regions, there could have been limited CBSA phone calls and visits conducted to meet with detained individuals regarding their needs in certain PCFs.

### **3.5. Area of Monitoring 4: Ability to Maintain Contact with Family and Friends**

Telephones at IHCs were reported as being easily accessible. In many PCFs, as mentioned above, lack of time out of cell was a major obstacle, greatly limiting the time where a person had physical access to the telephone in the common areas, thus limiting the possibility of placing calls to family members as well as legal representatives. The cost of international calls was identified as a barrier to maintaining contact in nearly one third<sup>2</sup> of the monitoring activities to PCFs and IHCs where interviews were carried out. It is believed the cost of calls was a more systematic issue, however, it wasn't reported when people did not have relatives living outside the country.

IDMP notes that during the pandemic, many facilities have implemented the use of video calls to families, which is a positive development even though their use may have been suspended during lockdowns. These have several advantages, including being free, regardless of the location called.

Finally, receiving in-person family visits at all locations was at times possible during the monitoring period and at times not, depending on a person's COVID-19 status, the outbreak status at the facility, and directives by authorities at different levels. While understanding the risks related to the pandemic and the need for public health measures, the IDMP highlights the importance of in-person contact visits, especially in cases of removals when a parent must leave their children behind.

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<sup>1</sup> Nine (9) of the thirty-four (34) monitoring activities to PCFs and IHCs where interviews were carried out.

<sup>2</sup> Eleven (11) of the thirty-four (34) monitoring activities to PCFs and IHCs where interviews were carried out.





### **3.6. Recommendations on Procedural Safeguards and Family Contacts**

*The CRCS recommends that people detained under the IRPA be provided with information to better understand ATDs, both through the CBSA ATD programs and other avenues.*

*The CRCS recommends that DLOs, or other officers with DLO functions, hold regular meetings with all people detained under the IRPA and held in provincial institutions, regardless of whether they had previous interaction with other CBSA officers. As mentioned above, special attention should be given to people in intake isolation, medical isolation (droplet precaution), or other types of long-term lockdowns.*

*The CRCS strongly urges the use of professional interpretation services during key moments of detention, including facility orientations, during medical or mental health consultations, or any other interaction of a confidential or decisive nature at all facilities where people detained under IRPA are held. Unit staff at PCFs should have access to interpretation services, such as those available by phone, to facilitate day-to-day communication with people detained under the IRPA.*

*The CRCS recommends that information packages be consistently provided to PCFs. Furthermore, CBSA should monitor that people detained for immigration reasons have access to these packages.*

*Acknowledging a “Report on the sense of access to justice associated with virtual hearings held before the IRB using MS Teams”<sup>1</sup> published by the IRB on related issues, the CRCS recommends CBSA – or another relevant authority – to gather and share statistics on the outcome of IRB hearings (continued detention or release) comparing different formats – in-person, videoconference, and telephone – over the same period with the goal of further understanding if different formats have an impact on the outcome of a hearing.*

*The CRCS encourages CBSA to implement personal video calls in all IHCs and to facilitate such calls for people detained in PCFs – including providing the service off-site if necessary.*

*With regards to contact visits, the CRCS recommends that, when the public health situation permits it, all people detained under IRPA have access to them. If not available at the detention facility where they are held, CBSA should explore offering them off-site – for example at the location of detention hearings when conducted outside the detention facility or at the airport before a removal.*

*A positive practice was noted in one of the PCFs monitored by IDMP. The facility offers a change of clothes to people who are being detained before in-person visits. In other facilities, people can change into civilian clothes before making a video call and the backdrop of the call is softened and made not to look institutional. The ability to change to regular civilian clothing before meeting family in person or over a video call and providing softer interiors for these meetings offer an environment of normalcy, which is especially important if a child is present<sup>2</sup>. The CRCS recommends other PCFs consider implementing this practice.*

*The CRCS also highlights positive practices observed at certain PCFs facilitating contact with friends and family. These practices include the access to electronic tablets to exchange text messages and pictures. The CRCS recommends that IHCs consider implementing a similar practice.*

<sup>1</sup> <https://irb-cisr.gc.ca/en/transparency/reviews-audit-evaluations/Pages/access-to-justice-virtual-hearings-report-2022.aspx#s4p1>.

<sup>2</sup> IDMP notes that it would be preferable for people detained under IRPA to wear their own clothes, or civilian clothes provided by the facility to the extent possible, and not just during family visits or video calls.



#### **4. People in Vulnerable Situations and People Detained for Longer Periods**

Responding to the needs of people in vulnerable situations is at the core of the Red Cross and Red Crescent Movement's mandate. While all individuals placed in detention face some level of vulnerability since they depend on the detaining authority to respond to their basic needs, individuals who are most vulnerable in a situation of immigration detention include: children and families with children; pregnant individuals; those at risk of violence due to their gender, sexual orientation or gender identity; individuals requiring physical and mental health supports; people with disabilities; the elderly; stateless people; and those with special protection needs, such as refugee claimants, victims of trafficking, and survivors of torture or trauma.

In all cases of detention for immigration reasons, the length of detention should be limited in time and the decision to detain should be re-evaluated regularly. Considerations should include the necessity, reasonableness, and proportionality of detention recognizing the cumulative negative effect on the individual's well-being and, when applicable, the best interests of children impacted directly.

##### **4.1. Observations: People in Vulnerable Situations and Conditions of Detention**

IDMP met with people in situations of vulnerability in 40%<sup>1</sup> of the monitoring activities to PCFs and IHCs where people detained under IRPA were present and interviews were carried out. These included people with severe mental and physical health issues and people from the LGBTQIA2S+ community. In IHCs during this reporting period, IDMP interviewed or was notified of the presence of children accompanying their parents, unaccompanied minors, pregnant individuals, and asylum seekers. The presence of people in situations of vulnerability is of serious concern to the CRCS given their needs cannot be fully met in a context of detention and the negative effects of detention may continue after their release. These concerns were heightened in the case of children – whether detained or accompanying their parents – given their developmental needs cannot be met in detention; and people with mental health issues in highly restrictive regimes such as those described earlier in this report, including people with addictions – since detention rarely offers the treatment they need, and it can worsen their condition.

IDMP positively notes the termination in November 2021 of the policy to turn back asylum seekers entering between official land border crossing. However, unfortunately, IDMP continued to observe an increase in the detention of people in vulnerable situations and the presence of children in detention at the Laval IHC. This may indicate that the earlier decrease in numbers of people in vulnerable situations at the Laval IHC, and the presence of children in particular, may have been caused, at least partially, by the COVID-19 restrictions suspending crossings between ports of entry, rather than the result of a policy to reduce detention of people in vulnerable situations.

During the reported period IDMP was notified of a medical emergency in one of the IHCs which led to a person's death. While the relevant authorities were investigating the case, CRCS exercised its mandate to support the CBSA's efforts in maintaining continued well-being of other detained individuals held in that environment, including confirming detained people had access to mental health support. Additionally, IDMP highlights that during the monitoring period covered by the present report, it was notified of four (4) troubling events where people detained had harmed themselves and were possibly attempting to commit suicide. Moreover, it was observed that people who mention suicidal thoughts in PCFs are placed in highly restrictive regimes under constant observations wearing only a tearproof gown. Understanding the need for heightened supervision in some cases, IDMP believes the conditions as they were observed are not conducive to an adequate treatment of the underlying mental health problems.

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<sup>1</sup> Fourteen (14) of the thirty-four (34) monitoring activities to PCFs and IHCs where interviews were carried out.

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**4.2. Observations: People Detained for Long Periods and Conditions of Detention**

As mentioned in the previous annual report to the CBSA, the CRCS IDMP remains preoccupied with the impacts of prolonged immigration detention, being aware that the harm caused by deprivation of freedom grows with time spent in detention. Also, the capacity to cope with the difficulties of detention varies from one person to another, with people in vulnerable situations being at greater risk<sup>1</sup>. The CRCS does not determine what constitutes long-term detention, as the deleterious impact of detention will vary depending on the circumstances of the individual. Nonetheless, relying on CBSA's definition, IDMP observed the presence of people detained for more than three (3) months in over half<sup>2</sup> of the monitoring activities to PCFs and IHCs where interviews were carried out.

**4.3. Recommendations**

*The CRCS encourages the CBSA to further expand the availability of ATDs in all regions to be able to offer them to a greater number of individuals in vulnerable situations. Moreover, it is recommended to offer ATDs adapted to a greater diversity of people with specialized needs, such as those offered by organizations with expertise in providing trauma-informed medical and mental health care. Such an investment will allow detaining authorities to safeguard the well-being of eligible individuals. The CRCS recommends developing the capacity to offer ATDs adapted for individuals whose detention is long-term and individuals with specific physical and mental health needs, including those requiring continued care after detention.*

*The CRCS considers the use of PCFs to hold people in immigration detention, especially those in the most vulnerable situations, to be problematic and recommends that it should be avoided. In addition to the findings outlined above, the CRCS also notes that the resources required to identify and perform ongoing evaluations of the unique needs of people in vulnerable situations were limited in the visited PCFs, including fewer opportunities for interaction with CBSA officers. Moreover, the PCFs monitored by the CRCS offer limited care and support to people detained under the IRPA who have specialized needs, such as individuals with prior trauma or those requiring mental health support.*

*The CRCS believes the presence of children in detention settings is prohibited by international standards such as those included in the Convention on the Rights of the Child as well as Canadian regulatory frameworks which prioritize the best interests of the child in decision-making. The CRCS also highlights that the Government of Canada has expressed support to the Global Compact for Safe, Orderly, and Regular Migration in "working to end the practice of child detention in the context of international migration," (para. 29(h)). The CRCS strongly recommends ending the practice of placing children in detention facilities – whether detained or accompanying a parent or legal guardian. For cases where liberty is not possible, it recommends developing ATDs to permit family unity outside detention since, in a vast majority of cases, it is in the best interest of the child.*

*Given the notifications received from CBSA on self-harm and suicide attempts, the indication by certain PCFs of a rise in suicide attempts which could be linked to COVID-19 related isolation and the mental health distress it caused and given the high numbers of people with mental health issues observed in detention under IRPA, the CRCS recommends taking strong pre-emptive action. An ongoing mental health screening should be done for people detained and risk of suicide should be considered as a strong argument for release, or for offering ATDs with the proper care.*

*As mentioned above, the CRCS highlights that some health-care services that are covered by the IFHP supplemental coverage are not available at certain PCFs, such as the services of a psychologist, and that some people in immigration detention are not receiving needed health care as a result. These and other services are important for all people detained under IRPA who may need them. For example, therapy can enable a person to prevent the behaviors that initially led to a determination of "danger to the public", allowing for an alternative solution in situations of prolonged detention.*

<sup>1</sup> See Canadian Red Cross IDMP Annual Report 2020-21, p. 15 (to be published by CBSA).

<sup>2</sup> Eighteen (18) of the thirty-four (34) monitoring activities to PCFs and IHCs where interviews were carried out.



## 5. Short-Term Detention

During the monitoring period under review, IDMP carried out monitoring activities to fourteen (14) short-term detention facilities, such as land border crossing offices, international airports, and inland offices in five (5) provinces. IDMP has started to monitor this type of facilities after the signing of a new Agreement between the CRCS and the CBSA on February 23, 2021. Assessment of the conditions at these facilities took into account that detention should not exceed 48 hours, and therefore services offered were more limited than what is found in a facility for longer-term detention.

### 5.1. Observations

The presence of detained individuals at all the visited places of short-term detention was reported as being a matter of hours. It could be slightly longer at some locations, depending on the distance to the closest IHC or PCF, and only exceptionally would it be more than 24 hours.

In more than three quarters<sup>1</sup> of the visited International Airports and Land Border Crossings, the use of the cells was a measure of last resort when a person represented a security risk. The staff at these facilities also had at their disposal a less restrictive option, which consisted of leaving people detained in waiting areas under surveillance (i.e. bench detention). The capacity of facility staff to adapt the level of restrictions imposed on people detained to their level of risk is positive. At two (2) locations the practice of bench detention was not possible. However, one of these locations had a bigger locked room with a closed-off toilet, which was less restrictive than a single occupancy cell. Detention in open areas was usually not available at Inland Offices, however, it is understood the general circumstances and the profile of most people detained at these locations tend to be different than those detained at airports and land border crossings. At all visited locations, it was reported that children would never be put in single occupation cells, which is an important policy.

The architecture and design of the single cells at the majority of the visited locations tended to be institutional, with minimal amenities. Most had metal toilets and sinks as well as concrete benches, although some had softer features such as wooden benches. Accepting that openings for natural light may be more complicated in an airport given that the cells are usually placed in the centre of the structure, only one (1) of the fourteen (14) visited places for short-term detention had natural light entering the cell. Privacy was an issue at four (4) locations, where a surveillance camera was in the cell and physical and/or virtual obstacles were not sufficient to fully block the view of the area around the toilet.

All the facilities reported clear policies for medical attention in case of need. At all but one of the visited short-term facilities, there was a clear policy around the provision of meals after a reasonable amount of time or even upon request at certain locations. These meals were reported to include different options respecting dietary restrictions and religious beliefs. It was not clear whether the single location without a coherent meal policy may have required detained individuals to pay for their food once detained.

Mindful of the fact that detention was of short duration, pillows and blankets were available at ten (10) of the fourteen (14) locations – including three (3) of the five (5) airports where arrivals may be late or detained people jetlagged. Mattresses were only available at one (1) location.

At all the locations, infrastructure and policies permitted private calls to legal representatives – in many facilities local Legal Aid numbers were posted or reported shared upon detention. At one location, direct communication with consular authorities was not permitted, but CBSA agents could contact them at the request and with the explicit permission of the detained person. Finally, at twelve (12) of the fourteen (14) locations, calls to family members were possible after detention, but they were not reported to be systematically allowed at two (2) locations.

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<sup>1</sup> Eight (8) of ten (10) visited International Airports and Land Border Crossings.



## 5.2. Recommendations

*When the risk assessment permits it, IDMP recommends short-term detention be carried out in open spaces such as waiting areas (i.e., bench detention) which offer the positive option to adapt the level of restriction to the risk posed by the person.*

*While CRCS observed positive practices in short-term detention facilities – such as very short stays – IDMP notes that the cell design leaves room for improvement. Although the size of cells may be adequate for short-term single occupancy, IDMP recommends that new cells – or planned renovations to cells – include features such as windows that provide natural light and allow people being detained to see outside. The choice of colours and materials should not be made on security grounds alone, with options being considered that calm, provide wellness and create a more personal environment that echoes life outside detention<sup>1</sup>. Should detention be longer than a few hours, a mattress should be made available.*

*Moreover, IDMP strongly recommends providing adequate food and beverages at all the short-term detention facilities – considering religious beliefs and dietary restrictions – at appropriate intervals, at the expense of the detaining authority. The CRCS highlights the positive practice observed at some CBSA facilities in British Columbia, where pictures are used to illustrate menu options. The CRCS recommends this beneficial practice be implemented in other sites where people are detained under the IRPA to help overcome potential language barriers.*

*The CRCS recognizes detention at these fourteen (14) locations is short-term. However, based on relevant international standards<sup>2</sup>, the CRCS shares the interpretation of the Association for the Prevention of Torture which states that “The modalities for communication between detainees and consular officials should generally be similar to that between detainees and lawyers. Detainees have a right to receive visits, make and receive telephone calls and send and receive correspondence from consular officials.”<sup>3</sup> The CRCS recommends that, if they so wish, people being detained be afforded the possibility to directly call their consular representative at all detention facilities, including short-term detention facilities.*

*The CRCS strongly recommends that detained people at all detention facilities – including short-term detention facilities – must be permitted to call family members and/or friends<sup>4</sup>. Detained people should be able to communicate regularly with their family and friends – including, as soon as possible after detention and after each transfer to a new facility. The exception to this rule should be made based on an individual assessment, and be legal, necessary, reasonable, and proportionate considering the circumstances specific to the individual case. The CRCS highlights that such exceptions are usually made in cases of detention under the Criminal Code, rather than detention under the IRPA.*

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<sup>1</sup> See “Extract from the 2<sup>nd</sup> General Report of the CPT, published in 1992 – Police Custody”, European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT), CPT/Inf(92)3-part1, paragraph 42 and 43. And “Dignity and Safety in Restrictive Detention Regimes”, International Committee of the Red Cross (ICRC), 2018, p.16-17 (<https://shop.icrc.org/dignity-and-safety-in-restrictive-detention-regimes-pdf-en.html>).

<sup>2</sup> Vienna Convention on Consular Relations (1963), art 36; BPP 16; CMW 16(7); PBPPDLA V; SMR 62.

<sup>3</sup> <https://www.apr.ch/en/knowledge-hub/detention-focus-database/contacts-outside-world/consular-contacts>.

<sup>4</sup> BPP 19; SMR 58.



## Conclusion

CRCS detention monitoring is carried out by the IDMP in accordance with the Contract between the CRCS and the CBSA, encompassing the period from February 23, 2021, to February 22, 2024, inclusive. This report presents the observations and recommendations of the CRCS on immigration detention following a total of sixty-four (64) monitoring activities, including fifty-nine (59) regular visits and five (5) activities in response to a notification. The CRCS performed eleven (11) monitoring activities to IHCs, thirty-nine (39) monitoring activities to PCFs, and fourteen (14) monitoring activities to short-term detention facilities. These activities were conducted at three (3) IHCs, twenty-five (25) PCFs, and fourteen (14) short-term detention facilities holding persons detained under the IRPA between April 2021 and March 2022.

The findings and the recommendations made in this report are aimed at improving the conditions of detention for people detained for immigration and grouped in the following themes:

- COVID-19: Impact on Areas of Monitoring;
- Immigration holding centres and provincial correctional facilities;
- People in vulnerable situations and people detained for longer periods; and
- Short-term detention facilities.

Based on observations, the CRCS makes the following main recommendations to the CBSA within this report:

- Continue implementing measures that have reduced the number of people detained under IRPA;
- Ensure that measures are in place to maintain acceptable detention conditions during lockdowns and medical isolations;
- Ensure that people detained for immigration reasons have access to activities regardless of their place of detention;
- Review the policy on the use of restraints during transport to increase the number and types of situations where they are not applied;
- Develop a plan to end co-mingling of people detained for immigration reasons with criminal populations in the near future;
- Continue to reduce reliance on PCFs through ATDs and placement in IHCs, especially for individuals in vulnerable situations;
- Ensure that persons detained under the IRPA have full and timely access to health services covered by the IFHP or equivalent coverage;
- Ensure DLOs contact all people held in PCFs, prioritizing people in vulnerable situations and those in isolation;
- Ensure the use of professional interpretation services during key moments of detention;
- Ensure that information packages are consistently provided to PCFs;
- Gather and share statistics on the outcome of IRB hearings comparing different formats;
- Implement video calls to family and friends at all IHCs and facilitate such calls for people detained in PCFs off-site if necessary;
- When the public health situation allows it, offer in-person contact visits to all people detained under IRPA, including off-site if necessary;
- Further expand the availability of ATDs in all regions to offer them to a greater number of individuals in vulnerable situations and to offer ATDs adapted to accommodate a greater diversity of people with specialized needs;
- End the practice of placing children in detention facilities and develop ATDs to permit family unity outside detention when liberty is not possible;
- Put in place an ongoing mental health screening for people detained under IRPA;
- Carry out short-term detention without resorting to the use of cells in as many cases as possible;
- Improve cell design in short-term detention facilities (port of entries and inland office cells);
- Consistently provide meals and beverages at all short-term detention facilities at the expense of the detaining authority;
- Consistently permit direct contact with consular authority, when requested, and with family and friends after detention as well as after each transfer to a new facility.

The CRCS remains available to discuss the findings made in this report with the CBSA and to provide objective feedback and advice.



**ANNEX: Relevant Standards**

ATP	United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (Anti-Trafficking Protocol) (2000)
ACHR AP	Organization of American States (OAS) American Convention on Human Rights Additional Protocol in the area of Economic, Social and Cultural Rights (1988)
BPP	UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)
BR	UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the “Bangkok Rules”) (2010)
CCRF	Canadian Charter of Rights and Freedoms (1982)
CMW	UN Convention for the Protection of the Rights of All Migrant Workers and Members of their Families (1990)
CRC	UN Convention on the Rights of the Child (1989)
EC	European Committee, Statement of Principles Relating to the Treatment of Persons Deprived of their Liberty in the Context of the Coronavirus Disease (COVID-19) Pandemic (2020)
GCM	Global Compact for Safe, Orderly, and Regular Migration (2018)
GCR	Report of the United Nations High Commissioner for Refugees, Part II: Global Compact on Refugees (2018)
ICCPR	UN International Covenant on Civil and Political Rights (1966)
ICRC	International Committee of the Red Cross on the Protection of Migrants in Light of the COVID-19 Pandemic
IASC	Guidance on COVID-19: Focus on Persons Deprived of Their Liberty (2020)
PBPPDLA	OAS/Inter-American Commission on Human Rights (IACHR) Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (2008)
RPJDL	UN Rules for the Protection of Juveniles Deprived of their Liberty (1990)
SMR	UN General Assembly, UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules): Resolution adopted by the General Assembly, 8 January 2016, A/RES/70/175
UN	United Nations Working Group on Alternatives to Immigration Detention, COVID-19 & Immigration Detention: What Can Governments and Other Stakeholders Do?
UNHCR-DG	UNHCR Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012)
VCCR	Vienna Convention on Consular Relations (1963), Article 36