

Information Note
Department of Justice and Public Safety

Title: Immigration Detention

Issue: To provide information regarding Canada Border Services Agency's use of Adult Correctional facilities in Newfoundland and Labrador (NL) for immigration detention.

Background and Current Status:

- The Canada Border Services Agency (CBSA) is mandated to support national security and public safety priorities through border security by screening individuals and goods. Foreign nationals, permanent residents and refugee claimants are screened to prevent individuals from entering or staying in Canada illegally.
- The CBSA has the authority to arrest, detain and remove foreign nationals or permanent residents who are not permitted in Canada under the authority of the **Immigration and Refugee Protection Act (IRPA)**.
- Following an arrest, an individual may be detained at one of three CBSA immigration holding centres (IHC) in Canada located in Quebec, Ontario and British Columbia. If an individual is detained in a region that does not have a CBSA IHC, they may be detained at a provincial correctional facility. Canada does not have a legislative limit on the duration of immigration detention and immigration detainees can be held for months or years.
- In June 2021, a joint report titled "I didn't feel like a Human in There: Immigration Detention in Canada and its Impact on Mental Health across Canada" co-authored by Human Rights Watch and Amnesty International was released documenting serious international human rights violations against immigration detainees held in correctional facilities.
- Shortly thereafter, Canadian provinces began signaling their intent to end formal immigrant detention agreements and discontinue the practice of holding immigration detainees (see Annex A). All provinces currently accept CBSA cases if there is an active warrant with many providing notice to no longer hold CBSA detainees past 2024.
- JPS has received correspondence regarding discontinuation of the practice of holding immigration detentions in its correctional facilities. To date, the department has not served notice to CBSA to discontinue this practice similar to other provincial jurisdictions given the lack of formal agreement with CBSA.

Analysis:

- The Department of Justice and Public Safety (JPS) does not have a formal agreement with CBSA or a provincial policy in place to hold immigrant detainees in its correctional facilities; however, provincial correctional facilities have been accepting CBSA immigration detentions when an "Order of Detention" is presented. [REDACTED] See s. 40(1) [REDACTED] Annex B for a list of immigration detainees held since 2019 by correctional facility.
- Similar to NL, Prince Edward Island (PEI) also does not have a formal agreement with CBSA to hold immigrant detainees. PEI provided a 12 month notice to CBSA in September 2023 to discontinue the practice of holding immigrant detainees solely being held under the IRPA.

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Provincial correctional facilities could continue to house individuals that may otherwise have dual status detained in relation to outstanding charges or serving sentences required by courts in the province until release or sentence expiry.

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Actions Being Taken:

- A draft letter has been prepared and is appended to this note in Annex C advising CBSA that NL will no longer accept individuals solely detained under the IRPA as of March 31, 2025 and provincial correctional facilities will continue to house individuals that may otherwise have dual status detained in relation to outstanding charges or serving sentences required by courts in the province until release or sentence expiry.

Prepared/Approved by: D. Chafe/ /L. Roberts

Ministerial Approval:

March 5, 2024

Annex A**Table 1 - Canada Border Service Agreement Status for Housing in Adult Custody Facilities in Canada Effective January 31, 2024**

Province	Formal Agreement	Currently Accepting CBSA Admissions	Served Notice to Discontinue Service	Effective Date of Notice
NL	No	Yes	N/A	N/A
NS	No	No	Yes	Aug/23
NB	No	No	Yes	Marc /24
PEI	No	Yes	Yes	Sept /24
QC	Yes	Yes	Yes	April /24
ON	Yes	Yes	Yes	Aug /24
MN	Yes	Yes	Yes	April /24
SK	No	No	Yes	Sept /23
AB	No	No	Yes	Sept /23
BC	No	No	Yes	Oct /23
Yukon	No	Yes	No	N/A
NWT	No	No	N/A	N/A
Nunavut	No	No	N/A	N/A

Annex B

Total Offenders With Immigration Holds (Pure and Dual Status) 2019 – Jan 2024						
Location	2019	2020	2021	2022	2023	Total
Bishop Falls Correctional Center						
Her Majesty's Penitentiary		5	4			11
Labrador Correctional Center						
NL Correctional Center for Women						
St. John's Lock Up	7					14
West Coast Correctional Center						
Total	7	13	7	5		

Since 2019, NL has received 10 dual status individuals and 23 pure Immigration detainees.

Annex C



Government of Newfoundland and Labrador
Department of Justice and Public Safety
Office of the Assistant Deputy Minister

March 5, 2024

Mr. Carl Desmarais
Director General, Enforcement
Canada Border Services Agency
100 Metcalfe Street, 9th Floor
Ottawa, Ontario K1A 0L8

Dear Mr. Desmarais:

I am writing to you regarding the informal arrangement between the Province of Newfoundland and Labrador and the Canada Border Services Agency (CBSA) related to persons detained under the **Immigration and Refugee Protection Act**.

In the absence of a formal arrangement, the Adult Corrections Division responsible for adult custody for the Department of Justice and Public Safety, Newfoundland and Labrador (GNL) is advising that negotiations on the draft formal arrangement will not continue. Newfoundland and Labrador correctional facilities will no longer accept individuals solely detained under the **Immigration and Refugee Protection Act**. Provincial correctional facilities will continue to house individuals that may otherwise have dual status detained in relation to outstanding charges or serving sentences required by courts in the province until release or sentence expiry.

To allow the CBSA to make appropriate arrangements in maintaining public safety while observing to the rights of the individuals detained, GNL will stop accepting individuals solely detained under the **Immigration and Refugee Protection Act** on March 31, 2025.



If you have questions, please contact me by phone (709)729-7364 or by email lroberts@gov.nl.ca

Sincerely,

Lorelei Roberts
Assistant Deputy Minister
Public Safety and Correctional Services