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URGENT

May 7, 2020

Mike Wood, Superintendent (Acting)
Ottawa-Carleton Detention Centre
2244 Innes Road
Gloucester, Ontario K1B 4C4

VIA EMAIL: mike.wood@ontario.ca
& VIA FACSIMILE: **613-824-0732**

Dear Superintendent Wood:

**RE: Ramadan Accommodations for Muslim
Prisoners at OCDC**

We are counsel to the Criminalization and Punishment Education Project ("CPEP") in the above-noted matter.

We and the undersigned 60 civil society organizations write subsequent to CPEP's letter to the Ottawa-Carleton Detention Centre ("OCDC"), dated April 28, 2020 (attached).

About the Criminalization and Punishment Education Project

CPEP is an initiative based out of Carleton University and the University of Ottawa. It brings together professors, students, community members, frontline workers, and those affected by criminalization and punishment to carry out research, public education, jail oversight, and community organizing projects.

In 2018, CPEP launched the Jail Accountability & Information Line (the JAIL hotline), which takes calls from people incarcerated at OCDC. In its first year, the JAIL hotline received over 3,400 calls. It continues to be an active resource for OCDC prisoners.

Ramadan

The Islamic month of Ramadan is a lunar month. This year, it runs from approximately April 24 to May 23, 2020.

During Ramadan, many Muslims observe daily fasts, abstaining from all food and drink from sunrise to sunset, including medications. Please find attached a Ramadan 2020 timetable showing examples of start and end times of each day's fast ("Sehar" and "Iftar" respectively).

The above-noted times and dates are subject to some theological differences within Muslim communities.

Muslim Prisoners Fasting at OCDC

Normally, OCDC provides medications to prisoners from 9:30 a.m. to 11:00 a.m. and from 7:00 p.m. to 8:00 p.m.

During Ramadan, these two timeslots can fall within fasting hours. Since at least Ramadan 2019 and in an ongoing fashion, prisoners have asked OCDC staff to modify delivery times to allow fasting prisoners to receive their medications during non-fasting hours.

OCDC has largely denied these accommodation requests. When OCDC has granted the prisoners' accommodation requests, they have done so only sporadically: some prisoners are accommodated on some nights, but not on others. Accommodations are the exception rather than the rule. OCDC has mostly continued providing medications only during regular administration hours.

As well, prisoners report that some staff have verbally responded with derogatory comments to their accommodation requests.

OCDC is effectively forcing ill Muslim prisoners to choose between their faith and their health. If prisoners do not take their medications during OCDC's prescribed hours, they risk their health. When prisoners do accept medications while fasting, they do so against their spiritual beliefs.

The Ontario Ombudsman has reported that health care issues comprise the bulk of complaints at OCDC.¹ This history of inadequate medical services is made worse by OCDC's refusal to accommodate Muslim prisoners.

On April 28, 2020, CPEP wrote to OCDC relaying the prisoners' concerns (attached). OCDC responded with a pro-forma referral letter on April 30, 2020, providing no substantive response.

We understand several prisoners have filed internal complaint forms, both in 2019 and 2020.

Discrimination on the Basis of Disability and/or Creed

OCDC's failure to consistently accommodate prisoners' health- and religion-based needs is causing injury to their dignity, feelings, and self-respect, contrary to section 1 of Ontario's [Human Rights Code, RSO 1990, c H.19](#), which prohibits discrimination with respect to services because of disability and/or creed.

The Ontario Human Rights Tribunal (the "Tribunal") has found that a service-provider's failure to accommodate an applicant's Ramadan-related dietary needs constitutes discrimination.²

The Ontario Superior Court of Justice recently certified a class of federal prisoners in part because they were deprived of necessary medications for long periods of time.³ This is analogous to Muslim OCDC prisoners being deprived of medications during non-fasting hours.

¹ "2015-2016 Annual Report," Ontario Ombudsman, online: <https://www.ombudsman.on.ca/resources/reports-and-case-summaries/annual-reports/2015-2016-annual-report>

² *Islam v Big Inc*, 2013 HRTO 2009

³ *Brazeau v Attorney General (Canada)*, 2016 ONSC 7836

The Tribunal has held that where a prison's medical decisions are based on institutional policies about risk, prisons must accommodate disabled prisoners up to the point of undue hardship.⁴ Some OCDC staff have said OCDC cannot accommodate the prisoners because they do not have a night-shift nurse, but OCDC has not provided evidence demonstrating that its current failure to secure a night-shift nurse meets the threshold of undue hardship, considering cost, outside sources of funding, and health and safety requirements.

Some OCDC staff have also told prisoners that OCDC is denying the accommodation requests because a Muslim chaplain informed OCDC that it is permissible for the prisoners to take medications during a fast, if forced to. This is contrary to the Supreme Court of Canada's ruling that sincerity of spiritual belief is an individual assessment, "irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials."⁵

Resolution

Given the ongoing nature of the situation and Ramadan's fast-approaching end, CPEP requests the following rectifications by **May 8, 2020**:

1. During Ramadan, OCDC staff will consistently accommodate Muslim prisoners who request accommodations by modifying OCDC's medication delivery hours to permit delivery of medications during prisoners' non-fasting hours; and
2. At all times, OCDC staff will refrain from derogatory and xenophobic language when prisoners request accommodations.

Failing this, CPEP and its members reserve the right to commence legal action without further notice.

Please do not hesitate to contact us if you have any questions. Thank you for your attention.

Sincerely,


Fathima Cader
Barrister and Solicitor

Cc:

- i. Criminalization and Punishment Education Project (email: cpep.action@gmail.com)
- ii. Renu Mandhane, Chief Commissioner, Ontario Human Rights Commission (email: renu.mandhane@ohrc.on.ca)

Encls:

- i. Letter from CPEP to OCDC, dated August 28, 2020
- ii. Ottawa prayer timetable for Ramadan 2020

Signatories:

1. Abolition Coalition
2. Abolition Convergence
3. Assalam Mosque
4. Bar None Winnipeg

⁴ *Kift v. Ontario (Community Safety and Correctional Services)*, 2016 HRTO 1463

⁵ *Syndicat Northcrest v. Amselem*, 2004 SCC 47 at para 46

5. BC Civil Liberties Association
6. Black Legal Action Centre
7. Black Lives Matter - Toronto
8. Black Muslim Initiative
9. Canadian Association of Muslim Women in Law
10. Canadian Council for Muslim Women - Ottawa Chapter
11. Canadian HIV/AIDS Legal Network
12. Canadian Muslim Lawyers Association
13. Canadian Prison Law Association
14. Canadian Students for Sensible Drug Policy – National
15. Canadian Students for Sensible Drug Policy – Ryerson
16. Centre for Justice Exchange
17. CFGT French Legal Aid Services
18. Chinese & Southeast Asian Legal Clinic
19. Coalition Against Mass Surveillance
20. Continuing Education Students' Association of Ryerson
21. Council of Agencies Serving South Asians
22. Disability Justice Network of Ontario
23. East Coast Prison Justice Society
24. Education Not Incarceration
25. HAMSMaRT
26. HIV & AIDS Legal Clinic Ontario (HALCO)
27. Journal of Prisoners on Prisons
28. Justice For Soli Campaign
29. Law Students for Decriminalization & Harm Reduction (UBC)
30. Law Union of British Columbia
31. Law Union of Ontario
32. Millennial Womxn in Policy
33. Movement Defence Committee
34. Muslim Chaplaincy of Toronto
35. National Council of Canadian Muslims
36. Neighbourhood Legal Services
37. No More Silence
38. No One Is Illegal
39. Ontario Council of Agencies Serving Immigrants
40. Ontario Public Interest Research Group - Kingston
41. Ottawa Islamic Centre
42. Ottawa Muslim Community Services
43. Ottawa Sanctuary City Network
44. P4W Memorial Collective
45. Palestinian Youth Movement - Toronto Chapter
46. PASAN
47. Peace and Social Concerns, Ottawa Monthly Meeting (Quakers)
48. Positive Change Toronto
49. Prisoners' Legal Services
50. Sanad Collective
51. South Asian Legal Clinic of Ontario
52. Sunshine House
53. Termite Collective
54. Toronto Harm Reduction Alliance
55. Toronto Prisoners Rights Project
56. United in Colour McMaster
57. Vancouver Prison Justice Day Committee
58. Women's Health Organization International
59. Women's Wellness Within
60. YWCA Canada



Souheil Benslimane, Coordinator
JAIL / Jail Accountability and Information Line
c/o Criminalization and Punishment Education Project
120 University Private – Room 14049
Ottawa, Ontario, Canada
K1N 6N5

Superintendent Mike Wood
OCDC / Ottawa-Carleton Detention Centre
2244 Innes Road,
Gloucester, ON
K1B 4C4

April 28, 2020

RE: THE OTTAWA-CARLETON DETENTION CENTRE (OCDC) MUST RESPECT THE RIGHTS OF MUSLIM PRISONERS DURING THE HOLY MONTH OF RAMADAN, WHICH ARE CONTINUOUSLY BEING VIOLATED.

Dear Mr. Wood:

I am writing to respectfully demand that you provide Muslim prisoners who are observing the Holy Month of Ramadan access to their medication before Fajr (morning prayer) and Maghrib (evening prayer) as mandated by the religion of Islam in accordance with local Islamic prayer times.

The Jail Accountability and Information Line (JAIL) hotline understands that over at least two days, notably April 25 and 26, 2020, OCDC staff provided medication to certain areas only during regular administration hours. These delivery hours fall between Suhur (sunrise) and Maghrib (sunset), a period when Muslim prisoners are fasting during the month of Ramadan. On those two days for instance, Iftar was around 8:02 PM, which is hours after the last medicine drive. OCDC staff forced prisoners to choose between maintaining their religious fast and taking their medication by giving them an ultimatum with only those two options.

The Ministry of the Solicitor General (MSG) and by extension, the OCDC and yourself must meet your obligations under the Ontario *Human Rights Code*¹ (the Code) by, but not limited to, accommodating creed-related needs of incarcerated people. Furthermore, the

¹ *Human Rights Code*, RSO 1990, c H.19 s 1.



Code protects prisoners from differential treatment based on religion. By refusing to provide medication to Muslim prisoners during times when their religion allows them to ingest anything, you are failing to accommodate their religious needs, which could amount to discrimination contrary to the Code.

We understand that the OCDC's Health Care Department's resources might be scarce, especially when the COVID-19 pandemic may have altered the jail's operations. However, in an interim decision, the Ontario Human Rights Tribunal found that prisoners being denied access to their medication based on institutional safety policy, may amount to discrimination.² We infer that denying prisoners access to healthcare based on institutional policy, standing order, or institutional practice and because of their religion may also constitute discrimination. This raises serious concerns that must be addresses immediately.

The COVID-19 restrictions and their consequences on operations becomes moot when we consider that this issue is recurring. Last year, a dozen callers reported the same issue to the JAIL hotline, namely nurses refusing to provide them medication after the Maghrib prayer. This year, the issue remains unaddressed.

The OCDC has a troubling history of disregarding the religious rights of Muslim people. As detailed in the 2016 Community Advisory Board Annual Report,³ the OCDC has repeatedly mismanaged Muslim voluntary programming, denying people who are incarcerated meaningful access to spiritual services.

The history of and the ongoing human rights violations perpetuated by the OCDC against people and groups of people are made evident by the matter discussed herein. It is further evidenced by the well-documented firsthand accounts by Indigenous prisoners, who are routinely denied access to spiritual and traditional ceremonies and whose medicine bags are often arbitrarily seized by OCDC guards during routine searches and transfers.

Denying access to medication for religious reasons is a clear violation of prisoners' and human rights. In the Ministry's own information guide for adult institutions, access to religious services is explicitly guaranteed.⁴ We understand that medication is not a religious

² *Kift v Ontario (Community and Correctional Services)*, 2016 HRT0 1463 at para 8.

³ See

<https://www.mcscs.jus.gov.on.ca/english/Corrections/CommunityAdvisoryBoards/OttawaCarletonDetentionCentre/CABReport2016OttawaCarletonDetentionCentre.html>

⁴ See

https://www.mcscs.jus.gov.on.ca/english/corr_serv/PoliciesandGuidelines/CS_Inmate_guide.html#P592_89798



service. It however intersects with religious services when its delivery is contingent on the religious practices of Muslim prisoners given that they cannot eat or drink between sunrise and sunset. The institution must therefore accommodate the needs of people who are fasting for religious reasons. OCDC failed to meet the needs of Muslim people on at least two days already.

The institutional confines within which Muslim people can observe Ramadan are completely governed by the MSG. It is then the responsibility of the MSG and you as the Superintendent to ensure Muslim people at your institution have the necessary resources to express their religious freedom free from discrimination.

To make matters worse, callers also allege that certain guards and frontline staff responded to prisoners' requests to bring medication after Maghrib by dismissing them or making xenophobic comments. This behaviour exacerbates the strain experienced by incarcerated Muslim people and violates the principles set out in the Ontario Correctional Services Code of Conduct and Professionalism Policy (COCAP)⁵ by which the guards and staff must comply.

Given the longstanding nature and the seriousness of the violations brought to your attention in this letter, the JAIL hotline urges you to implement the corrective measures below. **If you fail to address the situation meaningfully by Thursday, April 30, 2020,** we will see ourselves obligated to engage the media, legal practitioners, community, civil society, and religious organizations, advocates, and various other partners to ensure the OCDC and the MSG comply with their obligations and respect the rights of Muslim prisoners.

Corrective Measures:

To redress this situation, you must:

- I. Ensure OCDC healthcare staff provide Muslim prisoners their medication before Fajr and after Maghrib upon request during the Holy Month of Ramadan;
- II. Ensure OCDC guards and staff refrain from engaging in Islamophobic and xenophobic behaviour and language.

⁵ See http://area84aa.org/wp-content/uploads/2018/03/COCAP-Policy-08_2014.pdf

PROJET DE
SENSIBILISATION SUR LA
CRIMINALISATION ET LA
SANCTION



CRIMINALIZATION AND
PUNISHMENT EDUCATION
PROJECT

Cordially,

A handwritten signature in cursive script, appearing to read 'Souheil Benslimane', written in black ink on a white background. The signature is fluid and stylized, with a long horizontal stroke at the end.

Souheil Benslimane

cc: Sylvia Jones, Minister of the Solicitor General
Deborah Richardson, Deputy Solicitor General, Correctional Services, MSG
Tracey Gunton, Regional Director, Institutional Services, Eastern Region, MSG
Office of the Ombudsman
Ottawa-Carleton Detention Centre Community Advisory Board



	Day	Sehar	Dhuhr	Asr	Iftar	Isha
1	24, Fri	04:30 AM	01:01 PM	04:54 PM	08:00 PM	09:33 PM
2	25, Sat	04:28 AM	01:01 PM	04:54 PM	08:02 PM	09:34 PM
3	26, Sun	04:26 AM	01:01 PM	04:55 PM	08:03 PM	09:36 PM
4	27, Mon	04:24 AM	01:01 PM	04:55 PM	08:04 PM	09:38 PM
5	28, Tue	04:22 AM	01:01 PM	04:56 PM	08:06 PM	09:40 PM
6	29, Wed	04:20 AM	01:01 PM	04:56 PM	08:07 PM	09:41 PM
7	30, Thu	04:18 AM	01:01 PM	04:57 PM	08:08 PM	09:43 PM
8	01, Fri	04:16 AM	01:00 PM	04:57 PM	08:09 PM	09:45 PM
9	02, Sat	04:14 AM	01:00 PM	04:57 PM	08:11 PM	09:47 PM
10	03, Sun	04:12 AM	01:00 PM	04:58 PM	08:12 PM	09:49 PM
11	04, Mon	04:10 AM	01:00 PM	04:58 PM	08:13 PM	09:50 PM
12	05, Tue	04:08 AM	01:00 PM	04:59 PM	08:14 PM	09:52 PM
13	06, Wed	04:06 AM	01:00 PM	04:59 PM	08:16 PM	09:54 PM
14	07, Thu	04:04 AM	01:00 PM	05:00 PM	08:17 PM	09:56 PM
15	08, Fri	04:02 AM	01:00 PM	05:00 PM	08:18 PM	09:58 PM
16	09, Sat	04:00 AM	01:00 PM	05:00 PM	08:19 PM	09:59 PM
17	10, Sun	03:58 AM	01:00 PM	05:01 PM	08:21 PM	10:01 PM
18	11, Mon	03:56 AM	01:00 PM	05:01 PM	08:22 PM	10:03 PM
19	12, Tue	03:55 AM	01:00 PM	05:02 PM	08:23 PM	10:05 PM
20	13, Wed	03:53 AM	01:00 PM	05:02 PM	08:24 PM	10:07 PM
21	14, Thu	03:51 AM	01:00 PM	05:02 PM	08:25 PM	10:08 PM
22	15, Fri	03:49 AM	01:00 PM	05:03 PM	08:26 PM	10:10 PM
23	16, Sat	03:47 AM	01:00 PM	05:03 PM	08:28 PM	10:12 PM
24	17, Sun	03:46 AM	01:00 PM	05:04 PM	08:29 PM	10:14 PM
25	18, Mon	03:44 AM	01:00 PM	05:04 PM	08:30 PM	10:15 PM
26	19, Tue	03:42 AM	01:00 PM	05:04 PM	08:31 PM	10:17 PM
27	20, Wed	03:41 AM	01:00 PM	05:05 PM	08:32 PM	10:19 PM
28	21, Thu	03:39 AM	01:00 PM	05:05 PM	08:33 PM	10:20 PM
29	22, Fri	03:38 AM	01:00 PM	05:06 PM	08:34 PM	10:22 PM
30	23, Sat	03:36 AM	01:00 PM	05:06 PM	08:35 PM	10:24 PM

For your daily dose of spirituality, go to islamicfinder.org/quran/

For your Quranic & Masnoon Dua, go to islamicfinder.org/duas/

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Subject: Urgent: Ramadan Accommodations for Muslim Prisoners at OCDC

VIA ELECTRONIC FAX

Dear Superintendent Wood:

I serve as legal counsel to the Criminalization and Punishment Education Project in the matter of their request for Ramadan accommodations for Muslim prisoners at the Ottawa-Carleton Detention Centre.

I write to follow up from CPEP's April 28, 2020 letter to your offices. Please see the enclosed, undersigned by 60 civil society organizations. CPEP requests the accommodations outlined in the attached be made by **May 8, 2020**.

Thank you for your attention. Please do not hesitate to contact me if you have any questions.

Sincerely,
Fathima

Fathima Cader
Barrister and Solicitor
Visiting Professor/McMurtry Fellow, Osgoode Hall Law School

** As a COVID-19 precaution, please do **not** send me postal mail. I can accept all correspondence by email or fax. **

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