



Institutional Violence in Ontario

Interim Report

Independent Review of Ontario Corrections

August 2018

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EXECUTIVE SUMMARY

The Independent Review of Ontario Corrections' Interim Report on institutional violence presents an initial overview, analysis, and immediate findings regarding staff- and ministry-reported violence within the Ministry of Community Safety and Correctional Services' (MCSCS) correctional institutions. This initial report is the result of a 90-day investigation into the reported increase in inmate-on-staff violence and presents findings under the following themes:

- Understanding Ontario institutional violence in context;
- Data management, statistical trends, and reporting practices; and,
- Exploration of evidence-based responses to mitigate institutional violence.

Institutional violence is complex and is the product of several interrelated factors. The Independent Review Team sought and examined input from correctional staff and managers in which they offered a number of possible explanations for, and solutions to address, the reported increase. To the extent possible, the Independent Review Team assessed the validity and viability of these proposals as well as evidence-based responses to managing institutional violence.

In May 2018, the former Minister's Office observed that an increase in inmate-on-staff violence may be partly attributed to changes in reporting practices. The former Minister then asked that the Independent Review of Ontario Corrections undertake this exploratory work. While it is certainly possible that reporting changes may have contributed to the observed increase over time, the sharp increase in reported incidents between 2016 and 2017 suggests other contributing factors. Unfortunately, data limitations impede easily obtaining a valid and verifiable picture of violent incidents and it is necessary to examine corroborating statistics to gain a more thorough understanding of what is being reported.

In Ontario, the number of inmates in custody for violent offences has remained relatively stable between 2010 and 2017, though the proportion of such inmates increased during this time due to an overall declining inmate population. The empirical research does not support the notion that a violent charge is a predictor of institutional violence, and the Independent Review Team did not find a relationship between being in custody for violent charges and involvement in violent institutional misconducts. Research has repeatedly found that early interventions, evidence-based security classifications and placements, and entry into targeted treatment or programming can prevent and reduce institutional violence.

While the data examined by the Independent Review Team revealed a decrease in disciplinary segregation placements following the release of a ministry directive in October 2016, segregation

continues to be used as a disciplinary tool. Moreover, while correctional staff has suggested that limitations on the use of segregation have diluted its deterrent effect, the efficacy of disciplinary segregation in curbing institutional violence remains unclear. Many correctional staff have expressed concerns with the disciplinary misconduct process in Ontario's institutions, indicating that there are currently no meaningful consequences for inmates who threaten or assault staff. Between 2010 and 2015, 79–86% of all institutional misconducts resulted in findings of guilt, but this percentage dropped to 73% in 2016 and 70% in 2017, alongside a growing number of misconducts that could not be included in analysis due to missing disposition information. The lack of detail and rigour in reporting and documenting institutional incidents is a recurring theme that inhibits thorough analysis and ultimately undermines quality decision-making. Although several correctional staff suggested that mandatory minimum penalties be imposed on inmates who perpetrate institutional violence on staff, the *Criminal Code* of Canada does not authorize such sanctions. Moreover, studies continue to show that mandatory minimum sentences are not effective in deterring crime generally or violence specifically.

Some staff and managers felt that changes to the ministry's Correctional Services' Use of Force policy had made staff reluctant to use force, which, in turn, emboldened inmates to engage in violent behaviour. Data analyzed by the Independent Review Team, however, demonstrated that use of force incidents reported by staff have increased since 2013 in spite of a declining inmate population. There is currently a lack of research evaluating the effectiveness of use of force models in correctional settings. Ontario's use of force training provided to correctional staff is not reflective of the ministry's emphasis on resolving incidents with verbal intervention and de-escalation. While situationally appropriate use of force and discipline will always be part of institutional corrections, these responses must be guided by clear policy, accountability, and oversight mechanisms. Further, correctional staff proposed the implementation of additional use of force tools (e.g., conducted energy weapons, or *Tasers*; alternate meal hatches), but their potential use in Ontario's correctional institutions has not been extensively reviewed. In general, hardening the environment and employing an expanded arsenal of weapons have not proven effective in making correctional environments safer.

Institutional culture is the heartbeat of correctional work. Each of Ontario's correctional facilities is unique, however staff feedback concerning institutional culture was relatively consistent across the province. Feedback revealed a severe disconnect between what frontline staff expect and what management provides in terms of communication, recognition, support, and trust. Correctional officers reported an exceptionally low sense of morale, increased stress, and an overall poor working environment. Evidence has associated negative institutional culture with a heightened risk of hostile interactions and institutional violence for both staff and inmates.

Correctional work environments are unique in that they directly impact — and determine — the safety of clients, employees, and the public. Past Ontario Public Service staff surveys corroborate the

Independent Review Team’s findings on institutional climate, and suggests that the ministry needs to strongly consider how these findings impact staff morale, agency, and their engagement with inmates. Staff expressed that new correctional officers enter the workplace lacking sufficient training. However, the available data did not permit for the Independent Review Team to determine the nature of the relationship between increases in new staff and the reported rise in institutional violence. Moral competency that encourages a non-punitive culture of respect and legality, emphasizing de-escalation as the primary response to conflict, must be incorporated into correctional officer training.

The Independent Review Team found that current data collection and analysis practices and procedures are tedious, prone to human error, and in need of reform. In addition, as first identified by local Ontario Public Service Employee Union (OPSEU) representatives, there was considerable variability in information-sharing procedures. Effectively responding to the concerning problem of institutional violence requires sound collection, analysis, and communication of relevant data. Efficient, reliable, and accurate information sharing within and across institutions and corporate offices contributes to the safety and security of all correctional staff and inmates.

This interim report offers a glimpse into understanding the increased reported incidents of inmate-on-staff violence in Ontario’s correctional facilities. This preliminary analysis explores the relationship between staff experiences, policy limitations, data anomalies, and broader systemic concerns linked to institutional violence. The Independent Review Team’s forthcoming final report will elaborate on our initial findings and present concrete recommendations to the ministry to increase safety in Ontario’s correctional facilities.

I. MANDATE AND METHODOLOGY

I commenced my appointment as the Ontario Independent Advisor on Corrections Reform on January 1, 2017. My review activities are independent of the government and are guided by public Terms of Reference. My mandate, outlined in the Terms of Reference, is threefold:

- To provide a report with advice and recommendations on immediate steps that can be taken with respect to the use of segregation;
- To provide a second report on further segregation reform as well as the reform of Ontario adult corrections more broadly; and,
- To work with the ministry on developing a phased implementation plan.

In May 2017, I released my first report, *Segregation in Ontario*. It addressed many issues surrounding segregation policy and practice and provided the Ministry of Community Safety and Correctional Services (MCSCS) with recommendations on ways to create and implement change. When the Government of Ontario responded to my 63 segregation-focused recommendations on May 4, 2017, it committed to, among other things, new Correctional Services legislation. I provided a detailed legislative outline and background document in late spring 2017 to help inform the legislative drafting process.

In September 2017, I released my second report, *Corrections in Ontario: Directions for Reform*. This report was based on a targeted examination of select correctional practices in Ontario that, when done right, amplify a commitment to human rights. My second report reflected on Ontario law, policies, and practices in light of the evidence of ‘what works’ in corrections and the underlying values of dignity, respect, and legality. The report contained 62 recommendations made under the following themes:

- Human rights and correctional operations;
- Corrections and the presumption of innocence;
- Evidence-based correctional practice;
- Indigenous peoples and Ontario corrections; and,
- Health care service and governance in corrections.

On May 2, 2018, the former Minister of Community Safety and Correctional Services, Marie-France Lalonde, wrote to express concern about violence within Ontario’s correctional institutions. The Minister, after hearing from frontline correctional staff, and noting the appearance of a disturbing trend in the assault statistics she had reviewed, requested that I conduct an independent review of institutional violence and the management of inmate behaviour that contributes to this violence. The

former Minister further requested that, in completing this investigation, I continue to engage in discussions with correctional staff and their representatives. This engagement is important given frontline staff and management's knowledge and experience in understanding the problems within Ontario's facilities as well as their role in identifying and implementing solutions. A thorough understanding of the issues raised by the former Minister is critical for the transformation and modernization of corrections in Ontario.

I was pleased that the new *Correctional Services and Reintegration Act, 2018* received Royal Assent in May 2018. This new legislation incorporated many of the recommendations from the two Independent Review of Ontario Corrections (IROC) reports and sends a clear signal that the Government of Ontario has accepted the challenge to reform the province's correctional system. During the Third Reading, the former Minister publicly announced that she had requested an independent report regarding violence within institutions. It was requested that an initial report be delivered within 90 days.

This interim report establishes the scope of the issues identified by the former Minister. The report is based on currently available ministry data, employee feedback, informal discussions with staff, published research into institutional violence, an understanding of current Ontario policy and operations, media statements from staff working in Ontario's correctional facilities, and the practices of other jurisdictions.

In accordance with the former Minister's request that work for this report be undertaken in consultation with frontline staff and their representatives, the Independent Review Team sought input from Ontario Public Service Employee Union (OPSEU) presidents in Ontario's 25 correctional facilities regarding institutional violence (e.g., threats, attempted assaults, and assaults).

Information was provided by local union representatives from 12 of the 25 provincial institutions.¹ The Independent Review Team also sought input from institutional staff and managers regarding their concerns relating to institutional violence and any suggestions they had for creating a safer

"We need an in-depth understanding of what is happening in our institutions and . . . more importantly . . . what is driving the trends. We need a better understanding of how and why we collect statistics. We need to ensure that our data is accurate and appropriate. And we must identify measures that can be implemented to protect our staff and our inmates by reducing the level of violence in our institutions."

- Former Minister of Community Safety and Correctional Services Marie-France Lalonde, May 3, 2018

¹ Responses were received from local union representatives at the following institutions: Central North Correctional Centre, Elgin-Middlesex Detention Centre, Fort Frances Jail, Maplehurst Correctional Complex, Niagara Detention Centre, North Bay Jail, Ontario Correctional Institute, Quinte Detention Centre, Thunder Bay Jail, Toronto East Detention Centre, Toronto South Detention Centre, and Vanier Centre for Women.

environment. In total, the Independent Review Team received 90 responses from a variety of staff including health care managers, nurses, social workers, chaplains, recreation and rehabilitation officers, sergeants, and correctional officers. The vast majority of the responses (75%) were from correctional officers. Responses were received from institutional staff and managers at 22 of Ontario's 25 correctional facilities;² most responses came from Toronto South Detention Centre (16), Maplehurst Correctional Complex (13), Ottawa-Carleton Detention Centre (10), Central North Correctional Centre (7), Elgin-Middlesex Detention Centre (7), Ontario Correctional Institute (6), and Kenora Jail (5).

The Independent Review Team conducted both paper-based reviews of ministry and government materials as well as in-person interviews with ministry staff and stakeholders. Documents were requested, reviewed, and retrieved from the ministry's mission statements, reports, studies, budgets, and policy and procedure manuals. Ministry data and statistics were reviewed in detail, coded, and analyzed by the Independent Review Team. Additionally, the views and experiences of frontline staff, managers, and elected representatives of OPSEU were sought and incorporated into this interim report.

Given the labour-intensive processes used by the ministry to report and record incidents of violence, the Independent Review Team chose to restrict the scope of this initial review to inmate-on-staff violence. Information relating to other forms of institutional violence, for example inmate-on-inmate violence, is not currently being analyzed within the ministry. The lack of readily available information related to inmate-on-inmate institutional violence has constrained the Independent Review Team's ability to report on this crucial aspect of institutional violence within the agreed upon timeframes.

Similar to my other reports, I was fortunate to have the cooperation of colleagues across the country and internationally. Many thanks to criminal justice professionals and members of the academic community in British Columbia, Ontario, Yukon, Nova Scotia, the United Kingdom, and the federal public sector who generously gave their time and shared information.

² No responses were received from Brockville Jail, Fort Frances Jail, or St. Lawrence Valley Correctional and Treatment Centre.

II. CONTEXT AND BACKGROUND

Correctional facilities are closed communities defined by a complex matrix of relationships, formal and informal rules, and built environments. How well these communities function is directly related to how well all of the boundaries within this complex matrix are negotiated. An outcome of attentive, legal, and fair boundary negotiation is safety. Violence is more prone to occur when boundary negotiation falters. Frontline correctional staff is tasked with the responsibility of working with inmates on a day-to-day basis by conducting security checks, enforcing policy, and maintaining order, while ensuring their safety and care within a changing correctional environment. Inmate fights, assaults on staff, and excessive use of force are examples of the types of violence that occur in correctional environments.

Frontline staff working in Ontario’s correctional facilities express frustration over being subject to violence and the threat of violence in the course of performing their duties. One officer told the Independent Review Team, “my human rights do not exist because I am a correctional officer. I am nothing more than a human punching bag.” Another officer wrote, “I realize that there is stress inherent to this job. However, assaults should not be inherent to this job.” Similarly, a correctional officer at another facility remarked, “we didn’t come to work here to be assaulted, we came to make our province better and safer to live in.” The work performed in correctional institutions is not easy work, and Ontario is not alone in seeking the ways and means to reduce violence.

For the most part, violence doesn’t just happen. It arises in a context. There are numerous variables that contribute to prison violence — crowding, staffing levels, training, management competence, gaps in oversight and accountability, gang activity, internal contraband economies, mental health and addiction issues, limited staff experience, facility design, poor operating policies and procedures (including inadequate intake assessment, classification, and placement), abuse of authority, lack of trust, arbitrary decision-making, lack of meaningful activities for inmates, lack of support for staff, predatory conduct of some inmates, and fear are just a few.

“I don’t believe there will ever be a way to fully stomp out violence in institutions, but we at least need to feel as if our safety matters more than inmate comfort.”

- MCSCS, Correctional Officer

Globally, trends indicate that in countries where prisons and jails are overcrowded, or where there is an increase in prisoner population, there is more violence among prisoners, and more violence directed against correctional staff.³ These countries typically experience a

³ Penal Reform International, “Global Prison Trends, 2018” (London, UK: Penal Reform International, 2018); Roy Walmsley, “Global Incarceration and Prison Trends,” *United Nations Forum on Crime and Society* 3, nos. 1-2 (2003) (hereafter, Walmsley, Global Incarceration).

reduced staff-to-prisoner ratio which leads to ineffective supervision, fewer resources for correctional programming opportunities, more lockdowns, and ultimately lessens the chances for successful reintegration, putting public safety at risk.⁴

Several staff and managers who provided written responses to the Independent Review Team indicated that, in their opinion, there has been a “monumental”, “abhorrent”, “astounding”, “overwhelming” rise in violence against correctional staff. One respondent with close to 10 years of experience working as a correctional officer observed that institutional violence has shifted from a “rare event in the institution to almost a daily happening.” This may not be unique to Ontario corrections; for example, a study of correctional officers in British Columbia⁵ found that staff perceptions and experiences of institutional violence have been consistently elevated.

To be sure, one assault within a correctional institution is one too many and, unfortunately, the repercussions of institutional violence extend beyond any physical wounds. Established research has long recognized and acknowledged the risky working environment of frontline correctional staff.⁶ Frontline work in corrections requires physical stamina and mental alertness to respond to demands of managing an involuntarily detained population that has the potential to be disruptive, non-compliant, and unpredictable.⁷ Emerging qualitative research on how Canadian correctional officers experience, perceive, and deal with occupational violence sheds light on the emotional labour required to de-escalate situations involving individuals in crisis.⁸ In the correctional context, emotional labour encompasses the work involved in regulating one’s own reactions, comports, emotions, exhaustion, and “even fear, in order to induce a certain emotional response in prisoners,”⁹ all while navigating a complex prison social-economy of hierarchies, codes, and norms.

Correctional officers’ daily perceptions of job dangerousness and fear have been identified as a predictor of increased occupational stress and “negative job satisfaction”.¹⁰ Evidence from research

⁴ *Ibid* Walmsley, *Global Incarceration* at 78.

⁵ Neil Boyd, *Correctional Officers in British Columbia, 2011: Abnormal Working Conditions* (Simon Fraser University, November 2011).

⁶ Gresham M. Sykes, *The Society of Captives: A Study of a Maximum Security Prison*, 2nd ed. (Princeton: Princeton University Press, 2007); Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Pantheon, 1978).

⁷ Gaylene S. Armstrong and Marie L. Griffin, "Does the Job Matter? Comparing Correlates of Stress Among Treatment and Correctional Staff in Prisons," *Journal of Criminal Justice* 32, no. 6 (2004).

⁸ Rose Ricciardelli, Nicole Power and Daniella Simas Medeiros, "Correctional Officers in Canada: Interpreting Workplace Violence," *Criminal Justice Review* (2018) (hereafter, Ricciardelli et al., *Correctional Officers*).

⁹ *Ibid* at 10.

¹⁰ Francis T. Cullen et al., "The Social Dimensions of Correctional Officer Stress," *Justice Quarterly* 2, no. 4 (1985); Craig Dowden and Claude Tellier, "Predicting Work-Related Stress in Correctional Officers: A Meta-Analysis." *Journal of Criminal Justice* 32, no. 1 (2004); Marie L. Griffin, "Job Satisfaction Among Detention Officers: Assessing the Relative Contribution of Organizational Climate Variables," *Journal of Criminal Justice* 29, no.3 (2001); Eric G. Lambert, Nancy L. Hogan and Marie L. Griffin, "The Impact of Distributive and Procedural Justice on Correctional Staff Job Stress, Job Satisfaction, and

“The stress on staff and their mental health should be more of a focus in the grand scheme of things. Frontline staff need more support, as many are affected by PTSD, overwhelming amounts of stress, injuries, and the breakdown of marriages.”

- MCSCS, Correctional Officer

on correctional work and exposure to workplace violence (as participants or witnesses) has shown that correctional officers are at a heightened risk of stress-related burnout¹¹ and post-traumatic stress disorder (PTSD). Associated symptoms of PTSD include: emotional exhaustion, intense levels of stress, high levels of depersonalization, and high levels of intrusion, avoidance, and hyper-vigilance.¹²

These experiences are echoed in written submissions to the Independent Review Team in which officers noted that issues arising from occupational stress, resulting from situations of institutional violence, impact both their working environment

and personal lives. A staff member from Toronto East Detention Centre aptly voiced concern that, “there’s a mental health cost to staff that I fear nobody has calculated or worse have deemed acceptable,” while others indicated that they, or their colleagues, had suffered from an array of psychological issues related to institutional violence. These sentiments underscore the need to understand and address the unseen costs of institutional violence across Ontario.

Correctional staff in Ontario also reported that they felt unsupported and lacked training around coping strategies for occupational stress and mental health. Again, this is not unique to Ontario. The 2016 Report of the Standing Committee on Public Safety and National Security, which examined occupational stress injuries among public safety officers, found that approximately 36% of federal correctional officers self-identified as having experienced a form of PTSD.¹³ This suggests that a significant population of federal correctional officers face substantial challenges in their work environments that

“The psychological impact of an environment that leaves you feeling that the violence at your workplace can reach out to your home or your family is very stressful.”

- MCSCS, Sergeant

Organizational Commitment," *Journal of Criminal Justice* 35, no. 6 (2007); Jill Gordon and Thomas Baker, "Examining Correctional Officers' Fear of Victimization by Inmates: The Influence of Fear Facilitators and Fear Inhibitors," *Criminal Justice Policy Review* 28, no. 5 (2017): 464. See also Samuel Gregory Vickovic, "Correctional Officer Job Stress: The Influence of Perceived Occupational Prestige" (PhD Diss., Arizona State University, 2015).

¹¹ Abdel Halim Boudoukha et al., "Inmates-to-Staff Assaults, PTSD and Burnout: Profiles of Risk and Vulnerability," *Journal of Interpersonal Violence* 28, no. 11 (2013) (hereafter, Boudoukha et al., *Inmates-to-Staff Assaults*); Benjamin Steiner and John Wooldredge, "Individual and Environmental Sources of Work Stress Among Prison Officers," *Criminal Justice and Behavior* 42, no. 8 (2015).

¹² *Ibid.*

¹³ Robert Oliphant, "Healthy Minds, Safe Communities: Supporting Our Public Safety Officers Through a National Strategy for Operational Stress Injuries," (Report of the Standing Committee on Public Safety and National Security, House of Commons, 42nd Parliament, 1st Session, October 2016), Last Accessed: July, 16, 2018 <https://www.ourcommons.ca/DocumentViewer/en/42-1/SECU/report-5>.

contribute to PTSD and stress-induced mental health challenges. There is no reason to believe that Ontario correctional staff is not experiencing similar challenges. The Ministry of Community Safety and Correctional Services has created a Corrections Psychological Health Unit which is currently in the process of evaluating self-reported experiences of mental health and PTSD from correctional officers working in Ontario's correctional facilities (see Textbox 1: Corrections Psychological Health Unit).

For correctional facilities to be legitimate and useful, they must be safe. Safety includes both the physical and mental well-being of all individuals within correctional institutions. Consideration must be given to creating a working and living environment that minimizes opportunities for violence among and between staff and inmates. Exposure to institutional violence undermines the potential for successful correctional rehabilitation and community reintegration.

Textbox 1: Corrections Psychological Health Unit

The Corrections Psychological Health Unit, within the Operational Support Division of MCSCS, is leading the Correctional Mental Health Strategic Framework (CMHSF), with the purpose of creating and promoting psychologically healthy and safe environments for inmates and staff.¹⁴ The objectives of this framework, as they relate to correctional staff, are to ensure that:

- staff and managers have the knowledge and skills to recognize and address the impact and signs of occupational stress in themselves and others; and,
- resources and supports are available to assist all correctional staff and managers to deal with occupational stress.

In spring of 2017, the CMHSF introduced the Occupational Stress Injury Initiative (OSII), acknowledging the unique work environment facing correctional staff and their heightened risk of developing occupational stress injuries. The OSII will identify and address specific stressors present in correctional work and the impact they have on staff. At the time of this report, a survey of correctional staff had been conducted and results were being evaluated by the ministry to assess levels and sources of stress, as well as other factors such as resilience, coping strategies, and awareness of existing resources.

¹⁴ This framework aligns with the Mental Health Commission of Canada framework for The Mental Health Strategy for Canada.

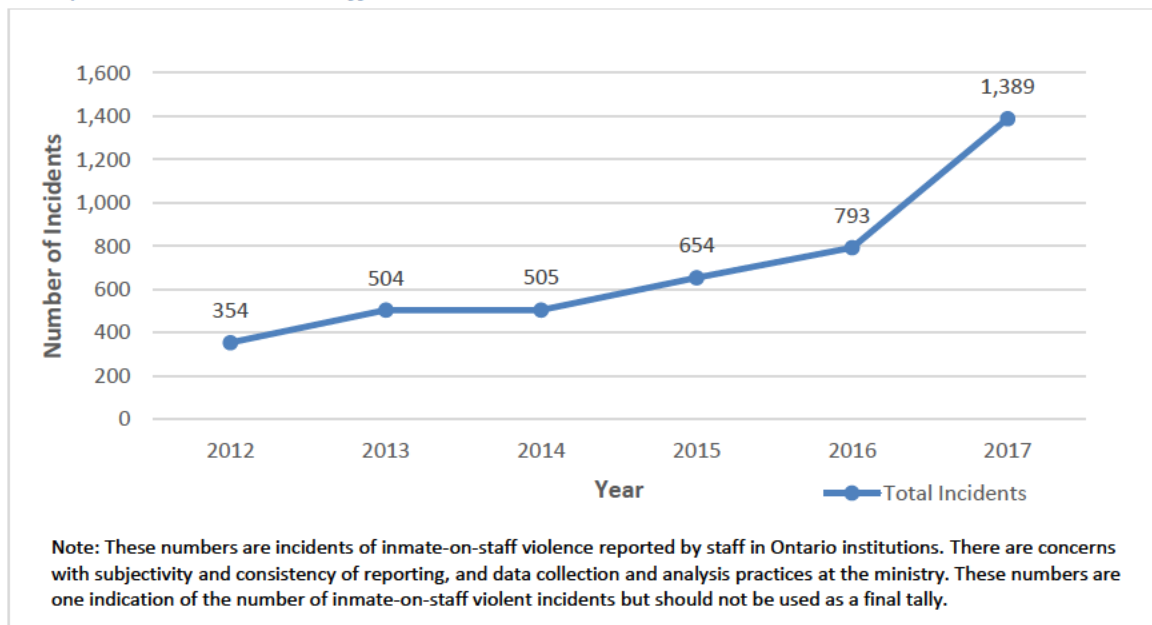
III.VIOLENCE IN ONTARIO CORRECTIONAL INSTITUTIONS: THE NUMBERS

Currently, data pertaining to violence in Ontario’s correctional facilities are collected at the institutional level and by multiple offices within and outside of the ministry. The present report utilizes the Inmate Incident Report (IIR) as the main source of interest to identify incidents of inmate-on-staff violence. These reports are not used exclusively for situations involving inmate-on-staff violence; for example, an IIR may pertain to an incident of inmate-on-inmate violence, the discovery of contraband, or a self-injury. However, any inmate-on-staff violence should be captured by an IIR. Additionally, any use of force incident (i.e., staff-on-inmate physical force, whether in response to a threat, attempt, or act of violence) should be captured by an IIR.

Since the total Ontario inmate population decreased during 2012 – 2017, it would be expected that the number of reported incidents decreased as well. Instead, these reported incidents increased during this time.

The Independent Review Team examined data from the ministry’s Information Management Unit (IMU) that tracks inmate-on-staff incidents of violence as reported on IIRs. The number of inmate-on-staff incidents (categorized and reported by the ministry to the Ontario Public Service Employee Union (OPSEU) as threats, attempted assaults, and assaults) have trended up over the last several years (Figure 1).

Figure 1: Reported Inmate-on-Staff Violence in Ontario’s Institutions, 2012 - 2017



Unfortunately, there are several concerns about the validity and reliability of the data. Inconsistent reporting and recording raise questions about accuracy and comparability over time and across institutions. Relying on incomplete, inconsistent, and unverified data risks misunderstanding, exaggerating, or underestimating the frequency or severity of violence in institutions, and also risks fostering dismissive attitudes towards the troubling perceptions shared by frontline staff and managers. Understanding institutional violence is not discrete, but rather requires integrating knowledge about a number of operational and human behaviour issues. Robust data standards are necessary to ensure comprehensive and accurate reporting. This must be accompanied by continuous oversight and transparency to allow for a complete and objective assessment of the information collected.

Defining Violence within Ontario's Correctional Institutions

The Correctional Services within the Ministry of Community Safety and Correctional Services (MCSCS) utilizes the following definition of workplace violence, outlined in the Ontario Occupational Health and Safety Act (OHS), following amendments (Bill 168) in 2009:

- The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; or,
- A statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the workers, in a workplace that could cause physical injury.¹⁵

Ministry policy stipulates that any incident of workplace violence must be reported by the worker to a manager or supervisor verbally or in writing. Normally, a written review is then conducted by the manager/supervisor including recommendations for steps to take to prevent future workplace violence.¹⁶ Correctional staff report incidents of threats and assaults (including attempted assaults) that occur in institutions using an MCSCS-specific process. The MCSCS process for staff does not use the term 'workplace violence' specifically, but the information captured in reports constitutes workplace violence as defined in the OHS.

¹⁵ Ministry of Community Safety and Correctional Services, *Workplace Violence Prevention Program: Correctional Services Division* (Government of Ontario, November 2012) at 4 (hereafter, MCSCS: Workplace Violence Prevention Program).

¹⁶ *Ibid* at 14-15.

Concerns Raised by OPSEU

OPSEU began formally raising concerns about assaults on staff with MCSCS in June 2012 via the Correctional Services Ministry Employee Relations Committee (MERC).¹⁷ An examination of MERC meeting minutes reveals that the topic of assaults on staff first appears in June 2012 when OPSEU formally raised concerns with a lack of support regarding criminal charges being laid against inmates who assault staff. Other areas of concern raised by OPSEU via MERC relating to institutional violence included:

- Revising and reissuing the correctional policy on mandatory blood testing (2012);
- Concerns about the Ontario Ombudsman’s use of force report, *The Code* (2013);
- The need for police to be notified immediately when staff are assaulted and that charges should be automatically laid (2014);
- The collection of statistical information relating to assaults on staff:
 - OPSEU request that statistical information be calculated by individual staff assault incidents and not by occurrence (2013);
 - OPSEU raises concerns with the accuracy of the data being collected (2013 and 2016);
 - OPSEU request that the outcome of notification to the police of an assault be tracked (e.g., charges laid, type of assault) (2014);
 - OPSEU requests a more detailed violence report that includes a breakdown of types of assault by occupation (2016); and,
- Concerns regarding the handling of “special inmates”¹⁸ and the desire to transfer inmates who have assaulted staff to other facilities (2014). In 2017 the specific management of assaultive inmates was raised by OPSEU.

¹⁷ Correctional Services MERC is a joint provincial-level committee established in recognition of the value of discussing issues of mutual interest. MERC is established in accordance with the OPSEU Collective Agreement and serves to enhance the relationship between management, the union, and employees.

¹⁸ Although not specifically defined in the MERC meeting minutes, “special management inmate” is defined in ministry policy as “an inmate who requires special care services, including physical, mental, and behavioural (i.e., those whose behaviour or potential behaviour could be harmful to the inmate or others which may require minimal contact with other inmates)”. See Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Inmate Management: General Inmate Management: Placement of Special Management Inmates* (Government of Ontario, July 2018) at s. 4.16 (hereafter, MCSCS: Placement of Special Management Inmates).

Textbox 2: Ministry Response to OPSEU Concerns Regarding Institutional Violence

In response to OPSEU's concerns, the ministry revised the policy on mandatory blood testing in 2013 to incorporate feedback from OPSEU and indicated they shared the union's concerns regarding the level of violence in the workplace. A new Memorandum of Agreement regarding personal protective equipment for correctional officers (handcuffs, Oleoresin Capsicum [OC] foam, and duty notebooks) was signed in 2013 introducing OC as a new use of force tool within Ontario corrections. A Use of Force subcommittee was formed in 2014 to review the Ontario Ombudsman's report, *The Code*, and provide a report and recommendations for the Deputy Minister of Correctional Services. As requested, new statistics regarding the level of violence in the workplace were provided to OPSEU in 2014. The ministry's Information Management Unit (IMU) was invited to the June 2016 MERC meeting to discuss data collection, after which the joint committee supported a new database for the IMU. In 2017, joint meetings were held in November and December to discuss the management of assaultive inmates. Following these meetings, the ministry agreed to establish a MERC subcommittee on this specific topic. At present, OPSEU is reviewing the draft Terms of Reference for this committee.

OPSEU's concerns about institutional violence have received significant coverage in the media. The union has been vocal in its efforts to generate awareness of what its members have termed the "crisis in corrections". For example, following an attack on correctional staff at the Toronto South Detention Centre in November 2016, Warren (Smokey) Thomas, OPSEU's president, suggested that institutional violence in Ontario was "out of control".¹⁹ More recently, the president of OPSEU Local 108, which represents corrections officers employed at the Elgin-Middlesex Detention Centre, has commented that, "assaults against staff have risen and we are ahead of where we were this time last year with assaults," further noting that "[e]very institution is seeing the same trend of a rise in assaults on officers."²⁰ Similarly, the vice-chair of Correctional Services MERC, has made comments regarding a rise in institutional violence, stating, "[w]hen I started my career, if we had an assault twice a year, that was a lot. Now we average I think twice a day across Ontario."²¹ Public statements by OPSEU have linked the reported rise in violence against staff to, among other things, changes in policy governing the use of segregation and have stated the concern that limitations on its use as a

¹⁹ Ontario Public Service Employees Union, "Correctional Officers Hurt in Savage Attack," (OPSEU, December 7, 2016), Last Accessed: June 5, 2018 <https://opseu.org/news/correctional-officers-hurt-savage-attack>; Joe Warmington, "Jail Guards Hurt in Savage Attack," *Toronto Sun*, December 5, 2016.

²⁰ Paula Duhatschek, "Attacks on Corrections Officers on the Rise at EMDC," *CBC News*, May 1, 2018 (hereafter, Duhatschek).

²¹ Antonella Artuso, "Government Fails Jails, Correctional Officers Say," *Toronto Sun*, March 27, 2018.

disciplinary measure has diluted its deterrent effect.²² Some OPSEU local presidents asserted that there are currently “very limited tools in our resource bag that we can utilize to keep control of our institution,” while others have remarked that staff are “at risk and . . . are not being protected,” and expressed concern that morale among members “has never been lower.”²³

The Ontario Numbers

Prior to the former Minister’s request for this report, OPSEU and MCSCS corporate offices had only received the number of inmate-on-staff violent incidents up to June of 2017. As the number of incidents reported in the first half of 2017 (619) were on track to surpass the total number of incidents in all of 2016 (793), it was evident that there was a sudden increase in reported incidents that required analysis. In the process of preparing this report, it became apparent that the information management process utilized by MCSCS has organizational and technical inefficiencies that obstruct the process of sharing information regarding these trends in incidents within the ministry and to institutional staff in a timely manner. For the purposes of this report, the Independent Review Team was able to obtain inmate-on-staff incident information for the second half of 2017 directly from the IMU in order to analyze 2017 full-year inmate-on-staff reported incident trends.

Ontario’s Inmate Incident Reporting Process

When the IMU receives report of an incident, selected information is manually condensed into a daily electronic report that is circulated through an email distribution list to select staff in the corporate and regional offices. These electronic reports are distributed as a means to share information of incidents that have occurred throughout the province. ‘E-reports’ are disseminated as deemed appropriate by corporate and regional offices to ministry employees, including those in frontline positions within institutions. In practice these ‘e-reports’ are not routinely shared with frontline staff.

In addition to the creation of the ‘e-reports’, the IMU staff members manually input the IIR information — and any updated information provided on the incident — into an IMU database that contains information pertaining to all reported incidents (Figure 2; for more detailed information on the general inmate incident reporting process used by MCSCS, please refer to Appendix A).

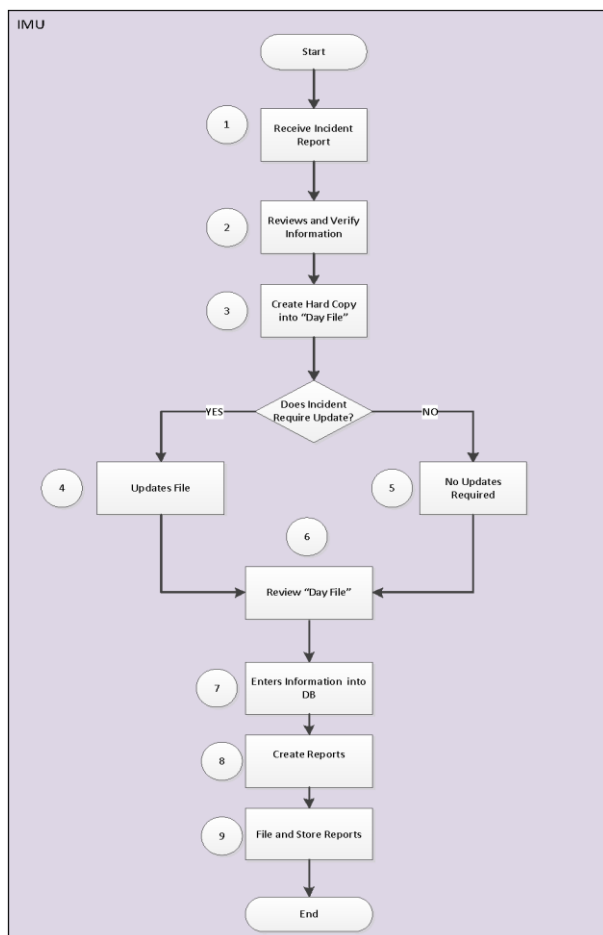
The IMU database currently in operation was created in 2009 in response to a need to create a tracking system for incidents involving MCSCS employees. The original design of the database was not intended to be exhaustive to meet full or future incident-related tracking and analysis needs. As a result, certain technical fields, menus, categorization systems, etc., are not sufficient for current data analysis requirements.

²² Amanda Pfeffer, “Attacks on Jail Guards Jump Amid Segregation Changes,” *CBC News*, April 30, 2018; Duhatschek, *supra* 20.

²³ *Ibid.*

As part of the Corrections Incident Recording and Issue Management Modernization project, the need for updates to the IMU database was outlined and a proposal for the creation of a new database was

Figure 2: IMU Incident Report Flow Chart



Note: Image obtained from MCSCS, *Information Management Unit As Is Process Maps*, Business Improvement Office, Procurement and Business Improvement Branch, July 21, 2017.

report, the development of a digital system of reporting incidents is in early stages and the Modernization Division has primarily focused efforts on incident reports pertaining to institutional violence. User testing within correctional institutions are anticipated for September 2018.

Independent Review of Ontario Corrections Identified Trends

The detailed information reviewed by the Independent Review Team was derived from the same inmate-on-staff incident numbers prepared by the IMU and shared with MCSCS corporate offices and OPSEU. As incidents were only categorized by the IMU as threat, attempted assault, or assault, the Independent Review Team reviewed the incident details and re-categorized the incidents to further specify assault types (see Textbox 3). The ministry’s coding categorized an incident of assault such as throwing an apple from a meal service tray as equivalent to a serious physical assault on staff. It was therefore necessary for the Independent Review Team to identify and better understand the nature of the assault incidents in order to recommend appropriate remedies for staff to avoid such incidents.

Textbox 3: The Independent Review Team Re-Categorization of Reported Inmate-on-Staff Assaults

The Ministry of Community Safety and Correctional Services categorizes incidents of inmate-on-staff violence as a threat, attempted assault, or assault. The Independent Review Team reviewed and re-categorized reported inmate-on-staff assaults in order to better understand the specific nature of these incidents. A total of 14 categories were created, ten of which were specific to assaults:

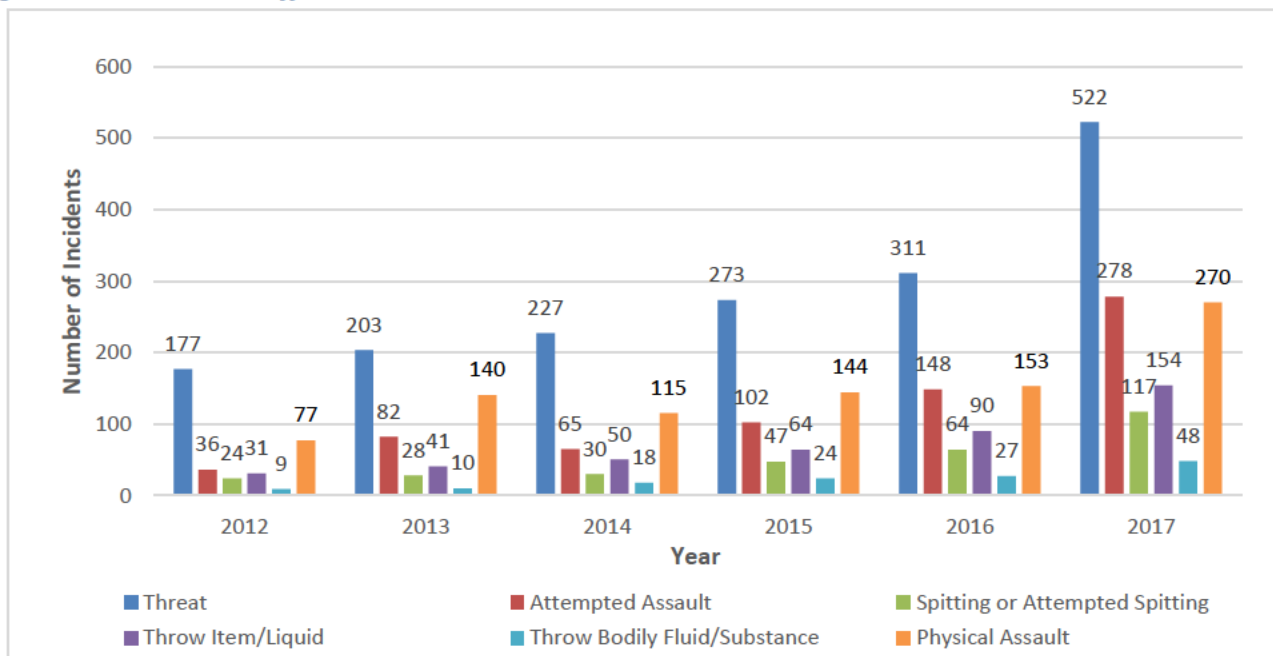
- throwing a small item (e.g., apple, Styrofoam cup);
- throwing a large item (e.g., garbage can, chair);
- throwing liquid (e.g., water, juice);
- throwing bodily fluids or substances;
- assault with a miscellaneous item (e.g., bed sheet, pushing a door);
- assault — grab or push;
- assault — bite;
- assault — slapping, scratching, punching or head butting;
- assault — kicking; and,
- assault with a weapon (e.g., pen, sharp plastic).

Attempted assaults were further categorized as attempted physical assault or attempted assault by throwing an item or liquid. Any spitting-related act was categorized as ‘spit or attempted spit’ as it was not always clear in incident information if actual contact was made.

Any details for an incident that would qualify for categorization were counted in one or more of the 14 total categories. In any instance where incident details were not sufficient for re-categorization — e.g., “An inmate assaulted a sergeant” — further details were retrieved by an IMU staff member from the IMU database or the hard copy incident reports held at the IMU to clarify the details of the incident. In instances categorized by the IMU as ‘assault’ where incident details were still insufficient or unavailable to determine the type of attempted or actual assault, they were categorized as ‘assault — slapping, scratching, punching or head butting’, so as to assume physical interaction between an inmate and staff and avoid any risk of underreporting a serious incident. In instances where incidents appeared to be duplicate entries of a single incident, if not possible to confirm that this was a data entry error at the IMU, the incidents were counted as two separate occurrences so as to maintain consistency with the MERC reported total numbers of incidents. Three incidents were excluded from 2017 that were identified as entry errors by the IMU.

When looking at the breakdown of the *type* of incident, it can be seen that the largest proportion of reported inmate-on-staff violence over the years has been threats. Figure 3 displays incidents grouped by most serious type; for example, if an incident included a threat and a physical assault, it is categorized as physical assault. The number of incidents by type has generally increased each year since 2012, though rates of increase vary by incident type. The sharpest increases in reported incidents are observed between 2016 and 2017. Reported physical assaults (any assault involving physical contact between an inmate and staff) nearly doubled between 2012 and 2013, then decreased in 2014. However, the number of reported physical assaults has continued to increase since 2014, with a substantial increase between 2016 and 2017.

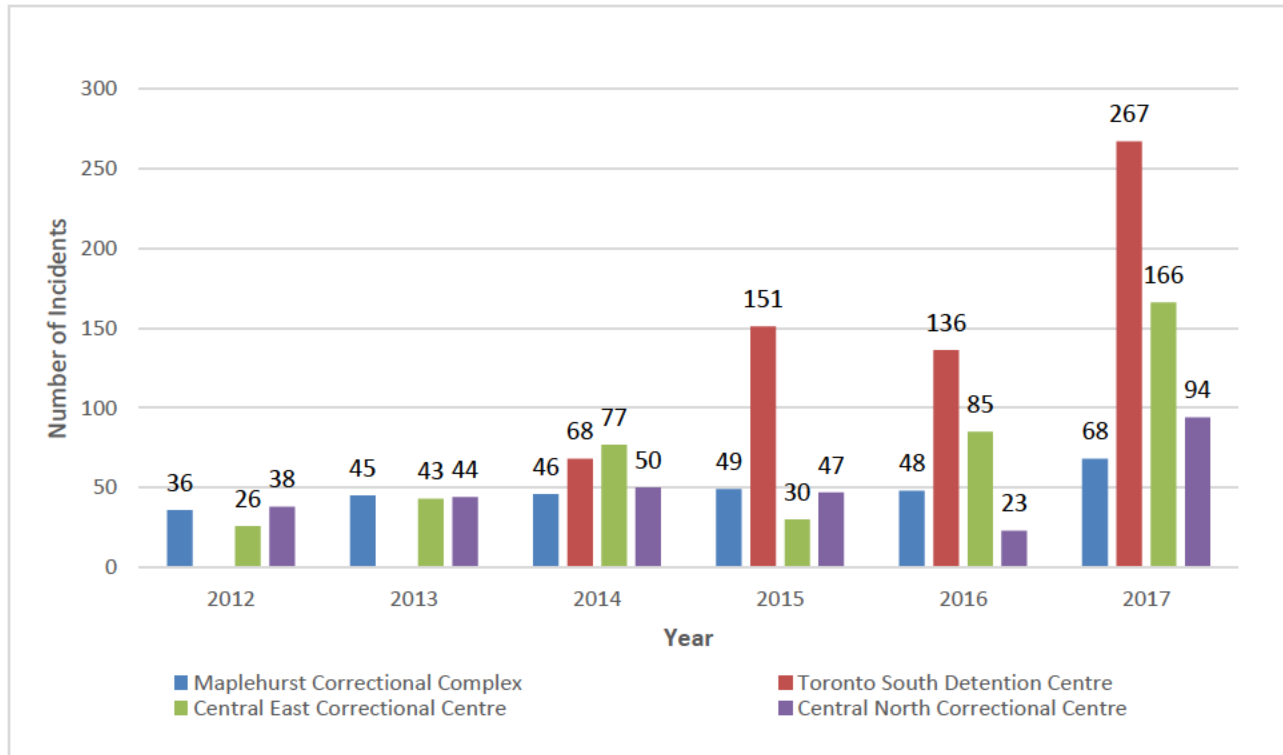
Figure 3: Inmate-on-Staff Violence in Ontario’s Institutions, 2012 - 2017



It is evident that certain institutions have experienced a surge in reported incidents, and variation in reporting patterns is seen across the institutions. Figure 4 shows the reported incidents in Ontario’s largest institutions: Central East Correctional Centre, Central North Correctional Centre, Toronto South Detention Centre (TSDC), and Maplehurst Correctional Complex (Maplehurst CC). These institutions all have yearly average populations of over 800 inmates. Though the number of reported incidents is much higher in these institutions than others in the province, it is not solely due to population size. For example, Maplehurst CC has had the largest population of inmates (average yearly count) over this period (over 1,000 inmates), and the reported incidents of inmate-on-staff violence have been fairly stable through to 2016 with a slight increase in 2017. Meanwhile, with an average population of 830–895 inmates (since its first full year of operations in 2015), TSDC has consistently reported more incidents of inmate-on-staff violence than Maplehurst CC. Further, TSDC has experienced a recent spike in reported incidents to almost four times the number of incidents

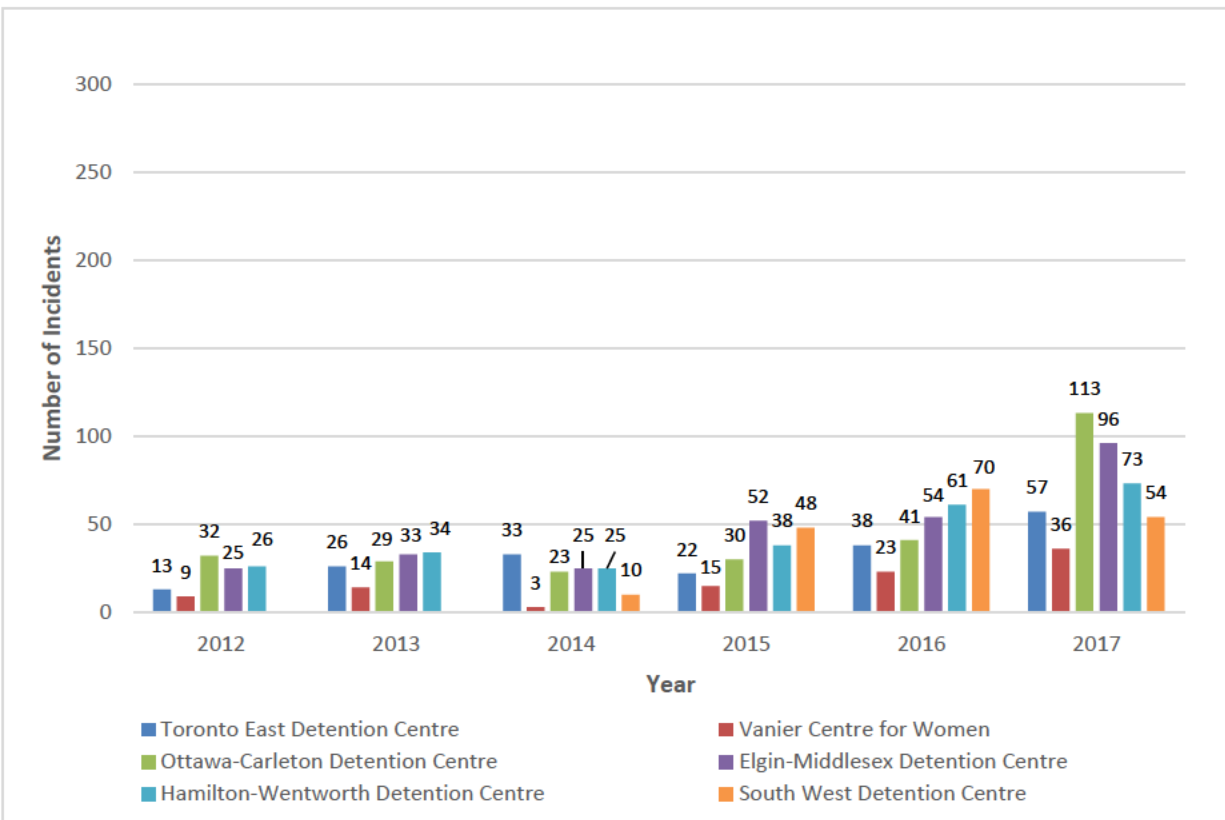
reported at Maplehurst CC. There are many features that distinguish these two institutions; for example, Maplehurst CC, which opened in 1975, has a long-standing and well-established culture, whereas TSDC opened in 2014 following the merger of multiple defunct institutions, has been struggling to implement the direct supervision model, and is staffed by a large number of new employees (explored later in this report and in Figure 14). Environmental issues such as these need to be explored to understand their impact on institutional violence.

Figure 4: Inmate-on-Staff Violence in Ontario's Largest Institutions, 2012 - 2017



Similarly, variation in reported incidents across institutions is seen when looking at some of Ontario’s other large institutions (Figure 5). These institutions have had average yearly populations of between approximately 250 and 450 inmates. Again, it is apparent that this recent increase in incidents of inmate-on-staff violence is not consistent in rates across all institutions in the province. Notably, the number of incidents reported at Ottawa-Carleton Detention Centre nearly tripled between 2016 and 2017 despite its average population decreasing from 487 to 421 inmates. It is apparent that some institutions are experiencing heightened incident reporting — disproportionate to their inmate populations — that require further attention to determine what might be driving these trends.

Figure 5: Inmate-on-Staff Violence in Ontario's Large Institutions, 2012 - 2017



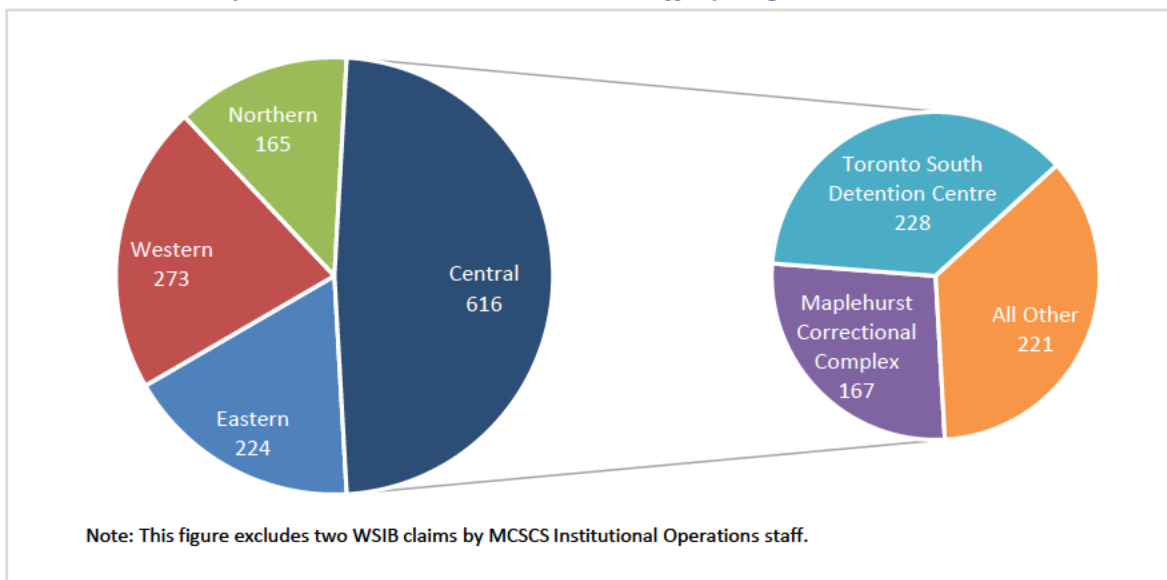
There is, of course, information that is not captured in these numbers. For example, it is unknown how many inmates or staff members are involved in a given incident. Reviewing the data from the IMU, in 95% or more of the inmate-on-staff incidents in each year between 2012 and 2017, the incident involved the actions of one inmate per reported incident. The number of staff involved is more difficult to measure; for example, an inmate yelling threats from his/her cell may be directing the threats at multiple staff members in the vicinity.

Further, this data does not allow for an evaluation of the severity of incidents; for example, these numbers alone do not indicate if there was any physical injury to staff resulting from an incident. MCSCS policy outlines the procedure to be followed where an employee sustains an injury or illness while on duty.²⁴ During the period of 2012 – 2017, there were 1,278 claims made by correctional staff

²⁴ MCSCS policy directs the injured employee to notify the employer immediately of any injury requiring health care, obtain from the employer a completed Treatment Memorandum (Workplace Safety and Insurance Board [WSIB] form), and promptly complete and return all report forms received from the WSIB. The WSIB may administer compensation to workers where applicable. MCSCS policy similarly directs the employer to ensure the incident is reported and to provide the worker with appropriate forms and also complete an Employer’s Report of Injury/Disease to the WSIB. This form must be submitted within three days of learning of a work-related injury or that a worker has been absent from regular work, assumed lighter duties, earned less than regular pay, and/or obtained health care following an injury or illness sustained at work. For further information, see Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Health Care Services: Employee Health Services* (Government of Ontario, April 2016).

to the Workplace Safety and Insurance Board (WSIB) pertaining to incidents in institutions (Figure 6). A preliminary exploration of the data shows the variation in number of claims by region. Notably, TSDC is again a leading contributor; over a third of all WSIB claims in Central Region during 2012 – 2017 were from TSDC (and 17.8% of all claims in the province). This is considerable given that TSDC has only been operational since the end of January 2014 (yearly trends are explored later in this report and in Figure 18 and Figure 19).

Figure 6: WSIB Claims by MCSCS Institutional Services Staff by Region, 2012 - 2017



It is evident that the number of incidents, rates of increase over years, and potentially type and severity of incidents vary across institutions. Institutional violence is best understood as it applies to specific institutions, as conclusions drawn from the data are not consistent across the province.

IV. TRYING TO UNDERSTAND THE ONTARIO TRENDS

Institutional violence is multifaceted; it is not possible to definitively identify just one cause. Feedback from staff and managers working in Institutional Services of the Ministry of Community Safety and Correctional Services (MCSCS) pointed to various possible reasons for the increasing violence in Ontario's correctional facilities. Based on interviews, staff comments, and media reporting, a number of possible explanations emerge:

- A lack of disciplinary consequences for inmates, and, in particular, changes to Ontario's segregation policy limiting the use of disciplinary segregation;
- Changes to Correctional Services' Use of Force policies in Ontario;
- A changing inmate population;
- An influx of new correctional officers;
- A lack of inmate programming; and,
- Increased and/or better incident reporting and tracking of institutional violence.

Identification of root causes is even more difficult in Ontario as key information is missing — including a detailed analysis of the nature of the violent incidents. Input from inmates regarding their perceptions of trends and causes of violence in institutions is not collected, and there is limited or absent quality control of the recording and reporting of incidents. Nevertheless, it is possible to conduct a preliminary examination to see if there is a correlation between the issues identified above and the reported rise in institutional violence.

Changes to Ontario's Policies

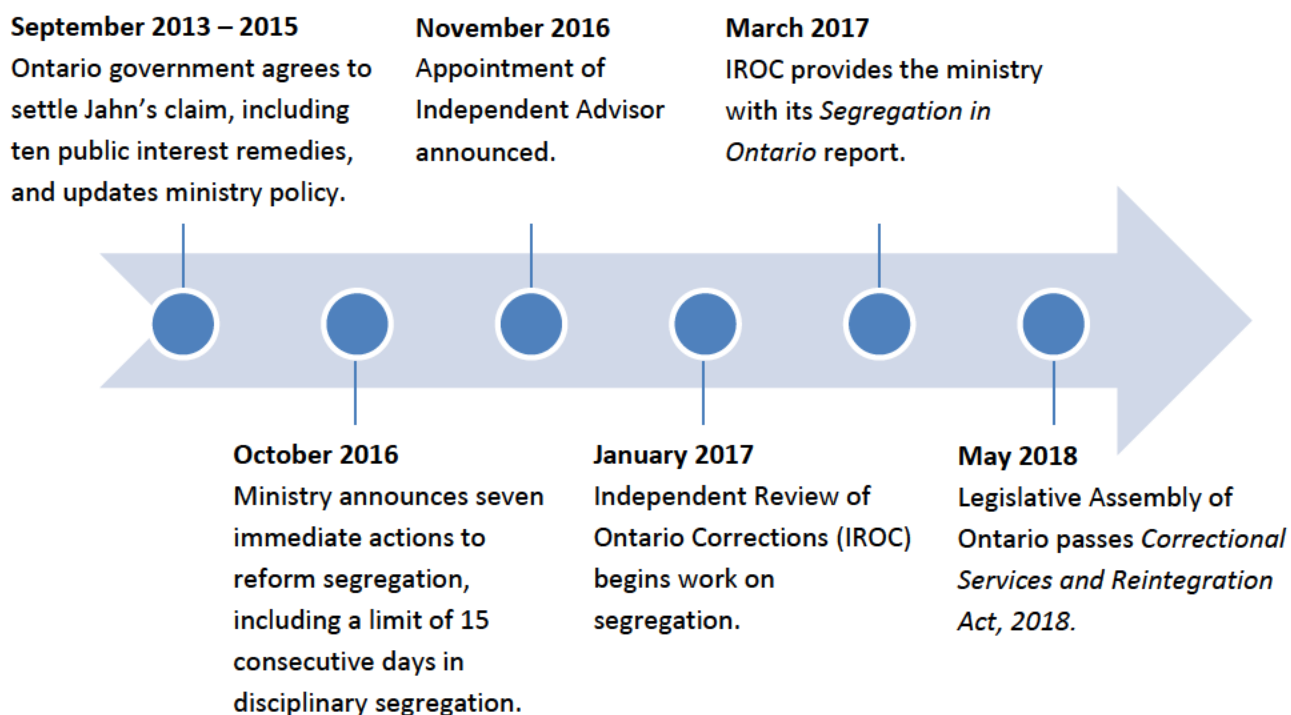
Segregation Policy

Between 2012 and 2018 there have been a number of events and actions that have resulted in changes to the way in which segregation is used in Ontario's correctional institutions. In 2013, the ministry and Christina Jahn entered into a human rights settlement agreement which included a number of public interest remedies to address the use of segregation in Ontario. As a result of these public interest remedies, the ministry's segregation policies were amended in September 2015 and, in October 2016, the ministry announced immediate actions to reform segregation (Figure 7; for a more detailed list of some of the major segregation-related events between 2012 and 2018, please refer to Textbox 4). Numerous recommendations were made in 2017 as a result of the Independent Review of Ontario Corrections' review into Ontario's segregation practices, some of which form part of the yet to be proclaimed *Correctional Services and Reintegration Act, 2018*. With the exception of recent

policy requirements pursuant to the January 2018 Jahn Consent Order,²⁵ no changes to operational policy or law have taken effect.

With the agreement of the Government of Ontario, the Consent Order imposed new mechanisms to enhance accountability and transparency; namely, it required the Government of Ontario to appoint an Independent Expert on human rights and corrections to assist with implementing the terms of the Order, to appoint an Independent Reviewer to report on compliance, and to collect and publicly release data on segregation use.²⁶ These requirements are progressive, long overdue, and reflect the ministry’s awareness and recognition of the need to address problems in data collection and distribution.

Figure 7: Segregation Policy Timeline



²⁵ The Consent Order dated January 16, 2018, between the Ontario Human Rights Commission and the Ministry of Community Safety and Correctional Services required that a prescribed definition of segregation be set out in policy by June 29, 2018. Furthermore, the Order required that by June 29, 2018, definitions of alternate housing were to be set out in policy and applied across Ontario’s correctional system by December 31, 2018, from *Ontario Commission of Human Rights v. Ontario (Community Safety and Correctional Services)*, 2018 HRTO 60 (hereafter, OCHR v. Ontario). In complying with the Consent Order, the ministry released a new definition of segregation in July 2018. Ministry policy now defines segregation as “any type of custody where an inmate is highly restricted in movement and association with others for 22 hours or more a day (excluding circumstances of lockdown).” See *supra* 18 MCSCS: Placement of Special Management Inmates at s. 4.15 or Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Inmate Management: General Inmate Management: Discipline and Misconduct* (Government of Ontario, July 2018) at s. 4.14 (hereafter, MCSCS: Discipline and Misconduct).

²⁶ *Ibid* OCHR v. Ontario.

Textbox 4: Major Segregation-Related Events, 2012 - 2018

- October 2012, Christina Jahn files human rights complaint regarding her detention in segregation and receiving inadequate mental health care.
- September 2013, Ontario government agrees to settle Jahn’s claim, including ten public interest remedies.
- 2014–2016, MCSCS completes a range of reports and policy changes to fulfill public interest *Jahn* remedies.
- March 2015, the Minister of MCSCS announces a comprehensive internal review of segregation policy and the use of segregation in Ontario’s correctional facilities, including how they interact with other mental health policies to ensure they are reflective of best practice and internal human rights standards.
- August 2016, an internal draft Segregation Review Report is completed outlining the review’s analysis and a series of recommendations. The report, however, was never made public, and to this day remains in draft form.
- September 2016, the Premier releases updated mandate letter, directing the Minister of MCSCS to work on long-term transformation of the correctional system including updating the ministry’s policies on the use of segregation.
- October 2016, MCSCS announces immediate actions to reform segregation and the forthcoming appointment of an Independent Advisor to examine segregation. The action items to reform segregation included:
 - Segregation will only be used as a measure of last resort, and will only be used under the least restrictive conditions available while still maintaining inmate and staff safety;
 - A limit of 15 consecutive days in disciplinary segregation will be established, reduced from the current maximum of 30 consecutive days;
 - A weekly segregation review committee to be created at each institution;
 - The “loss of all privileges” in disciplinary segregation will be eliminated, and will move towards alternative sanctions and increased incentives for inmates to maintain good behaviour;
 - A review of current data collection practices will be undertaken; and,
 - An assessment of existing capital infrastructure relating to segregation will be conducted.²⁷

²⁷ Ministry of Community Safety and Correctional Services, “Ontario to Begin Overhaul of the Use of Segregation in the Province: Government to Appoint Independent Reviewer to Reform Current Policies and Practices,” *Newsroom* (Government of Ontario, October 17, 2016).

(Textbox 4 continued)

- November 2016, appointment of the Independent Advisor announced.
- December 2016, the Ontario Ombudsman announces systemic investigation into how the province tracks and reviews the placement of inmates in solitary confinement.
- January 2017, Independent Review of Ontario Corrections (IROC) begins work on segregation.
- March 2017, IROC releases report *Segregation in Ontario* along with 63 recommendations.
- April 2017, the Ontario Ombudsman releases report *Out of Oversight, Out of Mind* with a number of segregation-related recommendations for the ministry.
- September 2017, IROC releases report *Corrections in Ontario: Directions for Reform* along with 62 recommendations.
- September 2017, Ontario Human Rights Commission files a contravention application with the Human Rights Tribunal of Ontario alleging that the provincial government had failed to comply with the public interest remedies in the 2013 *Jahn* settlement agreement.
- January 2018, the Human Rights Tribunal of Ontario issues a Consent Order resolving the 2017 contravention application and setting out requirements for the Government of Ontario.
- May 2018, Legislative Assembly of Ontario passes the *Correctional Services and Reintegration Act, 2018* that, once proclaimed, will repeal and replace the *Ministry of Correctional Services Act*.
- July 2018, consistent with the Consent Order, MCSCS releases a new definition of segregation and updates relevant ministry policies to reflect this new definition.

The Independent Review Team has found that many correctional officers and frontline managers attribute the ministry's October 2016 immediate segregation reform actions to the work of the Independent Review of Ontario Corrections. For some Ontario Public Service Employee Union (OPSEU) members, this confusion appears to have led to resentment about, and frustration with, the overall reform of Ontario corrections. As one correctional officer wrote, "there will always be violence in our institutions but the reforms to segregation have made it worse. There is no deterrent anymore since the introduction of capping the amount of segregation time. Inmates see it as a badge of honour to assault staff, and knowing that their segregation time will be limited, reoffend." Another respondent wrote, "I believe the increase of assaults is due to the lack of repercussions for assaultive behaviour in institutions since the decrease in allowable segregation time and removal of LOAP (Loss of All Privileges). Inmates have personally told me that they don't care because there are no consequences for their behaviour and there is only 15 days in segregation. I have heard them say that they enjoy segregation and consider it "quiet time". . . they get everything they want (phone when they want it, most of their property/canteen items in their cell, and they don't have to fight over the shower). There are no negative factors to going to segregation for 15 days anymore."

"We have LOST control of our institutions, we have lost control of violent criminals in the community . . . and I blame YOU Sir and Mr. Marin for your invented reports on something quite frankly you know little about. You do not and have not worked in an institution and thus really do not understand what it's like to walk amongst some of this countries [sic] most dangerous offenders . . ."

- MCSCS, Correctional Officer

The concerns expressed by frontline staff and managers regarding the 2016 immediate changes to segregation are understandable. The rollout of the reform initiatives by the ministry was implemented without the benefit of a clear and visible overarching strategic vision, resulting in some staff perceiving these changes as posing an increased risk to their safety.²⁸ Limiting the use and duration of disciplinary segregation absent coherent and coordinated policy, infrastructure, and training has contributed to a negative perception of the changes and to negative operational consequences.

For correction reform broadly, and segregation reform specifically, the emphasis must be on coherent messaging from the ministry to institutions to ensure the appropriate implementation of new directives. While the ministry's 2016 segregation reform initiatives were aimed at improving conditions for both staff and inmates, without thoughtful planning for phased change, and the meaningful consultation and involvement of frontline staff who will be affected by the changes, successful implementation was undermined.

²⁸ Howard Sapers, *Segregation in Ontario* (Ottawa: Independent Review of Ontario Corrections, Government of Ontario, March 2017) at 95-96 (hereafter, Sapers, *Segregation in Ontario*).

Operationally, what appears to have taken place in the absence of coordinated provincial direction is the implementation of idiosyncratic local initiatives based on interpretations of future correctional reform. Alternate units have been created absent consistent naming conventions and operational procedures. In some institutions, the elimination of “loss of all privileges” (LOAP) in disciplinary segregation has been interpreted to mean that inmates in disciplinary segregation must have access to all privileges. The purpose of eliminating LOAP was to ensure that any loss of privileges as discipline was considered on a case-by-case basis, taking into consideration the nature and severity of the offence.

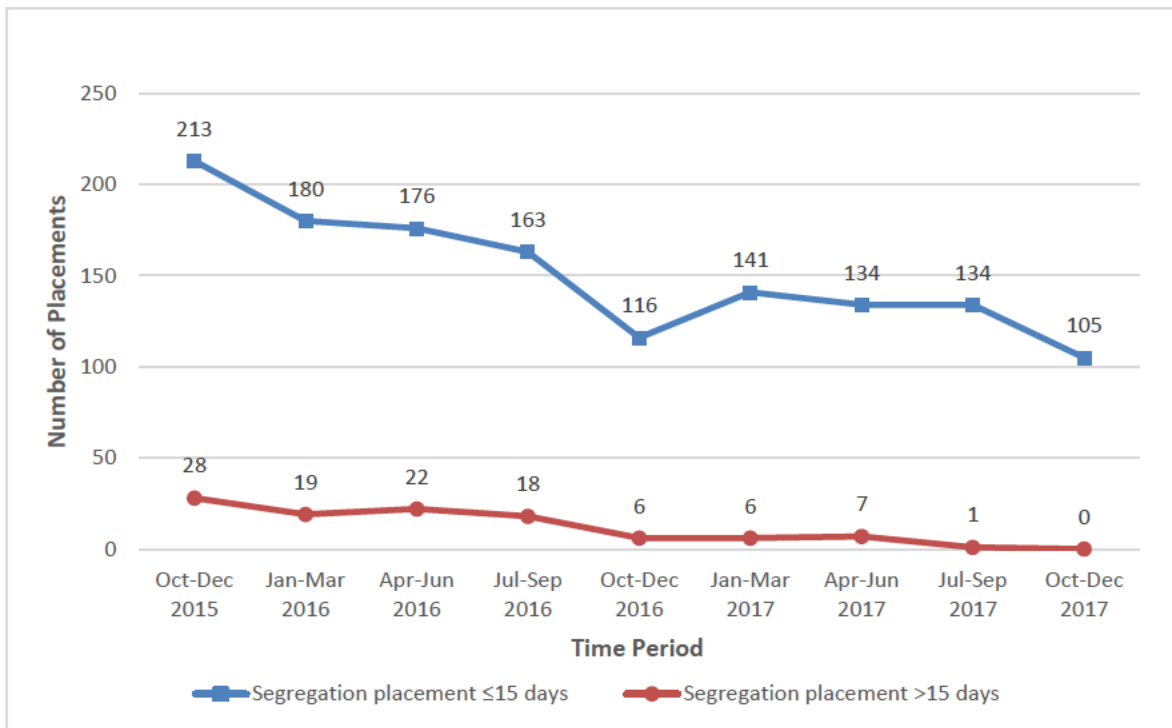
Figure 8 displays placements in disciplinary segregation for misconducts in Ontario institutions by length of stay before and after the ministry’s announcement of immediate segregation reform in October 2016. During the quarter when the ministry’s directive was released, there was a sudden drop in disciplinary segregation placements, in both those less than and exceeding 15 days. The figure for placements less than 15 days increased again at the beginning of 2017 but decreased through to the end of the year. Disciplinary segregation placements are still being utilized in Ontario institutions, though at a lesser rate than prior to the ministry’s reform initiatives. These numbers do not include inmates who received disciplinary segregation for misconducts and were also in segregation before or after the misconduct for an administrative reason. Using segregation data dating back to October 2015, it was not possible to determine the length of placement in segregation for disciplinary purposes only, therefore these inmates were excluded from analysis. These figures have remained in the hundreds before and after the ministry’s directive to reform use of segregation in October 2016.²⁹

²⁹ Table 1 shows the number of inmates with segregation placements that concluded per quarter, who spent time in disciplinary segregation on misconduct in addition to administrative reasons.

Table 1. Inmates Excluded from Analysis who had Disciplinary Segregation Placements at Some Point in Institution

| Oct-Dec 2015 | Jan-Mar 2016 | Apr-Jun 2016 | Jul-Sep 2016 | Oct-Dec 2016 | Jan-Mar 2017 | Apr-Jun 2017 | Jul-Sep 2017 | Oct-Dec 2017 |
|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| 330 | 280 | 305 | 325 | 336 | 241 | 369 | 366 | 304 |

Figure 8: Placements in Disciplinary Segregation³⁰



Frustrations expressed by staff that “segregation was taken away as a tool to enforce discipline” are reflective of the poor communication and implementation of the ministry’s immediate actions to reform segregation. Both in policy and in practice, segregation continues to be available and utilized as a disciplinary tool.

The potential harmful mental health effects of segregation are well established,³¹ and thus, use of segregation as a disciplinary tool must be closely regulated and monitored. Further, the effectiveness of segregation to reduce institutional violence is not clear.³² In particular, a study of state and federal correctional facilities in the United States found that the proportion of inmates in disciplinary segregation was a significant predictor of inmate-on-staff assaults, suggesting that the practice of disciplinary segregation may “exacerbate the violent propensity of offenders.”³³

³⁰ These figures do not include inmates who were placed in segregation for reasons other than discipline for a misconduct, i.e., any administrative segregation reason.

³¹ Sharon Shalev, *A Sourcebook on Solitary Confinement* (London: Mannheim Centre for Criminology, London School of Economics, 2008); Sapers, *supra* note 28 at 95-96.

³² Rachele Larocque, “Segregation in Ontario: Segregation Literature Review,” (Independent Review of Ontario Corrections, Toronto, 2017); Marie Garcia et al., “Restrictive Housing in the US: Issues, Challenges, and Future Directions,” (National Institute of Justice, Washington, DC, 2016) (hereafter, Garcia et al., Restrictive Housing); Ryan M. Labrecque, “The Effect of Solitary Confinement on Institutional Misconduct: A Longitudinal Evaluation,” (PhD Diss., University of Cincinnati, 2015).

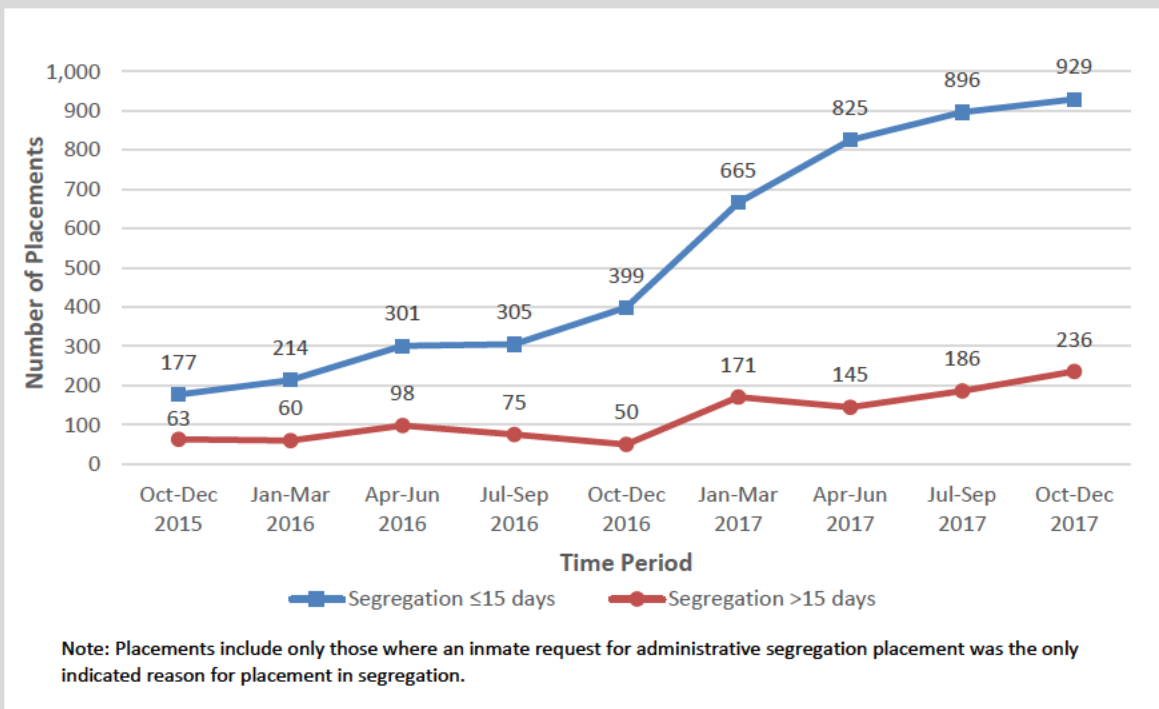
³³ Blake M. Randol and Christopher M. Campbell, “Macro-Correlates of Inmate Violence: The Importance of Programming in Prison Order,” *The Prison Journal* 97, no. 4 (2017).

Textbox 5: Staff Feedback — Increases in Inmate Requests for Administrative Segregation

Some staff expressed that an increased number of inmates are requesting administrative segregation and, as a result, segregation cells are occupied and not available for use as a disciplinary measure. Additionally, staff suggested that segregation cells are being requested by inmates because the conditions are desirable. For example, one officer said, “It’s sad I cannot send offenders to segregation for physical assaults, verbal assaults, etc. because you’ve made it so comfortable people want to be housed there full-time for their personal safety because the units are so dangerous. Thank you for making my job 100% harder every day!”

Figure 9 shows the recent increase in inmate requests for administrative segregation placements. These figures may reflect that inmates truly fear for their safety and are requesting to be segregated from the general population of inmates. The increased number of requests may be indicative of capacity pressures in institutions if an increasing number of inmates are occupying segregation cells. Or, if inmates are requesting administrative segregation simply for ‘comfort’, then there is a dire need for an evidence-based screening tool to assess the risk of violence or harm to an inmate who is requesting to be segregated.

Figure 9: Placements in Administrative Segregation from Inmate Requests



Correctional Services and Reintegration Act, 2018

Some of the written submissions the Independent Review Team received expressed frustrations with operational reform efforts embedded in the new *Correctional Services and Reintegration Act, 2018*. The new *Act* that passed in May 2018 is the foundation of the most profound transformation of Ontario's correctional system in a generation. If implemented appropriately, this legislation will improve working conditions for staff and living conditions for inmates, increase transparency and accountability, and deliver better outcomes for a safer, more humane, and effective correctional system.

This legislation has not yet been proclaimed and is therefore not in force. Unfortunately, there appears to be significant confusion regarding the status of the legislation, current ministry policy, and how and when institutional practices may change as the legislation moves towards proclamation and operationalization. There are gaps in communication between MCSCS corporate offices and institutions, between institutions, and among staff about what the implications and timing of the new legislation are for operations and the safety of staff and inmates.

Recent interim provincial policies relating to the definition of segregation and the creation of alternate housing have been issued to meet the legal requirements of the *Jahn* Consent Order. This episodic approach, without meaningful engagement with staff and a local phased implementation plan that prioritizes initiatives based on a larger strategic vision tailored to each individual correctional site, has resulted in the creation of local practices that staff believe are posing an increased risk to safety.

When proclaimed, the *Correctional Services and Reintegration Act, 2018* includes a time-phased approach to reform efforts based on operational readiness. Sections in the *Act*, including a number related to segregation and restrictive confinement, refer to the development of regulations which may provide exceptions for prescribed correctional institutions not yet ready for full implementation (see Textbox 6). This regulation-making authority allows for a phased implementation plan based on site-specific capital and resourcing needs. The need to ensure that appropriate resources are in place prior to some of the operational changes required under the *Correctional Services and Reintegration Act, 2018* was a consideration made by the ministry when the legislation was being drafted and introduced.

“This proposed legislation will be implemented in phases, as soon as possible based on system readiness and the appropriate supports being in place.”

- MCSCS News Release: Ontario Transforming Adult Correctional System. February 20, 2018

Textbox 6: *Correctional Services and Reintegration Act, 2018*

PART V — SEGREGATION AND RESTRICTIVE CONFINEMENT

Segregation prohibitions

65 (3) An inmate shall not be held in conditions that constitute segregation if the inmate,

- (a) is pregnant or has recently given birth;
- (b) is chronically self-harming or suicidal;
- (c) has a mental disorder, or an intellectual disability, that meets the prescribed conditions;
- (d) needs medical observation; or,
- (e) has a mobility impairment that meets the prescribed conditions.

Exception

(4) The regulations may provide that subsection (3) or any clause in that subsection does not apply in prescribed correctional institutions.

Use of Force Policy

In June 2013, the Ontario Ombudsman released a report following an investigation into use of force practices in Ontario corrections. The impetus for this report was an observed “disturbing trend”; namely, a number of instances where correctional staff “appeared to have used excessive force against inmates, many of whom were defenseless and vulnerable” and that appeared to be covered up by the staff and their colleagues.³⁴ While the ministry was initially dismissive of the Ombudsman’s concerns, it ultimately acknowledged the legitimacy of some of the allegations and undertook to address the issues (e.g., excessive use of force, cover-up efforts) by refining its policies and procedures.³⁵ The Ombudsman’s report, which outlined several recommendations, influenced subsequent changes to ministry policy regarding the use of force and reporting practices.

In December 2013, the Correctional Services’ current Use of Force policy was released. Specifically, a new policy statement and definition was added to address the “Code of Silence”, a policy statement and related section was added to introduce the Code of Conduct and Professionalism, the definition of “Participant” was expanded to identify whether a staff member was directly or indirectly involved in the incident. Priority 1 and Priority 2 reporting requirements were added — with an audit function introduced for Priority 2 Use of Force Local Incident Reports. New forms were introduced,³⁶ the timeframe in which the Risk Management Team must initially meet was extended from within five

³⁴ André Marin, “The Code: Investigation into the Ministry of Community Safety and Correctional Services’ Response to Allegations of Excessive Use of Force Against Inmates,” (Ombudsman Ontario, Toronto, June 2013) at 6.

³⁵ *Ibid* at 10.

³⁶ New forms introduced were: Use of Force Local Investigations Report, Use of Force Occurrence Report, and Use of Force Occurrence Report Addendum.

days to ten business days and a new section was added to describe the roles of the Use of Force Auditor and Chief of Oversight and Investigations.³⁷ It became a requirement that all Priority 1 Use of Force Local Investigation Reports (LIRs) must be reviewed and authorized at the regional level³⁸ while Local Investigation Reports related to Priority 2 incidents may be reviewed and signed off at the local institutional level.³⁹ Many of these Use of Force policy changes resulted in additional layers of reporting, investigations, and auditing adding significantly to administrative burdens at the local, regional, and corporate levels. The Independent Review Team examined ministry data and found that several institutions experienced backlog issues with Use of Force LIRs and reviews following changes to ministry policy and, in some institutions, this problem persists and has grown worse.⁴⁰ Across regions, administrative backlogs are often attributed to issues with staffing resources and the volume of incidents.

Some respondents suggested that changes to ministry policy concerning the use of force have had the

“The release of this highly inflammatory, one-sided report sent the Ministry into a tailspin. The Ministry, reeling from bad press and public pressure engaged in a highly reactive campaign that meted out highly excessive discipline against staff that were accused of using excessive force . . . The result created a vacuum wherein correctional staff became hesitant to use force even if the situation dictated its use. Offenders fed off this trend and violence against staff spiked.”

- MCSCS, Correctional Officer

effect of limiting staff use of force, which, in their view, has contributed to violence within Ontario’s institutions. As one correctional officer noted, “the ministry has made staff afraid to use force and this makes the environment NOT safe.” Another officer expressed a similar sentiment, suggesting that, the “Ombudsman report “The Code” had a twofold reaction, intended or not. Empowerment of the

³⁷ Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Security and Controls: Use of Force* (Government of Ontario, December 2013) (hereafter, MCSCS: Use of Force)

³⁸ Examples of Priority 1 Use of Force incidents include contentious use of force and suspected excessive use of force.

³⁹ Examples of Priority 2 Use of Force Incidents include Cell Extraction Team/Institutional Crisis Intervention Team activations and deployment, the use of chemical munitions, impact weapons, application of mechanical restraints and use of force physical restraint techniques that are not contentious.

⁴⁰ For instance, in the Eastern Region, Central East Correctional Centre reported 171 Use of Force LIRs in 2014, with an average review backlog of 24, and, by 2017, these figures had increased to 276 and 234, respectively. Similarly, Ottawa-Carleton Detention Centre recorded 106 Use of Force LIRs in 2014, with an average backlog of 10. In 2017, these figures had increased to 228 and 146, respectively. Likewise, in the Central Region, Vanier Centre for Women recorded 15 Use of Force LIRs in 2014 and did not report any backlog. By 2017, Ontario’s only dedicated correctional facility for women recorded 118 Use of Force LIRs and a backlog of 70. Finally, a comparable trend was observed at some institutions in the Western Region. For example, at Elgin-Middlesex Detention Centre where, in 2014, there were 148 Use of Force LIRs and no issues with backlog, but, in 2017, the institution recorded 319 Use of Force LIRs for use of force and, on average, was backlogged by 84. Interestingly, there were no backlog issues reported for the Northern Region, though Use of Force LIRs increased in some facilities between 2014 and 2017.

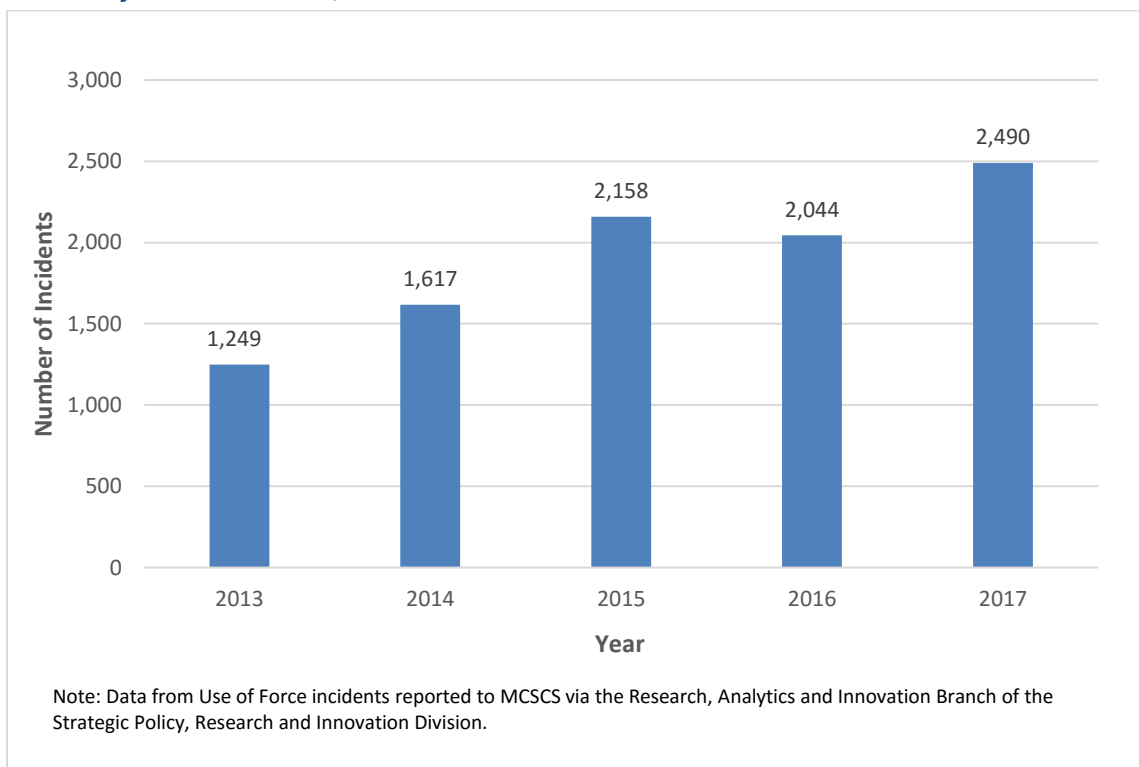
inmate and hesitation of staff . . . the reality is the inmate became more violent and staff backed off.” The impact of *The Code* and subsequent changes to ministry policy, according to some correctional staff, has been that, “officers are second guessing using force to restrain offenders as they are concerned that the force they may use will be reviewed by individuals who have never worked the frontlines which would result in a suspension and loss of wages.”

“ . . . due to recent reports released by the then Ombudsman Mr. Marin, they (inmates) could assault us (COs) and we could not defend ourselves because we would be fired and they would receive a fat paycheck from the Ministry. The inmates were right and this is the dangerous precedent Mr. Marin has started and with reviews like yours has perpetrated.”

- MCSCS, Correctional Officer

Use of force incidents have been formally tracked by MCSCS since 2013, following publication of the Ontario Ombudsman’s report. The number of reported incidents of use of force is shown in Figure 10. It can be seen that use of force incidents in Ontario institutions have increased since 2013, despite reported hesitation by staff to use force following the Ombudsman report. It is possible that some of this increase can be explained by improved reporting of use of force incidents in institutions.

Figure 10: Use of Force Incidents, 2013 - 2017



As a result of the increased number of use of force incidents, the Correctional Services Oversight and Investigations Unit (CSOI) — an internal ministry division that reports to the Deputy Minister of Correctional Services and is responsible for conducting inspections or investigations into incidents resulting in serious injury⁴¹ — is also experiencing a backlog in reviewing and closing use of force investigations. Data that the Independent Review Team received from the ministry indicated that the number of CSOI use of force investigations fluctuated between 2012 and 2017, from 22 investigations in 2012 prior to the implementation of the current use of force policy, to a low of 8 in 2015 before jumping to 27 in 2017. An investigation outcomes review conducted by the Strategic Policy, Research and Innovation Division of MCSCS for 2012 – 2016 found that the average number of days⁴² to complete a CSOI use of force investigation increased steadily, from a low of 161.7 in 2012 to a high of 268.2 in 2016. However, the minimum number of days for an investigation was as low as six during this time, with a maximum number of days for an investigation at 491. According to CSOI, in 2017 the average number of days to complete a use of force investigation dropped to 182 (range: 43 to 560 days). CSOI reports that it is possible that consultations with the Ontario Correctional Services College in use of force investigations, as well as the increasing volume of digital video evidence that must be reviewed in such investigations, has contributed to the heightened mean number of days required to complete use of force investigations. Regardless of its causes, these lengthy investigations have significant implications; namely, it means that correctional staff may be removed from the workplace for substantial periods of time while investigations are ongoing which has the potential to adversely affect institutional operations.

Changing Inmate Population

Feedback received from correctional staff suggests that one explanation for the increase in institutional violence stems from a rise in the proportion of individuals with violent criminal backgrounds alongside a perceived shift in the “cultural make-up of inmates”. As one correctional officer noted, “there is a highly significant amount of the inmate population that are very violent, dangerous, aggressive, and defiant.” Another expressed that “many of those we house lead violent lives whether they are deemed mentally ill or not. The inmates we house in a big city remand are those the courts absolutely could not set free until their cases are heard. They are legally innocent of the charges filed against them, but that doesn’t mean they can be treated as innocent men.”

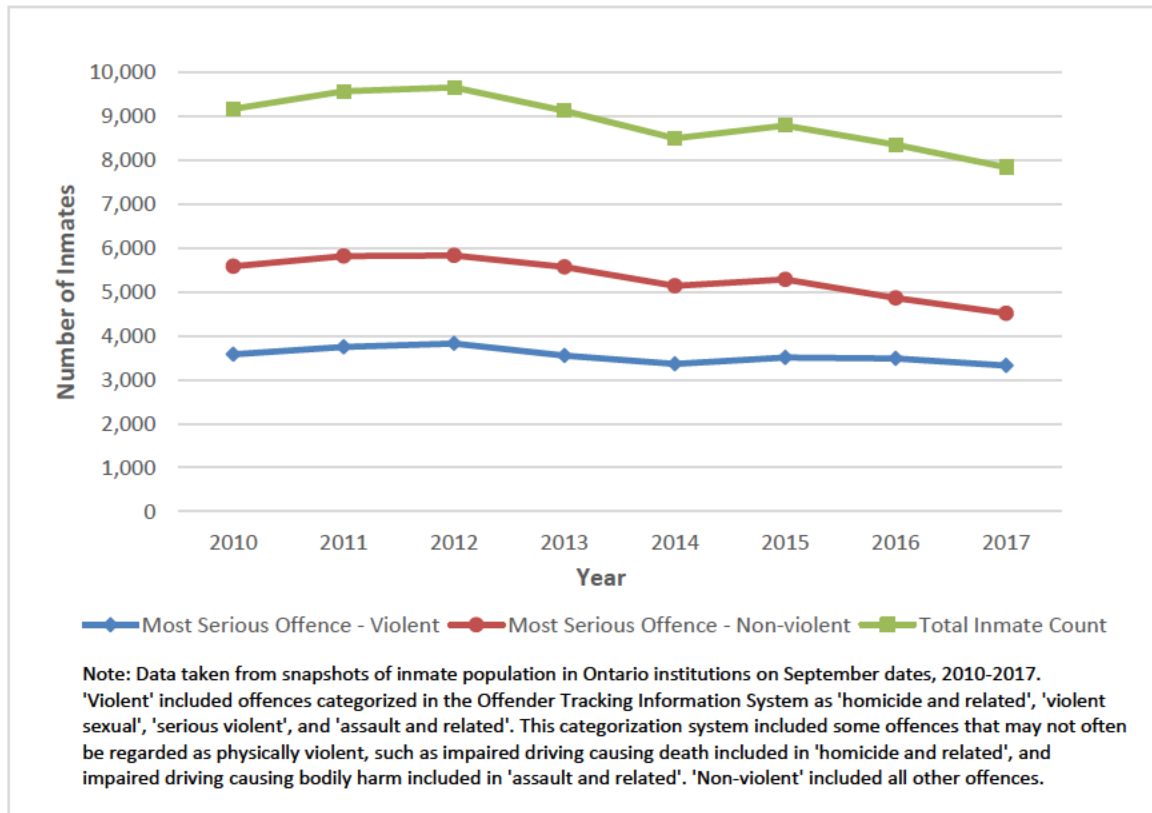
Using snapshot data from 2010 – 2017, the Independent Review Team was able to categorize the inmate population by whether or not the current period of incarceration was related to a violent

⁴¹ MCSCS: Use of Force, *supra* note 37 at s. 4.5. See also Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Correctional Services Oversight and Investigations* (Government of Ontario).

⁴² Number of days is measured by calculating the duration between the date on which the Use of Force LIR is received from the institution and the investigation is assigned to a CSOI investigator (not the date on which the use of force occurred), to the date on which the investigation is closed.

offence (Figure 11). Over the course of seven years, the data indicates that the majority of inmates held in Ontario corrections (on remand or serving a sentence) were not there for a violent offence.

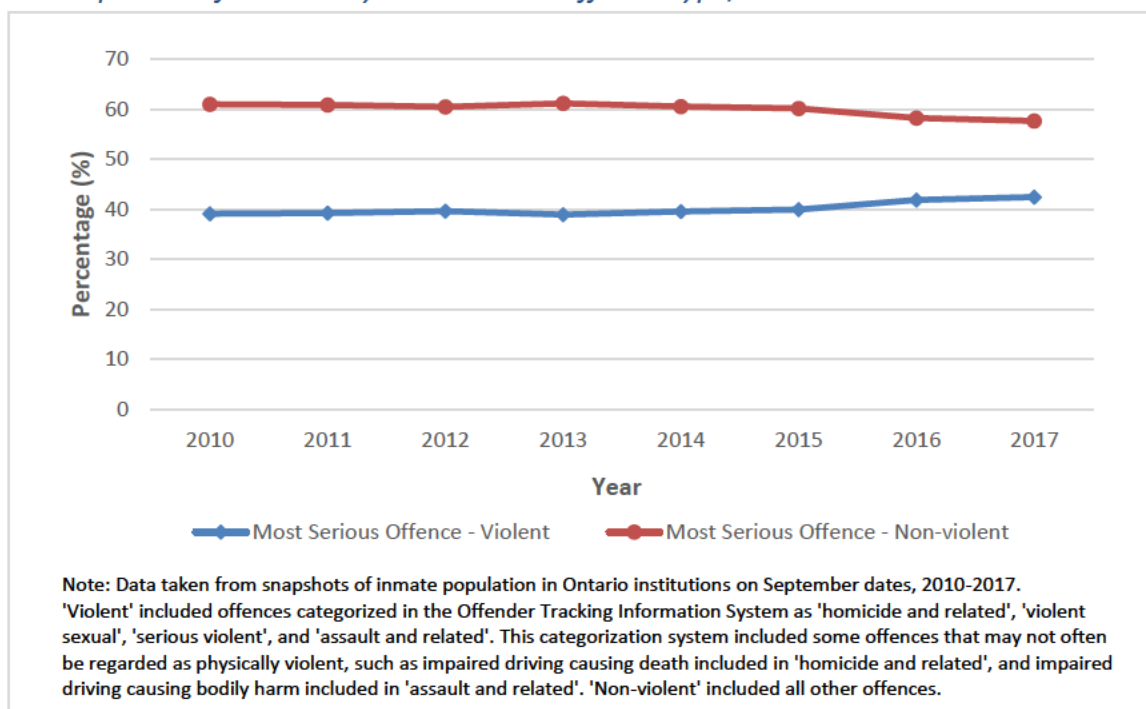
Figure 11: Inmate Population by Violent Charge, 2010 - 2017



The actual number of inmates in custody for a violent offence has remained about the same as 2010. This data displays how staff “perceptions can be simultaneously correct and incorrect”.⁴³ Indeed, the proportion of inmates in Ontario in custody for a violent charge has increased, from 39.1% in 2010 to 42.4% in 2017 (Figure 12). Likewise, the proportion of inmates in custody for non-violent offences has been decreasing, from 60.9% to 57.6%. However, these changes in proportion are due to the overall decrease in inmate population, which is being driven by a steady decline in the number of inmates in institutions for non-violent offences. Therefore, if seeking to understand the make-up of the Ontario inmate population by violent offence, it is necessary to consider both the number *and* the proportion of inmates. Based on the snapshot data, there is no indication that there are now more inmates in Ontario institutions for a violent offence.

⁴³ Cheryl Webster, Jane B. Sprott, and Anthony N. Doob, “Are Ontario Criminal Cases Becoming More Serious in Nature?: The Importance of Distinguishing Between ‘Number’ and ‘Proportion,’” (Research report prepared for the Independent Review of Ontario Corrections, 2017).

Figure 12: Proportion of Inmates by Most Serious Offence Type, 2010 - 2017



A review of Ontario adult court statistics found that the *proportion* of cases with at least one major violent charge was relatively stable during 1997 – 2013; however, there was a decline in the *number* of cases with or without a violent charge, so even with relatively stable proportions of cases, overall, those with violent charges had decreased.⁴⁴ Further analysis of Ontario cases sentenced to custody found that, although the number of cases involving serious violence decreased in recent years, the proportion going to custody appeared to increase — this was likely an indication that cases without serious offences were being diverted from custodial sentences.⁴⁵

Research has demonstrated that violent history does not predict violent behaviour within correctional institutions.⁴⁶ Some research has shown that those serving a sentence for a violent offence were actually less likely to be sanctioned for violent acts in prison than those with nonviolent convictions.⁴⁷

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

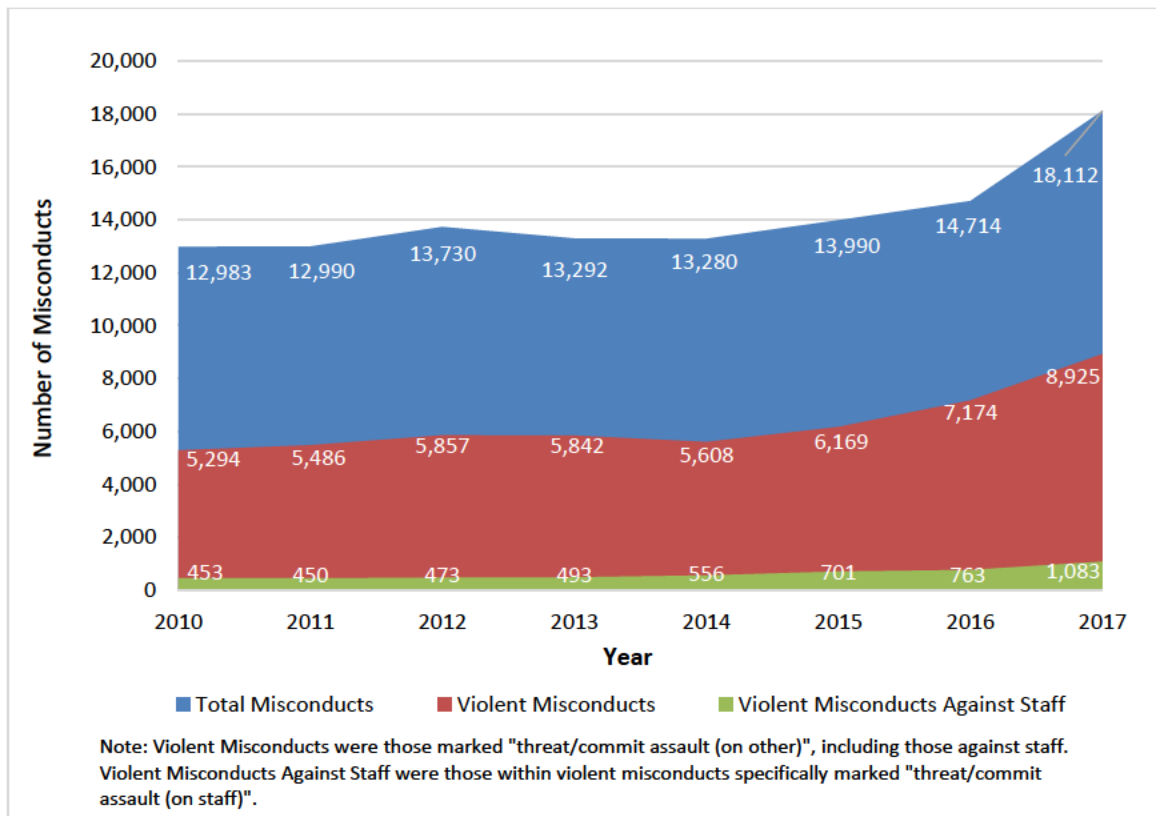
⁴⁶ Karen F. Lahm, "Inmate Assaults on Prison Staff: A Multilevel Examination of an Overlooked Form of Prison Violence," *The Prison Journal* 48, no. 2 (2009); Paul Gendreau, Claire E. Goggin and Moira A. Law, "Predicting Prison Misconducts," *Criminal Justice and Behavior* 24, no. 4 (1997) (hereafter, Gendreau et al., Prison Misconducts); Scott D. Camp and Gerald G. Gaes, "Criminogenic Effects of the Prison Environment on Inmate Behavior: Some Experimental Evidence," *Crime & Delinquency* 51, no. 3 (2005); Eugene W. Wang and Pamela M. Diamond, "Empirically Identifying Factors Related to Violence Risk in Corrections," *Behavioral Sciences & the Law* 17, no. 3 (1999) (hereafter, Wang and Diamond, Empirically Identifying Factors).

⁴⁷ Mark D. Cunningham and Jon R. Sorensen, "Predictive Factors for Violent Misconduct in Close Custody," *The Prison Journal* 87, no. 2 (2007); Mark D. Cunningham, Jon R. Sorensen and Thomas J. Reidy, "An Actuarial Model for Assessment

However, inmates with a history of prior violent acts *in an institution* were more likely to commit a violent act while in an institution, suggesting that “although violence in the free world is not indicative of violence in prison, prior violent acts in prison are a good indicator of future violence in an institutional setting.”⁴⁸

One way to measure violent acts within an institution is by reviewing institutional misconducts. In Ontario, the majority of misconducts issued to inmates in the province’s institutions have been for non-violent misconducts (e.g., disobey order, possess contraband; Figure 13). The total number of misconducts issued has increased by 39.5% between 2010 and 2017, despite the inmate population decreasing during this period. There were 3,631 more misconducts issued for violence (threat/commit assault on other) in 2017 than in 2010 (an increase of 68.6%). The number of misconducts for violence against staff has more than doubled since 2010 (1,083 misconducts for ‘threat/commit assault on staff’ issued in 2017 compared to 453 in 2010). However, the proportion of all misconducts that includes violence against staff remains low (5.9% in 2017).

Figure 13: Misconducts in Ontario’s Institutions, 2010 - 2017



of Prison Violence Risk Among Maximum Security Inmates," *Assessment (A Journal of the American Psychology Association)* 12, no. 1 (2005) (hereafter, Cunningham and Sorensen, Predictive Factors).

⁴⁸ *Ibid* Cunningham and Sorensen, Predictive Factors at 48.

The Independent Review Team looked at whether there were any relationships between holding type⁴⁹ or presence of a violent charge with violent institutional misconducts. There were no statistically significant relationships; this suggests that we cannot anticipate, based on their holding type or on presence of a violent offence, the likelihood that an inmate engages in violence while in an institution. Instead, violence in institutions may be explained by other factors such as the nature, quality, and general circumstances of interactions with other inmates and staff or the mental health, vulnerability, and coping ability of those involved. We cannot conclude that individuals in custody for violent offences are more violent once in an institution.

Hiring and Training of New Correctional Officers

A number of staff proposed that issues regarding the hiring and training of correctional officers has adversely affected levels of violence in Ontario's institutions. Concerns that safety could be compromised by staff on shift were captured in a study of Ontario correctional officers and inmates in 2013 – 2014; one staff member noted that an officer in the direct supervision unit "will get eaten alive because the [correctional officer] that is supposed to watch them in the control desk will probably have their feet up and be reading the paper on their cell phone."⁵⁰ More recently, sentiments that new correctional staff in institutions may be connected to rising levels of institutional violence were expressed to the Independent Review Team. This view was particularly common among staff at Toronto South Detention Centre. One correctional officer stated that, in his opinion, "many incidents of staff assault arise from poorly trained, new correctional officers who agitate inmates and/or use force without knowing the policies and directives in place or having the experience to disengage." Likewise, correctional staff at Elgin-Middlesex Detention Centre commented that, "the majority of staff who are assaulted are those with less than 3 years on the job" and that "throwing hundreds of inexperienced people at a problem with few tools and very little leadership has only increased the amount of assaults in our institution."

"Too many new inexperienced Correctional Officers who have never worked in an institution and never seen inmates before. They were dumped into the provinces [sic] largest jail without any mentors and very little senior staff to show them the way. Instead of bringing in senior staff to open that jail they brought in new staff that the inmates and management could bully and intimidate."

- MCSCS, Correctional Officer

⁴⁹ Holding type refers to whether inmates were held on remand awaiting trial or sentencing, were currently serving a provincial sentence, or were in an institution for some other reason (e.g., immigration hold, extradition order, etc.). Using snapshot data from 2010 to 2017, the largest proportion of inmates were held on remand, fairly steady from 5,060 in 2010 to 4,871 in 2017. Those serving a provincial sentence decreased from 3,816 in 2010 to 2,772 in 2017.

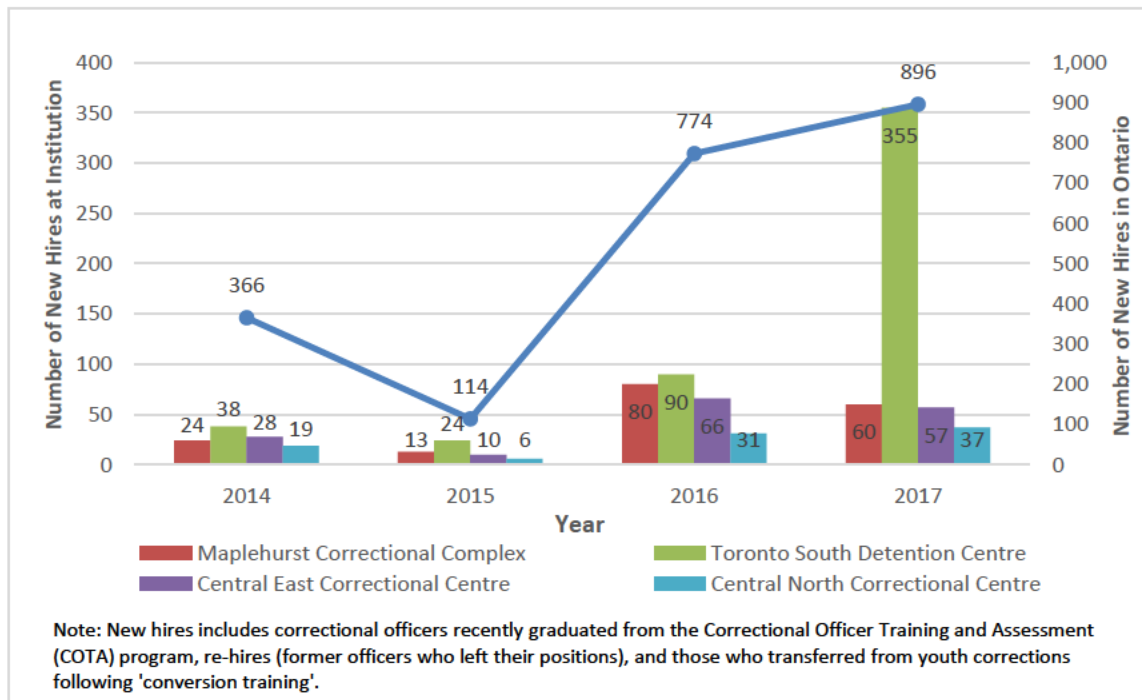
⁵⁰ Holly Pelvin, "Understanding Violence in Ontario Correctional Institutions: Comments Based on Original Research Undertaken by the Author Between June 2013 – June 2014," (Research prepared for the Independent Review of Ontario Corrections, 2018) (hereafter, Pelvin, Understanding Violence).

Recruitment

A moratorium on all correctional officer recruitment was declared by MCSCS in January 2009 until 2013. This moratorium substantially affected the day-to-day frontline operations in correctional institutions. Staff shortages contribute to increased lockdowns, an inability to provide meaningful activities for inmates, programs being interrupted or halted, impacts to professional and personal visits, and increased costs for prisoner transportation.

Hiring of correctional officers restarted in 2013. In 2016, the ministry announced its commitment to hire 2000 correctional officers over the next three years.⁵¹ Figure 14 displays new hires of correctional officers in Ontario institutions between 2014 and 2017, highlighting new hires at the four largest institutions. Ministry hiring data illustrates a province-wide increase in correctional officer hiring between 2016 and 2017. Toronto South Detention Centre is of particular interest, as it reported the most substantial increase, with 355 new hires (nearly 40% of all new correctional officer hires) in 2017. Given the substantial number of inmate-on-staff incidents also reported at TSDC,⁵² this is an area that warrants further investigation. While a relationship between new hires and an increase in reports of incidents is apparent, the Independent Review Team cannot conclusively determine how the increase of new staff is related to the increase of violent incidents given the data available at this time.

Figure 14: New Hires in Ontario's Institutions, 2014 - 2017



⁵¹ Ministry of Community Safety and Correctional Services, "Ontario to Hire 2000 New Correctional Officers: Hires Will Support Transformation, Help Ensure Staff and Inmate Safety," *Newsroom* (Government of Ontario, March 21, 2016).

⁵² Figure 4 Number of Incidents at Ontario's Largest Institutions.

Training

The majority of frontline corrections employees are trained in the Ontario Correctional Services College (OCSC), which is responsible for overseeing the design, development, delivery and evaluation of learning and development programs for Correctional Services. Training requirements for new recruits vary depending on the position. Correctional officers, for example, must complete the College's eight-week Correctional Officer Training and Assessment (COTA) program prior to being hired and are then given a few weeks of further training at their particular institution. OCSC also provides a wide range of in-service training courses, including mandatory re-certifications for current staff as well as optional courses that provide additional training for specialized roles.

In 2017, the ministry acknowledged the need to renew the COTA program and confirmed that plans were underway to overhaul the existing curriculum for correctional officers. This renewal was to include a proactive review and rewriting of the training material, including applying human rights principles and Indigenous perspectives to the curriculum. To date, no substantive changes to content have been announced.

Recently, a large portion of OCSC's focus was operationalizing the ministry's commitment to hiring — and training — nearly 1,000 new recruits in 2017. The ministry's commitment to training such a large number of new correctional officers in such a short period of time has put a strain on available resources. Following the lift of the moratorium on hiring correctional officers in 2013, the focus on streamlining delivery to push this volume of new recruits through COTA came at the expense of reviewing the substantive content of the training material.

For example, according to the correctional student course outline provided to the Independent Review Team, defensive tactics training includes 12 hours of classroom sessions, of which only 90 minutes are dedicated to diffusion of hostility. In contrast, 4.5 hours are dedicated to use of restraints, aerosol weapons, and expandable batons. There are a further 36 hours of defensive tactics practical training sessions that are conducted in the gym. Moreover, refresher courses relating to defensive tactics for all correctional officers occur every 24 months, though it is unclear what portion of this is devoted to diffusion of hostility or verbal de-escalation techniques. Similarly, out of the 40-hour refresher course for Community Escort Certified Officers — those who escort inmates for transfers between institutions, medical appointments, temporary absences, etc. — only one 60-minute module relates to diffusion of hostility. The Independent Review Team was advised that a theme of de-escalation is embedded in other training modules in the curriculum. However, these informal means are dependent on the instructor facilitating the training, and it is not possible to measure the degree to, or consistency with, which this de-escalation is promoted across COTA cohorts.

The portion of the COTA curriculum that is formally dedicated to de-escalation training is not reflective of ministry policy that stipulates, “whenever possible, and given all circumstances, staff should attempt to resolve incidents using verbal intervention skills, such as diffusion of hostility” and, further, that “force must always be the action of last resort.”⁵³ A number of correctional staff who provided feedback to the Independent Review Team expressed concern over the training correctional officers receive with respect to de-escalation and diffusion techniques. One respondent noted, “the College spends its curriculum time on training officers by reading policy and procedures as well as self-defence and take downs. It has absolutely no conflict resolution or violence de-escalation. [It provides] no training on how to deal with difficult people [or on] how to defuse a situation.” Similarly, a correctional officer at Toronto South Detention Centre recommended that, “an education centre with staff resources on dealing with conflict,” including de-escalation techniques, be developed while another officer commented that, “correctional staff need on-going training on various topics such as . . . de-escalation techniques, mental health, addictions, [and] crisis management.” Moving forward, it will be important to ensure that any gaps in training are remedied given that adequate and thorough training is crucial to the safety of both inmates and staff alike.

“ . . . too many new staff have been pushed into the job and experienced staff have not been able to assist new ones.”

- MCSCS, Correctional Officer

Managers and senior staff have expressed concern that incoming officers are not equipped with the skills necessary to de-escalate potentially violent situations. During a site-visit by the Independent Review Team, one superintendent indicated that, frequently, “new officers will enter the cell of an inmate” if provoked rather than attempt to de-escalate the situation verbally. This suggests that communication

and crisis de-escalation skills taught in the COTA program may not be transferring effectively into the field. It further suggests that there may be problems with mentorship structures for newly hired correctional staff.

⁵³ MCSCS: Use of Force, *supra* note 37 at s. 3.1.1 and s. 3.1.5.

Lack of Programming for Ontario Inmates

Some staff indicated that, in their view, a lack of programs for inmates may be influencing institutional violence. This sentiment is captured in the response the Independent Review Team received from an officer at the Ottawa-Carleton Detention Centre who said, “I have been witness to several violent acts during the course of my career and I would argue that many of them are a result of the frustration of being incarcerated and the lack of programming to keep idle minds and bodies busy.” This has been reflected in academic literature linking prison disorder to idleness, thus encouraging the use of

“I have witnessed firsthand the positive effect [of recreational programming] on both their physical health and mental wellbeing. I have also recognized the positive effect it has and the potential it has for improved relations between staff and inmates.”

- MCSCS, Recreational Officer

programs to keep inmates occupied.⁵⁴ Behavioural treatment programs provided to inmates were associated with reductions in institutional misconducts in a meta-analysis of studies testing the effectiveness of programs spanning a 50-year period from 1952 to 2003.⁵⁵ A study of prisons in the United States found that lower rates of violence against inmates and staff were reported when large percentages of the inmate population were involved in educational, vocational, or prison industry programs.⁵⁶ Similarly, a 2003 study of 185 correctional facilities in the United States found that inmates involved in work programs were significantly less likely to assault staff.⁵⁷

Dynamic factors of anger, antisocial personality, and impulsivity were found to be more strongly related to aggression in institutions than static predictors such as history of a violent charge,⁵⁸ which suggests that treatment and programming aimed at these factors could be effective in minimizing institutional violence. In a maximum-security forensic mental health hospital in Saskatoon, Saskatchewan, gang members who received cognitive-behavioural treatment had significantly less institutional offences than untreated gang members.⁵⁹

⁵⁴ Sophie Ellis and Erica Bowen, "Factors Associated with Desistance from Violence in Prison: An Exploratory Study," *Psychology, Crime & Law* 23, no. 6 (2017); Gerald G. Gaes and William J. McGuire, "Prison Violence: The Contribution of Crowding Versus Other Determinants of Prison Assault Rates," *Journal of Research in Crime and Delinquency* 22, no. 1 (1985).

⁵⁵ Sheila A. French and Paul Gendreau, "Reducing Prison Misconducts: What works!" *Criminal Justice and Behavior* 33, no. 2 (2006) (hereafter, French and Gendreau, Reducing Misconducts).

⁵⁶ Richard C. McCorkle et al., "The Roots of Prison Violence: A Test of the Deprivation, Management, and "Not-so-Total" Institution Models," *Crime & Delinquency* 41, no. 3 (1995) (hereafter, McCorkle et al., Roots of Prison Violence).

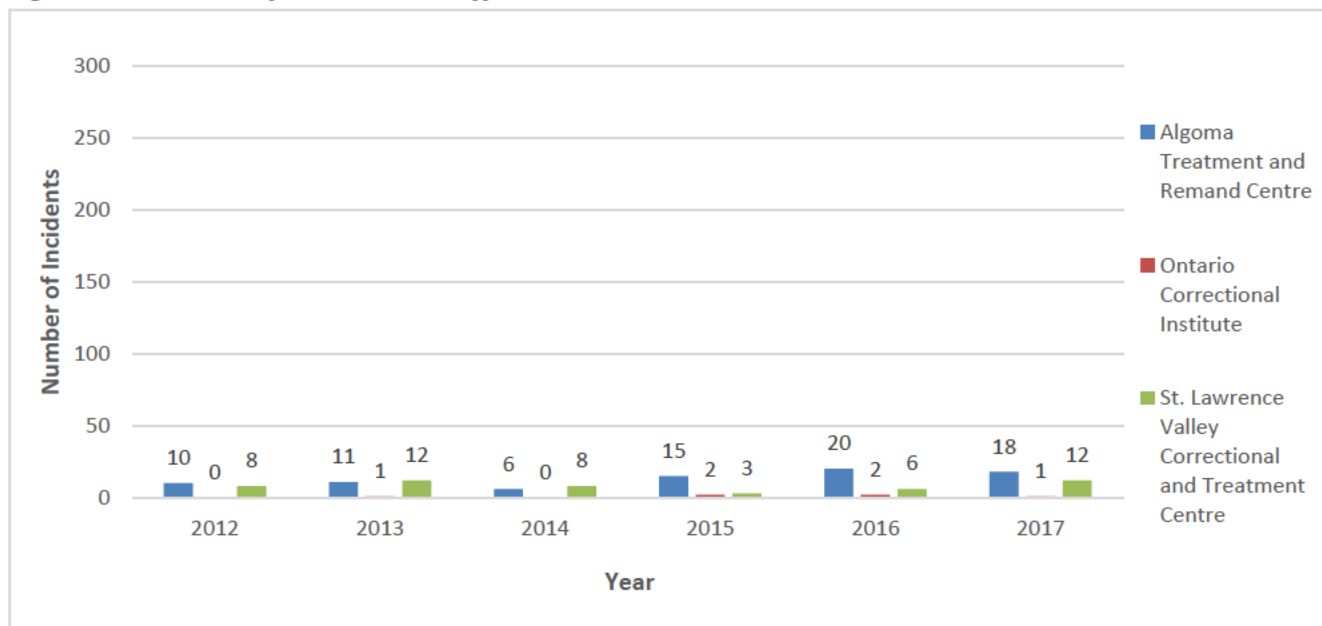
⁵⁷ Beth M. Huebner, "Administrative Determinants of Inmate Violence: A Multilevel Analysis," *Journal of Criminal Justice* 31, no. 2 (2003).

⁵⁸ Wang and Diamond, Empirically Identifying Factors, *supra* note 46.

⁵⁹ Chantal Di Placido et al., "Treatment of Gang Members Can Reduce Recidivism and Institutional Misconduct," *Law and Human Behavior* 30, no. 1 (2006).

The Independent Review Team assessed the number of inmate-on-staff incidents of violence that occurred at Ontario’s three correctional treatment facilities (Figure 15). These facilities have comparable average yearly population counts (more than 100 but fewer than 150 inmates). Again, variation in reported incidents across these treatment facilities is evident, similar to what was observed in larger institutions (Figure 4 and Figure 5). In particular, Ontario Correctional Institute (OCI) had minimal reported incidents of inmate-on-staff violence between 2012 and 2017.

Figure 15: Number of Inmate-on-Staff Incidents in Ontario’s Treatment Facilities, 2012 - 2017



While it is not possible to determine if this is a result of underreporting or an actual rarity of incidents, there are some unique characteristics about OCI that are worth noting. OCI is the only medium-security treatment centre in Ontario and is characterized by its exclusive use of dormitory-style accommodations⁶⁰ (Figure 16). As a specialized treatment centre for male inmates who are serving provincial sentences, OCI pre-screens applicants to ensure their treatment needs correspond with the programming offered at the facility and to confirm that the applicant is suitable for a medium-security setting. This pre-screening process occurs prior to the individual arriving at the facility. Once admitted, the individual is further assessed during a six-week intake/orientation. Rehabilitative programming offered at OCI includes criminal thinking, substance abuse, anger and emotion management, and sexual offending.⁶¹

⁶⁰ OCI also has a few segregation cells that are rarely used.

⁶¹ Ministry of Community Safety and Correctional Services, *Inmate Information Guide for Adult Institutions* (Government of Ontario, September 2015) at 47.

Figure 16: Accommodations, Dining, Library, and Classroom, Ontario Correctional Institute



- ❖ Clockwise from top left: dormitory-style accommodation with single beds and a bunk bed, communal dining room with server and movable tables and chairs, library with communal tables and soft seating area, and school/literacy room with computers, large table, and movable chairs at the Ontario Correctional Institute.

What further distinguishes OCI from other provincial correctional facilities in Ontario is the relationship-focused dynamic that occurs between inmates and staff. At OCI, individuals are referred to as ‘residents’ and are free to walk throughout the institution unescorted by correctional staff. Correctional officers at OCI are also ‘case managers’ and being in uniform and wearing personal protective equipment is optional. The ratio of permanent MCSCS clinical staff to inmates is higher than in other provincial facilities and all residents are provided open visits⁶² and have access to a communal dining area and a variety of recreation and educational programs geared towards community reintegration. It may be beneficial to look into programming options offered at institutions and the number and types of incidents, to see if correlations exist. This is an area that requires further study.

⁶² Howard Sapers, *Corrections in Ontario: Directions for Reform* (Ottawa: Independent Review of Ontario Corrections, Government of Ontario, September 2017) at 102 (hereafter, Sapers, *Corrections in Ontario*).

Increased and/or Better Incident Reporting and Tracking

When an Inmate Incident Report (IIR) is received by the IMU, incidents that are identified as inmate-on-staff violence are manually added to a working report for MCSCS corporate offices and OPSEU.⁶³ The numbers of incidents recorded are dependent upon staff properly completing IIRs and submitting them to the IMU for tracking. It is possible that some inmate-on-staff incidents of violence occur at institutions but are not reported on IIRs and would be missed in the total number of incidents. However, by the substantial number and increase in reported incidents over the years, the Independent Review Team does not expect there to be an issue of grossly underreported incidents of inmate-on-staff violence in Ontario's institutions.

When IIRs are received by the IMU, incidents on the report will be classified as an 'assault', 'attempted assault', or 'threat' (currently categorized as 'specific' and 'general' threat, though prior to 2014 it was only categorized as 'threat'). This classification is insufficient for meaningful analysis of incidents and, in particular, to form any targeted policy response to trends.

The re-categorization of incident types completed by the Independent Review Team for this report granted a better look at what types of incidents were being reported and how the reporting patterns changed in recent years. An important limitation of the present analysis is that the data only allow for an assessment of the number and types of incidents reported; it is not possible to infer the severity, by physical or psychological harm, of these events. The suggestion that the increased number of inmate-on-staff incidents is attributable — even partly — to improved reporting practices implies that many more 'less serious' incidents are being reported now than before. For example, the incident details reviewed indicate that in many cases where staff report being threatened, the staff member involved did not feel the threat was credible.⁶⁴ It is possible that in prior years these incidents would not have been reported at all. Similarly, the increase in reported spitting-related incidents may include minor events that previously were not reported.⁶⁵ It is also evident that some institutions have experienced a substantial increase in reported incidents while others have not. It is necessary to have a deeper look at the reported incidents at these institutions — to understand the type and circumstances of the incidents, the inmates involved, and other incident details — to assess whether the increase is attributable to increased reporting.

⁶³ The IMU generates multiple reports for various corporate offices within the ministry, filtered by different incident types but not always exclusively focused on inmate-on-staff violence. Again, due to the structure of the current IMU database, this is often a manual, time-intensive process to produce multiple reports with diverse indicators included depending on the needs or interests of the MCSCS body receiving the report.

⁶⁴ For example, an excerpt from an incident reported in 2017: "*CO does not find the threat to be credible and does not want to pursue with criminal charges.*"

⁶⁵ For example, an excerpt from an incident reported in 2017: "*An inmate attempted to spit at staff during a medical escort.*"

In May 2018, the former Minister's Office⁶⁶ suggested to the media that the increase in incidents of violence in Ontario's correctional facilities may be in part due to improved reporting practices by staff and tracking by MCSCS. Following the Ontario Ombudsman's 2013 recommendation to improve use of force incident reporting, and to regularly monitor the number of incidents and changes over time, it is possible that there were improved efforts in institutions to ensure proper reporting of incidents by staff. As many use of force incidents involve a disruptive and/or potentially aggressive inmate, when staff report these events in accordance with policy, incidents of inmate-on-staff violence may also be captured on these IIRs. It is possible that a conscious effort by staff to report *all* incidents contributed to the reported increase in inmate-on-staff incidents over time. However, given the substantial increase, it is unlikely that this alone explains the sudden rise in reported incidents between 2016 and 2017.

The surge in reported incidents of physical assaults are troubling. Since these incidents involve physical interaction between an inmate and staff, there are obvious security and safety concerns. Incidents of 'assault' include a wide range of interactions — from an inmate throwing water on a correctional officer to an officer being kicked — intolerable to the order of a correctional facility regardless of the degree of potential injury or safety concern for staff. It is simply not possible to determine the severity of incidents from the IIRs as currently presented. The Independent Review Team did identify other reporting mechanisms that allow for some assessment of the severity of incidents and the pattern of increase in reported inmate-on-staff incidents.

Additional Incident Measurements

The Justice Officials Protection and Investigations Section (JOPIS) is a unit comprised of Ontario Provincial Police and local police service resources who investigate harassment and intimidation claims of justice sector staff, including correctional employees. JOPIS is within the Justice Sector Security Office of the Ministry of the Attorney General. The superintendent or designate in an institution is responsible for notifying JOPIS of a threat received by a correctional staff member so that JOPIS may conduct a threat-risk assessment and investigation and then provide a coordinated response to ensure the safety and security of impacted employees.

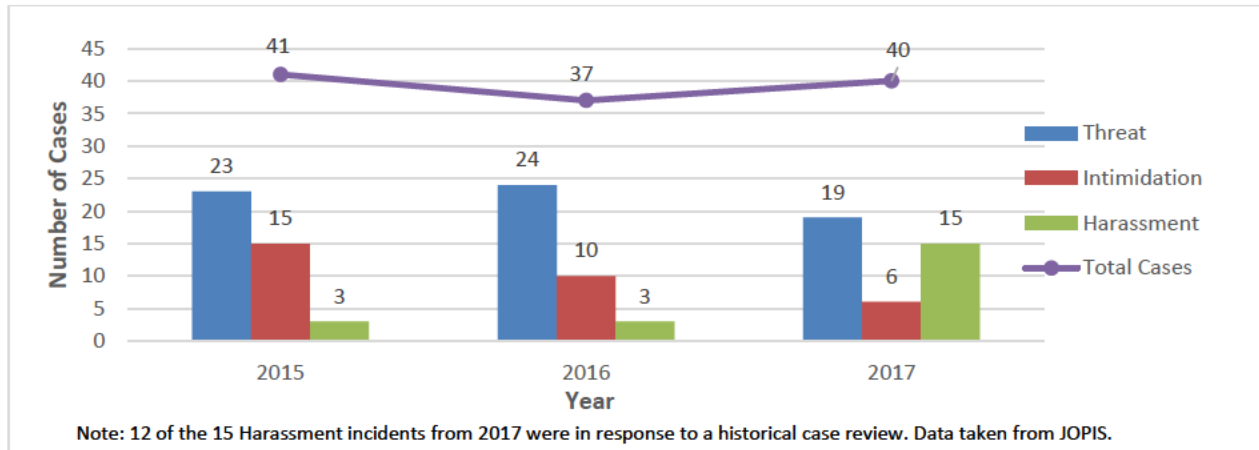
Figure 17 shows the number of reports by MCSCS staff in Institutional Services⁶⁷ for service to JOPIS by case type during 2015 – 2017. There were 522 reported incidents of inmate-on-staff threats on IIRs in 2017, yet only 40 reported cases of threats, intimidation, or harassment were submitted to JOPIS. The number of cases handled by JOPIS has remained quite stable during this period, despite continual

⁶⁶ CBC News, "Special Adviser to Probe 'Disturbing' Rise in Jail Violence," *CBC News*, May 3, 2018.

⁶⁷ This would include correctional staff working in institutions and staff working in MCSCS corporate offices in Institutional Services. It was not possible to identify and exclude any JOPIS cases that were not for employees working directly in institutions; the Independent Review Team does not expect a substantial number of these cases and thus it should not skew the numbers.

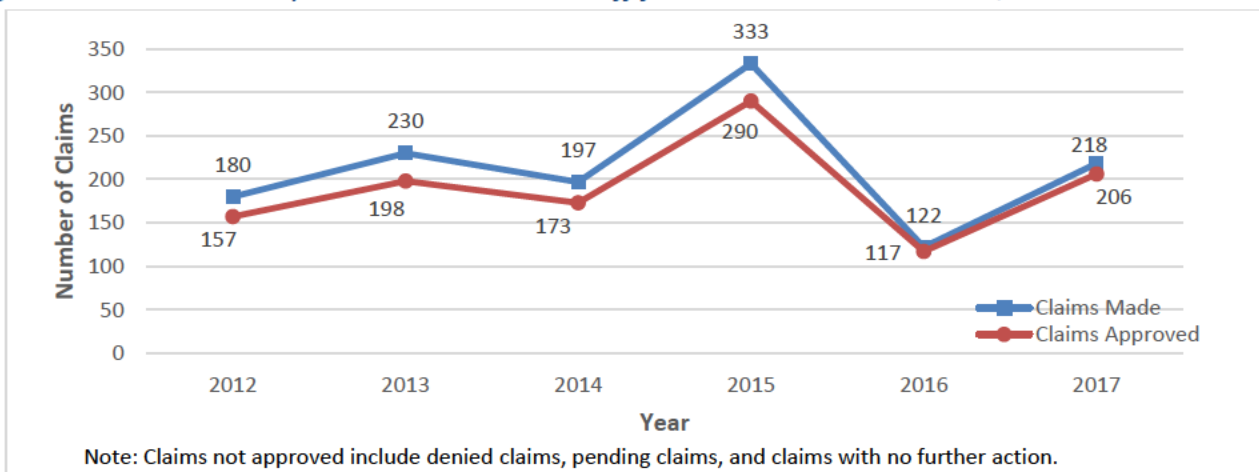
upward trends of reported threats on IIRs. This may be indicative of better reporting of threats on IIRs recently compared to years prior, or that the threats reported on IIRs by staff in institutions are, for the most part, not deemed credible or serious enough by staff to warrant concern for their safety.

Figure 17: Number of MCSCS Reports by Staff in Institutions JOPIS by Type, 2015 - 2017



The number of Workplace Safety and Insurance Board (WSIB) claims by MCSCS Institutional Services staff for 'Assault and Violent Acts'⁶⁸ have not increased in a similar pattern as reported incidents of inmate-on-staff violence on IIRs. The number of claims made to the WSIB have been fairly steady over 2012 – 2017 with the exception of a peak in claims in 2015, and a substantial drop in claims in 2016 (Figure 18).

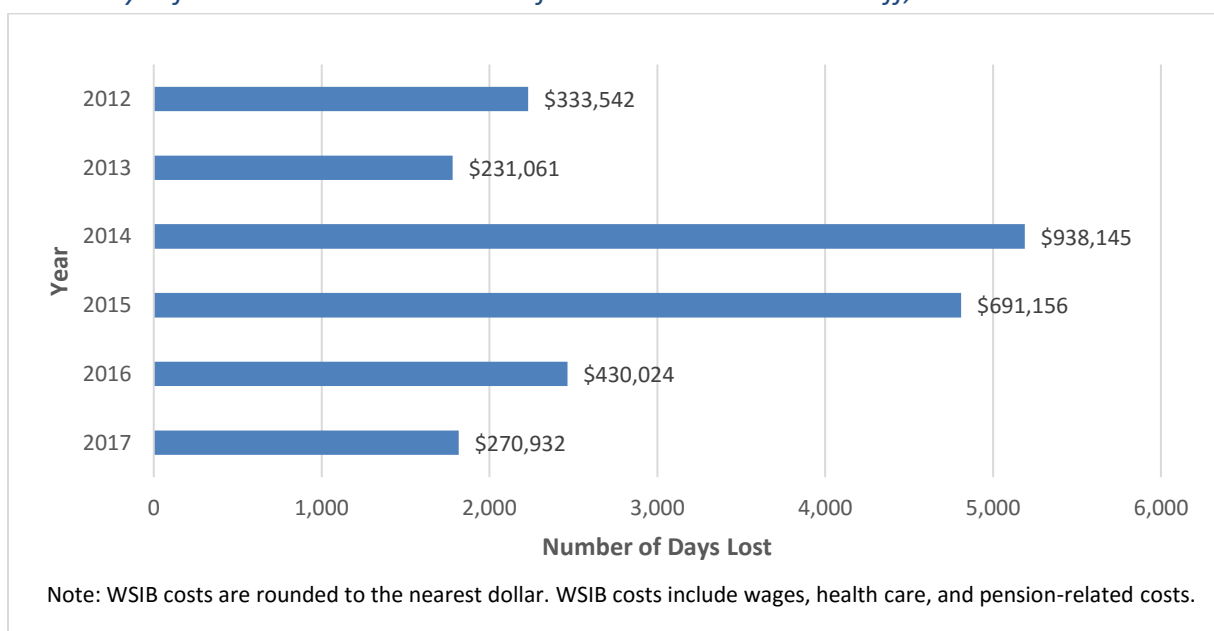
Figure 18: WSIB Claims by MCSCS Institutional Staff for Assault and Violent Acts, 2012 - 2017



⁶⁸ Categorization of an assault or violent act is determined by WSIB's Centre for Employee Health, Safety and Wellness in the Ministry of Government and Consumer Services, dependent on the details of the incident for which a claim is submitted. This category should capture any inmate-on-staff violence. This category also captures incidents of staff-on-staff violence in an institution. It was not possible to identify and exclude all instances of assault or violence not involving an inmate that occurred at an institution, however the Independent Review Team does not expect this to substantially skew the numbers.

Similarly, the number of days of work lost due to workplace illness or injury to institutional staff stemming from an ‘Assault and Violent Act’ has been decreasing since a peak in 2014 (Figure 19). This may suggest that, despite the sudden increase in inmate-on-staff incidents of violence reported on IIRs, the severity of the incidents — measured by days of work lost and WSIB cost to cover wages and health care costs — has not increased in a similar pattern.

Figure 19: Days of Work Lost and WSIB Costs for MCSCS Institutional Staff, 2012 - 2017

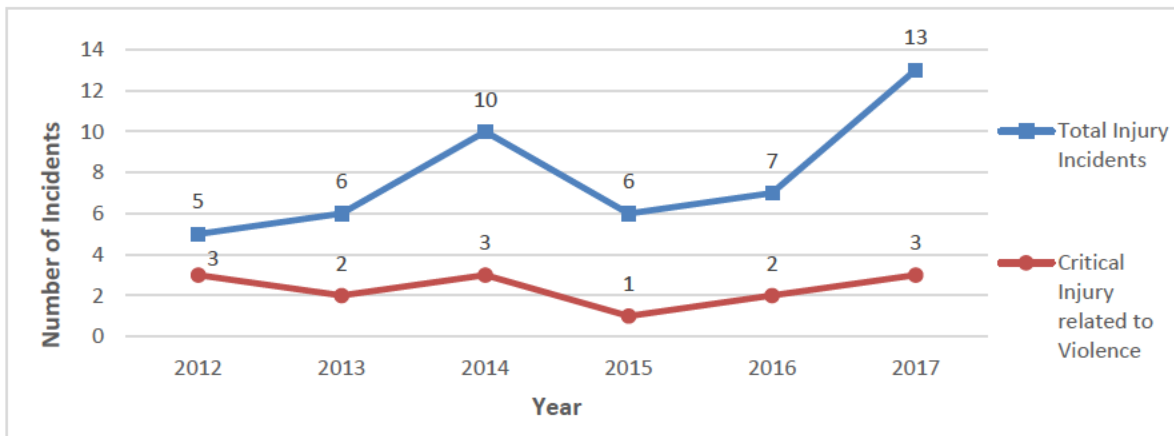


Lastly, any disabling injuries (e.g., critical injuries or injuries that cause loss of time at work) must be reported in an Accident Report to the Ministry of Labour (MOL).⁶⁹ There were 47 workplace violence-related injuries that occurred at provincial correctional institutions and were reported to the MOL between 2012 and 2017 (Figure 20). Of these, between one and three incidents per year were considered critical injuries.⁷⁰ The number of incidents reported to MOL is notably smaller than the number of WSIB claims in any given year during the 2012 – 2017 period. This likely indicates that, despite the high number of reported inmate-on-staff violent incidents on IIRs, a very small portion of incidents result in critical or disabling injuries.

⁶⁹ Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Health Care Services: Employee Health Services* (Government of Ontario, April 2016).

⁷⁰ Critical injuries are defined by Occupational Health and Safety Act, R.R.O. 1990, Regulation 834 as an injury of a serious nature that: places life in jeopardy; produces unconsciousness; results in substantial loss of blood; involves the fracture of a leg or arm but not a finger or toe; involves the amputation of a leg, arm, hand or foot but not a finger or toe; consists of burns to a major portion of the body; or causes the loss of sight in an eye.

Figure 20: Correctional Institution Violence-Related Injuries Reported to MOL



The data from JOPIS, WSIB, and MOL allow for a more comprehensive understanding of the severity of inmate-on-staff incidents reported on IIRs. However, while the JOPIS, WSIB, and MOL figures have not increased substantially, in accordance with the inmate-on-staff incidents reported on IIRs, this does not mean that those reported incidents on IIRs are not serious or worthy of attention. A single incident of workplace violence is one too many. Further, it is possible that staff are deterred from reporting incidents to JPOIS, WSIB, and/or the MOL because they consider the process to be tedious or complicated. This is an area that requires further exploration.

At present, it would be unfair to correctional staff to dismiss the sudden increase in reported incidents as simply a product of improved reporting practices. Increased or better reporting cannot wholly explain the rise in reported incidents of inmate-on-staff violence. At the same time, it would be inappropriate to infer with certainty that the increased reported incidents are indicative of a heightened risk of violence and injury to staff in the workplace.

V. EVIDENCE-BASED RESPONSES TO MANAGING INSTITUTIONAL VIOLENCE

Given the number of variables that have an impact on institutional violence, it is not possible to identify a single cause of violence in Ontario's correctional facilities. This does not mean that effort should not be expended to better understand the constellation of variables that are impacting the current state. Existing mechanisms to control institutional violence need to be examined against evidence-based research and practices. This must include an analysis of institutional culture, inmate management strategies, and disciplinary measures as well as how incidents are documented and how data are reported.

Correctional staff provided additional suggestions to address the problem of violence within Ontario's institutions. These suggestions included removing restrictions on the use of disciplinary segregation, introducing new special handling units and tools to control inmates (e.g., conducted energy weapons, new door hatches), offering more programming to inmates, and providing staff with additional training. Other respondents proposed that implementing mandatory minimum penalties following inmate-on-staff incidents would deter future violent behaviour against staff. The Independent Review Team examined these staff-identified issues alongside empirical evidence.

Institutional Culture

Institutional culture is the heartbeat of correctional work. Studies across Canada, the United States, and Europe have shown that correctional staff culture varies significantly by jurisdiction and institution.⁷¹ Different norms work for different institutions. Correctional philosophy and practice have evolved over the years, reflecting changes in public notions about human behaviour. Corporal punishments once in place were slowly replaced by ideas about treatment, reformation, and rehabilitation. These changes have been reflected in Ontario's correctional facilities where, over the last two decades, many smaller institutions closed to be amalgamated into larger institutions and some have experienced shifts in inmate supervision models (e.g., closed supervision to direct supervision). This translated into new working environments that required staff to adjust to different management styles, inmate populations, physical structures, and correctional cultures of larger institutions. For some staff, this meant deciding whether to transfer to these new larger facilities, retire, or leave corrections.⁷² Over the last two years, the Independent Review Team has observed that correctional cultural varies substantially across Ontario's provincial facilities, with each institution having its own unique climate.

⁷¹ Ben Crewe, Alison Liebling and Susie Hulley, "Staff Culture, Use of Authority and Prisoner Quality of Life in Public and Private Sector Prisons," *Australian & New Zealand Journal of Criminology* 44, no.1 (2011) (hereafter, Crewe et al., Staff Culture); Alison Liebling, "Why Prison Staff Culture Matters," in *The Culture of Prison Violence*, eds. James Byrne, Faye Taxman, and Donald Hummer (Massachusetts: Allyn and Bacon, 2008), 105-122 (hereafter, Liebling, Prison Staff Culture); Freda Burdett, Lynne Gouliquer, and Carmen Poulin, "Culture of Corrections: The Experiences of Women Correctional Officers," *Feminist Criminology* 13, no.3 (2018).

⁷² Pelvin, *Understanding Violence*, *supra* note 50.

Amid cultural variability in correctional institutions, there exists a view of officer culture that is widely understood as the 'old school' or 'traditional' approach to corrections. Traditional culture is often revealed in language that promotes 'us versus them' perspectives that isolate frontline staff from management and inmates and contribute to "anti-prisoner and anti-manager" attitudes in correctional work.⁷³ These perspectives produce "a preoccupation with issues of safety" that ultimately lead to increased chances of negative, and potentially violent, interactions with prisoners.⁷⁴

Some staff in Ontario's correctional facilities attributed institutional violence to a loss of mechanisms to maintain order and control. As one senior correctional officer submitted to the Independent Review Team:

I was introduced to the old school way of inmate behaviour modification. This meant when an inmate was out of control (yelling, swearing at staff, calling staff on, disobeying orders, etc.) staff took care of it themselves . . . If you didn't conform to the ways of the jail, then you would run the risk of getting beat up by staff.... [T]he reason why staff are so susceptible now to multiple assaults by inmates is the fact that we CANT [sic] set the tone for the jail!!

The officer further suggested that:

[w]hen dealing with low life criminal element, you can't treat them with the same techniques or respect that one would with the general public. These type of inmates (approx. 80%) DO NOT respond to our verbal wishes. They need staff to yell, swear, and get in their face. . . and in some cases get told by staff to smarten up or they're gonna get it!

Studies on correctional staff culture also note the importance of the relationship between staff quality of life (work environment) and prison quality of life as experienced by inmates.⁷⁵ These studies consistently find that when staff quality of life is positive, they exhibit attitudes that lend to behaviour that is more conducive to rehabilitative visions of corrections rather than punitive ones. This ultimately impacts the prisoner experience of conditions of confinement and often improves correctional environments, security, and public safety.⁷⁶ On the other hand, evidence also shows how negative climates can produce aggressive interactions between inmates and staff and "potentially

⁷³ Crewe et al., *Staff Culture*, *supra* note 71 at 100.

⁷⁴ *Ibid*; Liebling, *Prison Staff Culture*, *supra* note 71.

⁷⁵ Alison Liebling, Susie Hulley and Ben Crewe, "Conceptualising and Measuring the Quality of Prison Life," *The Sage Handbook of Criminological Research Methods* (2011); Crewe et al., *Staff Culture*, *supra* note 71; Alison Liebling, "Moral Performance, Inhuman and Degrading Treatment and Prison Pain," *Punishment & Society*, 13, no.5 (2011); Liebling, *Prison Staff Culture*, *supra* note 71; Alison Liebling, "Distinctions and Distinctiveness in the Work of Prison Officers: Legitimacy and Authority Revisited," *European Journal of Criminology* 8, no.6 (2011).

⁷⁶ Crewe et al., *Staff Culture*, *supra* note 71.

could be associated with even more problematic employee misconduct, such as excessive force”.⁷⁷ While negative workspaces and climates can exist in every work environment, field, and trade, the correctional work environment uniquely impacts the immediate safety of clients, employees, and the public. Therefore, fostering positive workspaces that promote non-punitive and more progressive attitudes around inmate rehabilitation improve the safety of the correctional work environment while improving conditions of confinement.

Feedback from frontline staff indicated a lack of support from managers in daily operations, lack of recognition, undermining legitimacy of frontline staff authority, as well as some concerns regarding managerial styles. For example, a correctional officer wrote to the Independent Review Team about how lack of recognition causes the perception that upper management does not care about frontline staff, noting, “I feel like correctional officers are treated as numbers, not people, management doesn’t care much about the trauma and violence we face on a regular day-to-day basis.”

Frontline staff concerns with management were also identified in a 2012 Staff Quality of Life (SQL) questionnaire provided to correctional staff across Ontario (including positions in health care, psychology, administration, and social work).⁷⁸ Ontario staff expressed overwhelmingly low morale and discontent with upper management including mistrust and lack of recognition of worth.⁷⁹ Moreover:

staff felt undervalued, underappreciated and not involved in decision-making processes of their institution. They lacked praise for their work and achievements, lacked recognition for their commitment and were often dissatisfied with the amount of training they had received. In the same vein, staff indicated that the levels of stress in their current job concerned them, and some indicated that it was difficult to not take work home with them.⁸⁰

“We have incompetent managers. Bullying tactics are used on staff. Job advancement is impossible. Grievances are denied and not ever settled so there is absolutely no accountability from management. No useful mental health training. We don’t even know what policy’s [sic] we are following and what ones we are not as it changes all the time and we work in a chaotic frenzied work place. Management is always reactive and never proactive.”

- MCSCS, Rehabilitation Officer

⁷⁷ Katherine A. DeCelles, Paul E. Tesluk and Faye S. Taxman, "A Field Investigation of Multilevel Cynicism Toward Change," *Organization Science* 24, no. 1 (2013): 166.

⁷⁸ Rachelle Larocque, "Penal Practices, Values and Habits: Humanitarian and/or Punitive? A Case Study of Five Ontario Prisons," (PhD Diss., University of Cambridge, 2014).

⁷⁹ *Ibid* with the notable exception of Ontario Correctional Institute.

⁸⁰ *Ibid*.

The ministry has undertaken an occupational stress survey of correctional staff, with results expected to be presented in the fall of 2018. The Independent Review Team anticipates the results will reflect issues highlighted in previous staff surveys.

These trends are also emerging in other Canadian jurisdictions. Research evidence examining occupational and institutional violence in provincial correctional facilities in Eastern Canada suggests that efforts to mitigate inmate-on-staff violence (as well as institutional violence as a whole) need to look beyond re-evaluating correctional officer training. Rather, management must recognize broader structural issues at play, including inmate population management practices, staffing, and ensuring that staff have appropriate “resources to do [their] job effectively”.⁸¹

Efforts to mitigate institutional violence must incorporate the frontline staff-management relationship. It is necessary to understand “how decisions made and enforced at the level of the provincial government can be perpetuating management-employee communication,”⁸² and how breakdowns in information sharing can occur across an organization. In addition, studies on the relationship between management, moral competency, and employee behaviour suggest that when an organization prioritizes a strong moral identity in employee directives, employees “behave in ways

“Managers seem to be overburdened with paperwork which causes them to take easy ways rather than the right way. We all feel like we are one incident away from being suspended or fired due to excessive scrutiny and after the fact analysis. We all feel like the people reviewing footage and reports are out to get us. We all feel like our employer doesn’t understand the nature and dynamic of stressful situations. We all feel like our employer doesn’t support or value us.”

- MCSCS, Correctional Officer

that benefit the common good versus their own [self] interests.”⁸³ Consistent with these studies, the ministry should prioritize the way in which organizational responsibility and accountability cascades down through operational policy, standing orders, as well as daily interactions including managerial feedback. Consideration should also be given to the importance of moral competency for individual correctional officer morale and behaviour and how this mediates interaction with inmates.⁸⁴

Feedback received from frontline correctional staff, as well as overwhelming empirical evidence on best practices in supporting

⁸¹ Ricciardelli et al., Correctional Officers, *supra* note 8 at 15.

⁸² *Ibid.*

⁸³ Katherine A. DeCelles, D. Scott DeRue, Joshua D. Margolis and Tara L. Ceranic, “Does Power Corrupt or Enable? When and Why Power Facilitates Self-Interested Behaviour,” *Journal of Applied Psychology* 97, no. 3 (2012): 686.

⁸⁴ Scott J. Reynolds, Keith Leavitt and Katherine A. DeCelles, “Automatic Ethics: The Effects of Implicit Assumptions and Contextual Cues on Moral Behavior,” *Journal of Applied Psychology* 95, no. 4 (2010); Frank V. Ferdik and Hayden P. Smith, “Correctional Officer Safety and Wellness Literature Synthesis,” (National Institute of Justice, Washington, D.C., 2017) (hereafter, Ferdik and Smith, Literature Synthesis).

correctional officer wellness, highlights the importance of strengthening communication between management and frontline staff to ensure the safety of staff, inmates, and the public. Cultivating a correctional work culture that fosters care and support for inmates and frontline staff begins with a recognition of duty, trust, and transparency in decision-making that directly impacts staff morale and correctional work.

Inmate Classification, Housing, and Programming

Incarceration should be used as a last resort when all other options have been exhausted.

Incarceration in Canada follows the principle of utilizing the least restrictive measures of confinement and minimizing the extent to which the state interferes with an individual's right to life and liberty.⁸⁵

To effectively implement this principle of restraint, the correctional system must ensure that incarcerated individuals are appropriately placed in the least restrictive setting as determined through the use of an evidence-based institutional security risk screening tool. Mitigating institutional

“Inmates need to [be] housed according to the degree of how violent and frequently violent they are.”

- MCSCS, Correctional Officer

violence, however, will not be accomplished by simply screening and classifying inmates. Once inmates have been assessed for their propensity to engage in violence while incarcerated, these individuals must be appropriately housed and supported by carefully targeting effective rehabilitative treatment and ensuring that suitable reintegration supports are available and accessible. Proactively providing

rehabilitative services to inmates at the front end of their sentences can mitigate the need for restrictive housing and improve institutional order.⁸⁶ Moreover, and consistent with the risk-need-responsivity model, it can be argued that “any intervention offered by the justice system should be directly tied to participants' level of risk.”⁸⁷

Effective risk management is a key pillar to mitigating violence within correctional institutions. The ministry does not regularly conduct classification or risk analyses to determine institutional security risk or placement.⁸⁸ Absent the use of an evidence-based security risk assessment tool, all remanded inmates and the majority of those sentenced to provincial custody in Ontario are, by default, held in maximum-security conditions with limited access to programming.⁸⁹

⁸⁵ United Nations Office on Drugs and Crime, “The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)” (UNODC, Vienna, 2015).

⁸⁶ Ryan M. Labrecque and Paula Smith, “Reducing Institutional Disorder: Using the Inmate Risk Assessment for Segregation Placement to Triage Treatment Services at the Front End of Prison Sentences,” *Crime & Delinquency* (2017).

⁸⁷ Greg Berman and Julian Adler, *Start Here: A Roadmap to Reducing Mass Incarceration* (New York: The New Press, 2018), 70.

⁸⁸ Sapers, Corrections in Ontario, *supra* note 62 at 49.

⁸⁹ Sapers, Corrections in Ontario, *supra* note 62 at 5.

Evidence-based research⁹⁰ on the principles of effective correctional interventions have consistently found that immediate and early interventions can curb the rate of institutional misconducts.⁹¹ This suggests that early and regular assessment of inmates for the purpose of institutional placement (housing) are not only effective in reducing the higher security placement of inmates but, as a result, might prevent future incidents of violence by targeting appropriate supports earlier.

Correctional Service Canada uses the Custody Rating Scale (CRS) to guide institutional placement classification. The CRS is a research-based tool used to assist in assessing the most appropriate level of security for the penitentiary placement of an inmate. The CRS consists of two independently scored sub-scales, a five-item Institutional Adjustment scale and a seven-item Security Risk scale.⁹² Security classification is based on the total sub-scale scores and, as scores increase, so too does security level, with inmates being assigned to minimum, medium, and maximum security pursuant to fixed cut-off values.⁹³

Although the ministry has established a Classification Advisory Group to provide advice on the development of a risk-based screener for provincial inmates in Ontario, it has yet to implement an evidence-based security risk classification tool for its provincial facilities.

One of the suggestions correctional staff in Ontario provided to mitigate institutional violence was to create a Supermax unit or a provincial Supermax prison.⁹⁴ An assessment of prisons in the United States found that those operating with inflexible, strict controls over all aspects of prison experienced higher levels of disorder in facilities than those allowing inmates to have opportunities for some

⁹⁰ James Bonta and Donald Arthur Andrews, *The Psychology of Criminal Conduct*, 6th ed. (Routledge, 2016) (hereafter, Bonta and Andrews, *Criminal Conduct*); Doris L MacKenzie, *What Works in Corrections: Reducing the Criminal Activities of Offenders and Delinquents* (Cambridge: Cambridge University Press, 2006) (hereafter, MacKenzie, *What Works*); James McGuire, "What Works' to Reduce Re-offending: 18 Years On," in *What Works in Offender Rehabilitation: An Evidence-Based Approach to Assessment and Treatment*, eds. Leam A. Craig, Theresa A. Gannon and Louise Dixon (USA: Wiley-Blackwell, 2013), 20-49; Paula Smith, "The Psychology of Criminal Conduct," in *The Oxford Handbook of Criminological Theory*, eds. Francis T. Cullen and Pamela Wilcox (Oxford: Oxford University Press, 2013), 69-88.

⁹¹ Paul Gendreau and David Keyes, "Making Prisons Safer and More Humane Environments," *Canadian Journal of Criminology* 43, no. 1 (2001).

⁹² The Institutional Adjustment scale includes five items (history of involvement in institutional incidents, escape history, street stability, alcohol/drug use, and age at the time of sentencing). The Security Risk scale includes seven items (number of prior convictions, most severe outstanding charge, severity of current offence, sentence length, street stability, prior parole and/or statutory releases, and age at the time of first federal admission). See Grant, Brian A., and Luciani, Fred. *The Custody Rating Scale*. Research Branch of Correctional Service of Canada, (February, 1998). Online at: http://www.csc-scc.gc.ca/research/092/r67_e.pdf; Correctional Service Canada, "Commissioner's Directive 705-7: Security Classification and Penitentiary Placement," *CSC Commissioner's Directives*, Correctional Service Canada, (Jan. 15, 2018). Online at: <http://www.csc-scc.gc.ca/acts-and-regulations/705-7-cd-eng.shtml#s9>.

⁹³ *Ibid.*

⁹⁴ Supermax is the term used to describe prisons or units within prisons with the most secure levels of custody. The objective is to provide long-term segregated housing for prisoners classified as the highest risk or prisoners who pose a threat to national or international security. For a detailed account of Supermax prisons see Sharon Shalev, *Supermax: Controlling Risk Through Isolation* (Portland: Willan Publishing, 2009) (hereafter, Shalev, *Supermax*).

“Some inmates are currently too dangerous to be housed in detention centres/correctional complexes awaiting trial . . . Build a special handling unit facility in Ontario for the most violent inmates . . . a super-max prison.”

- MCSCS, Correctional Officer

behaviour together, absent available opportunities to expend their energy and meaningfully engage in activities,⁹⁸ may contribute to intensifying criminal attitudes and behaviour.⁹⁹

Research studies evaluating various Supermax initiatives in the United States indicate that overall, there is little evidence that the introduction of Supermax facilities contributes to a reduction in violence across entire correctional systems.¹⁰⁰ It seems unlikely that Ontario would arrive at different results if a decision was made to create a Supermax unit within each institution, or a dedicated Supermax facility, as a provincial resource to manage violence within correctional facilities.

There is evidence to suggest that a policy of selective incapacitation may lower overall rates of prison violence.¹⁰¹ This, however, is predicated on the correctional system’s ability to appropriately classify and house inmates based on their institutional security risk and the ability to keep these carefully selected inmates meaningfully engaged in treatment and institutional activities. According to the ministry’s Facility Profiles, 23 of Ontario’s 25 correctional facilities are designated as maximum security. Though some institutions maintain some lower-security units, many of the alternate units created and currently in operation in Ontario continue to rely upon highly restrictive conditions that closely resemble segregation with little access to evidence-based programs or meaningful daily activities.¹⁰²

⁹⁵ Michael D. Reisig, "Rates of Disorder in Higher-Custody State Prisons: A Comparative Analysis Of Managerial Practices," *Crime & Delinquency* 44, no. 2 (1998): 229-244; Susan C. Craig, "Rehabilitation Versus Control: An Organizational Theory of Prison Management," *The Prison Journal* 84, no. 4 (2004): 92-114.

⁹⁶ Shalev, Supermax, *supra* note 94 at 209.

⁹⁷ *Ibid.*

⁹⁸ Anthony E. Bottoms, "Interpersonal Violence and Social Order in Prisons," *Crime and Justice* 26, (1999).

⁹⁹ Richard McCleery, "Authoritarianism and the Belief System of Incurables," in Shalev, Supermax, *supra* note 94 at 211.

¹⁰⁰ Chad S. Briggs, Jody L. Sundt, and Thomas C. Castellano, "The Effect of Supermaximum Security Prisons on Aggregate Levels of Institutional Violence," *Criminology* 41, no. 4 (2003); Marie Garcia et al., *supra* note 32 a 19.

¹⁰¹ Marie Garcia et al., Restrictive Housing, *supra* note 32 a 300.

¹⁰² Sapers, Segregation in Ontario, *supra* note 28 at 80.

Ontario corrections must expand the array of multi-security housing options available within each institution so that frontline staff and managers do not default to the most restrictive forms of confinement simply because it is the easiest option available. A 2016–2017 report from Canada’s Parliamentary Budget Office estimated the financial costs of inmates in federal custody by security level. Minimum, medium, and maximum security male inmates cost approximately \$47,370, \$75,077, and \$92,740, respectively, on an annual basis.¹⁰³ There were estimated additional costs of \$463,045 annually (\$1,269 daily) per inmate held in segregation housing. According to MCSCS data, the daily costs for inmates in Ontario institutions was \$235.59 per inmate in 2016–2017; breakdown by security type or for segregation housing was not available. As many inmates will not be in a provincial institution for a year or longer, annual figures are not calculated, however, using the daily rate to apply to 365 days in a year, the annual cost can be estimated at around \$85,990.¹⁰⁴ These numbers suggest that appropriate classification could result in cost savings.

Establishing multi-security level units in facilities aligns with correctional best practices. However, they are still susceptible to institutional lockdowns. Lockdowns occur for a variety of reasons, some of which include staff shortages, searches for suspected contraband, and/or threats to the safety of the institution. Disruption to programs resulting from lockdowns, and how this potentially relates to institutional violence, is another area for consideration. Between April 2017 and March 2018, the Office of the Ombudsman of Ontario received 447 inmate complaints¹⁰⁵ about lockdowns.¹⁰⁶ Some inmates indicated that lockdown conditions caused them to become “irritable or even violent.”¹⁰⁷ One inmate expressed being threatened by other inmates for allegedly having caused the lockdown on their unit. Inmates also complained about the impact of lockdowns on their mental health, including one inmate who stated, “I am losing my mind and I don’t want to hurt anyone, please help.”¹⁰⁸ At present, the data from the ministry regarding lockdowns does not facilitate analysis for any correlation with inmate-on-staff incidents of violence. Yet, it is evident that the relationship between lockdowns and institutional violence requires further exploration. Programs can be a useful management tool, given that research has found “institutional order is best promoted by involving inmates in programs that offer not just structure, but also opportunities for self-improvement.”¹⁰⁹ As

¹⁰³ Office of the Parliamentary Budget Officer, “Update on the Costs of Incarceration,” (Ottawa, 2018), Last Accessed: July 15, 2018 http://publications.gc.ca/collections/collection_2018/dpb-pbo/YN5-152-2018-eng.pdf.

¹⁰⁴ The ministry does not calculate an annual estimate of costs per inmate due to the short duration in custody for most provincial inmates. The Independent Review Team produced the \$85,990 figure by multiplying the ministry’s \$235.59 per diem to 365 days in a calendar year. This estimate is therefore not the annual cost to house an individual inmate, but rather the average cost of an occupied bed in an institution for one year (that may be occupied by different inmates over the course of one year).

¹⁰⁵ Out of a total 5,010 complaints about Ontario correctional facilities received in April 2017 – March 2018.

¹⁰⁶ Office of the Ombudsman of Ontario, “Ombudsman Complaint Trends Report,” (Report prepared for the Independent Review of Ontario Corrections, 2018).

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

¹⁰⁹ McCorkle et al., *Roots of Prison Violence*, *supra* note 56.

one Ontario correctional officer stated to the Independent Review Team, “corrections should be about correcting bad behaviour, not just housing it.”

Textbox 7: Securing Cell Door Meal Hatches

A number of cells in Ontario correctional facilities are equipped with a cell door meal hatch (also known as a food slot, pictured below).¹¹⁰ These hatches are used as a means to pass



various items, such as mail, food, medication, and other goods, to inmates and also allow correctional staff to safely apply restraints before transporting an inmate. Hatches also serve as a medium through which inmates communicate with staff and each other, and, in segregation units, hatches also enable inmates to use the telephone. Currently, there are no provincial ministry policies outlining the purpose and proper use of hatches.

Frontline staff and managers at various institutions have voiced concern over the safety risk that hatches present when they are left open. These employees have noted that open hatch doors provide inmates with an opportunity to assault, or attempt to assault, staff when they approach the cell door. In particular, correctional staff have indicated that inmates often project small objects, unknown liquids, and bodily fluids (and solids) — termed ‘gassing’ — through cell hatches at employees. In feedback submitted to the Independent Review Team, correctional officers at several institutions suggested that one way to reduce the risk of staff exposure to violence would be to retrofit current hatches with a closed mechanism to isolate and secure the space between the inmate and staff. This closed system is often referred to as a ‘sally port’ hatch, ‘dirty protest hatch,’ and ‘removable foodbox’ (pictured at right).¹¹¹



The Independent Review Team canvassed the jurisdictional and academic literature to assess the viability of implementing such a strategy in Ontario’s correctional facilities, and to identify best practices. Research is limited on the use of ‘sally port’ hatches and their effectiveness in addressing institutional violence is inconclusive.

It might be advisable to consider retrofitting a very limited number of current hatches in Ontario’s institutions for appropriately classified inmates in specific units, such as Behavioural

¹¹⁰ Picture from Elgin-Middlesex Detention Centre, segregation cell.

¹¹¹ Picture taken from Cell Security Ltd. of Dirty Protest Hatch/Removable Foodbox.

(Textbox 7 continued)

Care Units, to gain insight into their potential benefits and shortcomings. Such a strategy must be implemented in conjunction with other measures (e.g., multi-security units, evidence-based security classification tool, inmate programming, and additional staff training) and rolled out after policies governing the proper use of hatches have been developed.

Nonetheless, in the absence of empirical evidence documenting effectiveness, widespread implementation of ‘sally port’ hatches would be ill-advised. Moreover, further “securitizing” the correctional environment may contribute to an erosion of trust and/or mutual respect between correctional officers and inmates, effectively producing an adversarial and antagonistic relationship that is founded on security and a power dynamic, rather than a rights-based and care-focused relationship that enhances rehabilitation and successful reintegration.

Some institutions, such as Maplehurst Correctional Complex, have informed the Independent Review Team of the local creation and use of a ‘hatch shield’ which, in essence, is an Institutional Crisis Intervention Team (ICIT) shield mounted on four wheels designed to provide a barrier between an inmate meal hatch and correctional staff (pictured below). A similar shield was observed by the Independent Review Team during a site visit at Vanier Centre for Women.

Maplehurst Correctional Complex reports that their ‘hatch shield’ has been used by correctional staff with the intent to enable observation of inmates who have covered their cell windows and therefore can only be observed through an opened meal hatch. Additionally, it serves to protect against object or fluid

projectiles from open meal hatches. Although the ‘hatch shield’ was first used in August 2015, there is no formal ministry policy governing its use. Internal direction at Maplehurst Correctional Complex stipulated that approval of a unit manager was required prior to any use of the ‘hatch shield’ and that its use must be documented in writing. No statistics regarding use of the ‘hatch shield’ are available, although the Independent Review Team was advised that the makeshift tool at Maplehurst Correctional Complex is currently out of service after it was knocked over and cracked.



❖ Front and rear view of ‘hatch shield’ constructed at Maplehurst Correctional Complex.

Tools of Control

Institutional Misconducts

When an inmate in Ontario breaches any written rule governing their conduct during their incarceration, they are subject to disciplinary measures under the Discipline and Misconduct Policy. The underlying function of disciplinary misconducts is to deter inmates from participating in disruptive behaviours that could undermine the order and security of the institution.

Textbox 8: Incentives and Inmate Behaviour Management

Incentive schemes allow for favourable behaviour to be encouraged by rewards and privileges, though this is not frequently utilized in correctional settings.¹¹² At the federal level, Correctional Service Canada examined the use of incentive systems for offender population management and noted that, while there is little empirical evidence measuring the effectiveness in implementing incentive schemes in reducing offender misconducts, focus groups and anecdotal accounts from both staff and inmates suggest positive experiences.¹¹³ Correctional incentives and earned privileges programs in England and Wales found that any implementation of incentive scheme practices must be administered fairly, individually, and constructively to be effective at maintaining desirable inmate behaviour.¹¹⁴

In Ontario, institutional misconducts are identified in Regulation 778,¹¹⁵ which is enacted pursuant to the *Ministry of Correctional Services Act*.¹¹⁶ Of the fifteen listed misconducts, one specifically deals with violence: “an inmate commits a misconduct if an inmate, commits or threatens to commit an assault upon another person.”¹¹⁷ Misconducts that are not considered serious (e.g., minor or unintentional behaviour, the inmate has mitigated culpability due to a mental illness and/or other Human Rights Code-related need) can be resolved informally with verbal counselling by staff. The occurrence is to be documented in an Occurrence Report and applicable logbooks or notebooks. If a misconduct cannot or should not be resolved informally, the inmate must be informed of the misconduct allegation and the staff member will prepare a Misconduct Report.

¹¹² William M. Burdon et al., “Sanctions and Rewards in Prison-Based Therapeutic Community Treatment,” *Federal Probation* 67, no. 2 (2003).

¹¹³ Ralph Charles Serin and Laura Jennifer Hanby, “Offender Incentives and Behavioural Management Strategies,” (Research Branch, Correctional Service of Canada, Ottawa, 2010).

¹¹⁴ Alison Liebling, “Incentives and Earned Privileges Revisited: Fairness, Discretion, and the Quality of Prison Life,” *Journal of Scandinavian Studies in Criminology and Crime Prevention* 9, no. 1 (2008).

¹¹⁵ *General*, RRO 1990, Reg. 778 (hereafter, Reg. 778).

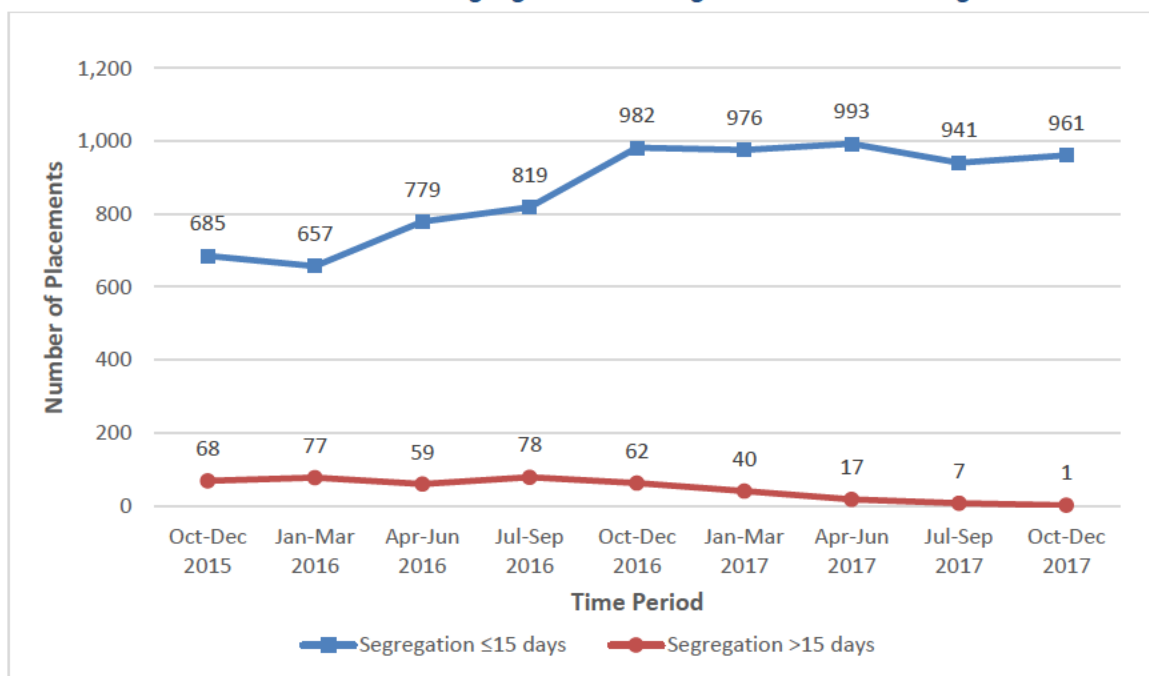
¹¹⁶ *Ministry of Correctional Services Act*, RSO 1990, c M.22.

¹¹⁷ Reg. 778, *supra* note 115 at s. 29(1)(b).

Following an investigation of the alleged occurrence, the superintendent (or designate) will conduct an interview of the inmate, determine the disposition, and decide if any disciplinary measures should be taken. Disciplinary measures could include loss of privileges (such as access to television, canteen purchases, personal visits, etc.), changes to program or work activities, changes to security status, reprimand, or revocation of a temporary absence permit. If a misconduct is serious in nature, the superintendent may place the inmate in close confinement,¹¹⁸ forfeit a portion or all earned remission up to 15 days, or, with the approval of the Assistant Deputy Minister of Institutional Services, suspend the eligibility of an inmate to earn remission for up to two months.

An inmate can be placed in administrative segregation pending investigation to prevent collusion (if the misconduct was of serious nature), due to the inmate’s behaviour, or if the allegation is of a serious nature. Figure 21 displays the number of placements in administrative segregation pending investigation for a misconduct. The large majority of these placements are for ≤15 days; overall, the number of placements has increased between October 2015 and December 2017.

Figure 21: Placements in Administrative Segregation Pending Misconduct Investigation¹¹⁹



¹¹⁸ The MCSCS discipline and misconduct policy and the *Ministry of Correctional Services Act* s. 32(2) outlined two close confinement options: for a definite period not exceeding 30 days, and for an indefinite period not exceeding 30 days. The duration of close confinement, or ‘disciplinary segregation,’ was limited to 15 days as a result of the ministry directive issued in October 2016, though the formal policy and regulations were not updated to reflect these changes until July 2018.

¹¹⁹ These figures do not include inmates who were placed in administrative segregation pending investigation for a misconduct who also were placed in disciplinary segregation, as it was not possible to differentiate what portion of the duration of their placement in segregation was for administrative or disciplinary reasons. Table 2 shows the number of inmates who were in segregation for administrative reasons pending investigation for a misconduct and for disciplinary

Research findings and well-established criminological principles on deterrence and crime prevention have shown that the *certainty* and *swiftness* of punishment deters deviant behaviour while increased *severity* of punishment alone has little impact on individual deterrence.¹²⁰ Correctional research suggests that inmate misconduct behaviour has been found to be a proxy for antisocial behaviour in the broader community.¹²¹ Further, overly punitive responses to misconducts (such as placement in segregation) have been shown to increase an individual’s likelihood of continued institutional misconduct and recidivism upon release, ultimately jeopardizing staff, institutional, and community safety.¹²²

Many correctional staff expressed concerns with the disciplinary misconduct process in Ontario institutions, including that staff do not report incidents of violence because they feel there is no consequence or deterrent effect on inmates. As one staff member submitted, “staff have become less interested in pursuing misconduct reports and/or criminal charges due to a real or perceived belief that there is no deterrent to the violence we are exposed to on a daily basis.” Research in the United States echoes current Ontario correctional officers’ concerns, indicating that correctional officers often forego the official misconduct reporting process due to a “lack of certainty and swiftness of punishment.”¹²³ This is attributed to lengthy responses from management which could include overruling staff decisions, often undermining frontline staff legitimacy of authority. Therefore, while misconducts are often “written swiftly,” the “resulting punishment is not swift or certain,” failing to deter or address initial misconduct behaviour.¹²⁴

Though involved staff must complete a Misconduct Report, the investigation, inmate interview, disposition, and disciplinary decisions are conducted by a superintendent or designate who was not

reasons. With the exception of the January – March 2017 quarter, the number of these inmates has remained fairly stable around 180 – 210 inmates.

Table 2. Inmates excluded from analysis who had disciplinary segregation and administrative segregation pending investigation for a misconduct

| Oct-Dec 2015 | Jan-Mar 2016 | Apr-Jun 2016 | Jul-Sep 2016 | Oct-Dec 2016 | Jan-Mar 2017 | Apr-Jun 2017 | Jul-Sep 2017 | Oct-Dec 2017 |
|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 180 | 194 | 194 | 204 | 212 | 161 | 179 | 210 | 197 |

¹²⁰ Daniel S. Nagin, Francis T. Cullen and Cheryl Lero Jonson, eds., *Deterrence, Choice, and Crime: Contemporary Perspectives* (New York: Routledge, 2018) (hereafter, Nagin et al., *Deterrence*).

¹²¹ Gendreau et al., *Prison Misconducts*, *supra* note 46; Gillian Hill, "Predicting Recidivism Using Institutional Measures," in *Prediction in Criminology*, eds. David Farrington and Roger Tarling (New York: SUNY Press, 1985), 96-118; Edward Zamble and Frank J. Porporino, *Coping, Behaviour, and Adaptation in Prison Inmates* (New York: Springer-Verlag, 1988).

¹²² Contemporary research examining the correctional policy implications on deterrence models show that individuals who rated prison environments as “negative” and “hostile” were more likely to be rearrested and re-incarcerated, suggesting a criminogenic rather than deterrent effect of harsh living conditions.” See Cheryl Lero Jonson and Sarah L. Manchak, “Corrections and Deterrence,” in Nagin et al., *Deterrence*, *supra* note 120 at 309-337.

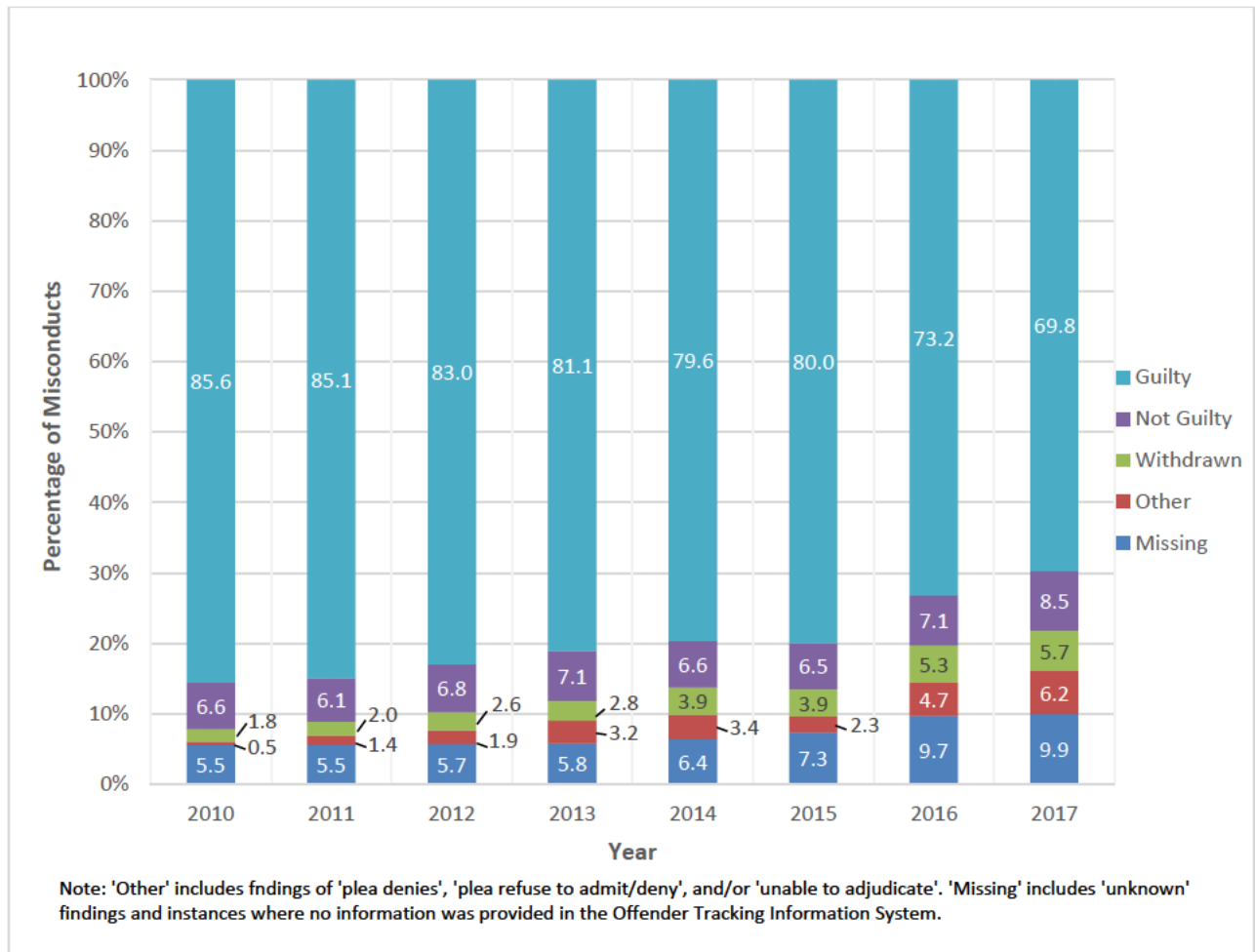
¹²³ Jill Viglione et al., "Big Stick Management: Misconducts as Discipline Within a Correctional Reentry Facility," *Criminal Justice and Behavior* 44, no. 2 (2017): 172.

¹²⁴ *Ibid.*

witness to or involved in the misconduct incident. This practice furthers the interest of objectivity, but some staff have indicated frustration with this detachment from the misconduct adjudication process. One officer expressed animosity towards management, stating, “discretion and judgment of management has taken away authority and power from officers, and too often the sergeants are siding with the inmates rather than the officers,” and suggested that it may, in part, be because “it requires less paperwork, and out of complacency and laziness”.

In Ontario institutions between 2010 and 2015, 79–86% of all misconducts resulted in findings of guilt (Figure 22). This percentage dropped to 73% in 2016 and 70% in 2017, even though 2017 had the highest number of misconducts that resulted in findings of guilt out of all years.

Figure 22: Misconducts by Finding, 2010 - 2017



Notably, there has been an increasing number of misconducts for which there is missing information pertaining to the disposition.¹²⁵ For example, 10% of misconducts in 2017 had incomplete information

“Frontline officers are at times not completing paperwork appropriately due to the lack of proper training. Managers are quick to toss misconducts due to paperwork errors instead of sitting down with officers to correct them . . .”

- MCSCS, Correctional Officer

provided by the institution (no information pertaining to the disposition was available in the Offender Tracking Information System), and therefore it is not clear for analysis whether or not these misconducts resulted in findings of guilty, not guilty, withdrawn, unable to adjudicate, and so forth. This trend may suggest increasing inconsistencies in data collection and/or entry at the institutional level. It is not clear if this missing data is a result of correctional staff submitting incomplete Misconduct Reports or if Misconduct Reports were complete but information was not adequately submitted into the Offender Tracking Information System.¹²⁶

If these missing figures are at all indicative of misconducts that should, but could not, be pursued to a final disposition, the increase in these figures may correspond with some of the frustrations expressed by staff that inmates have minimal consequences for disorderly behaviour.

Correctional misconduct policy governing staff responses to disruptive behaviour should recognize the importance of celerity when imposing a consequence, be individualized and congruent with inmates’ correctional treatment plans and criminogenic needs,¹²⁷ and adhere to the principle of least restrictive measure of confinement.

¹²⁵ The corresponding number of misconducts by finding are displayed in Table 3.

Table 3. Number of Misconducts by Finding, 2010 – 2017

| Year | Guilty | Not Guilty | Withdrawn | Other | Missing | Total Misconducts |
|------|--------|------------|-----------|-------|---------|-------------------|
| 2010 | 11,115 | 854 | 228 | 69 | 717 | 12,983 |
| 2011 | 11,050 | 789 | 259 | 181 | 711 | 12,990 |
| 2012 | 11,396 | 931 | 360 | 266 | 777 | 13,730 |
| 2013 | 10,778 | 939 | 375 | 428 | 772 | 13,292 |
| 2014 | 10,569 | 879 | 522 | 456 | 854 | 13,280 |
| 2015 | 11,195 | 905 | 550 | 323 | 1,017 | 13,990 |
| 2016 | 10,775 | 1,046 | 773 | 689 | 1,431 | 14,714 |
| 2017 | 12,636 | 1,547 | 1,024 | 1,114 | 1,791 | 18,112 |

¹²⁶ The discipline and misconduct policy outlines the duty to complete Misconduct Reports and enter the information into OTIS, see: MCSCS: Discipline and Misconduct, *supra* note 25.

¹²⁷ French and Gendreau, Reducing Misconducts, *supra* note 55; Bonta and Andrews, Criminal Conduct, *supra* note 90; MacKenzie, What Works, *supra* note 90.

Use of Force

The use of force against inmates in Ontario's correctional facilities is governed by Regulation 778¹²⁸ as well as ministry policy.¹²⁹ Ministry policy defines use of force as "any application of physical force by an employee of the ministry against an inmate."¹³⁰ Under s. 7(1) of Regulation 778, employees are prohibited from using force against an inmate unless force is required to:

- a) Enforce discipline and maintain order within the institution;
- b) Defend the employee or another employee or inmate from assault;
- c) Control a rebellious or disturbed inmate; or,
- d) Conduct a search.¹³¹

In all instances where force is used against an inmate, Regulation 778 mandates that the amount used "shall be reasonable and not excessive having regard to the nature of the threat posed by the inmate and all other circumstances of the case."¹³²

Ministry policy authorizes the following techniques and resources: staff presence; verbal intervention; soft physical techniques (e.g., checks/redirects/c-clamp escorts); hard physical techniques (e.g., joint lockings/takedowns/strikes); use of a baton; use of Oleoresin Capsicum (OC) spray/foam; mechanical restraints (e.g., handcuffs, flexcuffs/tri-fold restraints, leg irons, waist [belly] chains, restraint chair, mechanical restraints in conjunction with use of spit hood); and other options such as Lexan Riot Shields, Ballistic Shields and a restraining belt.¹³³ Where a physical technique other than those listed in the policy is used, staff are required to provide a "clear and concise description of the technique" and the rationale for its use in his/her Use of Force Occurrence Report.¹³⁴

Ministry policy requires that force options be selected based on what is deemed necessary to gain control in the situation and should further be informed by a variety of situational factors including the inmate's behaviour, factors that could impact the situation, the threat level, and all other circumstances related to the specific incident.¹³⁵ The following Use of Force Management Model has been created by the ministry (Figure 23).

¹²⁸ Reg. 778, *supra* note 115.

¹²⁹ MCSCS: Use of Force, *supra* note 37.

¹³⁰ *Ibid* at s. 4.16.

¹³¹ Reg. 778, *supra* note 115 at s. 7(1).

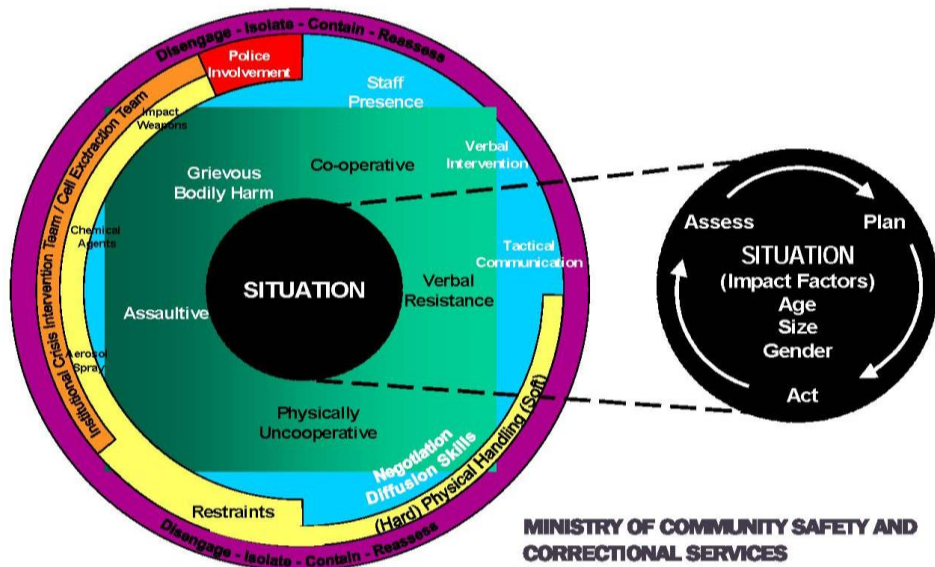
¹³² *Ibid* at s. 7(2).

¹³³ MCSCS: Use of Force, *supra* note 37 at s. 4.23.1; Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Security and Controls: Security Control Equipment* (Government of Ontario, June 2014) at s. 6.10.

¹³⁴ MCSCS: Use of Force, *supra* note 37 at s. 4.23.1.

¹³⁵ *Ibid* at s. 4.20.

Figure 23: Correctional Services Use of Force Management Model



The Correctional Services’ use of force model has been in place for over two decades and was last revised around 2006. The Independent Review Team canvassed other jurisdictions and academic literature to assess the adequacy of the ministry’s Use of Force Management Model and compare it with identified best practices. Unfortunately, despite a substantial increase in research on the use of force within the criminal justice system, the majority of this research is specific to policing. While it might be tempting to generalize these findings to the correctional context, to do so would be

“We cannot compare ourselves to policing . . . as we do not have lethal force options and we are not out in the community dealing with the public . . . the training around this model reflects the fact that we are in a secure controlled environment and only have less than lethal force options.”

- MCSCS, Correctional Staff

problematic, and drawing parallels between correctional work and police work has been widely discouraged.¹³⁶ Indeed, some Ontario Public Service Employee Union (OPSEU) representatives suggested that the exposed dangers, acts of violence, and occupational stressors faced by correctional officers are similar to police officers, and therefore some strategies to respond to incidents of violence should mirror those used by police services (Textbox 9). Notwithstanding some occupational similarities, however, best practices supported by research findings are premised on the conclusion that both groups (correctional officers and police officers) work within two very different environments.¹³⁷

¹³⁶ Ferdik and Smith, Literature Synthesis, *supra* note 84.

¹³⁷ *Ibid.*

Textbox 9: Use of Conducted Energy Weapons in Corrections

The Conducted Energy Weapon (CEW), often referred to by the brand name ‘Taser,’ is a tool that is widely used by law enforcement as an alternative to lethal force. Typically, CEWs are used by law-enforcement officers as a ‘last resort’, less-than-lethal use of force option to mitigate the risk of harm to distressed individuals in conflict with the law or engaging in public disorder.¹³⁸

Canadian Correctional Institutions and Conducted Energy Weapons

Some frontline correctional staff and the OPSEU members of the Provincial Joint Occupational Health and Safety Committee proposed CEWs as an option to respond to institutional violence in Ontario. While the ministry has reviewed the use of CEWs in policing,¹³⁹ there is no existing ministry report or review on CEWs in Ontario correctional facilities. As such, the experiences of other Canadian jurisdictions are informative.

At the federal level, Correctional Service Canada opted not to implement CEWs after a review of “less lethal alternatives” determined that the use of CEWs in federal penitentiaries was “unsuitable” and “not appropriate” for institutional violence and inmate management.¹⁴⁰ In contrast, some Canadian provinces and territories have implemented the use of CEWs in provincial/territorial correctional facilities. For example, British Columbia authorized the use of CEWs in 2003. As part of the policies implemented by British Columbia, a CEW can only be issued and used with the warden’s authorization. Since that time, CEWs have been used and discharged 34 times; 33 of those occurrences were between 2003 and 2008. The last time a CEW was discharged in B.C. Corrections was in 2012. Notably, between 2013 and 2017, there have been only four instances in which CEW use was authorized but the weapons were not drawn or discharged in any of these cases.¹⁴¹ The data indicates that, even when their use is authorized, CEWs are rarely discharged or even drawn by B.C. Corrections staff.

¹³⁸ Michael D. White and Justin Ready, “The TASER as a Less Lethal Force Alternative Findings on Use and Effectiveness in a Large Metropolitan Police Agency,” *Police Quarterly* 10, no. 2 (2007); Geoffrey P. Alpert and Roger G. Dunham, “Policy and Training Recommendations Related to Police Use of CEDs: Overview of Findings from a Comprehensive National Study,” *Police Quarterly* 13, no. 3 (2010).

¹³⁹ Ministry of Community Safety and Correctional Services, “Conducted Energy Weapons (TASERs): Policing, Summary of the Expansion of Conducted Energy Weapon Authorization in Ontario” (Government of Ontario, November 1, 2017), Last Accessed: June 15, 2017 www.mcscs.jus.gov.on.ca/english/police_serv/ConductedEnergyWeapons/CEW_main.html.

¹⁴⁰ Correctional Service Canada, Security Operations Division, *Review of Less Lethal Alternatives*, Security Operations Division, (Ottawa: March 2018).

¹⁴¹ Ministry of Public Safety & Solicitor General, B.C. Corrections, “Conductive Energy Weapon 2017 Annual Report,” (Report Provided to the Independent Review of Ontario Corrections, June 2018).

(Textbox 9 continued)

In Yukon, experience with CEWs in their correctional facility has also been limited. Whitehorse Correctional Centre has implemented the use of two different Taser models during two different periods. Between June 2004 and November 2007, there was a single deployment of a CEW in a use of force situation that was later deemed to be inappropriate and led to staffing action. During the second period, which spanned from February 2011 until November 2016, there were no instances in which CEWs were deployed and a government official has indicated that alternatives to CEWs were adopted because they “seemed to lessen the risk associated [with] the use of CEWs and provide equal control of situations.”

Concerns with the Use of CEWs

The Independent Review Team also found that jurisdictions that have authorized the use of CEWs in correctional institutions mandate firm restrictions on their use, which may account for their limited use.¹⁴² This is also consistent with academic literature, and may limit the overall impact and utility of CEWs as a restraint to neutralize potentially violent individuals.¹⁴³

There are other concerns that arise with the use of CEWs. First, there is evidence to suggest that individuals that are perceived as having behavioural and health disorders, such as mental health and substance use disorders, are, in general, more likely to behave violently or experience ‘excited delirium’.¹⁴⁴ As a result, these individuals are more likely to have force used against them, as their actions are perceived as resistance during a use of force application. Research has found that this demographic is over-represented among those upon whom CEWs are used.¹⁴⁵ In addition, experience in the United States has demonstrated that CEWs are not always “effective in neutralizing an aggressor and their use has been accompanied by numerous law suits,” as well as an overarching risk of use against correctional staff.¹⁴⁶

¹⁴² Nova Scotia Department of Justice, *Conducted Energy Device (CED) Review*. Nova Scotia Department of Justice. (Nova Scotia Government, 2018). Retrieved from:

<https://novascotia.ca/just/publications/documents/nsconductedenergydevicereport.pdf>

¹⁴³ Thomas Gabor, *The Impact of Issuing OC Spray Routinely to Correctional Officers: A Review of Evidence with Special Reference to Kent Institution: Final Report*, prepared by the University of Ottawa for the Public Safety Canada (Ottawa, 2009) (hereafter, Gabor, Kent Institution).

¹⁴⁴ Melissa S. Morabito et al., "The Nature and Extent of Police Use of Force in Encounters with People with Behavioral Health Disorders," *International Journal of Law and Psychiatry* 50, (2017).

¹⁴⁵ *Ibid.*

¹⁴⁶ Gabor, Kent Institution, *supra* note 143; Peter Eliser, Jason Szep and Charles Levinson, "Inmate Deaths Reveal "Torturous" Use of Taser" (Reuters, December 6, 2017), Last Accessed: July 2, 2018. Retrieved from:

www.reuters.com/investigates/special-report/usa-taser-jails.

Police officers work in the community where the risk of danger is often isolated and “periodic.”¹⁴⁷ The daily perception of risk of violence and danger experienced by correctional officers — who work in confined settings — is constant.¹⁴⁸ This means that frontline correctional staff who work in institutions are regularly exposed to occupational stressors that police officers do not face. The ever-present risk of violence and associated stress may impact the employee’s mental health and contribute to experiences of PTSD which in turn impact their work and interaction with inmates.

Working at the intersections of security and care is not unique to correctional work. It may be beneficial to examine best practices used to manage violence in other confined settings, such as forensic mental health or dementia units of long-term care facilities. For example, in Ontario, the Centre for Addiction and Mental Health implemented a strategic initiative to enhance patient and staff safety including “a continued focus on reducing restraint use”.¹⁴⁹ This initiative included piloting a *Safewards* program,¹⁵⁰ utilizing “evidence-based approaches and interventions focused on helping psychiatric patients heal and reduce aggression” in forensic units.¹⁵¹ St. Joseph’s Healthcare in Hamilton, Ontario, developed and uses a risk management tool designed to “bridge a gap in instruments available for violence risk assessment in psychiatric inpatients”.¹⁵² Although these settings are not exactly the same, they are likely to be a better comparator to study evidence-based practices that have been used successfully to mitigate work-related stress and the risk of occupational injury.¹⁵³

Police Investigations and Criminal Charges

The Ministry of Community Safety and Correctional Services has indicated in public statements that it “has a zero tolerance for violence against correctional staff or inmates” and that it is “committed to ensuring the safety and security of staff” that work in Ontario’s correctional system.¹⁵⁴ According to the ministry, this commitment to zero tolerance is demonstrated in policies, such as those that limit discretion in contacting police when an assault occurs, support for the *Mandatory Blood Testing Act*,¹⁵⁵ and support for the Correctional Services’ Workplace Violence Prevention Program. According

¹⁴⁷ Ferdik and Smith, Literature Synthesis *supra* note 84.

¹⁴⁸ *Ibid.*

¹⁴⁹ Centre for Addiction and Mental Health, “Quality Improvement Plan (QIP) Narrative for Health Care Organizations in Ontario,” (Centre for Addiction and Mental Health, Toronto, 2017), 9 (hereafter, CAMH: QIP).

¹⁵⁰ Len Bowers, “Safewards: A New Model of Conflict and Containment on Psychiatric Wards,” *Journal of Psychiatric and Mental Health Nursing* 21, no. 6 (2014).

¹⁵¹ CAMH: QIP, *supra* note 149 at 9.

¹⁵² Gary Chaimowitz and Mini Mamak, “Hamilton Anatomy of Risk Management (HARM) Workbook – Forensic Version (FV),” (St. Joseph’s Healthcare, Hamilton, 2016), 3.

¹⁵³ See, for example, Kelly N. Stevenson et al., “Registered Nurses’ Experiences of Patient Violence on Acute Care Psychiatric Inpatient Units: An Interpretive Descriptive Study,” *BMC Nursing* 14, no. 1 (2015): 35.

¹⁵⁴ Blair Crawford, “Limits on Use of Segregation have made it ‘Open Season’ on Jail Guards, Union Says.” *Ottawa Citizen*, June 20, 2018.

¹⁵⁵ The *Mandatory Blood Testing Act, 2006*, enables correctional staff who have been exposed to a bodily substance in the course of performing their duties to submit an application to have the blood of another person analyzed. The legislation

to a senior ministry official, the ministry's commitment is further displayed by allowing staff to meet with a Justice of the Peace to swear an affidavit when the police elect not to proceed with criminal charges.

Pursuing criminal charges is a mechanism available for correctional officers to respond to institutional violence. If the inmate is alleged to have committed a misconduct resulting in an assault, the complainant is advised by the superintendent of the right to begin criminal proceedings.¹⁵⁶ As part of the Inmate Incident Report (IIR) template form, staff are required to indicate that affected parties were notified of their right to pursue charges, if police were contacted, whether they will attend the institution for investigation, and if charges against an inmate are pending.¹⁵⁷ The Information Management Unit (IMU) tracks whether police were contacted and if charges were laid. However, in review of the data, it appears that, in many incidents, it is "unknown" if police were contacted; this may be indicative of incomplete IIRs. Further, in the majority of cases it is "unknown" if charges were laid; this may indicate that staff are not entering 'update reports' for IIRs following the conclusion of an incident.¹⁵⁸

Another ministry policy appears to dictate mandatory reporting to police services following an incident of violence. Pursuant to the Correctional Services' Workplace Violence Prevention Program, every alleged act of workplace violence by an offender, a member of the public, a worker, or other person must be reported to a manager/supervisor.¹⁵⁹ The manager/supervisor, in turn, must then report the alleged act of workplace violence to the police for investigation.¹⁶⁰ Similarly, ministry policy directs that, following an incident in which correctional services employees are threatened or intimidated, the matter must be reported to the police to determine if a threat or intimidation charge under section 423.1 of the *Criminal Code* can be laid.¹⁶¹

This apparent contradiction between operational practices and ministry policies about whether notifying police of a violent incident is mandatory or optional may lead to confusion among staff

reduces the amount of time required to obtain a mandatory blood test, which can enable correctional staff to make prevention and/or treatment decisions more quickly (*Mandatory Blood Testing Act*, 2006, SO 2006, c. 26).

¹⁵⁶ Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Incident Reporting: Inmate Incident Reporting Manual* (Government of Ontario, October 2015); Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Incident Reporting: Employee/Other Information Reporting Manual* (Government of Ontario, August 2013).

¹⁵⁷ See Appendix B for IIR Template example.

¹⁵⁸ In review of 2016 data, the Independent Review Team identified that it was "unknown" if police were contacted in 108 (13.9%) of 793 incidents, and "unknown" if charges were laid in 422 (53.2%) of 793 incidents. The Independent Review Team cannot form conclusions on the prevalence of criminal charges laid against inmates following inmate-on-staff violent incidents due to this large portion of missing data.

¹⁵⁹ MCSCS: Workplace Violence Prevention Program, *supra* note 15 at 14.

¹⁶⁰ *Ibid* at 14.

¹⁶¹ Ministry of Community Safety and Correctional Services, *Institutional Services Policy and Procedures Manual: Workplace Safety: Threats Against Correctional Services Employees* (Government of Ontario, July 2016) at s. 6.5.1.

about the police's role and involvement following an incident. Contacting police for certain minor incidents, for example, threats not deemed credible by staff but still reported on IIRs, may be impractical given police resources.

In discussions with the Independent Review Team, police at the local and provincial levels indicated that correctional and police procedures are, at times, in conflict. For example, when correctional staff respond quickly to a disruptive inmate, they may clear the scene without preserving the integrity of evidence, which hinders police investigations. Consequently, the evidentiary requirements necessary to pursue a criminal charge may not be satisfied. This may contribute to correctional staff's dissatisfaction with the police response and criminal sanctions following an inmate-on-staff incident. It may be beneficial to provide education sessions for police and correctional staff together, to foster an understanding of the police role in correctional matters, how charges are laid, and the legal requirements for criminal proceedings.

Some police expressed favourable attitudes towards the development of a 'pen squad', or unit of police officers dedicated to investigating incidents at correctional facilities. The Joint Forces Penitentiary Squad,¹⁶² a collaborative effort involving the Ontario Provincial Police and Correctional Service Canada to investigate matters within Kingston-area federal penitentiaries, has demonstrated that joint intelligence can lead to an immediate response to incidents.¹⁶³ Further, specialized and dedicated officers would become familiar with correctional settings and develop working relationships with correctional staff.¹⁶⁴

Mandatory Minimum Sentences

A recurring concern that emerged in consultation with correctional officers, OPSEU representatives, and correctional managers on institutional violence suggests that current inmates in Ontario are not deterred by available tools and mechanisms for preventing and responding to violence. One solution

¹⁶² The Penitentiary Squad is a specialized team within the Criminal Investigation Branch of the Ontario Provincial Police. Its duties include monitoring incoming high-profile inmates, acting as an investigation service within the Greater Kingston Area Federal Institutions, and disseminating intelligence information to assist police or other approved agencies with current investigations. See Ontario Provincial Police Municipal Policing Bureau General Headquarters, "OPP Policing Services Profile," (Ontario Provincial Police, Orillia, 2016).

¹⁶³ Ontario's Provincial Strategy to Protect Children from Sexual Abuse and Exploitation on the Internet was initiated in 2007 and involves the Child Sexual Exploitation Unit of the OPP, 26 municipal police services, expert investigators, forensic analysts, Crown attorneys, victim services personnel, MCSCS, and the Ministry of the Attorney General for a coordinated response against child sexual exploitation in Ontario. This is an example of inter-agency collaboration and intelligence sharing that have also extended to national-level cooperation from the RCMP, Canadian Border Services Agency, Canadian Forces National Investigation Service, and U.S. Homeland Security Investigations. See Ontario Provincial Police, "Provincial Strategy to Protect Children from Sexual Exploitation and Abuse on the Internet," (OPP Media Resources, 2016), Last Accessed: July 5, 2018 <http://www.opp.ca/index.php?id=115&entryid=571faa628f94ac3e7b0c6a45>.

¹⁶⁴ At present, some provincial correctional facilities in Ontario have police officers on site to respond to issues within the institution. This is distinct from a 'pen squad' that would be a coordinated, province-wide unit of officers and staff dedicated to responding to issues within, and sharing intelligence across, institutions.

proposed by several staff members was “stiff punishment”, such as the imposition of mandatory minimum sentences, to be served consecutively, for assaults on correctional staff. As one correctional officer suggested:

sentences for staff assaults are too lenient. There needs to be mandatory minimum sentences for staff assaults. The sentences need to run consecutively and not concurrently. Last year I was off work for 60 days and away from my regular duties for 90–120 days in a staff assault. I suffered major physical and psychological trauma, and it took a major toll on my life. The inmate that assaulted me unprovoked received a one day sentence. I should not be assaulted for doing my job to the best of my ability. Again, he received a ONE DAY sentence.

Based on written submissions to the Independent Review Team, the length of mandatory minimum sentences recommended by staff ranged from two to five years.

The *Criminal Code*¹⁶⁵ does not authorize the imposition of mandatory minimum sentences for persons found guilty of the following offences: uttering threats,¹⁶⁶ assault,¹⁶⁷ assault with a weapon or causing bodily harm,¹⁶⁸ aggravated assault,¹⁶⁹ intimidation of a justice system participant,¹⁷⁰ assaulting a peace officer,¹⁷¹ assaulting a peace officer with a weapon or causing bodily harm,¹⁷² or aggravated assault of a peace officer.¹⁷³ Instead, the *Criminal Code* gives considerable discretion to the sentencing judge to tailor sanctions to the unique circumstances of the offence and the offender. For example, depending on the circumstances, an individual found guilty of assault could potentially receive a discharge, a suspended sentence, a fine, a conditional sentence, or a term of imprisonment.

There are reasons to believe that imposing mandatory minimum sentences would not meaningfully change frontline experiences. There is ample evidence and over “40 years of increasingly sophisticated research” to demonstrate that mandatory minimum sentences do not serve to deter crime or violent acts.¹⁷⁴ It is worth noting, once again, that empirical research has found that *certainty* and *celerity* of consequences are more effective than *severity* in deterring criminal behaviour. Within

¹⁶⁵ *Criminal Code*, RSC 1985, c C-46 (hereafter, *Criminal Code*).

¹⁶⁶ *Ibid* at s. 264.1.

¹⁶⁷ *Ibid* at s. 265 and s. 266.

¹⁶⁸ *Ibid* at s. 267.

¹⁶⁹ *Ibid* at s. 268.

¹⁷⁰ *Ibid* at s. 423.1.

¹⁷¹ *Ibid* at s. 270. The *Criminal Code* defines “peace officer” in section 2 as “a member of the Correctional Service of Canada who is designated as a peace officer pursuant to Part I of the *Corrections and Conditional Release Act*, and a warden, deputy warden, instructor, keeper, jailer, guard and any other officer or permanent employee of a prison other than a penitentiary as defined in Part I of the *Corrections and Conditional Release Act*”.

¹⁷² *Criminal Code*, *supra* note 165 at s. 270.01.

¹⁷³ *Ibid* at s. 270.02.

¹⁷⁴ Anthony N. Doob, “A Values and Evidence Approach to Sentencing Purposes and Principles,” (Research and Statistics Division, Department of Justice, Ottawa, 2016).

correctional contexts, the *certainty* of immediate discipline and the *celerity* of misconduct consequences are more effective in deterring institutional violence than mandatory sentences.¹⁷⁵

Furthermore, while they are perhaps politically popular, mandatory minimum sentences undermine the criminal justice process by making sentences less transparent by removing judicial discretion and may interfere with proportional sentencing principles.¹⁷⁶ This concern was reflected in the feedback the Independent Review Team received from one correctional officer who had been the victim of an attack. The officer proposed that meaningful consequences for offences committed in custody ought to be implemented and suggested that sentences should be served consecutively, but also submitted that:

many officers will advocate to you to recommend that a mandatory minimum sentence be enacted for assaulting staff. I do not support this path because the types and severity of assaults on staff, from a cup of water being splashed on you to grievous bodily harm and permanent disability, would mean that there are countless circumstances where that minimum would not be appropriate. The sentence should be proportional to the offence committed and harm caused.

Data Collection, Monitoring, and Communication

Preventing institutional violence requires well-crafted policy and on-going staff training for the use of tools to manage acts of violence, but also ‘real-time’ analysis of, and response to, changes in trends at particular institutions or across the province. It is vital to the safety of inmates and staff for relevant data to be collected, analyzed, and distributed to corporate offices, across institutions, and especially to frontline staff who must be aware of their working environment. This is dependent on the collection and reliable analysis of quality data by means of Inmate Incident Reports (IIRs) that accurately capture relevant information.

Collection and Synthesis of Inmate-on-Staff Violence Information

The present understanding of inmate-on-staff violence in Ontario’s institutions is derived from reports submitted by correctional staff; the subjective data contained in the reports is assumed to be accurate. However, a prevalent concern in correctional literature is the validity and reliability of self-

¹⁷⁵ Anthony N. Doob and Cheryl M. Webster, "Sentence Severity and Crime: Accepting the Null Hypothesis," *Crime and Justice* 30 (2003); Anthony N. Doob, Cheryl M. Webster and Rosemary Gartner, "Issues Related to Harsh Sentences and Mandatory Minimums: General Deterrence and Incapacitation – Research Summaries Compiled from Criminological Highlights," (Centre for Criminology & Sociolegal Studies, University of Toronto, Toronto, 2014) (hereafter, Doob et al., Research Summaries); Raymond Paternoster, "How Much Do We Really Know About Criminal Deterrence?" *The Journal of Criminal Law and Criminology* (2010).

¹⁷⁶ *Ibid* Doob et al., Research Summaries.

reported data by correctional staff.¹⁷⁷ Correctional staff have considerable discretion in their response to inmate behaviour including the decision to use force, rely on informal or formal misconducts, and to submit or forego an Inmate Incident Report (IIR) from an incident. Further, variation across institutions in general administrative policies and procedures may influence reporting practices as well.¹⁷⁸ At present, it is not possible to declare the total number of reported incidents from IIRs to be a final tally of inmate-on-staff violent incidents. Nonetheless, it is the best assessment currently available and the most relevant for the concerns of staff in Ontario institutions.

The data collected on IIRs are processed by the IMU and assessed for completeness. Staff at the IMU will contact institutions or regional offices for clarification or further information when the IIR forms are incomplete. This information is inputted into the IMU database and is in a digital format that is accessible for analysis. However, the IMU database was not originally designed to capture as many elements of an incident as are currently of interest for analysis of institutional violence. Although small modifications have been made in response to policy changes (e.g., use of force monitoring, Bill 168 workplace violence tracking), they are not ideal for search ability and no major upgrade or investment into the database has been undertaken.

Searching the IMU database for information relevant to inmate-on-staff violence to produce reports for MCSCS corporate offices or OPSEU is tedious.¹⁷⁹ Due to the inability to easily update the database functionality, various key words or terms in text fields are relied upon to identify certain elements, for example, incidents that may be classified as workplace violence. However, workplace violence includes more than inmate-on-staff violence, such as domestic violence incidents that occur in the workplace or public-on-staff assaults. Therefore, the IMU staff must read the details of each incident before determining if it is, indeed, an inmate-on-staff incident of violence to be tallied in the reports or if it should be excluded. This is an extremely detail-oriented task that is prone to human error.

¹⁷⁷ Benjamin Steiner and John Wooldredge, "Comparing Self-Report to Official Measures of Inmate Misconduct," *Justice Quarterly* 31, no. 6 (2014); Stephen C. Light, "Measurement Error in Official Statistics: Prison Rule Infraction Data," *Federal Probation* 54 (1990).

¹⁷⁸ John Dilulio, *Governing Prisons: A Comparative Study of Correctional Management* (New York: The Free Press, 1987).

¹⁷⁹ Prior to 2016, the IMU database was the primary source for producing inmate-on-staff violence reports for MCSCS corporate offices and OPSEU. However, as the volume of reported incidents increased, resource constraints did not allow for the timely entry of the information into the IMU database, and the condensed information prepared for email distribution, 'e-report', was relied upon as the primary source of data for inmate-on-staff violence reports between January 2016 and July 2017. It is possible that the different 'source' during this timeframe contributed to some error in consistency of incidents captured in the inmate-on-staff violence reports. For example, searching within the 'e-reports' for key words identifying workplace violence (e.g., threat, attempted assault, assault) may not generate a result if an advisor at the IMU used a phrase or word that did not match the key words. Given time constraints, the Independent Review Team has not had the opportunity to explore in detail any and all possible discrepancies in incidents captured by the IMU database versus the 'e-reports' during this time period. Due to recent improvement efforts towards inputting information into the IMU database, the database has once again been used as the primary source of data for the production of inmate-on-staff violence reports for incidents that occurred since July 2017.

Due to the discretion required to identify and extract inmate-on-staff incidents, one staff member at the IMU has been assigned to manually create the inmate-on-staff reports since 2013. The decision to allocate this task to one employee was made with good intention — to ensure the integrity of the data since the information is manually extracted and coded from all IIRs – but, unfortunately, has resulted in significant processing delays. Due to the substantial increased volume of incidents reported over the last few years, the report on inmate-on-staff violence generated for MCSCS corporate offices and OPSEU is months behind ‘real time’. In the past, these reports were shared on a quarterly basis but are currently being produced biannually due to these delays. By the time corporate offices or OPSEU receive a report, any reactive measures implemented would be in response to data that is several months old.

The data available in the IMU database is robust but it has not been organized in a manner to allow easy accessibility or with search functions that can efficiently extract incidents relevant to a specific research question. These technical challenges hinder the efficiency of the staff who exert great effort to generate reports for MCSCS offices and institutions. As a result, the ability to regularly monitor how/if the number, severity, or make-up of incidents are evolving over time is significantly limited.

Communication and Information Sharing Across MCSCS Bodies

The value of collected data is dependent on how it is communicated and utilized by relevant parties. In the context of institutional violence, it is necessary that data and analysis is being communicated between corporate offices and institutions, and within the institutions themselves. The Independent Review Team requested information from Ontario’s 25 correctional facilities on the procedures of incident-related information sharing within and outside of the institutions, including when and how much information relating to an incident is shared. The Independent Review Team received information from the superintendents or deputy superintendents from all 25 correctional facilities, and from local OPSEU presidents or executives from 12 facilities.¹⁸⁰

Superintendents or deputy superintendents from all institutions except one reported that they communicate incident-related information to staff, generally by means of shift briefings or musters unless the incident was serious, in which case it may be communicated verbally to staff on shift. All institutions reported communicating incident-related information to management and to their respective regional office. Generally, full details or a synopsis of the incident would be provided depending on the severity and priority level of the incident. Similarly, all institutions reported that they communicate incident-related information to the IMU via the IIR.

¹⁸⁰ The Independent Review Team received responses from OPSEU representatives from: Central North Correctional Centre (CNCC); Elgin-Middlesex Detention Centre (EMDC); Fort Frances Jail; Maplehurst Correctional Complex; Niagara Detention Centre; North Bay Jail; Ontario Correctional Institute; Quinte Detention Centre; Thunder Bay Jail; Toronto East Detention Centre (TEDC); Toronto South Detention Centre (TSDC); and Vanier Centre for Women.

There was less consistency in regards to information sharing with locally elected OPSEU representatives. Although superintendents or deputy superintendents indicated that they did share information with local union representatives, some indicated that they did not unless the incident was serious. When the information was shared, responses varied as to whether local union representatives were directly notified, or, since staff at the institution would have been notified of an incident, whether it was assumed that local union representatives were also aware of the incident as they are active staff members. Many local union representatives expressed concern that management minimized the seriousness of incidents and communicated a different account than that conveyed by staff members involved.

“Information does not always flow in proper detail, but rather it is watered down as it goes up the chain. By the time it gets back down to the Local [representative] it is made out to be a very minor occurrence. But when speaking to the victims I receive a much different version of events.”

- Local OPSEU representative

In regard to inmate-on-staff threats and attempted assaults, most local union representatives were unable to provide the number of incidents that had occurred, while a couple could identify that one incident had occurred in the last decade. Local union representatives at four institutions were unable to provide the number of inmate-on-staff assaults in the last decade, while figures for partial years were reported by representatives from Central North Correctional Centre, Elgin-Middlesex Detention Centre, Niagara Detention Centre, North Bay Jail, and Toronto South Detention Centre, though with varying degrees of certainty over the data. Many local union representatives faulted management for failing to provide them with this information, despite requests for such figures, and some provided information on violent incidents only stemming from personal experience or involvement with incidents.

At present, it is unclear what, if any, trend analysis is being done at the corporate level with the reports generated by the IMU. Though reports are produced for corporate MCSCS offices, it is not clear if much more is done with the data than a simple review of the numbers. As a result, any trend analysis is dependent upon staff in MCSCS offices who review such reports to recognize, from their recollection, if there has been any sort of noticeable change in reports or numbers over the last months or years. Such a review system lacks the sophistication to identify issues with the degree of certainty necessary to develop an appropriate operational or corporate response.

The data collected on IIR forms recorded and reported by the IMU should be sufficient to monitor inmate-on-staff incidents and conduct trend analysis. However, the present technical limitations of the IMU database and staffing resources at the IMU restrict such analysis from being conducted in a timely manner. If utilized quickly and accurately, IIRs could be a rich source of data of inmate-on-staff

violent incidents that allow for an evidence-based analysis of the issue(s) at hand and for the formation of a response to ensure the safety of both inmates and staff in Ontario's institutions. Unfortunately, the current conversation surrounding inmate-on-staff violence is unreliable, as it is based on numerous sources of information with varying degrees of validity. This is a disservice to correctional staff. The accessibility and efficient analysis of this data and the communication between the IMU, corporate offices, and institutions are vital to the success of monitoring and responding to changes in inmate-on-staff violence.

Information sharing is increasingly dependent on technology, and coordination of information management systems is crucial to the quick and accurate distribution of information across organizational bodies.¹⁸¹ The lack of a centralized system accessible to MCSCS corporate offices and institutions contributes to inefficient and inconsistent communication of valuable information among correctional staff. Information sharing is not a new concept to corrections; for example, managing prison gangs and violence has required intelligence sharing within and outside of institutions.¹⁸² Institutional violence must be approached in the same manner. The safety and security of correctional facilities and staff is contingent on accurate and relevant information being shared within and across institutions and corporate offices quickly and reliably.

¹⁸¹ J. Ramon Gil-Garcia, "Towards a Smart State? Inter-Agency Collaboration, Information Integration, and Beyond," *Information Polity* 17, nos. 3-4 (2012).

¹⁸² John Winterdyk and Rick Ruddell, "Managing Prison Gangs: Results from a Survey of US Prison Systems," *Journal of Criminal Justice* 38, no. 4 (2010); Rick Ruddell, Scott H. Decker and Arlen Egle Jr., "Gang Interventions in Jails: A National Analysis," *Criminal Justice Review* 31, no. 1 (2006); Thomas Gabor, "Deaths in Custody," (Office of the Correctional Investigator, Ottawa, 2007).

VI. KEY FINDINGS

Violence inside Ontario's correctional facilities is complex and multifaceted. It arises and must be understood within a broader context given the numerous variables that contribute to its genesis. Though violence has been an ongoing concern in correctional institutions since their inception, this should not foster indifference towards, or, worse, acceptance of, violence in the institutional environment. Institutional violence puts those who live and work inside Ontario's correctional facilities at risk of physical and psychological injury, undermines the possible benefits to public safety that may accompany incarceration, and threatens the overall legitimacy of Ontario corrections.

The purpose of this interim report is to describe and identify key issues pertaining to institutional violence in Ontario's correctional facilities, with a focus on inmate-on-staff incidents. This report provides the foundation for the formulation of recommendations that will be presented in a final report. Understanding the causes of institutional violence, as well as the most appropriate solutions, necessarily involves examining empirical evidence. Additionally, a thorough understanding requires listening to the voices of those who live and work in Ontario's facilities and whose experiences, therefore, offer insight into the context in which institutional violence emerges. The following are the main findings of this interim report.

Reported Inmate-on-Staff Incidents of Violence

- The total number of reported inmate-on-staff incidents of violence have increased in recent years, with substantial increases observed between 2016 (793 incidents) and 2017 (1,389 incidents). The largest proportion of violent incidents is threats.
- The Information Management Unit is the main data holder of MCSCS for incidents of violence, as reported on Inmate Incident Reports, but are using an outdated database to record this information. This database is insufficient to conduct high-level analysis of institutional violence.
- Comparing institutions of similar size, there are notable variations in inmate-on-staff violence both by total number of incidents and by rate of increase over time. In particular, Toronto South Detention Centre and Ottawa-Carleton Detention Centre have experienced surges in reported violent incidents between 2016 and 2017.
- There are limitations on the conclusions that can be drawn solely from Inmate Incident Reports. Other pertinent information from an incident, such as which inmates or staff were involved or the exact location and time of the incident, are not in formats accessible for analysis. These variables are of interest to explain the nature of inmate-on-staff violent incidents.
- Communication of data relevant to institutional violence must be improved. Currently, there is no indication that trends are being monitored or even identified at corporate or institutional levels of MCSCS. This contributes to a disconnection with institutional frontline staff and animosity towards management and corporate players.

Control Measures Available to Staff

Disciplinary Segregation

- One explanation for growing violence advanced by some staff is that changes to Ontario's segregation policy limiting the use of disciplinary segregation has contributed to increased inmate-on-staff violence.
- Disciplinary segregation (close confinement) was not taken away from staff as a disciplinary tool, and ministry data shows that it is still being used in Ontario institutions.
- The ministry announced immediate actions to reform segregation in October 2016, including placing a limit of 15 consecutive days on disciplinary segregation placements. Some staff have attributed these policy changes to a government response to the Independent Review of Ontario Corrections' March 2017 report, *Segregation in Ontario*.
- Implementation of the immediate actions to reform segregation was not well coordinated due to poor communication from the ministry. Thoughtful planning and a phased implementation approach was necessary but lacking.
- There appears to be some confusion about the timing and operational implications of the incoming *Correctional Services and Reintegration Act, 2018*, though a phased approach for implementing reform is outlined in the legislation.

Classification and Inmate Housing

- Effective risk management is one of the key pillars to addressing institutional violence. Yet, MCSCS does not regularly conduct evidence-based classification or risk analyses to determine institutional security risk or placement needs.
- Some staff suggested creating Supermax housing (i.e., high-risk prisoners held in long-term segregation-related accommodation). Evaluation studies have found that Supermax facilities in the United States did not reduce violence throughout the prison system and may actually contribute to an increase in violence.
- Several staff expressed concern that open hatches on cell doors (used for meal service, accessing the telephone, or to allow for human interaction) provide an opportunity for inmates to assault staff, particularly by means of throwing objects, liquids, or bodily substances. Some staff suggested modifications to the current hatches to have 'sally port' hatches with a mechanism allowing access to the port only from one end at a time. There is scant evidence available on the relationship between the use of 'sally port' hatches and institutional violence.
- Evidence-based research has consistently found that early interventions, classification, appropriate housing placements, and entry into treatment or programming can reduce institutional violence.

Use of Force

- Correctional staff proposed that changes to the ministry's Correctional Services' Use of Force policy, following the Ontario Ombudsman's 2013 report, *The Code*, have contributed to increased inmate-on-staff violence. Staff reported they are now hesitant to use force, and that inmates are aware of this and are empowered. Use of force incidents reported by staff (as required by policy) have increased since 2013 (from 1,249 reported incidents in 2013 to 2,490 in 2017) in spite of a declining inmate population. It is possible that this is due to improved reporting. However, there is no indication that there has been a decrease in use of force incidents. Use of force remains a tool for staff and is still being utilized in Ontario institutions.
- There is a lack of research evaluating the effectiveness of use of force models in correctional settings, and, in particular, in Ontario's provincial institutions.
- The proportion of use of force training provided to correctional staff that is formally dedicated to verbal diffusion of hostility techniques is inconsistent with the stated ministry emphasis on resolving incidents with verbal intervention and de-escalation. The ministry has stated that the correctional officer training curriculum will be restructured, however, to date, it is unclear what changes will be implemented or when.

Tools of Control

- Conducted Energy Weapons (CEWs), known by their brand name 'Taser', have been proposed as an option by some staff as a response to institutional violence. Use of CEWs has been reviewed extensively for policing but not for Ontario correctional settings.
- Correctional Service Canada has determined CEWs are "unsuitable" and "not appropriate" for use in federal penitentiaries. Some provincial and territorial jurisdictions have permitted the limited use of CEWs, but have reported that CEWs are rarely discharged or even drawn; in the Yukon, CEW use in corrections has been discontinued altogether.
- There are concerns that certain demographic populations, such as those with significant behavioural and health disorders, disproportionately attract CEW use. This same population may be at greatest risk of adverse reactions to the electric shock that accompanies a CEW discharge.

Criminal Charges and Sentences

- Several correctional staff proposed mandatory minimum sentences for inmate-on-staff assaults. Recommendations for minimum sentences, to be served consecutively, ranged from two to five years. The *Criminal Code* of Canada does not prescribe mandatory minimum sentences for threats or assault-related offences, including those against peace officers.
- Numerous studies have found that mandatory minimum sentences are not effective at deterring crime or violent acts. Further, the wide range of violent incidents that exist within institutions are inconsistent with the application of mandatory sentences and would be contrary to sentencing principles such as proportionality and the need for individualized response. It is the likelihood of

apprehension and certainty of immediate discipline (not severity of sanction) that can be most effective in deterring violence.

- The number and portion of misconduct dispositions that were unclear due to missing information increased between 2010 (717, or 5.5%) and 2017 (1,791, or 9.9%). If this is indicative of misconducts that could have, but did not, result in guilty findings and sanctions due to incomplete reporting or paperwork, it may be a factor contributing to the frustrations of staff regarding the perceived lack of disciplinary consequences for disruptive inmates.
- Operational practice seems to conflict with MCSCS policy in regards to whether notifying police of an inmate-on-staff incident is mandatory or optional. This may contribute to staff uncertainty of the role of police in investigating institutional violence.
- Police at the provincial and local levels have expressed that certain institutional practices jeopardize police investigative procedures and may preclude the satisfaction of evidentiary requirements necessary to pursue criminal charges.

Changing Inmate Population

- Some correctional staff suggested that changes in the inmate population and, more specifically, a rise in the number of those who committed violent offences, may impact levels of institutional violence. Based on ministry snapshot data, the majority of inmates in Ontario institutions are not in custody for a violent offence.
- The Independent Review Team found some evidence that, between 2010 and 2017, the *number* of inmates in Ontario's institutions in custody for violent offences has remained fairly stable. However, the *proportion* of inmates in custody for violent offences has increased during this time (39.1% in 2010 to 42.4% in 2017) due to the overall declining inmate population and, particularly, those without the presence of a violent offence.
- Empirical evidence does not support the hypothesis that a violent charge is a predictor of institutional violence.
- Violent misconducts have increased during 2010 – 2017 in Ontario institutions, but there was no relationship between being in custody for a violent charge and actual involvement in violent misconduct.

Hiring and Training New Correctional Staff

- Many staff expressed concerns over a recent influx of new correctional staff who they believe are not adequately trained for working within the correctional environment. There was a hiring freeze between 2009 and 2012; hiring efforts resumed in 2013. In 2016 and 2017 there were substantially heightened numbers of new hires in Ontario institutions.
- The link between institutional violence and new correctional officers is unclear due to current data limitations.

Inmate Programming

- Feedback from correctional staff indicated that lack of inmate programming may be a possible explanation for institutional violence. Academic literature suggests that treatment and programs for inmates can be an effective management tool and can lead to decreased institutional violence and misconducts.
- The Ontario Correctional Institute, Ontario's only medium-security treatment centre, consistently reported very few incidents of inmate-on-staff violence between 2012 and 2017. There are several features that distinguish this facility from Ontario's other provincial institutions and require investigation, such as dorm-style accommodations, a pre-screening before admission, assessment during orientation, and a different cultural dynamic between inmates and staff.

Increased and/or Better Incident Reporting

- The former Minister suggested that the recorded increase in inmate-on-staff violence may be, in part, due to improvements in reporting and tracking practices. Based on details available in Inmate Incident Reports, it is possible that some incident types (e.g., threats, spitting-related incidents) are now more frequently reported than was the case in prior years.
- Corroborating statistics, such as incidents reported to JOPIS, WSIB, and MOL, are necessary to gain a more comprehensive understanding of the severity of violent incidents. However, the observed increases in reported physical assaults suggests that increased or better reporting practices do not wholly explain the increased figures of inmate-on-staff violence in recent years.

Institutional Culture

- Many staff indicated that they felt as though management failed to support them in daily operations and undermined the legitimacy of frontline staff's authority. Correctional staff also reported a lack of recognition by management. In a recent study, staff reported low morale and a general discontent with upper management.
- Research from provincial correctional facilities in Eastern Canada suggests that broader structural issues beyond correctional officer training are important for the management of occupational and institutional violence.
- Studies suggest that when an organization prioritizes a strong moral component in decision-making, employees tend to act in ways that benefit the common good over their own personal self-interests. This behaviour improves correctional officer wellness, the conditions of confinement for inmates, and institutional safety and security.

Based on the above findings, the Independent Review Team has identified several areas pertaining to institutional violence that require further attention. An exploration of the data suggests that the ministry's current collection and analysis methods are insufficient for meaningful monitoring of inmate-on-staff violence in Ontario's provincial correctional institutions. Monitoring must be in

regular time intervals, and as close to ‘real-time’ as possible, to allow trend analysis that quickly recognizes developments or anomalies. Tracking multiple variables is vital for identifying any patterns that may emerge pertaining to institutional violence. This includes factors that relate to specific inmate populations, staff members, institutions, or regions of the province. It is necessary to conduct analysis for each specific institution, as differences in inmate demographics, staff complement, and supervision culture are just a few factors that distinguish institutions and makes comparisons difficult and, at times, irrelevant.

The ministry’s data collection practices as they relate to institutional violence must be substantially restructured to facilitate the creation of an appropriate, targeted, and timely policy response. The Modernization Division of MCSCS is working towards improving and digitizing the Inmate Incident Report data collection process, and this will eventually remedy some of the technical issues currently experienced at the Information Management Unit. However, it is essential that these efforts proceed in consultation with the Information Management Unit, institutional staff, and data analysts to ensure that any new platform created captures necessary information for present and future analysis of institutional violence.

MCSCS should continue to explore other jurisdictions’ use of evidence-based inmate security classification and institutional placement tools. Development of an evidence-based risk assessment tool within institutions, and across MCSCS, could allow for better identification of inmates with a propensity for institutional violence, so that staff and managers can be equipped with targeted preventive measures. It may be beneficial to explore the structure and operations of the Ontario Correctional Institute, where very few inmate-on-staff incidents were reported between 2012 and 2017.

The concerns that have been identified in research studies, as well as the experience of other Canadian jurisdictions, weigh against the implementation of CEWs in Ontario’s correctional facilities. Similarly, there is limited evidence on the effectiveness of ‘sally port’ hatches in curbing institutional violence and increasing correctional ‘hardware’, in the absence of other measures (e.g., multi-security units, evidence-based security classification tool, inmate programming, and additional staff training), would be ill-advised and, potentially, counter-productive.

Policing and corrections are different in many key respects, but these two criminal justice partners interact when an inmate engages in criminal conduct. To bridge the disconnect between policing and corrections (as reported by both police and correctional officers), it might be advisable to develop joint policy and provide joint education sessions to foster greater understanding of the police role in correctional matters and the legal requirements for criminal proceedings. Similarly, given the uniqueness of the correctional environment, it may be worthwhile for the ministry to consider collaborating with both provincial and local police services to develop dedicated units of police

officers who specialize in the investigation of incidents that occur within Ontario's correctional institutions.

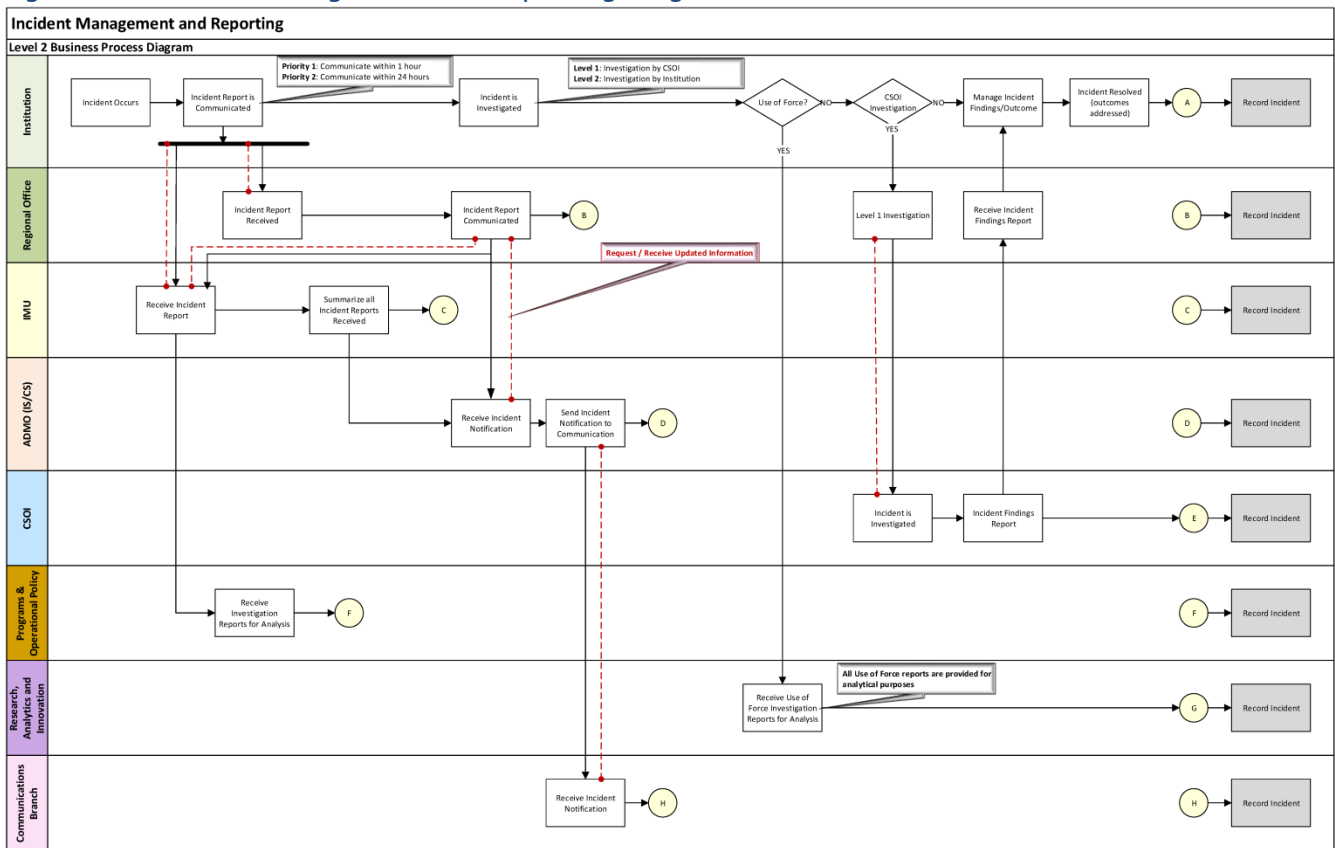
It would be worthwhile to investigate the relationship between new hires and institutional violence, particularly at Toronto South Detention Centre, to assess whether large influxes of new correctional staff may be contributing to reported increases of inmate-on-staff violence. It is also critical that the ministry follow through on its stated plans to review and update the existing Correctional Officer Training and Assessment program curriculum. In revising the curriculum, it would be advisable for the ministry to incorporate and emphasize the importance of fostering an institutional culture characterized by care and respect. It is equally important for management to reinforce a strong moral identity in daily interactions with frontline staff given that this has the potential to cascade downward and positively impact staff-inmate interactions.

This report on institutional violence provides some preliminary insight into what is happening inside Ontario's correctional facilities, why it might be happening, and what might be done to improve working conditions. The present report was limited to one aspect of institutional violence, inmate-on-staff incidents, and did not assess others (e.g., inmate-on-inmate, staff-on-inmate, staff-on-staff incidents). A comprehensive understanding of institutional violence requires multidimensional analyses of all components that compromise inmate and staff safety. It is evident that further investigation is crucial in several key areas before firm conclusions can be drawn with respect to these pressing matters. Nonetheless, I am hopeful that these preliminary findings will guide the ministry as it continues to work towards the modernization of Ontario's correctional system, and that the areas identified for further exploration lay the groundwork for my final report that will provide recommendations. Continuing to examine institutional violence facilitates Ontario's reform efforts to build a correctional system anchored in legality and evidence-based practices that foster dignity, safety, and respect.

APPENDIX A: MCSCS GENERAL INMATE INCIDENT REPORTING PROCESS

The chain of communication within and outside of the involved institution following an incident is displayed in Figure 24. It can be seen that a number of different offices and information management bodies are informed of an incident, though not all offices for all incidents.

Figure 24: Incident Management and Reporting Diagram¹⁸³



Abbreviations: ADMO — Assistant Deputy Minister’s Office; CS — Community Services; CSOI — Correctional Services Oversight and Investigations; IMU — Information Management Unit; IS — Institutional Services

¹⁸³ Diagram taken from Ministry of Community Safety and Correctional Services, “Incident Management Business Process Review, 2017,” (MCSCS, Corporate Services Division, Business Improvement Unit, Procurement and Business Improvement Branch, 2017), 8. Note: as of July, 2018, the ministry identified inaccuracies within the above-referenced Incident Management and Reporting Diagram. The following incidents shall be reported to CSOI for investigation: death of an inmate; escape; improper release; serious injury of an inmate; on-duty or off-duty conduct that results in criminal charges; misuse of I&IT resources; or, any other incident that the Chief of Oversight (or designate) determines may warrant an investigation. In regards to use of force incidents, if it is determined based on the local investigation that further investigation is required, a copy of the use of force file is forwarded to CSOI for review (i.e., excessive use of force, unreported use of force, assault by staff on inmate, crisis management). Specific levels of investigations and reporting requirements are assessed based on the level of severity and individual circumstances of the incident. Upon initial notification to CSOI of a potential investigation request, the file is reviewed to ensure it meets the criteria of a CSOI investigation.

Each Inmate Incident Report (IIR) form includes a list of instructions in a checklist format to aid the writer in ensuring that the required information is accounted for in the report. After receiving a report from the involved staff member, the manager/supervisor should then make a report to the police for investigation into the incident. First aid must be offered to any injured parties, and employees involved should be offered the Critical Incident Stress Management Program and the Employee and Family Assistance Program, which provide education and counselling services to cope with and minimize the harmful effects of stress.¹⁸⁴

For Priority 1 incidents (including serious assaults; see Figure 25), verbal notification by phone must be completed as soon as possible and within one hour of becoming aware of the incident by a sergeant to the superintendent (or designate), who then notifies the regional director (or on-call personnel where applicable after business hours). Written IIRs are to be faxed to the Information Management Unit (IMU) within an hour of becoming aware of the incident, and verbal notification to the IMU is required

if there is an anticipated delay over a few hours for the written IIR to be sent. For Priority 2 incidents (e.g., assault/threat with no serious injury or hospitalization), written IIRs must be submitted by fax to the Region and the IMU by the end of the sergeant’s shift. Ongoing updates of new information for both Priority 1 and Priority 2 incidents should be faxed no later than 7 days after the occurrence.

Figure 25: Inmate Incident Report Priority Categories

| Priority 1 Incidents | Priority 2 Incidents |
|---|--|
| Assault/Threat <ul style="list-style-type: none"> ➤ serious inmate-on-staff; and, ➤ serious inmate-on-inmate | Assault/Threat no serious injury or hospitalization for: <ul style="list-style-type: none"> ➤ inmate-on-staff; ➤ inmate-on-inmate; ➤ inmate on member of public; and, ➤ member of public on inmate |
| Death of an Inmate | Serious Contraband |
| Emergency Situation <ul style="list-style-type: none"> ➤ e.g., bomb threat, riot | Emergency Situation <ul style="list-style-type: none"> ➤ e.g., natural disaster, disturbance |
| Escape/Attempt Escape | Unlawfully at Large |
| Lockdown — full | Lockdown — partial |
| Major Fire | High Profile Inmate |
| Serious Injury/Illness/Self-Harm <ul style="list-style-type: none"> ➤ e.g., disease outbreak, public health matter | Serious Injury/Illness/Self-Harm <ul style="list-style-type: none"> ➤ e.g., attempted suicide, refuse medication |
| Use of Force <ul style="list-style-type: none"> ➤ contentious or excessive | Use of Force <ul style="list-style-type: none"> ➤ e.g., chemical munitions, impact weapons |
| Other <ul style="list-style-type: none"> ➤ e.g., inmate delivery of baby in facility | Other <ul style="list-style-type: none"> ➤ to be determined by author |
| | External Inquiries |

¹⁸⁴ The Crisis Incident Stress Management Program provides proactive education and reactive intervention services to Correctional Services staff, and are available to all superintendents and area managers for use following a crisis and certain emergency situations to assist correctional staff in coping with the stress caused by such incidents. Critical incidents include involvement in violence and receipt of a threat of violence to correctional staff or his/her family. The Employee and Family Assistance Program of the Ontario Public Service provides professional, confidential support services including counselling, programs for health with common life challenges, and resources to employees and their eligible dependents.

APPENDIX B: MCSCS INMATE INCIDENT REPORT TEMPLATE



INMATE INCIDENT REPORT

| | | |
|--|------------------|---|
| Notification | | |
| Initial Report | | |
| Date of Incident (Mmm-dd-yyyy) | Time of Incident | Institution |
| General Location | | Location Details |
| Region Advised of Incident by on at | | Name of Regional Official Notified (if by Phone or Email) |
| Is Media Aware? | | |
| Media Aware Details: | | |

| |
|----------------------------|
| Type of Incident(s) |
|----------------------------|

| |
|--|
| Details and Circumstances of Incident |
| Initial Report - Jul-17-2018 1429 (Initial details and circumstances of incident, including action taken by Police) |

| | |
|--|---|
| Police Information | |
| <input type="checkbox"/> Police Contacted Reason why not contacted: | Person Contacted Police Service Telephone # |
| Will police be attending? <input type="checkbox"/> Yes <input type="checkbox"/> No | Date (Mmm-dd-yyyy) Time |
| Criminal charges pending <input type="checkbox"/> Yes <input type="checkbox"/> No | Police Case/Occurrence # |
| Description of information relayed to police (e.g. force used, injuries, description of contraband etc.) | |

| |
|---------------------------|
| Inmate(s) Involved |
|---------------------------|

| | | |
|------------------------------------|------|----------------|
| Report Preparation | | |
| Initial Report | | |
| Date Forwarded (Mmm-dd-yyyy) | Time | Contact Person |
| Initial Report Prepared By (Print) | | Signature |

