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Supplementary Submission of the Ontario Human Rights Commission to the Ministry of Community Safety and Correctional Services' Provincial Segregation Review

October 2016

INTRODUCTION AND BACKGROUND

In March 2015, the Ministry of Community Safety and Correctional Services (MCSCS) announced that it would be conducting a comprehensive review of the use of segregation in its correctional facilities.[1] The Premier's recent mandate letter to MCSCS also identified addressing segregation as a key priority.[2] We are pleased that the government is showing proactive leadership on this important issue. Indeed, for over five years, the Ontario Human Rights Commission (OHRC) has been engaged in sustained efforts to make a human rights perspective central to discussions about correctional transformation.[3]

Segregation, also known as solitary confinement, refers to the physical and social isolation of a prisoner, with high surveillance and minimal stimulation, for up to 23 hours per day.[4] It has been described as the "most austere and depriving form of

[1] Ministry of Community Safety and Correctional Services, News Release, "Statement by Minister Yasir Naqvi on review of segregation policy in Ontario correctional system" (26 March 2015), online: <http://news.ontario.ca/mcscs/en/2015/3/yasir-naqvi-minister-of-community-safety-and-correctional-services-made-the-following-statement-toda.html>.

[2] Kathleen Wynne, "September 2016 Mandate letter: Community Safety and Correctional Services - Premier's instructions to the Minister on priorities" (23 September 2016), online: <https://www.ontario.ca/page/september-2016-mandate-letter-community-safety-and-correctional-services>.

[3] Since 2011, the OHRC has dedicated significant resources to working with MCSCS on a 'Human Rights Project Charter' aimed at identifying and eliminating discrimination in MCSCS' employment and service delivery. More recently, MCSCS' use of segregation has become one of the OHRC's primary concerns, driving the OHRC to intervene in the *Jahn v MCSCS* litigation, participate in MCSCS' ongoing Provincial Segregation Review, and request that MCSCS provide segregation data.

[4] In the information provided to the OHRC, MCSCS defined segregation as: "An area designated for the placement of inmates who are to be housed separate from the general population (including the separation of an inmate from protective custody, special needs unit(s), etc.). For administrative segregation or close confinement housing, inmates are confined to their cells, limited social interaction, supervised/restricted privileges and programs, etc." See Ministry of Community Safety and Correctional

incarceration" legally administered in Canada.[5] According to United Nations' standards, segregation in excess of 15 days can constitute "torture or cruel, inhuman or degrading treatment or punishment" and should be prohibited.[6]

In January 2016, the OHRC provided MCSCS with written submissions to inform its Provincial Segregation Review, which included a series of long-term and interim recommendations aimed at addressing MCSCS' use of segregation, and protecting prisoners' *Human Rights Code* rights. The Executive Summary of this submission, including the full set of the OHRC's recommendations, is publicly available and attached as Appendix D.[7]

Following the January 2016 submission to MCSCS' Segregation Review, on March 11, 2016, the OHRC requested that MCSCS provide disaggregated human-rights based data on how segregation was being used in Ontario's correctional facilities.[8] On August 23, 2016, MCSCS provided the OHRC with statistics on its use of segregation from October to December 2015. This document, "Segregation Statistics: October – December 2015" is attached as Appendix A.[9] On September 14, 2016, MCSCS provided the OHRC with a technical briefing regarding the segregation statistics. The presentation delivered during the technical briefing meeting is attached as Appendix B.[10]

Services, "Segregation Statistics: October-December 2015", attached as Appendix A, at 1 [MCSCS, "Segregation Statistics"].

[5] Office of the Correctional Investigator, News Release, "Office of the Correctional Investigator Releases Administrative Segregation in Federal Corrections: 10 Year Trends - Federal Corrections Overuses Segregation to Manage Inmates" (28 May 2015), online: <http://www.oci-bec.gc.ca/cnt/comm/press/press20150528-eng.aspx>.

[6] *United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)*, GA Res 70/175, UNGAOR, 7th Sess, Supp No 106, UN Doc A/Res/70/175, (2015) at Rule 43, online: <https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf> [Mandela Rules]; *Interim Report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* (Juan E. Méndez), UN GAOR, 66th Sess, UN Doc A/66/150 (2011) at paras 76, 88, online: <https://ccrjustice.org/sites/default/files/assets/UN-Special-Rapporteur-Report-on-Solitary.pdf> [UN Special Rapporteur on Torture, "Report on Solitary Confinement"]. The OHRC notes that the Supreme Court of Canada has stated that "prohibitive rules of customary international law should be incorporated into domestic law in the absence of conflicting legislation"; see *R v Hape*, 2007 SCC 26, at para 39.

[7] Ontario Human Rights Commission, "Submission of the OHRC to the Ministry of Community Safety and Correctional Services Provincial Segregation Review", attached as Appendix D, online: <http://www.ohrc.on.ca/en/submission-ohrc-ministry-community-safety-and-correctional-services-provincial-segregation-review> [OHRC, "January 2016 Submission to MCSCS Segregation Review"].

[8] The OHRC requested data on the following: "The number of prisoners admitted into segregation in each of Ontario's jails, the rationale for admission, and the duration of segregation, all disaggregated on the following Code-grounds: sex, race, ancestry (Indigenous status), and mental health disability." The data was requested pursuant to s.31 (1) of the *Human Rights Code*, which allows the OHRC to make inquiries it believes are in the public interest and for the purpose of carrying out its functions.

[9] MCSCS, "Segregation Statistics", *supra* note 4.

[10] Ministry of Community Safety and Correctional Services, "Segregation – Technical Data Briefing" (14 September 2016), attached as Appendix B [MCSCS, "Technical Data Briefing"].

Having reviewed the statistical information provided by MCSCS, the OHRC now makes the following supplementary submission to inform the government's ongoing review of segregation.[11]

The statistics provided by MCSCS for the three-month time period of October to December 2015 reveal alarming use of segregation in Ontario's correctional facilities. On any given day, 6-8% of the prison population, or about 477-636 people,[12] are segregated. Over the 3-month period, 19% of the prisoners in Ontario's facilities – 4,178 people – were in segregation at one point or another. Of those, 38.2%, or 1,594 people, had a mental health alert on their file. Roughly 1,383 of the segregation placements were for 15 days or longer.

The statistics reveal systemic overuse of segregation, and support the OHRC's position that prisoners' rights under the *Code* are being violated. Moreover, the statistics raise concerns that MCSCS is not complying with its obligations under the *Jahn v Ministry of Community Safety and Correctional Services* (*Jahn v MCSCS*) settlement agreement dated September 24, 2013.

Given these shocking numbers, and the extent and gravity of the negative impact of segregation on vulnerable *Code*-protected groups such as people with mental health disabilities, the OHRC again calls on the government to eliminate the use of this practice. To the extent that segregation continues to be used at all in MCSCS' facilities, the statistics make the need for strict time limits and external oversight indisputable. The OHRC urges the government to act immediately on all the recommendations set out in detail in the original January 2016 submission.[13]

The statistics also underscore how critical it is for the government to collect and publicly release human rights-based disaggregated data that sheds light on what is occurring behind the closed doors of Ontario's correctional facilities. Neglecting to collect appropriate data – which when collected shows gross reliance on segregation – must not serve as a way to claim lack of awareness regarding the extent of this systemic issue—or accountability for it. To that end, the OHRC calls on the government to collect

[11] There was a subsequent meeting between the OHRC Chief Commissioner and the Minister of Community Safety and Correctional Services on September 20, 2016, wherein the OHRC advised that it would be providing supplementary submissions to MCSCS' Segregation Review and publicly releasing the segregation statistics provided by MCSCS. On October 4, 2016, the Minister of Community Safety and Correctional Services wrote to the OHRC Chief Commissioner stating that he is aware of the concerns regarding the use of segregation in Ontario correctional facilities, and is "committed to improving the use of segregation in Ontario". The October 4, 2016 letter is attached as Appendix C.
[12] MCSCS, "Technical Data Briefing", *supra* note 10 at 4. MCSCS has stated that 6 – 8% of the average midnight count is in segregation, and that the average midnight count for the 2015/2016 fiscal year is 7,952.
[13] OHRC, "January 2016 Submission to MCSCS Segregation Review", *supra* note 7.

and publicly release data on its use of segregation, disaggregated based on *Code*-protected grounds, for the 2016-2017 fiscal year, and on an annual basis going forward.[14]

SYSTEMIC RELIANCE ON AND OVERUSE OF SEGREGATION

The statistics shared by MCSCS reveal that gross reliance on and overuse of segregation are systemic issues in Ontario's correctional facilities.[15]

Systemic overuse of segregation

MCSCS provided the OHRC with statistics about its segregation use from October to December 2015. On any given day, 6-8% of the total prison population, or about 477-636 people, were in segregation.[16] Over the course of the three-month period, 21,712 people were in MCSCS custody; of them, 19.2% or 4,178 people, were in segregation at least one time.[17] Almost half of the 4,178 prisoners who were placed in segregation – 1,889 individuals – were segregated multiple times.[18]

These statistics show that there is systemic overuse of segregation in Ontario's correctional facilities. The numbers are very similar to historical trends on the use of segregation in Canada's federal corrections system, which has long been criticized for its overuse of segregation.[19] However, since April 2014, the use of administrative segregation in the federal corrections system has dropped by approximately 40%,

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[14] The Office of the Correctional Investigator receives, analyses and reports on such data with respect to the federal correctional system. There is currently no comparable oversight body for Ontario's correctional system.

[15] It is important to note at the outset that MCSCS has stated it experienced challenges with its data collection, and that as a result, its data has limitations and integrity issues. While we acknowledge the data integrity issues described by MCSCS, in the OHRC's view, they do not affect the statistics significantly enough to detract from the overall trends revealed. Indeed, the statistics show such high rates of segregation that, even factoring in possible data integrity concerns, they would nonetheless point to systemic overuse of segregation in Ontario's correctional facilities. In the interest of full transparency, all of the documents provided by MCSCS, which include MCSCS' explanations regarding the problems with its data collection, have been appended to this submission.

[16] MCSCS, "Technical Data Briefing", *supra* note 10 at 4. MCSCS has stated that the average midnight count for the 2015-2016 fiscal year is 7,952 prisoners, and that 6 – 8% of the average midnight count are in segregation.

[17] MCSCS, "Technical Data Briefing", *ibid*; MCSCS, "Segregation Statistics", *supra* note 4 at 1.

[18] MCSCS, "Technical Data Briefing", *ibid* at p 6; "Segregation Statistics", *ibid*. In both these documents MCSCS states, "Of the 4,178, 1,889 (31.1%) inmates served multiple terms in segregation…" However, 1,889 prisoners are 45.2%, not 31.1%, of 4,178 prisoners.

[19] Office of the Correctional Investigator, "Annual Report of the Office of the Correctional Investigator 2014-2015" (26 June 2015), online: <http://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20142015-eng.aspx#s15>.

making Ontario's segregation use now much higher in comparison.[20] Further, many jurisdictions which have tackled the issue seriously, including some US states, have also experienced major drops in their segregation rates.[21]

It is notable that, MCSCS' St. Lawrence Valley Correctional and Treatment Centre (SLVCTC) has one of the lowest segregation rates in the province, even though it only admits prisoners with the most serious mental health disabilities. When the OHRC Chief Commissioner visited the SLVCTC in June 2016, management commented that the segregation rates were so low compared to other MCSCS facilities, despite the high needs prisoner population, because of the facility's single-cell accommodation and its myriad of available treatment options.

Excessive duration of segregation placements

The statistics provided by MCSCS also reveal that a significant number of prisoners were subjected to segregation placements longer than 15 days, which according to United Nations' standards should be prohibited.

Table 1, below, provides a breakdown of the lengths of the 6,067 segregation placements that occurred from October to December 2015.

[20] Correctional Service Canada, "Trends in Administrative Segregation 2014 to 2016" (June 2016), online: <http://www.csc-scc.gc.ca/research/005008-rib-16-05-eng.shtml>.
[21] American Civil Liberties Union, "Briefing Paper: The Dangerous Overuse of Solitary Confinement in the United States" (August 2014), online: <https://www.aclu.org/sites/default/files/assets/stop_solitary_briefing_paper_updated_august_2014.pdf>; Leon Neyfakh, "What Do You Do With the Worst of the Worst?" *Slate* (3 April 2015), online: <http://www.slate.com/articles/news_and_politics/crime/2015/04/solitary_confinement_in_washington_state_a_surprising_and_effective_reform.html>.

Table 1: Duration of October - December 2015 Segregation Placements[22]

Duration of Segregation Placement	% of Placements	Approximate # of Placements
7 days or less	61.8%	3,749
8-14 days	15.4%	934
15-29 days	11.0%	667
1-3 months	8.7%	528
3-6 months	1.9%	115
6-12 months	1.0%	61
Over 1 year	0.2%	12

Between October and December 2015, MCSCS' average segregation placement length was 16.2 days.[23] Of the 6,067 unique segregation placements that took place over the three months, 22.8% of them were for 15 days or longer.[24]

According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and the United Nations Special Rapporteur on Torture, both prolonged and indefinite periods of segregation can amount to "torture or other cruel, inhuman or degrading treatment or punishment", and should be prohibited.[25] Prolonged segregation is defined as any period of segregation in excess of 15 days.[26]

[22] MCSCS, "Segregation Statistics", *supra* note 4 at 1; MCSCS, "Technical Data Briefing", *supra* note 10 at 8. In the presentation, MCSCS states that the placement lengths "must be used with caution because of inconsistent reporting of segregation start dates".
[23] *Ibid.*
[24] *Ibid.*
[25] Mandela Rules, *supra* note 6. The Mandela Rules use the term "solitary confinement" rather than segregation; UN Special Rapporteur on Torture, "Report on Solitary Confinement", *supra* note 6 at paras 76, 87 – 88. While the Special Rapporteur uses the term "solitary confinement" he notes in para 26 of his report that it is also known as "segregation".
[26] Mandela Rules, *ibid* at Rule 44; UN Special Rapporteur on Torture, "Report on Solitary Confinement", *ibid* at para 79.

MCSCS stated that overall, the segregation terms ranged from 1 to 939 days.[27] This means that as of December 31, 2015, at least one prisoner had been held in continuous segregation for 939 days. Given the fact that there is no judicial or other independent oversight of segregation, little is known about the circumstances of people in segregation, even in cases of such long-term placements. During both the September 14, 2016 technical briefing meeting with MCSCS and the September 20, 2016 meeting with the Minister of Community Safety and Correctional Services, the OHRC inquired about the circumstances of the prisoner segregated for at least 939 days. However, based on privacy concerns, very limited information was provided.

It is also important to note that these statistics appear to reflect the duration of the 6,067 discrete segregation *placements* – not the overall amounts of time individual prisoners have been in continuous segregation. Each segregation placement was considered a unique case; if an inmate was moved in and out of segregation, or transferred from segregation in one institution to segregation in another institution, it seems that this was counted as multiple segregation placements, with the 'clock' starting over.[28] This means that, overall, prisoners may be being held in segregation for longer, continuous amounts of time than are revealed by MCSCS' statistics.

For example, while touring the Thunder Bay Jail on October 7, 2016, the OHRC Chief Commissioner met a prisoner who seems to have been held in continuous segregation for four years – a duration not reflected in the statistics. This may be because the prisoner was transferred during this time period, resulting in the continuous segregation actually being counted as multiple placements, with the 'clock' starting over upon each transfer. Alternatively, it may indicate that this prisoner's segregation placement information was omitted from the statistical information provided to the OHRC. The OHRC is following up to try and obtain further information about the circumstances of this prisoner. The OHRC has also asked MCSCS to confirm whether there are any other cases where successive segregation placements have resulted in prisoners effectively being held in continuous segregation beyond 939 days, or other cases of segregation that are not reflected in the statistics provided.

[27] MCSCS, "Segregation Statistics", *supra* note 4 at 1; MCSCS, "Technical Data Briefing", *supra* note 10 at 8.
[28] *Ibid.*

The reasons for segregation are overwhelmingly administrative – not disciplinary

MCSCS' statistics reveal that, overwhelmingly, prisoners are being placed in administrative, rather than disciplinary segregation. This is troubling, as administrative segregation is not governed by the same procedural safeguards as disciplinary segregation, and its extensive use shows that segregation is being used by MCSCS as a routine management strategy.

Legal authority for placing a prisoner segregation

The legal authority for placing a prisoner in segregation is set out in Regulation 778, under the *Ministry of Correctional Services Act*.[29] Segregation placements fall into two categories: disciplinary segregation (also known as close confinement), and administrative segregation.

Disciplinary segregation is punitive, and can only occur when a prisoner is found to have conducted a misconduct of a serious nature.[30] Administrative segregation occurs when a prisoner is separated from the general population for reasons generally relating to safety and security. Under Regulation 778, administrative segregation can only be used when:

a) a prisoner is in need of protection;
b) to protect the security of an institution or the safety of other prisoners;
c) a prisoner is alleged to have committed a misconduct of a serious nature; or
d) a prisoner requests to be placed in segregation.[31]

MCSCS' reasons for the October – December 2015 segregation placements

Table 2, below, breaks down MCSCS' reasons for the 6,067 segregation placements from October to December 2015.

[29] *Ministry of Correctional Services Act,* RRO 1990, Reg 778 at ss 32, 34, online: <https://www.ontario.ca/laws/regulation/900778#BK12> [*Ministry of Correctional Services Act*, Regulation 778].
[30] *Ibid* at s 32 (2).
[31] *Ibid* at s 34 (1).

Table 2: MCSCS Reasons for October - December 2015 Segregation Placements[32]

MCSCS Reason for Placement	% of Placements	# of Placements
Disciplinary: Prisoner has conducted a misconduct of a serious nature	4.3%	261
Administrative: Protection of the inmate	24.2%	1,466
Administrative: Inmate needs protection for medical reasons	17.3%	1,049
Administrative: Protect the security of the institution/safety of others	6.1%	369
Administrative: Security of the institution/safety of others for medical reasons	1.8%	111
Administrative: Alleged misconduct of a serious nature	13.9%	845
Administrative: Prisoner request	4.7%	285
Multiple placement reasons	21.6%	1,311
Unknown placement reason	6.1%	370
Total	100%	6,067

The OHRC notes that MCSCS' placement reasons do not clearly correspond with the legally permissible reasons for segregation set out in Regulation 778. For example, it is questionable whether the Regulation is meant to permit placing prisoners in segregation for medical reasons. It is also concerning that MCSCS included "multiple placement

[32] MCSCS, "Segregation Statistics", *supra* note 4 at 1; MCSCS, "Technical Data Briefing", *supra* note 10 at 10.

reasons" as the basis for 21.6% of its segregation placements, without providing any further information. Finally, it is particularly worrisome that 370 segregation placements occurred for "unknown" reasons.

We also note that almost 300 of the segregation placements were made based on prisoner requests. That any prisoners, likely motivated by fear for their personal safety in the general population, would request being housed in conditions as harsh as segregation suggests few meaningful alternatives to segregation or mental health treatment options are actually being made available.

Extensive use of administrative segregation is troubling

The predominance of administrative segregation is troubling, as administrative segregation is not governed by the same due process safeguards as disciplinary segregation. Before disciplinary segregation can be used, Regulation 778 requires that prisoners must be given notice of any misconduct allegations, an opportunity to dispute the allegations (including presenting arguments, explanations, and questioning witnesses), and be provided with the reasons for the misconduct decision and disciplinary measures imposed.[33] Prisoners can request to have a misconduct decision reviewed by the Minister.[34] Importantly, Regulation 778 also prohibits the use of disciplinary segregation in excess of 30 days.[35]

In contrast, Regulation 778 imposes no time limits for administrative segregation, and no equivalent due process requirements. For administrative segregation, the Regulation does not require providing prisoners with an opportunity to dispute placement decisions, reasons, or the option of requesting placement decisions be reviewed by the Minister. Although not required by the Regulation, the OHRC does note that MCSCS policies state that prisoners in administrative segregation should be able to make submissions regarding their segregations placements to a superintendent at any time.[36]

The Regulation does, however, impose some review and reporting requirements. A superintendent must review administrative segregation placement decisions at least once every 5 days, and for any prisoner in segregation for 30 continuous days, report to the Minister on the reasons for continued segregation.[37] On top of this, the *Jahn v MCSCS* settlement imposes additional reporting requirements. *Jahn* requires that the

[33] *Ministry of Correctional Services Act*, Regulation 778, *supra* note 29, at s 31.
[34] *Ibid* at s 33.
[35] *Ibid* at s 32 (2).
[36] Ministry of Community Safety and Correctional Services, Institutional Services Policy and Procedures Manual, Placement of Special Management Inmates (22 September 2016).
[37] *Ministry of Correctional Services Act*, Regulation 778, *supra* note 29, at ss 34(3), 34(5).

reports to the Minister about prisoners who have been in segregation for 30 continuous days indicate whether the prisoner has a mental illness, and what alternatives to segregation were considered and rejected, including any treatment plans in place that may assist the prisoner in leaving segregation.[38] The *Jahn* settlement also requires notifying the Assistant Deputy Minister, Institutional Services, when any prisoner has been in segregation for a period in excess of 60 aggregate days in one year, and whether that prisoner has a mental illness.[39]

The extensive use of administrative segregation strongly suggests that segregation is not being used as a last resort, but rather, as a routine management strategy across Ontario's correctional facilities. It cannot be acceptable for the most restrictive and depriving form of incarceration legally administered in Canada – one which is otherwise imposed as a punishment – to be the default approach in situations where prisoners are sick or in need of protection.

Ontario's segregation practices must change

The statistics provided by MCSCS demonstrate that the use of segregation is an endemic issue in Ontario's correctional facilities, and that drastic action is warranted.

The shocking, systemic reliance on the practice as a default management strategy supports the OHRC's recommendation that **MCSCS publicly commit to eliminating the use of segregation**. So long as segregation remains an option in Ontario's correctional system, the OHRC believes there will not be a sufficient incentive to develop and support alternatives, and segregation will continue to be overused.

Further, the statistics also highlight that it is imperative for Ontario to act on the OHRC's recommendations to **immediately implement strict time limits on the ongoing use of segregation**, and **make segregation placement decisions subject to external and independent review and oversight, including judicial review**. The fact that, in just a three-month period, over 4,178 people were in segregation, and that almost 1,400 of these placements were long enough that they could amount to "torture or other cruel, inhuman or degrading treatment or punishment" based on United Nations' standards, signals that internal procedural safeguards are wholly insufficient to address a problem of this magnitude.

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[38] Ontario Human Rights Commission, "Segregation and mental health in Ontario's prisons: Jahn v Ministry of Community Safety and Correctional Services" at para 6, online: <http://www.ohrc.on.ca/en/segregation-and-mental-health-ontario%E2%80%99s-prisons-jahn-v-ministry-community-safety-and-correctional> [*Jahn v. MCSCS* Settlement Agreement].

[39] *Ibid.*

These OHRC recommendations, along with others, are set out in more detail in the OHRC's original January 2016 submission to MCSCS' Provincial Segregation Review. The Executive Summary of the submission is publicly available and attached as Appendix D.[40]

CONCERNS WITH *HUMAN RIGHTS CODE* COMPLIANCE

The statistics provided by MCSCS also support the OHRC's position that segregation is being used in a manner that violates prisoners' rights under the *Code*, and strongly suggest that MCSCS is not meeting its legal obligations under the *Jahn v MCSCS* settlement agreement.

Jahn v MCSCS Settlement Agreement

In 2013, the OHRC intervened as a full party in *Jahn v MCSCS*, a Human Rights Tribunal of Ontario (HRTO) application concerning a woman, Christina Jahn, with mental health disabilities and cancer, who was placed in segregation for over 200 days at the Ottawa-Carleton Detention Centre.

In September 2013, the application resulted in a settlement agreement whereby MCSCS acknowledged that segregation can have an adverse impact on prisoners with mental illness, and agreed to take major steps to address this issue. The agreement requires MCSCS, among other things, to conduct mandatory mental health screening for all prisoners, and prohibit the use of segregation for any prisoner with mental illness unless it can demonstrate and document that all alternatives have been considered and rejected as amounting to undue hardship.

The full set of public interest remedies from the *Jahn v MCSCS* settlement is publicly available and attached as Appendix E.[41]

Prisoners with mental health alerts are consistently placed in segregation

According to MCSCS' statistics, of the 4,178 prisoners placed in segregation from October to December 2015, 38.2% or 1,594 individuals, had a "mental health alert" on their file.[42]

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[40] OHRC, "January 2016 Submission to MCSCS Segregation Review", *supra* note 7.
[41] *Jahn v MCSCS* Settlement Agreement, *supra* note 38.
[42] MCSCS, "Segregation Statistics", *supra* note 4 at 1; MCSCS, "Technical Data Briefing", *supra* note 10 at 7.

MCSCS provided the following explanation regarding mental health alerts:

> Mental health alerts are applied to inmates because they represent possible management concerns. These can be based on confirmed information or observations made by any supervising Ministry staff; the presence of a mental health alert does not indicate a confirmed diagnosis of mental illness. To be included in the mental health alert category, one of the following alerts must be present: the observation of bizarre or abnormal behavior, developmental delay, current psychiatric treatment, psychiatric prescription drugs, or previous psychiatric assessment/treatment.[43]

Based on this, the OHRC understands that the group of prisoners with mental health alerts may be under-inclusive of those with mental health disabilities. This is because having a mental health disability may not result in a prisoner presenting "possible management concerns". When meeting with the OHRC, MCSCS acknowledged that there could be prisoners with mental health disabilities, such as depression or anxiety, who do not have mental health alerts on their file because they do not present management concerns.[44] Indeed, prisoners with mental health disabilities, but no mental health alerts on their files, could actually even include those who have developed mental health disabilities *as a result* of being placed in segregation.

Disproportionate use of and harm caused by segregation for prisoners with mental health disabilities

Overall, it is troubling that 38.2% of the prisoners who were in segregation had mental health alerts, as the OHRC expects there is likely considerable overlap between those with mental health alerts and disabilities.

As the OHRC described in detail in its January 2016 submission to MCSCS' Provincial Segregation Review, it is concerned that segregation is being disproportionately used on – and having particularly harmful effects for – prisoners with mental health disabilities, in violation of the *Code.*

The damaging effect of segregation on people with mental health disabilities has repeatedly been recognized. The United Nations Special Rapporteur on Torture has determined that segregation "of any duration, on persons with mental disabilities is

[43] *Ibid.*
[44] MCSCS staff stated this during the September 14, 2016 Technical Data Briefing meeting with the OHRC.

cruel, inhuman or degrading treatment".[45] Likewise, the Mandela Rules state that segregation for prisoners with mental or physical disabilities when their conditions would be exacerbated by the practice should be prohibited.[46]

MCSCS must be aware of prisoners with mental health disabilities in order to meet Code *and* Jahn v MCSCS *settlement obligations*

In order to meet its *Code* and *Jahn v MCSCS* settlement obligations, as a first and necessary step, MCSCS must be able to identify those prisoners in its care who have a mental health disability. This would allow MCSCS to accommodate those prisoners and tailor programming to meet their unique needs.

The fact that MCSCS was only able to identify the segregated prisoners that had a mental health alert on their file based on possible management concerns, rather than those with mental health disabilities, indicates that MCSCS is not meeting its obligations. If MCSCS is not identifying those individuals in the prison population that have mental health disabilities, the OHRC believes that it simply cannot demonstrate that it is taking the steps required to protect the rights of these prisoners.

According to the *Jahn v MCSCS* settlement terms, MCSCS is prohibited from placing any prisoner with mental illness in segregation unless all alternatives to segregation have been considered and rejected as amounting to undue hardship.[47] The settlement also requires documentation of all alternatives that have been considered and rejected as amounting to undue hardship.

During the June 14, 2016 technical briefing meeting, the OHRC asked whether these requirements were being met. In response, MCSCS' legal director stated that alternatives to segregation to the point of undue hardship were being considered and documented for each prisoner in accordance with the *Jahn* settlement terms.

Despite such assurances, if MCSCS is not even able to identify those prisoners that have mental health disabilities out of those who have *already* been placed in segregation, the OHRC questions how it could be possible that all alternatives were considered and rejected as amounting to undue hardship *before* any prisoners with mental health disabilities were segregated.

[45] UN Special Rapporteur on Torture, "Report on Solitary Confinement", *supra* note 6 at para 78.
[46] Mandela Rules, *supra* note 6, at Rule 45.
[47] *Jahn v MCSCS* Settlement Agreement, *supra* note 38, at paras 5, 6.

Considering alternatives to segregation to the point of undue hardship

Finally, even if MCSCS had appropriately identified all prisoners with mental health disabilities, the high percentage of prisoners in segregation with mental health alerts – almost 40% – suggests that MCSCS is not actually meeting its *Jahn v MCSCS* settlement commitment to consider all alternatives to the point of undue hardship before resorting to segregation.

Undue hardship is an extremely high threshold. In assessing whether an alternative to segregation amounts to undue hardship, the permissible considerations are costs (including outside sources of funding), and health and safety requirements.[48] With respect to costs, it is the OHRC's position that given MCSCS' size and access to resources, it would be very difficult for MCSCS to establish undue hardship on this basis.[49]

With respect to health and safety requirements, MCSCS must be able to prove, using real, direct and objective evidence, that an alternative to segregation would result in undue risk. Importantly, before assessing whether a risk would be undue, MCSCS must also have taken steps to mitigate or reduce the risk. Finally, in the OHRC's view, considering alternatives to the point of undue hardship requires MCSCS to also be assessing what alternatives it should be *developing*, such as additional single-cell accommodation and community-based secure mental health care treatment facilities. It is not sufficient for MCSCS to assert undue hardship while maintaining a status quo that fails to support any alternatives beyond segregation.

In sum, if MCSCS were assessing alternatives to segregation to the point of undue hardship in line with the standards described above, it is hard to believe that so many prisoners with mental health alerts would have been placed in segregation. While the OHRC acknowledges that MCSCS has implemented the *Jahn v MCSCS* settlement requirements at a policy level, the statistics suggest that they are not being operationalized – at great cost to the prisoners whose human rights are being violated.

To that end, the OHRC again recommends that MCSCS **implement the terms of the *Jahn v MCSCS* settlement agreement, including prohibiting the use of segregation for prisoners with mental health disabilities.**

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[48] *Human Rights Code*, RSO 1990, c H19, ss 11, 17; Ontario Human Rights Commission, *Policy on ableism and discrimination based on disability* (27 June 2016) at 51, online: <http://www.ohrc.on.ca/sites/default/files/Policy%20on%20ableism%20and%20discrimination%20based%20on%20disability_accessible_2016.pdf>.

[49] OHRC, *Policy on ableism and discrimination based on disability*, *ibid*, at 54.

NECESSITY OF HUMAN RIGHTS-BASED DATA COLLECTION

MCSCS' statistics have shed light on Ontario's high segregation rates, and the fact that the overuse of and reliance on the practice is a systemic problem in our correctional system. A critical issue with the statistics provided by MCSCS, however, is that the information regarding the use of segregation on *Code*-protected groups is sparse, and limits meaningful analysis.

Insufficient information on segregation of Code*-protected prisoners*

In making its request, the OHRC asked that MCSCS provide data regarding segregation placements, rationale and duration, all disaggregated based on the *Code*-protected grounds of sex, race, ancestry (Indigenous status), and mental health disability.

While MCSCS did provide some limited statistics regarding the race, sex and mental health alerts of the overall group of prisoners placed in segregation, no disaggregated statistics were provided relating to the breakdown of these groups with respect to segregation duration or rationale. In its response to the OHRC's request, MCSCS stated that it "does not collect most of the requested data on disaggregated code-related [*sic*] grounds".[50]

While the OHRC remains concerned about the possible disproportionate impact of segregation on Black, Indigenous, other racialized prisoners, and women, MCSCS did not provide baseline data about the representation of these *Code*-protected groups in the overall prison population, which is necessary to assess whether segregation is used disproportionately on any of them.

MCSCS must collect data on how segregation affects Code-protected prisoners

MCSCS must take steps to gather disaggregated, human rights-based data on its use of segregation that shows how this practice is affecting *Code*-protected groups.[51]

First, as described earlier in this submission, gathering such information is essential for MCSCS to assess whether it is meeting its *Code* and *Jahn v MCSCS* settlement obligations.

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[50] MCSCS, "Segregation Statistics", *supra* note 4 at 2.
[51] For detailed information about collecting human rights based data, see the OHRC's guide, *Count me in! Collecting Human Rights Based Data* (2009), online: <http://www.ohrc.on.ca/en/count-me-collecting-human-rights-based-data>.

Second, given the extent of systemic evidence about the overuse and adverse effects of segregation on *Code*-protected groups, human rights-based data collection is clearly warranted. As the OHRC describes in its *Policy and Guidelines on Racism and Racial Discrimination*, data collection is warranted in situations where there are: persistent allegations or complaints of discrimination or systemic barriers; a widespread public perception of discrimination or systemic barriers; or evidence from other organizations or jurisdictions that a substantially similar policy, program or practice has had a disproportionate effect on *Code*-protected groups.[52] All of these circumstances are present with respect to the use of segregation in Ontario's correctional facilities.

Third, it is the OHRC's long-held position that in cases where data collection is clearly warranted, the failure to collect accurate and reliable data may foreclose a respondent from making a credible defence that it did not discriminate.[53]

Fourth, not only is such data collection vital for identifying the nature and extent of any discrimination in MCSCS' use of segregation, it is also needed to inform how to address problems with segregation use, and monitor the effectiveness of any steps taken to do so. Indeed, it is hard to imagine how MCSCS will conduct an effective review of segregation without understanding who is, in fact, segregated.

In the OHRC's view, MCSCS should be able to provide data on the following:

- Overall segregation placements, duration and legal rationale;
- Segregation placements, duration and rationale disaggregated based on *Code*-protected grounds, and broken down by region and facility;
- Prisoners' aggregate segregation times, disaggregated based on *Code*-protected grounds, and broken down by region and facility; along with,
- Baseline data regarding the representation of *Code*-protected groups in the overall prison population, and broken down by region and facility.

The OHRC acknowledges that, with the release of the statistical information, MCSCS made the important commitment of "actively working to improve the way in which it collects segregation related data".[54] The OHRC asks that MCSCS provide: information about the steps it intends to take in order to improve its segregation data collection; the associated timeline; and an opportunity for stakeholders and experts to provide input and feedback on MCSCS' data collection practices.

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[52] Ontario Human Rights Commission, *Policy and Guidelines on Racism and Racial Discrimination* (9 June 2005) at 43 – 44, online: <http://www.ohrc.on.ca/sites/default/files/attachments/Policy_and_guidelines_on_racism_and_racial_discrimination.pdf>.
[53] *Ibid.*
[54] MCSCS, "Segregation Statistics", *supra* note 4 at 1.

Accordingly, the OHRC restates its recommendation that **MCSCS implement a system to collect and analyze human rights-based data on the use of segregation and its effects on *Code*-protected groups.** Moreover, the OHRC calls on the government to collect and publicly release data on its use of segregation, disaggregated based on *Code*-protected grounds, for the 2016-2017 fiscal year, and on an annual basis going forward.

Finally, while data collection on Ontario's use of segregation is essential, it is imperative to recognize that data collection is not an end it itself. MCSCS must also be accountable for addressing the significant human rights concerns facing *Code*-protected prisoners in its correctional facilities. The circumstances revealed by the statistics already available are more than sufficient to trigger the government's obligation to take immediate steps to address how its use of segregation is violating prisoners' rights under the *Code.*

APPENDIX A

Ministry of Community Safety and Correctional Services, "Segregation Statistics: October-December 2015".

APPENDIX B

Ministry of Community Safety and Correctional Services, "Segregation – Technical Data Briefing" (14 September 2016).

APPENDIX C

Letter from David Orazietti, Minister of Community Safety and Correctional Services, to Renu Mandhane, Chief Commissioner, Ontario Human Rights Commission, received October 4, 2016.

APPENDIX D

Executive Summary of the January 2016 "Submission of the OHRC to the Ministry of Community Safety and Correctional Services Provincial Segregation Review", online: <http://www.ohrc.on.ca/en/submission-ohrc-ministry-community-safety-and-correctional-services-provincial-segregation-review>.

APPENDIX E

Jahn v. Ministry of Community Safety and Correctional Services, Public Interest Remedies (24 September 2013), online: <http://www.ohrc.on.ca/sites/default/files/Jahn%20Schedule%20A_accessible.pdf>.

Appendix A

Segregation Statistics: October-December 2015

The findings below, which reports on data from October to December, 2015, reflects only this period of time and because of seasonal variations in admissions to custody, should not be generalized to comment on annual segregation trends.

The Ministry is actively working to improve the way in which it collects segregation related data.

Finding(s): From October to December 2015, there were a total of **4,178 individual inmates** who spent at least one day in segregation across the province. Some of these inmates (218) spent time in segregation at more than one institution (See Table 1), and in total, these 4,178 individuals accounted for 6,067 discreet placements in segregation. Of the 4,178, 1,889 (31.1%) inmates served multiple terms in segregation throughout the months of October to December (between 2-12 discreet terms).

Caveat(s): Totals are broken down by individual inmates placed in segregation across the province (one placement per inmate), individual inmates placed in segregation across institutions (same individual may be placed in segregation in more than one institution), and total placements (an individual inmate can be in segregation multiple times at multiple institutions).

Finding(s): Of the inmates placed in segregation, 3,674 (87.9%) were male, 454 (10.9%) were female, and 50 (1.2%) unknown. There were 1,594 inmates with a mental health alert, which represents 38.2% of all inmates in segregation. The majority of inmates in segregation declared themselves as White (56.9%, 2,378), while 13.3% (556) declared themselves as Black, and 13.1% (546) declared themselves as Aboriginal.

Caveat(s): Unknown gender is due to OTIS number entry errors. Mental health alerts are applied to inmates because they represent possible management concerns. These can be based on confirmed information or observations made by any supervising Ministry staff; the presence of a mental health alert does not indicate a confirmed diagnosis of mental illness. To be included in the mental health alert category, one of the following alerts must be present: the observation of bizarre or abnormal behavior, developmental delay, current psychiatric treatment, psychiatric prescription drugs, or previous psychiatric assessment/treatment. Ethnicity data are reliable; however, the information is self-reported and is not a mandatory field in OTIS.

Finding(s) Based on time served as of the end of December, the average number of days spent in segregation was **16.2**. More than 60% of segregation placements were for 7 days or fewer (61.8%), while 15.4% lasted between 8 and 14 days, 11.0% between 15-29 days, 8.7% between 1-3 months, 1.9% at 3-6 months, 1.0% at 6-12 months and 0.2% spending over a year in segregation. Overall, segregation terms ranged from **1** to **939** days.

Caveat(s): Time served in segregation is based on the 6,067 placements between October and December 2015. Each period of time spent in segregation was considered a unique case if the inmate was moved out of segregation, or if they transferred from one institution to another.

Finding(s): Overall, the most commonly reported reason for segregation was protection of the inmate (24.2%, 1,466), while the least common reason for was for the security of the institution/safety of others for medical reasons (1.8%, 111). Other reasons for segregation placement included multiple placement reasons (21.6%, 1,311), inmate needs protection for medical reasons (17.3%, 1,049), the inmate is alleged to have committed a misconduct of a serious nature (13.9%, 845), unknown

placement reason (6.1%, 370), to protect the security of the institution/safety of others (6.1%, 369), inmate request (4.7%, 285), and close confinement as a result of misconduct (4.3%, 261).
Caveat(s): Reasons for segregation placement are from the individual segregation placement information. Each period of time spent in segregation was considered as a unique period if the inmate was moved out of segregation, or if they transferred from one institution to another.

Table 1: Number of Individuals Placed In Segregation Institution

Location	Operational Capacity	October 1st, 2015 Count	Total Intakes[3]	Total Population Served[4]	People Placed in Segregation				% of Total Population Served
					Male	Female	Unkn.	Total	
Algoma R.T.C.	141	123	277	400	61	10	4	75	18.8%
Brantford Jail	87	83	207	290	32	0	0	32	11.0%
Brockville Jail	48	62	356	418	56	0	0	56	13.4%
Central East C.C.	1,159	992	1,747	2,739	323	16	12	351	12.8%
Central North C.C.	1,101	883	1,340	2,223	383	50	1	434	19.5%
Elgin-Middlesex D.C.	378	390	1,136	1,526	217	49	5	271	17.8%
Fort Frances Jail	22	15	50	65	10	1	1	12	18.5%
Hamilton-Wentworth D.C.	518	443	863	1,306	150	11	4	165	12.6%
Kenora Jail	159	214	455	669	44	22	1	67	10.0%
Maplehurst C.C.	984	1,036	2,895	3,931	549	2	0	551	14.0%
Milton-Vanier Centre	311	245	795	1,040	0	162	0	162	15.6%
Monteith Complex	170	122	325	447	84	14	2	100	22.4%
Niagara D.C.	250	220	538	758	144	0	0	144	19.0%
North Bay Jail	110	88	193	281	69	13	2	84	29.9%
Ontario Correctional Institute	190	144	55	199	24	0	0	24	12.1%
Ottawa-Carleton D.C.	526	513	1,330	1,843	402	11	9	422	22.9%
Quinte D.C.	229	235	558	793	186	21	4	211	26.6%
Sarnia Jail	92	69	305	374	52	10	1	63	16.8%
South West D.C.	282	235	569	804	152	21	2	175	21.8%
St. Lawrence Valley Centre	100	100	222	322	31	0	0	31	9.6%
Stratford Jail	50	46	199	245	35	0	0	35	14.3%
Sudbury Jail	117	110	459	569	104	17	1	122	21.4%
Thunder Bay C.C.	66	93	136	229	14	28	2	44	19.2%
Thunder Bay Jail	124	137	362	499	119	0	0	119	23.8%
Toronto East D.C.	368	349	686	1,035	260	0	0	260	25.1%
Toronto South D.C.	1,170	882	2,514	3,396	381	5	386	306	9.0%
No. of Inmates Place in Segregation - by Location[1]	**8,752**	**7,829**	**18,572**	**26,401**	**3,882**	**463**	**437**	**4,316**	**..**
No. of Inmates Place in Segregation - Total Province[2]	**8,752**	**7,829**	**13,883**	**21,712**	**3,674**	**454**	**50**	**4,178**	**19.2%**

1. This count is the total number of individual people placed in segregation at each institution during the period. In this count, one individual is counted only once at each institution, but if he/she has been placed in segregation at more than one institution, he/she will be counted at each of those locations.
2. This count is the total number of individual people placed in segregation across the province. Each individual is only counted once regardless of how many institutions they were in during the period.
3. To take into account people transferred between institutions, for the individual institutions, 'Total Intakes' includes both admissions and transfers between October and December 2015; for the provincial total, only admissions in the period are included in 'Total Intakes'.

Please note the following regarding the data provided:

- Data Collection/Integrity:
    - The Ministry does not collect most of the requested data on disaggregated code-related grounds.
    - It should be noted that mental health alerts are recorded in OTIS to reflect management/supervision concerns, they may be recorded by any Ministry staff supervising an inmate and the presence of a mental health alert does not necessarily reflect a diagnosis of mental illness.

- Admissions vs Average Counts
    - Total admissions and average daily counts are two different measures and are not comparable or interchangeable.
    - Based on average daily counts, approximately 6% of Ontario's inmate population is in segregation. However, the figure reported in the chart is higher because it is the percentage of the total population served that was admitted to segregation.
    - The 19.2% represents the % of individuals placed in segregation during the specified time period in comparison to the number of individuals who were in custody at the beginning of the time frame plus new admissions during the specified time period (% of total people in custody).

- Individuals
    - The 4,396 total located at the second row from the bottom "double counts" (e.g. one inmate goes into segregation at Central East Correctional Centre, then out of segregation and then back into segregation at Ottawa-Carleton Detention Centre = a count of 2). However, the bottom row indicates individual UNIQUE inmates that have gone into segregation during the specified time period.

Glossary

Offender Tracking Information System (OTIS): is the Ministry's offender database used to collect and track information on offenders under correctional supervision.

Alerts: may be added to an offender's record to identify supervision and/or management concerns. Alerts include a variety of concerns ranging from dietary and religious requirements, to non-association orders, health concerns, and high profile offences/offender indicators.

Admissions: refers to when an inmate is admitted to the institution from outside of Ministry custody.

- Transfers: refers to instances in which an inmate is transferred from one institution to another or from one institution to another location (e.g. court) and returns to the institution.

Average Counts: based on daily counts of inmates in the institution (at 12:01 AM daily) and refers to the average number of inmates housed by an institution over a period of time.

Misconducts: may also be referred to as offences in custody, is the breach of a written rule governing the conduct of the inmates. Misconducts include, but are not limited to assaults, taking another inmate's property or damaging property, contraband, breaching institutional rules, making a gross insult. Misconducts are adjudicated, and when an inmate is found guilty, the inmate may be disciplined through the use of close confinement (segregation), or the loss of earned remission, for example.

Operational Capacity: refers to institutional beds available on any given day, excluding special purpose (e.g. segregation), health, and other closed beds.

Segregation: An area designated for the placement of inmates who are to be housed separate from the general population (including the separation of an inmate from protective custody, special needs unit(s), etc.). For administrative segregation or close confinement housing, inmates are confined to their cells, limited social interaction, supervised/restricted privileges and programs, etc.

- *Administrative Segregation:* refers to the separation of an inmate (placement in segregation) from the general population (including the separation of an inmate from protective custody, special needs unit(s), etc.) where the continued presence of the inmate in the general population would pose a threat to the health or safety of any person, to property, or to the security or orderly operation of the institution. This is restricted to inmates: who are in need of protection; who must be segregated to protect the security of the institution or the safety of other inmates; who are alleged to have committed a misconduct of a serious nature; or who request to be placed in segregation.
- *Close Confinement:* The separation of an inmate (placement in segregation) from the general population (including the separation of an inmate from protective custody, special needs unit(s), etc.) where it has been determined as the result of a disciplinary proceeding that the inmate has committed a misconduct of a serious nature. (e.g., inciting/creating a disturbance likely to endanger the institution, escape or attempted escape, unlawfully at large, series assault, possession of contraband/weapon, smuggling, certain threatening behaviours).

Appendix B
Segregation – Technical Data Briefing

Presented to: Ontario Human Rights Commission

By: Correctional Services

Briefing: September 14, 2016

MCSCS

Segregation – Technical Data Briefing

Presented to: Ontario Human Rights Commission

By: Correctional Services

Briefing: September 14, 2016

Purpose

- To provide the Ontario Human Rights Commission (OHRC) with a technical briefing on the Correctional Services Segregation Statistics: October – December 2015

Segregation Counts vs. Midnight Counts

- Segregation data is captured in two formats:
  - Midnight counts – based on daily counts of all inmates at 12:01 A.M.. Used below to provide a picture of the # of individuals in custody in each institution, which is the basis for average counts.
  - Segregation counts – presented in the following slides, represent detailed information on individuals "placed" in segregation
- ***Segregation counts*** (individuals placed in segregation, counted daily) compared to total population served (individuals in custody over the same time period)
  - 4,178 individuals placed in segregation between October 1, 2015 and December 31, 2015 in comparison to 21,712 individuals served (4,178/21,712 = 19.2%)
- Number of individuals reported to be in segregation on ***Midnight counts*** (reported daily) are compared to the institutional count for that day.
  - e.g. August 31, 2016 institutional count = 7,544, segregation count = 540 (540/7,544 = 7.2%) – this percentage typically fluctuates between 6 and 8%
- Segregation admissions as a percentage of the total population served (19.2%) are not comparable to average segregation counts based on midnight counts (6-8%).

Data Sources: Midnight Counts vs. Admissions

- Midnight Counts: based on daily counts of individuals, taken at midnight in each institution, averaged over a period of time. E.g. on any given day, X inmates were in Ontario institutions
- Institutional Admissions: inmates admitted throughout a fiscal year. E.g. people through the door, like a turnstile.
- Fiscal Year 2015/16
  - Average Midnight Count 7,952
  - Institutional Admissions: 58,312 (excludes transfers)
- Like comparing apples to oranges: An average vs. a sum
  - 6-8% of average midnight count are in segregation
  - 19.2% of population served are in segregation
    - 4,178 individuals /21,712 population served=19.2%
    - Population Served: intakes + average counts on October 1, 2015
    - Average of individuals in segregation on any given day compared to all individuals already in custody on Oct 1 and passed through the turnstile from Oct 1 to Dec 31, 2015

Background

- Correctional Services began collecting detailed segregation data in April 2015. Institutions report on each individual housed in segregation nightly, segregation start date and reason(s) for segregation placement.
- The initial data collection phase experienced data integrity challenges including: incorrect reporting of Offender Tracking and Information System (OTIS) numbers, inconsistent segregation start dates, continued reporting of inmates in segregation after release from the institution, inconsistent reporting of reasons for segregation placement and of segregation beds.
- In October 2015, measures were taken to improve data collection. Measures included revising templates, working with institutions to identify segregation beds and continued monitoring of data integrity. Data integrity improved marginally. Segregation data continues to suffer from the above limitations.
- The findings that follow, which report on data from **October to December 2015**, should not be generalized to annual segregation trends due to seasonal variations in admissions to custody along with the outstanding data integrity issues.
- As a result of data insufficiencies and the timeframe that these findings represent, these data should be considered preliminary only and used with caution.

Findings and Caveats – Oct. to Dec. 2015

Finding(s):

- There were a total of **4,178 individual inmates** who spent at least one day in segregation across the province. Some of these inmates (218) spent time in segregation at more than one institution (See Table 1), and in total, these 4,178 individuals accounted for 6,067 discreet placements in segregation. Of the 4,178, 1,889 (31.1%) inmates served multiple terms in segregation throughout these months (between 2-12 discreet terms).

Caveat(s):

- Totals are broken down by individual inmates placed in segregation across the province (one placement per inmate), individual inmates placed in segregation across institutions (same individual may be placed in segregation in more than one institution), and total placements (an individual inmate can be in segregation multiple times at multiple institutions).

Findings and Caveats – Oct. to Dec. 2015 (cont'd)

Finding(s):

- Of the inmates placed in segregation, 3,674 (87.9%) were male, 454 (10.9%) were female, and 50 (1.2%) unknown. There were 1,594 inmates with a mental health alert(s), which represents 38.2% of all inmates in segregation. The majority of inmates in segregation declared themselves as White (56.9%, 2,378), while 13.3% (556) declared themselves as Black, and 13.1% (546) declared themselves as Aboriginal.

Caveat(s):

- Unknown gender is due to OTIS number entry errors. Mental health alerts are applied to inmates because they represent possible management concerns. These can be based on confirmed information or observations made by any supervising Ministry staff; the presence of a mental health alert does not indicate a confirmed diagnosis of mental illness. To be included in the mental health alert category, one of the following alerts must be present: the observation of bizarre or abnormal behavior, developmental delay, current psychiatric treatment, psychiatric prescription drugs, or previous psychiatric assessment/treatment. Ethnicity data are reliable; however, the information is self-reported and is not a mandatory field in OTIS.

Findings and Caveats – Oct. to Dec. 2015 (cont'd)

Finding(s):

- Based on time served as of the end of December, the average number of days spent in segregation was **16.2**. More than 60% of segregation placements were for 7 days or fewer (61.8%), while 15.4% lasted between 8 and 14 days, 11.0% between 15-29 days, 8.7% between 1-3 months, 1.9% at 3-6 months, 1.0% at 6-12 months and 0.2% spending over a year in segregation. Overall, segregation terms ranged from **1** to **939** days.

Caveat(s):

- Time served in segregation is based on the 6,067 placements between October and December 2015. Each period of time spent in segregation was considered a unique case if the inmate was moved out of segregation, or if they transferred from one institution to another. These lengths must be used with caution because of inconsistent reporting of segregation start dates. In many cases, different segregation start dates were reported for the same inmate, even though the inmate was reported as being in segregation for several days in a row. In such cases, data validation is attempted through OTIS, but discrepancies often exist between OTIS housing data and the daily segregation reporting.

Findings and Caveats – Oct. to Dec. 2015 (cont'd)

Finding(s):

- Inmates admitted to segregation represented 19.2% of the total population served in the three month period. Total population served includes inmates who were in custody on October 1st, 2015, plus the number who were admitted (21,712) between October 1st and December 31st, 2015.

Caveat(s):

- In order to accurately capture the number of inmates served by individual institutions, the number of transfers in to each institution has to be included in the total population served figures for each institution.

Findings and Caveats – Oct. to Dec. 2015 (cont'd)

Finding(s):

- The most commonly reported reason for segregation was protection of the inmate (24.2%, 1,466), while the least common reasons were: for the security of the institution/safety of others for medical reasons (1.8%, 111), multiple placement reasons reported (21.6%, 1,311), inmate needs protection for medical reasons (17.3%, 1,049), inmate is alleged to have committed a misconduct of a serious nature (13.9%, 845), unknown placement reason (6.1%, 370), to protect the security of the institution/safety of others (6.1%, 369), inmate request (4.7%, 285), and close confinement as a result of misconduct (4.3%, 261).

Caveat(s):

- Reasons for segregation placement are from the individual segregation placement information. Each period of time spent in segregation was considered as a unique period if the inmate was moved out of segregation, or if they transferred from one institution to another. The reporting of segregation placement reason is inconsistent. For example, at the initial placement, the placement reason may have been for the inmate's own protection. This same inmate may remain in segregation for several days, and on a subsequent report, the placement reason may have changed. While the reporting of multiple reasons may have been legitimate, the information cannot be confirmed and should be used with caution.

Table 1: Number of Individuals placed in Segregation by Institution

Location	Operational Capacity	October 1st, 2015 Count	Total Intakes[3]	Total Population Served[4]	People Placed in Segregation				% of Total Population Served
					Male	Female	Unkn.	Total	
Algoma R.T.C.	141	123	277	400	61	10	4	75	18.8%
Brantford Jail	87	83	207	290	32	0	0	32	11.0%
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No. of Inmates Place in Segregation - by Location[1]	**8,752**	**7,829**	**18,572**	**26,401**	**3,882**	**463**	**437**	**4,316**	**..**
No. of Inmates Place in Segregation - Total Province[2]	**8,752**	**7,829**	**13,883**	**21,712**	**3,674**	**454**	**50**	**4,178**	**19.2%**

1. This count is the total number of individual people placed in segregation at each institution during the period. In this count, one individual is counted only once at each institution, but if he/she has been placed in segregation at more than one institution, he/she will be counted at each of those locations.
2. This count is the total number of individual people placed in segregation across the province. Each individual is only counted once regardless of how many institutions they were in during the period.
3. To take into account people transferred between institutions, for the individual institutions, 'Total Intakes' includes both admissions and transfers between October and December 2015; for the provincial total, only admissions in the period are included in 'Total Intakes'.
4. 'Total Population Served' is the total number of people in the institutions between October and December 2015, including those people in custody on October 1st, ***plus*** those admitted between October 1st and December 31st, 2015.

Ministry of Community Safety and Correctional Services

Office of the Minister

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Ontario

MC-2016-2055
By e-mail

Ms. Renu Mandhane
Chief Commissioner
Ontario Human Rights Commission
900 – 180 Dundas Street West
Toronto ON M7A 2R9
shiro.wijayaratnam@ohrc.on.ca

Dear Ms. Mandhane:

Thank you for your letter regarding your request for disaggregated data on the use of segregation in Ontario correctional institutions. It was a pleasure meeting with you recently to discuss your request and the data that was provided to you. I trust that the technical briefing you received from ministry staff beforehand was helpful to orient you to the information and its limitations and to gain a greater understanding of some of our practices.

Let me assure you, as Minister of Community Safety and Correctional Services, I am aware of the concerns regarding the use of segregation in Ontario correctional facilities. I look forward to continuing our work with the Ontario Human Rights Commission (OHRC) and am committed to improving the use of segregation in Ontario.

I appreciate receiving your letter including previously submitted materials on segregation from the OHRC. Your contribution to the comprehensive segregation review our ministry is undertaking is respected and valued. As directed by Premier Kathleen Wynne in my new mandate letter, we are seeking to make operational updates to ministry policies on the use of segregation in the fall of 2016.

The segregation review is part of a larger transformation of Ontario's correctional services to address systemic issues and create a system that truly improves inmate and staff safety, enhances rehabilitation and reintegration services, and improves mental health supports. Since 2013, 1,136 new correctional officers have been deployed to facilities across the province. As staffing remains a priority, we are continuing to hire more as part of our commitment to hire 2,000 correctional officres over three years. We have also worked closely with the Centre for Addition and Mental Health to develop and deliver additional mental health training for those who work in our institutions in order to address the complex needs of the inmates in our care.

Transforming Ontario's correctional system is a top priority of mine, and this work has already started in several key areas. This includes modernizing and updating our infrastructure, embedding human rights principles and Indigenous peoples' perspectives in our employment and service delivery, and ensuring our policies and procedures reflect the latest evidence-based approaches. The transformation of correctional services will continue to build on these and other initiatives as we move forward.

..../2

Thank you again for your letter and your kind words on my recent appointment.

Sincerely,

David Orazietti
Minister

Ontario Human Rights Commission
Commission ontarienne des droits de la personne

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Submission of the Ontario Human Rights Commission to the Ministry of Community Safety and Correctional Services' Provincial Segregation Review

EXECUTIVE SUMMARY

The Ontario Human Rights Commission (OHRC) welcomes the opportunity to make a submission to the Ministry of Community Safety and Correctional Services' (MCSCS) review of the use of segregation in its correctional facilities.

The OHRC is concerned that segregation is being used in a manner that violates prisoners' rights under Ontario's *Human Rights Code*. As a result, the OHRC is calling upon MCSCS to end this practice and, in the meantime implement interim measures, including strict time limits and external oversight, to reduce the harm of segregation on vulnerable prisoners.

About the *Human Rights Code* and Ontario Human Rights Commission

Ontario's *Human Rights Code* is a provincial law that protects people from discrimination because of protected grounds including race, creed, sex, sexual orientation, gender identity, and disability. Discrimination can occur in different ways, including when people are treated differently because of a characteristic protected by the *Code*, or when practices or policies appear neutral but have harmful effects for certain groups.

The OHRC is a provincial statutory agency responsible for advancing the *Code* and preventing systemic discrimination in Ontario. The OHRC is working to address discrimination in Ontario's correctional system. In 2013, the OHRC intervened as a full party in *Jahn v. Ministry of Community Safety and Correctional Services*, a human rights case brought by Christina Jahn, who alleged that she was held in segregation for over 200 days because of having mental health disabilities. The parties agreed to a major settlement agreement requiring MCSCS to take steps to improve its treatment of prisoners with mental health disabilities. The settlement includes mental health screening for all prisoners when they are admitted and prohibiting segregation for prisoners with mental health disabilities barring undue hardship. The settlement implementation is ongoing, and the OHRC recommends that the settlement efforts be coordinated with the MCSCS' Provincial Segregation Review.

What is segregation?

The OHRC uses the term segregation (also known as solitary confinement) to describe the physical and social isolation of a prisoner, with high surveillance and minimal stimulation, for up to 23 hours per day.

The federal Office of the Correctional Investigator has described segregation as the "most austere and depriving form of incarceration that the state can legally administer in Canada".[1]

Some prisoners are officially placed in disciplinary or administrative segregation. However the OHRC believes other prisoners are put in the same types of units and under the same conditions as those in segregation, but that other terms, such as "protective custody" and "special needs units" are being used to categorize the placements. The OHRC's comments on segregation apply to the range of situations – disciplinary, administrative and otherwise – that can result in a prisoner being placed in segregation or comparable circumstances. What matters is the lived experience on the prisoner, not the label applied to the practice by correctional authorities.

How is segregation violating prisoners' rights under the *Human Rights Code*?

We believe the current use of segregation in Ontario's correctional facilities may be violating prisoners' rights under the *Code*. In particular, the OHRC is concerned that segregation is disproportionately used on, and has particularly harmful effects for, *Code*-protected groups such as Black and Indigenous prisoners, prisoners with mental health disabilities, and women. Racialized prisoners and those with mental health disabilities are already over-represented in the prison population, which many have attributed to systemic discrimination within the criminal justice system.[2]

There is data indicating that segregation is overused on certain racialized groups such as Black and Indigenous prisoners. The Commission on Systemic Racism in the Ontario Criminal Justice System reported racial disparities in the application of institutional

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[1] Office of the Correctional Investigator, News Release, "Office of the Correctional Investigator Releases Administrative Segregation in Federal Corrections: 10 Year Trends - Federal Corrections Overuses Segregation to Manage Inmates" (28 May 2015), online: http://www.oci-bec.gc.ca/cnt/comm/press/press20150528-eng.aspx [Office of the Correctional Investigator, News Release, "Federal Corrections Overuses Segregation"].

[2] Ontario Human Rights Commission, *Policy and guidelines on racism and racial discrimination* (2005) at p. 32, online: http://www.ohrc.on.ca/en/policy-and-guidelines-racism-and-racial-discrimination; Ontario Human Rights Commission, "Minds that matter: Report on the consultation on human rights, mental health and addictions" (2012) at p. 106, online: http://www.ohrc.on.ca/en/minds-matter-report-consultation-human-rights-mental-health-and-addictions; *R. v. Parks* (1993), 15 O.R. (3d) 324 (C.A.) at paras. 40-54.

discipline, including disciplinary segregation, in Ontario's correctional facilities.[3] Recent data from the federal Office of the Correctional Investigator also found that "Black inmates are consistently over-represented in administrative segregation, particularly involuntary and disciplinary placements" and that "Aboriginal inmates continue to have the longest average stay in segregation compared to any other group."[4]

There are many people with mental health disabilities in Ontario's prisons. We are concerned that a lack of institutional housing options, appropriate staffing and prejudice towards people with disabilities, has led to an overreliance on segregation as a means to manage people with mental health disabilities. Segregation is especially harmful for this group as it can make mental health conditions much worse. The United Nations Special Rapporteur on Torture has concluded that solitary confinement "of any duration, on persons with mental disabilities is cruel, inhuman or degrading treatment" and called for a ban on solitary confinement for people with mental health disabilities.[5]

Women prisoners are also particularly affected by the use of segregation. While more women prisoners are identified as having mental health disabilities than men prisoners, access to mental health services is more limited for women, making them vulnerable to being placed in segregation. Federal corrections data reveals a disproportionate use of segregation on women with mental health disabilities.[6] Segregation has also been shown to have a distinctly adverse effect on women with mental health disabilities, as they have often been victims of violence and coercion, and are re-traumatized when placed in segregation.[7]

The OHRC's Recommendations

Given the extent and gravity of the negative impact of segregation on groups protected by the *Code*, the OHRC calls on MCSCS to eliminate the use of this practice. If MCSCS continues to use segregation, even in the interim, protections – including strict time limits and external oversight – must be put into place to reduce the discriminatory

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[3] Margaret Gittens et al., *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System* (Toronto: Queen's Printer for Ontario, 1995) at p. 313.
[4] Office of the Correctional Investigator, News Release, "Federal Corrections Overuses Segregation", *supra* note 1.
[5] *Interim Report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* (Juan E. Méndez), UN GAOR, 66th Sess., UN Doc. A/66/150 (2011) at paras. 78, 86. While the Special Rapporteur uses the term "solitary confinement" he notes in para. 26 of his report that it is also known as "segregation".
[6] Office of the Correctional Investigator, News Release, "Federal Corrections Overuses Segregation", *supra* note 1.
[7] OPTIMUS | SBR, "Facility and Service Delivery Options, Analysis and Recommendations Report" (24 March 2015) at p. 36. This report was prepared by OPTIMUS | SBR for the MCSCS in order to meet the *Jahn v. MCSCS* settlement commitment to prepare a report assessing how to best serve female inmates with mental health issues.

application of this practice and its harm on *Code* protected groups. Failure to take such steps would be of serious concern to the OHRC.

The OHRC recommends that MCSCS do the following in order to eliminate the use of segregation, and in the interim, the negative effects of this practice on *Code*-protected groups:

RECOMMENDATIONS

1. Publicly commit to eliminating the use of segregation;

2. Immediately implement strict restrictions on the ongoing use of segregation;

3. Continue to implement the terms of the *Jahn v. MCSCS* settlement, including prohibiting the use of segregation for prisoners with mental health disabilities;

4. Ensure that all prisoners being housed in conditions comparable to segregation, but categorized differently, benefit from the same rights and protections available to those officially placed in segregation;

5. Develop and implement meaningful alternatives to segregation, consistent with least restraint practices and MCSCS' duty to accommodate prisoners' *Code*-related needs to the point of undue hardship;

6. Adjust staffing models, and staff hiring, screening and training to ensure that staff with appropriate attitudes and behavioural skills are working with vulnerable prisoner populations;

7. Make segregation placement decisions and healthcare assessments subject to external and independent review and oversight, including judicial review;

8. Ensure all prisoners and their legal representatives are given relevant information about and a genuine opportunity to challenge both the nature of and justification for segregation placements;

9. Implement a system to collect and analyze human rights-based data on the use of segregation and its effects on *Code*-protected groups; and

10. Provide stakeholders and experts with an opportunity to review and publicly comment on any proposed changes to segregation practices and how they will be implemented.

SCHEDULE "A"

IN THE MATTER OF

CHRISTINA NADINE JAHN v HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES

BEFORE THE HUMAN RIGHTS TRIBUNAL OF ONTARIO

September 24, 2013

PUBLIC INTEREST REMEDIES

WHEREAS medical care in Ontario correctional facilities is provided by consent and no medical assessment or treatment can be provided by the Respondent unless an inmate, or a substitute decision maker, where applicable, consents to the provision of medical care;

AND WHEREAS the parties recognize and acknowledge that medical decisions regarding appropriate assessment and treatment options for inmates must be made by qualified professionals according to their own judgment and professional standards;

AND WHEREAS no party to this agreement shall be liable for failing to perform, or delaying the performance of, the terms of this agreement in the event that such failure is caused by events outside of the parties' control, including, but not limited to, labour disruptions at the Respondent Ministry;

AND WHEREAS "inmate" refers to all incarcerated individuals, including both remanded and sentenced individuals;

Facilities

1. The Ministry commits to completing a report within 18 months on how best to serve female inmates with major mental illness. A copy of this report will be provided to the Commission.

   This report will be prepared in consultation with a mental health expert and will consider various options for female inmates with major mental illness including, among other things, the viability of: building a secure treatment facility for women of a comparable nature to that provided to male offenders at the SLVCTC; creating secure treatment units for inmates with major mental illness in existing facilities; and incorporating a secure treatment unit for inmates with a major mental illness into all new correctional facilities built on or after 2014. All options considered will include the provision of 24/7 medical supervision, and require

decisions about the treatment and movement of inmates with major mental illness to be made in consultation with health care providers. The report will be evidence-based and will include recommendations.

The Ministry will commit to implementing the report's recommendations within a further period of 18 months. In the event the Ministry does not implement specific recommendations, it will provide a detailed written rationale to the Commission.

Screening

2. The Ministry will ensure that all inmates are screened for mental health issues on admission to a correctional facility.

   The Ministry commits to establishing mental health screening, using an evidence-based, gender-responsive screening tool approved by a correctional psychiatrist, of all inmates upon admission to all provincial correctional facilities within 18 months. A copy of the mental health screening tool will be provided to the Commission.

   The Ministry will provide training on the mental health screening tool to all corrections staff who will be using the tool and will implement the use of the tool at all provincial correctional facilities within 24 months.

   The Ministry has advised that it is currently piloting mental health screening using a gender-responsive, evidence-based screening tool in several selected facilities. The Ministry will commit to continuing to use this form of mental health screening until it establishes and implements mental health screening, using an evidence-based, gender-responsive screening tool approved by a correctional psychiatrist, for all inmates upon admission to all provincial correctional facilities, as required above. Information gathered during this pilot will inform the implementation of the screening tool that is ultimately established.

   The Ministry will ensure that a physician conducts an assessment of all inmates who screen positive for mental health issues as soon as possible upon admission to all corrections facilities, and determines whether a further referral to a psychiatrist is necessary.

   The Ministry will continuously reassess inmates using the mental health screening tool, and will commit to mental health professionals following up with inmates who have a mental health care need.

Access to mental health services

3. The Ministry will complete a review of its psychiatric physician contracts within 6 months to ensure adequate sessions are funded and available to address the needs of inmates in all provincial correctional facilities at the earliest and most appropriate opportunity. The review will include an assessment utilizing interviews with health care staff and physicians, a review of waiting lists and waiting list times, and a review of alerts in the Ministry's Offender Tracking Information System ("OTIS").

4. For those inmates who screen positive for mental health issues through the aforementioned gender-responsive, evidence-based, mental health screening tool, a physician will develop an appropriate treatment plan. This treatment plan may be developed in consultation with mental health professionals. The treatment plan will be: accessible to all inter-professional team members involved in the case; identify the issues and goals, including addressing behavioural issues, illness, etc.; outline interventions; identify who is responsible for treatment and interventions; and set out how the treatment plan will be implemented. The Ministry agrees that amendments to or variance from the treatment plan can only be made in consultation with a primary care physician or a psychiatrist, as appropriate.

   Those inmates with a major mental illness will be referred as soon as possible to a psychiatrist, who will develop an appropriate treatment plan. The treatment plan will: be accessible to all inter-professional team members involved in the case; identify the issues and goals, including addressing behavioural issues, illness, etc.; outline interventions; identify who is responsible for treatment and interventions; and set out how the treatment plan will be implemented. The Ministry agrees that amendments to or variance from the treatment plan for inmates with a major mental illness can only be made by a psychiatrist. Inmates with a major mental illness will also be assessed on an ongoing basis, as medically required in order to meet the requisite standard of care, by a psychiatrist.

   In addition to psychiatrists, inmates will also be referred to other mental health resources as required to support the inmate where appropriate. The program personnel engaged in discharge planning will also be advised at the earliest opportunity to begin planning for the inmate's return to the community.

Segregation

Disciplinary Segregation [Disciplinary segregation includes close confinement]

5. The Ministry will promptly amend the Inmate Management Policy on Discipline and Misconduct to require staff to:

a. take mental health considerations into account as a mitigating factor in cases of misconduct;
b. consult with a mental health professional to see if therapeutic alternatives are available before making a decision in accordance with the procedure set out in sections 31 and 32 of RRO 1990, Reg 778, regulation under the *Ministry of Correctional Services Act*, with respect to an allegation of misconduct on the part of an inmate with mental illness;
c. not use segregation to discipline inmates with mental illness, unless the Ministry can demonstrate that alternatives to segregation have been considered and rejected because they would cause an undue hardship (including for reasons related to security and/or health and safety concerns); and,
d. notify the Assistant Deputy Minister, Institutional Services, when any inmate has been in segregation in excess of 60 aggregate days in a year, and will indicate if the inmate has a mental illness.

The Ministry will provide the Commission with a copy of the amended Inmate Management Policy on Discipline and Misconduct.

Within 12 months the Ministry will, in consultation with a mental health expert, complete a review of its policies and practices regarding institutional misconduct handling to ensure the issues relating to inmates with mental health concerns are addressed in accordance with the Human Rights Code. The Ministry will provide the Commission with a copy of the review and advise of any changes it will make to its policies and practices regarding institutional misconduct handling as a result of the review.

Administrative Segregation [Administrative segregation includes all other forms of segregation other than disciplinary segregation]

6. The Ministry will amend its segregation policies to state that segregation for inmates with mental illness shall not be used unless the Ministry can demonstrate alternatives to segregation have been considered and rejected because they would cause an undue hardship (including for reasons related to security and/or health and safety concerns). The Ministry recognizes that segregation can have an adverse impact on inmates with mental illness.

   The Ministry will continue to review the circumstances of inmates who are placed in segregation at least once every five days and again after a period of 30 continuous days in segregation. For inmates with mental illness, the Ministry shall document in the segregation reviews what alternatives have been considered and rejected, including whether a treatment plan is in place that may assist the inmate in leaving segregation. The Ministry will commit to notifying the Assistant Deputy Minister, Institutional Services, when any inmate has been in segregation for a period in excess of 60 aggregate days in one year, and will indicate if the inmate has a mental illness.

Any report to the Minister under section 34(5) of RRO 1990, Reg. 778 under the *Ministry of Correctional Services Act* of the reasons for an inmate to be in continuous segregation for over 30 days will indicate if the inmate has a mental illness, and shall document what alternatives have been considered and rejected, including whether a treatment plan is in place that may assist the inmate in leaving segregation.

The Ministry will complete a review, in consultation with mental health expert, of its policies and practices regarding the management of inmates housed in segregation, with a focus on the management of mentally ill inmates, within 12 months. The Ministry will provide the Commission with a copy of this review.

Assessment and access to mental health services for inmates in segregation

7. When an inmate with mental health issues is placed in segregation, the Ministry will provide or offer to provide a baseline assessment by a physician, who will determine what, if any, changes are required to the inmate's treatment plan. For inmates with a major mental illness, the Ministry will provide or offer to provide a baseline assessment by a psychiatrist, who will determine what, if any, changes are required to the inmate's treatment plan.

   The Ministry agrees that a physician will, subject to the inmate's consent, conduct an assessment of an inmate prior to each 5-day segregation decision/review. For inmates with a major mental illness, the Ministry agrees that a psychiatrist will, subject to the inmate's consent, conduct an assessment of an inmate prior to each 5-day segregation decision/review.

   The Ministry will ensure that all inmates in segregation are offered individualized mental health services as appropriate on an ongoing basis.

Mental health training

8. The Ministry is committed to delivering a training program on mental health issues to its front line staff and managers.

   The Ministry has completed a pilot training program and will consult with the Commission and mental health professionals regarding the next steps in that pilot program.

   The Ministry will implement a training program that specifically addresses the following:

a. human rights obligations and the need to accommodate inmates with mental illness;
b. identifying barriers that are the symptoms of mental illness;
c. the impact of punitive measures, such as the use of force and segregation, on inmates' mental illness; and,
d. the specific needs of particularly vulnerable inmate populations with mental illness.

Whereas the Ministry has advised that the process for delivering this training program will take some time to complete given the size of the Ministry, and the need to consult with its bargaining agent, the Ministry will commit to delivering this training within 24 months.

Inmate Handbook

9. The Ministry will, within 12 months, review and revise its Inmate Handbook to reflect the rights and responsibilities of inmates, with specific reference to rights of inmates set out in section 34 of RRO 1990, Reg. 778 under the *Ministry of Correctional Services Act*, as well as Ministry policies (including those related to discipline and misconduct and/or administrative segregation, conditions of confinement, health care, and making complaints). This will be done in coordination with the review of its policies and procedures regarding institutional misconduct handling and the management of inmates housed in segregation. The Inmate Handbook will be posted on the Ministry's public website, will be made accessible to all inmates, and will be proactively offered to inmates who are subject to disciplinary or administrative segregation.

Statistical Reporting

10. The Ministry will prepare a statistical report concerning the number of female inmates at the Ottawa Carleton Detention Centre placed in segregation for 30 continuous days and/or in excess of 60 aggregate days in one year and the reason(s) for each placement. This report will be provided to the Commission once annually for a period of 3 years commencing from the introduction of a revised OTIS, currently scheduled to be implemented in Spring 2014.