

## **Ombudsman calls for clear new law, strong oversight of inmate segregation**

### **Ministry agrees to address all recommendations for reform**

(TORONTO – April 20, 2017) Ontario Ombudsman Paul Dubé today called on the province to reform its flawed system of placing and tracking inmates in solitary confinement, after his latest investigation revealed numerous issues putting vulnerable people at risk.

The Ministry of Community Safety and Correctional Services has repeatedly pledged to restrict and review how it segregates inmates in provincial correctional facilities, but its progress has been “slow and incomplete,” Mr. Dubé says in his new report, *Out of Oversight, Out of Mind*.

Segregation must be clearly defined, strictly limited, rigorously tracked and publicly reported, Mr. Dubé says in the report's 32 recommendations.

The Ombudsman's investigation found that many inmates are not only held in segregation much longer than 15 days – which the United Nations considers to be “cruel, inhuman and degrading” – but that many such placements are not properly tracked or reviewed.

As a result, the Ministry could not produce reliable statistics on segregation placements, much less verify that every one was justified, notes Mr. Dubé, whose office first alerted the Ministry to similar problems four years ago.

The Ombudsman's office receives about 4,000 complaints about correctional facilities each year. Between April 1, 2013 and March 31, 2017, it received 827 complaints about segregation. Although the Ministry resolved several individual cases and pledged a “comprehensive review” of segregation policy in 2015, complaints continued to rise, says Mr. Dubé, who also made recommendations for reforms during the Ministry's spring 2016 consultations on the issue.

In October 2016, after Ontario's Chief Human Rights Commissioner discovered during a visit to Thunder Bay Jail that inmate Adam Capay, 24, had been in segregation for more than four years, but not reflected in Ministry statistics, the Ombudsman sent investigators to look into his circumstances.

“What they found was greatly concerning, and together with the high volume of complaints we had received, confirmed that the use of segregation remained a serious, systemic issue,” says Mr. Dubé, who announced the broader investigation in December 2016. “After years monitoring this issue and watching the Ministry initiate serial reviews, the time for incremental change and further study was over.”

Ombudsman investigators visited four correctional facilities across the province, interviewed dozens of officials as well as inmates and other stakeholders, and reviewed policies and practices in other jurisdictions.

Among the key issues they identified:

- Ontario policy doesn't clearly define "segregation," but describes it as an "area" where inmates are placed, rather than the conditions of their confinement.
- The definitions of "continuous" and "segregation" vary between facilities, resulting in inaccurate tracking of the placements of inmates who are transferred between facilities
- Correctional staff struggle with a confusing, duplicative system of data entry, meaning inmate files often contain errors that aren't caught.
- Many of those in segregation have mental health issues and developmental disabilities, but corrections officials don't have more appropriate options for housing them.
- Inaccurate data results in inmates being lost in the system, deprived of the oversight to which they are entitled, because their placements aren't reviewed as required.
- Reviews that are done at the Ministry level are often superficial.

"Theoretically, an inmate should only be placed in segregation as a last resort after every other option has been exhausted. In practice, the policy requirements are often ignored," Mr. Dubé says in the report. For example, since September 2015, whenever any inmate is in segregation for more than 60 days over a 12-month period, a detailed report is supposed to be sent to senior Ministry staff, identifying any potential adverse effects on the inmate. The Ombudsman's investigation revealed no such report had ever been done.

Along with codifying the definition of "segregation" in legislation, the Ombudsman makes several recommendations to improve resources, training and technology for tracking inmate placements, and to allow for data on segregated inmates to be analyzed and published annually. He also reiterates his recommendation, first made in May 2016, that the Minister establish an independent panel to review all segregation placements.

"External observers, removed from correctional culture, would be able to apply the segregation criteria objectively and ensure that segregation is truly being used only as a last resort," Mr. Dubé argues.

The Ombudsman's report includes a response from the Ministry, setting out how it has responded to each recommendation so far; it has agreed to report back to the Ombudsman every six months on its progress. Mr. Dubé also shared his report with Mr. Howard Sapers, the former Correctional Investigator of Canada, whom the Ministry appointed in November 2016 to conduct an independent review of the use of segregation and the correctional system.

For the full report, backgrounders and video of the Ombudsman's news conference, go to [www.ombudsman.on.ca](http://www.ombudsman.on.ca).

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