

Out of Oversight, Out of Mind – Facts & highlights

By the numbers – Ministry of Community Safety and Correctional Services

Number of provincial adult correctional facilities: **26**

Number of inmates: About **8,000**

Number in segregation: About **560**

Types of segregation:

Administrative (non-disciplinary): No time limit; inmates are supposed to have same basic rights and privileges as those not in segregation.

Close confinement (disciplinary): Limited (as of October 2016) to 15 consecutive days; inmates should have same basic rights, but can lose privileges for misconduct

Inmates in continuous administrative segregation for 30+ days in 2015-2016 (Ministry stats):

- 52% requested segregation
- 33% required protection
- 13% were segregated for security reasons
- 2% were segregated for alleged misconduct

“Mandela Rules” regarding solitary confinement – UN Standard Minimum Rules on the Treatment of Prisoners, May 2015:

- “In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment.”
- Indefinite and prolonged solitary confinement should be prohibited.
- Solitary confinement is “confinement of prisoners for 22 hours or more a day without meaningful human contact”
- Prolonged solitary confinement is “in excess of 15 consecutive days.”
- “Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority.”
- “The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures.”

Complaints to Ombudsman about segregation:

827 in past 4 fiscal years (740 prior to launch of this investigation, 87 more after)

- 2013-2014 – 146
- 2014-2015 – 225
- 2015-2016 – 186
- 2016-2017 – 270

Ombudsman investigation:

- **36** interviews
- **10,000** documents reviewed
- **4** facilities visited (Central East Correctional Centre, Elgin-Middlesex Detention Centre, Thunder Bay Jail, Vanier Centre for Women)
- **32** recommendations



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Key dates:

2013: Ministry committed to review segregation in wake of human rights ruling

March 2015: Ministry begins consultations on segregation and review

May 2016: Ombudsman submission to Ministry consultation (28 recommendations)

October 2016: Adam Capay's four-year segregation placement revealed; Ministry conducts review of all placements of 365+ days (19 people – 12 out of segregation by February 2017); Ministry announces 15-day cap on disciplinary segregation.

November 2016: Ministry appoints former federal prison ombudsman Howard Sapers to conduct independent review

December 2, 2016: Ombudsman launches investigation

April 7, 2017: Ministry agrees to address all of Ombudsman's recommendations

Required reviews of segregation placements:

First 24 hours: Review by superintendent, inmate advised of reasons and duration

Every 5 days: Superintendent must review full circumstances to determine whether continued segregation is justified

Every 30 days: Review by superintendent, reviewed by regional director; regional report also sent to Assistant Deputy Minister, to be reported to Deputy Minister

60 aggregate days: Superintendent should report to regional director on whether inmate has mental illness, developmental or physical disability; also should be reported to Assistant Deputy Minister (our investigation found 60-day reports did not occur)

Ombudsman recommendations – the Ministry should:

- Within the next six months, enshrine a new definition of segregation in legislation, covering all inmates in segregation-like conditions, in accordance with international standards (inmates confined to cells 22 hours a day or more).
- Consult and train correctional staff on the new definition, and provide adequate resources and tools to track placements accurately – including “continuous” segregation when inmates are transferred between units and institutions.
- Ensure the tracking system alerts front-line managers when required reviews for inmates are due (every 5 and 30 days, and after 60 days within one year).
- Create an independent panel to review all segregation placements, and place the onus on the Ministry to show that each placement is justified.
- Ensure that, in every case, segregation is only used as a last resort.
- Make anonymized segregation data available to the public; collect and analyze statistics on the use of segregation, including inmates' race, gender, mental health status, etc., and report results to the public annually.
- Report back to the Ombudsman every six months on its progress.