



ONTARIO'S WATCHDOG
CHIEN DE GARDE DE L'ONTARIO

Out of Oversight, Out of Mind **Opening Remarks – Paul Dubé**

Thank you all for joining us today for the release of our report on the use of segregation in Ontario correctional facilities.

Our investigation has found serious problems with the use of segregation in Ontario.

The first problem is that the Ministry does not operate under a clear definition for segregation. So whether someone is even considered to be in segregation depends on which definition is being used.

Another problem is the way the Ministry of Community Safety and Correctional Services tracks the admission and detention of inmates in segregation. Information on inmates' segregation is often entered incorrectly. Inputting incorrect start and end dates; using incorrect date formats; or re-starting the clock when an inmate is transferred to another facility makes it impossible to know who is in segregation and for how long.

Thirdly, the reviews that are supposed to occur at specified intervals aren't done as they are supposed to be.

I know many of you are familiar with the story on the first page of today's report: Adam Capay, a young man who spent four years in solitary confinement while awaiting a trial that still has yet to happen.

Adam's story made the news last fall because four years in segregation is shocking in itself – almost unimaginable. But what was even more shocking was that the Ministry responsible for safeguarding the human rights of the incarcerated did not know about it. As far as the Ministry was concerned, he was out of sight and out of mind.

Even though it has an oversight structure in place, where every single placement of every inmate in segregation is supposed to be reviewed and reported on, the Ministry had no idea Adam had languished in solitary for so long. The Ministry's unreliable records at the time showed he had been in segregation for 50 days – when the real total was 1,591.

But as my report points out, Adam's case, while extreme, is not unique. The Ministry has been aware of these problems for years. My office receives thousands of complaints from inmates every year. We have alerted the Ministry to numerous cases where inmates were in segregation too long, without the required reviews – and we helped many of these individuals. But the systemic problems remained, and complaints about segregation kept rising.

Last spring, the Ministry held consultations on segregation, and I made several recommendations to restrict the practice and strengthen oversight. The Ministry pledged to do more but still, there was little concrete change. After Adam Capay's case came to light – and with the volume of complaints we were seeing - I knew it was time to start preparing for a systemic investigation. Given our decades of

experience in overseeing the Ontario corrections system and the data we already had to build upon, we were uniquely suited to investigate the use of segregation in Ontario correctional facilities. Shortly thereafter, the Ministry appointed an independent reviewer, Howard Sapers.

I of course welcomed the appointment of Mr. Sapers. You can never have too many people tackling problems as daunting as these, and the Ministry could not have picked a more qualified or insightful expert to conduct that review. I said at the outset that our work would complement that of Mr. Sapers, who was working under some very tight timelines and with fewer resources than we have, and we have kept him abreast of our findings.

It's important to remember that solitary confinement – locking someone up and depriving them of all human contact for 22 hours a day or more – is a severe form of punishment that can have grave and lasting effects on a person's mental state.

To quote inmate "Linda" from our report, who spent more than 60 days in segregation before we intervened and a more appropriate placement was found for her: "The door is made of iron... when it slams shut, it kills you psychologically. Who can tolerate being locked up in a [tiny] space and not lose their sanity?"

This is why the United Nations considers prolonged solitary confinement to be cruel and inhumane, and recommends placements never exceed 15 days. This is why in Ontario, it is meant to be used as an absolute last resort, and even then, it must be justified, reviewed, and reported to the most senior levels of the Ministry.

My investigation found that the reality falls far short of this obligation. Many inmates are in segregation because they have mental illnesses or developmental disabilities, and correctional staff feel they have no other way to house them. The system for recording and tracking data on inmates is cumbersome, outdated and prone to errors. Tracking goes off the rails when inmates are transferred between institutions. Oversight at the senior level often amounts to a rubber stamp.

It is high time for real, practical change.

We have seen over the years that the Ministry can make change when it takes the issue seriously. The Ministry's response to this report has been encouraging – it has agreed to address all the recommendations and has taken action on several already.

The solutions I have proposed will not only benefit inmates in Ontario jails; they will provide clarity and streamline the work of correctional staff and Ministry officials, and bring greater transparency to a system that has been out of public sight for too long.

Now, I'd be happy to answer your questions.