

**IN THE MATTER OF AN ARBITRATION
Before Arbitrator William Kaplan**

B E T W E E N:

**ONTARIO PUBLIC SERVICE EMPLOYEES' UNION,
CORRECTIONAL BARGAINING UNIT**

- and -

THE CROWN IN RIGHT OF ONTARIO

**ARBITRATION BRIEF OF
THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION,
CORRECTIONAL BARGAINING UNIT**

2018 COLLECTIVE BARGAINING

MARCH 30-31, 2019 ARBITRATION

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PART I. OVERVIEW

1. This interest arbitration will conclude the first collective agreement of OPSEU's stand-alone Correctional bargaining unit, which was created to address, finally, longstanding unfairness and systemic dysfunction within these uniquely challenging workplaces. Workers in the Correctional bargaining unit perform difficult and important frontline work under a ubiquitous threat of violence, the traumatic effects of which have historically been overlooked. Arbitrator Burkett, in 2016, found that these workers are seriously undercompensated for their labour, relative to their comparators, including their correctional colleagues in the Federal sector. Since then, there has been a fundamental shift the parties' bargaining structure and in the provincial economy. Similarly, it is time for a fundamental shift in the conditions of employment for correctional workers in the province.

2. The Union is proposing:

- a) Special catch-up wage increases in four categories which have fallen particularly behind their comparators: Correctional (16.2%), Probation (9.2%), Healthcare (9.5%), and Trades (16.5%);
- b) A general wage increase of 2.5% each year;
- c) Movement on the salary grid to mitigate, on a go forward basis, the adverse impact of the 2016-2017 wage freeze;
- d) The elimination of restrictive psychological and paramedical benefit caps;
- e) The renewal and enhancement of existing Administrative Compensating Leave entitlements;
- f) An increase to the existing Probation Officers' Allowance;
- g) Employer-covered trade licensing and professional liability expenses;
- h) Increased representation on the Corrections Bargaining Team, Ministry Employee Relations Committee, and Joint Health and Safety Committee; and
- i) Qualification for an unreduced pension at factor 85.

3. In addition, OPSEU and the Employer are engaged in ongoing discussions regarding the Scope and Recognition provisions of the Correctional collective agreement. The parties have agreed that these provisions should be negotiated together with the parallel provisions in the Unified collective agreement. Accordingly, the Union does not seek any finding with respect to the Scope and Recognition provisions in this interest arbitration, and requests that those provisions be specifically excluded from any award. Rather, the Union requests that Arbitrator Kaplan remain seized with resolving the issue, at least with respect to the Correctional agreement, in the event that the parties' discussions ultimately are not successful.

4. Finally, the Union requests that the parties' previously agreed-upon items be incorporated and ordered in connection with the Arbitrator's award.

PART II. A CRISIS IN CORRECTIONS

A. *Background*

1. The Parties

5. The Ontario Public Service Employees Union ("OPSEU" or the "Union") is the exclusive bargaining agent for the approximately 9,000 workers headquartered at the Ontario Correctional Services College and in correctional facilities in Ontario under the Ministry of Community Safety and Correctional Services as well as the Ministry of Children, Community, and Social Services (collectively, the "Ministries").

6. The workers in the Correctional bargaining unit are employed by Her Majesty the Crown in Right of Ontario (as represented by the Treasury Board Secretariat) (the "Employer" or the "Crown").

2. Correctional Services in Canada

7. The Federal and provincial governments share the responsibility of administering correctional services in Canada.

8. The Federal government has jurisdiction over adults serving custodial sentences of two or more years and is responsible for supervising such offenders while they are on conditional release. The provincial correctional services programs are responsible for adults serving custodial sentences that are less than two years, adults being held temporarily in remand (such as those awaiting bail, trial, or sentencing), as well as offenders who are subject to community supervision (such as probation or parole).¹ The result is that all adult offenders in Canada enter the correctional system at the provincial level.

9. For offenders who are less than 18 years old, the provinces are responsible for administering correctional services for both custodial and community sentences, including youth who are being temporarily held while awaiting trial or sentencing.² Youth offenders are not detained in Federal correctional institutions.

10. The chart below sets out recent statistical information regarding the Ontario and Federal correctional populations. “Average Count” represents the average number of adults and/or youth in custody or under community supervision on any given day. “Admissions” are counted each time an individual begins or moves to a new type of custody or community supervision. The same person can be included several times in

¹ Jamil Malakieh, “Adult and youth correctional statistics in Canada, 2016/2017”, *Canadian Centre for Justice Statistics* (June 19, 2018) [“Malakieh, Correctional Statistics”], p. 3, OPSEU Book of Documents, Tab 1.

² Malakieh, *Correctional Statistics*, p. 3, OPSEU Book of Documents, Tab 1.

the admissions count whenever the individual moves from one type of legal status to another, thereby illustrating the flow of persons through the system over time.³

Status	Ontario (Adult)			Federal		Ontario (Youth)	
	Sentenced Custody	Remand & Other ⁴	Community Supervision	Custody	Community Supervision	Custody	Community Supervision
Average Count ⁵	2,288	5,254	43,074	14,425	8,581	292	2,629
Admissions ⁶	22,951	51,713	32,273	7,270	7,480	3,290	3,144

11. This data demonstrates that Federal correctional institutions hold a higher number of sentenced individuals in custody over longer periods of time, while Ontario adult institutions hold a transient and varying population of sentenced and remanded individuals for shorter periods of time. In addition, the Ontario correctional system has a significantly larger population of offenders who are subject to various forms of community supervision.

3. The Correctional Bargaining Unit

12. The Correctional bargaining unit is a unique and newly independent bargaining unit within the Ontario Public Service.

13. Collective bargaining in the Ontario Public Service is governed by the *Crown Employees Collective Bargaining Act, 1993*⁷ (“CECBA”). Under CECBA, OPSEU is

³ Malakieh, Correctional Statistics, p. 3, OPSEU Book of Documents, Tab 1.

⁴ “Other” temporary detention includes persons who are being held in provincial correctional institutions lock-ups, parole violations, immigration holds, and those who are temporarily detained without warrants of any type.

⁵ Malakieh, Correctional Statistics, pp. 14-15, 18, OPSEU Book of Documents, Tab 1.

⁶ Malakieh, Correctional Statistics, pp. 16, 19, OPSEU Book of Documents, Tab 1.

recognized as the exclusive bargaining agent for six bargaining units. Five of the six OPSEU bargaining units (institutional and health care, operational, maintenance, administrative, and technical and office administration) are combined into one "unified" entity for the purpose of collective bargaining. The sixth OPSEU bargaining unit is the Correctional bargaining unit.

14. Historically, *CECBA* required that there be an overarching Central collective agreement covering all six bargaining units – including the Correctional unit – which dealt with matters such as dispute resolution, pensions, benefits, and job security. The Unified bargaining unit and the Correctional bargaining unit had separate Local agreements dealing with the non-Central terms and conditions of employment, such as hours of work, schedules, and premiums.

15. Recent amendments to *CECBA* have significantly altered the number and composition of the bargaining units in the Ontario Public Service. Since January 1, 2018, the Correctional bargaining unit stands alone; it is no longer tied to the Unified bargaining unit under the Central collective agreement. In addition, as a result of these amendments, members of the Correctional bargaining unit lost the right to strike, and instead, where the parties find themselves at an impasse, must access a statutory mechanism of binding interest arbitration to conclude a collective agreement.⁸

16. Recognizing the unique nature of the correctional work environment, the Employer and the Union agreed that, in connection with the amendments to *CECBA*,

⁷ *Crown Employees Collective Bargaining Act, 1993*, SO 1993, c 38 [*"CECBA"*], OPSEU Book of Authorities, Tab 20.

⁸ *CECBA*, PART III.1, Interest Arbitration – Correctional Bargaining Unit, ss. 29, 29.12, OPSEU Book of Authorities, Tab 20.

Unified employees headquartered in correctional facilities should be transferred to the Correctional bargaining unit, effective January 1, 2018.⁹ As a result, the Correctional bargaining unit has grown from approximately 5,500 to nearly 9,000 members. In its current form, the bargaining unit covers a wide variety of employees all of whom are directly and indirectly engaged in the care, custody, and control of inmates. A high level summary of the composition of the unit is set out below.¹⁰

Category	Members	Percentage
Correctional Officers, Bailiffs, and Youth Services Officers	5,089	57%
Probation and Parole Officers	1,295	15%
Health Care (Nurses, Psychologists, Pharmacists, etc.)	690	8%
Trades and Maintenance (Electricians, Plumbers, etc.)	152	2%
Food Services	257	3%
General Services (Laundry Workers, Groundskeepers, etc.)	88	1%
Inmate Social Programming (Recreational Officers, Library Technicians, Chaplains, etc.)	442	5%
Administrative	882	10%
Total	8,895	

⁹ Memorandum of Settlement, December 15, 2016, OPSEU Book of Documents, Tab 2; Memorandum of Understanding, January 23, 2018, OPSEU Book of Documents, Tab 3.

¹⁰ For a detailed summary of the employees comprising the correctional bargaining unit, see the Membership List, December 31, 2018, at OPSEU Book of Documents, Tab 4.

B. Correctional Working Conditions

17. The purpose of the *CECBA* amendments (and the attendant restructuring of the bargaining structure) was to acknowledge and empower the parties to address longstanding and critical issues in the correctional working environment.

18. Correctional institutions are closed communities, defined by a complex matrix of relationships, hierarchies, rules, and boundaries. Correctional staff are responsible for safely enforcing and negotiating that matrix vis-à-vis the inmate populations in their care, custody, and control.¹¹

19. In some ways, correctional employment can be relatively mundane. Staff must ensure that inmates remain safe and that their most basic needs are met.¹² To that end, correctional employees perform duties which are also performed in various other institutionalized environments. For example, correctional employees do laundry, cook and serve meals, dispense medications, and fix things when they break.

20. In other ways, however, working in the correctional context can be highly volatile and, in some cases, traumatic. Many inmates have experienced trauma themselves, or suffer from substance addiction and/or mental illness. All of these factors complicate their care and can result in unpredictable and disruptive behaviour. There is also a constant threat of physical violence, which can occur between inmates or between inmates and staff, and can also take the form of inmate self-harm. Short of actual

¹¹ Independent Review of Ontario Corrections, “Institutional Violence in Ontario: Interim Report” (August 2018) [IROC Interim Report], p. 7, OPSEU Book of Documents, Tab 5.

¹² Freda Burdett, Lynne Gouliquer, and Carmen Poulin, “Culture of Corrections: The Experiences of Women Correctional Officers”, *Feminist Criminology* 13, no. 3 (2018): 329-349 [“Burdett, Culture of Corrections”] at 334-335, OPSEU Book of Documents, Tab 6.

violence, inmates can be hostile, cruel, or threatening. Correctional staff are responsible for identifying the point at which a threatening joke crosses the line, and mistakes can have devastating consequences.

21. Inmates in remand comprise the majority of the inmate population in Ontario correctional institutions (as is the case in most provinces).¹³ As a result of the high proportion of inmates in remand, provincial institutions typically have a high proportion of inmates suffering from substance addiction and/or mental illness. In addition, because remand holds tend to be relatively short, the provincial systems tend to have a more transient population. Provincial correctional services face challenges providing services, such as rehabilitation, for remanded individuals, because of the uncertainty regarding their length of stay. The result of this state of affairs is an increased risk of violence in provincial correctional institutions relative to their Federal counterparts.¹⁴

22. Due to the ever-present threat of violence in the correctional environment, staff must remain on high alert at all times. This contributes to an atmosphere of vigilance, diminished trust, anxiety, and stress. These realities are felt by both staff and inmates and are what make correctional work unique.¹⁵

23. All employees in the correctional context are impacted by the volatility and potential violence of the inmates who are, directly or indirectly, under their care.

¹³ Malakieh, Correctional Statistics, p. 4, OPSEU Book of Documents, Tab 1. In 2016/2017, 70% of inmates in custody in Ontario were being held in remand.

¹⁴ Burdett, Culture of Corrections at 311-312, OPSEU Book of Documents, Tab 6; Malakieh, Correctional Statistics, p. 4, OPSEU Book of Documents, Tab 1.

¹⁵ Independent Review of Ontario Corrections, "Institutional Violence in Ontario: Final Report" (December 2018) [IROC Final Report], p. 30, OPSEU Book of Documents, Tab 7.

However, these challenges are particularly felt by Correctional Officers (“COs”)¹⁶ and, in the Ministry of Children, Community, and Social Services, Youth Services Officers (“YSOs”).¹⁷ COs and YSOs have a fundamental role within the correctional environment. They are charged with supervising the activities and behaviours of inmates, enforcing the rules, facilitating access to social services and programs, and generally maintaining order within the institution. Given their daily relationships with inmates, they are the first to be exposed to inmates’ frustrations and, in some cases, are the primary objects of their aggression.

24. Probation Officers (“POs”) play an equally important role in the correctional system.¹⁸ They supervise and manage a large number of offenders, assessing their individual behaviours, accountabilities, and risk of recidivism. They use policies and their professional judgement to apply legislation, policies, and administrative practices, and also prepare written reports and recommendations about the offenders under their supervision. In this regard, POs shoulder an enormous responsibility for making our communities safer.

25. Correctional staff as a whole perform difficult and important frontline work, all of which is critical to the overall functioning of the provincial correctional system and, therefore, the safety of the public. They are essential members of the public service and should be valued as such. Unfortunately, as described below, this has not been the case in Ontario for a long time.

¹⁶ Correctional Officer 1, OPSEU Class Standard, OPSEU Book of Documents, Tab 8; Correctional Officer 2, OPSEU Class Standard, OPSEU Book of Documents, Tab 9.

¹⁷ Youth Worker, OPSEU Class Standard, OPSEU Book of Documents, Tab 10.

¹⁸ Probation Officer 1, OPSEU Class Standard, OPSEU Book of Documents, Tab 11; Probation Officer 2, OPSEU Class Standard, OPSEU Book of Documents, Tab 12.

1. A History of Neglect

26. The Crown has a long history of ignoring and neglecting its correctional facilities and staff, a choice which has led to rampant overcrowding, understaffing, and violence.

27. In January 2009, the Ministry of Community Safety and Correctional Services declared a moratorium on all CO recruitment. The moratorium lasted for four years and, over time, substantially and adversely affected the daily operations of correctional institutions. Among other things, staff shortages contributed to an inability to provide meaningful activities for inmates, as well as mental health supports and other programs being interrupted or halted.¹⁹

28. In the meantime, the Ministry of Community Safety and Correctional Services continued to fill its antiquated institutions with more and more inmates. In 2012, roughly half of the institutions in the province held more inmates than they were originally designed to hold.²⁰ In many cases, the Ministry of Community Safety and Correctional Services had “retrofitted” its older institutions in order to increase their notional capacity figures, while in practice inmates were regularly double- or triple-bunked or even required to sleep on mattresses in the shower.²¹

29. As a result of chronic overcrowding, and in the absence of the staff necessary to maintain order, general “lockdowns” became a regular occurrence. A lockdown occurs

¹⁹ IROC Final Report, p. 39, OPSEU Book of Documents, Tab 7.

²⁰ Public Services Foundation of Canada, *Crisis in Correctional Services: Overcrowding and inmates with mental health problems in provincial correctional facilities* (April 2015) [“PSFC, Crisis in Corrections”], p. 25, OPSEU Book of Documents, Tab 13.

²¹ PSFC, *Crisis in Corrections*, pp. 25-27, OPSEU Book of Documents, Tab 13, citing Global News, Andrew Russell and Patrick Cain, “Rough Justice: The human cost of Ontario’s crowded, violent jails” (November 19, 2014) [Global, “Rough Justice”], p. 3, OPSEU Book of Documents, Tab 14; Ministry of Community Safety and Correctional Services, *Ottawa-Carleton Detention Centre Task Force Action Plan*, p. 1, OPSEU Book of Documents, Tab 15.

when inmates are locked in their cells, without any ability to leave to access common areas, including the showers, phones, or exercise areas.²² Similarly, segregation or solitary confinement (including disciplinary segregation for inmates who violate institutional rules, as well as administrative segregation to ensure the safety of inmates and/or staff) was heavily utilized. Lockdowns and solitary confinement can last for days or even weeks at a time.²³

30. While lockdowns and administrative segregation are in many cases intended to protect mentally ill and other vulnerable inmates where staff levels are inadequate, these tense and isolating conditions can have damaging effects on inmates' mental health and overall well-being, and have the potential to rise to the level of cruel and unusual treatment.²⁴

2. Increase in Reported Violence

31. Unsurprisingly, under these conditions, violence has become increasingly common within Ontario's correctional system.

32. Violence between inmates was one aspect of this increase. For example, in 2013 the Crown received reports of roughly 3,000 inmate-on-inmate assaults across its adult institutions. Unfortunately, at least one of those 2013 assaults resulted in the

²² PSFC, Crisis in Corrections, p. 28, OPSEU Book of Documents, Tab 13; Global News, Anna Mehler Paperny, "Ontario's short-staffed jails face chronic lockdowns, staff, inmates say" (September 8, 2014) [Global, "Ontario's short-staffed jails"], OPSEU Book of Documents, Tab 16.

²³ Independent Review of Ontario Corrections, "Segregation Literature Review" (January 2017) ["IROC Segregation Review"], pp. 1-8, OPSEU Book of Documents, Tab 17.

²⁴ IROC Segregation Review, p. 1, OPSEU Book of Documents, Tab 17; *Ogiamien v Ontario*, 2016 ONSC 3080, reversed (but not on this point) *Ogiamien v Ontario (Community Safety and Correctional Services)*, 2017 ONCA 667, OPSEU Book of Authorities, Tab 1.

death of an inmate. This was an increase of approximately 30% from the 2,300 assaults reported in 2009.²⁵

33. This increase also manifested in the form of the destruction of property and rioting. For example, in December 2015, approximately 70 inmates took control of the protective custody floor of the Thunder Bay District Jail, demanding prescription drugs and cigarettes. Over the course of a twelve-hour riot, the inmates held one CO hostage, and essentially destroyed the protective custody floor of the institution. Three inmates and the CO were hospitalized following this event.²⁶

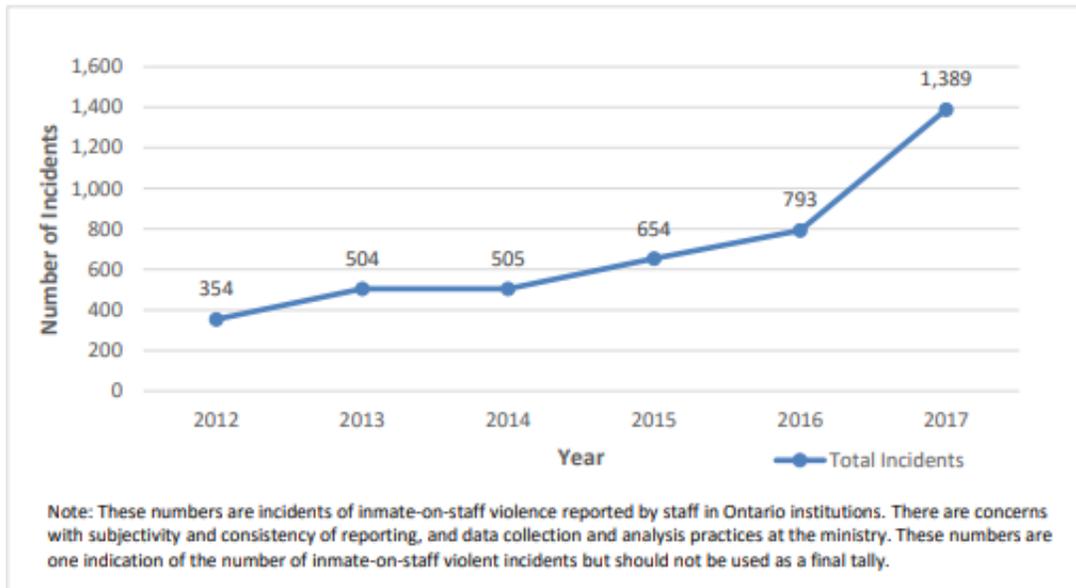
34. In addition, and particularly in recent years, reports of incidents of violence by inmates on correctional staff have become disturbingly common.²⁷ As set out below, such violence has increased since 2014, with a substantial increase between 2016 and 2017.²⁸

²⁵ Global, Rough Justice, pp. 1-2, 5, OPSEU Book of Documents, Tab 14

²⁶ TB News Watch, Jamie Smith, "UPDATE: Prison riot destroys jail's top floor, correctional officer confirms" (December 8, 2015), OPSEU Book of Documents, Tab 18.

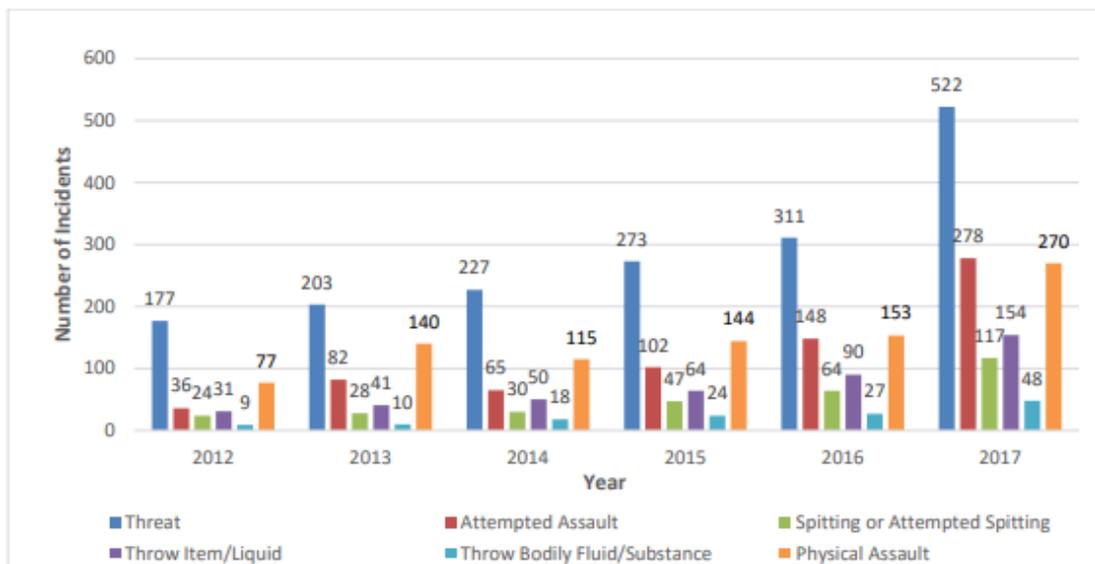
²⁷ Toronto Sun, Joe Warmington, "Jail guards hurt in savage attack" (December 5, 2016) [Toronto Sun, "Jail guards hurt"], OPSEU Book of Documents, Tab 19; CBC, Amanda Pfeffer, "Attacks on jail guards jump amid segregation changes" (April 30, 2018) [CBC, "Attacks on jail guards jump"], OPSEU Book of Documents, Tab 20.

²⁸ IROC Interim Report, p. 11, OPSEU Book of Documents, Tab 5; IROC Final Report, p. 16, OPSEU Book of Documents, Tab 7.



35. The Ministry of Community Safety and Correctional Services includes threats, attempted assaults, and assaults in its definition of inmate-on-staff violence. When the data is broken down by the type of incident (as set out below), threats are the most frequently reported. Reported physical assaults (which includes any assault involving physical contact between an inmate and a staff member) nearly doubled between 2012 and 2013, and decreased again in 2014. Since 2014, however, the number of reported physical assaults has continued to increase, with a substantial increase between 2016 and 2017.²⁹

²⁹ IROC Interim Report, p. 18, OPSEU Book of Documents, Tab 5; IROC Final Report, p. 16, OPSEU Book of Documents, Tab 7.



36. It is important to note that, unfortunately, the data collected by the Ministry of Community Safety and Correctional Services is generally of a poor quality. There are concerns that these reports are incomplete, subjective, and inconsistent as between the various institutions.³⁰ However, whether this recent surge is the result of an actual increase in violence, better reporting practices, or a combination of the two, the fact remains that the level of inmate on staff violence in provincial correctional institutions is intolerable.

3. Government Action (and Reaction)

37. Over time, and through the concerted efforts of OPSEU, correctional workers, and members of the public, the media began to pick up on the dangerous and deteriorating conditions within Ontario's correctional institutions.³¹

³⁰ IROC Interim Report, p. 12, OPSEU Book of Documents, Tab 5.

³¹ See, for example, Toronto Sun, Jail guards hurt, OPSEU Book of Documents, Tab 19; Global, Rough Justice, OPSEU Book of Documents, Tab 14; Global "Ontario's short-staffed jails", OPSEU Book of Documents, Tab 14.

38. In the face of negative attention, the Crown began to take steps to improve the living conditions in the correctional environment and the working conditions for correctional staff. Some of those steps have been more impactful than others. For example:

- a) In March 2016, after a four year moratorium, the Ministry of Community Safety and Correctional Services announced that it would be hiring 2,000 new COs over the next three years.³² The Ministry's commitment to training such a large number of new correctional officers in such a short period of time put an enormous strain on available resources.³³
- b) In April 2016, the *Workplace Safety and Insurance Act, 1997* ("WSIA") was amended so as to create a presumption that post-traumatic stress disorder ("PTSD") diagnosed in first responders is work-related.³⁴ This presumptive entitlement extends to correctional services officers, bailiffs, probation officers, and other workers in correctional institutions, which includes workers providing healthcare services to inmates.³⁵
- c) In October 2016, the Ministry of Community Safety and Correctional Services announced sweeping and immediate changes to its segregation policies, including that segregation could only be used as a measure of last resort, that disciplinary segregation could only be used for a maximum of 15 consecutive days (down from 30 days), and that the "loss of all privileges" in disciplinary

³² Ministry of Community Safety and Correctional Services, "Ontario To Hire 2000 New Correctional Officers," Newsroom (Government of Ontario, March 21, 2016), OPSEU Book of Documents, Tab 21..

³³ IROC Interim Report, p. 40, OPSEU Book of Documents, Tab 5.

³⁴ *Workplace Safety and Insurance Act, 1997*, SO 1997, c 16, Sched A ["WSIA"], s. 14, OPSEU Book of Authorities, Tab 21.

³⁵ *WSIA*, s. 14(1), defines a "worker in a correctional institution" as "a correctional services officer, an operational manager, or a worker who is employed at a correctional institution to provide direct health care services by assessing, treating, monitoring, evaluating and administering medication to an inmate confined to a correctional institution."

segregation would be eliminated.³⁶ Unfortunately, these initiatives were implemented by the Ministry quickly, inconsistently, and without the benefit of a clear strategic vision. As a result, some correctional staff perceived these changes as posing an increased risk to their safety.³⁷

39. In addition, in January 2017, the Crown appointed Howard Sapers as an Independent Advisor on Corrections Reform. Initially the Independent Advisor's mandate was to examine the use (and, potentially, overuse) of segregation in the province's adult correctional facilities.³⁸ However, in May 2018, recognizing a "deeply disturbing trend" of assaults on staff within correctional institutions, the former Minister of Community Safety and Correctional Services, Marie-France Lalonde, requested that the Independent Advisor expand his mandate to include a review of institutional violence.³⁹

40. The Independent Advisor ultimately released two reports on the subject of institutional violence: an *Interim Report* in August 2018⁴⁰ and a *Final Report* in December 2018.⁴¹

41. In the course of the review, the Independent Advisor solicited survey feedback from staff across all adult correctional institutions.⁴² The survey included short answer

³⁶ Ministry of Community Safety and Correctional Services, "Ontario to Begin Overhaul of the Use of Segregation in the Province: Government to Appoint Independent Reviewer to Reform Current Policies and Practices," Newsroom (Government of Ontario, October 17, 2016), OPSEU Book of Documents, Tab 22.

³⁷ IROC Interim Report, pp. 26-27, OPSEU Book of Documents, Tab 5.

³⁸ Ministry of Community Safety and Correctional Services, "Terms of Reference: Independent Advisor on Corrections Reform," *Independent Review of Ontario Corrections* (Government of Ontario, May 3, 2017), OPSEU Book of Documents, Tab 23

³⁹ IROC Final Report, p. 11, OPSEU Book of Documents, Tab 7.

⁴⁰ IROC Interim Report, OPSEU Book of Documents, Tab 5.

⁴¹ IROC Final Report, OPSEU Book of Documents, Tab 7.

⁴² IROC Final Report, p. 12, OPSEU Book of Documents, Tab 7.

as well as multiple-choice questions. The Independent Advisor received 1,334 responses; 66% of those responses were from COs.⁴³ In the *Final Report*, the Independent Advisor described a number of themes that emerged, including occupational stress associated with the safety of the work environment, as well as low morale and strained staff-management relationships.⁴⁴ In particular, the multiple-choice survey data revealed the following results:

- a) 53% of CO respondents expressed that they did not feel safe working in their institution;⁴⁵
- b) 43% of CO respondents worried about being assaulted by an inmate once a day;⁴⁶ and
- c) 66% of CO respondents expressed that they did not feel supported in their work by senior administration in their institution.⁴⁷

42. The Independent Advisor concluded the *Final Report* with a number of recommendations to reduce institutional violence within the provincial correctional system.⁴⁸ At this time, it is not clear to what extent the Crown will implement the lessons and recommendations contained in *Final Report*.

⁴³ IROC Final Report, pp. 12-14, OPSEU Book of Documents, Tab 7.

⁴⁴ IROC Final Report, pp. 2, 32, 37-38, OPSEU Book of Documents, Tab 7.

⁴⁵ IROC Final Report, p. 34, OPSEU Book of Documents, Tab 7.

⁴⁶ IROC Final Report, p. B-2, OPSEU Book of Documents, Tab 7.

⁴⁷ IROC Final Report, p. B-1, OPSEU Book of Documents, Tab 7.

⁴⁸ IROC Final Report, pp. 81-88, OPSEU Book of Documents, Tab 7.

4. The Crisis Continues

43. Despite the steps taken by the Crown to overhaul the provincial correctional system, inmate deaths and violence continue to make headlines. For example:

- a) In January 2017, an inmate was killed in a fight at the Toronto South Detention Centre. Another inmate was charged with one count of second-degree murder;⁴⁹
- b) In February 2018, COs at the Central East Correctional Centre in Lindsay left their posts as part of a refusal-to-work action because of the unsafe working conditions that they face on the job;⁵⁰
- c) In September 2018, a group of seven inmates took a CO hostage at the Kenora Jail. All seven inmates were ultimately charged with hostage-taking, assaulting a peace officer with a weapon, disarming a peace officer, uttering threats of death or bodily harm, and various weapons possession offences.⁵¹
- d) In January 2019, there was a riot at the Algoma Treatment and Remand Centre, which involved a fire in a common area of the facility. Eight inmates were charged with various offenses, including arson, disregard for human life, participating in a riot, and uttering death threats.⁵²
- e) In March 2019, 37 inmates at the Toronto South Detention Centre staged what appeared to be a fight inside a cell. When the COs attended to investigate, the inmates attacked them. The COs were punched in the head and had garbage cans thrown at them. Eight COs were injured, two of whom went to the hospital

⁴⁹ Global News, Nick Westoll, "Police investigating after inmate killed in fight at Toronto South Detention Centre" (January 27, 2017), OPSEU Book of Documents, Tab 24.

⁵⁰ Global News, Greg Davis, "Correctional officers walk off the job Central East Correctional Centre in Lindsay" (February 21, 2018), OPSEU Book of Documents, Tab 25.

⁵¹ Vermillion Standard, "Seven arrested in jail hostage taking" (October 3, 2018), OPSEU Book of Documents, Tab 26.

⁵² Soo Today, "8 charged in relation to January Remand Centre riot" (March 8, 2019), OPSEU Book of Documents, Tab 27.

with concussion-like symptoms and other injuries. Following this event, approximately 200 correctional employees refused all non-essential work.⁵³

5. The Consequences

(a) *The Mental Health of Workers*

44. Occupational stress inevitably impacts the working environment of correctional workers. Unfortunately, it can be very difficult to leave these issues at the workplace.

45. In the *Interim Report*, the Independent Advisor describes the mental health strain of correctional work as follows:

Established research has long recognized and acknowledged the risky working environment of frontline correctional staff. Frontline work in corrections requires physical stamina and mental alertness to respond to demands of managing an involuntarily detained population that has the potential to be disruptive, noncompliant, and unpredictable. Emerging qualitative research on how Canadian correctional officers experience, perceive, and deal with occupational violence sheds light on the emotional labour required to de-escalate situations involving individuals in crisis. In the correctional context, emotional labour encompasses the work involved in regulating one's own reactions, comportment, emotions, exhaustion, and "even fear, in order to induce a certain emotional response in prisoners," all while navigating a complex prison social-economy of hierarchies, codes, and norms.⁵⁴

46. Further, individuals in public safety positions are more likely to develop mental health disorders because of the degree and frequency with which they are exposed to trauma. Studies have specifically found that employees in the correctional environment – and, particularly, correctional officers – are at a heightened risk of stress-related

⁵³ CBC, Muriel Draaisma, "Employees halt work at Toronto South Detention Centre After Alleged assault" (March 4, 2019), OPSEU Book of Documents, Tab 28; Toronto Sun, Joe Warmington, "Union urges changes after jail guards attacked" (March 5, 2019), OPSEU Book of Documents, Tab 29.

⁵⁴ IROC Interim Report, p. 8, OPSEU Book of Documents, Tab 5.

burnout and PTSD, and that the two conditions are highly correlated.⁵⁵ Indeed, one recent study found that correctional workers were significantly more likely than municipal and provincial police officers to screen positive for clinically significant symptom clusters consistent with one or more mental disorders. The authors in that study hypothesized that the difference may be a result of the “extraordinary” correctional working environment.⁵⁶

47. Burnout includes symptoms of emotional exhaustion, depersonalization (the tendency to depersonalize and have a negative attitude towards others), and a sense of a lack of personal accomplishment or self-efficacy. Stress-related burnout can often lead to depression.⁵⁷ PTSD typically includes the following symptoms:

- a) Intrusion, which is the repeated reliving of trauma (for example, through intrusive memories or dreams);
- b) Numbing and avoidance symptoms, whereby individuals detach from others and become emotionally blunt; and

⁵⁵ IROC Interim Report, p. 9, OPSEU Book of Documents, Tab 5. See, for example, Abdel Halim Boudoukha et al., "Inmates-to-Staff Assaults, PTSD and Burnout: Profiles of Risk and Vulnerability," *Journal of Interpersonal Violence* 28, no. 11 (2013): 2332-2350 ["Boudoukha et al., Inmates-to-Staff Assaults"] at p. 2343, OPSEU Book of Documents, Tab 30; R. Nicholas Carleton et al., "Mental Disorder Symptoms among Public Safety Personnel in Canada", *The Canadian Journal of Psychiatry* 63, no. 1 (2017): 54-64 ["Carleton et al., Public Safety Personnel"], OPSEU Book of Documents, Tab 31; "Healthy Minds, Safe Communities: Supporting our Public Safety Officers Through a National Strategy for Operational Stress Injuries", Robert Oliphant, October 2016, 42nd Parliament, First Session ["Parliament Report, Healthy Minds"], p. 12, OPSEU Book of Documents, Tab 32; Frank Valentino Ferdik and Hayden P. Smith, "Correctional Officer Safety and Wellness Literature Synthesis", *National Institute of Justice*, July 2017, OPSEU Book of Documents, Tab 33.

⁵⁶ Carleton et al., Public Safety Personnel, p. 59, OPSEU Book of Documents, Tab 31.

⁵⁷ Boudoukha et al., Inmates-to-Staff Assaults at pp. 2333-2334, 2336, OPSEU Book of Documents, Tab 30.

- c) Hyper-arousal, which can manifest as intense levels of stress, hyper-vigilance, and over-reactivity to event cues.⁵⁸

48. The ongoing safety and other concerns in Ontario’s correctional system serve to exacerbate the risks posed to the mental wellbeing of the staff working within that system. Indeed, one recent study found that work attitudes and perceived dangerousness generated the strongest predictive relationship with job stress among correctional officers.⁵⁹

49. Having reviewed such studies, in the *Final Report*, the Independent Advisor recommended that the Crown develop a “comprehensive staff mental health strategy to provide self-assessment, self-care, and external support for correctional employees to assist in coping with occupational stress and injuries”.⁶⁰ This same recommendation has been echoed in numerous other studies and articles.⁶¹

(b) Morale and Institutional Culture

50. Beyond the individual mental health impacts, the ongoing crisis in corrections has had a devastating impact on morale and institutional culture within the correctional system.

51. In the *Interim Report*, the Independent Advisor described institutional culture as the “heartbeat” of correctional work.⁶² Unfortunately, Ontario’s correctional employees exhibited “overwhelmingly low morale and discontent” including feelings of “mistrust

⁵⁸ Boudoukha et al., *Inmates-to-Staff Assaults* at pp. 2333, 2336, OPSEU Book of Documents, Tab 30.

⁵⁹ Boudoukha et al., *Inmates-to-Staff Assaults* at p. 2334, OPSEU Book of Documents, Tab 30.

⁶⁰ IROC Final Report, p. 52, recommendation 2.1, OPSEU Book of Documents, Tab 7.

⁶¹ See, for example, Burdett, *Culture of Corrections* at p. 344, OPSEU Book of Documents, Tab 6, and PSFC, *Crisis in Corrections*, p. 53, OPSEU Book of Documents, Tab 13.

⁶² IROC Interim Report, p. 50, OPSEU Book of Documents, Tab 5.

and lack of recognition of worth”, whereby staff felt “undervalued” and “underappreciated”.⁶³ After many years of perceived neglect and violence, the Independent Advisor described the state of staff culture as follows:

[The] culture is often revealed in language that promotes ‘us versus them’ perspectives that isolate frontline staff from management and inmates and contribute to “anti-prisoner and anti-manager” attitudes in correctional work. These perspectives produce “a preoccupation with issues of safety” that ultimately lead to increased chances of negative, and potentially violent, interactions with prisoners.⁶⁴

52. Low morale among correctional employees can have a deleterious effect on the wider prison institution, including their interactions with inmates. Indeed, as the Independent Advisor concluded, the research indicates that when staff quality of life is positive, correctional officers exhibit working attitudes that emphasize a rehabilitative vision of corrections – rather than punitive or discipline-oriented ones:⁶⁵

These studies consistently find that when staff quality of life is positive, they exhibit attitudes that lend to behavior that is more conducive to rehabilitative visions of corrections rather than punitive ones. This ultimately impacts the prisoner experience of conditions of confinement and often improves correctional environments, security, and public safety. On the other hand, evidence also shows how negative climates can produce aggressive interactions between inmates and staff and “potentially could be associated with even more problematic employee misconduct, such as excessive force”. [...] [T]he correctional work environment uniquely impacts the immediate safety of clients, employees, and the public.⁶⁶

⁶³ IROC Interim Report, p. 52, OPSEU Book of Documents, Tab 5.

⁶⁴ IROC Interim Report, p. 51, OPSEU Book of Documents, Tab 5.

⁶⁵ IROC Final Report, pp. 30-31, OPSEU Book of Documents, Tab 7.

⁶⁶ IROC Interim Report, pp. 51-52, OPSEU Book of Documents, Tab 5, citing, among other things, Alison Liebling, “Moral Performance, Inhuman and Degrading Treatment and Prison Pain,” *Punishment & Society*, 13, no.5 (2011):530-550, OPSEU Book of Documents, Tab 34. For further discussion of the rehabilitative vs punitive approach to corrections, see Jill A. Gordon and Amy J. Stichman, “The Influence of Rehabilitative and Punishment Ideology on Correctional Officers’ Perceptions of Informal

53. The Crown needs to act now to protect its employees and to address the broader systemic issues that have led to this crisis in corrections. The Union recognizes that many of the issues plaguing Ontario's correctional system fall outside the scope of this interest arbitration. However, this background provides important and necessary context for the Union's proposals, including the workplace, morale, and mental health challenges that underlie them.

PART III. THE PARTIES' BARGAINING HISTORY

A. *Negotiating in the Face of a "Net Zero" Mandate*

54. As described in greater detail below, the members of the Correctional bargaining unit are materially underpaid relative to their comparators. As a result, wage increases have been a bargaining priority for this group for many years. Nevertheless, the Correctional bargaining unit (under OPSEU's Central collective agreement) has been the target of several cost containment measures since 2012, all of which have saved the Crown money by taking it out of the pockets of the Union's members. Indeed, workers in the Correctional bargaining unit have received 0% wage increases in all but one of the last five years.

55. In the last round of negotiations, the parties attempted to negotiate an agreement that would take effect on January 1, 2015. The members of the Correctional bargaining unit were committed to bargaining for fair wage increases. However, the Crown took the position (as it did in the rest of its public sector negotiations) that there was no additional funding available for wage increases, and therefore that any wage

Bases of Power," *International Journal of Offender Therapy and Comparative Criminology* 60, no. 4 (2016):1591-1608, OPSEU Book of Documents, Tab 35.

increases needed to be offset by other measures in order to create a “net zero” agreement.

56. The Correctional unit took steps to move into a legal strike position. Ultimately, a strike was narrowly averted in January 2016, after the parties reached a three-year agreement on terms that were identical to and flowed from the Central agreement. The agreement did not provide for any wage increase in 2015, but included various cost containment measures to offset a 1.4% lump sum payment, effective January 1, 2016, as well as a 1.4% general wage increase, effective January 1, 2017.

57. This 1.4% increase in 2017 was the first time since January 1, 2013 that employees in the Correctional bargaining unit received any wage increase at all.

B. The Burkett Awards

58. As a part of the Correctional settlement, the Employer and the Correctional bargaining unit agreed to submit certain unresolved issues to arbitration before Arbitrator Kevin Burkett. Those issues were

- a) Any special wage adjustments for 2016;
- b) Any special wage adjustments for 2017; and
- c) Whether there should be a freeze of progression through the pay grids for 2016 and 2017.

1. First Award

59. The Union submitted that an across the board wage increase of 30% was necessary to bring the compensation of Ontario’s correctional employees in line with

that of the same and similar employees in other Canadian jurisdictions, and to mitigate the widening pay gap between correctional and police employees in Ontario.⁶⁷

60. The Employer submitted that no special wage adjustment was warranted, particularly where there were no such wage adjustments for the Unified bargaining unit. The Employer also relied heavily upon the “post-recession economic and fiscal environment”, which included “plunging oil prices, high levels of consumer debt, rising electricity prices, 6.5% unemployment and low productivity growth”.⁶⁸

61. Arbitrator Burkett accepted the Union’s submission that a catch-up wage increase was necessary in light of the deterioration of correctional wages relative to their comparators. In this regard, Arbitrator Burkett found that:

- a) Given the general nature of the work, the salaries of Ontario Provincial Police (“OPP”) officers, as well as special constables, served as a “valid point of comparison” for correctional employees. It was apparent that correctional wages had fallen behind relative to those comparators, particularly when viewed in light of the differential between police and correctional salaries in the Federal jurisdiction. In this regard, Arbitrator Burkett found that police officers and special constables were useful as relative comparators, without any specific “tie-point” vis-à-vis the Correctional bargaining unit.⁶⁹

- b) In contrast, Federal correctional officers served as a “valid” comparator for Ontario correctional officers. Arbitrator Burkett found that the two groups performed essentially the same function and had been rated an identical 279 points under a 2000 Willis Job Evaluation. Arbitrator Burkett observed that, while

⁶⁷ *Ontario v Ontario Public Service Employees Union Correctional Services Bargaining Unit*, 2016 CanLII 58971 (ON LA) (Burkett) [“Burkett Decision 1”], pp. 6-8, OPSEU Book of Documents, Tab 36.

⁶⁸ Burkett Decision 1, p. 10, OPSEU Book of Documents, Tab 36.

⁶⁹ Burkett Decision 1, pp. 18-19, OPSEU Book of Documents, Tab 36.

Federal and Ontario correctional officers had rough salary parity between 1998 and 2000, the Union's members had since fallen roughly 10% behind. For Arbitrator Burkett, Federal correctional salaries established a "specific catch-up objective" for Ontario correctional employees.⁷⁰

62. In this context, Arbitrator Burkett concluded that a special wage increase was warranted:

Given the deterioration of Ontario correctional salaries relative to Ontario police salaries, given the deterioration of the differential between Ontario Correctional salaries and Ontario Police salaries relative to this differential in other jurisdictions, and given the deterioration of Ontario correctional salaries relative to Federal correctional salaries, a catch-up increase is warranted.⁷¹

63. However, Arbitrator Burkett concluded that the catch-up wage increase should be rolled out incrementally. He found that an incremental approach was particularly appropriate because of the "net zero" mandate of the Employer, and in light of the collective agreement improvements upon which the parties had already agreed.

However, because the deterioration of correctional salaries has occurred over a number of rounds of bargaining the replication and gradualism principles support an incremental approach to dealing with the catch-up issue. Further, the demonstrated need test does not override the principles of replication and gradualism in a "net zero" world where, in addition to the normative settlement pattern, a number of additional improvements have already been negotiated for this bargaining unit in this round.⁷²

64. In this context, Arbitrator Burkett ordered a catch-up wage increase of 3% for correctional staff and 2% for probation staff, effective as of January 1, 2017.

⁷⁰ Burkett Decision 1, pp. 19-20, OPSEU Book of Documents, Tab 36.

⁷¹ Burkett Decision 1, p. 20, OPSEU Book of Documents, Tab 36.

⁷² Burkett Decision 1, pp. 20-21, OPSEU Book of Documents, Tab 36.

65. With respect to progression through the pay grid, the Employer asserted that a freeze was a necessary cost containment measure. But for a pay grid freeze, the Employer reasoned, it would not have been able to offer the 1.4% lump sum (2016) and 1.4% increase (2017) included in the extension offer. Arbitrator Burkett concluded that, in light of the Crown's net zero mandate and the negotiated pay grid freeze in the broader public service, a freeze should be ordered for 2016 and 2017.⁷³

2. Supplementary Award

66. Following the issuance of the award, the Employer took the position that 222 employees in 12 classifications in the Correctional bargaining unit were neither correctional staff nor probation staff, and therefore were not entitled to any catch-up wage increase. The parties returned before Arbitrator Burkett, who clarified that all employees working within a correctional facility were entitled to the 3% increase.⁷⁴

C. The Current Round of Bargaining

67. The previous collective agreement between these parties expired on December 31, 2017.⁷⁵

68. On June 2, 2017, the Employer proposed extension offers for both the Correctional and Unified bargaining units. Among other terms, the extension offers maintained the parties' existing collective agreements and included general wage increases that totaled 7.5% (or 7.74% compounded) over the course of a four year

⁷³ Burkett Decision 1, p. 17, OPSEU Book of Documents, Tab 36.

⁷⁴ *Ontario v Ontario Public Service Employees Union Correctional Services Bargaining Unit*, 2016 CanLII 58972 (ON LA) (Burkett) ["Burkett Decision 2"] at pp. 3-4, OPSEU Book of Authorities, Tab 37.

⁷⁵ OPSEU Unified Collective Agreement, January 1, 2015 to December 31, 2017 ["OPSEU Unified Collective Agreement"], OPSEU Book of Documents, Tab 38; OPSEU Correctional Collective Agreement, January 1, 2015 to December 31, 2017 ["OPSEU Correctional Collective Agreement"], OPSEU Book of Documents, Tab 39.

term. The wage increases were structured as a 1.5% wage increase effective six months before the collective agreement's effective date, and a 1% wage increase on each of January 1 and July 1 in 2019, 2020, and 2021.⁷⁶

69. In the case of the Correctional bargaining unit, the Employer's extension offer also provided that the issue of special wage adjustments may be referred to interest arbitration. However, the Employer made it clear during the course of the negotiations that the interest arbitration would only address catch-up for COs and POs, and would not deal with any catch-up increases for the rest of the bargaining unit, including the Unified employees that were being transferred into the Correctional bargaining unit as of January 1, 2018 (such as the Nursing, Psychologist, and Trade classifications).

70. The Union put the Employer's offers to the membership for a vote, which took place between June 20 and 22, 2017. An 81.7% majority of Unified members voted to accept the Employer's extension offer.

71. In stark contrast, the members of the Correctional unit voted overwhelmingly to reject the Employer's proposed extension of their existing employment terms, at a rate of 94.7%. This decisive rejection reflects the degree of Correctional members' dissatisfaction with the status quo and the pressing need for a fundamental shift in their terms and conditions of employment.

72. Following the rejection of the extension agreement, the parties engaged in good faith negotiations in an effort to conclude a collective agreement. While some progress

⁷⁶ Extension Agreement, Correctional Bargaining Unit, June 2, 2017, OPSEU Book of Documents, Tab 40; Extension Agreement, Unified Bargaining Unit, June 2, 2017, OPSEU Book of Documents, Tab 41.

was made, material issues remain outstanding, including with respect to catch-up wage increases.

73. On May 2, 2018, the Union applied for conciliation under the *Labour Relations Act, 1995*. The conciliation officer was unable to effect a collective agreement, and, on approximately May 3, 2018, issued a report to the Minister to that effect. On May 4, 2018, the parties agreed to refer this matter to a single arbitrator, and, pursuant to section 29.1 of *CECBA*, to appoint Arbitrator William Kaplan.

PART IV. THE DECISION-MAKING FRAMEWORK

A. *The Statutory Criteria*

74. Part III.1 of *CECBA* applies in respect of the negotiation and arbitration of collective agreements for the Correctional bargaining unit.⁷⁷

75. Pursuant to *CECBA* subsection 29.7(1), an arbitrator appointed under Part III.1 shall examine into and decide the matters in dispute and any other matters that appear to the arbitrator to be necessary to be decided in order to conclude a collective agreement between the parties.

76. In making his or her decision, *CECBA* requires the arbitrator to consider all factors that he or she determines to be relevant, including:

1. The employer's ability to pay in light of its fiscal situation.
2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased.
3. The economic situation in Ontario.

⁷⁷ *CECBA*, Part III.1, OPSEU Book of Authorities, Tab 20.

4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer's ability to attract and retain qualified employees.⁷⁸

B. The Replication Principle

77. Outside of the statutory criteria, it is well-established that the objective of interest arbitration is to replicate the settlement that the parties would have negotiated in a free collective bargaining environment, including the social and economic impact of the Union's members exercising the right to strike.⁷⁹ This is achieved through the analysis of objective criteria, as opposed to subjective speculation about what the parties would have agreed to in bargaining had they exerted economic pressure on one another. The objective criteria used to replicate the results of free collective bargaining are collective agreements reached in relationships in which similar work is performed in similar market conditions.⁸⁰

78. In addition to the replication principle, interest arbitrators frequently have regard for the competing factors of gradualism and demonstrated need. Arbitrator Burkett has summarized the interplay between these factors as follows:

The principle of gradualism reflects the reality that collective bargaining between mature bargaining parties, as these are, is a continuum that most often accomplishes gradual change as distinct from drastic change. It follows that absent compelling evidence, an interest arbitrator will be loath to award "breakthrough" items.

⁷⁸ *CECBA*, s. 29.7(2), OPSEU Book of Authorities, Tab 20.

⁷⁹ *Building SEIU, Local 204 v Peel Memorial Hospital* (1969), 20 LAC 31 (Ont Arb) (Weiler) at para. 8, OPSEU Book of Authorities, Tab 2.

⁸⁰ *PAM Gardens Non-Profit Housing Inc and BACU, Re* (2018) 135 CLAS 16 (Ont Arb) (Nyman) [*"PAM Gardens"*] at para. 16, OPSEU Book of Authorities, Tab 3.

The principle of demonstrated need, as applied to a major economic item, provides a counterbalance to the principle of gradualism. It does so by establishing the basis upon which a board of interest arbitration will award a "breakthrough" item. A party seeking a major or even a radical change must convincingly establish the need for such change; hence the term demonstrated need.⁸¹

C. Applicable Comparators

79. The identification of an appropriate comparator is a key part of the replication analysis.

80. As Arbitrator Shime indicated in *McMaster University v McMaster University Faculty Assn*, there is a great deal to be said for the principle that (subject to a slight variation due to local conditions) an assistant professor teaching biology at one university in Ontario should not receive less than an assistant professor teaching the same course at another Ontario university.⁸² In other words, it is necessary to find where similar work is performed in similar market conditions.⁸³

81. When identifying the appropriate comparator, interest arbitrators will take into account the comparators that the parties have themselves used in their negotiations, as well as comparators that have been accepted in previous interest arbitrations between the same parties.⁸⁴

⁸¹ Burkett Decision 1, pp. 15-16, OPSEU Book of Documents, Tab 36, citing *Air Canada and CAW-Canada*, September 16, 2011 (Ont Arb) (Burkett (Chair)), OPSEU Book of Authorities, Tab 4.

⁸² *Sunnybrook Health Sciences Centre v SEIU, Local 2*, 2012 CarswellOnt 1895 at para. 27 (Ont Arb) (McNamee (Chair)), OPSEU Book of Authorities, Tab 5, citing *McMaster University v McMaster University Faculty Assn* (1990), 13 LAC (4th) 199 (Ont Arb) (Shime) ["*McMaster*"], OPSEU Book of Authorities, Tab 6.

⁸³ *PAM Gardens* at para. 16, OPSEU Book of Authorities, Tab 3.

⁸⁴ *TTC v ATU, Local 113*, 2018 CanLII 99135 (Ont Arb) (Kaplan), OPSEU Book of Authorities, Tab 7.

82. In the last round, Arbitrator Burkett accepted two comparators for the Correctional bargaining unit: Federal corrections and Ontario policing. These two groups have been, and continue to be, important and broadly comparable to the Correctional bargaining unit. Other case-specific comparators are discussed elsewhere in this brief.

1. The Federal Correctional System

83. The Union submits that Federal correctional workers continue to be the appropriate wage comparator for the workers in the Correctional bargaining unit.

84. First, there is a well-established historical compensation relationship between correctional workers in the Federal and Ontario systems. This was confirmed in Arbitrator Burkett's award in the parties' last round, where he determined that the two groups were essentially at salary parity before 2001. Arbitrator Burkett concluded that the salary differential which has developed since then with respect to the Federal group gave rise to a "specific catch-up objective" for Ontario correctional employees.⁸⁵ Nothing has changed in the intervening period which would justify deviating from that conclusion.

85. Second, Federal correctional employees in Ontario perform essentially the same function as Ontario correctional employees. This is clearly the case for provincial COs and their Federal counterparts, CX officers, both of whom are directly responsible for the care, custody, and control of inmates under conditions of confinement.⁸⁶ Indeed, in

⁸⁵ Burkett Decision 1, pp. 19-20, OPSEU Book of Documents, Tab 36.

⁸⁶ Work Description, CX-1, Government of Canada, OPSEU Book of Documents, Tab 42; Work Description, CX-2, Government of Canada, OPSEU Book of Documents, Tab 43.

April 2000 – at a time where the two groups were essentially at wage parity – a comparative Willis Job Evaluation was completed, and both groups were rated at an identical 279 points.⁸⁷ This was an important factor for Arbitrator Burkett in determining the comparability of Ontario and Federal correctional wages.⁸⁸ However, even beyond the two correctional officer roles, it is clear that these two systems are broadly consistent, with many of the same duties and functions being performed under the same conditions.⁸⁹

86. Third, and related to the above, Ontario and Federal correctional employees face many of the same challenges in their unique workplaces. For example, studies suggest that Federal correctional officers face substantial challenges in their work environments that contribute to PTSD and other stress-induced mental health challenges.⁹⁰ Indeed, as described above, because provincial inmates are mainly held on remand and for short sentences, there is a higher risk of violence and less opportunity for meaningful rehabilitation in the Ontario system.

2. Ontario Policing Employees

87. The difficult work performed by correctional and policing staff, along with other first responders, forms a critical part of maintaining public safety in Ontario. In particular, both correctional and policing employees are responsible for the care,

⁸⁷ Joint Committee Report on Federal Correctional Officers, “A Comparison of the Duties, Working Conditions and Compensation Levels of Federal Correctional Officers, Uniformed RCMP Officers, And Selected Provincial Correctional Officers” (April 2000), OPSEU Book of Documents, Tab 44.

⁸⁸ Burkett Decision 1, pp. 19-20, OPSEU Book of Documents, Tab 36.

⁸⁹ Over the course of the last round of negotiations, the parties discussed performing an updated Willis Job Evaluation comparing COs with their Federal counterparts. Ultimately the Employer declined to proceed in this manner.

⁹⁰ Parliament Report, “Healthy Minds”, p. 12, OPSEU Book of Documents, Tab 32.

custody, and control of offenders within the context of a complex landscape of criminal law, constitutional rights, and public safety concerns. The Union submits that the wage rates of other policing personnel in Ontario form a valid point of comparison for the Correctional bargaining unit.

88. The 1978 Report of the Royal Commission on the Toronto Jail and Custodial Services (the “Shapiro Report”) was a public inquiry by Justice B. Barry Shapiro into the treatment of prisoners and the training of correctional officers in the province of Ontario, particularly at the Toronto Jail. Part of the inquiry included a review of the recruitment and service demands on the staff within the institution. The Shapiro Report concluded that, in order to recruit and retain quality candidates, and to provide correctional staff with the professional recognition that they deserve, the increasing disparity between Ontario correctional officers and OPP Constables should be reduced:

I am of the opinion that the duties of a correctional officer at the Toronto Jail are more akin to those of a police officer than to those of an office worker. The correctional officer operates within the justice umbrella. His work is important both for security and for the rehabilitation of inmates and, therefore, for the prevention of crime. Also, his work involves physical risk.⁹¹

89. In the previous round between these parties, Arbitrator Burkett considered the Shapiro Report but noted that, since its release in 1978, the parties had repeatedly bargained wage settlements without reference to the salaries of OPP Constables.⁹² Accordingly, he was unable to conclude that there was a “specific tie-point” to the

⁹¹ Justice B. Barry Shapiro, *Report of the Royal Commission on the Toronto Jail and Custodial Services* (1978), Volume 1 [“Shapiro Report”], at pp. 139-141, OPSEU Book of Documents, Tab 45.

⁹² Burkett Decision 1, p. 14, OPSEU Book of Documents, Tab 36.

OPP.⁹³ Nevertheless, Arbitrator Burkett noted that given the “general nature of the work”, the wage rates of Ontario police employees constituted a “valid point of comparison”.⁹⁴ In particular, Arbitrator Burkett found it useful to consider the OPP as a relative comparator.⁹⁵

90. The Union submits that OPP and other Ontario police salaries continue to be relevant as relative comparators for the Ontario correctional system.

D. Economic Considerations

1. The Relevance of Ability to Pay

91. A particular concern for interest arbitrators in the public sector is ensuring that workers do not unfairly bear the brunt of the government's fiscal policy. This consideration is typically known as “ability to pay” and is generally considered functionally irrelevant in public sector interest arbitrations, where the Crown itself has control over what it is able to pay. Arbitrator Shime has noted that “public sector workers should not be required to subsidize the community by accepting substandard wages and working conditions”.⁹⁶ Indeed, if the public wants a particular service, then it should be willing to pay a fair price for it.⁹⁷

92. The Union acknowledges that, in the present case, the operative legislation directs the arbitrator to consider a number of criteria which engage the Employer’s

⁹³ Burkett Decision 1, p. 18, OPSEU Book of Documents, Tab 36.

⁹⁴ Burkett Decision 1, p. 18, OPSEU Book of Documents, Tab 36.

⁹⁵ Burkett Decision 1, p. 19, OPSEU Book of Documents, Tab 36.

⁹⁶ *McMaster* at p. 203, OPSEU Book of Authorities, Tab 6. See also *Bruce Power LP and Society of Energy Professionals* (2004), 126 LAC (4th) 144 (Ont Arb) (Burkett) at pp. 151-152, OPSEU Book of Authorities, Tab 8.

⁹⁷ *Niagara Regional Police Services Board v Niagara Region Police Assn* (1997), 78 LAC (4th) 42 (Ont Arb) (Jackson (Chair)) [*Niagara Regional*] at p. 58, OPSEU Book of Authorities, Tab 9.

“ability to pay” in the circumstances, including with respect to the current funding and taxation levels as well as the economic situation in Ontario broadly.⁹⁸ However, this does not mean that the ability to pay factor can be a subterfuge for the Crown’s unwillingness to provide the funds necessary to achieve normative comparability.⁹⁹

93. Arbitrators have had the occasion to assess the relevance of statutory ability to pay criteria in the context of a public sector interest arbitration. For example, in *Niagara Regional Police Services Board v Niagara Region Police Assn*, the Board was statutorily required to consider economic factors that were virtually the same as those set out in subsection 29.7(2) of *CECBA*. Chair Jackson concluded that, to the extent that ability to pay is an issue, an award should be based upon what a majority of fair-minded, well-informed taxpayers would consider to be a fair and reasonable award, even if it meant tax increases.¹⁰⁰ Chair Jackson continued:

The greater the tax increase required to support the arbitration award, the more confident the board must be that that award is a reasonable and credible one, one that a majority of fair-minded, well-informed taxpayers would see as reasonable and fair. This squares precisely with another of the new criteria, “the extent to which services may have to be reduced, if the current funding levels are not increased”.¹⁰¹

94. Chair Jackson was of the view that what is “fair and reasonable” in the circumstances should not be influenced by the fact that the government of the day has made a policy decision with respect to public finances.¹⁰² This view has been echoed in

⁹⁸ *CECBA*, s. 29.7(2), OPSEU Book of Authorities, Tab 20.

⁹⁹ *Windsor Regional Hospital and CAW, Local 2458, Re* (2013) 114 CLAS 18 (Ont Arb) (Tacon (Chair)) at para. 14, OPSEU Book of Authorities, Tab 10.

¹⁰⁰ *Niagara Regional* at pp. 58-59, OPSEU Book of Authorities, Tab 9.

¹⁰¹ *Niagara Regional* at p. 59, OPSEU Book of Authorities, Tab 9.

¹⁰² *Niagara Regional* at p. 59, OPSEU Book of Authorities, Tab 9.

subsequent awards. As long as a government policy is not made part of legislation, then it has no binding or practical effect.¹⁰³

95. Further, and in any event, the employer is the only party with true visibility into its ability to pay. Accordingly, interest arbitrators have held that, before any ability to pay argument can be considered, the employer must establish, in evidence, a true inability to pay. For example, in a recent award, Arbitrator Nyman reviewed the arbitral jurisprudence and concluded:

In *Serco Canada Inc. and USW, Local 9511 (Contract Reopener), Re*, [2017] O.L.A.A. No. 189 (Ont. Arb.) (Luborsky) the arbitrator affirmed that where an employer asserts an inability to pay, that argument must be supported with cogent evidence of the full economic resources of the entire corporate structure. I agree with this view. It is far too easy for an employer to claim it is fiscally constrained. While all employers must operate with a degree of fiscal responsibility, that is not the same as being unable to pay. An employer's true financial position is almost exclusively within its own knowledge, and absent an employer conclusively establishing that it cannot pay for any increases without suffering some significant consequence, an arbitrator should not give an ability to pay argument much, if any, weight.¹⁰⁴

2. Ontario's Economy has Improved

96. Current economic conditions have markedly improved from the "post-recession" environment in which the parties negotiated and arbitrated their last collective agreement.

97. Between the expiry of the last collective agreement in December 2014 to the interest arbitration before Arbitrator Burkett in March 2016, the economy had significantly deteriorated. The Province was still reeling from the after-effects of the

¹⁰³ *Ontario Power Generation v Society of Energy Professionals* [2011] OLAA No 117 (Ont Arb) (Burkett) at para. 13, OPSEU Book of Authorities, Tab 11.

¹⁰⁴ *PAM Gardens* at para. 31, OPSEU Book of Authorities, Tab 3.

2008-2010 recession, with an average unemployment rate in 2014 of 7.3%.¹⁰⁵ In January 2016, the unemployment rate was still at 7.2%,¹⁰⁶ when the Province was hit by a significant crash in the price of crude oil January 2016. A Bank of Canada business outlook survey from January 2016 found that business investment and hiring intentions were at their lowest since the recession.¹⁰⁷ It was in this context that Arbitrator Burkett issued his award.

98. However, between 2016 and 2017, the provincial economy grew significantly. Indeed, Ontario's economic growth between 2014 and 2017 averaged 2.5%, the fastest pace since the mid-2000s.¹⁰⁸ In particular, in 2017, Ontario's real Gross Domestic Product ("GDP") growth rate averaged 2.8%.¹⁰⁹ This strong growth – led primarily by robust household spending and residential investment¹¹⁰ – resulted in a significant drop in the unemployment rate, which fell to an average of 6.0% in 2017 (the lowest average unemployment rate in the province since 2000).¹¹¹

99. After a period of strong growth, it appears that the pace of Ontario's economic expansion is slowing. This is due to a number of factors, including rising interests rates

¹⁰⁵ Newfoundland & Labrador Statistics Agency, Department of Finance, Annual Average Unemployment Rate, Canada and Provinces, 1976-2017 ["Annual Average Unemployment"], OPSEU Book of Documents, Tab 46.

¹⁰⁶ Statistics Canada, Labour force characteristics, monthly, seasonally adjusted and trend-cycle, December 2014 to February 2019 ["Statistics Canada, Labour force characteristics"], OPSEU Book of Documents, Tab 47.

¹⁰⁷ Jason Kirbey et al, "Life at \$20 a barrel: What the oil crash means for Canada", MacLean's (January 13, 2016), OPSEU Book of Documents, Tab 48.

¹⁰⁸ Financial Accountability Office of Ontario, "Economic and Budget Outlook: Assessing Ontario's Medium-term Budget Plan" (December 2018) ["FAOO, Economic and Budget Outlook"], p. 1, OPSEU Book of Documents, Tab 49.

¹⁰⁹ Scotiabank, "Scotiabank's Forecast Tables," March 7, 2019 ["Scotiabank's Forecast Tables"], OPSEU Book of Documents, Tab 50.

¹¹⁰ FAOO, "Economic and Budget Outlook", p. 8, OPSEU Book of Documents, Tab 49.

¹¹¹ "Scotiabank's Forecast Tables," OPSEU Book of Documents, Tab 50.

and household debt,¹¹² as well as heightened global uncertainty.¹¹³ Nevertheless, forecasts indicate that, on average, real GDP will track long-term growth rates at a more moderate 2.0% in 2018 and 1.9% in 2019. The chart below sets out a number of publicly-available private-sector forecasts published in March 2019.

Institution	2000-2017 Actual	2017 Actual	2018 Forecast	2019 Forecast
Royal Bank ¹¹⁴			2.2%	1.7%
TD Bank ¹¹⁵			1.9%	1.4%
Scotia Bank ¹¹⁶			1.9%	1.6%
BMO ¹¹⁷			2.1%	1.7%
Average	2.0%	2.8%	2.0%	1.6%

100. Notwithstanding a relative slowdown in the pace of growth, the provincial unemployment rate has continued to drop even further. The 2018 annual average was 5.6%, the lowest rate in the province since 1989.¹¹⁸ As of February 2019, the unemployment rate was holding strong at 5.7%.¹¹⁹ Going forward, steady economic growth is expected to support average annual employment gains of 1.0%, in line with

¹¹² FAO, “Economic and Budget Outlook”, p. 4, OPSEU Book of Documents, Tab 49.

¹¹³ TD Bank, “Provincial Economic Forecast,” March 14, 2019 [“TD, Provincial Economic Forecast”], OPSEU Book of Documents, Tab 51; Annual Average Unemployment, OPSEU Book of Documents, Tab 46.

¹¹⁴ RBC, “Provincial Outlook,” March 2019 [“RBC, Provincial Outlook”], OPSEU Book of Documents, Tab 52.

¹¹⁵ TD, “Provincial Economic Forecast,” OPSEU Book of Documents, Tab 51.

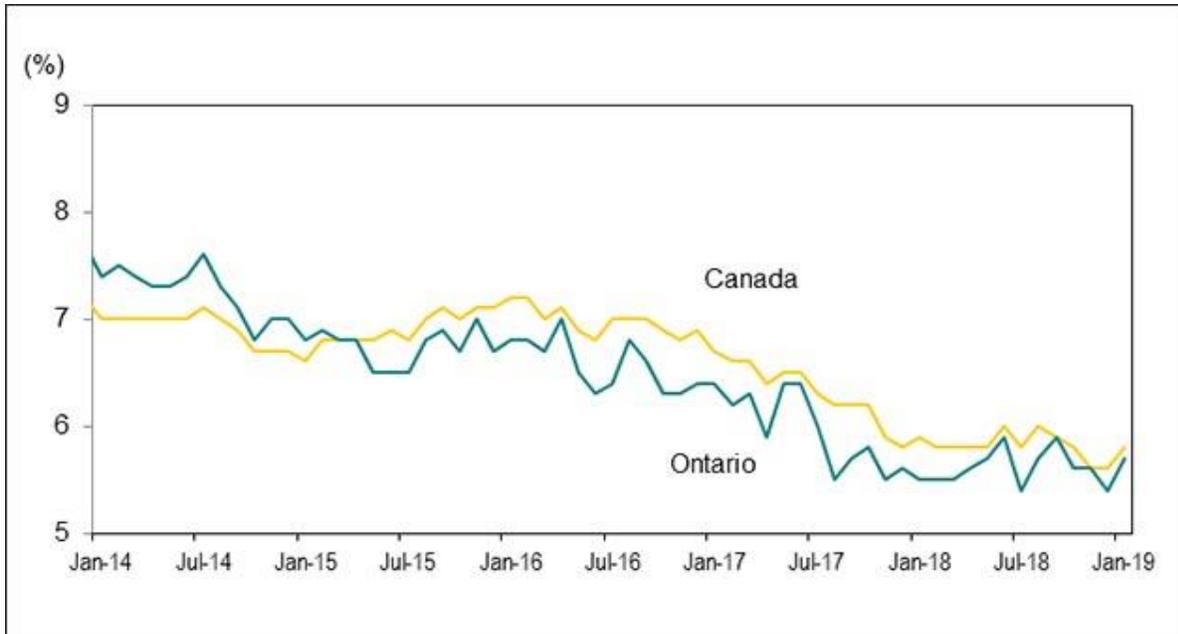
¹¹⁶ “Scotiabank’s Forecast Tables,” OPSEU Book of Documents, Tab 50.

¹¹⁷ BMO, “Provincial Economic Outlook”, March 15, 2019 [“BMO, Provincial Economic Outlook”], OPSEU Book of Documents, Tab 53.

¹¹⁸ Annual Average Unemployment, OPSEU Book of Documents, Tab 46.

¹¹⁹ Statistics Canada, “Labour force characteristics,” OPSEU Book of Documents, Tab 47.

growth in the labour force, which should keep the unemployment rate relatively stable.¹²⁰ The forecasters referred to above predict that, in the coming years, unemployment will remain at generational low rates, with an average of 5.5% in 2019 and 5.6% in 2020.¹²¹



101. Another key economic variable is inflation. As set out below, CPI inflation increased at a rate of 1.8% in 2016 and 1.7% in 2017. Publicly-available private-sector forecasts project that CPI inflation will jump up to 2.25% in 2018, 1.8% in 2019, and 2.25% in 2020.¹²²

¹²⁰ FAOO, “Economic and Budget Outlook,” p. 9, OPSEU Book of Documents, Tab 49.

¹²¹ RBC, “Provincial Outlook,” OPSEU Book of Documents, Tab 52; TD, “Provincial Economic Forecast,” OPSEU Book of Documents, Tab 51; “Scotiabank’s Forecast Tables,” OPSEU Book of Documents, Tab 50; BMO, “Provincial Economic Outlook,” OPSEU Book of Documents, Tab 53; Government of Ontario, “Ontario Employment Report: July to September, 2018” (November 17, 2018), OPSEU Book of Documents, Tab 54.

¹²² RBC, “Provincial Outlook,” OPSEU Book of Documents, Tab 52; BMO, “Provincial Economic Outlook,” OPSEU Book of Documents, Tab 53.

Institution	2016 Actual	2017 Actual	2018 Forecast	2019 Forecast	2020 Forecast
Royal Bank ¹²³			2.3%	1.7%	2.4%
BMO ¹²⁴			2.4%	1.9%	2.1%
Average	1.8%	1.7%	2.35%	1.8%	2.25%

102. Fiscally, the 2017-2018 provincial budget deficit was \$3.7 billion, and the Financial Accountability Office (the “FAO”) projects that it will increase to \$12.3 billion in 2018-2019. This sharp increase in the deficit, despite solid economic growth, is the result of an increase in spending (including interest on debt payments) combined with a decline in overall revenue.¹²⁵

103. In terms of revenue, Ontario benefitted from solid tax revenue growth in 2017-2018. However, the FAO projects that revenues will decline by \$1.2 billion (or 0.8%) in 2018-2019.¹²⁶ This projected decline is the result of, among other factors, policy decisions by the current Ontario government, such as the cancellation of the cap and trade program, the reversal of several tax revenue measures introduced by the previous government, and the stated intention of the current government to follow recent U.S. tax changes which significantly reduced the corporate income tax rates.¹²⁷

104. Ultimately, the combination of these economic indicators supports a fair provincial economic outlook for 2018 and forward. It is clear that the present economic

¹²³ RBC, “Provincial Outlook,” OPSEU Book of Documents, Tab 52.

¹²⁴ BMO, “Provincial Economic Outlook,” OPSEU Book of Documents, Tab 53.

¹²⁵ FAO, “Economic and Budget Outlook,” p. 13, OPSEU Book of Documents, Tab 49.

¹²⁶ FAO, “Economic and Budget Outlook,” p. 14, OPSEU Book of Documents, Tab 49.

¹²⁷ FAO, “Economic and Budget Outlook,” pp. 15-16, OPSEU Book of Documents, Tab 49.

environment constitutes a material improvement from the circumstances in which Arbitrator Burkett ordered gradual catch-up wage increases of 3% and 2% for the Correctional bargaining unit.

E. The Employer's Need to Retain, Motivate, and Recruit Qualified Staff

105. Another important factor is the Crown's ability to hire and retain staff to work in the correctional system.

106. In the present case, where it has fallen increasingly behind its correctional comparators, the Crown will inevitably have a difficult time incenting its existing staff to stay, let alone recruiting new employees. The rates that correctional workers could earn at the Federal facilities in Ontario are relevant both to the Employer's competitiveness within the Province and to the employment choices that the employees may make.¹²⁸

107. Even leaving aside relative compensation, unfortunately, correctional work does not attract the same prestige or respect accorded to other public safety personnel, such as police officers or firefighters. In this regard, the comments of Justice Shapiro apply with equal force today as they did in 1978:

Recruitment of correctional officers has been, is, and hopefully will not continue to be difficult. The career of being a jail guard has always ranked low in status among social service positions. It has all of the hazards of police service but none of the glamour.¹²⁹

¹²⁸ *Collegiate Heights Retirement Residence and USW, Local 8748, Re* (2018), 138 CLAS 50 (Ont Arb) (Albertyn) at para. 12, OPSEU Book of Authorities, Tab 12.

¹²⁹ Shapiro Report, at p. 78, OPSEU Book of Documents, Tab 45.

108. The lack of prestige accorded to correctional work has only been exacerbated in recent years, when there seems to be a new negative headline about Ontario's correctional system every other day.

109. In these circumstances, there is already a high rate of turnover in the Ontario correctional system. For example, the Crown has asserted that, between April 2016 and April 2018, it hired more than 1,400 COs.¹³⁰ However, during that same time period, the total number of COs working in Ontario's correctional institutions only increased by approximately 1,000.

	2015	2016	2017	2018
CO-1	128	388	651	733
CO-2	3,368	3,238	3,215	3,910
Total	3,496	3,626	4,517	4,643

110. Further, as discussed above, the unemployment rate in Ontario has recently hit a record low, and it is projected to remain relatively stable through 2020. Low unemployment rates will make it even more difficult for the Crown to attract new employees, and also may make it more difficult for it to retain its existing employees, who may well be attracted to higher paying opportunities outside of the Ontario system.

¹³⁰ Hansard Transcripts, Parliament 41, Session 3, April 10, 2018, p. 460, OPSEU Book of Documents, Tab 55.

111. All of the Union's proposals are borne out of this context. They are targeted, fair, and focused on legitimate workplace priorities.

Proposal A: Special Wage Increases

Union Proposal

The Union is seeking catch-up wage increases in four categories: Correctional (16.2%); Probation and Parole (9.2%); Healthcare (9.5%); and Trades (16.5%).

In addition, the Union is seeking a new letter of understanding to develop a job evaluation process in respect of any classifications in the Correctional bargaining unit that do not receive a special wage adjustment pursuant to this collective agreement.

NEW LOU

The parties agree to establish a joint sub-committee of the MCSCS and MCCSS MERCs to develop a job evaluation process. The sub-committee will be comprised of an equal number of Union and Employer representatives, and shall be activated within ninety (90) days of ratification of this agreement.

The mandate of the sub-committee will include:

- 1. The development of the terms of reference for the sub-committee.**
- 2. The development of a joint job evaluation committee and a process by which the parties will complete job evaluations and, as required, adjust the pay grids in respect of any classifications that did not receive a special wage adjustment pursuant to the collective agreement, effective January 1, 2018.**
- 3. The joint job evaluation committee shall be activated within one (1) year of ratification of this agreement. In the event that the parties are unable to activate the job evaluation committee by that date, either party can request that any outstanding issues be submitted to arbitration.**

It is understood that time off and compensation for committee members will be dealt with in accordance with the usual practice adopted by MERC for such matters.

Union Submissions

112. The Union submits that significant catch-up wage increases are necessary, appropriate, and long-overdue in light of the material deterioration of the wage rates of employees in the Correctional bargaining unit relative to their accepted comparators.

113. In particular, over the course of this collective agreement, the Union is seeking wage parity between four employee groups and their Federal counterparts: Correctional (16.2%); Probation and Parole (9.2%); Healthcare (9.5%); and Trades (16.5%). As set out in detail below, the Union's salary position is justified both by the need to restore parity with the Federal correctional system and to reduce salary disparity relative to similarly-situated employees in the Province.

A. *The Decision-Making Framework*

114. It is well-established that, in appropriate cases, interest arbitrators will award special catch-up wage adjustments to correct demonstrated inequities between similarly-situated employees.

115. The case for catch-up depends entirely upon a comparative salary analysis as between the employees and their appropriate comparator classifications. In this regard, the analysis differs materially from the approach taken in interest arbitration to set salary increases. That approach requires the arbitrator is to replicate the settlement that the parties would have negotiated in a free collective bargaining environment in light of the parties' history, their relative positions, and market norms. Instead, when asked to award catch-up, the arbitrator must consider the wage rates of appropriate

comparators and consider, as a matter of fairness and equity, to what extent the affected employees have fallen behind.

116. In his previous award between these parties, Arbitrator Burkett recognized the important distinction between the replication and “catch-up” analyses:

The results of free collective bargaining govern public sector interest arbitration as it applies to across-the-board economic determination. This is the replication principle. However, special adjustment determination, as here, requires a comparative salary analysis as between the classification(s) that is at issue and relevant comparator classifications (that may be either internal or external). The purpose is to determine if the classification at issue is underpaid relative to the comparator classifications such that a special adjustment, distinct and apart from any across-the-board salary increase, is warranted. While the replication principle drives the across-the-board analysis, it is of little assistance in determining whether a specific classification warrants special treatment distinct and apart from the salary treatment accorded the bargaining unit generally or in this case the Ontario Public Service generally.¹³¹

117. Once a need for catch-up has been established, and the appropriate quantum identified, other factors may come into play. For example, interest arbitrators have recognized that the prevailing economic climate may be relied upon to moderate the extent to which the gap should be closed within a single collective agreement.¹³² Indeed, this was precisely the approach taken by Arbitrator Burkett in the last round between these parties. At the time of that decision, Ontario correctional officers were paid approximately 10% less than their Federal counterparts, with a difference of 6.9% in respect of probation officers. As discussed in greater detail below, Arbitrator Burkett held this differential gave rise to a specific catch-up objective for Ontario correctional

¹³¹ Burkett Decision 1, p. 17, OPSEU Book of Documents, Tab 36.

¹³² *Police Services Board of the City of Pembroke v Pembroke Police Association*, Unreported, October 7, 1992 (Ont Arb) (Burkett), p. 5, OPSEU Book of Authorities, Tab 13.

employees. However, he concluded that “in a net zero world” the gap should be closed on an incremental basis, and ordered catch-up increases of 3% and 2% for correctional and probation officers, respectively.¹³³

118. The Union acknowledges that interest arbitrators are generally reluctant to accomplish parity within a single collective agreement, and will instead structure gains over multiple rounds. However, where a significant disparity exists, and in the appropriate circumstances, material increases have been awarded within a single collective agreement, particularly where the term is long enough to spread the increases over a number of years. For example, material catch-up increases were ordered in the following cases:

Case	Wage gap	Term awarded	Total catch-up awarded
<i>Assn of Law Officers of the Crown v Ontario (Management Board of Cabinet) (Salaries Grievance)</i> ¹³⁴	33.5%	Two years	30% (7.5% spread across first year, 22.5% spread across second year)
<i>West Nipissing Police Service Board and West Nipissing Police Assn, Re</i> ¹³⁵	29.4-36.4%	Three years	18% (6% spread across each year)*

¹³³ Burkett Decision 1, pp. 19-21, OPSEU Book of Documents, Tab 36.

¹³⁴ *Assn of Law Officers of the Crown v Ontario (Management Board of Cabinet) (Salaries Grievance)*, [2000] OLAA No 790 (Ont Arb) (Kaplan), OPSEU Book of Authorities, Tab 14.

¹³⁵ *West Nipissing Police Service Board and West Nipissing Police Assn, Re* (2012), 111 CLAS 302 (Ont Arb) (Schmidt), OPSEU Book of Authorities, Tab 15.

Case	Wage gap	Term awarded	Total catch-up awarded
<i>Re Pembroke Police Services Board and Pembroke Police Association</i> ¹³⁶	Dispatchers: 12.5% Special Cst: 21%	Three years	Dispatchers: 11% (9.2% in first year, 1.8% in second year) Special Cst: 11.5% (9.5% in first year, 2% in second year)
<i>Fort Frances (Town) v Fort Frances Professional Fire Fighters Assn</i> ¹³⁷	Not specified	Four years	16% (staged over four years: 3%, 4%, 4%, and 5%)*
<i>Mohawk Council of Akwesasne (Akwesasne Mohawk Police Service) v Akwesasne Police Association</i> ¹³⁸	15.6%	Four years	15.6% (staged over four years: 6%, 3%, 3%, and 3.6%)

* Inclusive of general wage increases.

119. The Union submits that, as in the cases canvassed above, it is necessary and appropriate to impose a substantial catch-up increase over the course of this collective agreement.

B. Historical Wage Controls

120. The members of the Correctional bargaining unit (under OPSEU’s Central collective agreement) have been the target of several cost containment measures in the name of government financial restraint following the recession. As a result, over the years, the Crown has retained significant cost-savings out of the pockets of the Union’s members.

¹³⁶ *Pembroke Police Services Board v Pembroke Police Association (Civilian Members)*, Unreported, November 15, 2010 (Ont Arb) (Marcotte), OPSEU Book of Authorities, Tab 16.

¹³⁷ *Fort Frances (Town) v Fort Frances Professional Fire Fighters Assn*, [2011] OLAA No 123 (Ont Arb) (Burkett), OPSEU Book of Authorities, Tab 17.

¹³⁸ *Mohawk Council of Akwesasne (Akwesasne Mohawk Police Service) v Akwesasne Police Association*, 2018 CanLII 2401 (ON LA) (Slotnick), OPSEU Book of Authorities, Tab 18.

	2009*▼	2010▼	2011	2012	2013	2014	2015	2016	2017
Correctional Bargaining Unit	1.75%	2.0%	2.0%	2.0%	0%	0%	0%	0%	1.4%
Unified Bargaining Unit	1.75%	2.0%	2.0%	2.0%	0%	0%	0%	0%	1.4%

* COs and YSOs received a special 2% wage increase (Bailiffs were excluded)

▼ POs received a 1% special wage increase

121. Notably, bargaining for the 2009 to 2012 collective agreement was done prior to the recession, and the negotiated wage increases did not reflect the economic context that emerged after that settlement was reached. Since then, the Crown has bargained for 0% general wage increases in all but one of the last five years. Indeed, the Crown has only provided its employees a 7.6% total, compounded general wage increase between 2010 and 2017.

122. The absence of any meaningful wage improvements for correctional employees during this period has been accompanied by actual and substantial losses in spending power due to significant increases in the cost of living. For example, between 2010 and 2017, the Ontario CPI increased by a compounded total of approximately 16%.

	2010	2011	2012	2013	2014	2015	2016	2017	2018
CPI (2002 = 100)	116.5	120.1	121.8	123	125.9	127.4	129.7	131.9	135
CPI inflation	2.5%	3.0%	1.4%	1.0%	2.4%	1.2%	1.8%	1.7%	2.35%

123. Concerns about the Crown's financial circumstances, whether ultimately well-founded or not, have historically had a negative total impact on the parties' bargaining, resulting in the unacceptable and unjustified degradation of provincial public sector wages relative to the cost of living in the province and, as discussed below, similarly-situated employees.

C. The Burkett Award

1. Arbitrator Burkett's Findings

124. The case for material catch-up was established and accepted in the parties' last round of bargaining and the awards of Arbitrator Burkett.

125. In particular, Arbitrator Burkett found that:

- c) It is valid to compare the salaries of Ontario and Federal correctional employees, who perform essentially the same function, and previously received essentially the same salary. The widening salary differential in favour of Federal employees "establishes a specific catch-up objective for Ontario correctional employees".¹³⁹
- d) Correctional employees in Ontario perform a range of duties which are generally comparable to the duties performed by policing employees in Ontario, including First Class Constables and Special Constables. The salaries of these classifications are a valid point of comparison, but there is no specific tie-point to the correctional context.¹⁴⁰
- e) The expanding differential between Ontario police salaries and Ontario correctional salaries (significantly in favour of police salaries), compared to the same differential in other jurisdictions – including the Federal jurisdiction –

¹³⁹ Burkett Decision 1, pp. 19-20, OPSEU Book of Documents, Tab 36.

¹⁴⁰ Burkett Decision 1, p. 18, OPSEU Book of Documents, Tab 36.

supports the conclusion that Ontario correctional salaries have fallen well behind.¹⁴¹

126. Arbitrator Burkett found that, in these circumstances, members of the Correctional unit were underpaid to such an extent that a catch-up adjustment was warranted. However, because of the Employer's "net zero" approach to collective agreement negotiation across the Ontario public service, Arbitrator Burkett decided that an incremental approach should be adopted. As a first step towards closing the gap, Arbitrator Burkett ordered a 2% catch-up wage increase for probation officers, and a 3% catch-up wage increase for the balance of the Correctional bargaining unit.¹⁴²

127. The Crown did not seek judicial review or otherwise seek to challenge Arbitrator Burkett's decision and findings, including with respect to his conclusion that Federal correctional employees and Ontario policing employees constituted appropriate comparators against which Ontario correctional wages should be measured.

2. Significance for this Arbitration

128. Absent a demonstrated and material change in circumstances, interest arbitrators will virtually always accept comparators which have been previously established and accepted between the same parties. This approach promotes certainty at the negotiation table and, ultimately, supports good labour relations. For example, Arbitrator Sheehan, sitting as Chair of a Board, has held:

[W]hile the doctrine of *stare decisis* does not apply with respect to decisions of arbitrators, such that a party is not necessarily precluded from advancing a position that has been rejected in a prior arbitral decision, it does not necessarily

¹⁴¹ Burkett Decision 1, p. 19, OPSEU Book of Documents, Tab 36.

¹⁴² Burkett Decision 1, pp. 20-21, OPSEU Book of Documents, Tab 36.

create a conducive environment for ongoing collective bargaining if the basic parameters by which the bargaining takes place are in a state of constant flux. Accordingly, it is our view, absent some significant change (such as a noteworthy alteration in funding or an indisputable countervailing arbitral or collective bargaining trend occurs), an arbitrator should be hesitant to not follow a previous decision regarding such a fundamental issue as to the appropriate comparator.¹⁴³

129. In the present case, there has not been any significant change which could justify deviating from the established comparators between these parties. The affected employees in the provincial and Federal correctional systems continue to perform the same duties under substantially the same conditions. Further, the same broad similarities which existed between Ontario policing and correctional employees at the time of Arbitrator Burkett's award persist today. The Union submits that Arbitrator Burkett's analysis of these comparators should be adopted and followed in this arbitration.

130. However, there have been some important changes since Arbitrator Burkett issued his award. First, and significantly, the Employer is no longer negotiating under a "net zero" mandate. Indeed, the Employer already offered the Union a 7.75% (compounded) general wage increase over four years in the form of an extension offer. The drastic shift in the Employer's salary position from one round to another reflects the fact that (i) the "net zero" mandate actually gave rise to the cost savings sought by the Employer; and (ii) provincial economic growth – in terms of CPI inflation, GDP growth, and unemployment – has markedly improved since the previous round of bargaining. In these circumstances, the Union submits that a gradual approach to

¹⁴³ *St Luke's Place v Ontario Nurses' Association*, 2017 CanLII 72329 (Ont Arb) (Sheehan) at p. 7, OPSEU Book of Authorities, Tab 19. See also: *TTC v ATU, Local 113*, 2018 CanLII 99135 (Ont Arb) (Kaplan), at p. 5, OPSEU Book of Authorities, Tab 7.

closing the wage gap is no longer necessary and that more significant catch-up should be ordered.

131. Second, the parties' bargaining relationship has been radically altered since the parties' last collective agreement. The Correctional unit now stands alone, untethered from the Central collective agreement. It has the power and duty to bargain independently with the Employer to address the unique and pressing needs of its membership, including the challenges of the correctional work environment and the longstanding, material, and recognized deterioration of their wages.

132. Third, Arbitrator Burkett already brought these parties one step closer to parity. Even if the Arbitrator is of the view that an incremental approach continues to be appropriate, the Union submits that parity can be achieved incrementally between January 1, 2015 and December 31, 2017, and the conclusion of this collective agreement.

133. Fourth, and finally, the employees in the Correctional bargaining unit are even further behind their Federal comparators than they were when Arbitrator Burkett initially recognized the need for a special wage increase. A catch-up wage increase should operate to close an unequitable gap between similarly-situated employees. An unduly incremental approach to catch-up is at odds with the purpose of such increases.

134. Accordingly, while there is no reason to deviate from the parties' established and accepted comparators, there are very good reasons for discarding the incremental approach taken by Arbitrator Burkett, and closing the gap, finally, over the course of this collective agreement.

D. The Union's Wage Groups

135. In this interest arbitration, the Union is seeking wage parity with the Federal correctional system for four specific groups of employees.

136. In each group, the Union has identified the most highly populated classification and used that classification as a benchmark for the other classifications in the group.

	Benchmark Classification	Federal Comparator	Wage Differential	Wage Proposal
Corrections	CO-2	CX-2	16.2%	16.2%
Probation	PO-2	WP-4	9.2%	9.2%
Healthcare	Nurse 2, General	NU-HOS-4	9.5%	9.5%
Trades	Maintenance Mechanic 3	GL-MAM-10	16.5%	16.5%

137. The Union submits that the wages paid to staff in the Federal correctional context – even where those staff are not directly engaged in the care, custody, and control of inmates – are the most direct and appropriate comparator in the present circumstances. The work of a nurse in a correction institution is simply harder and more personally-taxing than the work of a nurse in a public hospital. Indeed, employers are increasingly acknowledging the risk of trauma and violence on the front-lines of offender-facing work, and have chosen to recognize that risk in the form of increased compensation. For example:

- a) In the Federal context, correctional officers were entitled to receive an extra \$1,750.00 per year as a Correctional Officer Allowance, which was intended to

“recognize the working conditions of the correctional officer employment”. However, effective June 1, 2016, the Federal Union of Canadian Correctional Officers negotiated to roll this allowance into their base wage.¹⁴⁴

- b) Similarly, also in the Federal correctional context, employees who are not directly engaged in the care, custody, and control of inmates are nevertheless entitled to receive a Correctional Service Specific Duty Allowance (“CSDA”) equal to \$2,000.00 per year. The CSDA (which replaced the previous Penological Factor Allowance and the Offender Supervision Allowance) is available to employees such as Probation Officers, Nurses, and Tradespeople. Through this allowance, the Federal government has recognized that these employees are also exposed to the potential for physical injury and other traumatic events as a result of working under conditions of confinement.¹⁴⁵
- c) Finally, the Toronto Police Association has recently bargained for an additional 3% Priority Response Unit (“PRU”) allowance on base salary. Again, the purpose of the PRU allowance is to alleviate recruitment challenges and recognize the unique difficulties facing officers working on the front-lines in “an increasingly complex and demanding urban policing environment”.

138. It is important to note that Arbitrator Burkett awarded catch-up increases for the entire Correctional bargaining unit.¹⁴⁶ However, the Union acknowledges that recent structural changes to the Correctional bargaining unit – and specifically, the influx of formerly Unified members into the unit – diminish to some extent the suitability of

¹⁴⁴ Collective Agreement between the Treasury Board and the Union of Canadian Correctional Officers, Group: Correctional Services, June 1, 2014 to May 31, 2018, Article 43.06, p. 66, OPSEU Book of Collective Agreements, Tab 1.

¹⁴⁵ Collective Agreement between the Treasury Board and the Public Service Alliance of Canada, Group: Operational Services, August 5, 2014 to August 4, 2018, Article 61, p. 59, OPSEU Book of Collective Agreements, Tab 2; Collective Agreement between the Treasury Board and the Public Service Alliance of Canada, Group: Program and Administrative Services, June 21, 2014 to June 20, 2018, Article 60, pp. 62-63, OPSEU Book of Collective Agreements, Tab 3; Collective Agreement between the Treasury Board and the Public Service Alliance of Canada, Group: Health Services, October 1, 2014 to September 30, 2018, Article 44, pp. 69-70, OPSEU Book of Collective Agreements, Tab 4.

¹⁴⁶ Burkett Decision 2, pp. 3-4, OPSEU Book of Documents, Tab 37.

across the board catch-up. Accordingly, the Union has focused its position to four unique and specific circumstances in which catch-up is warranted and, indeed, long overdue.

1. Corrections

139. The classifications in the Corrections wage group are set out below:

Classifications	2017 Wage Rate	Numbers
CO-1	\$29.50	733
CO-2	\$34.09	3,910
CO-3	\$34.90	0
Bailiff 1	\$35.37	22
Bailiff 2	\$36.20	4
YSO	\$34.09	420
		5,089

140. COs, YSOs, and Bailiffs are on the front-line of the Ontario correctional system, and bear the heavy burden of its shortcomings.¹⁴⁷ The former Minister of Community Safety and Correctional Services, the Honourable Marie-France Lalonde, described their work as follows:

[W]e know that our front-line staff are the single most important assets in corrections, and theirs is often a thankless job. They are first responders who save lives but their stories never make the news. Their work can be, and often is, dangerous. They are asked to keep and care for people who society often vilifies and who are used as political footballs. They are asked to safeguard

¹⁴⁷ Correctional Officer 1, OPSEU Class Standard, OPSEU Book of Documents, Tab 8; Correctional Officer 2, OPSEU Class Standard, OPSEU Book of Documents, Tab 9; Youth Worker, OPSEU Class Standard, OPSEU Book of Documents, Tab 10; Provincial Bailiff 1, OPSEU Class Standard, OPSEU Book of Documents, Tab 56.

those with some of our most significant and challenging mental health and addiction issues. They are asked to safeguard some people who have committed unspeakable crimes, yet they do it. They do it every single day, and I want them to know that their sacrifices and professionalism are appreciated.¹⁴⁸

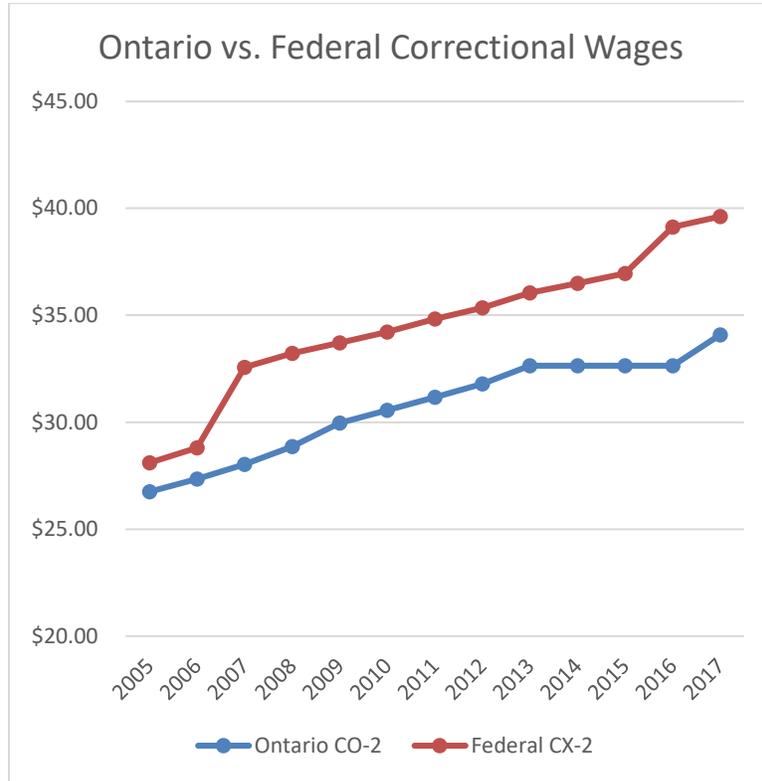
141. Unfortunately, in reality, employees in the Correctional wage group report feeling “underappreciated” and “undervalued” by the Crown.¹⁴⁹ This is because, notwithstanding the increases awarded in the initial Burkett award, salaries in the Correctional wage group have continued to deteriorate significantly relative to comparator classifications. At the same time, the perceived risk of violence in the correctional system has increased markedly.

142. Correctional employees in Ontario today are paid substantially less than equivalent employees in Federal institutions, and the differential has increased over time. For example, in 2005, Ontario CO-2s were paid 5.1% less than Federal CX-2s, while in 2017 the differential has increased to 16.2%. Throughout this period, however, these two groups have performed virtually identical work in the same, uniquely challenging, work environment.¹⁵⁰

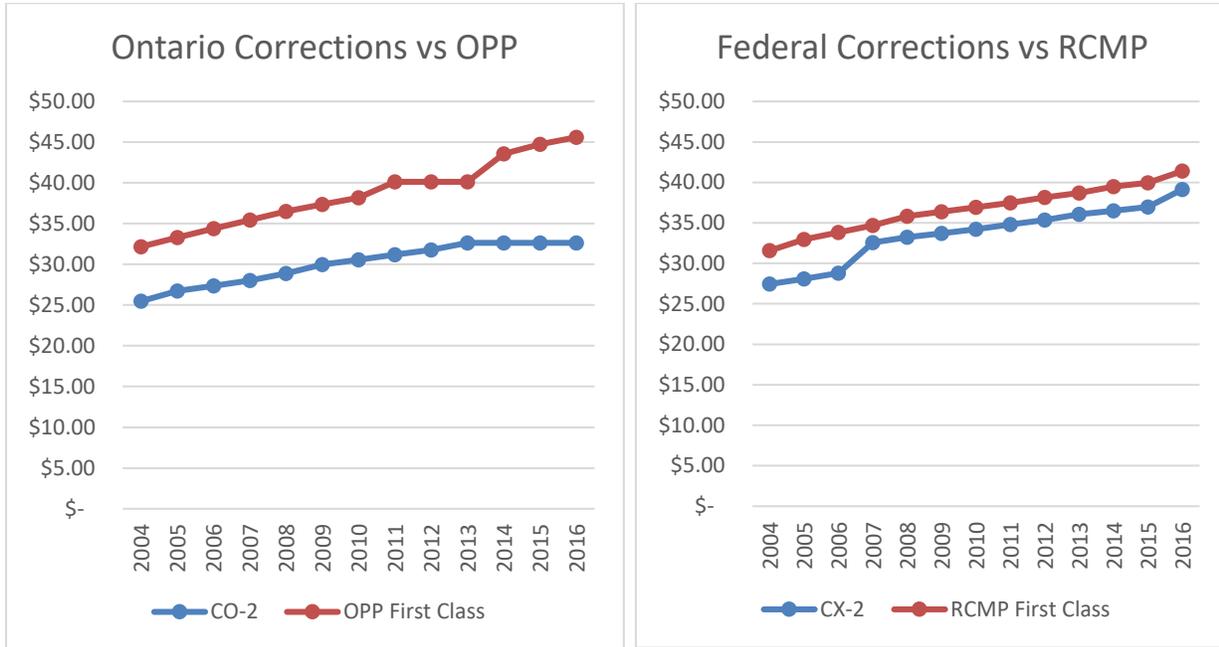
¹⁴⁸ Hansard Transcripts, Parliament 41, Session 3, March 27, 2018, p. 231, OPSEU Book of Documents, Tab 57.

¹⁴⁹ IROC Interim Report, p. 52, OPSEU Book of Documents, Tab 5.

¹⁵⁰ Work Description, CX-1, Government of Canada, OPSEU Book of Documents, Tab 42; Work Description, CX-2, Government of Canada, OPSEU Book of Documents, Tab 43.



143. Further, the salary gap between Ontario correctional and police employees has continued to widen relative to that in other jurisdictions, where the gap has been shrinking over time. For example, in 2005, there was a 17.3% salary differential between Federal CX-2s and a First Class Constable with the RCMP, and a 24.5% differential between an Ontario CO-2 and an OPP First Class Constable. Since then, the Federal wage differential has closed to a significant extent, leaving only a 5.8% difference between the two groups as of 2016. In contrast, Ontario CO-2s have fallen further and further behind their relative comparators at the OPP, leaving a staggering 39.7% gap as of 2016.



144. In the years which have passed since the issuance of Arbitrator Burkett’s award, the Crown has not provided any rational justification for these blatant and expanding inequities. A 16.2% increase for the Correctional wage group would restore parity between these employees and their colleagues in the Federal sector, and would bring the provincial correctional and policing wage differential back to an appropriate level.

2. Probation

145. The classifications in the Probation wage group are set out below:

Classifications	2017 Wage Rate	Numbers
PO-1	\$1,251.72	176
PO-2	\$1,512.36	1,119
PO-3	\$1,663.59	0
		1,296

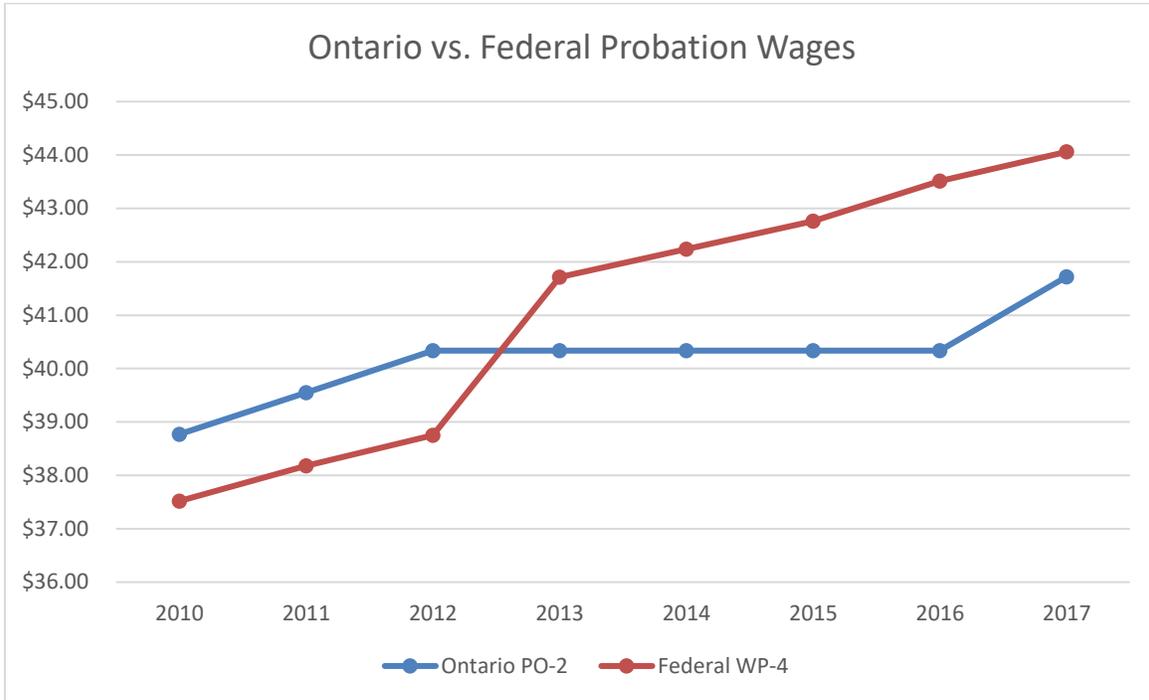
146. Probation Officers are responsible for monitoring a large number of offenders who are subject to various forms of community supervision. In Ontario's correctional system, POs are often required to shoulder enormous workloads. They must assess and monitor their assigned offenders' individual behaviours, accountabilities, and risk of recidivism. They use policies and their professional judgement to prepare detailed written reports and recommendations about the offenders under their supervision. Significantly, any errors in judgment pose a significant risk to public safety. This is a professional, skilled, and hardworking group of employees that should be recognized for their contributions.¹⁵¹

147. In particular, POs in Ontario have a number of enhanced duties which exceed those of their colleagues in other jurisdictions, including Sex Offender Risk Assessments, Domestic Violence Risk Assessments, and safety plans for victims of domestic violence. These enhanced assessments, programs, policies, and procedures result in extreme workload demands on a workforce that already has the highest caseload numbers in the country, and supervises Canada's largest population of community-based offenders.

148. Historically, Ontario POs were compensated at a high rate relative to probation officers in other jurisdictions. However, despite these extreme workload pressures, in recent years, POs in Ontario have received wages which are materially less than their comparator colleagues. For example, in 2010, Ontario PO-2s and Federal WP-4s were essentially at parity, with a wage differential of 0.1% in favour of Ontario workers. Since

¹⁵¹ Probation Officer 1, OPSEU Class Standard, OPSEU Book of Documents, Tab 11; Probation Officer 2, OPSEU Class Standard, OPSEU Book of Documents, Tab 12.

then, however, Federal WP-4s have substantially leap-frogged Ontario PO-2s, with a wage differential of 9.2% in 2017.



149. Further, in recognition of the unique challenges posed by their offender-facing role, WP-4s in the Federal system receive an annual CSDA equal to \$2,000.00 per year.¹⁵² The 9.2% base salary differential does not even account for this additional compensation enjoyed by Federal probation officers.

3. Healthcare

150. The classifications in the Healthcare wage group are set out below:

Classifications	2017 Wage Rate	Numbers
Nurse 1 - General	\$1,407.43	0

¹⁵² Collective Agreement, Article 60.

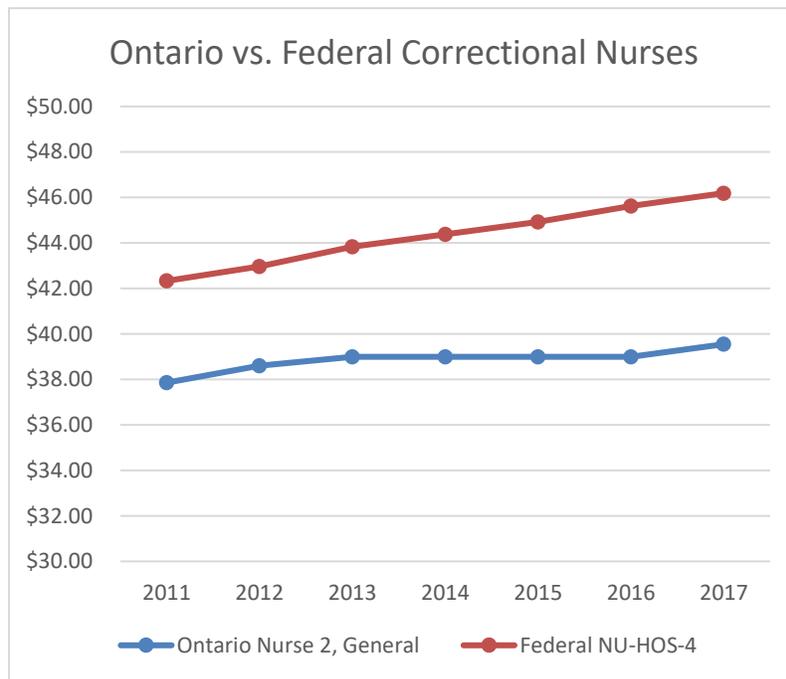
Classifications	2017 Wage Rate	Numbers
Nurse 2 - General	\$1,581.87	498
Nurse 2 - General G24 (First Step Above Range)	\$1,627.80	
Nurse 2 - General G24 (Second Step Above Range)	\$1,675.04	
Nurse 3 - General	\$1,707.91	98
Nurse 3 Public Health	\$1,866.99	3
Psychiatric Nursing Assistant 1 (RPN)	\$24.47	0
Psychiatric Nursing Assistant 2 (RPN)	\$26.57	0
Psychiatric Nursing Assistant 3 (RPN)	\$27.17	50
Psychiatric Nursing Assistant 4 (RPN)	\$28.22	0
Psychometrist 1	\$1,326.33	0
Psychometrist 2	\$1,390.94	11
Psychologist 1	\$1,918.53	13
Psychologist 2	\$2,129.68	1
Psychologist 3	\$2,139.70	0
		674

151. The nurses, psychometrists, and psychologists in the healthcare group perform extremely difficult work for a transient patient population who is disproportionately affected by mental illness, addiction, and historical trauma.¹⁵³ They provide an

¹⁵³ Nurse 2, General, OPSEU Class Standard, OPSEU Book of Documents, Tab 58; Psychiatric Nursing Assistant 2, OPSEU Class Standard, OPSEU Book of Documents, Tab 59; Psychometrist 2, OPSEU Class Standard, OPSEU Book of Documents, Tab 60.

essential public service, and the Union submits that their contributions should be recognized in the form of a special wage adjustment.

152. Between 2011 and 2017, the wage differential between an Ontario Nurse 2, General and a Federal NU-HOS-4 has essentially doubled.¹⁵⁴ Currently, Ontario is lagging 9.5% behind their Federal counterparts, a differential which does not even account for the \$2,000 CSDA to which Federal nurses are entitled,¹⁵⁵ and also does not account for the \$4,500 retention allowance afforded to Federal nurses and psychologists.¹⁵⁶



¹⁵⁴ Government of Canada Job Posting, Nurse – Inventory, NU-HOS-03, OPSEU Book of Documents, Tab 61.

¹⁵⁵ Collective Agreement between the Treasury Board and the Public Service Alliance of Canada, Group: Health Services, October 1, 2014 to September 30, 2018, Article 44, pp. 69-70, OPSEU Book of Collective Agreements, Tab 4.

¹⁵⁶ Collective Agreement between the Treasury Board and the Public Service Alliance of Canada, Group: Health Services, October 1, 2014 to September 30, 2018, Appendix “L”, pp. 164-165, OPSEU Book of Collective Agreements, Tab 4.

153. Federal correctional nurses are earning wages which are roughly equivalent to the Ontario Nurses' Association ("ONA") wage grid. As a result, Ontario nurses in the correctional system are behind their colleagues in ONA-represented hospitals and other institutions at roughly the same rate. For example, while a Nurse 2, General at the top of pay grid in 2017 was earning \$1,581.87 per week, a registered nurse covered by the ONA central agreement would receive a weekly wage of \$1,729.10 (a differential of 9.3% in favour of ONA).

154. Other classifications within the Healthcare wage group are even further behind their applicable comparators. For example, Registered Practical Nurses ("RPNs") are typically employed in the provincial Ministries under the classification Psychiatric Nursing Assistant 3, while RPNs in the Federal correctional system hold the classification of NU-HOS-2. As of 2017, the wage differential between these two employee groups was a staggering 56% in favour of the Federal system. There is no rational justification for such extreme differences between employees performing the same work under the same conditions.

4. Trades

155. The classifications in the Trades wage group are set out below:

Classifications	2017 Wage Rate	Numbers
Building Systems Operator	\$29.89	1
Carpenter	\$27.01	1
Carpenter Foreperson	\$28.95	0
Carpenter/Inspector	\$28.56	0

Classifications	2017 Wage Rate	Numbers
Electrician	\$27.95	22
Electrician Foreperson	\$30.87	0
Electrician/contract inspector	\$30.00	0
Foreperson	\$28.95	4
Maintenance Mechanic 1	\$22.95	3
Maintenance Mechanic 2	\$25.27	33
Maintenance Mechanic 3	\$27.01	59
Maintenance Mechanic 3A	\$28.31	0
Plumber	\$27.95	8
Plumber foreperson	\$30.87	1
Welder	\$27.85	2
		134

156. The Trades employees in the Ontario correctional system perform important and necessary work, and are not immune to the unique challenges of the correctional work environment.

157. The benchmark classification for the Trades group is the Maintenance Mechanic 3 (“MM3”). MM3s responsible for performing a variety of maintenance tasks requiring the use of skills and knowledge associated with various trades (including carpentry, painting, plastering, welding, plumbing, and electrical, etc.). In essence, MM3s are the Ministries’ equivalent of a “jack-of-all-trades”, who may have skills and even trade certifications in multiple disciplines without working continuously in any one specific

trade.¹⁵⁷ The comparator to the Ontario Maintenance Mechanic series in the Federal context is the Machinery Maintaining Sub-Group.¹⁵⁸

158. However, there is a significant and expanding wage differential between Ontario MM3s and their Federal comparators, GL-MAM-10s. Indeed, in 2017, Ontario MM3s received an hourly wage of \$27.01, which left them 16.5% behind GL-MAM-10s at \$31.47.

159. A review of the other classifications in the Trades wage group demonstrates that the wage differentials are persistent and substantial. For example, the 2017 wage for an Electrician in an Ontario correctional institution is 26.9% less than an Electrician in the Federal sector (under classification GL-EIM-11).¹⁵⁹

160. The significant deterioration of Trades wages in the Ontario Correctional system is even more apparent when contrasted with their comparators outside of corrections. For example, a Maintenance Electrician (TEC 93030) in the Correctional unit received an hourly wage of \$27.95 per hour. At the same time, a Maintenance Electrician doing the same work at the LCBO received an hourly wage that is 34.3% higher, at \$37.55. Further, Maintenance Electricians at the LCBO will enjoy further salary increases of more than 6% by the end of 2020, to \$39.87 hourly.

¹⁵⁷ Maintenance Mechanic 3, OPSEU Class Standard, OPSEU Book of Documents, Tab 62. See also: Maintenance Electrician, OPSEU Class Standard, OPSEU Book of Documents, Tab 63;

¹⁵⁸ See, for example, a Job Posting for a Federal Building Services Technician, at GL-MAM-09, which covers many of the same duties as a Maintenance Mechanic 2, OPSEU Book of Documents, Tab 64.

¹⁵⁹ See, for example, a Job Posting for a Federal Electrician, at GL-EIM-11, which covers many of the same duties as an Electrician, OPSEU Book of Documents, Tab 65.

161. The employees in the Trades group are materially underpaid. A special wage increase of 16.5% will achieve parity for the benchmark MM3 classification, and will go a long way towards closing the gap for the other classifications.

5. Joint Job Evaluation

162. In the current round, the Union is only seeking special wage adjustments for four specific wage groups. However, there are other classifications within the Correctional system which are being significantly underpaid relative to comparable employees. For example, in 2017, a Dental Assistant (IHC 09330) in the Correctional unit received an hourly wage of \$25.29, while an OPSEU-represented Dental Assistant doing the same work for a public hospital received \$32.76, a gap of 29.5%.

163. Accordingly, the Union is also proposing that the parties establish a Joint Job Evaluation Committee in order to complete job evaluations and, as required, adjust the pay grids in respect of any classifications that did not receive a special wage adjustment pursuant to the collective agreement.

E. Conclusion

164. It is no longer appropriate for the Crown rely upon the economic climate to justify the fact that the wage rates in these four groups are substantially behind their comparators in the Federal correctional system, as well as in the rest of the Province. Drastic wage differentials in classifications throughout the bargaining unit frustrate the Crown's ability to attract and retain a strong workforce and contribute to low morale throughout the workplace, both of which undermine the essential functioning of

Ontario's correctional institutions. The increases proposed by the Union are targeted, reasonable, and necessary.

Proposal B: General Wage Increases

Union Proposal

The Union is seeking the following wage increases:

January 1, 2018: 1.25%

July 1, 2018: 1.25%

January 1, 2019: 1.25%

July 1, 2019: 1.25%

The Union is prepared to consider an additional year on the same terms.

Union Submissions

165. The Union is seeking an across the board general wage increase of 2.5% per year (split into 1.25% increases on both January 1 and July 1 of each year).

166. There is an emerging trend in both settled and adjudicated public sector wage rates which has resulted in normative increases of roughly 2% in 2018 and 2019, with greater increases trending in 2020 and following. The Union’s proposal is consistent with that broad pattern.

	Term	General Wage Increases	Settled / Adjudicated
OPSEU and the Liquor Control Board of Ontario ¹⁶⁰	4 years (April 1, 2017 to March 31, 2021)	2017: 1.5% split 2018: 2.0% split 2019: 2.0% split 2020: 2.0% split	Settled

¹⁶⁰ Collective Agreement Between the Liquor Control Board of Ontario and the Ontario Public Service Employees’ Union, April 1, 2017 to March 31, 2021, OPSEU Book of Collective Agreements, Tab 5.

	Term	General Wage Increases	Settled / Adjudicated
Halton Hills Professional Fire Fighters' Association and the Town of Halton Hills ¹⁶¹	3 years (January 1, 2017 to December 31, 2019)	2017: 1.7% split 2018: 1.5% split 2019: 1.7% split	Adjudicated
AMAPCEO and the Crown in the Right of Ontario ¹⁶²	4 years (April 1, 2018 to March 31, 2022)	Oct 1, 2017 (retro): 1.5% 2019: 2.0% split 2020: 2.0% split 2021: 2.0% split	Settled
OPSEU (Unified) and the Crown in the Right of Ontario	4 years (January 1, 2018 to December 31, 2021)	July 1, 2017 (retro): 1.5% 2019: 2.0% split 2020: 2.0% split 2021: 2.0% split	Settled
Guelph Professional Fire Fighters' Association and the City of Guelph ¹⁶³	5 years (January 1, 2018 to December 31, 2022)	2018: 1.9% 2019: 1.9% 2020: 2.0% 2021: 1.9% 2022: 1.7%	Adjudicated
Toronto Professional Fire Fighters' Association and the City of Toronto ¹⁶⁴	5 years (January 1, 2019 to December 31, 2023)	2019: 2.5% split 2020: 2.5% split 2021: 1.97% split 2022: 1.85% 2023: 1.75%	Settled
The Society of United Professionals and Ontario Power Generation ¹⁶⁵	1 year (January 1 to December 31, 2019)	2019: 2.0%	Adjudicated

¹⁶¹ Collective Agreement Between the Corporation of the Town of Halton Hills and Halton Hills Professional Fire Fighters' Association, Local 3327, January 1, 2013 to December 31, 2016, OPSEU Book of Collective Agreements,, Tab 6; *Corporation of the Town of Halton Hills v Halton Hills Professional Fire Fighters' Association*, 2019 CanLII 20738 (Ont Arb) (Jesin), OPSEU Book of Collective Agreements, Tab 7.

¹⁶² AMAPCEO, 2018-2022 OPS Contract Highlights, OPSEU Book of Collective Agreements, Tab 8.

¹⁶³ *The Corporation of the City of Guelph v the Guelph Professional Fire Fighters Association Local 467, International Association of Fire Fighters*, Unreported, February 21, 2017 (Ont Arb) (Hayes), OPSEU Book of Collective Agreements, Tab 9; *The Corporation of the City of Guelph v the Guelph Professional Fire Fighters Association Local 467, International Association of Fire Fighters*, 2019 CanLII 20327 (Ont Arb) (Steinberg), OPSEU Book of Collective Agreements, Tab 10;

¹⁶⁴ The Toronto Professional Fire Fighters' Association, Summary of Collective Agreement, 2019 to 2023, OPSEU Book of Collective Agreements, Tab 11.

¹⁶⁵ *Ontario Power Generation v Society of United Professionals*, 2018 CanLII 129030 (Ont Arb) (Stout), OPSEU Book of Collective Agreements, Tab 12.

	Term	General Wage Increases	Settled / Adjudicated
Toronto Police Association and the Toronto Police Services Board ¹⁶⁶	5 years (January 1 to December 31, 2019)	2019: 2.5% split 2020: 2.5% split 2021: 1.97% split 2022: 1.85% 2023: 1.75%	Settled

167. For example, the Crown’s recent settlements with the Unified bargaining unit and AMAPCEO both provide for 2% split increases in each year between 2019 and 2020. Further, in both cases, the Crown agreed to back-date the 2018 1.5% wage increase into 2017 (by three months for AMAPCEO, and six months for OPSEU Unified). As a result, the Crown has agreed to pay public sector wage increases in respect of 2018 with a fiscal cost of 1.88% and 2.25% for AMAPCEO and OPSEU Unified, respectively.

168. The Crown has previously suggested that the members of the Correctional bargaining unit should receive lower general wage increases than their colleagues in the Unified bargaining unit. The Crown has not offered any justification for this proposed inequity, and it is not clear whether the Crown will be maintaining this position for the purpose of this arbitration. In light of the many challenges facing employees in the correctional work environment, there is no reason that an OAG-8 in corrections should be making less than her colleagues in the Unified bargaining unit.

169. The Union anticipates that the recent wage settlements between the Toronto Professional Fire Fighters’ Association and the City of Toronto, as well as the Toronto Police

¹⁶⁶ Ratification Package, Toronto Police Association, 2019-2023 Memorandum of Agreement, OPSEU Book of Collective Agreements, Tab 13.

Association and the Toronto Police Services Board, will set an important precedent for the sector. For example, the Guelph and Halton Hills Firefighters have recently arbitrated significant wage increases which follow this same trend, and it is highly likely that the Guelph and Halton Hills Police Services will follow suit. More importantly, it is highly likely that the Ontario Provincial Police Association, which is currently bargaining for a collective agreement effective January 1, 2019, will negotiate wage increases consistent with those agreed-upon for the Toronto Police Service. The Union's proposal is consistent with this emerging trend among Ontario public safety personnel.

170. This broad trend towards annual wage increases in excess of 2% is not surprising in light of the current economic outlook in the Province. In particular, CPI inflation is projected to be high during the term of this collective agreement, at a rate of 2.25% in 2018, 1.8% in 2019, and 2.25% in 2020.¹⁶⁷ The Union's wage proposal would ensure that members of the Correctional bargaining unit do not lose spending power (as they have for so many years) relative to increasing inflation.

171. Accordingly, the Union submits that general wage increases of 2.5% per year are fair and reasonable in light of other adjudicated and settled wage increases in the sector, as well as the prevailing economic climate.

¹⁶⁷ RBC, "Provincial Outlook," OPSEU Book of Documents, Tab 52; "Provincial Economic Outlook", BMO, March 15, 2019, OPSEU Book of Documents, Tab 53.

Proposal C: Salary Grid Progression

Union Proposal

The Union is seeking a new appendix confirming that “All hours worked by employees from January 1, 2016 to December 31, 2017 shall be counted towards the wage progression grid and credited effective January 1, 2018.”

Union Submissions

172. Correctional employees receive graduated annual salary increases tied to their years of service with the Employer. In structuring the wage grid in this manner, the Employer and the Union have jointly recognized that employees with greater work experience contribute more effectively to the Employer’s operations and, therefore, should be compensated at a higher rate. This is the bargain that the parties have reached and to which they are bound.

173. However, for the collective agreement effective from January 1, 2015 to December 31, 2017, Arbitrator Burkett determined that all Correctional members’ progression through the wage grid should be frozen in each of 2016 and 2017 (mirroring an identical settlement reached between the Employer and the Unified bargaining unit).¹⁶⁸ As a result, in 2016 and 2017 there was no movement through the grid to reflect members’ work experience, suspending the application of the parties’ bargain.

¹⁶⁸ Burkett Decision 1, p. 17, OPSEU Book of Documents, Tab 36. See: Collective Agreement, Appendix COR38, dated May 26, 2016, p. 498, OPSEU Book of Documents, Tab 39.

174. This two year grid freeze was one of several cost containment measures sought by the Employer in an effort to achieve a “net zero” agreement. Arbitrator Burkett noted at the outset of his decision:

It is important to understand the full scope of the terms of agreement applying to the correctional bargaining unit under both the central and local agreements. Firstly, the economic terms are identical to and flow from the central agreement. The "net zero" threshold is met with the 2015 wage freeze, the 2016 1.4% lump sum payment and the 2017 1.4% across-the-board increase with the negotiated cost containments relating to LTIP, termination pay and WSI benefits along with the freeze to progression through the ranks (made subject to this arbitration).¹⁶⁹

175. Arbitrator Burkett went on to conclude:

In that the grid freeze forms part of the current “net zero” public service and broader public service across-the-board bargaining outcome, the application of the replication principle supports the same outcome here.¹⁷⁰

176. It is clear that the grid freeze was a crucial element of the Employer’s efforts to achieve its objective of a “net zero” compensation package and that they were successful at interest arbitration in securing this concession. However, the Employer never sought, nor was it awarded, a permanent reduction in the grid placement of almost 20% of the bargaining unit.

177. Grid freezes, by their very nature, are arbitrary and unfair. A small group of employees are negatively affected for the period of the freeze – an income reduction that is not imposed on either those more senior who have reached the top of the grid, nor those hired in the final 364 days of the grid freeze, who will receive their annual grid movements in the usual course, after the freeze period ends. This is

¹⁶⁹ Burkett Decision 1 at p. 4, OPSEU Book of Documents, Tab 36.

¹⁷⁰ Burkett Decision 1 at p. 17, OPSEU Book of Documents, Tab 36.

fundamentally at odds with one of the central tenets of unionized labour: that additional seniority is recognized through additional compensation at a rate that is uniform across the bargaining unit.

178. The Crown proposes that its Correctional employees should bear the burden of the 2016-2017 grid freeze for the balance of their careers. However, arbitrators have previously recognized the unfairness inherent in such long-term ill-effects. For example, as Arbitrator Kaplan stated in *Assn of Law Officers of the Crown v Ontario*:

It should be noted that one effect of the Social Contract was the deceleration of grid movement, with significant numbers of lawyers prevented from customary advancement on the grid. To give an example, despite three years difference in experience and year of call, a government lawyer called to the bar in 1993 is being paid exactly the same amount as a government lawyer called to the bar in 1996. This situation is simply unfair for the impact of the Social Contract was not just felt, appropriately, during its term, but will be felt, inappropriately, throughout an entire career.¹⁷¹

179. Moreover, this Employer never sought the benefit of the grid freeze for the duration of affected employees' careers. In seeking the 2016-2017 grid freeze for Correctional employees, the Employer justified its position on a single basis. The Employer wrote, in its submissions to Arbitrator Burkett:

The Unified ratified memorandum of settlement provides that for the approximately 30,000 OPSEU-represented employees in the Unified bargaining unit, employees below the maximum of the salary grid are frozen at their existing step in the grid for the calendar years 2016 and 2017. ...

This was a critical component of the overall settlement and allowed the Government to offer the 1.4% lump sum in the 2nd year of the settlement (2016) and the 1.4% wage increase in the 3rd year of the settlement (2017).

¹⁷¹ *Assn of Law Officers of the Crown v Ontario (Management Board of Cabinet) (Salaries Grievance)*, [2000] OLAA No 790 (Ont Arb) (Kaplan) at pp. 8-9, OPSEU Book of Authorities, Tab 14.

The government pursues the replication of that settlement for the Correctional bargaining unit from the date of the award until December 31, 2017.

...

The cost of movement on the salary grid for the OPSEU Correctional bargaining unit, for the period in question is set out below:

Year	Cost	% of Base
2016	\$2,084,820 (assuming an award at the end of April)	0.40%
2017	\$5,593,106	1.08%

180. As is clear from the two arbitration awards, the Employer was ultimately successful in securing two full calendar years of grid freeze, rather than the circumscribed period of 20 months costed in their brief. As a result, the total value to the Employer of the two year freeze exceeded the amounts set out above.

181. It was explicit in the Employer's submissions at the previous interest arbitration that it was only seeking the value of a two year grid freeze, as a cost containment measure to offset a small lump sum payment (which the Employer costed at 1.07% of base) in 2016 and the 1.4% increase in 2017. In fully funding the lump sum, and securing a marginal salary increase in only the third year of the collective agreement, the Employer also sought and received concessions relating to LTIP, termination pay, and WSIB benefits, which it costed at an additional 1% of base.

182. As a result, and consistent with the Employer's net zero mandate, there has never been a request, nor any justification advanced, for a continued wage freeze beyond 2017.

183. In fact, to require the junior members caught in the arbitrary net of this grid freeze to remain subject to its effect is not justifiable.

184. The impact on junior members is significant. For example, a CO hired during the first year of the 2016-2017 wage grid freeze will earn \$28,510 (6.65%) less over the first seven years of their career than they would have earned but for the freeze. Similarly, a newly-hired PO will earn \$29,123 (5.3%) less over the first eight years of their career.

185. Absent restoration to their appropriate wage grid position, employees hired in 2016 and 2017 will receive the same wage as employees hired in 2018, notwithstanding their additional experience. Indefensibly, employees hired in 2015 will earn less than some employees hired in 2017.¹⁷² This is inconsistent with the parties' long-standing and bargained agreement that one year of work experience results in additional value and compensation for each of the Employer and the employee.

186. The Employer achieved the significant cost savings it sought during the two year grid progression freeze and the Union's newly hired members have suffered similarly significant repercussions.

¹⁷² For example, an employee hired on October 1, 2015 would not have been entitled to an increase on October 1, 2016 or October 1, 2017. Her first step increase would come on October 1, 2018. However, an employee hired on January 15, 2017 would receive her first step increase on January 15, 2018.

187. The Union's proposal would, on a go forward basis, end the punitive treatment of these members, and recognize the seniority and experience that they have earned in the Ontario Public Service, as required by the parties' agreed-upon wage progression system. At the same time, returning the affected members to their position on the grid does not eliminate or reduce the savings sought and already realized by the Employer: they receive the full benefit of their bargain.

188. Rather than bear the burden of the Employer's wage freeze for a significant portion of their careers, OPSEU's members should be restored to their appropriate wage grid positions going forward.

189. These submissions are without prejudice to any position(s) taken by the Union in Grievance Nos. 2017-0999-0041 and 2018-0999-0006, as well as any other grievances being held in abeyance in relation to salary progression.

Proposal D: Psychological and Paramedical Benefits

Union Proposal

ARTICLE 39 – SUPPLEMENTARY HEALTH AND HOSPITAL INSURANCE

39.2.5 Effective June 1, 2002, charges for the services of a chiropractor, osteopath, naturopath, podiatrist, physiotherapist, and masseur (if licensed and practising within the scope of their license), ~~to a maximum of twenty-five dollars (\$25) for each visit~~ to an annual maximum of one thousand and two hundred dollars (\$1200) per type of practitioner following O.H.I.P. and speech therapist, ~~up to twenty five dollars (\$25) per half hour~~, to an annual maximum of one thousand and four hundred dollars (\$1400);

39.2.6 Effective June 1, 2002, charges for the services of a psychologist (which shall include Master of Social Work) ~~up to twenty five dollars (\$25) per half hour~~ to an annual maximum of one thousand and four hundred dollars (\$1400);¹⁷³

ARTICLE 67 – SUPPLEMENTARY HEALTH AND HOSPITAL INSURANCE

67.2.5 Effective June 1, 2002, charges for the services of a chiropractor, osteopath, naturopath, podiatrist, physiotherapist, and masseur (if licensed and practising within the scope of their license), ~~to a maximum of twenty-five dollars (\$25) for each visit~~ to an annual maximum of one thousand and two hundred dollars (\$1200) per type of practitioner following O.H.I.P. and speech therapist, ~~up to twenty five dollars (\$25) per half hour~~, to an annual maximum of one thousand and four hundred dollars (\$1400);¹⁷⁴

Union Submissions

190. The Union seeks to eliminate the \$25 per visit cap for members accessing both paramedical and psychological services. This cap is extremely low, and prevents members of the Correctional unit from accessing necessary health services.

191. Employment in this bargaining unit is, by its nature, a vocation with an increased risk of physical and psychological injury. The purpose of the Union's proposal is to

¹⁷³ OPSEU Unified Collective Agreement, pp. 87-88, OPSEU Book of Documents, Tab 40.

¹⁷⁴ OPSEU Unified Collective Agreement, p. 125, OPSEU Book of Documents, Tab 40.

provide meaningful access to key healthcare services, and to ensure that members are able to access the care that they need. Per visit caps systemically depress access to these forms of healthcare, and in a workplace where every indicator is that members are suffering from sustained psychological stress, a cap on accessing psychological services is entirely inappropriate.

192. Psychological services, like the other paramedical services, cost an average of at least \$150 to \$200 per hour. Employees in a correctional setting are more likely to be exposed to traumatic events, including threatened or actual physical assaults. These kinds of exposures are associated with an increased risk for the development of mental disorders, including PTSD, major depressive disorder, anxiety, and substance abuse.¹⁷⁵ Correctional workers, in particular, are diagnosed with PTSD at a higher rate than almost any other public safety profession in Canada.¹⁷⁶

193. This is precisely why the *Workplace Safety and Insurance Act* was amended to identify workers in a correctional institution, a place of secure custody or place of secure temporary detention, provincial bailiffs, and probation officers as subject to a presumption of work-relatedness in a diagnoses (by either a psychiatrist or psychologist) of PTSD.¹⁷⁷ One of the requirements, imposed on employers of those covered by this presumption, was to provide information related to their plans to prevent work-related PTSD in the workplace.¹⁷⁸

¹⁷⁵ Carleton et al., Public Safety Personnel, p. 55, OPSEU Book of Documents, Tab 31.

¹⁷⁶ Carleton et al., Public Safety Personnel, p. 59, OPSEU Book of Documents, Tab 31.

¹⁷⁷ *WSIA*, s. 14, OPSEU Book of Authorities, Tab 21.

¹⁷⁸ *Ministry of Labour Act*, RSO 1990, c M.29, s. 9.1(1), OPSEU Book of Authorities, Tab 22.

194. The Crown's PTSD Prevention Plan for Corrections¹⁷⁹ is less than three pages long. It states that "Corrections is developing a multi-year action plan to address occupational stress" that will include "optimal treatment of mental health conditions."¹⁸⁰ It is incontrovertible that access to early professional psychological care is an integral element of "optimal treatment."¹⁸¹ This is borne out by the Ministry of Labour-supplied template, designed to assist employers in completing their plan, which Corrections submitted to support its PTSD Prevention Plan.¹⁸² As the Government noted in the template, employers "currently offering intervention and treatment options (i.e. benefits dollars towards professional support)" should increase the availability of these benefits, including through "more sessions, promoting availability, or increasing coverage." Corrections noted that this improvement was "in progress."

195. In addition, this Employer agreed that it would function as a "lead trend-setter" in achieving collective bargaining goals for the policing sector as part of its participation in the Ontario Association of Police Services Boards. To that end, the Government adopted and agreed that it would pursue certain bargaining positions in its police sector negotiations:

Consider enhancing Mental Health benefits. With presumptive legislation for PTSD, whatever employe[r]s can do to maintain a healthy workforce is going to pay off with optimal fitness-for-duty, and by mitigating lengthy absences, lengthy accommodations and costly disability claims. This is a win-win area for sure.

¹⁷⁹ Ontario Corrections PTSD Prevention Plan ["PTSD Prevention Plan"], OPSEU Book of Documents, Tab 66.

¹⁸⁰ PTSD Prevention Plan, p. 2, OPSEU Book of Documents, Tab 66.

¹⁸¹ PTSD Prevention Plan, p. 2, OPSEU Book of Documents, Tab 66.

¹⁸² PTSD Prevention Action Plan Template, OPSEU Book of Documents, Tab 67.

196. In other words, this Employer has repeatedly recognized that, in the world of presumptive PTSD legislation, meaningful access to appropriate healthcare – including mental health supports – is a crucial employer tool in addressing absenteeism and disability claims. The Union agrees and seeks this key improvement to the ability of our members to access paramedical treatments, including physiotherapists, chiropractor, and massage therapists, as well as psychological services.

197. Eliminating the unreasonable per visit caps, while maintaining the annual caps, will allow members of the Correctional bargaining unit to seek out the medical help that they require, without any material financial impact on the Employer. In fact, most employers are now openly acknowledging that improvements to these benefits have important cost containment effects by reducing absenteeism and mitigating disability claims. The Union's proposal will benefit bargaining unit members, their families, and the Ontario correctional system as a whole. Importantly, it is also consistent with the Employer's own positions and interests.

Proposal E: Administrative Compensating Leave

Union Proposal

Appendix COR33, dated May 26, 2016

In recognition of some of the current impacts from a challenging and changing workplace environment, all full time and fixed term correctional services bargaining unit employees shall be granted ~~thirty-six hours (36)~~ of compensating leave, pro-rata for part time, effective each year for the duration of the collective agreement, beginning on January 1, ~~2018~~2016, ~~and on January 1, 2017.~~ Employees shall be entitled to an amount of compensating leave each year based on their seniority, as follows:

<u>Years of Service</u>	<u>Annual Leave Entitlement</u>
<u>Less than 7</u>	<u>40 hours</u>
<u>7 or more, but less than 15</u>	<u>52 hours</u>
<u>15 or more, but less than 25</u>	<u>64 hours</u>
<u>25 or more</u>	<u>72 hours</u>

Compensating leave that is not used within a calendar year shall be treated in accordance with article COR 8.6 or article COR15.5, as applicable.¹⁸³

Union Submissions

198. The administrative compensating leave (“ACL”) entitlement has served, and should continue to serve, two purposes for these parties. First, ACL constitutes a non-pensionable form of compensation. Second, it serves as modest recognition by the Crown of the unique challenges faced by employees in a correctional working environment.

¹⁸³ OPSEU Correctional Collective Agreement, p. 493, OPSEU Book of Documents, Tab 39.

199. ACL came about pursuant to a Letter of Understanding, dated May 26, 2016 (“LOU”), in the last round of bargaining. As discussed above, in that round, the Crown took the position that there was no additional funding for wage increases, and therefore that any wage increases needed to be offset by other measures to create a “net zero” agreement. However, the Crown was prepared to provide non-monetary advancements (such as ACL) in order to settle, in significant part, a collective agreement with the Correctional bargaining unit.

200. ACL is expressly tied to the difficult and, often, traumatic working lives of correctional staff. In particular, the preamble to the ACL LOU provides as follows:

The employer is currently engaged in modernizing facilities programs and services within the Ministry of Community Safety and Correctional Services, and the Ministry of Children and Youth Services. It is recognized that as the modernization process unfolds, working conditions, staffing needs and scheduling patterns need to evolve to match a changing work environment. The employer values the work of all of its employees and would like to maintain a highly trained and professional workforce.

In recognition of some of the current impacts from a challenging and changing workplace environment, all full time and fixed term correctional services bargaining unit employees shall be granted [ACL].¹⁸⁴

201. In other words, ACL was intended to recognize – in the absence of additional monetary compensation – the overcrowding, understaffing, and violence which had, by that time, become endemic within Ontario’s institutions. As a result, staff could take a short break from the correctional work environment, on an as needed basis, for the sake of their own mental health and wellness. This was intended as a stop gap

¹⁸⁴ OPSEU Correctional Collective Agreement, p. 493, OPSEU Book of Documents, Tab 39.

measure to ease the burdens faced by correctional staff, while the Ministries took steps to “modernize” and improve their institutions.

202. The Union submits that the crisis in corrections which justified the grant of ACL in 2016 and 2017 persists and, if anything, has worsened in 2018 and 2019. The Employer has not provided any rationale for eliminating the ACL entitlement in circumstances where the promised “modernization process” has yet to materialize.

203. Accordingly, the Union proposes that ACL be maintained for the term of this collective agreement, and proposes reasonable enhancements to recognize longer service employees. Public safety personnel with greater years of service are more likely to report symptoms of mental disorder, such as PTSD.¹⁸⁵ This is not surprising, given their greater years of exposure to trauma. To recognize and mitigate this risk, the ACL entitlement should increase as employees gain additional years of service.

204. Finally, terminating ACL, as the Employer proposes, would effectively amount to a significant reduction in an already constrained compensation package for members of the Correctional bargaining unit. The Union’s proposal maintains the status quo in this regard, and should be ordered.

¹⁸⁵ Carleton et al., Public Safety Personnel, p. 57, OPSEU Book of Documents, Tab 31.

Proposal F: Probation Officers' Allowance

Union Proposal

APPENDIX COR3, dated March 29, 1996, revised March 12, 2009

Probation Officers in the Correctional Bargaining Unit will be entitled to a minimum of ~~seven (7)~~ fourteen (14) days off with pay and no loss of credits in a calendar year. [...]

An employee may accumulate their allowance to a maximum of ~~twenty-one (21)~~ forty-two (42) days, but an employee's allowance shall be reduced to a maximum of ~~fourteen (14)~~ twenty-eight (28) days not later than the thirty-first (31st) day of December in each year.

Upon request, ~~An~~ employee is ~~not~~ entitled to be paid for any accumulated allowance to which the employee remains entitled ~~when the employee ceases to be an employee.~~ [...]

All time off under this allowance shall be granted in a manner so as not to interfere with operational requirements.¹⁸⁶

Union Submissions

205. Employees in probation services are responsible for enhancing and promoting community safety and reducing recidivism by case managing offenders who are subject to community supervision and providing objective information to support sentencing and parole decisions.¹⁸⁷ They have intense workloads and are increasingly required to work very long hours. Many of the offenders they supervise have complex and intersectional needs and risk factors, and probation services employees must complete, often on a short timeline, complicated assessments and reports, such as Gladue Pre-Sentence Reports for aboriginal offenders, Psychometric Sex Offender Risk Assessments, and Domestic Assault Risk Assessments. In addition, probation

¹⁸⁶ OPSEU Correctional Collective Agreement, p. 441, OPSEU Book of Documents, Tab 39.

¹⁸⁷ Probation and Parole Officer, Job Specification, OPSEU Book of Documents, Tab 68.

services employees are frequently required to travel to remote parts of the province, sometimes overnight, to meet with probationers, parolees, prospective parole sponsors, and various community partners.

206. Recognizing the demanding nature of their workloads, in 1996, the Employer agreed to provide probation services employees with five paid Probation Officers' Allowance ("POA") days off per year. POA days have always functioned as a rough proxy for overtime pay.¹⁸⁸ Accordingly, in 2012, recognizing that their workloads had increased, the parties agreed to increase the POA entitlement to seven paid days off per year. Seven POA days amounts to 50.75 hours off per year, representing roughly 33 hours of overtime per employee per year.¹⁸⁹ In recent years, probation services employees have worked far in excess of 33 hours of overtime in a given year. In this context, the existing seven POA day entitlement is inadequate, and does not provide a greater right or benefit than the overtime provisions of the *Employment Standards Act, 2000*.

207. It is important to recall that, not only are probation services employees working long hours, they are also working in circumstances that are highly stressful and potentially traumatic. Such employees risk developing mental health disorders, compassion fatigue, and/or secondary trauma. Enhancing the POA entitlement will reduce the potential mental health impacts of this highly charged environment.

¹⁸⁸ Previously, Crown employees, including probation services employees in the Ontario Public Service, were excluded from the overtime provisions of the *Employment Standards Act 2000*, SO 2000, c 41 ["ESA"]. Bill 148, the *Fair Workplaces, Better Jobs Act, 2017*, SO 2017 C.22, amended the *ESA* such that, effective January 1, 2018, Crown employees are no longer excluded. See: *ESA*, s. 3.1, OPSEU Book of Authorities, Tab 23.

¹⁸⁹ Collective Agreement, p. 422, art. COR2.3. Probation Officers are Schedule 6 employees, and accordingly work a minimum of 36.25 hours per week.

208. The Union's proposal is fair and reasonable, and reflects the challenging reality of the working lives of probation services employees in the Ontario Public Service. It should be implemented.

Proposal G: Licensing and Professional Liability Expenses

Union Proposal

NEW **The Employer shall reimburse an employee for the payment of registration, licensing, and certification fees to an organization, governing body, or government agency when the payment of such fees is a requirement for the continuation of the performance of the duties of the employee's position.**

For the purpose of this article, "fees" includes payments associated with maintaining professional liability protection, but does not include Union membership dues.

Union Submissions

209. The Union is seeking language requiring the Employer to reimburse employees for the expenses that they are required to incur in order to maintain their position and perform their duties for the Employer.

210. Many employees in the Correctional bargaining unit are required to pay licensing fees and/or professional liability protection fees in order to remain qualified to perform work for the Employer. For example, psychologists must pay \$550.00 annually to maintain their registration with the College of Psychologists of Ontario.¹⁹⁰ Similarly, nurses are required to pay \$305.10 to the College of Nurses of Ontario each year,¹⁹¹ while social workers must pay \$330.00 annually to the Ontario College of Social Workers and Social Service Workers.¹⁹² These employees are regulated professionals by statute who must, at material personal expense, maintain their registration with their applicable College for the purpose of their employment by the Crown.

¹⁹⁰ College of Psychologists of Ontario, Online Membership Renewal 2019-2020, OPSEU Book of Documents, Tab 69.

¹⁹¹ College of Nurses of Ontario, Annual Membership Renewal, OPSEU Book of Documents, Tab 70.

¹⁹² Ontario College of Social Workers and Social Service Workers, Membership Renewals, OPSEU Book of Documents, Tab 71.

211. Further, at least historically, virtually all of the employees working in the trades within the correctional system have paid mandatory membership fees to the Ontario College of Trades in order to maintain their various certifications. The amount of the fee was tied to the individual employee’s class, as set out below.¹⁹³ However, in October 2018, the Ontario government announced that the Ontario College of Trades will cease operations in 2019. It is not clear what, if any, fees these employees will be required to pay in the future.

Membership Class	Annual Membership Fee
Apprentices Class	\$60 (\$67.80 including HST)
Journeyman Candidates Class	\$60 (\$67.80 including HST)
Tradespersons Class	\$60 (\$67.80 including HST)
Journeyman Class	\$120 (\$135.60 including HST)
Employers/Sponsors Class	\$120 (\$135.60 including HST) <small>FOR OPTIONAL MEMBERSHIP APPLICATIONS</small>

212. The Union’s proposed language is based upon language that has been bargained into each of the corresponding Federal correctional collective agreements. For example, an Ontario electrician employed to perform electrical work in a Federal correctional institution would be entitled to have her College of Trades membership fees reimbursed by her employer pursuant to the following language:

64.01 The Employer shall reimburse an employee for the payment of registration, licensing or certification fees to an organization, governing body or government agency when the payment of such fees is a requirement for the continuation of the performance of the duties of the employee’s position.

¹⁹³ Ontario College of Trades, Classes of Members & Fees, OPSEU Book of Documents, Tab 72.

64.02 Membership dues referred to in Article 11: check-off, of this agreement are specifically excluded as reimbursable fees under this article.¹⁹⁴

213. Virtually identical language exists in the Federal collective agreements applicable to correctional employees,¹⁹⁵ program and administrative services employees (which includes probation and parole officers),¹⁹⁶ as well as health services employees.¹⁹⁷ Requiring provincial employees to bear these costs personally is just a further example of the widespread and unexplained inequity between these two comparator groups.

214. It is important to note that the Crown itself is the one establishing many of the registration and other fees paid by the Union's members. There is simply no justification for requiring Union members to cover these expenses in order perform work solely for the benefit of the Crown.

¹⁹⁴ Collective Agreement between the Treasury Board and the Public Service Alliance of Canada, Group: Operational Services, August 5, 2014 to August 4, 2018, Articles 64, p. 60, OPSEU Book of Collective Agreements, Tab 2.

¹⁹⁵ Collective Agreement between the Treasury Board and the Union of Canadian Correctional Officers, Group: Correctional Services, June 1, 2014 to May 31, 2018, Article 48, p. 69, OPSEU Book of Collective Agreements, Tab 1.

¹⁹⁶ Collective Agreement between the Treasury Board and the Public Service Alliance of Canada, Group: Program and Administrative Services, June 21, 2014 to June 20, 2018, Article 59, p. 60, OPSEU Book of Collective Agreements, Tab 3.

¹⁹⁷ Collective Agreement between the Treasury Board and the Public Service Alliance of Canada, Group: Health Services, October 1, 2014 to September 30, 2018, Article 21, p. 47, OPSEU Book of Collective Agreements, Tab 4.

Proposal H: Union Leave Entitlements

Union Proposal

ARTICLE 23 – LEAVE – UNION ACTIVITIES

- 23.2.1 Leave of absence with no loss of pay and with no loss of credits shall be granted to a member of the Union who participates in negotiations up to the release of a conciliation "no board" report or the release of the report of a conciliation board, as the case may be, provided that not more than ~~fifteen (15) employees at any one time shall be permitted such leave for the Central and Unified agreements and seven (7) thirteen (13)~~ employees at any one time shall be permitted such leave for the negotiation of the Correctional agreement. Leaves of absence granted under Article 23.2.1 shall include reasonable travel time. A member of one of the Union's bargaining teams who is a fixed-term or regular employee shall be paid as if the employee worked full time in the appropriate schedule (not to exceed eight (8) hours per day) during the days from Monday to Friday during which bargaining occurs or travel time occurs. Such a fixed-term employee who is normally employed in a correctional institution/facility shall continue to have Appendix 24 applied as if the employee has worked eight (8) hours per day during the days from Monday to Friday during which bargaining occurs or travel time occurs.
- 23.2.2 Notwithstanding Article 23.2.1, the Union may at its discretion require up to five (5) additional members to participate in negotiations at each of the ~~Unified and~~ Correctional bargaining unit tables and the central table up to the release of a conciliation "no board" report or the release of the report of a conciliation board, as the case may be, who shall be granted leaves of absence without pay but with no loss of credits. Leaves of absence granted under Article 23.2.2 shall include reasonable travel time.
- 23.2.3.1 The Union may at its discretion require up to ~~seven (7) twenty seven (27)~~ members, at any one time, to be granted a leave of absence without pay but with no loss of credits for the purpose of assisting the Union in advising and educating the members with respect to the ~~essential services and/or~~ collective bargaining process and the issues in bargaining.¹⁹⁸

APPENDIX COR4, revised January 24, 2013

- 6.1.2 [...] ~~Two and one-half (2 ½)~~ Three and one-half (3 ½) MERC representatives from MCSCS shall be granted a leave of absence without

¹⁹⁸ OPSEU Unified Collective Agreement, p. 61, OPSEU Book of Documents, Tab 38.

loss of pay or credits from the employees' place of employment for the duration of their term.¹⁹⁹

APPENDIX COR20, revised May 26, 2016

- 2.1.2(b) MCSCS Committee Union co-chair will have approved full-time off and the **MCSCS Union Community Representative will have approved full-time off. Union Community Representative will have approved half-time off. Additional time off requests for the MCSCS Union Community Representative will be considered by the Employer on a case-by-case basis.** The MCYS Committee Union co-chair will have approved full-time off. The MCYS Union Community Representative will have an approved minimum of thirty-six and a quarter (36 ¼) hours per month time off, and additional time off will be considered by the Employer on a case-by-case basis. This time off will be a leave of absence without loss of pay or credits and considered a duty assignment and the time off will be paid by the Employer. Expenses incurred by the Committees' Union co-chairs will be paid for by the Union.²⁰⁰

Union Submissions

215. The Union has proposed a number of amendments to the union and other leave provisions of the collective agreement to reflect recent changes to the Correctional bargaining unit structure, including the substantial increase in the size of the unit. A number of these changes are simply housekeeping. The substantive changes are described below.

216. First, the Union proposes that a maximum of thirteen employees should be granted leave to participate as members of the Correctional bargaining team (article 23.2.1). Under the previous system, a total of 22 employees could take leave for bargaining purposes, between seven and nine of which would come from the Correctional unit. The Union's proposed increase to a thirteen employee bargaining

¹⁹⁹ OPSEU Correctional Collective Agreement, p. 449, OPSEU Book of Documents, Tab 39.

²⁰⁰ OPSEU Correctional Collective Agreement, p. 476, OPSEU Book of Documents, Tab 39.

team for the Correctional unit corresponds with the marked increase in the size and scope of that unit.

217. Similarly, the Union and the Employer agree that there should be increased Correctional representation on the Ministry Employee Relations Committee (“MERC”) (Appendix COR4). The Union had proposed that there should be six instead of five Union representatives, and the Employer has already agreed to that amendment.²⁰¹ The outstanding issue is the Union’s position that 3.5 representatives should be granted a paid leave of absence during their term, up from 2.5, consistent with the parties’ agreement that increased representation is necessary to improve the functionality of the MERC.

218. Finally, the Union also proposes what is effectively a housekeeping amendment, designed to bring the provision into line with the practice: the Union Community Representative on the Provincial Joint Health and Safety Committee should be approved for full-time off during their tenure, instead of merely half-time off (Appendix COR20). This change would reflect the parties’ well-established practice of granting such representatives full-time off since, at least, the creation of the stand-alone Corrections bargaining unit.

²⁰¹ Memorandum of Agreement between the Crown in Right of Ontario and OPSEU, March 11, 2019, OPSEU Book of Documents, Tab 73.

Proposal I: Pension

Union Proposal

The Union is seeking a substantial improvement to its current pension plan. Specifically, the Union seeks an amendment to its members' pension entitlements to permit retirement with an unreduced pension upon achieving "Factor 85". In the alternative, the Union is seeking an opportunity to reopen its collective agreement and return to the bargaining table, should any other bargaining agent or group achieve this improvement at any time during the life of the instant collective agreement.

Union Submissions

219. The Union proposes substantial changes to the existing pension plan in order to bring the members of the Correctional bargaining unit in line with their applicable comparator classifications in the public safety and security sector.

220. As reviewed above, working in the correctional context can be highly stressful and, on occasion, traumatic. Accordingly, the Union is seeking pension entitlements that promote employee wellness and which will not penalize members who retire at an earlier stage of their career. The Union's proposal is comparable to those enjoyed by other public safety and security personnel. For example, police officers employed by the OPP have the benefit of a Factor 80 pension. Similarly, the Government of Canada contributes an additional 1.25% towards its correctional employees' pensions. These kinds of arrangements recognize the unique challenges of a long career in the correctional environment.

221. There are a number of different permutations which could achieve the Union's objective of enhancing its members' pension entitlements in a manner that is consistent with comparator jurisdictions. For the purposes of this arbitration, however, the Union proposes an arrangement which would permit its members to retire at Factor 85, with all associated costs borne by the Employer.

222. The normal retirement age under the OPSEU Pension Plan is 65, however, there are circumstances in which an unreduced pension may be accessed before age 65, referred to as Factor 90 and 60/20. Factor 90 permits retirement to an unreduced pension if a member's age plus years of service total at least 90 years. 60/20 applies where a member is at least 60 years of age and has at least 20 years of service.

223. The current contribution rate is 9.4% on salary below the Years Maximum Pensionable Earnings ("YMPE") and 11% on salary above YMPE. YMPE is the maximum salary upon which CPP contributions are made, and is \$57,400 in 2019.

224. Factor 85 would similarly be calculated by adding together a member's age and years of pensionable service at retirement. If the total equals at least 85, that member would be entitled to an unreduced pension.

225. The costs of introducing a Factor 85 pension option for the Corrections bargaining unit are twofold: a lump sum amount required in respect of past service and an increase to the contribution rates for all future service.

226. The lump sum cost associated with the introduction of Factor 85 is estimated at \$131,000,000, with an increase in contribution rates of 0.6%. The parties can also

introduce Factor 85 with no lump sum payment, and instead a permanent increase in contributions rates of 1.8%.²⁰²

227. The Union proposes that the Employer assume the costs of the past service, though a lump sum payment, or temporary increase in the Employer's contributions, and the future service borne through the shared increase in the contribution rates of 0.6%.

228. In the alternative, the Union is seeking an opportunity to reopen its collective agreement and return to the bargaining table, should any other bargaining agent or group achieve this improvement at any time during the life of the instant collective agreement.

²⁰² Correspondence from OPTrust, November 10, 2017, p. 4, OPSEU Book of Documents, Tab 74.

Wage Comparator Charts

A. Corrections Wage Group

Ontario CO-1 vs. Federal Corrections

	Ontario CO-1, Hourly	Ontario CO-1, Annual	Federal CX-1, Hourly	Federal CX-1, Annual	Percentage Difference
2010	\$26.33	\$54,766.40	\$32.16	\$67,079.00	22.1%
2011	\$26.86	\$55,868.80	\$32.72	\$68,253.00	21.8%
2012	\$27.40	\$56,992.00	\$33.22	\$69,277.00	21.2%
2013	\$28.25	\$58,760.00	\$33.88	\$70,663.00	19.9%
2014	\$28.25	\$58,760.00	\$34.30	\$71,546.00	21.4%
2015	\$28.25	\$58,760.00	\$34.73	\$72,440.00	22.9%
2016	\$28.25	\$58,760.00	\$36.82	\$76,804.00	30.3%
2017	\$29.50	\$61,360.00	\$37.28	\$77,764.00	26.4%
2018	-	-	-	-	

Ontario CO-2 vs. Federal Corrections

	Ontario CO-2, Hourly	Ontario CO-2, Annual	Federal CX-2, Hourly	Federal CX- 2, Annual	Percentage Difference
1999	\$ 21.60	\$ 44,928.00	\$ 22.56	\$ 46,920.00	4.4%
2000	\$ 21.89	\$ 45,531.20	\$ 23.96	\$ 49,847.00	9.5%
2001	\$ 22.32	\$ 46,425.60	\$ 25.55	\$ 53,137.00	14.5%
2002	\$ 24.26	\$ 50,460.80	\$ 26.19	\$ 54,465.00	7.9%
2003	\$ 24.88	\$ 51,750.40	\$ 26.84	\$ 55,827.00	7.9%
2004	\$ 25.47	\$ 52,977.60	\$ 27.44	\$ 57,083.00	7.7%
2005	\$ 26.75	\$ 55,640.00	\$ 28.10	\$ 58,453.00	5.1%
2006	\$ 27.35	\$ 56,888.00	\$ 28.80	\$ 59,914.00	5.3%
2007	\$ 28.03	\$ 58,302.40	\$ 32.57	\$ 67,740.00	16.2%
2008	\$ 28.87	\$ 60,049.60	\$ 33.22	\$ 69,095.00	15.1%
2009	\$ 29.96	\$ 62,316.80	\$ 33.72	\$ 70,131.00	12.5%
2010	\$ 30.56	\$ 63,564.80	\$ 34.22	\$ 71,183.00	12.0%
2011	\$ 31.17	\$ 64,833.60	\$ 34.82	\$ 72,429.00	11.7%
2012	\$ 31.79	\$ 66,123.20	\$ 35.34	\$ 73,515.00	11.2%
2013	\$ 32.64	\$ 67,891.20	\$ 36.05	\$ 74,985.00	10.4%
2014	\$ 32.64	\$ 67,891.20	\$ 36.50	\$ 75,922.31	11.8%
2015	\$ 32.64	\$ 67,891.20	\$ 36.96	\$ 76,871.34	13.2%
2016	\$ 32.64	\$ 67,891.20	\$ 39.13	\$ 81,394.25	19.9%
2017	\$ 34.09	\$ 70,907.20	\$ 39.62	\$ 82,411.00	16.2%
2018	-	-	-	-	-

Ontario YSO vs. Federal Corrections

	Ontario YSO, Hourly	Ontario YSO, Annual	Federal CX-2, Hourly	Federal CX- 2, Annual	Percentage Difference
2010	\$30.56	\$63,564.80	\$34.13	\$71,183.00	12.0%
2011	\$31.17	\$64,833.60	\$34.73	\$72,429.00	11.7%
2012	\$31.79	\$66,123.20	\$35.25	\$73,515.00	11.2%
2013	\$32.64	\$67,891.20	\$35.95	\$74,985.00	10.4%
2014	\$32.64	\$67,891.20	\$36.40	\$75,922.31	11.8%
2015	\$32.64	\$67,891.20	\$36.86	\$76,871.34	13.2%
2016	\$32.64	\$67,891.20	\$39.02	\$81,394.25	19.9%
2017	\$34.09	\$70,907.20	\$39.51	\$82,411.00	16.2%
2018	-	-	-	-	

Ontario CO-2 vs. OPP

	Ontario CO-2, Hourly	Ontario CO-2, Annual	OPP First Class, Hourly	OPP First Class, Annual	Percentage Difference (Ontario CO-2)
1999	\$ 21.60	\$ 44,928.00	-	-	-
2000	\$ 21.89	\$ 45,531.20	\$ 28.18	\$ 58,624.00	-28.8%
2001	\$ 22.32	\$ 46,425.60	\$ 29.03	\$ 60,385.00	-30.1%
2002	\$ 24.26	\$ 50,460.80	\$ 29.86	\$ 62,101.00	-23.1%
2003	\$ 24.88	\$ 51,750.40	\$ 31.08	\$ 64,647.00	-24.9%
2004	\$ 25.47	\$ 52,977.60	\$ 32.17	\$ 66,910.00	-26.3%
2005	\$ 26.75	\$ 55,640.00	\$ 33.29	\$ 69,252.00	-24.5%
2006	\$ 27.35	\$ 56,888.00	\$ 34.41	\$ 71,567.00	-25.8%
2007	\$ 28.03	\$ 58,302.40	\$ 35.44	\$ 73,714.00	-26.4%
2008	\$ 28.87	\$ 60,049.60	\$ 36.50	\$ 75,926.00	-26.4%
2009	\$ 29.96	\$ 62,316.80	\$ 37.36	\$ 77,702.00	-24.7%
2010	\$ 30.56	\$ 63,564.80	\$ 38.20	\$ 79,450.00	-25.0%
2011	\$ 31.17	\$ 64,833.60	\$ 40.14	\$ 83,483.00	-28.8%
2012	\$ 31.79	\$ 66,123.20	\$ 40.14	\$ 83,483.00	-26.3%
2013	\$ 32.64	\$ 67,891.20	\$ 40.14	\$ 83,483.00	-23.0%
2014	\$ 32.64	\$ 67,891.20	\$ 43.57	\$ 90,621.00	-33.5%
2015	\$ 32.64	\$ 67,891.20	\$ 44.73	\$ 93,034.00	-37.0%
2016	\$ 32.64	\$ 67,891.20	\$ 45.60	\$ 94,854.00	-39.7%
2017	\$ 34.09	\$ 70,907.20	\$ 46.47	\$ 96,662.00	-36.3%
2018	-	-	\$ 47.29	\$ 98,354.00	-

Federal CX-2 vs. RCMP

	Federal CX-2, Hourly	Federal CX-2, Annual	RCMP First Class, Hourly	RCMP First Class, Annual	Percentage Difference (Federal CX-2)
1999	\$ 22.56	\$ 46,920.00	-	-	
2000	\$ 23.96	\$ 49,847.00	-	-	
2001	\$ 25.55	\$ 53,137.00	-	-	
2002	\$ 26.19	\$ 54,465.00	-	-	
2003	\$ 26.84	\$ 55,827.00	-	-	
2004	\$ 27.44	\$ 57,083.00	\$ 31.57	\$ 65,660.00	-15.0%
2005	\$ 28.10	\$ 58,453.00	\$ 32.96	\$ 68,561.00	-17.3%
2006	\$ 28.80	\$ 59,914.00	\$ 33.83	\$ 70,366.00	-17.4%
2007	\$ 32.57	\$ 67,740.00	\$ 34.68	\$ 72,125.00	-6.5%
2008	\$ 33.22	\$ 69,095.00	\$ 35.84	\$ 74,539.00	-7.9%
2009	\$ 33.72	\$ 70,131.00	\$ 36.37	\$ 75,657.00	-7.9%
2010	\$ 34.22	\$ 71,183.00	\$ 36.92	\$ 76,792.00	-7.9%
2011	\$ 34.82	\$ 72,429.00	\$ 37.47	\$ 77,944.00	-7.6%
2012	\$ 35.34	\$ 73,515.00	\$ 38.13	\$ 79,308.00	-7.9%
2013	\$ 36.05	\$ 74,985.00	\$ 38.70	\$ 80,498.00	-7.4%
2014	\$ 36.50	\$ 75,922.31	\$ 39.48	\$ 82,108.00	-8.1%
2015	\$ 36.96	\$ 76,871.34	\$ 39.97	\$ 83,134.00	-8.1%
2016	\$ 39.13	\$ 81,394.25	\$ 41.40	\$ 86,110.00	-5.8%
2017	\$ 39.62	\$ 82,411.00	-	-	-
2018	-	-	-	-	-

Ontario Bailiff 1 vs. OPP Offender Transport Officer

	Ontario Bailiff 1, Hourly	Ontario Bailiff 1, Annual	OPP Offender Transport Officer, Hourly	OPP Offender Transport Officer, Annual	Percentage Difference
2010	\$31.74	\$66,019.20	\$32.07	\$66,705.60	1.0%
2011	\$32.37	\$67,329.60	\$33.70	\$70,096.00	4.1%
2012	\$33.02	\$68,681.60	\$33.70	\$70,096.00	2.1%
2013	\$33.87	\$70,449.60	\$33.70	\$70,096.00	-0.5%
2014	\$33.87	\$70,449.60	\$36.58	\$76,086.40	8.0%
2015	\$33.87	\$70,449.60	\$37.55	\$78,104.00	10.9%
2016	\$33.87	\$70,449.60	\$38.28	\$79,622.40	13.0%
2017	\$35.37	\$73,569.60	\$39.01	\$81,140.80	10.3%
2018	-	-	\$39.69	\$ 82,555.20	-

Ontario Bailiff 2 vs. OPP Bail Safety Officer

	Ontario Bailiff 2, Hourly	Ontario Bailiff 2, Annual	OPP Bail Safety Officer, Hourly	OPP Bail Safety Officer, Annual	Percentage Difference
2010	\$32.50	\$67,600.00	\$37.09	\$69,914.65	3.4%
2011	\$33.15	\$68,952.00	\$38.97	\$73,458.45	6.5%
2012	\$33.81	\$70,324.80	\$38.97	\$73,458.45	4.5%
2013	\$34.66	\$72,092.80	\$38.97	\$73,458.45	1.9%
2014	\$34.66	\$72,092.80	\$42.30	\$79,735.50	10.6%
2015	\$34.66	\$72,092.80	\$43.43	\$81,865.55	13.6%
2016	\$34.66	\$72,092.80	\$44.28	\$83,467.80	15.8%
2017	\$36.20	\$75,296.00	\$45.12	\$85,051.20	13.0%
2018	-	-	\$45.19	\$85,183.15	-

Wage Comparator Charts

B. Probation Wage Group

Probation Officer 1 vs. Federal Corrections

	Ontario PO-1, Hourly	Ontario PO-1, Annual	Federal WP-3, Hourly	Federal WP-3, Annual	Percentage Difference
2010	\$32.09	\$60,654.66	\$34.36	\$67,179.00	10.8%
2011	\$32.73	\$61,867.50	\$34.96	\$68,355.00	10.5%
2012	\$33.39	\$63,104.85	\$35.48	\$69,380.00	9.9%
2013	\$33.39	\$63,104.85	\$36.19	\$70,768.00	12.1%
2014	\$33.39	\$63,104.85	\$36.64	\$71,653.00	13.5%
2015	\$33.39	\$63,104.85	\$37.10	\$72,549.00	15.0%
2016	\$33.39	\$63,104.85	\$37.75	\$73,823.00	17.0%
2017	\$34.53	\$65,268.26	\$38.23	\$74,746.00	14.5%
2018	-	-	-	-	-

Probation Officer 2 vs. Federal Corrections

	Ontario PO-2, Hourly	Ontario PO-2, Annual	Federal WP-4, Hourly	Federal WP-4, Annual	Percentage Difference
2010	\$38.77	\$73,284.18	\$37.52	\$73,363.00	0.1%
2011	\$39.55	\$74,749.91	\$38.18	\$74,647.00	-0.1%
2012	\$40.34	\$76,244.85	\$38.75	\$75,767.00	-0.6%
2013	\$40.34	\$76,244.85	\$41.71	\$81,566.00	7.0%
2014	\$40.34	\$76,244.85	\$42.24	\$82,586.00	8.3%
2015	\$40.34	\$76,244.85	\$42.76	\$83,618.00	9.7%
2016	\$40.34	\$76,244.85	\$43.51	\$85,086.00	11.6%
2017	\$41.72	\$78,858.77	\$44.06	\$86,150.00	9.2%
2018	-	-	-	-	-

Wage Comparator Charts

C. Healthcare Wage Group

Nurse 2, General vs. Federal Corrections

	Ontario Nurse 2, General, Hourly	Ontario Nurse 2, General, Annual	Federal NU- HOS-4, Hourly	Federal NU- HOS-4, Annual	Percentage Difference
2010	\$36.75	\$76,645.31	\$41.60	\$81,352.00	6.1%
2011	\$37.86	\$78,959.93	\$42.33	\$82,776.00	4.8%
2012	\$38.60	\$80,510.14	\$42.97	\$84,018.00	4.4%
2013	\$39.00	\$81,344.42	\$43.83	\$85,698.00	5.4%
2014	\$39.00	\$81,344.42	\$44.38	\$86,769.00	6.7%
2015	\$39.00	\$81,344.42	\$44.93	\$87,854.00	8.0%
2016	\$39.00	\$81,344.42	\$45.62	\$89,200.00	9.7%
2017	\$39.55	\$82,483.22	\$46.19	\$90,315.00	9.5%
2018	-	-	-	-	-

Psychiatric Nursing Assistant 3 (RPN) vs. Federal Corrections

	Ontario RPN-3, Hourly	Ontario RPN-3, Annual	Federal NU- HOS-2, Hourly	Federal NU- HOS-2, Annual	Percentage Difference
2010	\$25.49	\$53,164.86	\$38.12	\$74,529.00	49.5%
2011	\$26.00	\$54,228.57	\$38.78	\$75,833.00	49.2%
2012	\$26.52	\$55,313.14	\$39.36	\$76,970.00	48.4%
2013	\$26.79	\$55,876.29	\$40.15	\$78,509.00	49.9%
2014	\$26.79	\$55,876.29	\$40.65	\$79,490.00	51.7%
2015	\$26.79	\$55,876.29	\$41.16	\$80,484.00	53.6%
2016	\$26.79	\$55,876.29	\$41.96	\$82,043.00	56.6%
2017	\$27.17	\$56,668.86	\$42.48	\$83,069.00	56.4%
2018	-	-	-	-	-

Psychometrist 2 vs. Federal Corrections

	Ontario Psychometrist 2, Hourly	Ontario Psychometrist 2, Annual	Federal PS-2, Hourly	Federal PS-2, Annual	Percentage Difference
2010	\$35.31	\$66,733.47	\$36.03	\$70,447.00	5.6%
2011	\$36.01	\$68,068.33	\$36.66	\$71,680.00	5.3%
2012	\$36.73	\$69,429.78	\$37.21	\$72,755.00	4.8%
2013	\$37.84	\$71,526.44	\$37.95	\$74,210.00	3.8%
2014	\$37.84	\$71,526.44	\$38.43	\$75,138.00	5.0%
2015	\$37.84	\$71,526.44	\$38.91	\$76,077.00	6.4%
2016	\$37.84	\$71,526.44	\$39.39	\$77,028.00	7.7%
2017	\$38.37	\$72,527.59	\$39.89	\$77,991.00	7.5%
2018	-	-	-	-	-

Nurse 2, General vs. ONA

	Ontario Nurse 2, General, Hourly	Ontario Nurse 2, General, Weekly	ONA, Hourly	ONA, Weekly	Percentage Difference
2010	\$36.75	\$1,469.91	\$42.44	\$1,591.50	8.3%
2011	\$37.86	\$1,514.30	\$42.44	\$1,591.50	5.1%
2012	\$38.60	\$1,544.03	\$42.44	\$1,591.50	3.1%
2013	\$39.00	\$1,560.03	\$43.61	\$1,635.38	4.8%
2014	\$39.00	\$1,560.03	\$44.22	\$1,658.25	6.3%
2015	\$39.00	\$1,560.03	\$44.84	\$1,681.50	7.8%
2016	\$39.00	\$1,560.03	\$45.47	\$1,705.13	9.3%
2017	\$39.55	\$1,581.87	\$46.11	\$1,729.13	9.3%
2018	-	-	\$46.76	\$1,753.50	-

Psychometrist 2 vs. OPSEU HPD Psychometrist

	Ontario Psychometrist 2, Hourly	Ontario Psychometrist 2, Annual	OPSEU Psychometrist, Hourly	OPSEU Psychometrist, Annual	Percentage Difference
2010	\$35.31	\$66,733.47	-	-	-
2011	\$36.01	\$68,068.33	-	-	-
2012	\$36.73	\$69,429.78	-	-	-
2013	\$37.84	\$71,526.44	\$45.13	\$88,245.27	23.4%
2014	\$37.84	\$71,526.44	\$45.76	\$89,477.14	25.1%
2015	\$37.84	\$71,526.44	\$46.40	\$90,728.57	26.8%
2016	\$37.84	\$71,526.44	\$47.05	\$91,999.55	28.6%
2017	\$38.37	\$72,527.59	\$47.71	\$93,290.09	28.6%
2018	-	-	\$48.38	\$94,600.18	-

Wage Comparator Charts

D. Trades Wage Group

Maintenance Mechanic 3 vs. Federal Corrections

	Ontario Maintenance Mechanic 3, Hourly	Ontario Maintenance Mechanic 3, Annual	Federal GL- MAM-10, Hourly	Federal GL- MAM-10, Annual	Percentage Difference
2010	\$25.35	\$52,872.86	\$27.73	\$57,836.86	9.4%
2011	\$25.86	\$53,936.57	\$28.22	\$58,858.86	9.1%
2012	\$26.38	\$55,021.14	\$28.64	\$59,734.86	8.6%
2013	\$26.64	\$55,563.43	\$29.21	\$60,923.71	9.6%
2014	\$26.64	\$55,563.43	\$29.58	\$61,695.43	11.0%
2015	\$26.64	\$55,563.43	\$29.95	\$62,467.14	12.4%
2016	\$26.64	\$55,563.43	\$31.08	\$64,824.00	16.7%
2017	\$27.01	\$56,335.14	\$31.47	\$65,637.43	16.5%
2018	-	-	-	-	-

Maintenance Mechanic 3 vs. Federal Corrections

	Ontario Maintenance Mechanic 3, Hourly	Ontario Maintenance Mechanic 3, Annual	Federal GL- MAM-11, Hourly	Federal GL- MAM-11, Annual	Percentage Difference
2013	\$26.64	\$55,563.43	\$30.26	\$63,113.71	13.6%
2014	\$26.64	\$55,563.43	\$30.64	\$63,906.29	15.0%
2015	\$26.64	\$55,563.43	\$31.02	\$64,698.86	16.4%
2016	\$26.64	\$55,563.43	\$32.20	\$67,160.00	20.9%
2017	\$27.01	\$56,335.14	\$32.60	\$67,994.29	20.7%
2018	-	-	-	-	-

Electrician vs. Federal Corrections

	Ontario Electrician, Hourly	Ontario Electrician, Annual	Federal GL-EIM- 11, Hourly	Federal GL- EIM-11, Annual	Percentage Difference
2010	\$26.23	\$54,708.29	\$30.22	\$63,030.29	15.2%
2011	\$26.75	\$55,792.86	\$30.75	\$64,135.71	15.0%
2012	\$27.29	\$56,919.14	\$31.21	\$65,095.14	14.4%
2013	\$27.56	\$57,482.29	\$31.83	\$66,388.29	15.5%
2014	\$27.56	\$57,482.29	\$32.23	\$67,222.57	16.9%
2015	\$27.56	\$57,482.29	\$32.63	\$68,056.86	18.4%
2016	\$27.56	\$57,482.29	\$35.05	\$73,104.29	27.2%
2017	\$27.95	\$58,295.71	\$35.46	\$73,959.43	26.9%
2018	-	-	-	-	-

Maintenance Mechanic 3 vs. LCBO

	Ontario Maintenance Mechanic 3, Hourly	Ontario Maintenance Mechanic 3, Annual	LCBO Maintenance Mechanic, Hourly	LCBO Maintenance Mechanic, Annual	Percentage Difference
2010	\$25.35	\$52,872.86	\$34.21	\$66,939.00	26.6%
2011	\$25.86	\$53,936.57	\$34.89	\$68,269.00	26.6%
2012	\$26.38	\$55,021.14	\$35.59	\$69,639.00	26.6%
2013	\$26.64	\$55,563.43	\$35.59	\$69,639.00	25.3%
2014	\$26.64	\$55,563.43	\$35.59	\$69,639.00	25.3%
2015	\$26.64	\$55,563.43	\$36.28	\$70,989.00	27.8%
2016	\$26.64	\$55,563.43	\$36.99	\$72,378.00	30.3%
2017	\$27.01	\$56,335.14	\$37.55	\$73,474.00	30.4%
2018	-	-	\$38.31	\$74,961.00	-
2019	-	-	\$39.08	\$76,468.00	-
2020	-	-	\$39.87	\$78,013.00	-