



December 7, 2021

Via email: PSPSFGA@ontario.ca

The Honourable Prabmeet Sarkaria
President of the Treasury Board Secretariat
Whitney Block, Room 4320
99 Wellesley St. W
Toronto, ON M7A 1W3

Dear Hon. Sarkaria,

Re: Request for Exemption under the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* for the OPS Correctional Bargaining Unit

We write today to respectfully request an exemption for the OPS Correctional Bargaining Unit in accordance with s. 27 of the *Protecting a Sustainable Public Sector for Future Generations Act* (the “Act” or “Bill 124”).

Without an exemption, the OPS Correctional Bargaining Unit, as employees of the Ontario Public Service, are subject to the compensation limits dictated by the *Act*. An exemption would allow the parties to bargain above 1% total compensation in each year – something that is absolutely vital to recruitment and retention of the correctional workforce in Ontario.

Accordingly, OPSEU/SEFPO submits the following rationales to support its request for an exemption for this bargaining unit:

1. Many comparators for the Correctional Bargaining Unit are not subject to Bill 124. Bill 124 means that our members will not receive wage increases to match inflation, while many of our comparators will. This will aggravate the current recruitment and retention issues.
2. The particularly dangerous nature of the work requires a commensurate wage increase to reflect the risks our members face.
3. These members continued to work during COVID-19 while facing outbreaks in correctional facilities.

4. Bill 124 places the Employer in a legally vulnerable position by preventing them from meeting legal obligations to inmates/ youth given the outcome of recent charter challenges due to recruitment and retention issues.

Background:

OPSEU/SEFPO represents approximately 6100 Regular and 2370 Fixed Term workers in the Correctional Bargaining Unit. These members do a variety of jobs, including but not limited to Social Work, Nursing, Program Staff, Office Administration, Trades, Probation Officers, Youth Services Officers and Correctional Officers.

In the recently released Fall Economic Outlook and Fiscal Review, the Ontario government indicates that CPI Inflation for 2021 is projected at 3.1%, 2.6% for 2022, 2.1% for 2023, and 1.9% for 2024. While we will be arguing that our members will continue to fall significantly behind their comparators by the end of this upcoming collective agreement, with these inflation rates, Bill 124 functions as a significant cut to real wages for our members.

1. Many comparators for the Correctional Bargaining Unit are not subject to Bill 124. Bill 124 means that our members will not receive wage increases to match inflation, while many of our comparators will.

The Correctional Bargaining Unit includes a wide range of classifications, as noted above. These workers' comparators typically fall outside of Bill 124's jurisdiction, which means they will not be subject to wage restraint like our corrections members. Below we have detailed how a sample of major classifications within the bargaining unit compares with federal, provincial, or municipal counterparts to demonstrate that the legislation applies inequitably to all our members. Notably, many of these comparators in Federal, BPS, and Municipal workplaces hire employees as full-time and permanent staff, while the Ministry continues to rely heavily on temporary fixed-term labour.

Correctional Officer/Youth Services Officer:

Correctional Officers and Youth Services Officers are on the front-line of the Ontario correctional system, and bear the heavy burden of its shortcomings. Despite increases awarded in previous rounds of interest arbitration,¹ salaries in the Correctional wage group outlined below have continued to deteriorate significantly relative to comparator classifications, primarily those in Federal correctional facilities.

¹ Ontario (Treasury Board Secretariat) v OPSEU/SEFPO (Correctional Bargaining Unit), 2019 CanLII 24936 (ON LA), <<https://canlii.ca/t/hzghv>>, retrieved on 2021-12-01

Classification	Salary
CO1 Correctional BU – OPSEU/SEFPO	\$70,886.40
CO2/YSO Correctional BU – OPSEU/SEFPO	\$81,889.60
CO3 Correctional BU – OPSEU/SEFPO	\$83,824.00
Federal CX 2 UCCO-SACC-CSN	\$89,068.00

The federal correctional officers represented by UCCO-SACC-CSN will be bargaining a new collective agreement in 2022 and will not be subject to Bill 124. Our members in this classification are currently \$5,244 - \$18,181 behind their federal comparators. Without an exemption to the legislation, this gap will increase further.

Probation Officer:

Ontario Probation Officers are vital to public safety as they supervise an offender population that exceeds 45,000 on any given day, representing one of highest caseload and workload levels of Probation Officers across Canada. Probation Officers provide an essential service, and, to the credit of these highly professional and dedicated employees, probation services remained completely operational throughout the pandemic.

The 2016 Burkett² and 2019 Kaplan Awards³ have established that Ontario’s Probation Officers direct comparator is the CSC Federal Parole Officer and, despite the monetary catch-up gains made during the last 2 rounds of corrections collective bargaining, the wage differential between Ontario Probation Officers and their Federal counterparts remains significant and continues to grow, in large part, due to the fact that Federal Parole Officers ratified a new collective agreement in 2020 resulting in Federal Parole Officers receiving a general wage increase of 6.84% for the period ending June 20th, 2021.

As such, Federal Parole Officers now earn approximately \$4,500.00/year more than Ontario Probation Officers, not including the Federal Parole Officer ‘Correctional Service Specific Duty Allowance’ of \$2000.00/year. CSC Federal Parole Officers are currently in collective bargaining which will result in an even greater wage disparity between Ontario Probation Officers and CSC Parole Officers, compounded by the fact that, unlike Ontario provincial employees, CSC employees are not bound by Bill 124.

² Ontario v OPSEU/SEFPO Correctional Services Bargaining Unit, 2016 CanLII 58971 (ON LA), <<https://canlii.ca/t/gtmk1>>, retrieved on 2021-12-01

³ Ontario (Treasury Board Secretariat) v OPSEU/SEFPO (Correctional Bargaining Unit), 2019 CanLII 24936 (ON LA), <<https://canlii.ca/t/hzghv>>, retrieved on 2021-12-01

Ontario's Auditor General Report from 2014 indicates that Ontario Probation Services spends the second least amount of money in Canada on Offender Services at a mere \$5.81/day per offender.⁴ The expansion of the clinical component of the Probation Officer job function (SORP, ODARA, CPORT), severe underfunding, concerning levels of occupational injury/illness, coupled with Ontario having one of Canada's highest caseload averages and workload demands, it is clear that Ontario Probation Officers are not being adequately compensated for their inordinately high workload demands.

Classification	Salary
Probation Officer Correctional BU – OPSEU/SEFPO	\$ 87,320.20
Federal Parole Officer (WP4)	\$ 91,732.00

Nursing:

Although in the last round of interest arbitration the nursing classifications received a modest special wage adjustment, the nursing classifications still fall well behind their provincial and federal comparators. This wage gap and salary allowances continues to impact recruitment and retention in Ontario correctional institutions.

Classification	Salary	Allowances
Nurse 2, General Correctional BU – OPSEU/SEFPO	\$91,313.56	
NU-HOS-3 PIPSC – Correctional Service Canada	\$92,653.00	Registration fees covered; \$2000 Correctional Service Specific Duty Allowance (CSSDA); Education allowances between \$605 - \$3850
Registered Nurse ONA Central	\$94,633.50	

Staffing shortages and pressures have increased during the current COVID-19 pandemic, with additional duties being placed on healthcare departments in institutions. Added responsibilities include screening for COVID-19, managing intake units, managing isolation units, completing

⁴ Office of the Auditor General of Ontario, *Annual Report 2014* (Queen's Printer for Ontario, 2014), p. 67

COVID assessments and swabs for the inmate population, liaising with public health units, and managing outbreaks in institutions.

The Ministries are aware of the recruitment and retention challenges many institutions face when trying to recruit nursing staff. As tabled and discussed in previous meetings of the SOLGEN-COR MERC, there are many issues facing correctional nurses. Amongst nursing staff, compensation entitlements are a key issue, and it is unsurprising when looking at how far behind their comparators the wage rates are.

In an attempt to modernize health care delivery, the employer added 75 nurse practitioner positions across the province in 2020. Due to the significant wage disparity recruitment for these positions has been virtually non-existent, hampering the employer's ability to deliver health care services. While the Auditor General's Follow-Up on VFM Volume 3, Chapter 1, 2019 Annual Report, released on December 1, 2021 indicates that recruitment for these positions will be completed by December 2021,⁵ currently our membership lists indicate that there are only 10 positions currently filled. Given the ongoing challenges with recruitment for these positions, the filling of these positions seems unrealistic without fixing the wage disparity.

Current staffing models are outdated and fail to account for complex care needs of the inmate population. Nurses in corrections are dealing with more complex cases and additional workload without receiving the pay that other provincial, BPS and federal corrections nurses receive. The ministry's solution to this has been to use agency nurses to provide immediate relief to staffing shortages, at a significant cost. The money spent on agency nurses would be better spent addressing the low wages our nurses receive. Without an exemption to Bill 124, the ministry will continue to spend exorbitant amounts of money on hiring agency nurses while our members will be stuck with a 1% wage cap.

OPSEU/SEFPO acknowledges that our BPS comparators will likely fall under Bill 124's moderation period, but without an exemption the wage gap between these groups will continue to increase. For many of our classifications, other provincial BPS healthcare employers are the main competition for jobs and are where many of our members go. At the same time, our federal comparators will continue to receive wage increases above 1%. Our members should not be punished for choosing to work in the provincial corrections system by wage restraint.

Pharmacy/Pharmacy Technicians:

Pharmacists are educated professionals that work closely within the healthcare team as medication information specialists who provide expertise to physicians and nursing staff. Pharmacists acquire and manage medication inventory and share in the safe distribution of

⁵ Office of the Auditor General of Ontario, *Annual Report 2021: Adult Correctional Institutions: Follow-up on VFM Volume 3, Chapter 1* (Queen's Printer for Ontario, 2021), p. 9

medications within the institution. Pharmacy Technicians assist pharmacists by dispensing and packaging drugs, maintaining an inventory of drugs, cleaning equipment, and delivering prepared prescriptions. Pharmacy Technicians covered under the OPSEU/SEFPO Hospital Central agreement recently received an award through the Central reclassification grievance process resulting in an additional 6% wage increase, putting them even further ahead of those technicians working in corrections.

Classification	Salary
Pharmacy Correctional BU - OPSEU/SEFPO	\$ 90,596.00
Pharmacist - PH1 Federal	\$ 130,983.00
OPSEU/SEFPO Hospital Central – Pharmacist	\$ 110,701.50
Pharmacy Technician 2 Correctional BU - OPSEU/SEFPO	\$ 60,166.08
OPSEU/SEFPO Hospital Central – Pharmacy Technician	\$ 65,069.16

Social Work:

Social Workers complete psychosocial assessments, provide supports to inmates with mental health challenges, and facilitate programming that target criminogenic factors within institutions/facilities.

Social workers in corrections complete similar work to both BPS social work classifications and federal social work classifications. For the Social Worker 2 classification, corrections members fall between 11%-16% behind BPS comparators at the maximum rate. As shown below, our federal comparator is the SW-SCW-2 classification represented by PIPSC. The maximum salary rate for this comparator is \$88,973.00 compared to the \$81,339.96 per year for the Correctional Bargaining Unit. The federal rate here is 9% higher than what our members receive.

Classification	Salary	Allowances
Social Worker 2 Correctional BU - OPSEU/SEFPO	\$ 81,339.96	
SW-SCW-2 Clinical SW PIPSC – Correctional Service Canada	\$ 88,973.00	Education allowance: \$3,850 Correctional Service Specific Duty Allowance (CSSDA): \$2000
Social Worker 2 – Centre for Addictions and Mental Health (BPS) - OPSEU/SEFPO	\$ 94,711.50	

Classification	Salary	Allowances
OPSEU/SEFPO Hospital Central – Social Work	\$ 99,372.00	

Psychologists/Psychometrists:

Psychologists perform psychological diagnosis, assessment, therapeutic counselling, clinical research and may also supervise Psychology interns and Psychometrists in the performance of duties related to test administration and interpretation. Employees working as Psychometrists select and administer a wide variety of psychological tests. In the Auditor General’s VFM Audit completed in 2019, it was found that more than half of the institutions did not have access to a psychologist.⁶ The existing wage disparity is a long-standing barrier for recruiting for these positions across the province and often these positions remain vacant for years.

Classification	Salary	Allowance
Psychologist 1 Correctional BU - OPSEU/SEFPO	\$ 107,489.20	
PS-3 Correctional Services of Canada	\$ 100,165	\$2000 Correctional Service Specific Duty Allowance \$6000 for Masters (terminable allowance) \$12,000 Doctorate (terminable allowance)
Psychologist Centre for Addictions and Mental Health (BPS) – OPSEU/SEFPO	\$ 131,761.50	
Psychologist 1 Brockville Mental Health Centre – OPSEU/SEFPO	\$ 135,310.50	
Psychologist Waypoint – OPSEU/SEFPO	\$ 140,244.00	
Psychologist Ontario Shores – OPSEU/SEFPO	\$ 124,741.50	
OPSEU/SEFPO Hospital Central - Psychologist	\$ 136,870.50	

⁶ Office of the Auditor General of Ontario, *Annual Report 2019: Reports on Correctional Services and Court Operations* (Queen’s Printer for Ontario, 2019), p. 36

Classification	Salary
Psychometrist II Correctional BU – OPSEU/SEFPO	\$ 77,158.64
Psychometrist CAMH – OPSEU/SEFPO	\$ 92,839.50
Psychometrist Waypoint – OPSEU/SEFPO	\$ 101,770.00
Psychometrist OPSEU/SEFPO Hospital Central	\$ 99,372.00

Recreation Officers:

Recreation Officers are an integral part of program delivery in our institutions/facilities. Recreation Officers have direct contact with inmates and youth and provide recreational programming to inmates in many settings. Recreation officers face increased danger as recreation equipment can be fashioned into weapons, officers often work alone with numerous inmates, and work with a population with significant mental health challenges. Notably, our federal comparator makes a 20% higher salary.

Classification	Salary
Recreational Officer Correctional BU – OPSEU/SEFPO	\$ 75,483.20
Correctional Program Officer WP-04 (PSAC)	\$ 91,732.00

Rehabilitation Officers:

Rehabilitation Officers are an integral part of rehabilitation in our institutions and facilities. The responsibilities of this classification have expanded over the years. Rehabilitation Officers coordinate with institutional and community partners and sit on various committees both in the institution and in the community to ensure service provision to a diverse and challenging client group. The goal is to help support clients with reintegration into the community, finding a wide variety of supports to address individual needs of the client and safety of the communities where they reside. Case management, developing and facilitating programs, report writing, interviewing, referrals to programs within the institution and community, interacting with institution and community partners, sitting on various committees, supervising clients in the community on temporary absence, completing risk assessments and addiction assessments are the main roles of this classification. The stagnation of the Rehabilitation Officer pay scale has been a major deterrent for recruitment and retention.

Classification	Salary
Rehabilitative Officer 2 Correctional BU – OPSEU/SEFPO	\$ 70,300.36
Correctional Program Officer WP-04 (PSAC)	\$ 91,732.00

Office Administration:

Office Administration positions provide a full range of critical administrative support, apply mathematical and statistical principles, complete various calculations, and apply general accounting principles to the continuous operations of Probation and Parole and Institutional/facilities. The employer has undertaken a variety of modernization projects that have increased the workload on these positions with very little increase in staffing resources. Recruitment in the Northern Region is especially difficult due to low wages and comparable positions not impacted by Bill 124, which will continue to exacerbate recruitment and retention issues.

Classification	Salary
Office Administration 6 – Correctional BU – OPSEU/SEFPO	\$ 50,197.55
Office Administration 6 CAMH Operations Assistant- 275U07 OPSEU/SEFPO	\$ 57,720.00
Switch Board Attendant AS-01 - PSAC	\$ 61,379.00
Office Administration 8 Correctional BU – OPSEU/SEFPO	\$ 53,741.35
Office Administration 8 CAMH – Court Liaison – 180U03 OPSEU/SEFPO	\$ 58,149.00
Financial Specialist Inventory CR-05 – PSAC	\$ 60,130.00
CPIC Operator – OPP	\$ 62,977.85
Sentence Management Officer - AS-02 -PSAC	\$ 65,887.00
Office Administration 11 Correctional BU – OPSEU/SEFPO	\$ 65,805.35
CAMH – Law Clerk – 180U03 OPSEU/SEFPO	\$ 76,011.00

Maintenance/Trades:

Maintenance positions outside of the Correctional Bargaining Unit in Ontario that do virtually identical work are receiving significantly higher salaries. These positions are integral to the safe operations to facilities and institutions. Recruitment and retention for these positions is especially difficult due to low wages and comparable positions not impacted by Bill 124, which will continue to exacerbate recruitment and retention issues. We have federal, provincial BPS, and municipal comparators for these classifications, as detailed below.

Classification	Salary
Maintenance Electrician Correctional BU - OPSEU/SEFPO	\$ 62,649.60
Electrician – GL-EIM-11 PSAC-Operational Services	\$ 84,016.40
Electrical Workers City of Toronto Fair Wage Schedule	\$ 93,246.40
Facilities Mechanic/Facilities Technician 3 Correctional BU - OPSEU/SEFPO	\$ 60,548.80
Building Services Technician GL- MAM-09 PSAC-Operational Services	\$ 67,059.20
HVAC Technician CAMH	\$ 67,606.50
GL-MAM-10 PSAC-Operational Services	\$ 69,700.80
Building Maintenance Mechanic LCBO Collective Agreement	\$ 79,536.29
HVAC Mechanic City of Toronto	\$ 102,544.00

Classification	Salary
Maintenance Carpenter Correctional BU – OPSEU/SEFPO	\$ 60,548.80
Building Services Technician GL- MAM-09 PSAC-Operational Services	\$ 67,059.20
Carpenter City of Toronto Fair Wage Schedule	\$ 85,155.20

Classification	Salary
Maintenance Plumber Correctional BU – OPSEU/SEFPO	\$ 62,649.60
Plumber – MM3 Tradesperson Manitoba	\$ 70,864.60
Plumber – GL-PIP-09 PSAC – Operational Services	\$ 71,468.80
Plumbers and Pipe Fitters City of Toronto Fair Wage Schedule	\$ 96,470.40

Food Services/Laundry:

Food Services/ Laundry positions outside of the Correctional Bargaining Unit in Ontario that do virtually identical work are receiving significantly higher salaries. These positions are integral to the safe operations of facilities and institutions. Recruitment and retention for these positions are especially difficult due to low wages and comparable positions not impacted by Bill 124, which will continue to exacerbate recruitment and retention issues. We have federal, provincial BPS, and municipal comparators for these classifications, as detailed below.

Classification	Salary
Helper, Food Services Correctional BU – OPSEU/SEFPO	\$ 49,691.20
Cooks Helper GS-FOS-03 PSAC – Operational Services	\$ 52,436.80

Classification	Salary
Cook 2 Correctional BU – OPSEU/SEFPO	\$ 52,457.60
Cook – Finishing Kitchen GS-FOS-05 PSAC – Operational Services	\$ 61,505.60

Classification	Salary
Cook 3 Correctional BU – OPSEU/SEFPO	\$ 56,158.96
Cook GS-FOS-06 PSAC – Operational Services	\$ 63,460.80

Classification	Salary
Laundry Worker 2 Correctional BU – OPSEU/SEFPO	\$49,691.20
Laundry Worker 3 Correctional BU – OPSEU/SEFPO	\$51,043.20
Instructor Laundry GS-05 (PSAC Operational Services)	\$61,505.60

Conclusion to Comparators Argument:

As noted above, most of these comparators do not fall under the purview of Bill 124. The Correctional Bargaining Unit has already established some of these comparators in previous rounds of interest arbitration and intend to continue to use these comparators to achieve fair wages for our workers. Without an exemption to Bill 124, our members will continue to fall behind not only other BPS workers they were already behind, but municipal and federal comparators who are not subject to Bill 124.

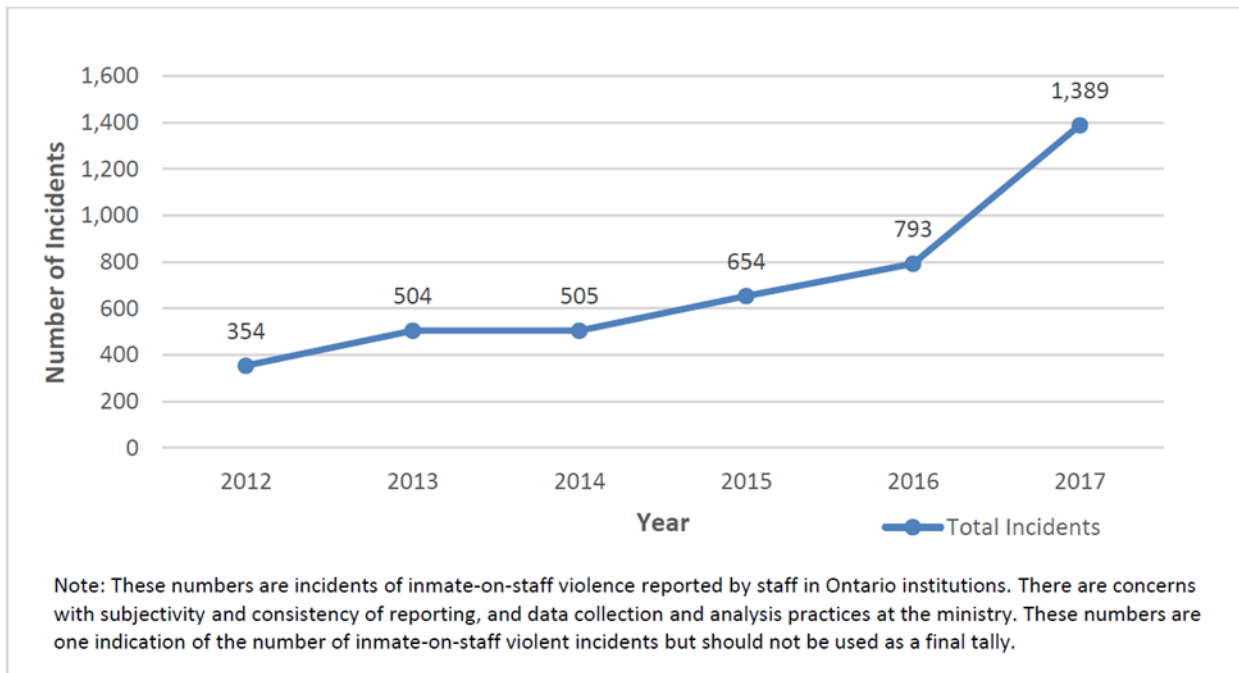
2. The particularly dangerous nature of the work requires a commensurate wage increase to reflect the risks our members face.

Our members in corrections face unique dangers in the course of their work. Many reports over the past decades have highlighted the dangers in these occupations. Our members face high rates of violence in their work, due to a combination of under-staffing, inadequate infrastructure in aging facilities, and growing mental health challenges of the inmate population. In 2020, the Ontario Ombudsman received over 6000 complaints from inmates about conditions in correctional facilities. Once inspected by the Ombudsman and his team, conditions in some facilities were described as “disturbing” and “appalling”.⁷ These working conditions lead to chronic understaffing which makes working conditions even worse. This vicious cycle can only be interrupted by investments in infrastructure and worker compensation that Bill 124 prevents.

Members in corrections face incidents of workplace violence at alarming and ever-increasing rates. In May of 2018, the then Minister of Correctional Services commissioned an independent report from Howard Sapers to explore the rates of workplace violence in correctional facilities.⁸ The graph below is reproduced from that report.

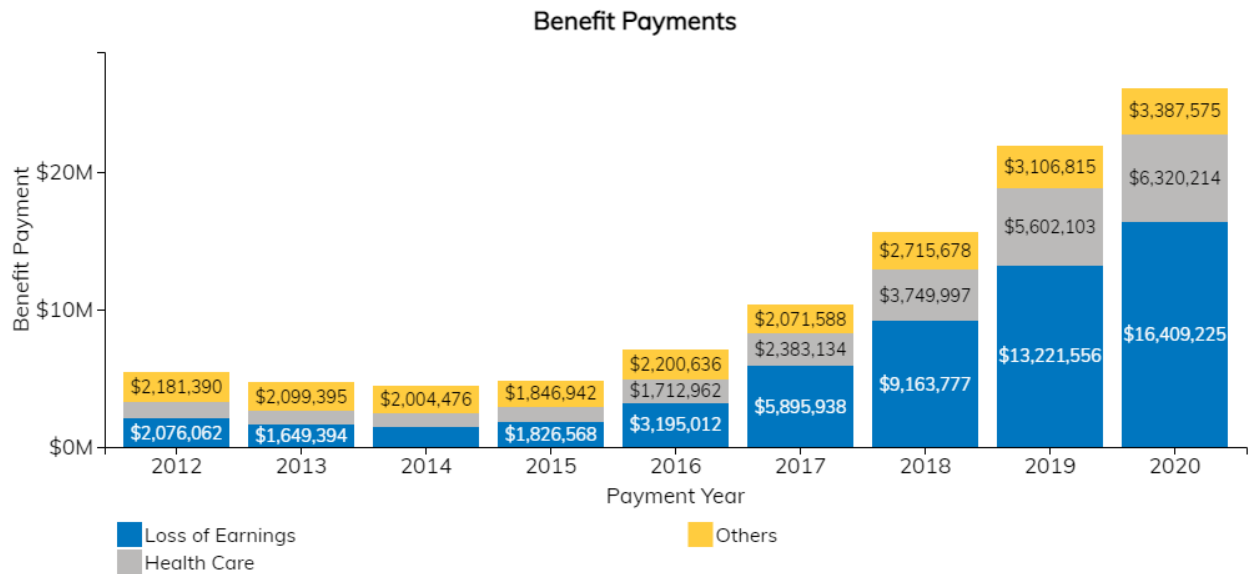
⁷ Office of the Ombudsman of Ontario, *2019-2020 Annual Report* (2020).

⁸ Howard Sapers, *Institutional Violence in Ontario, Interim Report: Independent Review of Ontario Corrections* (Queen’s Printer for Ontario, 2018).



The Sapers report used the Inmate Incident Report (IIR) to identify incidents of inmate-on-staff violence, and as presented in the graph above, these reported incidents increased between 2012-2017. While the report provides these numbers, it also notes that there is a severe lack of data collected on violent incidences within institutions. WSIB data presented in the Sapers report notes that there were 1278 claims by correctional staff, with variation by region, with Central region having the greatest number concentrated at Toronto South Detention Centre and Maplehurst Correctional Complex. The Auditor General’s 2019 Annual Report examining adult correctional facilities indicates that from January 2014 to October 2018 there were about 21,000 recorded incidences across the province, including altercations between inmates and inmates threatening or directly assaulting staff.⁹ More recent numbers provided to OPSEU/SEFPO through the SOLGEN MERC indicate 1,946 incidents of inmate on staff violence in 2019. The graph below shows the increase in benefit payments under WSIB for workers in correctional services, with notable increases in both loss of earnings and health care categories.

⁹ Office of the Auditor General of Ontario, *Annual Report 2019: Reports on Correctional Services and Court Operations* (Queen’s Printer for Ontario, 2019), p. 39



WSIB generated report for SOLGEN-CORRECTIONAL SERVICES
 Data source: Workplace Safety and Insurance Board
 Data maturity: As at March 31st 2021 for all years displayed
 Data notation: includes data from 2012 to 2020
 Other notes: You will only see data in a summary or group form, for example, by grouping the data by type of injury or by the number of injuries per year. Data that contains any personal information is not included.
 This data is licensed to you under the Government of Ontario's Open Data License <https://www.ontario.ca/page/ontarios-open-data-directive#section-8> and subject to the provisions described therein Data downloaded from the WSIB's website.
 Data downloaded from WSIB Safety Check tool.
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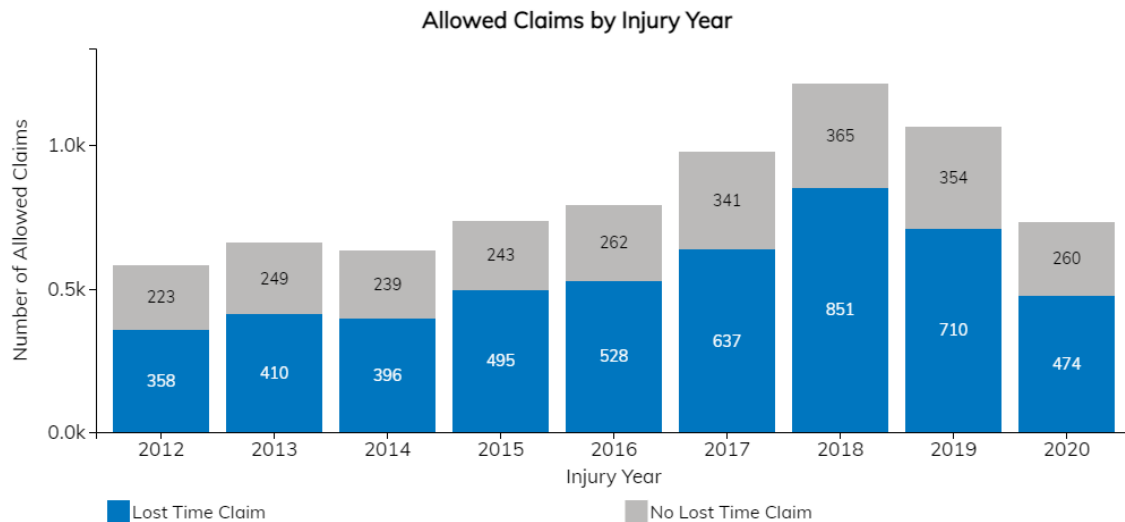
According to data from WSIB, the “event” in 38% of the above claims was an assault, violent act, or harassment.¹⁰

There are many factors that lead to increased violence in correctional facilities, and the Correctional Bargaining Unit submits that many of these relate directly to staffing levels. As noted in the Sapers report, “...a reduced staff-to-prisoner ratio ... leads to ineffective supervision, fewer resources for correctional programming opportunities, more lockdowns, and ultimately lessens the chances for successful reintegration, putting public safety at risk”.¹¹ Our members noticed that when inmate counts dropped drastically during COVID-19, rates of violence in institutions dropped as well, which can be seen with WSIB injury claims below.¹² Inmate counts have been steadily rising and we anticipate the rates of WSIB claims will trend upward to be consistent with previous years’ data.

¹⁰ <https://safetycheck.onlineservices.wsib.on.ca/safetycheck/explore/profile/10481860?lang=en>

¹¹ Sapers, *Institutional Violence in Ontario*, (2018), p. 8

¹² <https://safetycheck.onlineservices.wsib.on.ca/safetycheck/explore/profile/10481860?lang=en>



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 Data downloaded from WSIB Safety Check tool.
 Report downloaded on 2021-11-23 16:11:45

Outside of the context of a pandemic, our members in corrections face high instances of workplace violence, high levels of stress, and risk their physical and mental health in the course of their work. Without an exemption to Bill 124, working in corrections is hardly an attractive prospect for workers, especially when compared to other jobs doing similar work but without the significant health and safety risk.

Many members of the OPS Correctional Bargaining Unit work in outdated and even dilapidated offices and facilities. In the 2019 Auditor General’s report, it was found that “amenities such as break rooms and a cafeteria are not always available to staff” and that “insufficient training and amenities for staff who are working in stressful conditions affects morale”.¹³ These working conditions lead to chronic understaffing, and as of the 2021 Auditor General’s follow-up report, have not been rectified.

Living conditions within institutions are the working conditions for Correctional Bargaining Unit members. There have been numerous high-profile incidents and reports in various institutions. Unfortunately, these are not isolated problems.

These institutions lack proper infrastructure such as appropriate units for inmates in mental health distress, and appropriate programming space. The Auditor General report also notes a lack of programming for inmates, particularly those on remand, which makes up roughly 70% of all

¹³ Office of the Auditor General of Ontario, *Annual Report 2019: Reports on Correctional Services and Court Operations* (Queen’s Printer for Ontario, 2019), p.18

provincial inmates in custody. As the Sapers report discusses, there is a multitude of academic research linking proper programming with lower rates of violence within prisons.¹⁴ Lower rates of violence lead to safer living conditions for inmates and safer working conditions for staff.

However, as discussed throughout this submission, proper levels of programming cannot happen without proper staffing across all classifications. Many of the positions added in response to the Court of Appeal for Ontario decision on the Canadian Civil Liberties Association's argument that administrative segregation violated the *Charter* were for programming staff. However, the number of Correctional Officers needs to also increase to supervise inmates and provide access for programming staff. Unfortunately, operational pressures direct Correctional Officers away from this supervision, which ultimately undermines access to programming.

Security searches in correctional facilities are not done consistently or to minimums set out in policy due to understaffing. Inadequate number of searches, equipment, and weapons detection also relate to increased violence. The 2019 Auditor General Report indicates that within the prior 10 years there was a 414% increase in the number of weapons found and 136% increase in the amount drugs and alcohol found.¹⁵ The Employer has finally acknowledged the need for vital equipment, such as ion scanners and body scanners, to detect hazardous contraband from entering our institutions. However, institutions continue to lack the resources to fully utilize this equipment, due in part to lack of training. In 2016, the government invested \$9.5 million to operationalize body scanners, yet only provide 4 hours of training, and continue to fail to fully fund permanent employee resources to the equipment. Despite the improvements in available technology, members still face the presence of deadly contraband such as fentanyl. As the rate of overdoses continue to increase, our members are exposed to the physical health hazards as well occupational stress hazards when responding to these incidents.

In Probation, there is a real and defined threat posed to the health and safety to members as a result of offenders bringing prohibited weapons, such as guns and sharp edge weapons, into offices. The Ontario Labour Relations Board decision from October 30, 2020, substantiates and reinforces this threat.¹⁶ For well over a decade, Probation staff have been advocating for the use of metal detectors as part of an enhanced security system continuum. This concern is very real as evidenced by the tragic and fatal April 2020 shooting incident that took place inside the Elliot Lake Probation and Parole Office.¹⁷ The risk to the personal health and safety of our probation staff requires a commensurate salary/wage, however, with Bill 124, such is impossible to remedy nor achieve.

¹⁴ Sapers, *Institutional Violence in Ontario*, (2018), p. 42

¹⁵ Office of the Auditor General of Ontario, *Annual Report 2019: Reports on Correctional Services and Court Operations* (Queen's Printer for Ontario, 2019), p. 45

¹⁶ *Ministry of Community Safety and Correctional Services v. Ontario Public Service Employees Union*. OLRB Case No: 2902-15-HS

¹⁷ <https://www.sudbury.com/police/opp-officers-cleared-of-wrongdoing-when-man-shot-and-killed-himself-at-elliott-lake-parole-office-2393996>

There is also emerging academic research that points to the long-term mental health effects of working in corrections, particularly as it relates to occupational stress injuries, including conditions such as Post-Traumatic Stress Disorder and anxiety disorders. In Carleton et al. it was found through a survey of 1,487 correctional service employees that the prevalence of mental health challenges for provincial correctional workers appears to be higher than their federal counterparts. Specifically, nearly 60% of correctional officers, 44% of wellness staff (e.g. nurses), 63% of probation officers, and 52% of administrative staff screened positive for one or more mental disorders.¹⁸ Correctional service workers are consistently at risk of being exposed to psychologically traumatic events, while facing long working hours, and pervasive unpredictability of threat, which may increase their risk of mental disorders and death by suicide. In a 2020 academic article on qualitative analysis of mental health challenges the authors discuss a need for more recognition of staff mental health needs, and point to inadequate benefits creating barriers to workers seeking mental health treatment.¹⁹ Another study examining the operational and organisational factors related to occupational stress points to insufficient human resources (understaffing, high absenteeism, and unfilled vacancies) as a key stressor.²⁰ The cost of these injuries is significantly more than the cost to prevent and treat these injuries. Without an exemption to Bill 124, our members cannot receive the wages and benefits required for maintaining their mental health, with a risk of dire consequences.

3. These members continued to work during COVID-19 while facing outbreaks in correctional facilities.

Our members continued to work on the frontline during multiple waves of COVID-19, while facing outbreaks in correctional facilities. According to data from the Ontario Government's data catalogue, there were over 1600 cases of COVID-19 amongst inmates from the start of the pandemic until early November 2021,²¹ while internal OPSEU/SEFPO tracking indicates over 300 members working in adult corrections were diagnosed with COVID-19.

Our members risked their health and safety during the pandemic to continue to keep our communities and inmate populations safe. With Bill 124 in place, the government continues to undervalue Correctional Bargaining Unit members. Throughout the pandemic, the employer agreed that our members' work was critical to the operation of our facilities and an integral part of the justice sector, and yet now are subjected to the constraints of Bill 124.

¹⁸ R. Nicholas Carleton et al. "Provincial Correctional Service Workers: The Prevalence of Mental Disorders," *International Journal of Environmental Research and Public Health* 17, no. 7 (2020): <https://doi.org/10.3390/ijerph17072203>

¹⁹ Rosemary Ricciardelli, R.N. Carleton, James Gacek, & Dianne L. Groll "Understanding Needs, Breaking Down Barriers: Examining Mental Health Challenges and Well-Being of Correctional Staff in Ontario, Canada," *Frontiers in Psychology* 11 (2020): doi:10.3389/fpsyg.2020.01036

²⁰ Mark Norman and Rosemary Ricciardelli "Operational and organizational stressors in community correctional work: Insights from probation and parole officers in Ontario, Canada," *Probation Journal* XX (2021): DOI: 10.1177/0264550520984253

²¹ <https://data.ontario.ca/dataset/status-of-covid-19-cases-in-ontario-s-correctional-institutions>

The pandemic also brought about operational changes that stretched staffing thin. For example, prior to the pandemic, most inmates would go to court in person and a small portion utilizing video courts. Once the pandemic started, the majority of court appearances were conducted by video and audio. This meant that the video suites in the institutions had to expand to adapt to virtual proceedings. Correctional staff had to make this work, and were reassigned to ensure video/audio courts proceeded. However, the staffing problems from decades long recruitment and retention issues meant that institutions were often short staffed due to reassignment of staff to pivot to the additional workload of a video/audio court model. The minimal staffing increases to account for the video/audio court changes did not make up for the significant increases to virtual courts. The government's goal is to conduct upwards of 90% of all courts by video, yet they have not accounted for those increases with appropriate staffing increases and infrastructure changes.

Importantly, there is a direct correlation between staff shortages, lockdowns and reduction in inmate programming. While this has implications for legal liability for the government (discussed further below), the main takeaway is that COVID-19 has exacerbated staffing needs while our members risked their health working during the pandemic. Without an exemption to Bill 124, the staffing crisis in corrections will continue to get worse, putting staff and inmate safety at risk.

The reality is that the government becomes vulnerable to lawsuits due to poor conditions in institutions. As discussed further below, the government must manage its liability in terms of the *Ontario Human Rights Code* decisions, *Charter* challenges, and United Nations declarations by investing in staffing remuneration. By not exempting the members of the Correctional Bargaining Unit from Bill 124, the government is hampering itself from the clear solution to the crisis in corrections.

The COVID-19 crisis and the crisis in corrections overlapped in such a way as to create a perfect storm. These staffing issues need to be fixed, and that can only happen by improving wages and benefits, which cannot happen without an exemption to Bill 124.

4. Bill 124 prevents the Employer from meeting its legal obligations around institutional safety and standards due to recruitment and retention issues.

As the government is aware, both Ministries have legal obligations to inmates and youth as set out in various court decisions, inquests, legislation, and policy documents. Meeting these obligations hinges on addressing staff recruitment and retention. Without an exemption to Bill 124 to address the wage disparity that exists between our members and their established comparators, understaffing cannot be fully addressed. By failing to address these issues, the government continues to leave itself vulnerable to continued violations of the *Human Rights Code*.

For example, the case of *Francis v. Ontario*, where a decision on a class proceeding led by the Canadian Civil Liberties Association was upheld where the Ontario government was ordered to pay \$30 million in damages to class members who had been placed in administrative segregation in Ontario correctional institutions between April 2015 and September 2019. Recommendations from reports by Howard Sapers point to necessary staffing and investments in infrastructure to meet requirements related to administrative segregation outlined in Regulation 778.²²

Without an exemption, the Ministries will be unable to attract enough staff, which will severely undermine their ability to meet legal requirements. This puts the government in a position to risk infringing on *Charter* Rights of inmates and opens it to further legal challenges and costly inmate lawsuits. Granting the Correctional Bargaining Unit an exemption to Bill 124 and allowing the parties to freely negotiate a collective agreement to address recruitment and retention is the fiscally responsible decision as it will save the Ontario taxpayers dollars.

Conclusion:

Considering all of the above, the Correctional Bargaining Unit requests an exemption pursuant to s.27 of the legislation in order that Correctional Bargaining Unit and the Ministries may be free to bargain a collective agreement that properly reflects what these frontline workers do for this province.

We make this request without prejudice to OPSEU/SEFPO's position that the Act violates the *Canadian Charter of Rights and Freedoms*, or to any position that OPSEU/SEFPO may take in other fora regarding the constitutionality of the Act.

We would be pleased to discuss this with you further at your earliest convenience.

Sincerely,



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²² Howard Sapers, *Corrections in Ontario, Directions for Reform: Independent Review of Ontario Corrections* (Queen's Printer for Ontario, 2017).