



COUNCIL OF ELIZABETH FRY SOCIETIES OF ONTARIO

c/o Elizabeth Fry Society Simcoe Muskoka

102 Maple Ave

Barrie, ON

L4N 1S4

Telephone 1-800-637-4606

president@cefso.ca

Ministry of the Solicitor General

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Re: Council of Elizabeth Fry Societies of Ontario Feedback on Proposed Regulatory Amendments to Strengthen Ontario's Corrections System

This letter follows the Council of Elizabeth Fry Society of Ontario's (CEFSO) participation in a virtual consultation meeting and review of the proposed amendments to Regulation 778 under the *Ministry of Correctional Services Act, 1990*, related to:

1. Segregation;
2. Discipline and misconduct of persons in custody; and
3. Mandatory training.

We appreciate the opportunity to provide additional feedback to the proposed amendments to Regulation 778 as follows.

Segregation

The proposed amendments to Regulation 778 for consideration include implementing a 15 day limit (currently in place through policy) on consecutive days in administrative segregation and to introduce independent reviews of disciplinary segregation.

Although we acknowledge the proposed changes to Regulation 778 aim to reduce the use of segregation, a period of 15 days in any form of segregation is egregiously long and is likely to cause psychological harm. It has been a longstanding position of CEFSO that segregation is not a matter of name or space, but practice. We believe that solitary confinement is a practice which should be abolished altogether, particularly for Indigenous and racialized peoples, who are already overrepresented in criminalized and incarcerated populations in Ontario.

The proposed independent review process for disciplinary segregation is noted to be conducted by "ministry staff outside the institution". A review conducted by any ministry employee cannot be considered to be "independent". We recommend that reviews of all forms of segregation be conducted by an external body.

The legislation also proposes that reviews for those in disciplinary segregation be focused on

harm reduction and on the monitoring an individual's deterioration. It further states that institutions have "specialized care placements that reflect the need." The proposed changes do not specify how frequently the monitoring will occur nor what assessment tools will be used to assess the deterioration. They also fail to specify what specialized care placement options will be available.

The proposed changes seek to reduce harm from placement in segregation conditions, which are defined as highly restricted in movement for 22 hours or more in a day, or not receiving a daily minimum of two hours of meaningful social interaction that promotes "mental and/or physical stimulation". CEFSO recommends that meaningful social interaction be defined as interactions with a social worker, elder, community organization or cultural or faith representative of choice, and should not include correctional staff or assessments of wellbeing by clinical staff. During such assessments, clinical staff should document, not just communicate, deterioration of physical and mental health for immediate review.

Proposed definition of Serious Mental Illness

CEFSO finds it problematic that the recommendation of prohibition of segregation placement for those with serious mental illness requires both a diagnosis of a DSM defined Mental Disorder and presentation of at least one symptom listed, to be exempt. Marginalized and racialized individuals are an overrepresented percentage of incarcerated people, many of whom have not had equitable access to health and mental health care and are living with undiagnosed and untreated Mental Disorders and symptoms. Furthermore, even if someone was not experiencing symptoms at the time of segregation placement, undiagnosed and diagnosed Mental Disorders can be exacerbated by conditions of confinement, more so by conditions of segregation. CEFSO recommends that if segregation remains in practice at all, that the prohibited use of segregation be applied to both those diagnosed with a serious Mental Disorder and/or those who are experiencing symptoms listed in the recommendations. CEFSO also recommends that the prohibited use of conditions of segregation be applied to those with cognitive and brain injury, disability, developmental disorders and symptoms thereof.

Discipline and Misconduct

Although we are aware that the regulation amendments will not be inclusive of all processes, we believe it is a major oversight to not specify when correctional staff must consider alternative resolutions and measures to discipline and misconduct. It is critical that definitive alternative discipline measures be clearly outlined for both correctional staff and incarcerated individuals to ensure that new regulations are adhered to. Further accommodation should be made to address the specific cultural needs of Indigenous and racialized populations when addressing alternative resolutions misconduct.

Alternative disciplinary measures listed as recommended Regulatory Amendments, such as "additional work or duty" are not made available to women and gender diverse individuals who

are incarcerated in most correctional institutions in Ontario. Alternate disciplinary measures should be identified and put in place for these marginalized populations.

All incarcerated individuals need to be advised, upon admission, of all rules, processes and individual rights, in either written or accommodated formats, inclusive of the following:

- Definition of misconduct and serious misconduct.
- Definition of alternative disciplinary measures.
- Definition of serious disciplinary measures.
- Rights while in segregation.
- Review process of administrative and disciplinary segregation, etc.

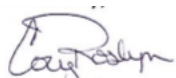
CEFSO recommends that a formal appeal process for all disciplinary action be established and that appeals be reviewed by an independent body.

Mandatory Training

CEFSO is in agreement regarding the proposed mandatory training on human rights, systemic racism and de-escalation for correctional and front-line staff. CEFSO recommends that the Ministry include women-centred, trauma informed, 2SLGBTQQA sensitivity in the roster of mandatory training sessions and that ministry staff at all levels participate in these training.

Thank you in advance for including the above recommendations for consideration in the amendment to Regulation 778 under the *Ministry of Correctional Services Act, 1990*, as it relates to segregation, discipline and misconduct of a person in custody, and mandatory training.

Yours sincerely,



Cory Roslyn, President
Meaghan Chambers, Vice President
Council of Elizabeth Fry Societies of Ontario

cc: Emilie Coyle, Executive Director –Canadian Association of Elizabeth Fry Societies
Dawn Ferris, President –Canadian Association of Elizabeth Fry Societies
Deborah Richardson, Deputy Solicitor General, Correctional Services