

**Inside the Black Box of Jail:  
Barriers to Change at the Ottawa-Carleton Detention Centre**

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## **Abstract**

The Ottawa-Carleton Detention Centre (OCDC) is notorious for its austere conditions of confinement and human rights violations. In response to widespread criticism, the Ontario provincial government created a dedicated task force in 2016 to address longstanding issues at the jail. To date, little research has examined how OCDC has maintained these deplorable conditions of confinement despite concerted effort to improve them. Drawing on Mathiesen's (1990) neutralization techniques, this thesis reveals the tactics used by government officials and jail functionaries to maintain the status quo at OCDC and stifle transformative change by comparing task force recommendations with their ensuing implementation. Through a qualitative content analysis of the OCDC task force progress reports, trend analyses, Ombudsman, Community Advisory Board, Independent Review of Corrections, and Jail Accountability & Information Line reports documenting issues at OCDC, I demonstrate how the Ontario provincial government and OCDC administration (a) refer to competing demands, higher authority, policy and procedure, or safety and security as excuses for not instituting changes, (b) define policy alternatives as irrelevant or impossible to implement, (c) postpone implementation of measures for not being developed enough or possible now, as well as (d) puncture and (e) absorb policy alternatives to uphold the status quo and impede transformative change. In doing so, I expose the provincial penal system's proclivity to 'finish' (Mathiesen, 1974) alternatives that threaten the current system, thereby gutting new ideas of their ability to generate meaningful social change. The insights provided by this thesis help lay the groundwork for future critical criminological research to examine the barriers to social change in the penal field on a sub-national, national, and international scale.

**Keywords:** Ottawa-Carleton Detention Centre; jail; social change; neutralization techniques; conditions of confinement; prisoners' rights

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## Table of Contents

ABSTRACT.....	ii
ACKNOWLEDGEMENTS.....	iii
LIST OF ACRONYMS.....	vi
<b>CHAPTER 1: INTRODUCING THE OTTAWA-CARLETON DETENTION CENTRE...</b>	<b>1</b>
<b>CHAPTER 2: PROVINCIAL IMPRISONMENT IN CANADA.....</b>	<b>6</b>
2.1 – HUMAN RIGHTS AND IMPRISONMENT.....	6
2.1.1 – <i>Prisoners’ Rights and Conditions of Confinement in the Penal System</i> .....	7
2.1.2 – <i>Governing Prisoners’ Rights in Canada</i> .....	10
2.2 – HUMAN RIGHTS IN THE CONTEXT OF CANADIAN IMPRISONMENT.....	15
2.2.1 – <i>Human Rights Abuses at the Federal Level</i> .....	16
2.2.2 – <i>Human Rights Abuses at the Provincial Level</i> .....	22
2.3 – SOCIAL CHANGE IN THE PENAL FIELD.....	26
2.3.1 – <i>Social Change and the ‘Punitive Turn’</i> .....	27
2.3.2 – <i>Social Change in the Canadian Penal Field</i> .....	36
2.4 – CONCLUSION.....	38
<b>CHAPTER 3: THEORIZING SOCIAL CHANGE AT THE OTTAWA-CARLETON DETENTION CENTRE.....</b>	<b>40</b>
3.1 – PENAL ABOLITIONISM AND SOCIAL CHANGE.....	40
3.2 – NEUTRALIZATION TECHNIQUES AS IMPEDIMENTS TO SOCIAL CHANGE.....	46
3.3 – MOBILIZING ABOLITIONISM TO UNDERSTAND SOCIAL CHANGE AT OCDC.....	49
<b>CHAPTER 4: ON METHOD.....</b>	<b>51</b>
4.1 – RESEARCH POSITIONALITY: EPISTEMOLOGICAL AND ONTOLOGICAL FRAMEWORK.....	51
4.2 – THE OTTAWA-CARLETON DETENTION CENTRE.....	53
4.3 – DATA COLLECTION.....	56
4.3.1 – <i>Organization of the Data: Using NVivo Coding Software</i> .....	60
4.4 – DATA ANALYSIS.....	60
4.5 – ETHICAL CONSIDERATIONS.....	63
4.6 - CONCLUSION.....	65
<b>CHAPTER 5: FINDINGS AND ANALYSIS.....</b>	<b>66</b>
5.1 – THE MENTAL AND PHYSICAL HEALTH CARE SYSTEM.....	67
5.1.1 – <i>Access to Mental and Physical Health Care</i> .....	71
5.1.2 – <i>Mental Health Support</i> .....	79

5.1.3 – <i>Addiction Support</i> .....	90
5.2 – CONDITIONS OF CONFINEMENT.....	94
5.2.1 – <i>Conditions of Segregation</i> .....	94
5.2.2 – <i>Programming and Recreation</i> .....	99
5.2.3 – <i>Cleanliness of the Institution</i> .....	104
5.2.4 – <i>Food and Nutrition</i> .....	107
5.2.5 – <i>Institutional Phone System</i> .....	109
5.3 – ACCESS TO JUSTICE.....	113
5.3.1 – <i>Internal Complaint Mechanisms</i> .....	114
5.3.2 – <i>Access to Legal Aid and Information</i> .....	117
5.3.3 – <i>Bail and Release Conditions</i> .....	119
5.4 – DISCUSSION AND CONCLUSION.....	122
<b>CHAPTER 6: CONCLUSION AND FUTURE DIRECTIONS</b> .....	<b>128</b>
<b>REFERENCES</b> .....	<b>134</b>
<b>APPENDIX A: MIXED CODING GRID</b> .....	<b>153</b>

**List of Acronyms**

<b>CAB</b>	Community Advisory Board
<b>CBR</b>	Canadian Bill of Rights
<b>CCG</b>	Carleton County Gaol
<b>CCRA</b>	Canadian Corrections and Conditional Release Act
<b>CCRF</b>	Canadian Charter of Rights and Freedoms
<b>CPEP</b>	Criminalization and Punishment Education Project
<b>CSC</b>	Correctional Services Canada
<b>CSRA</b>	Correctional Services Reintegration Act
<b>IROC</b>	Independent Review of Corrections
<b>JAIL</b>	Jail Accountability & Information Line
<b>MCSA</b>	Ministry of Correctional Services Act
<b>MCSCS</b>	Ministry of Community Safety and Correctional Services
<b>MOHLTC</b>	Ministry of Health and Long-term Care
<b>MSG</b>	Ministry of the Solicitor General
<b>OCDC</b>	Ottawa-Carleton Detention Centre
<b>OHRC</b>	Ontario Human Rights Commission
<b>OST</b>	Opioid Substitution Therapy
<b>PIR</b>	Public Interest Remedies
<b>SMR</b>	United Nations Standard Minimum Rules
<b>TPRP</b>	Toronto Prisoners' Rights Project
<b>UN-CAT</b>	United Nations Convention Against Torture and Other Cruel and Inhumane or Degrading Treatment or Punishment Act

## CHAPTER 1: INTRODUCING THE OTTAWA-CARLETON DETENTION CENTRE

I am just another human being who made mistakes. I harmed others and I should be accountable. However, the dehumanization and state violence I endured as a consequence of my behaviours should not be tolerated at any facility. Don't call me an inmate, don't call me criminal, I am not offensive. I am a person, an individual, a human being... (Anonymous OCDC Prisoner, quoted in Speight et al., 2019c, p. 7)

Located in Canada's capital, the Ottawa-Carleton Detention Centre (OCDC) is notorious for its austere conditions of confinement and inhumane treatment of prisoners. Initially promoted by Ontario government officials as a 'rehabilitation unit' when it was opened in 1972, OCDC was originally envisioned as a progressive replacement to the infamous Carleton County Gaol (CCG), a once praised Ottawa jail next to a courthouse that over time gained notoriety for its inhumane and degrading treatment of prisoners and deplorable conditions of confinement (Doyle et al., forthcoming). Not unlike its predecessor, OCDC fell into disrepute and has been subject to numerous media reports, coroner's inquests into preventable deaths in custody, legal action taken against it, and numerous other interventions revealing shocking tales of mistreatment, crowding, and austere conditions of confinement (IROC, 2017b).

Recent condemnation of OCDC includes the landmark settlement of Christina Jahn, a woman with mental health issues who was subjected to over 200 days in segregation at OCDC (Cole & Hannah-Moffat, 2020). With the help of the Ontario Human Rights Commission (OHRC), the Jahn settlement saw the development of ten public interest remedies (PIRs) targeting the use of segregation and mental health treatment in the provincial prison system (Cole & Hannah-Moffat, 2020). As mistreatment and crowding continued through 2014 and 2015, it was revealed in early 2016 that capacity issues at the Innes Road jail led to several prisoners at OCDC being housed in "secure segregation shower cells" instead of actual jail cells (IROC, 2017b, p. 54).

In response to mounting criticism, then head of the Ontario Ministry of Community Safety and Correctional Services (MCCS)<sup>1</sup> Yasir Naqvi issued a statement calling such conditions “absolutely appalling and unacceptable” (CBC News, 2016, para. 3) and established the OCDC task force to address the severe crowding and inadequate conditions of confinement at OCDC (MCSCS, 2016). Composed of Ministry officials, jail functionaries, and community stakeholders, the newly established task force developed forty-two short, medium, and long-term directives mandated to address capacity issues and improve the health, safety, and treatment of those incarcerated at the Innes Road jail (see MCSCS, 2016a).

In addition to the recently established task force, OCDC is one of a handful of provincial jails in Ontario with a Community Advisory Board (CAB). Established in 2014, OCDC’s CAB is primarily dedicated to increasing transparency and accountability within the jail and ensuring sufficient conditions of confinement and treatment of prisoners (MSG, 2019). Furthermore, OCDC (among other provincial jails) was inspected and highlighted in the most recent Ontario Independent Review of Corrections (IROC) report entitled ‘*Corrections in Ontario: Directions for Reform*’ in 2017 (IROC, 2017a). Most notably, both CAB and IROC reports outline the need for improved conditions of confinement, health care services, and treatment of prisoners at OCDC (see CAB, 2015; 2016; 2017; 2018; IROC, 2017a; 2017b; 2018a).

Despite the PIRs instituted in 2013, the 2014 development of the OCDC CAB, and the subsequent implementation of the OCDC task force action plan in 2016, the conditions of confinement and treatment of prisoners at the facility has remained largely the same (see CAB, 2016; 2017; 2018; Speight et al., 2019a; 2019b; 2019c; 2019d). Notwithstanding a concerted effort

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<sup>1</sup> The Ministry was formerly known as the Ministry of the Solicitor General (MSG); however, in 2003, it was renamed the Ministry of Community Safety and Correctional Services (MCSCS). In April 2019, its name was reverted to the Ministry of the Solicitor General (MSG) (Government of Ontario, 2019). Throughout this thesis, I use these terms interchangeably, depending upon the corresponding time period(s).

on the part of those who have raised concerns about OCDC, the status quo has remained mostly intact (see Speight et al., 2019a, 2019b, 2019c). Inciting lasting transformative social change in penal systems remains a longstanding challenge across the world (see, for example, Mathiesen, 1974; 1990; 2006). Indeed, finding effective methods to combat barriers to social change has been a persistent issue since the very foundation of prisons (Foucault, 1975). In trying to bring about social change, those seeking reforms often face the thwarting forces of the penal system that maintain the status quo and impede institutional transformation.

In light of this, using an abolitionist lens, my thesis seeks to examine how such austere conditions of confinement and treatment of prisoners persist despite concerted effort to incite meaningful social change and investigate the forces that frustrate transformative change in the penal system. Specifically, this thesis addresses the following main research question:

How do government officials and jail functionaries maintain the status quo at the Ottawa-Carleton Detention Centre and thus impede transformative social change?

This research project is situated within the broader field of punishment and society literature. Specifically, it contributes to the limited cross-section of research concerning conditions of confinement and social change in the Canadian provincial prison system. In doing so, my research aims to inform the organization and mobilization of future abolitionist interventions and reduce the harms and use of imprisonment in the short-term, while striving to abolish prisons over the long-term.

Through a qualitative content analysis of Jail Accountability & Information Line (JAIL), CAB, IROC, Ontario Ombudsman, and OCDC Task Force progress reports and trend analyses, this study examines the tactics employed by Ministry officials and jail functionaries to impede social change and maintain the status quo at the facility. These tactics were identified and analyzed using Mathiesen's (1974; 1990; 2006) theoretical framework of abolitionism and his

conceptualization of neutralization techniques. By neutralization techniques, Mathiesen (1990; 2006) refers to methods mobilized by those responsible for maintaining the penal system's interests (e.g., Ministry officials and jail functionaries) that effectively stifle new ideas, alternatives, and critical interventions. As my analysis reveals, Ministry officials and OCDC administrators (a) make reference to competing demands, higher authority, policy and procedure, or safety and security as excuses for not instituting changes, (b) define policy alternatives as irrelevant or impossible to implement, (c) postpone implementation of measures for not being developed enough or possible now, as well as (d) puncture and (e) absorb policy alternatives to uphold the status quo and impede transformative change.

To situate and present the findings from this study, the remainder of my master's thesis is divided into five chapters. In *Chapter 2: Provincial Imprisonment in Canada*, I review literature on the development and enforcement of prisoners' rights in Canadian provincial jails and the difference in form and function between the federal and provincial prison systems. Following that, I survey literature concerning social change in the provincial penal field. In presenting and synthesizing criminological literature surrounding these topics, I expose a gap in knowledge concerning both conditions of confinement and social change within the Ontario provincial prison system and situate this project as an original and important contribution to this research.

In *Chapter 3: Theorizing Social Change at the Ottawa-Carleton Detention Centre*, I outline the theoretical framework that guides my analysis into the tactics used to maintain the status quo and impede social change at OCDC. Specifically, I survey Mathiesen's (1974) abolitionist stance and subsequent conception (Mathiesen, 1990, 2006) of neutralization techniques, and demonstrate how this theoretical framework provides important insight into the internal operations of both OCDC and Ontario's prison system more broadly.

In *Chapter 4: On Method*, I outline the qualitative content analysis approach taken and the methodological decisions made during this research project. Specifically, I discuss my research positionality, epistemological and ontological framework, the selection of OCDC as the primary research site, the data collection and analysis methods used, and the ethical considerations shaping the conduct of this study.

In *Chapter 5: Findings and Analysis*, I present the findings stemming from my analysis of the data. Specifically, I reveal the tactics deployed by Ministry officials and jail functionaries to maintain the austere conditions of confinement and the poor treatment of prisoners at OCDC. I demonstrate how such system members mobilize various combinations of what Mathiesen (1990; 2006) refers to as neutralization techniques to maintain the status quo and subsume transformative change. In doing so, I expose the Ministry's proclivity to neutralize alternatives that compete with the current system and gut new ideas of their ability to generate change.

In *Chapter 6: Conclusions and Future Directions*, I summarize the main contributions of this study and discuss the significance of my findings and their implications for the Canadian punishment and society field. I also highlight future directions for research related to conditions of confinement and social change in the provincial penal field and abolitionist praxis more broadly.

## **CHAPTER 2: PROVINCIAL IMPRISONMENT IN CANADA**

This chapter provides a comprehensive survey of the existing literature relevant to the study of prisoners' rights in Canada's provincial jails and transformative social change in the Canadian penal field to situate this thesis as an important and original contribution to punishment and society literature. Exploring relevant literature concerning prisoners' rights and conditions of confinement is essential to build an understanding of the current status of prisoners and state of affairs in provincial jails like the Ottawa-Carleton Detention Centre (OCDC). Furthermore, it is crucial to review the literature surrounding social change in the penal field to construct a more nuanced interpretation of the limited impacts of reform in the context of provincial imprisonment in Canada.

I begin this chapter by outlining prisoners' rights in Canada, their enforcement, and the lack of legislation specifically outlining prisoners' rights in the province of Ontario. Next, I review the literature concerning human rights in federal penitentiaries and the comparatively lesser amount of scholarship concerning the provincial level. Following that, I outline how authors in punishment and society literature theorize social change in the penal field, highlighting the lack of scholarship on Canadian social change at the provincial and institutional levels.

### **2.1 – Human Rights and Imprisonment**

The language of human rights remains paramount for those who actively engage in emancipatory struggles “against inequality, domination, and state power,” and has long been associated with the penal abolitionist movement (Scott, 2017, p. 50). According to Cohen (1994), human rights within the context of imprisonment are a defensive strategy that serve as legal safeguards, protecting against violations of dignity while simultaneously “facilitating a progressive utopian vision of social transformation” (see Scott, 2017, p. 50). In the same vein,

Jackson and Stewart (2009) conceptualize human rights within carceral spaces as essential to preserving individual and collective human dignity (Jackson & Stewart, 2009, p. 11). However, scholars argue that exercising such human rights requires extensive legal expertise, resources, and networks seldom available to marginalized groups such as prisoners (see Merry et al., 2010; Turnbull et al., 2018). Indeed, scholars continue to remark the lack of enforcement and observance of human rights within carceral spaces both nationally and internationally (see, for example, Hannah-Moffat, 2011; Jackson & Stewart, 2009).

The following section details the importance of human rights and adequate conditions of confinement within carceral spaces and moves to outline the legal instruments that govern prisoners' rights both federally and provincially in Canada. In doing so, I highlight the sparse and contradictory nature of such legislation. It is necessary first to survey the literature concerning human rights within the context of imprisonment as efforts to ensure their observance and diminish rights violations are often at the centre of initiatives to reform prisons and jails. That is, rights abuses are often the impetus from which social change in the penal field is most often set in motion.

### **2.1.1 – Prisoners' Rights and Conditions of Confinement in the Penal System**

Scholarly discussions of human rights within the context of punishment and prison studies literature focus on the cruel, inhumane, and demeaning treatment of prisoners and their right to be treated justly (see Jackson & Stewart, 2009; Scott, 2017; Turnbull et al., 2018). Prisoners' rights are especially important since they are isolated both physically and socially from broader society and are largely dependent on the state for access to all necessities of life (Jackson & Stewart, 2009, p. 51). Given the closed and isolated nature of imprisonment and the opacity with which the Canadian punitive system operates, there is an increased potential for abuse, inhumane conditions,

and degrading treatment (Bartels & Boland, 2017; Hannah-Moffat, 2011). Prisoners' disempowered status, coupled with their relative invisibility from the public eye, exposes them to severe mistreatment and abuse behind bars.

Despite this perceived vulnerability, some scholars assert that the 'end-time' of human rights in Canadian prisons and jails is fast approaching (see Scharff-Smith, 2017). It is argued that developments such as penal populism, terrorism, and the enhanced security agenda following 9/11 (e.g., increased police power and pre-emptive crime control methods) have led to a decline in rights-based approaches to imprisonment and crime-control (Martin, 2017; Pratt, 2007; Scharff-Smith, 2017, p. 531). That is, penal policy measures are now constructed in ways that value political advantage and public opinion above experts' views and the support of empirical research (Garland, 2001, p. 13). Consequently, the dominant voice of penal policy has become that of the ill-served, fearful, anxious members of the public (Garland, 2001).

At the same time, scholars have remarked the rise of a 'culture of risk' in the Canadian penal system, wherein the need to manage risk has overridden prisoners' rights (see Garland, 2001; Gelsthorpe & Abbas, 2017; Hannah-Moffat, 2005). That is, there has been a decline in concern regarding the rights of prisoners, with a new emphasis placed upon effective enforcement and control above fair treatment and adequate conditions of confinement (see Garland, 2001). Much like other problems, crime has come to be seen as a calculable, avoidable, and governable risk (Hannah-Moffat, 2005). As such, prisoners have come to be seen primarily as "risks that must be managed" (Garland, 2001, p. 175). These newly formed risk categorizations and strict management strategies have given rise to a new politics of punishment which values efficiency, risk management, and cost-effectiveness above the rights and fair treatment of prisoners (see Hannah-Moffat, 2005; Robinson, 2008)

This phenomenon is compounded by the fact that society tends to view human rights as only for the “innocent,” “vulnerable,” and “deserving” (Scott, 2012, p. 9; see also Cohen 2001; Stanley, 2017). Indeed, throughout the years, those deemed to be undesirable members of society have been observed to “fall outside any moral relationship of care or responsibility” (Humphrey, 2002, pp. 32-3; Stanley, 2017). In this sense, the notion of universal rights has been replaced with the idea that human rights are only available to virtuous and law-conforming citizens. In the past, this phenomenon of the ‘other’ as not deserving of human rights has been seen regarding colonized populations, women, children, migrants, and stateless persons (Scott, 2017; Stanley, 2017). One of the leading advocates of human rights, Cohen (1998), argues that human rights are the best weapon to ensure moral accountability. According to Cohen (1998; 2001), rights have both a political and a moral benefit, and should thus be afforded to every individual. Denying prisoners their rights effectively misrepresents “the nature of our rights and obligations under the law, and... communicates a message more likely to harm than to help...” (Sauvé v. Canada, 2002, para. 30). Withholding prisoners’ human rights impermissibly implies that Canada’s democratic values “are less important than punitive measures” (Sauvé v. Canada, 2002, para. 40). Thus, the assumption that prisoners may be separated from their human rights upon incarceration flies in the face of Canadian legal traditions.

The role of human rights as set out in the *Canadian Charter of Rights and Freedoms* (CCRF) is to protect individuals from the oppressive power of the state. These rights are exceedingly important within a carceral setting given the potential for unjust and arbitrary action on the part of the state and prison/jail functionaries (Jackson & Stewart, 2009). Penal abolitionist scholars emphasize the importance of exploring such carceral spaces to build a more comprehensive discussion surrounding rights abuses and methods to increase carceral transparency (see Turnbull

et al., 2018). Further, it is argued that abolitionist social movements must have a human rights agenda that accurately reflects “the struggles of the powerless and contributes towards emancipatory and transformative abolitionist praxis” (Scott, 2017, p. 58).

Given factors such as their disempowered status and dependency on the state, coupled with the lack of transparency in prisons and jails, incarcerated individuals are far more likely than the general population to suffer human rights violations at the hands of the state (see Hannah-Moffat, 2011; Jackson & Stewart, 2009). As Zinger (2006) elucidates, when a government has exceptional authority over its citizens, the potential for abuse is great; therefore, the protection of fundamental rights for those citizens must remain a core preoccupation. Despite this, the legislation that purports to regulate the treatment of prisoners on paper falls well short of doing so in practice. As the following sections will reveal, there is a clear lack of coherence between Canadian law and policy versus prisoners’ lived experiences.

### **2.1.2 – Governing Prisoners’ Rights in Canada**

Prisoners’ rights in Canada evolved as an off-spring of the post-World War II expansion of an international human rights framework (Gelsthorpe & Abbas, 2017, p. 517). However, it was not until the 1960s and 1970s that a national reform process began whereby prisoners’ rights were greatly improved in Canada (Scharff-Smith, 2017). Indeed, the enactment of the *Canadian Bill of Rights* (CBR) in 1960 and the subsequent entrenchment of the CCRF into the Constitution in 1982 reinforced and solidified prisoners’ rights in Canada. More specifically, the CCRF proclaims that all those in the custody of the state have the right “not to be subjected to any cruel and unusual treatment or punishment” (CCRF, 1982, s. 12).

Before the *Charter*, prisoners' rights in Canada were defined in a Canadian judgement in 1969 at the Ontario Court of Appeal, according to which:

an inmate of an institution continues to enjoy all the civil rights of a person save those that are taken away or interfered with by having been lawfully sentenced to imprisonment. (*R. v. Institutional Head of Beaver Creek Correctional Camp*, 1969)

Currently, there is a significant lack of legislation regulating the treatment of Ontario provincial prisoners in Canada. To contextualize this deficiency, it is useful to briefly outline the legislation regulating the rights of federal prisoners. In doing so, it becomes increasingly evident that the Ontario provincial prison system falls well short of its responsibility to protect the prisoners in its custody. Furthermore, the meager legislation that purports to regulate prisoners' rights in the province has proven inadequate as individuals at OCDC continue to report rampant rights abuses (see Speight et al., 2019a; 2019b, 2019c; 2019d). As this research project explores, there are often significant deviations between what is said to have been done on paper and what has been implemented in practice.

Presently at the federal level, the *Canadian Corrections and Conditional Release Act* (CCRA) (1992) stipulates that "offenders retain the rights of all members of society except those that are, as a consequence of the sentence, lawfully and necessarily removed or restricted" (s. 4[d]). Correctional Services Canada (CSC) claims to use the United Nations Standard Minimum Rules for Treatment of Prisoners (SMRs) as a point of reference for defining how people should be treated in prisons (Correctional Services Canada, 2015). While not a legally enforceable human rights instrument, the SMRs have been used "by national and international courts and non-governmental human rights organizations to provide guidance in interpreting binding human rights norms and standards" (Correctional Services Canada, 2015). On paper, CSC attempts to employ the SMRs in Canadian law and policy and embody them within the federal legislative framework.

Despite this, criminologists continue to underscore the rampant human rights violations and austere conditions of confinement that occur under the supervision of the Canadian federal government (see Scott, 2015). For example, it is argued that federal prisons continue to reproduce environments where human rights violations routinely occur (see Jackson, 2002; Scott, 2015).

In contrast to the federal government, there is currently *no* legislation that explicitly sets out prisoners' rights in the province of Ontario. Indeed, there is no mention of prisoners' rights in the *Ministry of Correctional Services Act* (MCSA) (1990). While in 2018, the province of Ontario passed the *Correctional Services and Reintegration Act* (CSRA) aimed to “transform [the] adult correctional system,” the bill has yet to come into force (MSG, 2018). The CSRA claimed to “[improve] conditions of confinement,” “[ensure] incarcerated individuals have access to appropriate health care services,” “[increase] transparency and accountability” and “clearly [define] segregation” (MSG, 2018, paras. 1, 3-6). While the CSRA was passed just before the 2018 Ontario general election, the shift from a Liberal to a Progressive Conservative (PC) administration resulted in the act's indefinite tabling (White, 2018). The CSRA and its most prominent proponent, Ontario independent adviser on corrections reform Howard Sapers, were two of the many casualties of Doug Ford's newly elected PC government (Benzie, 2018).

On paper, the Ministry of the Solicitor General (MSG) purports to abide by both the Ontario Human Rights Code (OHRC) (1990) and the MCSA (1990). However, in practice, the laws and policies set out by both acts are scarcely abided by (see, for example, CAB, 2015; 2016; 2017; 2018; Speight et al., 2019a; 2019b, 2019c; 2019d). While there remains such overarching legislation in place, there is presently no formal legislation in force in Ontario that regulates the rights of provincial prisoners. Furthermore, despite both the OHRC and the MCSA, scholars argue that provincial jails continue to be significantly crowded, underfunded, and lacking in appropriate

resources – all conditions that heighten the risk for rights abuses (see IROC, 2017; Moore, Burton & Hannah-Moffat, 2003). Furthermore, given that provincial prisoners spend significantly less time in custody than federal prisoners, it is notably more difficult for them to lodge human rights complaints and follow-up on them as needed (IROC, 2017). Therefore, individuals imprisoned in provincial jail spaces have a higher risk of being mistreated and comparatively fewer avenues for redress should human rights violations occur. Thus, while on paper, the Ministry claims to abide by both the OHRC and the MCSA, in practice, it falls short of supporting individuals who are incarcerated in jails and detention centres, leaving them vulnerable to mistreatment and abuse.

Literature surrounding the conceptualization of prisoners' rights highlights the notion that prisons and jails are often places where human rights are tested to the core (Jackson & Stewart, 2009; Liebling, 2011; Porowki, 1991). As Goffman (1961) argues, imprisonment in a “total institution” (p. 4) such as a jail heightens the risk of human rights abuses. In other words, the closed and isolated nature of prisons and jails creates social isolation, which can, in turn, heighten the risk of abuse. As Bauman (1989) contends,

morality seems to conform to the law of optical perspective...With the growth of distance, responsibility for the other shrivels, moral dimensions of the object blur, until both reach the vanishing point and disappear from view. (p. 192)

As Brown (2009) contends, such distance “shields us from the most fundamental feature of punishment—its infliction of pain” (p. 9). The separation between the penal subject and the distanced citizen can create penal spectators who perceive imprisonment as an appropriate, natural response to social harm (Ferguson, Piché, & Walby, 2015). Brown (2009) argues that the representation of prisons and prisoners in criminological literature and popular culture often fosters such social distance.

While there is considerable debate surrounding which rights prisoners should retain while imprisoned, most scholars agree that prisoners should retain all rights except those implicated in the deprivation of liberty upon imprisonment (see Scharff-Smith, 2017). Imprisonment places restrictions on freedom of association, expression, assembly, and liberty; however, it “does not mean total deprivation or absolute forfeiture of rights,” nor should it (IROC, 2017, p. 17).

Other factors that impact the preservation and enforcement of prisoners’ rights include the corresponding societal affront caused by their observance, and the past and current political climate. The former referring to the public perception that human rights should be reserved for victims and sparingly given to prisoners (Stanley 2011; 2017), and the latter referring to the ‘tough on crime’ rhetoric advanced by the politicians of all political stripes that negatively impacts the treatment of prisoners (Moore, Burton & Hannah-Moffat, 2003). Scholars also discuss the violation of prisoners’ rights as a strategy utilized by the state to assert its power and regulate economic, legal, and political life (Green & Ward, 2004).

A prisoner’s status as subject to the doctrine of ‘less eligibility’ helps to provide further explanation of this phenomenon. As articulated by Rusche and Kirchheimer (1939), the principle of less eligibility suggests that prisoners should not receive any goods or services comparatively better than what the average or poorest citizen could attain on the outside (White, 2008). Under this vision, for punishment to be an effective deterrent, it must “adopt regimes which are markedly more unpleasant than the conditions of life experienced by the lowest strata living in free society” (Garland 1990, p. 94). In contrast, former Chief Justice McLachlin contends that such selective observation of human rights is problematic:

...a government that restricts the franchise to a select portion of citizens is a government that weakens its ability to function as the legitimate representative of the excluded citizens, jeopardizes its claim to representative democracy, and erodes the basis of its right to convict and punish lawbreakers. (Sauvé v. Canada, 2002, para. 34)

Not only are prisoners rights-bearing individuals, but these rights are especially important given their vulnerability in jail. When human rights are seen as contingent and punishment is prioritized above the rule of law, we undermine the very constitution upon which our country was built (Jackson & Stewart, 2009, p. 53).

The inherent vulnerability of individuals incarcerated in provincial jails coupled with the inauspicious and insufficient legislation regulating provincial prisoners' rights puts them at a higher risk of being victimized and mistreated. Indeed, as the following sections reveal, Canadian prisoners continue to face poor treatment and austere conditions of confinement nation-wide despite the policy and legislation (albeit limited) designed to govern them.

## **2.2 – Human Rights in the Context of Canadian Imprisonment**

Nations across the world often regard Canada as a liberal, rights-centric country, with international human rights literature referencing Canada as a nation "...praised for its attention to and respect of human rights, both within its borders and abroad" (Moore, Burton & Hannah-Moffat, 2003, p. 152). Nevertheless, it has been argued that Canada's steadfast commitment to human rights is quickly eroding (see Zinger, 2006). This sentiment continues to ring true as a recent report released by the UN committee against torture remarked Canada's failure to live up to its obligations under the Convention Against Torture and Other Cruel and Inhumane or Degrading Treatment or Punishment Act (UN-CAT) in relation to its treatment of prisoners (Amnesty International, 2018). Most notably, Canada has yet to sign the Optional Protocol to the Convention Against Torture (OP-CAT), a protocol designed to strengthen Canada's domestic oversight mechanisms and facilitate regular visits from the UN committee to places of detention in the country (OP-CAT, 2002; Zinger, 2006).

As Zinger (2016) points out, in an environment such as a prison or jail where power differentials are inherent, the observance and enforcement of human rights is paramount. Indeed, human rights are not left at the prison door, but rather should apply with full force to those imprisoned as rights-bearing individuals (Jackson & Stewart, 2009). Despite this, critical research continues to observe austere conditions of confinement and treatment of prisoners in federal penitentiaries and provincial jails across Canada (see, for example, CAB, 2015; 2016; 2017; 2018; Jackson & Stewart, 2009; OCI, 2018; 2019; Scott, 2017; Speight et al., 2019a; 2019b; 2019c; 2019d). The following sections provide a comprehensive overview of human rights abuses at the federal and provincial levels. In doing so, I highlight persistent issues related to the poor treatment and inadequate conditions of confinement faced by federal and provincial prisoners and underscore the comparatively lesser amount of scholarship produced on provincial imprisonment in Canada.

### **2.2.1 – Human Rights Abuses at the Federal Level**

The literature on human rights abuses and conditions of confinement in Canada's carceral spaces is mostly limited to the federal level, where prisoners are serving sentences of two years plus a day. Given the closed and isolated nature of Canadian penitentiaries, critical criminological scholars have concluded that such spaces of confinement typically foster and disguise rampant human rights violations behind their walls (see Scott, 2015). Currently, the federal punitive system is governed by the CCRA and further subject to the *Canadian Human Rights Act* (CHRA) (CHRC, 2003). As a federally regulated enterprise under the CCRA and the CHRA, CSC has an infrangible human rights obligation to its prisoners (CHRC, 2003). Moreover, as aforementioned, the rights of those imprisoned at the federal level are further protected by several international human rights instruments that Canada has ratified (e.g., the SMRs and the UN-CAT). However, given that

CSC's primary mandate remains public safety, some scholars argue that this raises the potential for conflict between the measures "perceived as necessary for public safety and those needed to protect the human rights of inmates" (CHRC, 2003, p. 14). In other words, this mandate implies that the human rights of those incarcerated will always be secondary to public safety and thus justifiably infringeable.

This concern is echoed by Zinger (2016), the correctional investigator of Canada, who contends that the wider societal and political context undoubtedly influences "the degree of compliance of correctional authorities with the human rights of those under their care and custody" (p. 611). For instance, Zinger (2016) refers to the period between 2006 and 2015 wherein then PC Prime Minister Stephen Harper advocated for an increasingly 'tough on crime' approach, arguing that prison sentences had become too lenient, and the human rights of accused and convicted persons "came at the expense of victims and law-abiding citizens" (p. 610). Therefore, despite CSC's legal commitment to protect its prisoners' rights, law-and-order initiatives coupled with the will of the general public took precedence, ultimately impacting the conditions of confinement and treatment of the individuals incarcerated in federal penitentiaries. As Zinger (2016) explains, "when political rhetoric endorses an overly punitive agenda, correctional authorities may feel a certain degree of immunity from criticism about ill-treatment of prisoners or harsh conditions of confinement" (Singer 2016, p. 615; Zinger, 2006). In turn, this can lead to inadequate conditions inside prison, poor treatment, and extreme cases of human rights violations (Zinger 2006; 2016).

Throughout the years, CSC has been the subject of countless inquiries, commissions, and high-profile reports detailing the rights abuses and inadequate conditions of confinement faced by prisoners in Canada's federal penitentiaries and calling for significant reform (e.g., Office of the Correctional Investigator, *Creating Choices*, and *Arbour reports*) (Zinger, 2006). Despite these

calls to action, CSC has effectively disregarded the findings and recommendations of such reports and maintained their current state of affairs in the name of law and order (Zinger, 2006). In the face of both continuous calls for reform and legislation which serves to protect federal prisoners, scholars continue to remark rampant rights abuses faced by those imprisoned in federal penitentiaries across Canada.

Currently, the most commonly cited abuses at the Canadian federal level include a lack of access to mental and physical health care, the use of administrative and disciplinary segregation, and violent interactions with both prisoners and staff. At this moment in time, a significant proportion of criminological and psychological research is devoted to examining the abuse in Canadian federal prisons as it relates to prisoners who live with mental health issues (see Beaudette & Stewart, 2016; Simpson et al., 2013). There is now well-established evidence that the rates of mental health issues in prison populations are much higher than those in the general public (Gilmore, 2014; Prins, 2014). In fact, some of the highest rates have been found among those in Canadian prisons (see Brink et al., 2001; Motiuk & Porporino, 1991). Despite the high-needs population, Canadian federal prisons are unable to provide the necessary mental health services to assist in the management and rehabilitation of these prisoners (Beaudette & Stewart, 2016). Barriers to providing adequate mental health care in the federal prison system include poor recruitment, lack of mental health care professionals, lack of funding, and inadequate bed space at specialist psychiatric care units (Simpson et al., 2013, p. 507).

Some abolitionist scholars argue that these specialist psychiatric care facilities are themselves a barrier to adequate mental health care for prisoners, as they simply reproduce carceral spaces and strengthen an already broken system (Ben-Moshe, 2013). Indeed, they argue that it is integral to maintain abolitionist and decarcerating strategies in order to continue to fight for

prisoners' health care (Ben-Moshe, 2013, p. 87). That is, these psychiatric care units only "expand the scope of incarceration in the long run," further criminalizing individuals with psychiatric and cognitive disabilities (Ben-Moshe, 2013, p. 87). Such anti-psychiatry theories advocate instead for treatment or support in the community with one's support system as opposed to psychiatric hospitalization (Ben-Moshe, 2013, p. 91).

A considerable amount of literature regarding health care in prison has revealed that prisoners have poor health across various health status indicators (Green & Foran, 2016, p. 1). Indeed, they lack proper access to primary care and generally have a high number of unmet healthcare needs (Green & Foran, 2016). Although federal regulations require the provision of both "essential health care" and "reasonable access to mental health care," federal prisoners continue to face a significant lack of access to adequate health care (see Sapers & Zinger, 2010; Simpson et al., 2013). This is yet another illustration of the disparity between the laws and policies on paper and their ensuing implementation in practice. While the federal government purports to have implemented safeguards to support prisoners' health, in practice, individuals caged in prison spaces continue to suffer as a result of inadequate health care services.

The use of administrative and disciplinary segregation is another highly criticized practice that is often exploited in federal penitentiaries. As noted by the Correctional Investigator, administrative segregation is so overused that roughly half of the federal prison population has likely experienced it at least once during their sentence (Parkes, 2017). This is significant given the tremendously adverse effects segregation has on prisoners' mental, emotional, and physical states (Parkes, 2017).

Several studies have also investigated institutional factors that may lead to increased abuse in prison spaces (see Galtung, 2013; Jackson, 2002; Liebling, 2011; Zinger, 2016). Significantly,

it has been found that the prison environment is conducive to violent interactions with both staff and other prisoners which threatens both the safety and the security of the prisoners. Three primary forms of violence have been identified in the prison space: cultural violence (Galtung, 2013), physical violence, and institutionally-structured violence (Scott, 2015). Scholars argue that the prison environment facilitates violence and places prisoners at an increased risk of being abused. As Liebling (2011) suggests, some prisons are more survivable than others—one of the main differentiating factors being interpersonal relationships and perceived safety. Prison conditions such as crowding, spatial restriction, lack of access to education and treatment programs, and poor staff performance have also been discussed as being the most likely to facilitate human rights violations (see Scott, 2015).

Scholars argue that prisons have been affected by a wave of managerialist reforms that have significantly affected the observance of human rights in federal prisons (see Duguid, 2000; Hudson, 2011; Turnbull et al., 2018; Zinger, 2016). During the so-called rehabilitation era of the 1960s and 1970s, penal strategies tended to be more focused on the well-being of the prisoner and ensuring that they leave prison a more productive, pro-social member of society (Hudson, 2001). During the late 1970s and 1980s, Hudson (2011) remarked a shift in penology toward harsher sanctions and a more punitive attitude toward prisoners. A new, risk-averse society developed, favouring efficiency and risk management above the fair treatment of prisoners (Duguid, 2000).

Regarding prison writings and ombudsman reports, several other cases of abuse in the federal system have been identified, namely: damaging cell effects, poor conditions of confinement, inadequate staff performance, and a lacking grievance procedure. Furthermore, there have also been significant issues with institutional transfers, visits, case preparation, and access to information (Sapers & Zinger, 2010). Other grievances raised by federal prisoners include severe

underpayment of prison labour leading to a difficult transition back into society, discrimination towards minorities, and racial biases exhibited by penitentiary officers (Leblanc, 2017).

The most frequently cited abuses in federal prisons by the prisoners themselves include substandard medical and dental care, inadequate complaint/grievance systems, lack of social and educational programs, and low pay in prison (see A'Hern, 2017; Anonymous Prisoner 6, 2017; Anonymous Prisoner 8, 2017; Anonymous Prisoner 9, 2017; Haug, 2017; Joseph, 2017; Leblanc, 2017; T.B., 2017; Threinen, 2017). Most pressingly, there is currently a lack of access to healthcare in prison which hinders the prisoners' ability to function properly (Joseph, 2017). Presently, the overarching legislation concerning health care in Canadian prisons remains the CCRA, which states that every prisoner is obligated to receive "essential health care" (s. 86 [1]). However, as Anonymous Prisoner 8 (2017) explains, this shift toward essential health care has exposed prisoners to a lower standard of care than in the community. As a result, access to physicians, dentists, and mental health care professionals is reserved for the most severe cases, which leaves the majority of prisoners to suffer until their health has completely deteriorated (see Anonymous Prisoner 8, 2017; Joseph, 2017; Threinen, 2017). Further, social and educational programs have been cut down significantly, leaving prisoners with limited access to resources, hobbies, recreational activities, or education. Similarly, there is little access to legal aid materials to help prisoners effectively defend themselves in court (A'Hern, 2017).

With a woefully inadequate complaint and grievance process, there is little to no recourse available for prisoners (see Haug, 2017; Leblanc, 2017). While federal prisoners can lodge complaints, there is a clear conflict of interest whereby CSC staff members investigate their colleagues' actions. As a result, most complaints go unresolved (Leblanc, 2017). Without sufficient resources or legal aid, prisoners are unable to defend their rights as human beings. As

Haug (2017) argues, “if Canada wishes to be a beacon for human rights, it must provide its citizens who are subject to state power the tools needed to defend themselves against abuses” (p. 56).

### **2.2.2 - Human Rights Abuses at the Provincial Level**

Most research concerning human rights abuses and mistreatment within spaces of confinement focuses on the federal penal system and neglects to discuss provincial imprisonment. Comparatively, little is known about the makeup of provincial jails and how they are different from federal prisons. One of the principle reasons for the lack of research on human rights abuses in provincial jails is the significant lack of accountability and institutional protectionism which prevents scholars from conducting unfettered research (Parkes, 2017). Institutional protectionism in provincial jails around Canada limits the production of critical criminological research and shapes our knowledge and understanding of imprisonment in Canada. This lack of access dictates how research is conducted as it limits opportunities for critical research, curbs the autonomy of independent researchers, and compromises research integrity (Turnbull et al., 2018). The existing literature concerning human rights abuses against prisoners in provincial jails is therefore limited.

Literature discussing techniques of gatekeeping, opacity, and censorship push critical criminological researchers to be wary of the access granted to them, and the numerous methods by which Ministry officials mediate and direct knowledge and information regarding institutional operation (see Martel, 2004; Piché, 2012). Therefore, it is with a degree of scepticism that I review literature disseminated by bodies related to provincial imprisonment in Canada. It must be noted that the limited information on human rights abuses in provincial jails reviewed will mostly be based on reports conducted by research bodies either related to or dependent on Ministry review.

This section highlights the differences in form, function, and use between provincial jails and federal prisons, and how these differences put provincial prisoners at additional risk of poor conditions of confinement, abuse, and mistreatment. Given the heightened risk of mistreatment and the opacity with which the provincial punitive system operates, it is crucial to examine how inadequate conditions of confinement and poor treatment of prisoners in provincial-territorial jails have persevered in the face of collective effort by advocates and researchers to improve them.

The type of prisoners housed in provincial jails and prisons is different than those housed in federal prisons. In provincial jails, remanded prisoners outnumber those in sentenced custody by a ratio of 1.5 to 1, and currently make up the most significant proportion of initial entries into provincial-territorial institutions (Malakieh, 2019). Furthermore, while Canadian incarceration rates have remained stable over the past half-century, there has been a steady increase in the number and proportion of remanded prisoners confined in provincial jails and detention centres (Piché, 2014). As a result, provincial facilities have become significantly more crowded, ultimately leading to severe safety concerns for staff and prisoners (Piché, 2014). It is also worth noting that as a signatory of the UN International Covenant on Civil and Political Rights (ICCPR), Canada agreed on paper to recognize that prisoners on remand require greater protection (United Nations, 1966). Decisions regarding bail and pre-trial custody have also been argued to affect decisions about the prisoners' guilt or innocence. Doob and Webster (2006) argue that the prisoners in pre-trial detention are seen as dangerous and unpredictable and, consequently, may be subjected to harsher sentences.

Literature regarding the increase in remanded prisoners tends to agree that it is arguably due to the managerialism with which the current penal system operates (see Piché, 2014). Some scholars contend that the increase may also be due to a potential pre-trial credit (prisoners receive

credit for time served pre-trial); however, a study done on this subject concluded that while pre-trial credit may have some influence, prisoners are not content to sit in custody with the hopes of gaining this credit to receive shorter sentences (Weinrath, 2009).

On average, provincial prisoners also spend significantly less time in custody than do federal prisoners. The majority of adults on remand spend less than one month in provincial custody, and just over half of the adults were held for less than one week (Malakieh, 2019). As a result of their short stay, it is significantly more difficult to lodge human rights complaints and follow up on them as needed. Currently, there is no fair and expeditious complaint process that allows prisoners to raise concerns about ill-treatment. Furthermore, internal complaint mechanisms pose inherent risks to prisoners' safety, as there is no covert, genuinely anonymous way to submit a complaint (IROC, 2017).

Provincial jails also have fewer resources available to their prisoners than do federal penitentiaries. As a result, there is little programming or recreational activities for prisoners and more lockdowns to account for the crowding (McKendy, 2018; Pelvin, 2017; 2019). In fact, provincial prisoners are often restricted from the vast majority of programming given their short stays (i.e., less than one month) (Pelvin, 2017). In addition, it was found that Ontario provincial jails direct resources toward sentenced prisoners “who they have an obligation to provide programming for,” thus limiting programming strictly to sentenced prisoners (Pelvin, 2017, p. 174). Consequently, provincial prisoners are held anywhere from 17 to 24 hours a day inside cells often with at least one cell-mate, and in some cases, double-bunked in small single cells, leaving one person to sleep on the floor next to the toilet (Pelvin, 2019). Moreover, researchers note the frequent use of lockdowns, citing that full and multi-day lockdowns were not uncommon in jails

(see Pelvin, 2017; 2019). Consequently, provincial prisoners' already limited time out-of-cell is further restricted, ultimately overriding their rights and privileges.

Findings suggest that structural health care problems continue to be among the most heavily cited issues plaguing Ontario's provincial prison system (see McKendy, 2018; Pelvin, 2017; 2019). As noted by McKendy (2018), Ontario jails often lack basic healthcare services and fail to provide adequate support to their prisoners. Yet, studies which consider the variations between custodial institutions "tend to find higher levels of health needs among the jail population as compared to other facilities" (see Pelvin, 2017, pp. 179-0).

A study that looked at the female population incarcerated at OCDC found persistent healthcare issues relating to denial of medication and treatment, medical neglect (e.g., receiving minimal healthcare), and denial of medical agency (e.g., changing medication without the consent of the prisoner). In addition, McKendy found that the jail environment at OCDC "precipitated health problems" (p. 289). Indeed, as prisoners reported:

the nature of institutional living marked by unsanitary and crowded living conditions, poor diet and lack of physical activity contributed to the contraction of diseases, deteriorated health, and negative mental health effects. (McKendy, 2018, p. 289)

Furthermore, McKendy (2018) notes issues related to severe overcrowding, lockdowns, poor food, and inadequate mental and physical health care at OCDC specifically.

While McKendy (2018) provides a window into some of the problems faced by prisoners at OCDC, there remains to be a more comprehensive analysis of the mistreatment experienced by those imprisoned at the Innes Road jail. As McKendy (2018) notes, literature concerning conditions of confinement is focused primarily on the federal level and neglects to discuss those at the provincial-territorial level. This is especially alarming when considering that far more people

are housed in jails than in prisons, and “threats to prisoner health may be more severe in the jail environment” (McKendy, 2018, p. 279).

Over 150 prisoners have died in Ontario’s jails and detention centers over the past decade (IROC, 2017). Significantly, in 2009, the Coroner’s Act was amended to “remove the requirement for a mandatory inquest in cases of in-custody natural deaths” (IROC, 2017, p. 5). This has left a significant gap in the oversight of prisoner deaths in Ontario’s jails and prisons. As a result, it is challenging to ascertain a definitive number of prisoners who have died while in the custody of the provincial government (IROC, 2017). Recently, a prisoner with mental health issues died by suicide at an Ontario jail while awaiting a bed at a mental health facility (Crawford, 2018). Cleve Geddes suffered from a severe mental health disability and had been ordered to go to a hospital for psychiatric assessment; however, there were no beds available. As a result, he was sent to a general-population bed at OCDC. He hung himself in his cell not a week later (Crawford, 2018). Youssef Hussein, Yusuf Faqiri, Justin Struthers, James Pigeau, and Cleve Geddes (among many others) have all died within the past two years while under the supervision of the Ontario provincial government (see Butler, 2018; Dubinski, 2018; Gillis, 2017; Solomon, 2017). Given the crucial differences between federal penitentiaries and provincial jails and the lack of research examining the human rights violations that take place specifically at the provincial level, there is a pressing need to expose the abuses that take place within the former and examine how they have been able to persist despite advocacy to impact change in facilities like OCDC.

### **2.3 – Social Change in the Penal Field**

Throughout the years, social change has impacted the way punishments are meted out in prisons and jails in the Western world (see Daems, 2008). Carrier (2010) has mapped three separate

but interrelated phenomena driving social change in the penal field documented by social scientists: the “carceral boom,” “the post-disciplinary prison,” and the “re-emergence of expressive penalty” (para. 5). The following section explores how scholars in punishment and society literature theorize social change in the penal field, noting a reliance on research derived from the American context. In doing so, I underscore the lack of research specifically examining social change at the provincial-territorial level in Canada. A close examination of the highly-cited literature theorizing social change in the penal field will reveal the lack of research examining *how* social change happens or is impeded at the local and institutional levels and situate this thesis as an original contribution to address this gap in knowledge.

### **2.3.1 – Social Change and the ‘Punitive Turn’**

Throughout the years, scholars have remarked a shift toward increased punitiveness in Western penal systems beginning in the early 1970s following the post-World War II era (see Christie, 1993/2017; Daems, 2008; Garland, 2001). Various labels have been used and popularized to describe this shift. While some researchers speak of a ‘new penology’ (Feeley & Simon, 1992), or a ‘new punitiveness’ (Pratt et al., 2005), others describe this shift as a ‘new culture of crime control’ (Garland, 2001), or rather a ‘new culture of intolerance’ (Pratt, 2002).

When considering social change in the penal field, it is necessary first to note that many of the broader sociologies of the ‘punitive turn’ have been heavily criticized for their totalizing, reductive, and timid approach to the penal field (see Carrier, 2010). Carrier (2010) argues that the sociologies of the ‘punitive turn’ employ a reductive gaze on the penal field as well as a fairly tenuous criminological critique. As Carrier (2010) explains, the sociologists of the punitive turn “operate on the basis of common sense never made explicit [and] on the ground of pre-notions that

seriously limit the reach of their analyses” (para. 49). Indeed, the sociologies of the punitive turn operate at such a high level of abstraction that they have very little applicability to real-life circumstances. In addition, given the overrepresentation of American and British accounts in criminological work and their tendency to generalize to the West as a whole, the sociologies of the punitive turn are overwhelmingly dominated by Anglo-Saxon contributions. Thus, most accounts of the shift toward punitiveness in the West are based on observations made strictly within the United States (Carrier, 2010). Consequently, Carrier (2010) argues that such sociologies should be cautiously located in space and time, and potentially even limited to the American exception.

The first avenue of research examines society’s social structure and the management of the lower-class, marginalized population (see Carrier, 2010). For Wacquant, penal change must be understood against the background of punishment’s role in social stratification and symbolic division (see Wacquant, 1996) Within the American context, Wacquant’s analysis ties together the regulation of the lower-class through criminalization with ‘peculiar institutions’ that have historically defined, controlled, and confined African Americans (Carrier, 2010 para. 14; Daems, 2008 p. 186). According to Wacquant (2004), the prison system replaced the ghetto (otherwise known as the black belt), while still preserving many of the same elements as the ghetto; those being “stigma,” “constraint,” “spatial confinement,” and “institutional encasement” (see also Daems, 2008, p. 180). As articulated by Wacquant (1996), the prison system is perceived as “continuous with the ghetto, representing merely an extension of life in the ‘Black Belt’” (p. 250). Further, Wacquant documents the decline of the semi-social welfare state and the rise of the penal state (Wacquant, 2009). For its part, the penal state responds to the social dislocations caused by the retreat of the welfare state (Wacquant, 2009). Therefore, the American penal system serves two main functions: (1) it regulates the lower segments of the labour market (most significantly,

African Americans), and (2) compensates for the collapse of the ghetto as a mechanism for the confinement of those deemed “dangerous,” “deviant,” and “superfluous” on both an economic and a political plane (Wacquant, 2008a, p. 27). In this first understanding of the punitive turn, scholars will point their finger at the political field, and “call for a reconstruction of the state” (Carrier, 2010, para. 15; Wacquant, 2008b).

While Wacquant provides an account of social change in the punitive field, it is important to note that this narrative is based on the American context and describes the criminalization of the poor in the United States through strategies of ‘caste enforcement’ which have disconnected African Americans from the rest of the population (Carrier, 2010). While this theory does not directly apply to the Canadian context, certain parallels can be drawn between Wacquant’s theorization of the American penal system and the Canadian penal system’s operation.

For instance, as aforementioned, Wacquant contends that the American penal system plays a role in the social stratification and symbolic division of African American peoples from the rest of the population (see Wacquant, 1996). He argues that the American penal system does so by functioning as an extension of the ‘ghetto,’ preserving its negative connotations. A comparable argument can be made with Canada’s Indigenous population. That is, similar to the African American population in the United States, Indigenous peoples in Canada have been systematically colonized and discriminated against, causing reoccurring waves of intergenerational trauma (see Vowel, 2016). Consequently, in line with the African American population in the United States, Indigenous peoples are mass incarcerated in both the provincial and federal punitive systems in Canada (IROC, 2017a). Furthermore, in line with Wacquant’s conception of the ‘ghetto,’ Indigenous reservations could be perceived to serve many of the same ideological functions. Thus, it can be argued that similar to the United States, Canada’s penal system serves to regulate specific

segments of the labour market (namely, Indigenous peoples) and acts as another means to control and confine its Indigenous population.

As conceptualized by Carrier (2010), a second sociology of the punitive turn involves carceral privatization and the commodification of prisoners. This avenue focuses less on the political field and the regulation of the poor, and more on the profit made from the crime control industry as one of its main drivers of social change. Most significantly, Nils Christie is known for his theorization of ‘crime control as industry,’ wherein he considers the impact of the prison industrial complex on the penal field. According to Christie (1993/2017), the system is highly influenced by market conditions. Indeed, the confinement and punishment of prisoners is an activity of significant economic importance for the state and its providers. That is, the crime control industry is in a privileged position (Christie, 1993/2017).

With a view on crime as an unlimited natural resource for the crime control industry, there is an unlimited demand for goods and services to support it (Christie, 1993/2017). As a result, there is fierce competition to have prisons built in one’s community, as they are powerful providers of labour and incentives. As Christie (1993/2017) articulates, “prisons are labour-intensive institutions, offering year-round employment. They are recession-proof, usually expanding in size during hard times” (p. 142). Consequently, the prison industrial complex is continuously absorbing a great deal of American workers, conservatively occupying 4% of the total labour force (Christie, 1993/2017, p. 146). Further, prisons offer a cheap, year-round labour force. By paying prisoners meager wages and preventing them from unionizing, corporations exploit their labour to make a profit (Christie, 1993/2017). Given the importance of the prison industrial complex in the American economy, the crime control industry continues to boom. Therefore, social change in the penal field has been highly influenced by the accumulation of capital, and the enforcement of

social inequalities in society to protect “capitalist relations of production” (Carrier, 2010, para. 17). In the same vein as Wacquant’s conceptualization, while providing insight into the penal system more broadly, Christie’s account of ‘crime control as industry’ remains largely within the American context, and neglects to discuss the Canadian penal system. As Carrier (2010) contends, it is important to locate the ‘punitive turn’ in space and time and avoid the ubiquitous diffusion of this thesis, especially when it has limited empirical underpinnings in countries other than the United States (para. 2).

A third avenue of research concerning social change in the penal field examines the impact of penal populism and its effect on the nature of punishment. In another break from past practice, crime policy has become highly influenced by public opinion and political agendas (Garland, 2001). Indeed, a politically charged discourse now surrounds crime control issues in the Western world. Policy measures are developed in ways that value public opinion and political gain above the opinions of professional experts and the evidence of research (Garland, 2001, p. 13). As a result, it is argued that punishment has become more expressive and publicized in nature.

For most of the 20<sup>th</sup> century, penalties that were explicitly retributive and harsh were widely criticized as having no place in a modern penal system; however, over the years, punishment has been increasingly used to convey public sentiment (Garland, 2001). The result is the transformation of punishment into a “symbolic spectacle of reassurance and vengeance for an onlooking public, humiliation and debasement for its criminal recipients” (Pratt, 2007, p. 40; Carrier, 2010). For example, it is argued that punitive penal policies such as “tough on crime,” “zero tolerance,” “three strikes law,” and “broken windows” are a product of this new communicational economy (Carrier, 2010, para. 28). Thus, this avenue of research understands

social change in the penal field as a consequence of the rise in populist policy measures that are markedly more expressive, publicized, and politicized.

The fourth avenue of research concerning social change in the penal system was largely influenced by Garland's (2001) conception of the 'culture of control.' His theory of social change outlines how late modern economic, social, and cultural forces have reshaped penal practices and crime policy. It must again be noted that Garland's conception of social change in the penal field is also based on observations made in the United States. Consequently, his account must cautiously be interpreted as an important contribution to the broader sociologies of the punitive turn but limited in its applicability to the Canadian context more precisely. There remains a strong argument that historical, cultural, and structural factors have limited the extent to which Canada has adopted the same punitive policies and practices documented in the United States and parts of the United Kingdom (see Doob & Webster, 2006).

In his account of social change in the penal field, Garland (2001) outlines several stages of change which led to the 'punitive turn.' He argues that the rehabilitative ideal's decline was a hugely significant impetus for change (Garland, 2001). In the years following the Second World War, a massive public sector developed, providing dependable social services such as health care, education, housing and income support for those who were unable to work, and implementing progressive policies like 'correctionalism,' and 'rehabilitation' (Garland, 2001, p. 81).

Triggered by the oil crisis in the 1970s, the next two decades would see a severe recession, mass unemployment, and political instability throughout the Western industrialized nations. When economic recovery finally came in the mid-1970s, it was significantly more limited and modest. As a result, the social services sector shrunk, and welfare benefits massively declined. Consequently, income inequalities grew, and as a result, a large portion of the population fell below

the poverty line (Garland, 2001). With the advent of the suburbs, class inequalities became more obvious, and ghettos began to form in the inner-cities. Through the 1980s, the disparity between the middle-class and poor – often African American – urban neighbourhoods was exacerbated (Garland, 2001).

As Garland (2001) argues, late modernity had its most profound impact during the two decades following the 1960s. Indeed, with the decline of the welfare state, the widening gap between the middle and lower classes, and the increasing crime rates, it is argued that the forces of late modernity had a significant impact on social change in the Western world (Garland, 2001). These gradual shifts in the social structure formed the backdrop for a major political realignment that saw Republican and Conservative governments sweep into office. As Garland (2001) contends, this resulted in renewed discipline and tightening controls, mostly targeting marginalized communities as opposed to the vast majority of citizens (p. 100). Consequently, one of the central outcomes of the political climate during the 1980s was a hardening of social divisions, increasing violence, street crime, and drug abuse (Garland, 2001).

With the decline of welfarist policies, theorists have observed a re-emergence of more punitive, retributive penal sanctions (see Carrier, 2010). Since the 1970s, a new fear of crime developed that had profound and long-lasting effects on crime policy. As a result, prisoners were no longer seen as disadvantaged and deserving, but instead as dangerous and incorrigible. Consequently, there was a shift in the criminological ideas underpinning crime policy (Garland, 2001). Where crime was once viewed as a symptom of disadvantage, need, and social injustice, it was now seen as self-serving and anti-social. This new criminology insisted upon tightening controls and enforcing discipline (Garland, 2001, p. 15). As Garland (2001) argues, there is

currently a “new, urgent emphasis upon the need for security, the containment of danger, and the identification of any kind of risk” (p. 12). That is, above all, the public must be protected.

While Garland (2001) views penal change as a result of a “new culture of control,” Pratt (2002) insists that it is instead a “new culture of intolerance” that explains why penal change has become less civilized. Furthermore, while Garland contends that penal change took place within a modernist framework, Pratt argues that various features of the punitive turn have signaled discontinuities from modernity. Instead, he contends that recent penal developments are better understood as symptoms of postmodernist themes (Daems, 2008, p. 94). Pratt (2002) observes that many of the “the boundaries of punishment in the civilized world have been pushed into ‘new and uncharted regions’” (see Daems, 2008, p. 69). Consequently, formerly unacceptable and barbaric punishments have once again become acceptable (Pratt, 2002). According to Pratt (2002), the ‘civilized’ prison initially arose due to a combination of bureaucratization and public indifference. The administration of punishment became a private affair controlled by a centrally organized bureaucracy, leaving the public to grow a sense of moral indifference to the punishments that took place inside these isolated prisons (Daems, 2008, p. 89).

As time went on, this indifference gave way to fear and anxiety of the ‘dangerous criminal.’ As a result, “the public’s threshold of tolerance and self-restraint was being progressively lowered” (Pratt, 2002, p. 162). Whereas previously, the public had been distanced from the administration of punishment, it now became more involved in penal affairs (Pratt, 2002, p. 162). Consequently, the power shifted away from the “dominant bureaucratic rationalism of the state,” toward the “emotive punitiveness of the general public” (Pratt, 2002, p. 182). As a result, the boundaries of punishment were pushed back, and new possibilities for punishment which seemed initially unacceptable became acceptable. According to Pratt, these developments in the penal system have

amounted to a decivilizing of punishment (Pratt, 2002). Similar to Garland, Wacquant, and Christie's theorizations, Pratt provides a totalizing account of social change in the penal field and focuses largely on the United States as the precedent on which to base his claims.

The third bundle of symptoms relates to the newly politicized, expressive nature of penality. Indeed, punishment has become a public affair and used as a platform for political elections (Carrier, 2010). As a result, punishment has been politicized and mediatized in a way that favors public sentiment above prisoners' needs. The carceral space has been re-configured as a space solely to incapacitate, isolate, and punish (Carrier, 2010; Hallsworth, 2002; Garland 2001; Wacquant 2008b). By dissociating the prison from the project of normalization, it is no longer to blame for the recidivist; instead, the recidivist reinforces the need for prison (Carrier, 2010).

The sociologies of the 'punitive turn' surveyed in this section provide a diverse account of social change in the penal field and symptoms associated with this shift. However, as Carrier (2010) contends these sociologies offer a totalizing and reductionist gaze on the penal field, often theorizing at such a high level that they can be characterized as timid and methodologically flawed. Furthermore, as highlighted above, there is currently a lack of research that specifically interrogates social change (or the lack thereof) in the Canadian penal field. That is, the dramatic and steady increase in the carceral population (e.g., the punitive turn) in American penality provides the precedent, if not the main indicator of the punitive turn (Carrier, 2010). Such reductive and generalized explanations fail to account for continuities in punishment that persist over time, particularly at the local level. Thus, these explanations of social change have little to say about how local struggles to impact prison and jail reforms are stifled at the institutional level, which is a gap that this thesis aims to address. In the following section, I turn to an examination of

the Canadian penal field more specifically and outline a debate surrounding Canada as an exception to the ‘punitive turn.’

### **2.3.2 – Social Change in the Canadian Penal Field**

In response to the significant increase in the American imprisonment rate, scholars from several different disciplines have attempted to explain the expansion of this penal strategy as outlined above in other jurisdictions (see Comack & Silver, 2008; Daems, 2008; Doob, Sprott, & Webster, 2017; Doob & Webster, 2006). However, it is argued that while doing this research, there has been a tendency to assume this ‘new punitiveness’ has affected all Western penal systems. Put differently, researchers tend to either exclude or completely subsume countries such as Canada when describing social change in the penal field (Doob & Webster, 2006, p. 325). This is exceptionally problematic given the significant differences between Canada and other Western industrialized nations. Indeed, Canada’s imprisonment rate has remained stable, while countries it is typically compared to (e.g., The United States, England, and Wales) (see Comack & Silver, 2008; Doob & Webster, 2006) have dramatically increased. Although the Canadian level of incarceration has remained fairly stable since 1960 (Doob & Webster, 2006), there has been a steady increase in the number of remanded prisoners confined in provincial jails (Piché, 2014). This is due to factors such as inefficient bail processes, court backlogs, and mounting pre-trial delays (Doob, Sprott, & Webster, 2017). Moreover, almost half of those on remand are being held for non-violent offences, with a sixth accused of administration, justice, or morals offences (Doob, Sprott, & Webster, 2017; Pelvin, 2019).

Most research that considers social change in punishment and society literature is either partly or wholly based on the American context and extended to other Western countries (Daems,

2008). However, scholars argue that this is problematic since the United States is exceptional in relation to any other comparable country (see Carrier, 2010; Daems, 2008; Doob & Webster, 2006). Indeed, the United States is unique not only in its unprecedented imprisonment rates but also in its history of race relations and racial disparities in imprisonment (Western, 2004). Further, it is argued that the United States' harsh penal policy and treatment of drug offences justify its classification as an exception (Stern, 2006). This American exceptionalism has serious implications for how research makes sense of penal change. That is, it poses a challenge to generalized accounts of penal change such as Garland's 'culture of control,' Pratt's 'culture of intolerance,' and Wacquant's 'prison-meets-ghetto,' as they tend to equate the United States with other Western societies (Daems, 2008).

Given this disparity in Canada-specific research on penal change, the extent to which this 'new punitiveness' has taken hold in Canada has been subject to much debate (see Comack & Silver, 2008; Doob & Webster, 2006). For instance, Doob and Webster (2006) argue that while Canada has not escaped broader punitive forces, there are historical, cultural, and structural factors that have inhibited Canada from falling victim to the punitive turn. For example, it is argued that Canada's structure of government (separation between federal and provincial levels) insulates government officials and judges from being influenced by more punitive forces (Doob & Webster, 2006). Further, Canadian judges have retained a great deal of discretion and prefer less harsh sentences. Additionally, while the maximum sanctions for certain offences were increased in Canada, there is no evidence that they have even been used for some offences (Doob & Webster, 2006, p. 335).

Despite these changes, incarceration rates in Canada have remained relatively stable since 1960 (Doob & Webster, 2006). While Doob and Webster (2006; 2015) have documented why

expansion in Canadian incarceration numbers has not occurred, they do not theorize how poor conditions of confinement persist in these spaces of imprisonment. My research project adds to this body of knowledge by exploring how these poor conditions and treatment of prisoners persevere, and further how government officials and jail functionaries continuously stifle any attempt at transformative social change. Most research that examines penal change in Canada is extrapolated from other countries and assumed to apply to Canada. Consequently, there is a lack of research that examines social change in the penal field within the Canadian context. Further, what little research does consider the Canadian context does so primarily at the federal level and neglects to discuss the changes that occur at the provincial level (see Comack & Silver, 2008; Doob & Webster, 2006).

## **2.4 - Conclusion**

Through an examination of the current state of provincial prisoners' rights, the challenges faced when enforcing these rights, and the abuses faced by prisoners in Canada, this chapter has highlighted the persistent issues related to the mistreatment and inadequate conditions of confinement faced by federal and provincial prisoners and underscored the comparatively lesser amount of scholarship surrounding provincial imprisonment in Canada. A close examination of the literature theorizing social change reveals a lack of research specifically examining the impediments to social change in the Canadian provincial punitive system and the means to overcome them at local and institutional levels. To address this gap in the literature, my research examines the barriers to social change at OCDC by answering the following question:

How do government officials and jail functionaries maintain the status quo at OCDC and thus impede transformative social change?

By analyzing OCDC task force progress reports, Ombudsman, Community Advisory Board, Independent Review of Corrections, and Jail Accountability & Information Line reports documenting issues at OCDC, I build a more holistic picture of the current state of affairs at the jail and contribute to this limited cross-section of criminological research. In the next chapter, I turn to a discussion of the theoretical framework implemented in this research project.

## **CHAPTER 3: THEORIZING SOCIAL CHANGE AT THE OTTAWA-CARLETON DETENTION CENTRE**

This chapter outlines the theoretical framework that guides my analysis into how Ministry officials and jail functionaries maintain the status quo at OCDC despite concerted efforts to improve the austere conditions of confinement at the facility. I begin by discussing penal abolitionism as a theoretical framework with a focus on Mathiesen's (1974) abolitionist stance. Next, I provide a detailed overview of Mathiesen's (2006) conception of neutralization techniques as a way of understanding impediments to social change in the context of imprisonment. From there, I discuss how these neutralization techniques have been mobilized in previous studies and outline how Mathiesen's abolitionist theoretical framework will be used throughout this project to inform and guide my analysis. Further, I highlight how extending Mathiesen's theoretical insights provides a meaningful and original contribution to punishment and society literature in Canada.

### **3.1 – Penal Abolitionism and Social Change**

As a normative position, penal abolitionism views carceral spaces such as the prison and the jail as inherently oppressive and dehumanizing and seeks to abolish them to alleviate social harm (Saleh-Hanna, 2008, p. 445). Penal abolitionists reject the state's means of dealing with certain conflicts through criminalization and argue that state apparatuses such as the police, judiciary, and prison produce harm and violence instead of quelling it (Piché, 2014). As articulated by Davis (2000), the critiques of contemporary abolitionists extend beyond incarceration, providing a broader questioning of society as a whole (Ben-Moshe, 2013).

Penal abolitionist scholars actively advocate for a society free of systems of inequity that reproduce violence, hatred, desperation, and suffering wherein human caging is seen as absurd

(see Ben-Moshe, 2013, p. 85). From this perspective, the prison functions as an abstract site wherein society can deposit undesirable people while effectively compartmentalizing the real social issues faced by these people and their communities. In doing so, the prison relieves us of having to engage with the real problems in our society, such as those caused by racism and global capitalism (Davis, 2003, p. 16). As articulated by Sim (2009), penal abolitionism understands the role of imprisonment as a “state institution, intimately connected with the reproduction of an unequal and unjust social order divided by the social lacerations of class, gender, ‘race,’ and sexuality” (p. 8).

According to Mathiesen (2008), abolitionism is a stance; that is, the attitude of saying “no” (p. 58). Indeed, Mathiesen explains that an abolitionist stance can be defined as a “constant, deeply critical attitude towards prisons and penal systems as human (and inhumane) solutions” (Mathiesen, 2008, p. 59). For Mathiesen (1974), abolition is a point of departure rather than an end in itself. Put differently, Mathiesen (1974) observes that there is significant political pressure in the direction of producing a fully-established alternative to incarceration; however, he contends that in doing so, the alternative becomes finished, and thus, no longer a valid alternative (p. 13). That is, the alternative becomes a fully-formed, defined entity, therefore no longer challenging the existing system. As Mathiesen (1974) concludes, “something completely finished, a fully-formed entity, is destined to fail: in the process of finishing lies a return to the by-gone” (p. 47).

Mathiesen’s (1974) theory of the ‘unfinished’ is prominent within the criminological literature surrounding punishment and penal abolitionism. Mathiesen advocates for continuous and stubborn maintenance of a series of short-term, realistic partial abolitions towards the long-term goal of total abolition. He maintains that an alternative to the established penal system cannot be based on the premises of the current system, but rather on its own premises (Mathiesen, 1974, p.

13). Indeed, an alternative is only truly an alternative insofar as it competes and contradicts the existing system (Mathiesen, 1974, p. 14). Mathiesen (1974) theorizes that “the alternative lies in the unfinished, in the sketch, in what is not fully existing” (p. 13). Therefore, an unfinished alternative maintains the push to overthrow the existing system, continues to abolish boundaries, and remains undefined (Mathiesen, 1974, p. 27). Mathiesen’s (1974) theory of the unfinished attempts to provide a deeper understanding of the barriers faced by abolitionist scholars when suggesting alternatives to the established system and how to circumvent them.

Mathiesen (1974) establishes three different forces that work against the unfinished. Namely, (1) “persuasion,” (2) “absorption,” and (3) “carrying a new message into effect” (pp. 19-21). Persuasion involves asking the opposition to demonstrate what their alternative would look like “in practice” by “giving examples” (Mathiesen, 1974, pp. 19-20). This process forces the alternative to be defined in terms of the old system and renders it non-competing (Mathiesen, 1974, pp. 19-20). Absorption refers to the threat of the opposition’s alternative being incorporated and initiated into the old system, thus rendering it useless. Finally, carrying a new message into effect refers to how the alternative is established. It is not sufficient to create an alternative alongside the existing prison system. The current system or elements within it must be overthrown before an alternative can be successful (Mathiesen, 1974, pp. 19-20). Unlike persuasion and absorption which occur when *moving into the established system*, ‘carrying a new message into effect’ involves *remaining outside of the established system* and establishing a new system independently that is competitive and diminishes penal power (Mathiesen, 1974, p. 20). As articulated by Mathiesen (1974), “abolition...takes place when we break with the established order and at the same time face unbuilt ground” (p. 25).

Following Mathiesen's formulation, abolition is triggered by making system members aware of the dilemma between continuing to seek change within the existing order (i.e., reform) and transitioning to something unknown (Ben-Moshe, 2018, p. 348). Indeed, he contends that piecemeal reforms postpone abolishment (Mathiesen, 1974). Instead, abolition is set in motion when system members become conscious of this and choose to pursue an alternative that is foreign and suggested. The awareness of the freedom to choose between what is old and known and what is new and unknown triggers abolitionism, and therefore the process of an unfinished, ever-flowing alternative (Ben-Moshe 2018; Mathiesen, 1974, p. 25).

Mathiesen (2006) argues that there exists a "pervasive and persistent ideology of prison in our society" that renders the institution meaningful and legitimate (p. 141). Specifically, he discusses two main components that support this ideology: the *supportive component* and the *negating component*. The supportive component legitimates prison and underscores its value within society. That is, Mathiesen (2006) argues that the prison serves four primary ideological functions in society. It (1) houses, controls, and conceals the 'unproductive' population, and (2) places them in a structural situation where they remain unproductive (Mathiesen, 2006, p. 142). Furthermore, (3) prison performs a diverting function, whereby people from the lower-class are incarcerated, effectively distracting society from the dangers flowing from harms committed by "individuals and classes with power" (Mathiesen, 2006, p. 142). Finally, (4) there is a symbolic function whereby those imprisoned are stigmatized and remain so long after release. The functions discussed here explain why prisons continue to thrive even though they are ineffective and extremely problematic (Mathiesen, 2006, p. 142).

Mathiesen (1990) argues that the ideology of the prison also includes a negating component. That is, he contends that there are components that mitigate and ultimately neutralize the 'fiasco

of the prison' (Mathiesen, 2006, p. 143). Mathiesen maintains that the negation of the prison fiasco occurs at three separate, but interrelated levels: the widest public sphere (e.g., modern mass media), a narrower public sphere (e.g., institutions directly involved in 'crime' prevention such as the police and the courts), and an even narrower sphere (e.g., professional groups, such as researchers) (Mathiesen, 2006, p. 143). Several practices of negation occur throughout the spheres, including; 'non-recognition,' 'pretence,' and 'disregard.' Non-recognition involves disregarding the prison system's problems and typically happens within the widest public sphere (Mathiesen, 2006, p. 144). Pretence involves pretending that the prison system is a success despite knowledge of its severe deficiencies, and typically occurs in the narrower public sphere. Finally, disregard involves overlooking the ineffectiveness of the prison system and the difficulty involved in establishing equal justice and typically happens within the narrowest sphere of research. Mathiesen (2006) argues that the barriers between spheres are "perforated;" therefore, non-recognition, pretence, and disregard occur in every sphere (p. 144).

Mathiesen (1974) warns that reforms of an improving kind may, in effect, re-legitimize the prison and lessen the possibility for a long-term abolition (p. 202). Thus, there are only two types of reform: one which re-legitimizes the prison and another which furthers the long-term goal of abolition (Mathiesen, 1974). More specifically, positive reforms attempt to improve the old system so it will act more efficiently. Conversely, negative reforms remove parts of the existing system (Ben-Moshe, 2013). According to Mathiesen (1974), negative reforms do not provide the system with a positive addition of legitimacy, but rather seek to abolish parts of it (Mathiesen, 1974, p. 202).

To effectively counter and de-legitimize the ideology of prison, Mathiesen (2006) asserts that critics must engage in counter-functional and counter-denial work (p. 165). Counter-functional

work involves allocating resources toward exposing the injustices which occur in prisons and is done by making prisoners more visible to the public. Indeed, “it is the invisibility of the prisoner which makes it possible to maintain the ideological functions of the prison” (Mathiesen, 2006, p. 166). Similarly, counter-denial work involves making various system members aware of their denial of the injustices of prison by exposing them to the “prison fiasco” (Mathiesen, 2006, p. 166).

In adopting a penal abolitionist theoretical framework, this thesis practices both counter-functional and counter-denial work. I incorporate the voices and experiences of prisoners, primarily through an analysis of Jail Accountability and Information Line (JAIL) hotline reports, as they are the most invaluable source of information to understanding the inner workings of OCDC and provincial jails in Ontario more broadly. Through an analysis of the human rights complaints made by prisoners of OCDC to the JAIL hotline, coupled with Ombudsman, Independent Review of Ontario Corrections (IROC), and Community Advisory Board (CAB) reports on OCDC, I highlight the lived experiences of prisoners as a means of exposing the injustices which continue to occur at OCDC and ultimately make these prisoners more visible to the outside world.

I engage in counter-denial work by unmasking the system’s attempts to conceal its true nature (Mathiesen, 1974, p. 209). Indeed, by using OCDC task force documents and progress reports, I examine what changes were implemented versus neutralized through a comparative analysis with lived prisoner experiences, Ombudsman, IROC, and CAB reports. In doing so, I expose the contradictions and hypocrisy within the system’s (in)actions to confront and expose system members, and the public more broadly, to the prison fiasco.

Further, in analyzing the OCDC task force and progress report documents, I highlight the positive neutralizing forces used by the system and examine how they have been wielded in ways that have negated meaningful social change. As Mathiesen (1974) articulates, it is through such work that we may uncover reality and ultimately make the world a more truthful place (p. 209). Indeed, such work “uncovers the concealed reality, brings forth the unconcealed and thereby the truth, and this uncovered truth is a necessary...condition for giving the counter-forces long-range freedom of action” (Mathiesen, 1974, p. 209). The positive neutralizing forces that work against the counter-forces are understood by Mathiesen (2006) as resulting from a series of “neutralization techniques” (p. 44) employed by the state to quash competing initiatives that threaten the system’s interests. The next section of this chapter unpacks Mathiesen’s (2006) conception of neutralization techniques and how I use them to analyze the maintenance of the status quo at OCDC.

### **3.2 –Neutralization Techniques as Impediments to Social Change**

Mathiesen (2006) outlines six neutralization techniques mobilized by those responsible for maintaining the system’s interests that effectively quash fresh ideas and initiatives. These techniques range from open dismissal to the subtle erasure of ideas that compete with the existing system’s interests (Mathiesen, 2006, p. 44). Firstly, making “reference” to higher orders, instructions or demands occurs when system members refer to superior authority in response to alternatives that threaten the system, effectively subverting the alternatives and neutralizing the threat all together (Mathiesen 2006, p. 44).

Second, “defining ideas as irrelevant” occurs when system members define initiatives and new ideas as impertinent to neutralize the potential threat to the established order. A third and similar technique, “defining ideas as impossible to implement,” is typically employed when the

irrelevancy argument is ineffective. Indeed, defining ideas as irrelevant may become impossible when countered with logical argumentation and reference to similar initiatives successfully implemented elsewhere (Mathiesen, 2006, p. 44). As Mathiesen (2006) contends, the user of the impossible to implement technique may refer to conditions in a jail, lack of resources, and a myriad of other factors that render the new idea, in effect, impossible to carry out (p. 44).

Fourth, “postponement” occurs when new ideas and initiatives are postponed “for the time being” as they are “not yet fully developed” (Mathiesen, 2006, p. 45). However, regardless of how well-prepared an initiative may be, it can never be foolproof, and thus will always be vulnerable to critique. As Mathiesen (2006) contends, “a new idea is ‘new’ in the sense that it is not yet tried out and tested in all details. It can, therefore, almost always be postponed ‘for the time being’” (p. 45). Thus, the new idea is effectively neutralized as a good idea in theory, but not yet developed enough for practice.

Fifth, “puncturing” occurs when the significance of the alternative idea is diminished, “while a front of understanding, interest, and perhaps even enthusiasm for the idea is maintained” (Mathiesen, 2006, p. 45). The idea is neither rejected nor postponed, but rather “given its proper dimensions” (Mathiesen, 2006, p. 45). In other words, new ideas are incorporated into the system through a formal recording; however, they are never actually put into practice, thus effectively puncturing them.

Lastly, “absorption” occurs when the alternative idea or initiative is picked up by the current system and slightly altered to fit within the current order (Mathiesen, 2006, p. 45). Consequently, the idea is implemented in a way that subtly neutralizes the new element, effectively defusing the initiative and rendering it non-threatening to the prevailing order. While the

overarching idea may be maintained, the competing alternative is disarmed and thus successfully absorbed into the system (Mathiesen, 2006, p. 45).

Most research that engages with Mathiesen's (1990; 2006) conception of neutralization techniques does so within the context of examining how various systems of government protect their interests and evade criticism. For instance, Piché (2014) mobilizes Mathiesen's (1990; 2006) neutralization techniques to analyze how the prison idea was reproduced through the construction of new carceral spaces within the Canadian context despite calls for alternatives to incarceration. Similarly, Piché (2015) deploys neutralization techniques to examine how the previous Canadian Conservative government responded to criticism as it sought to legitimate the punitive measures it introduced. In the same vein, Baldry and colleagues (2015), consider the Australian government's use of neutralization techniques to divert and quiet penal abolitionist struggle and activism. Carlton and Russell (2015) utilize Mathiesen's (1990; 2006) techniques of neutralization to examine how the Australian state stifles protest and subverts social change, which could "actually produce new forms of resistance" (para. 10). Murray (2017) employs neutralization techniques to analyze how police executives and government officials seek to undermine critical reports concerning stop-and-search operations in Scotland (p. 507).

The main contributions of these studies demonstrate that neutralization techniques are typically deployed by proponents of incarceration globally to legitimate the need for carceral spaces (Piché, 2014), prevent the introduction of repression-abolishing alternatives (Piché, 2015), diffuse and absorb critiques of penal institutions (Baldry et al., 2015), and undermine the credibility of such critique (Murray, 2017). Further, Mathiesen's (1990; 2006) techniques of neutralization have been argued to generate new resistance strategies unique to the particular historical, political, and social context of the reform (Carlton & Russell, 2015, para. 10). I extend

Mathiesen's (1990; 2006) analytical framework to explore the form, function, and implementation of neutralization techniques at the local Ontario provincial and institutional level.

### **3.3 – Mobilizing Abolitionism to Understand Social Change at OCDC**

This chapter has outlined the theoretical underpinnings of this thesis and explained why Mathiesen's (1974; 1990; 2006; 2008) abolitionist theoretical framework is relevant to the study of the social change at OCDC. Drawing from Mathiesen's (1974; 1990; 2006; 2008) work, I adopt an abolitionist stance and engage in counter-functional and counter-denial work to challenge the ideology of the provincial jail and unmask the system's proclivity to impede and obstruct transformative social change. More specifically, I employ Mathiesen's (1990; 2006) conception of neutralization techniques to understand how Ministry officials and jail functionaries maintain the status quo at OCDC. I glean this information through a qualitative content analysis of OCDC Task Force documents, progress reports, trend analyses, Ombudsman, IROC, CAB, and JAIL hotline reports. By mobilizing Mathiesen's (1974; 1990; 2006; 2008) theoretical framework, I provide a comprehensive examination of the conditions of confinement at OCDC, and how the status quo is stubbornly upheld despite a concerted effort to improve the austere living conditions and treatment of prisoners at the facility.

As demonstrated in the preceding chapter, there is currently a lack of research that explicitly examines the conditions of confinement, treatment of prisoners, and social change within the context of provincial jailing in Canada. Applying Mathiesen's analytical framework allows me to effectively investigate how social change has been stalled at a provincial jail. In doing so, I contribute to this underdeveloped cross-section of research and provide valuable insight into the

black box of jail. In the next chapter, I provide a detailed overview of the methods used to collect and analyze the data for this study.

## CHAPTER 4: ON METHOD

This chapter focuses on the methodological decisions made during the course of this thesis. The purpose of this study was to examine how the Ontario provincial government maintains the status quo at the Ottawa-Carleton Detention Centre (OCDC) despite concerted efforts to improve the austere conditions of confinement and treatment of prisoners at the facility. This study intended to understand how social change has been largely impeded at OCDC through the application of Mathiesen's (1990; 2006) techniques of neutralization. In this chapter, I begin by discussing my epistemological and ontological positioning, then move to briefly describe OCDC as the primary focus of my thesis. Next, I outline my data collection and analysis methods. Finally, I review the ethical considerations for this project and detail my position as a reflexive qualitative researcher.

### 4.1 – Research Positionality: Epistemological and Ontological Framework

The methodology that guided this project was grounded in the critical paradigm and sought to unmask the tactics employed by Ministry officials and jail functionaries to perpetuate the austere conditions of confinement and treatment of prisoners at OCDC. In line with the critical paradigm, my research privileges the voices and lived experiences of individuals incarcerated at OCDC to come to a better understanding of the injustices which take place behind jail walls. Specifically, I mobilized the complaints of OCDC prisoners documented in Jail Accountability & Information Line (JAIL), Community Advisory Board (CAB), Independent Review of Corrections (IROC), and Ontario Ombudsman reports to inform my interrogation and analysis of the 2016 OCDC task force action plan's implementation in practice. By employing the lived experiences of OCDC prisoners, I provide an account of inconsistencies between what is said to have been done versus what is taking place in practice. In doing so, I gained insight into the tactics used to impede

transformative social change at OCDC. By uncovering the mechanisms contributing to the persistently inadequate conditions of confinement and treatment of prisoners at OCDC and revealing the system's tendency to suppress meaningful change, my research sought to expose the system's practices that limit human freedom, justice, and democracy.

As a critical researcher, I view research as an inherently political act as it relies on value systems and challenges them (Glesne, 2010). Indeed, a central concept in critical theory is that certain ideologies work to distort reality. The critical researcher's role is to "reveal and critique these distorting ideologies and associated structures, mechanisms, and processes that help to keep them in place" (Glesne, 2010, p. 9). Particularly, critical researchers work to situate the experiences and perspectives of oppressed peoples within a social and historical context, and ultimately reveal how certain conditions benefit some groups while marginalizing others (Glesne, 2010). In this sense, criticism is a means rather than an end; it is a means to the collective discovery of truths and a form of sustained opposition to the distorting ideologies reproduced by those in power (Hammersley, 2005, p. 181).

My research is guided by a historical realism ontology whereby reality is shaped by political, economic, social, cultural, ethnic, and gender values which have been solidified over time (Guba & Lincoln, 1994). In other words, it is assumed that there is one tangible reality, however, over time it has been shaped and altered by social, political, economic and cultural forces and then "crystallized into a series of structures that are now (inappropriately) taken as 'real,' that is, natural and immutable" (Guba & Lincoln, 1994, p. 110). Practically speaking, these structures are a 'real' historical reality. Based on my epistemological and ontological positioning, my research question aims to highlight the inconsistencies between governmental discourse and the lived experiences on the ground to ultimately critique the dominant narrative that has been

constructed by the ruling class. As Giroux (1998) articulates, it is our job as transformative intellectuals, “to uncover and excavate those forms of historical and subjugated knowledges that point to experiences of suffering, conflict, and collective struggle... [and] to link the notion of historical understanding to elements of critique and hope” (p. 213).

#### **4.2 – The Ottawa-Carleton Detention Centre**

To gain insight into the Ontario provincial jailing system, I selected OCDC as the primary focal point for my research. Located in Canada’s capital, OCDC was initially positioned as a ‘rehabilitation unit’ when it was opened in 1972 (Doyle, Piché, & Sutton, forthcoming). Indeed, OCDC was designed to replace the notorious Carleton County Gaol (CCG), a once praised Ottawa courthouse jail that eventually became known for its inhumane and degrading treatment of prisoners, and deplorable conditions of confinement (Doyle et al., forthcoming). OCDC currently holds both men and women prisoners (aged eighteen and above) on remand, provincial sentences of two years minus a day, and immigration holds. Furthermore, the facility temporarily houses prisoners serving federal sentences while they await ‘dangerous offender’ and ‘long term offender’ designations from the local federal court in Ottawa (MCSCS, 2017a). OCDC is comprised of five separate units: general population, protective custody, special needs, medical, and segregation (MCSCS, 2017a). While women are housed in a separate area with a capacity of 60, men occupy the majority of the 585-bed facility. There is currently no further information on the internal makeup of the Innes Road jail.

According to the most recent statistics retrieved from the Ontario provincial government data catalogue, there are on average 310 prisoners on remand, 65 prisoners serving provincial sentences, 35 prisoners serving intermittent sentences, 12 prisoners serving federal sentences, and

9 prisoners on immigration hold at OCDC (Ontario Provincial Government, 2019). Therefore, the overwhelming majority of those currently incarcerated at OCDC are being held on remand (i.e., pre-trial detention). This is consistent with historical patterns that demonstrate that the number of remanded prisoners in provincial-territorial jails has continued to rise, with those on remand outweighing sentenced prisoners by 50% nationwide, and 69% within the province of Ontario (Malakieh, 2019). Therefore, per national trends, there are currently more people that have yet to be tried or sentenced imprisoned at OCDC than are those serving a sentence.

Once envisaged by government officials as a space devoted to ‘rehabilitation,’ like its predecessor, OCDC became notorious for its draconian treatment of prisoners, culminating in a series of media reports in late-2015 and early-2016 revealing gross tales of crowding and austere conditions of confinement (IROC, 2017b). In response to mounting criticism of the current state of affairs at the Innes Road jail, the Ministry established the OCDC task force to address the capacity issues and insufficient conditions of confinement (MCSCS, 2016a). Composed of Ministry officials, jail functionaries, and community stakeholders, the task force created an action plan with forty-two short, medium, and long-term solutions to improve the health, safety, and treatment of those incarcerated at OCDC (MCSCS, 2016, p. 1). Subsequently, the OCDC task force released three progress reports regarding the Ministry’s implementation of the proposed solutions (see MCSCS, 2016b, 2017b, 2017c).

In addition to the task force, OCDC is one of the few provincial jails in Ontario with a CAB, an independent body established in 2014 dedicated to increasing transparency and accountability within provincial jails and detention centres (MSG, 2019). The CAB can access the facility at any time and has the ability to inspect all areas of the institution. Furthermore, the CAB

is responsible for publishing annual reports to the Ministry concerning the facilities and treatment of prisoners at OCDC (MSG, 2019).

As poor conditions of confinement persisted at OCDC despite additional oversight, the Criminalization and Punishment Education Project (CPEP) created the JAIL hotline in 2018. The dedicated phone line offers rare access into OCDC and provides prisoners housed there with the opportunity to voice their complaints concerning the conditions of confinement and treatment at the facility. The JAIL hotline helps privilege the voices of those imprisoned at OCDC and ultimately assists in resolving the human rights abuses reported in ways that contribute to a broader abolitionist project. This phone line provides rare access into the black box that is jail and circumvents many of the obstacles that critical researchers face when attempting research on provincial jails and detention centres in Canada. As outlined in chapter two, institutional protectionism presents a great challenge to the production of critical criminological scholarship where prisons and jails are concerned. With the use of the JAIL hotline reports, I was able to contrast the accounts of OCDC prisoners to those of the Ministry and OCDC to expose the incoherence between penal policy versus practice and the lived experiences on the ground.

Unlike most other Canadian provincial jails, OCDC has been the focus of many external reports throughout the years. OCDC was chosen as the focal point for my research project given the access to information obtained through the task force, JAIL hotline, CAB, IROC, and Ombudsman reports. I was able to take advantage of this combination of sources and build a more complete and nuanced understanding of the tactics used by Ministry officials and jail functionaries to maintain the status quo and stifle dedicated transformative change. With the information gleaned from this research site, I was able to contribute to the limited cross-section of research concerning barriers to transformative social change in the context of imprisonment.

### 4.3 – Data Collection

The research methods employed in this project were qualitative in nature to allow for a flexible and data-driven research design that enabled me to engage in a more complete and interpretive critical analysis of the data I collected. As a critical qualitative researcher, I was primarily concerned with employing my data to penetrate the fronts put up by Ontario government officials and OCDC jail functionaries to build a richer and more comprehensive picture of the reality at the jail (Hammersley, 2013). This critical interpretive approach serves an important political function by resisting dominant narratives that distort reality and undermine accountability, justice, and democracy (Hammersley, 2013).

This project relied on the collection, review, and analysis of open-source online published documents, records, and reports concerning OCDC. For the purposes of my research, data was collected from both government and non-government organizations. As this research project examines the gulf between policy and practice, the documents obtained for this research project include official governmental task force directives on the one hand and policy reviews and progress reports on the other. Further, in order to incorporate the lived experiences of current prisoners, I included JAIL hotline reports detailing the human rights complaints made directly by prisoners of OCDC, Ontario Ombudsman, IROC, and CAB reports on OCDC. *Figure 1* highlights the documents analyzed in the course of my content analysis.

#### Figure 1

*Comprehensive List of Documents Analyzed  
(24 documents, 1,482 pages total)*

Organization:	Date Published:	Document Title:	Number of Pages:	Spacing:
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Community Advisory Board	March 2015	Community Advisory Board Annual Report: Ottawa-Carleton Detention Centre	14	1.5 Spacing
Community Advisory Board	March 2016	Community Advisory Board Annual Report: Ottawa-Carleton Detention Centre	22	1.5 Spacing
Community Advisory Board	March 2017	Community Advisory Board Annual Report: Ottawa-Carleton Detention Centre	24	1.5 Spacing
Community Advisory Board	March 2018	Community Advisory Board Annual Report: Ottawa-Carleton Detention Centre	21	1.5 Spacing
Independent Review of Corrections Team	March 2017	Segregation in Ontario	201	Single
Independent Review of Corrections Team	September 2017	Corrections in Ontario: Directions for Reform	248	Single
Independent Review of Corrections Team	August 2018	Institutional Violence: Interim Report	97	Single
Independent Review of Corrections Team	December 2018	Institutional Violence: Final Report; Case Study, Toronto South Detention Centre	184	Single
Jail Accountability and Information Line	January 2019	Jail Accountability and Information Line: Monthly Report #1	26	Single
Jail Accountability and Information Line	March 2019	Jail Accountability and Information Line: Quarterly Advocacy Report #1	38	Single
Jail Accountability and Information Line	June 2019	Jail Accountability and Information Line: Quarterly Advocacy Report #2	46	Single
Jail Accountability and	December 2019	Jail Accountability and Information Line: Quarterly Advocacy Report #3	27	Single

Information Line				
Ministry of Community Safety and Correctional Services	April 2016	Ottawa-Carleton Detention Centre Task Force Action Plan	22	Single
Ministry of Community Safety and Correctional Services	October 2016	Ottawa-Carleton Detention Centre Task Force Quarterly Trend Analysis – Q1 2016/2017 (April 1, 2016 – June 30, 2016)	5	Single
Ministry of Community Safety and Correctional Services	October 2017	Ottawa-Carleton Detention Centre Task Force Progress Report #1	27	Single
Ministry of Community Safety and Correctional Services	January 2017	Ottawa-Carleton Detention Centre Task Force Quarterly Trend Analysis – Q2 2016/2017 (July 1, 2016 – September 30, 2016)	4	Single
Ministry of Community Safety and Correctional Services	January 2017	Ottawa-Carleton Detention Centre Task Force Progress Report #2	23	Single
Ministry of Community Safety and Correctional Services	June 2017	Ottawa-Carleton Detention Centre Task Force Quarterly Trend Analysis – Q3 and Q4 – 2016/2017 (October 1, 2016 – March 31, 2017)	6	Single
Ministry of Community Safety and Correctional Services	June 2017	Ottawa-Carleton Detention Centre Task Force Progress Report #3	28	Single
Office of the Ombudsman of Ontario	November 2016	Ombudsman Report: 2015 – 2016 Annual Report	72	Single
Office of the Ombudsman of Ontario	June 2017	Ombudsman Report: 2016 – 2017 Annual Report	80	Single
Office of the Ombudsman of Ontario	April 2017	Out of Oversight, Out of Mind: Investigation into how the Ministry of Community Safety	99	Single

		and Correctional Services tracks the admission and placement of segregated inmates, and the adequacy and effectiveness of the review process for such placements		
Office of the Ombudsman of Ontario	June 2018	Ombudsman Report: 2017 – 2018 Annual Report	84	Single
Office of the Ombudsman of Ontario	June 2019	Ombudsman Report: 2018 – 2019 Annual Report	84	Single

The texts noted above were chosen as they provide a detailed overview of the current state of affairs at OCDC. As Garland (1990) asserts, government documents such as policy statements and annual reports are often used to justify penal practice to the general public. Indeed, these documents are often loaded with factual descriptions, strong persuasive rhetoric, and institutional propaganda (Garland, 1990, p. 255). Therefore, as Garland (1990) contends, “it is to these practical routines that we should look first of all to discover the values, meanings, and conceptions which are embodied and expressed in penalty” (p. 255). By comparing governmental documents with detailed accounts of prisoner experiences at OCDC documented in JAIL hotline, CAB, IROC, and Ombudsman reports, I highlighted the inconsistencies between the two and pointed to specific tactics used to impede any form of meaningful social change.

The documents examined were accessed through online content searches and document research. Within the research area of this thesis, there are limited sources of material to choose from, especially within the domain of Ontario’s provincial jail system. Considering my interest in OCDC, the texts chosen were ideal units of analysis in order to assess the conditions of confinement and treatment at OCDC as experienced by the prisoners themselves, and how government officials and jail functionaries actively neutralized attempts to impact social change.

### **4.3.1 – Organization of the Data: Using NVivo Coding Software**

In order to organize the data collected, NVivo coding software was used for content indexing. NVivo provided me with a set of tools that helped to effectively and efficiently gather, manage, and code an extensive amount of data for this research project. Further, this software allowed me to better notice subtle connections in the data and ensure a complete set of data for interpretation than when working manually (Bazeley & Jackson, 2013). One commonly raised issue regarding using software for qualitative data analysis is that it can distance researchers from their data set. However, as Bazeley and Jackson (2013) point out, NVivo is designed with the idea that researchers need both closeness and distance; closeness in order to improve familiarity and notice subtle differences, alongside distance for abstraction and synthesis (p.7). Moreover, it is important to note that unlike statistical software, “the main function of computed analysis software is not to analyze data but rather to aid in the analysis process, which the researcher must always remain in control of” (Zamawe, 2015, p. 13). In other words, NVivo is essentially a data management tool that *supports* the researcher during analysis (Zamawe, 2015), allowing me to conduct a more thorough and sophisticated qualitative analysis of the data set.

### **4.4. – Data Analysis**

I conducted a qualitative content analysis to organize and examine the data I collected. This approach was utilized to enable the data sources to be examined by principle codes (Elo & Kyngäs, 2008). This method allowed me to identify patterns of meaning that existed in the data in relation to my research questions and study objectives (Braun & Clarke, 2006). Furthermore, it unobtrusively facilitated the effective and efficient analysis of my considerable data set

(Vaismoradi, Turunen & Bondas, 2013). Data analysis was separated into three distinct stages: the preparation phase, the organizational phase, and the reporting phase (see Elo & Kyngäs, 2008).

In the *preparation phase*, I selected a unit of analysis and undertook the first reading of the data. Consistent with the qualitative content analysis research tradition, the specific units of analysis selected were individual codes derived from the data set (outlined in *Figure 1*). The units of analysis chosen for this research project were deductively derived codes based on Mathiesen's (1990; 2006) techniques of neutralization: (1) reference; (2) defining ideas as irrelevant; (3) defining ideas as impossible to implement; (4) postponement; (5) puncturing; and (6) absorption. This deductive approach allowed me to apply Mathiesen's (1990; 2006) conception of neutralization techniques to the data and make inferences from the data to their context (Braun & Clarke, 2006; Elo & Kyngäs, 2008).

In the *organizational phase*, I developed a mixed coding grid where the data was reviewed and analyzed for correspondence or exemplification of the predetermined codes (Elo et al., 2014, p. 2). As Elo and colleagues (2014) contend, the grid can be regarded as valid if the categories represent the codes and accurately capture what they intend to measure. The coding grid utilized is best described as an unconstrained matrix, wherein the boundaries were not limited to the codes in the coding agenda (Elo & Kyngäs, 2008). In other words, the grid allowed for both pre-existing codes and any categories/codes that may have arisen inductively during the data analysis process. Consequently, in the process of my analysis, five additional sub-codes arose which helped to better interpret and synthesize the data set. Those were, under (1) reference – (1.1) reference to higher demands and authority, (1.2) reference to policy and procedure, and (1.3) reference to safety and security, and under (4) postponement – (4.1) postponement for not being fully developed and (4.2) postponement for not being possible.

The grid was separated into four columns: codes, sub-codes, definitions, and in-text examples (left to right) (see *Appendix A*). Each code was generated from Mathiesen's (1990; 2006) theoretical framework, while each sub-code was adapted during the content analysis to better fit and categorize the material. These include: (1.1) reference to higher demands and authority (i.e., referencing higher orders, instructions, and/or superior authority that take precedence over external demands); (1.2) reference to policy and procedure (i.e., referencing the need to follow existing institutional, ministerial, and/or governmental policies and/or procedures); (1.3) reference to safety and security (i.e., referencing the need to maintain public, institutional, staff, and/or prisoner safety and/or security); (2) defining ideas as irrelevant (i.e., defining an alternative/initiative/idea as irrelevant, extraneous, or pointless in the context of operating a jail); (3) defining ideas as impossible to implement (i.e., defining an alternative/initiative/idea in conflict with the system as impossible to implement because it is not fully developed, tested, and/or explained); (4.1) postponement for not being fully developed (i.e., the implementation of an alternative/initiative/idea is postponed as it is not fully developed, explained, and/or tested); (4.2) postponement for not being possible now (i.e., the implementation of an alternative/initiative/idea is postponed as it is deemed to not be possible for the time being); (5) puncturing (i.e., the significance and/or importance of alternative/initiative/idea is diminished, lessened or lowered while a front of understanding, interest, and/or enthusiasm for the alternative/initiative/idea is maintained) and finally; (6) absorption (i.e., the alternative/initiative/idea is adopted by the current system in name, but adjusted to fit within the current order). As highlighted by Mayring (2000), the purpose of this phase was to investigate and describe the phenomenon by breaking down the data and thoroughly examining each aspect.

In the final stage of the data analysis, the *reporting phase*, the results were described based on the content of the categories (Elo & Kyngäs, 2008). The results of this data analysis can be found in *Chapter 5: Findings and Analysis*.

#### **4.5 – Ethical Considerations**

This research project did not require ethics approval by the Social Science and Humanities Ethics Board (SSHÉB) at the University of Ottawa as it did not involve human participants but rather draws from data that is publicly accessible. All of the data mobilized in this thesis was derived from open-source documents gathered from online content searches and document research. Therefore, there are no ethical concerns in terms of the fair use of the material analyzed.

As a critical criminological researcher, this research intended to contribute to reducing the harms and use of imprisonment. As such, the ethical considerations for this project concern its foundation in the abolitionist traditions of Criminology. The abolitionist stance (Mathiesen, 2008) has its roots in activism and opposes the state appropriation of certain conflicts through criminalization (Piché, 2014). Those adopting such a stance advocate for the inclusive resolution of these officially problematized situations (Piché, 2014, para. 18). As a critical abolitionist researcher, I consistently held myself accountable to unmask the beliefs and practices at OCDC that limit the prisoners' human rights and freedoms, as well as expose the underlying structures of oppression, inequality, and marginalization which arose during this study.

As a critical researcher in a privileged position, I am a part of several social structures that do not allow me to fully see how the world works. Given that my morals and political drives have shaped my thesis and methodological decisions, I employed positional reflexivity to ensure that I was aware of how my personal beliefs and viewpoints impacted the conduct of my study. As

articulated by Macbeth (2001), positional reflexivity leads the researcher to examine “place, biography, self, and other to understand how they shape the analytic exercise” (p. 35). In order to do so and further ensure that I was continuously conscious and reflective, I maintained a journal throughout the research process. By maintaining a journal when gathering and analysing data, I was able to better understand and acknowledge how my position affected my research and analytical process.

As a critical researcher, it is essential to persistently acknowledge and articulate my position in the world with a vigilance for unseen privileges and biases (Macbeth, 2001). Further, it is necessary to recognize the interpersonal and institutional contexts of my research, and the epistemological and ontological assumptions that drove my data analysis methods and their implementation (see Mauthner & Doucet, 2003). Moreover, I must note that I do not own the data, nor do I believe that I can do anything I want with it. Instead, my role as a critical researcher is to make space so that the harms prisoners endure can be exposed and ultimately challenge the dominant narratives within society. As such, I adopt a ‘factist’ approach and collect my data primarily from the testimonies of OCDC prisoners who report human rights abuses through the JAIL hotline and CAB reports (Alasuutari 1995a: 1995b).

Given my position as a critical researcher, I believe that research and politics are inextricably linked. Indeed, it is argued that political interests guide science, thus rendering researchers political actors (Glesne, 2010; Guba & Lincoln, 1994). Considering that one of my overarching goals as a critical researcher is to transform the social order, my research is inherently political. Throughout this research project, I was mainly concerned with having genuine respect for the ‘other’ and capturing knowledge in keeping with their experience to contribute towards transforming the social order in some way.

#### **4.6 – Conclusion**

This chapter has outlined the methods used in this study to generate and analyse data to answer my research questions. The purpose of this study was to examine the obstacles to social change at OCDC where improving conditions of confinement and the treatment of prisoners were concerned. My research focused specifically on OCDC, with some limited application to provincial jails in Ontario and elsewhere in Canada more broadly. OCDC was specifically chosen as a research site because it had a task force, JAIL hotline, and CAB that together provided a critical mass of data to conduct criminological research and contribute to the limited research concerning social change in the context of provincial imprisonment in Canada. Data was collected primarily through online content searches from local and non-local government organizations and coded using NVivo qualitative coding software. The data was analyzed through a content analysis involving a qualitative mixed coding scheme. The codes used for this research project were deductively chosen based on and adapted from Mathiesen's (1990; 2006) conception of neutralization techniques. While this project did not require formal ethics approval, it is nevertheless important to consider my position as a critical abolitionist researcher that needs to assess barriers to social change in order to impact it. In the next chapter, I present the results of my data collection and analysis.

## CHAPTER 5: FINDINGS AND ANALYSIS

Guided by an abolitionist stance, this research project examines the impediments to transformative social change at the Ottawa-Carleton Detention Centre (OCDC). Despite concerted efforts on the part of scholars, researchers, and activists alike, OCDC's austere conditions of confinement and treatment of prisoners remain largely unchanged. As discussed in *Chapter 2*, there is a significant gap in knowledge regarding how the injustices which occur inside the black box of jail persist and what the barriers to meaningful social change in the context of imprisonment are. Through a qualitative content analysis of OCDC task force progress reports, trend analyses, Ombudsman, Community Advisory Board (CAB), Independent Review of Corrections (IROC), and Jail Accountability & Information Line (JAIL) reports, this chapter recounts the abuses that occur inside OCDC. Drawing on Mathiesen's (2006) conception of neutralization techniques and his abolitionist theoretical framework, this chapter analyzes how austere conditions of confinement have persisted. In doing so, I expose how OCDC maintains its legitimacy and power in the face of collective and organized attempts to diminish it.

In what follows, I examine the persistent issues concerning mental and physical health care, conditions of confinement, and access to justice at the jail, and expose the neutralization techniques employed by system members and jail functionaries to evade meaningful transformative change where each major issue is concerned. The neutralization techniques employed to this end include: reference to higher demands and authority; reference to policy and procedure; reference to safety and security; defining ideas as irrelevant; defining ideas as impossible to implement; postponement of proposals for not being fully developed; postponement of proposals for not being deemed to be possible now; puncturing; and absorption. As discussed in *Chapter 4: On Method*, while inspired

by Mathiesen's (2006) conception of neutralization techniques, several have been adapted and expanded upon for this research project in keeping with the empirical material examined.

This research project contributes to the abolitionist agenda by revealing how Ontario Ministry of the Solicitor General (MSG) and OCDC system members effectively legitimize the use of jail and render ideas that challenge its existence – along with those who support them – illegitimate. In order to counter and delegitimize this ideology of jail, I engage below in both counter-functional and counter-denial work (see Mathiesen, 1990, p. 165) by incorporating the experiences of prisoners at OCDC and unmasking the Ministry's attempts to conceal its true nature. This visibility fosters an understanding of the actual practices which occur in these spaces and makes it difficult for OCDC to maintain its ideological functions in the face of being held truly accountable. Through a qualitative content analysis of the neutralization techniques employed by these system members, I develop an understanding of how the legitimacy of the provincial jailing system is reproduced, and contribute to a limited cross-section of research concerning conditions of confinement and social change in Canada's provincial jails.

### **5.1 – The Mental and Physical Health Care System**

According to the prisoners at OCDC, the severe inadequacy of medical, mental, and physical health care remains the most significant and pressing issue at the Innes Road jail (CAB, 2017; MCSCS, 2016a; Speight et al., 2019a; 2019b; 2019c; 2019d). Issues relating to health care at OCDC were the most commonly cited complaints amongst callers to the JAIL hotline, with concerns ranging from violations of medical privacy, inadequate medical and mental health care, failure to respond to requests for medical attention, and misadministration of medication (Speight et al., 2019a, p. 5). The province of Ontario continues to struggle to meet the complex health needs

of its incarcerated population, with health care provisions in most cases falling well below the standard of care available to those in the community (IROC, 2017, p. 192).

In Ontario, the Ministry of Health and Long-term Care (MOHLTC) is responsible for the vast majority of health care in the province; however, in the case of incarcerated persons in the province, the health care burden lies solely with the MSG, a ministry whose principal job remains “community safety and correctional services,” *not* health (IROC, 2017, p. 196; MCSCS, 2016). While the OCDC task force recognized that the current system is severely inadequate and otherwise insufficient, no meaningful transformative change was ever realized. Thus, the Ministry recognized the critical nature of this issue, yet delayed the transfer of health care delivery to the MOHLTC as proposed by the task force.

This exercise in deferral illustrates Mathiesen’s (2006) technique of postponement, whereby a new alternative is considered, but later dismissed as it is not yet fully developed and tested. As Mathiesen (2006) elucidates, a new idea is ‘new’ precisely because it has never yet been tried or tested in all detail. However, regardless of how well-prepared and logically sound a new idea may be, it can never be absolutely full-proof, and thus will always be vulnerable to system-led critique or inaction. As a result, the new idea is effectively neutralized as a good idea in theory, but not yet developed enough to be implemented in practice. In other words, the new, competing element of this recommendation – the transfer of health care delivery from the Ministry to the MOHLTC – was functionally disarmed by postponing its implementation. In doing so, the status-quo at the facility was maintained, stifling any true improvements where health care service delivery is concerned.

This fragmentation of health care responsibility between the community and provincial jails is particularly alarming as it means that the health care services provided to prisoners at OCDC

are managed and delivered in isolation from those provided to essentially everyone else in the province, absent of the dedicated resources, experienced staff, and an adequate body of external oversight (IROC, 2017a). Therefore, prisoners at OCDC are quite literally not receiving the same quality and standards of care that is afforded to the general public. Furthermore, health care at OCDC remains largely reactive, attending only to the most acute and urgent of medical conditions. As a result, prisoners must wait until their medical and mental health conditions deteriorate before they are seen by a medical professional. As expressed by a prisoner at OCDC,

I am going to go on suicide watch because that's the only way you see a psychologist. (Speight et al. 2019d, p. 17)

In order to address the issues related to the health care system at the jail, the OCDC task force dedicated six recommendations to the improvement of mental and physical health care, ranging from increased support to prisoners struggling with mental health issues, alternative housing options, step-down units, and addiction support (MCSCS, 2016a). Among these recommendations was the composition of a 'comprehensive health care review' with the ultimate goal of identifying the overarching issues at OCDC and further ensuring "the adequate, effective, and efficient delivery of services to meet the complex needs of the male and female inmate population" (MCSCS 2016a, p. 14). As stated by the task force, the purpose of this review was to "improve the immediate health care conditions at OCDC" (MCSCS, 2016a, p. 14).

In its first progress report, the OCDC task force claimed that the comprehensive health care review had been completed and a summary of the report was made publicly available (MCSCS, 2016b, p. 15). It is important to note that despite OCDC's claim, a summary of the comprehensive health care review was never released to the general public in keeping with the historical opacity of jail authorities (Piché, 2011). In the subsequent progress reports, the OCDC task force highlighted the improvements made to the health care department, including the employment of

additional staff, an increased guard presence, greater access to health services, and more appropriate private spaces for health care consultation (MCSCS, 2017a; 2017b).

Despite OCDC's claim that health care services have been significantly improved, on the ground, mental and physical health care continue to be the most severe and pressing issue at OCDC as revealed by the numerous accounts of prisoners incarcerated there (CAB, 2016; 2017; 2018; Speight et al. 2019a; 2019b; 2019c; 2019d). Indeed, between December 2018 and December 2019, the JAIL hotline received a total of 352 calls from prisoners directly related to the inadequate health care unit at OCDC (Speight et al. 2019b; 2019c; 2019d). Furthermore, as highlighted by the CAB (2017), despite the establishment of the OCDC task force:

...[we] continue to hear concerns regarding the existing standard of care experienced by inmates, and the operational challenges faced by the medical staff due to a lack of resources. (p. 9)

The CAB raised the same concerns the following year in their annual report (see CAB, 2018). With regards to mental health care, one prisoner aptly describes the current situation at OCDC concerning the severe lack of support for those struggling with mental health issues:

There is no help for someone who is depressed. Just recently people killed themselves in this jail and that's a huge issue that needs to be addressed. (Speight et al., 2019a, p. 8)

While OCDC claims that a "comprehensive health care review" has been successfully undertaken and significant improvements have been made to health care conditions at the jail, numerous accounts made by prisoners currently incarcerated at OCDC suggest otherwise. This unfounded Ministerial claim illustrates OCDC's use of Mathiesen's (2006) technique of puncturing. While there was a formal recording of the problem at hand by all three task force progress reports, no meaningful transformative social change was enacted. That is, while the idea of a new and improved health care system at OCDC was neither rejected nor postponed, it was never put into practice as the task force had envisioned. In doing so, the idea of an alternative health care system

which could better support the complex health care needs of the prisoners was effectively punctured, neutralizing its ability to disrupt the current status quo where health care is concerned.

By using a combination of postponement for the transfer of health care services to a ministry outside of “corrections” for not being fully developed/tested and puncturing of new and competing ideas, provincial prison system officials and OCDC jail functionaries continue to suppress meaningful social change where the inadequate health care service delivery is concerned. This is evidenced through the constant and persisting reports from prisoners caged at OCDC who continue to experience subpar health care services. As a result of the fragmented health care responsibility, there exists a disparity between the health care services delivered to prisoners at OCDC and the general public more broadly. This disparity, coupled with the inadequacy of the current health care system as evidenced by current prisoner accounts (see Speight et al., 2019b; 2019c; 2019d), perpetuates unjust living conditions for individuals incarcerated at OCDC.

The proceeding sections interrogate mental and physical health care at OCDC more exhaustively and focus on access to physical and mental health care, mental health support, and addictions support. As these sections illustrate, OCDC strategically employs a combination of neutralization techniques that maintain its unjust conditions of confinement and treatment of prisoners in ways that ultimately evade any significant social change.

### **5.1.1 – Access to Mental and Physical Health Care**

As highlighted above, the OCDC task force (MCSCS, 2016a) committed to ensuring more adequate, effective, and efficient delivery of health care services and later claimed that this recommendation had been fully implemented (see MCSCS, 2016b, p. 15). However, despite this assertion, prisoners continue to report severe inadequacies and shortcomings related to the delivery

of health care services at OCDC (Speight et al., 2019a; 2019b; 2019c; 2019d). Issues relating to inaccessible health care request forms, delayed health care delivery, and a lack of medical privacy are among the most cited complaints (see Speight et al., 2019a; 2019b; 2019c; 2019d).

Prisoners at OCDC report that it remains extremely difficult to access satisfactory mental and physical health care services, and when they do, it is often insufficient to address their needs (Speight et al., 2019a; 2019b; 2019c; 2019d). In order to access health care services at the jail, prisoners must submit formal request forms, otherwise known as ‘green sheets’ (Speight et al., 2019b). Nevertheless, according to prisoners at OCDC, current operations in the jail make it difficult to both access and submit green sheets. As two prisoners explain:

The green forms to put in requests for the doctors are only given off the medical cart and yesterday they were re-stocked, but for 3, 4 days we couldn’t get them. (Speight et al., 2019b, p. 22)

I am trying to get request forms but they’re not giving them to me. (Speight et al., 2019b, p.16)

This problem is compounded by the fact that the medical cart often skips prisoners’ cells, making it impossible to submit green sheets once they have finally been obtained and filled out (Speight et al., 2019a). The issue is further exacerbated by severe delays to health care delivery. Prisoners confined at OCDC reported that they had submitted well over a dozen requests to see the doctor on staff, yet they still had not heard anything back. As one prisoner explains:

I have been asking to see a psychiatrist for a month and a half and I have been in for two months. I have filled out about eight or nine green sheets to request mental health. (Speight et al., 2019c, p. 16)

In some cases, prisoners reported that even urgent health care needs such as extreme pain, broken bones, and toothaches were left unaddressed for weeks and even months (Speight et al., 2019c, p. 28). Accessing health care is further hindered as prisoners are made to decide between proper health care and other rights (Speight et al., 2019d). That is, prisoners reported that they

were regularly forced to choose between accessing their medication and other basic rights such as yard time and in-person and video court appearances (Speight et al., 2019d).

When prisoners were finally able to speak with a health care professional, some reported feeling as though they were rushed through their visits and that their concerns were not being taken seriously (CAB, 2017, p. 9). As one prisoner describes:

Mental health nurses themselves, they do their rounds in segregation, but in my opinion, there is not much that they can offer us, they are not giving us much to go on. ‘Are you okay? Is there anything I can do for you’ I’m depressed, angry, and frustrated – I’m looking at them like, ‘so thanks for just checking up on me.’ They come to the door, but don’t even open the hatch. (Speight et al., 2019b, p. 23)

In the final OCDC task force progress report, OCDC claimed that the progress it had made regarding health care matters included, among other things, “determining appropriate private spaces for inmates to see health care professionals privately on each living unit” (MCSCS, 2017b, pp. 14–15). Conversely, a number of prisoners continue to express concerns regarding a blatant disregard of their medical privacy and inadequate examination facilities. Indeed, callers to the JAIL hotline report that medical and mental health care staff speak with them regarding their confidential physical and mental health issues through their cell doors, in some cases without even opening the hatch (Speight et al., 2019a, pp. 5-6). This acts as a barrier for individuals seeking medical attention, as they were uncomfortable disclosing such private health information while other prisoners on their range could hear them. As two prisoners explain:

Half the time here you don’t get to go speak to the doctor privately. He will speak openly on the range about you. If you have personal issues the whole range can hear everything. (Speight et al., 2019a, p. 6)

You don’t feel safe about talking about mental health or other sensitive issues to your general practitioner. (Speight et al., 2019a, p. 6)

This practice of social workers and psychologists delivering mental health care through cell doors or hatches – euphemistically referred to as “cell front” therapy – is not uncommon (see

Ahalt et al., 2017; Haney, 2003; 2008). Indeed, the use of cell front therapy has been an on-going, significant critique of mental health care within the broader literature surrounding federal imprisonment (see Haney, 2003; 2008). The austere conditions of confinement, coupled with the starkness, deprivation, and restraint inherent to the penal environment, creates a therapeutic ecology that can be fairly described as “cruel” (Haney, 2008, p. 973). As Haney (2008) explains, this form of mental health care limits genuine interaction, trust, and rapport building between the care professional and the individual incarcerated. As a result, prisoners often experience further deterioration of their mental and physical health. In this sense, the use of cell front therapy represents yet another example of penal logic dominating the health care domain in jails and prisons, ultimately affecting the quality of care afforded to prisoners (Ahalt et al., 2017).

In response to a group complaint made to the College of Physicians and Surgeons of Ontario, OCDC’s sole medical practitioner, Dr. Klar, described the current situation at OCDC as:

...dysfunctional for providing care to patients... Currently, it contains a metal bench, similar to a park bench, where I examine patients, and nothing else. The room is not entirely enclosed and has a glass wall that allows all staff and inmates walking past to see into the room... (excerpt from Speight et al., 2019c, p. 25)

Dr. Klar goes on to explain that his ability to deliver adequate and proper health care is markedly hampered by the OCDC administration:

...MSG staff poses a great barrier for incarcerated persons to access the appropriate and equivalent healthcare. Staff, under the pretence of “security,” sometimes refuse to transfer patients from their cells to the designated room to be examined. Staff have complete discretion over inmate transfers, and even if I request a patient to be transferred to allow me to better examine them, my request may be refused. This is true in every unit at OCDC. This is Ministry policy and I have no control over it. I may request patients to be transferred to the healthcare unit for further assessment if, during the Emergency List or Doctor’s Parade, it becomes clear a patient requires care that is more involved [...] [transferring patients] to the health care unit [...] may take few hours. MSG staff retain discretion to refuse to transfer patients to the health care unit, despite my requests. (excerpt from Speight et al., 2019c, p. 25)

In his response, Dr. Klar points to Ministry staff and OCDC employees as posing significant barriers to the proper delivery of health care at the facility. As he notes, staff, “under the pretence of security,” interrupt regular health care service delivery, affecting the standards of care that Dr. Klar is able to provide to his patients. The OCDC administration’s reference to safety and security is used as a technique to neutralize meaningful transformative change aimed at ameliorating health care conditions at the jail. For example, the lack of medical privacy at OCDC is due in large part to the absence of appropriate spaces to conduct medical exams; however, by claiming that private spaces would compromise the safety and security of the institution, OCDC is able to effectively neutralize the suggestion that increasing privacy for prisoners during health procedures and examinations will result in improved health care. Further, delays to health care service delivery are explained away as consequences of ensuring safety and security within OCDC. By referring to safety and security, system members can subvert initiatives that challenge the status quo, ultimately neutralizing social change (see Mathiesen, 2006).

In the same vein, staff can also be seen to refer to policy and procedure as another means through which to neutralize the threat of new initiatives in the health care department. For example, when detailing the lack of access prisoners have to adequate health care, Dr. Klar concludes that “this is Ministry policy and I have no control over it” (Speight et al., 2019c, p. 25). Similar to referencing safety and security, when Dr. Klar references policy and procedure it allows him and the system more broadly to neutralize any form of social change. As Mathiesen (2006) explains, the use of reference as a technique of neutralization implies that OCDC is a dependent link in a larger system which has superior authority, and ultimately disclaims responsibility “for going against new ideas which might bring fresh thinking into the life and system of the [jail]” (Mathiesen, 2006, p. 44). Through a combination of references to safety and security, as well as

policy and procedures, Ministry members and OCDC functionalities are able to maintain the status quo despite concerted effort on the part of the dedicated task force, CAB members, activists, and researchers to change it. As a result, issues relating to inaccessible health care request forms, delayed health care delivery, and a lack of medical privacy persist at OCDC.

Another pressing issue at OCDC concerns the significant misadministration of medication, ranging from the dilution of medication in water, administering the wrong medication, and the complete suspension of medication altogether for certain prisoners at the jail (Speight et al., 2019d, p. 15). Moreover, the CAB (2018) reported a significant number of complaints regarding the regularity and proper delivery of medication at OCDC. JAIL hotline callers continue to frequently report instances where medication has been either greatly reduced or completely cut-off upon admission to the jail. Under the pretence of preserving the safety and security of the prisoners, OCDC inhibits the proper administration of medication leading to disastrous effects. As one prisoner explains:

What they do here is if you're suspected of hoarding, they're taking away or diluting our medication – especially people who have complex mental health issues... Meanwhile they have got a string of suicides and suicide attempts. (Speight et al., 2019b, p. 22)

In the name of the “safety,” OCDC sometimes dissolves prisoners’ medication in water to address suspected hoarding. Contrarily, this measure of claimed “safety” actually causes prisoners’ medication to take effect all at once as opposed to over the course of the day, leading the individual to experience a severe crash after which they no longer feel the effects of the medication (Speight et al., 2019b, p. 22). Prisoners explain that this practice not only reduces the intended effect of the medication, but is also extremely stigmatizing, degrading, and triggering (Speight, et al., 2019c, p. 26). As one prisoner explains:

They are giving me a hard time. They are giving me meds at night and they are diluting [them] in water, [saying] ‘if you don’t take this, you’re not gonna be getting your medication. (Speight et al., 2019b, p. 26)

Furthermore, one prisoner explains that sometimes he does not even receive the correct medication:

They gave me the wrong medication four or five times. They put all the pills in a little Dixie cup and when the cart hits a bump the pills go into other cups. Last time, the nurse hit a bump and water got spilled onto the pills. (Speight et al., 2019d, p. 15)

OCDC’s justification of this practice as a means of upholding the safety and security of the institution illustrates the system’s use of referencing the safety and security of the institution as a means of stifling change to the harmful and potentially fatal treatment of prisoners. As prisoners reported to the JAIL hotline, the scale between care and institutional security rarely tips in favour of prisoners, often leading to the deterioration of one’s health (Speight et al., 2019a; 2019b). By referencing the safety and security of the institution, system members effectively subvert blame for blatant mistreatment and neutralize any suggested new or competing ideas on account of the preservation of the safety of prisoners at OCDC and the institution more broadly.

As previously highlighted, in 2016 the OCDC task force conducted a comprehensive review of health care at the jail, and among other things, committed to improving timely access to dentists (MCSCS, 2016a). In the second progress report, published in January 2017, OCDC reported that “weekly on-site dental services [had been] initiated” (MCSCS, 2017a, p. 14). Despite these claims, there continues to be a severe and urgent need for improved dental services at OCDC. Prisoners report that it is extremely difficult to access dental care, and when it is available, the quality of care is appalling. Indeed, prisoners reported to the JAIL hotline that “rather than filling cavities and repairing damaged teeth, tooth extraction was presented as their only option for resolving emergency dental issues” (Speight et al., 2019d, p. 11). Several prisoners put the current condition of dental care at OCDC in grim perspective:

There is no funding for dental. They just pull our teeth...

I had a filling from a cavity, and it kept hitting the nerve and hurting. I pulled a molar out with tweezers because I couldn't take it anymore! I had been putting green sheets – 2 per week – for 2 weeks and I still haven't seen the doctor. I figured that the doctor would see me because I have an infection...

I am so mad at the jail – I had to pull my own tooth out because I couldn't get a dentist... (Speight et al., 2019d, p. 11)

A significant lack of access to dental care coupled with substandard quality of care and inadequate resources exposes prisoners at OCDC to a myriad of potential infections and illnesses further contributing to the degradation of their health.

While OCDC formally recognized that the condition of dental health care at the jail was substandard, little was done to improve the level of care or treatment of prisoners. This lack of action is evidenced by the ceaseless complaints of prisoners detailing barbaric experiences regarding their dental health. This illustrates Mathiesen's (2006) technique of puncturing, whereby the possibility of improved dental health care appeared to be taken seriously by OCDC officials, but never put into action to meaningfully address the needs that exist. Indeed, by making a formal recording of prisoner complaints and nothing more, proposed changes to dental care were effectively punctured (Mathiesen, 2006, p. 45).

As reported by current prisoners, the health care status quo at OCDC is characterized by a lack of access to health care services and professionals, lack of medical privacy, delayed health care, and misadministration of medication. By employing neutralization techniques such as postponement, puncturing, and reference, Ministry officials and jail functionaries are able to maintain the status quo at OCDC and successfully counter transformative social change. The following sub-section turns to a detailed examination of the existing conditions of mental health care at the jail and how Ministry and OCDC officials have maintained them.

### 5.1.2 – Mental Health Support

While the OCDC task force action plan dedicated a section of its recommendations to the improvement of health care service delivery, only three recommendations touched upon the complex mental health care needs of its incarcerated population: the improvement of mental health training, the establishment of step-down units, and the development of alternative housing options within the jail for prisoners living with mental health issues (MCSCS, 2016a). This section explores the mental health care system at OCDC, the implementation of the abovementioned recommendations, and the tactics employed by system members and jail functionaries to maintain a substandard quality of care despite these recommendations.

Mental health has continued to be an issue of great concern at OCDC, as a result of a growing proportion of prisoners suffering from mental health issues and a corresponding lack of services to detect and properly treat these issues (CAB, 2015). CAB members continue to hear concerns about and directly observe the distress of prisoners with mental health conditions at OCDC (CAB, 2017, p. 9). As evidenced by both CAB and JAIL hotline reports, OCDC currently lacks the appropriate resources, facilities, and care professionals to adequately deal with the complex needs of its prisoners (see CAB, 2016; 2017; Speight et al., 2019b; 2019c; 2019d).

These issues are exacerbated by the lack of accessibility to the few mental health care professionals at OCDC. Several prisoners reported submitting well over a dozen requests to access mental health care professionals to no avail (Speight et al., 2019d, p. 17). A prisoner held at OCDC sheds some light on this problem by detailing his experience with mental health services at the jail:

I have been begging for psychiatric help, but still haven't seen no one from mental healthcare...When you are suicidal and have to talk through a metal hatch...[it tells me] they want to get rid of me. (Speight et al., 2019d, p. 17)

In response to the CAB's request for increased access to mental health professionals, OCDC officials explained that they were unable to do so at the time as a result of a lack of resources and staff shortages (see CAB, 2017). As such, they claimed that "this process does take a considerable amount of consultation and planning as it impacts current work arrangements for staff" (CAB, 2017, p. 21). While the OCDC administration formally recognized the problem, they subverted change by claiming that they were unable to make the necessary improvements. By maintaining this position, they are able to indefinitely halt meaningful social change under the guise of unpreparedness. This practice illustrates the technique of postponement as the initiative is 'not possible now.' This neutralization technique enables OCDC officials to suspend any form of change which may conflict with system interests for the time being.

At the centre of the issues surrounding inaccessible mental health is the lack of care professionals, which has persisted for years at OCDC (CAB, 2015, p. 3; also see CAB, 2016; 2017; 2018). Indeed, in its most recent report, the CAB reiterates that the retention and recruitment of qualified health care professionals continues to be a significant concern at OCDC (CAB, 2018, p. 16). By postponing new initiatives to change mental health care delivery at OCDC, the administration is able to effectively maintain the status quo at the jail and justify its mistreatment of prisoners living with mental health issues on the grounds that it does not have the personnel to offer improved services. The vulnerable position prisoners are in at OCDC is further compounded by the few instances reported to the JAIL hotline of prisoners with mental health issues being treated poorly by carceral officers who are mainly concerned with upholding institutional order and security at the jail. As two prisoners explain:

They tell us shut the fuck up, and if you're knocking on the door for the phone or a channel change, they slough you off. There are people that have extreme mental health and the guards mock them. That's not right, it's not cool. (Speight et al., 2019a, p. 8)

Guards are psychologically abusing me. (Speight et al., 2019a, p. 8)

The inadequate treatment of prisoners with mental health issues at OCDC has been a significant area of concern for a number of years since it was initially brought to the forefront by an especially troubling revelation. In 2013, OCDC's poor and inhumane treatment of one prisoner in particular foregrounded the prospect of a major overhaul of mental health care policies and procedures across the provincial jail system. In 2011 and 2012, Christina Jahn, a woman struggling with mental health and addiction issues was confined in a ten by twelve-foot segregation cell for more than 200 days (IROC, 2017, p. 19). After Jahn was released, she launched a formal human rights complaint against the Ministry claiming she had been "discriminated against based on her gender and mental health disabilities" (IROC, 2017, p. 19). The Ontario Human Rights Commission (OHRC) subsequently became involved, and in 2013 the parties reached a landmark settlement that "incorporated ten public interest remedies targeting the use of segregation and mental health treatment" in Ontario's provincial prison system (IROC, 2017, p. 19).

The public interest remedies (PIRs) targeted ten broad areas for further reform, including commitments to improve conditions of segregation, mental health screening, access to mental health care services, and mental health care training for front-line staff at OCDC (IROC, 2017, pp. 53-4). Furthermore, each remedy had an enforceable deadline which was monitored by the OHRC. However, in spite of their legal enforceability, very few of the PIRs were adequately implemented in practice (see Cole & Hannah-Moffatt, 2020). For instance, one of the remedies that aimed to improve mental health training for front line staff and managers in Ontario provincial jails was never actually translated into practice. According to the Jahn settlement schedule A, this training initially aimed to address:

- a. Human rights obligations and the need to accommodate inmates with mental illnesses;
- b. identifying barriers that are the symptoms of mental illness;

- c. the impact of punitive measures, such as the use of force and segregation, on inmates' mental illness; and,
- d. the specific needs of particularly vulnerable inmate populations with mental illness. (Jahn v. Ontario Ministry of Community Safety and Correctional Services, 2013, p. 6)

This training initiative was further emphasized in the OCDC task force action plan, which recommended that the Ministry once again review the “correctional officer curriculum” to ensure that it was up to standard and determine whether any further training was required (MCSCS, 2016a, p. 16). In the first progress report, OCDC officials claimed that sufficient mandatory health training was being delivered at the institution.

Despite these assurances, the final report of the Ministry's compliance with the 2013 Jahn settlement published in February 2020 revealed that mental health care training had not, in fact, been improved. Indeed, it was revealed that “there is a lack of training curriculum at the foundational level for correctional officers surrounding the creation, exercise, and communication of care plans” for prisoners with mental health issues (Cole & Hannah-Moffat, 2020, p. 67). In response to the exposed training inadequacies, it was recommended that Ontario significantly improve its mental health training for front line staff and provide more clear and standardized training to meet the requirements set out in the PIRs (Cole & Hannah-Moffat, 2020).

In January 2020, the MSG announced that it was launching a new “corrections foundational training program” with a “redesigned curriculum” in response to “concerns raised about the previous training program by various stakeholders, reports, and coroners' inquests” (Isabeau-Ringuette, 2020, para. 4). Therefore, despite the fact that this pressing issue was initially brought to the attention of the Ontario Ministry in 2013 by the Jahn settlement and again as part of the OCDC task force, it took the Ministry several years to – at least on paper – address the limitations of their mental health training curriculum. In spite of this press release, it must be noted that the Ministry has already claimed to have improved front line staff mental health training twice: first

in response to the Jahn settlement PIRs, and then later in the OCDC task force progress reports, where it claimed that staff mental health training was sufficient and up to standard.

Given the Ministry's previous claims that the mental health training curriculum for front line staff had been improved even though in practice it had not, this newly redesigned curriculum is comparably vulnerable to neutralization. In other words, the Ministry has made similar claims to have redesigned mental health training programs in theory, but has a track record of not carrying them out in actuality. Therefore, similar to past events, it is possible that this new curriculum will be neutralized as a good idea in theory, but never actually implemented in practice, thus subsuming social change in this area.

The Jahn settlement further highlighted OCDC's harmful and inappropriate use of segregation as a means of subduing prisoners with mental health disabilities. Indeed, two of the PIRs explicitly stated that both administrative and disciplinary segregation should not be used unless the Ministry could absolutely demonstrate that all alternatives to segregation had been considered and rejected "because they would cause undue hardship (including for reasons related to security and/or health and safety concerns)" (Jahn v. Ontario Ministry of Community Safety and Correctional Services, 2013, p. 4). However, despite these PIR's, this harmful practice continues to occur in provincial jails across Ontario. Indeed, a 2017 Contravention Application initiated by the OHRC with the Human Rights Tribunal of Ontario, revealed that:

...Ontario explicitly recognized that segregation was harmful for this group and agreed, as part of a binding settlement agreement, to prohibit segregation for individuals with mental illness unless it would cause undue hardship. Four years later, two independent reviews have revealed that *Ontario has not lived up to that commitment*. (Cole & Hannah-Moffat, 2020, p. 2, emphasis added)

Notwithstanding a legally binding commitment, the Ministry continues to confine individuals with mental health disabilities in segregation cells (Cole & Hannah-Moffat, 2020). For

instance, in their most recent compliancy report, Cole and Hannah-Moffat (2020) found that the policies outlined in the Jahn settlement have simply not been translated into practice in Ontario provincial jails. In fact, Cole and Hannah-Moffat (2020) reveal that prolonged segregation of 15 days or longer “remains a routine practice for individuals with mental health and/or suicide risk alerts on file” (p. 25). It was found that roughly 46% of the prisoner population in segregation (or 12,059 individuals) had a verified or unverified mental health alert on file during their stay in segregation (Cole & Hannah-Moffat, 2020, p. 22). Moreover, these individuals tended to have high numbers of aggregate segregation days and repeated segregation placements. In addition, despite the Ministry’s commitment to seek alternatives to segregation for individuals with mental health disabilities, “only 35% of segregated inmates with noted mental health concerns had any comments regarding alternative housing. Of those that did explore alternatives to segregation, most were inadequate to comply with the Ministry’s human rights obligations” (IROC, 2017b, p. 72).

Consequently, the vast majority of the province’s jails still regularly segregate individuals with mental health issues for weeks and months at a time without adequate justification, flying directly in the face of the legally binding commitment the Ministry made in 2013 to abide by the Jahn settlement PIR’s (Cole & Hannah-Moffat, 2020). As evidenced by CAB and JAIL hotline reports documenting current prisoners’ experiences, OCDC is among one of the facilities that continue to house prisoners with mental health issues in segregation for extended periods of time (see CAB, 2017; Speight et al., 2019c; 2019d).

In order to address this issue, the OCDC task force further recommended that mental health treatment capacity be established to “address the overuse of segregation for those with mental health needs” (MCSCS, 2016a, p. 18). In the final task force progress report, this recommendation was designated as still in progress, with additional mental health care staff and resources to be

allocated to it (MCSCS, 2017b, p. 21). However, in the most recent Jahn settlement compliancy report (i.e., Cole & Hannah-Moffat, 2020), it was revealed that prisoners with mental health disabilities continue to be housed in segregation in Ontario jails.

Therefore, in spite of the Ministry's commitment to the 2013 Jahn settlement PIRs and the 2016 OCDC task force action plan, prisoners at OCDC with mental health issues continue to be confined in segregation for long periods of time with notably limited mental health resources and support. As one prisoner explains:

Healthcare when I was in segregation on suicide watch at Innes was terrible... You're not treated correctly for your medical or mental health issues. Instead, you're getting punished and your mental health issues are being exacerbated... (Speight et al., 2019b, p. 24)

This exercise in continued deferral illustrates Mathiesen's (2006) technique of puncturing, whereby the significance of the alternative initiative is diminished, while a front of understanding and enthusiasm for the idea is maintained. Consequently, the new idea is incorporated into the system through a formal recording, but never actually carried out in reality. For instance, the Ministry committed to both the Jahn settlement PIR's and subsequently the OCDC task force action report's directives to prohibit segregation for individuals with mental health disabilities in theory; however, this was never actually implemented in practice. Therefore, this new initiative which would see a great reduction in the use of segregation was subsumed by the system; in other words, it was effectively punctured and gutted of its capacity to incite transformative social change. Thus, by employing Mathiesen's (2006) technique of puncturing, the Ministry has repeatedly neutralized new policy that threatens to upend the status quo and system order, while seemingly maintaining enthusiasm and acceptance of new initiatives.

In addition to OCDC's continued use of segregation, the jail generally lacks the proper facilities to adequately support individuals with mental health disabilities. As the CAB (2017)

contends, OCDC is a remand institution, and is thus unequipped to meet the significant and complex needs of these individuals from either a physical or a programming perspective, “resulting in aggravation rather than reduction of conditions and symptoms” (CAB, 2017, p. 9). There is no clearer illustration of OCDC’s need for more appropriate facilities than the deaths by suicide that continue to occur at the jail (see CAB, 2018, p. 16). Over the past two years alone, several prisoner deaths by suicide have been linked to the subpar facilities at the jail (see Crawford, 2018; Butler, 2018; Dubinski, 2018; Gillis, 2017; Solomon, 2017).

In response to the widespread criticism regarding its inappropriate facilities, the OCDC task force recommended the establishment of alternative ‘step-down’ and ‘mental health units’ with dedicated and trained staff to “better accommodate inmates with mental healthcare needs” (MCSCS, 2016a, p. 15). The purpose of these units was to provide support “to inmates suffering a mental health crisis to relieve symptoms and stabilize behaviours to enable them to function within a step-down unit” (MCSCS, 2016a, p. 15). These units were proposed to have, among other things, timely access to essential services, improved and broader access to programs, clinical and psychotherapeutic support, and suicide and self-injury prevention (MCSCS, 2016b, p. 16). While OCDC committed to this long-term recommendation in theory, in practice, existing segregation ranges were rebranded as step-down and mental health units. As OCDC officials explain, an existing segregation area has been “successfully repurposed” as “interim step-down units” (MCSCS, 2017b, p. 15). As of 2017, three of those “interim step-down units” continued to operate (MCSCS, 2017b, pp. 15-6).

Despite the task force’s call for more appropriate mental health facilities, OCDC continues to use the same facilities under a different name. In these ‘mental health units,’ prisoners are confined to their cells for at least 17.5 hours of the day. During the unlock hours, subject to any

incompatibility issues, prisoners have the option to leave their cells to access a day room. As the IROC (2017) team reports, these units continue to rely heavily upon significant in-cell restrictions and operate under ‘segregation-like’ conditions. These ‘segregation-like’ ranges constitute restrictive housing that “looks and smells like segregation” (IROC, 2017, pp. 80-81). The arrangement typically allows for increased out of cell time and more association with other prisoners, but is still highly restrictive (IROC, 2017b, p. 80). As Cole and Hannah-Moffat (2020) point out, such alternative housing units have the capacity to “transform the frequency and longevity of placement [into] ‘conditions that constitute segregation’” (p. 14). Given that the Ministry has yet to set “hard time-out-of-cell” parameters for these specialized units, there remains potential for such units to amount to segregation under a different name (Cole & Hannah-Moffat, 2020, p. 14). To make matters worse, those confined in these specialized units “do not benefit from the existing safeguards afforded to those who are officially segregated” (IROC, 2017b, p. 81).

Therefore, under the guise of a ‘step-down’ or ‘mental health’ unit label, OCDC continues to operate in largely the same manner, confining prisoners to glorified segregation cells with arguably fewer safeguards. This form of rebranding is similar to CSC’s development of ‘structured intervention units’ (SIU) to replace segregation. In 2019, Bill C-83 ended the use of administrative and disciplinary segregation, replacing it with the newly established SIUs (Casavant & Charron-Tousignant, 2019). However, in practice, the SIUs are being run in virtually the same fashion as segregation, using the same facilities and enforcing the same strict rules (Thornhill, 2019). In fact, a recent report assessing CSC’s operation of the newly opened SIUs found that a large number of prisoners rarely received their requisite out-of-cell time or meaningful human activity (Doob & Sprott, 2020). As Senator Kim Pate (2018) explains, this is, in effect, a “cynical exercise that merely rebrands this cruel treatment” (para. 2). Therefore, certain parallels can be drawn between

CSC's and the Ontario Ministry's claims to reform segregation primarily by way of rebranding and rhetoric only.

This exercise is a clear illustration of Mathiesen's (2006) technique of absorption, whereby an alternative is picked up by the system but reformed to fit within the current order. For example, the task force recommended the cessation of segregation as a primary means of dealing with individuals who have significant mental health issues and suggested step-down and mental health units as an alternative. While OCDC picked up this recommendation, they effectively reformed it to fit within the current order by rebranding a segregation area with segregation-like conditions as new and improved units for those with mental health issues. In doing so, the alternative step-down and mental health units were implemented in a way that subtly neutralized the new and competing element, defusing the initiative and rendering it non-threatening to the current order. As Mathiesen (2006) elucidates, while the name of the alternative is maintained, the initiative is picked up and implemented in a way which "imperceptibly changed the new element in it, so that it in practice fits into the prevailing structure without threatening it" (p. 45). By absorbing the recommendation of alternative facilities to support prisoners with significant mental health issues, OCDC quells any form of meaningful change within the facility.

In addition to the proposed establishment of step-down and mental health units, the OCDC task force further recommended the development of 'alternative housing options' to address the inadequate mental health facilities at OCDC. The aim of this recommendation was to collaborate with partner ministries and community agencies to explore "alternative housing options such as mental health facilities or dedicated addiction treatment spaces for those sentenced offenders with mental health needs" (MCSCS, 2016a, p. 15). As described by one prisoner, the need for alternative housing options for individuals struggling with mental health issues at OCDC is dire:

I have a front row seat to guys [with mental health and addictions issues] dying in here when they could just be sent to mental health centres. (Speight et al., 2019b, p. 13)

In the final progress report, the OCDC task force pointed to the Ministry's plan to build a new, 725 bed 'multi-purpose' replacement jail in Ottawa that would, among other things, incorporate alternative housing units such as mental health and infirmary to "support better outcomes for inmates with specific programming needs" (MCSCS 2017b, p. 16). Therefore, OCDC and the Ministry more broadly took the recommendation of seeking *alternative* housing options such as community-based mental health facilities and addiction treatment centres and said that they would implement it by instead building a new jail with appropriate "medical" and "infirmary" spaces, while continuing to monitor other options in the community (MSG, 2017b, p. 116). In doing so, the Ministry employed Mathiesen's (2006) technique of absorption, whereby the idea was implemented in a way which subtly neutralized the new element. That is, while the alternative housing recommendation was picked up by the Ministry, it was reformed to fit within their current system and incorporated into their future expansion plans, effectively defusing any threats to the current order and using them as opportunities to further entrench penal power.

Inaccessibility of mental health care professionals, lack of training for front line staff, and inadequate facilities constitute the existing conditions of mental health care at OCDC. In the face of both the 2013 Jahn settlement PIR's, the OHRC contravention application, and subsequently the OCDC task force action plan, conditions of confinement for individuals incarcerated with mental health issues in Ontario's provincial jail system remains largely inadequate. As evidenced by IROC, CAB, and JAIL hotline reports, OCDC and the Ministry have effectively maintained the current state of affairs at the jail using a combination of puncturing, absorption and postponement to stifle any form of meaningful transformative social change. By both deferring action and reforming new initiatives and alternatives to fit within the current system, OCDC and the Ministry

are able to reproduce the legitimacy of the provincial prison system and sideline ideas that challenge its existence (Piché, 2014, para. 21).

### **5.1.3 – Addiction Support**

Given that roughly 25% of OCDC’s prisoner population struggles with substance use issues, there is a significant need of the appropriate services to support them (MCSCS, 2016a). Issues relating to adequate addiction support were raised in the OCDC task force action report, calling for expanded programming and resources for prisoners with drug use issues (MCSCS, 2016a, p. 15). In the final progress report, this recommendation was deemed to be completed, claiming that programming had indeed been increased for both male and female prisoners at the jail (MCSCS, 2017b, p. 15). Despite these claimed developments, prisoners at OCDC continue to complain of a lack of access to information regarding addiction support (Speight et al., 2019d). Indeed, prisoners reported that they were frustrated with the lack of resources made available to them to address their issues with substance use and requested better access to these potentially life-saving resources (Speight et al., 2019d). As one prisoner explains:

We need more access to drug treatment and mental health care within the inside so you can get recovery [resources] before getting out. (Speight et al., 2019d, p. 14)

One of the most frequently complained about issues surrounding addiction support is the inadequate delivery of opioid substitution therapy (OST) at OCDC. While no task force recommendation was directly linked to this issue, the call for a comprehensive health care review included the timely access to methadone delivery, a substance crucial to aid prisoners battling substance abuse issues at the jail (MCSCS, 2016a). Despite the claimed ‘completion’ of this recommendation and the implied improvement of health care service delivery, both CAB and JAIL hotline reports continue to cite instances in which prisoners are unable to access OST, leading to

devastating consequences for these individuals, including overdoses (see CAB, 2016; 2017; Speight et al., 2019b; 2019c; 2019d). In spite of this recognized issue, individuals incarcerated at OCDC continue to face barriers accessing their methadone and suboxone prescriptions. As a JAIL hotline report elucidates, many prisoners have reported that they were either not being administered the correct dosage of their methadone or suboxone, or not receiving any at all (Speight et al., 2019b). Two prisoners explain the struggle to access OST and the devastating consequences it has:

I've been on methadone and suboxone for six years and they aren't giving me my methadone even though my doctor already faxed the prescription. They're trying to take me off my [other medication] – I can't do it. I need to be on something. (Speight et al., 2019b, p. 12)

...The last thing I want to do is be cut off my medication and then get released and do fentanyl and die... (Speight et al., 2019c, p. 27)

When their mobility is compromised, individuals incarcerated at OCDC accounted experiencing additional barriers to accessing their OST:

Last bid, I couldn't walk for a full month because of a serious infection. I was lucky if I got one meal because I couldn't walk to the hatch. Because I couldn't walk, I often didn't get my methadone unless a nurse brought it to me. I was supposed to do two-thirds of 90 days, but ended-up doing 120 full days because they wouldn't bring me to court. I said that's enough – I dragged myself to a wheelchair and dragged myself to the transfer wagon... (Speight et al., 2019b, p. 14)

The guys who are on methadone and suboxone had to leave the range [to get their OST]. Some of them who were in the middle of throwing-up, were told that if you don't come right now, it's too bad, you won't be getting anything today. (Speight et al., 2019b, p. 14)

Individuals incarcerated at OCDC also reported to the JAIL hotline that they were being given a 'withdrawal cocktail' in place of OST. Withdrawal cocktails are typically composed of a series of medications which prescribed together are intended to address the acute and anticipated symptoms of substance withdrawal (Speight et al., 2019d, p. 13). However, as one prisoner explains, these cocktails can have potentially fatal effects:

They give you a pretty shitty withdrawal cocktail. I see people go through really bad withdrawal. You can die from fentanyl withdrawal. I want to see health care get better. (Speight et al., 2019d, p. 13)

Concerningly, multiple prisoners have also reported the deliberate weaponization of OST delivery as a means of punishing prisoners. That is, individuals incarcerated at OCDC record instances of guards using the administration of methadone and suboxone as a retaliation tool to ‘discipline’ people (Speight et al., 2019b, p. 14). As one prisoner explains:

I went to the hole, was in the hole 3 o’clock usually I get my methadone at 12:00pm – the guard knocks on the door and says I’m not giving you methadone until 20:45 because you fucked with one of my brothers. (Speight et al., 2019b, p. 15)

The effects of withholding methadone and suboxone from prisoners is extremely dangerous and potentially life-threatening. Individuals currently incarcerated at OCDC describe the experienced side effects, including illness, overdose, and possible death:

Some people get cut off their methadone inside. Then when they get released the methadone clinics are closed, and people get heroin with fentanyl in it and they OD. (Speight et al., 2019b, p. 13)

I was tapered off Suboxone while at OCDC. Within three weeks they tapered me down to 2 milliliters. After release, I wasn’t able to make it to my methadone clinic and ended-up overdosing... I told jail staff if you guys don’t let me see the doctor before I get released, I am going to have an overdose. (Speight et al., 2019b, p. 13)

When confronted with the issue of inaccessible OST at their jail, OCDC administrators and Ministry officials countered by stating that the methadone maintenance program was under the exclusive jurisdiction of the health care department, and that ultimately, “the health care professionals determine the requirements for the administration of medication including methadone” (CAB, 2016, p. 21). However, a prisoner at OCDC who attempted to confront the health care department regarding OST reported that he was told that it was out of OCDC’s hands:

...They told me to contact my doctor to fax the dose for verification, but I still haven’t received anything... I’m only going to be here for a maximum of three weeks. This [OCDC] doctor doesn’t seem to give a fuck about anybody in the institution. He’s impossible to deal

with. I literally smashed my head off the wall to get his attention. (Speight et al., 2019b, p. 12)

This practice in denying responsibility illustrates how Ministry officials and OCDC functionalities use Mathiesen's (2006) technique of making reference to higher demands and authority. That is, when confronted with new ideas or alternatives to the current system, those responsible for maintaining system interests simply refer to superior authority invested in demands from the outside (Mathiesen, 2006, p. 44). For example, when OCDC and Ministry officials are faced with the inaccessibility of OST and its drastic effects, they defer responsibility by referring to the superior authority of health care professionals. In doing so, they disclaim the authority to implement any meaningful transformative changes by claiming that they are not in a position to do so but are rather links in a much more complex system. As a result, ideas proposed to improve addiction support at the jail are effectively neutralized.

In spite of the fact that OCDC and Ministry officials claimed that both recommendations from the task force concerning addiction support were complete, it is clear that meaningful change has not actually taken place. This is evidenced through the abovementioned accounts of individuals incarcerated at OCDC who continue to experience barriers accessing their OST such as failure to provide methadone and suboxone within the appropriate time frame, challenges accessing addiction support resources, and the weaponization of the administration of OST by OCDC front line staff (Speight et al., 2019a; 2019b; 2019c; 2019d). Thus, while the Ministry accepted the idea of improved addiction support for prisoners at OCDC, the new ideas were never actually put into practice. Therefore, the new alternatives were effectively punctured and gutted of any meaningful change. As a result, inadequate practices continue despite efforts to incite change.

In most cases, OCDC justifies their poor addiction support practices by placing emphasis on both institutional security and discipline. As evidenced above by current prisoners' accounts,

OST is either modified for fear of hoarding (e.g. dissolved in water), or in some cases withheld entirely to punish prisoners for unrelated issues (see Speight et al., 2019c; 2019d). This justification further illustrates the technique of reference to safety and security of the institution, whereby OCDC is able to uphold its poor treatment of individuals with substance abuse issues in the name of institutional security. In doing so, both jail functionaries and Ministry officials simultaneously evade responsibility for their actions and maintain their harmful practices all in the name of safety. Through a combination of Mathiesen's (2006) techniques of reference and puncturing, OCDC staff and Ministry officials are able to effectively maintain the status quo at OCDC concerning addiction support and subvert meaningful transformative social change.

## **5.2 – Conditions of Confinement**

Throughout the years, OCDC has been the subject of much attention as a result of the mistreatment of their prisoners. As such, the task force action plan proposed ten recommendations directly related to improving conditions of confinement at the jail (MCSCS, 2016a). This section examines the most frequently cited issues related to conditions of confinement at OCDC and explains how – despite the creation and alleged implementation of the ten recommendations – these issues persist. Specifically, it focuses on the five principal problems as disclosed by individuals incarcerated at the jail including conditions of segregation, programming and recreation, cleanliness of the institution, food and nutrition, and the institutional phone system. It also reveals the neutralization techniques employed by Ministry officials and jail functionaries to maintain the status quo in relation to these matters.

### **5.2.1 – Conditions of Segregation**

In early 2016, media reports detailing the mistreatment of prisoners began to circulate, revealing that individuals incarcerated at OCDC were being segregated in shower cells to alleviate capacity issues (IROC, 2017b). Despite prohibiting the use of shower cells to house prisoners in February 2016, it was revealed in April that this practice continued to occur. As a result, the incumbent superintendent at OCDC was dismissed immediately (IROC, 2017b, p. 16). Furthermore, it was found that among all Ontario provincial jails, OCDC reported the longest segregation placements, keeping prisoners in segregation for an average of 26 days (IROC, 2017b, p. 40). Indeed, from 2015 to 2016, OCDC saw a 110% increase in its average segregation numbers, rising from roughly 35 to 65 in a matter of months.

This notoriety came in addition to the Jahn lawsuit in 2013 which exposed the cruel and inhumane treatment of a female prisoner with mental health issues who was held in a segregation cell for well over 200 days at OCDC. As noted previously, once released, she filed a human rights complaint against the Ministry and subsequently earned a landmark settlement which set out ten PIRs to place limitations upon the use of segregation (IROC, 2017b).

In response to the mounting criticism surrounding the conditions of confinement and capacity issues at OCDC, the Minister established the OCDC task force in March 2016 (IROC, 2017b, p. 16). To address the conditions of segregation at the jail, the task force developed a comprehensive plan to reduce the use of segregation at the jail and further expressed a desire to abolish the use of segregation as a whole (MCSCS, 2016a, p. 18). Among other things, this recommendation sought to ensure that individuals housed in segregation at OCDC would have better access to privileges, rights, and entitlements such as yard time, out-of-cell activity, and increased health care support. Further, it aimed to establish better services for individuals with

mental health needs and increase accountability and transparency in publishing segregation data (MCSCS, 2016a, p. 18).

Despite this robust plan, the conditions of confinement and use of segregation at OCDC have remained largely the same. Indeed, Cole and Hannah-Moffat (2020) illustrate the province's continued reliance on segregation, citing that administrative segregation continues to be used for male, female, and transgender prisoners, as well as those with mental and physical health concerns (p. 22). Moreover, they demonstrate that segregation practices "function in a discriminatory manner," disproportionately affecting prisoners with mental health issues (Cole & Hannah-Moffat, 2020, p. 25). These findings are supported by reports from prisoners at OCDC who detail the inadequate conditions of segregation at the jail, and the continued use of segregation for individuals suffering from mental health issues (see Speight et al., 2019c; 2019d). As one prisoner at the jail describes:

When you are in the hole, you are a person non-grata. People in segregation lost their credibility because they either got into a fight or live with mental illness. Because of that loss of credibility, it's used as a justification for a lot of mistreatment. The further you are in the hole, the more they dehumanize you. (Speight et al., 2019d, p. 26)

While some prisoners called about the length of their stay (e.g. one prisoner reported being in segregation for over 280 days), others reported not being informed of why they were placed in segregation to begin with (Speight et al., 2019b, pp. 16-7). One prisoner describes such an experience with segregation at OCDC:

I've been down here since December and in that time period I have told them repeatedly that all I want from them is my reasons for being here. I don't know why I'm down here in the first place. (Speight et al., 2019b, p. 17)

In most cases, OCDC justifies the lengthy use of segregation as a means of upholding the safety and security of the institution. As one prisoner explains:

[The administration is] telling me that there are notes written by other prisoners against me and that I'm not welcome on the unit I'm choosing to be on. Yet I can't have access to the accusations directed towards me. This is a tactic they're starting to use to segregate people they want to control. (Speight et al., 2019b, p. 17)

OCDC's continued use of segregation as a means of confining individuals with mental health issues runs contrary to the legally binding commitment made by the Ministry in 2013 to implement the Jahn settlement PIRs. Furthermore, this practice flies in the face of the task force action plan which claimed to reduce the use of segregation for those with mental health disabilities (see MCSCS, 2017b). OCDC administrators and staff are able to simultaneously resist both the Jahn PIR's and the task force recommendations and maintain the status quo by referencing the safety and security of the institution. By operating under the pretence of safety and security of the institution, Ministry and OCDC functionaries defuse threats to the established order. To make matters worse, the JAIL hotline has received several calls from prisoners whose conditions or disabilities do not allow them to be housed in a regular unit and, as a result, are forced to stay in segregation cells (Speight et al., 2019c, p. 23).

Despite the task force's recommendations and their claimed progress, it is clear that no significant improvements have actually been made. Indeed, the JAIL hotline continues to receive calls from prisoners at OCDC regarding the inadequate conditions of segregation, length of stay, and lack of transparency (Speight et al., 2019b; 2019c; 2019d). While the importance for change in this area was recognized by OCDC administrators, no meaningful action was actually taken. In other words, the recommendation was effectively punctured. That is, the recommendation to reduce the use of segregation with the long-term goal of abolition was neither rejected nor postponed, but rather "given its proper dimensions" to fit within Ministry protocol (Mathiesen, 2006, p. 45). Thus, the recommendation was formally recorded and incorporated into the system, but never actually put into action as envisaged in related reforms. As a result, the new competing

element of the alternative (e.g., the reduction of segregation) was disarmed, rendering it non-threatening to the current order.

Since 2016, new regulatory changes in Ontario prohibit jails from placing prisoners in disciplinary segregation – as a sanction for committing a ‘misconduct’ – for longer than 15 consecutive days, and limit the amount of privileges the jail can take away from the prisoner at a time (IROC, 2017b, p. 26). Further, prisoners with mental health issues or intellectual disabilities are not to be placed in segregation “unless the ministry can demonstrate and document that all other alternatives to segregation have been considered” (IROC, 2017b, p. 28).

In spite of this recommendation, individuals continue to be placed in segregation under a different label. That is, while the ‘disciplinary segregation’ label is not used, prisoners at OCDC report that the jail’s administration “systematically uses administrative and managerial tactics to circumvent this prohibition” (Speight et al., 2019b, pp. 17-8). For example, in some cases after the 15-day segregation period has ended, the individual will be released and immediately be cited for a new conduct, resigning that person once again to a renewed period in segregation. Similarly, prisoners will be sent to ‘behavioural units’ which operate in the same fashion as segregation units but lack the same restrictions on paper. As one prisoner aptly describes:

They placed me in segregation even if I finished (sic) my 15-day sentence 16 days ago. They cannot give me more than 15 days, but they give people more misconducts when their sentence is over. I asked to be put back in population because solitary confinement is affecting my mental health. They refused. They said that the only way I can get out of the hole is if I accept to go to the behavioural unit 4B. If I would accept, they offered to give me back my personal stuff that they seized from me. When they put me in 4B, they let me out to the dayroom to take shower and use the phone. However, when I was given access to the dayroom I was by myself. I’m a human being. I need to interact with people. (Speight et al., 2019b, p, 18)

Therefore, while the OCDC administration adopted the new regulations, they continue to implement them in a way which allows them to operate in virtually the same fashion as before.

This form of implementation illustrates the use of Mathiesen's (2006) technique of absorption, whereby an alternative to the current system is picked up by the system but reformed to fit within the current order. That is, while the new regulations were adopted by the OCDC administration, they were carried out in a manner which did not fundamentally impact how the jail operates. As evidenced above, once the 15-day disciplinary segregation period is reached, OCDC staff simply renew the period by charging the individual with another 'misconduct.' Thus, the new regulations were implemented in a way which subtly changed the new element so that in practice it fit within the prevailing structure without threatening it (Mathiesen, 2006, p. 45). In doing so, the competing alternative is absorbed, effectively neutralizing it.

Through a combination of making reference to safety and security, puncturing, and absorption, Ministry officials and OCDC functionaries are able to evade both task force directives and provincial regulations regarding segregation. When successfully deployed, these techniques of neutralization halt transformative social change and effectively maintain the status quo.

### **5.2.2 – Programming and Recreation**

In Ontario provincial jails, access to programming is hindered by factors such as inconsistent availability and delivery, and a lack of dedicated funding for both staff and materials (IROC, 2017a, p. 7). Further, the majority of the jails run by the Ministry have inadequate space due to the amount of people incarcerated, leaving programming to be offered in 'multi-purpose' rooms, gymnasiums, converted cells, or inside of wire mesh enclosures (IROC, 2017a, p. 7). In most cases, programs are run by community service providers, organizations, and volunteers, and rely on these individuals to supply the majority of the resources necessary to support the programs. As a result, programs are regularly cancelled or interrupted on short notice due to 'operational

requirements,' consequently impacting the quality of 'care' afforded to individuals incarcerated in these jails (IROC, 2017a).

In most cases, Ministry policy itself is the principal barrier inhibiting remanded prisoners – who make up the majority of the jail population – from accessing adequate and effective programming (IROC, 2017a). Indeed, as a result of their remanded status, these individuals are “presumptively ineligible for custodial work opportunities and community programming” (IROC, 2017a, p. 7). Further, the vast majority of prisoners are not given individualized information regarding which programs would be most beneficial or appropriate for their participation (IROC, 2017a). As the IROC (2017a) team concluded, program access in the provincial prison system is uneven and is ultimately unable to fulfill the complex needs of its prisoner population (p. 7). In order to address issues related to programming and recreation, the OCDC task force dedicated a recommendation in their action plan titled “support to diverse inmate population,” which aimed to provide increased spiritual and cultural counselling, as well as programming to the diverse prisoner population at the jail (MCSCS, 2016a, p. 18). However, despite this recommendation, barriers related to program availability, access, and delivery continue to be apparent at OCDC.

Individuals incarcerated at OCDC continue to cite a significant lack of access to programming and recreation at the jail. OCDC's track record with program development and implementation has been insufficient, at one point sending prisoners to incorrect programming or programming they had not even signed up for. For instance, the CAB (2017) reported that in a Christian program, between four and six attendees were actually Muslim, with the reverse happening with Muslim programming (p. 10).

Similarly, individuals incarcerated at OCDC have reported that the Indigenous-specific programming is mostly inadequate and inaccessible for a great deal of Indigenous individuals

confined in the jail. As noted by Speight and colleagues (2019c), some Indigenous callers to the JAIL hotline explained that the “Native Inmate Liaison Officer (NILO) denied them services on the grounds of what they termed as ‘not being native enough’” (p. 15). Moreover, prisoners also reported that the Indigenous Social Worker position at OCDC has not been filled since the retirement of the previous one, despite the need for culturally appropriate care services (Speight et al., 2019c, p. 15). Given that Indigenous peoples account for approximately 2% of Ontario’s population yet 13% of those incarcerated in provincial jails, there is a clear need to provide Indigenous-specific programming that can expressly target factors faced only by this community (IROC, 2017a, p. 10).

Most programs at the jail are run in large part by volunteers who come to the facility. However, the CAB (2017) observed several barriers as it related to community volunteer program delivery at OCDC. Firstly, volunteers reported that it was extremely difficult to contact OCDC’s deputy of programming to coordinate the development and implementation of programs at the jail (CAB, 2017). This slow response time coupled with a lack of organization on OCDC’s part led to delays in the delivery of the programs and ultimately discouraged several volunteers who ended up leaving to work elsewhere (CAB, 2017, p. 10). Furthermore, ‘misplaced’ security clearance applications, difficulty in scheduling, and concerns over volunteers being turned away at OCDC when they come to deliver the program “at times for reasons that appear less legitimate than others” has created a volatile environment for the development and implementation of programming at OCDC (CAB, 2017, p. 10).

For instance, in 2017, OCDC agreed to implement the Walls to Bridges (W2B) program, a collaborative teaching and learning experience overseen by the University of Ottawa (Kilty & Lehalle, 2018). The W2B course involved bringing criminology students from the university into

OCDC to partake in weekly post-secondary classes with individuals incarcerated at the jail. Despite the agreement between W2B facilitators and OCDC officials, the program administrators continuously faced snide and inappropriate commentary from staff regarding the course (Kilty & Lehalle, 2018). Furthermore, they detailed instances in which excessive security delays, in some cases, cut class time down by a third (Kilty, Lehalle, & Fayter, 2019). OCDC's lack of organization, slow response time, and unwillingness to allow some volunteers into the jail has created an environment that is not conducive to volunteer programming (see CAB, 2017). Consequently, the consistent administration of programming at the jail is made significantly more difficult (CAB, 2017, p. 10).

In addition to inadequate programs, several individuals incarcerated at OCDC have reported to the JAIL hotline that they do not regularly get access to yard, often having to choose between health care appointments and medication administration. As one prisoner explains:

When we have yard and stuff, the nurse comes, and you choose between yard and meds. There is enough time throughout the day to allow people to enjoy yard without having to choose. (Speight et al., 2019d, p. 12)

When prisoners are given the opportunity to go out to yard, they cite a lack of winter gear to properly enjoy it (Speight et al., 2019dc; 2019d).

In the final progress report, OCDC deemed the recommendation to improve programming to be complete, citing that the NILO, Multi-cultural Inmate Liaison Office, Muslim program, and Sweat Lodge programs as offering culturally-specific programming to prisoners at the jail. However, based upon the accounts of individuals currently incarcerated at OCDC, many of these services remain inaccessible and inadequate (see Speight et al., 2019dc; 2019d). This illustrates Mathiesen's (2006) technique of puncturing, whereby a proposed alternative is supported, but subverted in practice in ways that prevent transformative change.

Similar to the provincial penal system, the use of puncturing within the realm of program development and implementation is also observed at the federal level. Indeed, the federal penal system claims to offer a number of different programs to prisoners, which in practice, are reportedly difficult or impossible to access (see for example, Brennan, 2014; Montford, 2012). For instance, on paper, CSC claims to offer a mother-child program (MCP); however, in practice, it is rarely used (see Brennan, 2014; Miller 2017; Montford 2012). As a result of the lack of space in prisons, an increasingly punitive institutional culture (i.e., the inclusion of maximum-security individuals in institutions), and changes to the eligibility criteria, it is nearly impossible for federally sentenced women to access the MCP. Consequently, program participation has remained significantly low since its inception in the 1990s (Brennan, 2014). In this regard, a broader pattern of program inaccessibility within the Canadian penal system can indeed be observed.

When confronted with the possibility of new and improved programs to support prisoners, OCDC officials used a combination of making reference to safety and security, as well as policy and procedure to justify deferring change. For example, in response to a CAB suggestion for more accessible and regularly scheduled programming, OCDC administrators contended that “there may be situations where programs will not be able to run due to safety and/or security concerns” (CAB, 2016, p. 19). Further, when questioned about inadequate Indigenous-specific programming, OCDC officials pointed to policy and procedure outlining the provision of the distribution of medicine bags, sage, and amulets (see CAB, 2016). By referencing both safety and policy, OCDC and the Ministry more broadly are able to displace responsibility to disrupt the status quo by justifying their actions with references to prevailing system interests and bureaucracy.

OCDC and the Ministry further employ what Mathiesen (2006) calls ‘postponement’ to neutralize any form of social change. For example, in partial response to the task force, OCDC and

Ministry officials claimed that the jail is “in the early stages of exploring the expansion of recreation programming,” which requires “resource allocation, changes to staffing schedules and modifying programming” (MCSCS, 2016b, p. 21). As a result, system members contended that it would take at least “one year or longer” to fully implement new programs (MCSCS, 2016b). Therefore, new ideas are postponed for the time being, on the grounds that the alternative is not yet fully developed. However, as Mathiesen (2006) explains, “a new idea is ‘new’ precisely in the sense that it is not yet tried out and tested in all its details” (p. 45). Thus, new ideas can almost always be postponed for the time being as good in theory, but not yet ready to be introduced in practice as they are not fully developed. In other words, OCDC and Ministry officials can continue to postpone – and thus neutralize – any competing initiative which runs counter to their interests by pointing to new, undeveloped aspects, such as resource allocation, staffing, and program modification to uphold the status quo.

Despite the OCDC task force directive to provide increased cultural counselling and programming for individuals incarcerated at OCDC and its claimed completion, prisoners continue to report to both the CAB and the JAIL hotline that programming and recreation remains inadequate. Barriers such as Ministry policy, disorganization, scheduling conflicts, and mistreatment of programming volunteers make OCDC a hostile environment for the development and implementation of programming. By utilizing what Mathiesen (2006) refers to as the techniques of puncturing, making reference, and postponement, Ministry officials and jail functionaries have largely subverted social change where programming and recreation is concerned and effectively maintained the status quo.

### **5.2.3 – Cleanliness of the Institution**

Throughout the years, OCDC has been continuously critiqued for its uncleanliness, ranging from dust, built up grime, mold and aging facilities, to bodily waste (i.e., feces) left on the walls for extended periods of time, and poor air quality (see CAB, 2015; 2016; 2017; 2018; Speight et al., 2019b; 2019d). In their action plan, the OCDC task force recommended the improvement of the health and sanitary conditions of the entire institution and an enhanced cleaning plan to prevent the spread of contagious diseases and mold. This plan included the “regular and thorough cleaning of all walls, showers, floors and windows” and the “disinfection of all hygiene products” (MCSCS, 2016a, p. 17). In the first progress report subsequent to the release of the action plan, OCDC officials claimed that this recommendation had been fully implemented, maintaining that the enhanced cleaning plan had been established, painting had been completed, and the prisoners’ living area was being cleaned daily (MCSCS, 2016b, p. 20).

In spite of this, individuals incarcerated at OCDC continue to report that the state of cleanliness at the jail has remained largely the same, in some cases directly impacting prisoners’ mental and physical health (see CAB, 2015; 2016; 2017; 2018; Speight et al., 2019b; 2019d). As elucidated by the CAB, both direct observations as well as input from various sources in OCDC have exposed the need for a more comprehensive and consistent cleaning approach (CAB, 2017, p. 5). In the most recently released CAB report, members again noted the need for improved cleanliness following incidents of the removal of bodily waste that are often left to guards or prisoners to clean (CAB, 2018, p. 15). In the interest of the health and well-being of the individuals incarcerated at OCDC, removal of bodily waste should be done by professional cleaners “who have the proper training, equipment, and sanitizing products” (CAB, 2018, p. 15).

Furthermore, individuals incarcerated throughout the jail have reported poor air quality as a result of the unaddressed dust and grime which has continued to build up in the air ducts at OCDC. As two prisoners at OCDC explain,

The vents on ranges go unchanged and we know it isn't clean air, and it's getting circulated through dirty vents that require changing. The air on the range, the windows [in max] are dirty to the point where there's no sunlight coming in. How clean can the air filters possibly be when you have so much dirt there? (Speight et al., 2019b, pp. 24-25)

...There was no air in the cell and the outtake vent was covered with dust. (Speight et al., 2019b, pp. 24-25)

As a result of the poor air quality at OCDC, some individuals confined in the jail have reported a deterioration in their health (Speight et al., 2019b). These issues are further exacerbated by the significant levels of mold which in some cases is causing permanent damage to the health and well-being of the prisoners incarcerated there. As prisoners at OCDC report to the JAIL hotline:

I came here perfectly healthy, now I have the sniffles and the cough. I know it's black mold because I'm a carpenter and I can tell that there is black mold. (Speight et al., 2019d, p. 23)

...We are having breathing issues. Black mold is everywhere. 20-something-year-old prisoners are developing symptoms... You have mold spores hanging out from a ventilation shaft. Hanging above my bunk. Black dots on metal, above our bunks. (Speight et al., 2019d, p. 23)

As evidenced by the multiple accounts of individuals incarcerated at OCDC, the current conditions of cleanliness are woefully inadequate, in some cases even exacerbating mental and physical health conditions. While both OCDC staff and the Ministry more broadly committed to an enhanced cleaning plan, this recommendation was effectively punctured. That is, while the idea was incorporated into OCDC protocol, the action taken failed to meaningfully improve the conditions of confinement at the jail.

Ministry and OCDC officials further neutralized this recommendation by defining the need to improve the cleanliness of the institution as irrelevant. For instance, when confronted with

persisting issues of cleanliness at their facility, OCDC and Ministry staff cited the current provisions for cleanliness as sufficient and stated that “there are no plans to increase the cleaning staff at OCDC” (CAB, 2017, p. 21). This illustrates their use of Mathiesen’s (2006) technique of defining ideas as irrelevant, whereby a competing initiative or alternative idea is deemed to be inconsequential and current system procedures are again restated as being sufficient. As a result, new ideas which compete with the existing order are neutralized, and the existing conditions of confinement are maintained.

By both puncturing new initiatives and further defining them as irrelevant, Ministry officials and OCDC staff are able to sustain the inadequate conditions of cleanliness in the jail despite the devastating effects it has on the prisoners. When employed together, these techniques of neutralization simultaneously maintain the status quo of inadequate conditions of confinement at OCDC and stifle transformative change.

#### **5.2.4 – Food and Nutrition**

Inadequate food and nutrition continue to be one of the most common issues reported by individuals incarcerated at OCDC. Indeed, since its establishment in 2014, the CAB has repeatedly voiced concerns regarding the insufficient and unhealthy quality of food at the jail. In response, the OCDC task force dedicated a recommendation in their action plan to address this issue, advocating for the re-evaluation of its food delivery system, including dietary requirements and quality of food (MCSCS, 2016a).

Despite such recommendations, the CAB (2018) observed and heard input from prisoners that the quality, taste, nutritional value, and freshness, continue to be a consistent concern at the jail (p. 17). Further, canteen items available to the prisoners are largely unhealthy and costly,

rendering it difficult for them to supplement their low-quality food with any other form of sustenance (CAB, 2018, p. 17). Moreover, culturally appropriate dietary options were scarcely available to prisoners despite their right to access them (CAB, 2015). With these issues in mind, the CAB (2018) recommended that the Ministry return to the former food delivery system where fresh food was prepared for prisoners at the jail as opposed to shipped from a cook-chill facility located in the Maplehurst Correctional Complex in Milton, Ontario, that often provides spoiled and unpalatable food. This recommendation was never implemented.

When the existing order of the jail's food services was challenged by both CAB and OCDC task force directives, jail officials responded by referring to a combination of policy and procedure, higher demands and authority, and safety and security to neutralize the proposed alternatives threatening the status quo. For example, when the CAB (2016) recommended improvements to the substandard quality of food and suggested an alternative, OCDC and Ministry officials responded by saying that "it is Ministry policy to provide inmates with a balanced diet according to Canada's Food Guide to Healthy Eating prepared by Health Canada..." (CAB, 2016, p. 20). Without fully acknowledging the problem at hand, system members neutralized the idea by pointing to policy and procedure as validation for their current operations.

When questioned about the lack of nutritious canteen options for prisoners, the OCDC administration claimed that they would consider making a request with the Regional Office, while the final decision was "at the discretion of the superintendent," not them, thus referring to higher authority as a means of subverting responsibility (CAB, 2016, p. 20). Finally, when approached regarding the inaccessibility of culturally appropriate dietary options at OCDC, jail staff contended that the superintendent held the right to prohibit foods "that are contrary to the safety and security

of the institution” (CAB, 2016, p. 11). By referring to the safety and security, system members acknowledged the issues presented while subtly subverting the new alternatives in practice.

As opposed to considering the proposed alternative to re-open kitchens and provide fresh food to prisoners, the Ministry turned the food issue at OCDC on its head, instead using it as a justification for the need of a bigger jail which would allow them to serve more “nutritious” meals (see Seguin, 2017). Therefore, the Ministry effectively postponed changing the insufficient and low-quality food system at OCDC, while simultaneously puncturing the proposed alternative by claiming that on-site kitchens would instead be implemented at the new, bigger facility. In doing so, the recommendation is effectively neutralized of its ability to incite transformative change of the current conditions of confinement at OCDC. These examples illustrate how OCDC staff and officials use a combination of postponement, puncturing, and reference to policy, higher authority, and safety to effectively stifle transformative change, and thus maintain the system’s current order. By employing these techniques of neutralization, OCDC and the Ministry more broadly have been able to maintain the substandard conditions of food services at the jail despite concerted effort on the part of both the CAB and the OCDC task force to improve them.

### **5.2.5 – Institutional Phone System**

One of the most frequently cited complaints from prisoners at OCDC pertains to the restrictive institutional phone system that was in place until recently (see CAB 2017; Speight et al., 2019a; 2019b; 2019c; 2019d). Under the system that had existed for several years, the pay phones provided to OCDC prisoners could only make collect calls to land lines. Consequently, the institutional phone system restricted individuals incarcerated at the jail from calling cell phones

(Speight et al., 2019b). This posed significant challenges as it kept many prisoners from being able to contact their loved ones who only have cell phones. As one prisoner explains:

For three weeks, I have been unable to contact anyone from outside – Everyone has cell phone numbers. (Speight et al., 2019b, pp. 17-8)

Accepting collect calls can be extremely financially burdensome for some families, which often resulted in them not being able to speak to their loved ones for weeks without incurring significant financial hardship (Speight et al., 2019c, p. 12). To accept a collect call, the families of prisoners at OCDC living in the Ottawa area were being charged \$1. When calling from neighboring cities and towns, the families of prisoners and their lawyers were being charged \$2.50 to accept the call, and up to \$1.83 for each additional minute (Benslimane et al., 2019). The phone system disproportionately impacted low-income families who could not afford to speak to their family member because of the high cost of accepting collect calls (Speight et al., 2019c). As one prisoner indicated to the JAIL hotline:

You are the first person I spoke to on the phone for two years. My mom doesn't have a house phone, I have no way to call my family. I haven't talked to them since I've been arrested. (Speight et al., 2019d, p. 27)

As Speight and colleagues (2019c) point out, the situation not only harmed those incarcerated, but also “undermines community safety by serving as a barrier to connections that improve re-entry outcomes for prisoners” (p. 12). As a prisoner explains,

We need free, direct phone calls. You can't get your stuff done. They cut us off from community ties and support. I can't even set anything up for bail because I can't call cellphones. They cut you off and call it correction. All it is is detention and warehousing... (Speight et al., 2019d, p. 27)

Given the enormity of this problem and the frequency with which it is complained about by individuals incarcerated at the jail, the OCDC task force created a recommendation to improve the institutional phone system. They recommended that the Ministry review its telephone system

with a view to “improving affordability and making calls to cellular phones” (MCSCS, 2016a, p. 18). Despite this call for action, no changes were made to the Ontario prison phone system until recently. While the Ministry formally recorded the issues posed by the restrictive phone systems, the final progress report for the OCDC task force included no meaningful steps towards improving the situation, but rather restated the same intentions detailed throughout each progress report to monitor other jails within Canada to compare and consider options for improving the system.

In order to further neutralize this initiative, the Ministry also employed the technique of postponement. Indeed, when confronted about the lack of progress concerning this recommendation, the Ministry contended that “this is a long-term recommendation and the time frame for implementation will be one year or longer” (MCSCS, 2016b, p. 22). In the subsequent progress report, the Ministry again expressed concern, but stated that they are focusing on exploring ‘longer term strategies’ which will focus on cost-effective measures (MCSCS, 2017a, p. 19).

When directly confronted with an alternative, the Ministry also employed Mathiesen’s (2006) technique of defining ideas as impossible to implement. Indeed, for instance, when the CAB recommended that OCDC initiate discussions with the phone service provider to improve the phone system for prisoners and their loved ones, OCDC responded by simply saying any alternative to the current system would be essentially impossible to implement (CAB, 2015, p. 10).

As Ministry officials contended at the time:

...security measures are in place within the inmate telephone system as a safeguard. Correctional Services has adopted call blocking protocols to prevent inmates from contacting victims, witnesses, or other concerned citizens, by telephone, while incarcerated in Ontario correctional facilities... (CAB, 2015, p. 10)

Implicit in this statement is that there is no alternative to the current phone system setup, as it has been specifically designed to restrict and block certain calls. Therefore, the Ministry effectively

defined *any* alternative to the current system as impossible to implement, as it does not fit within the narrow confines of the current order. In doing so, this alternative was neutralized, halting transformative social change.

In the end, it took sustained campaigning by the Criminalization and Punishment Education Project (CPEP) (see Benslimane et al., 2019) and the Toronto Prisoners' Rights Project (TPRP) garnering significant national media attention (e.g. White, 2020) to eventually impact change. In her response to both the CPEP and TPRP campaigns, the current head of the MSG, Sylvia Jones (2020a), claimed in March 2020 that the Ministry had begun the procurement process for a “new, modernized inmate telephone system” to provide individuals incarcerated in provincial jails across Ontario with phone services at more affordable rates. After years of neutralization, the MSG replaced Ontario's jail phone system that featured expensive collect calls to landlines paid for by call recipients in April 2020 with calling cards that can reach cell phones and are paid for through prisoner accounts (Jones, 2020b). While an improvement from the original phone system, this new system still limits prisoners' communication with their community supports as a result of the continued cost of calling and enforcement of a 20-minute per day call cap (CPEP & TPRP, 2020). As a result of the developing Novel Corona Virus (COVID-19) pandemic, the Ministry is temporarily providing provincial prisoners with 50 local calls or 52 minutes of long-distance calling per month for free (CPEP, 2020).

With CPEP and TPRP's continued activism and the pursuant national media attention, social change was made possible, albeit “given its proper dimensions” (Mathiesen, 2006, p. 45). That is, while the MSG agreed to replace the overall phone system in provincial jails, some aspects of what had been proposed as a solution (e.g. free calling and removal of the time cap) were neutralized, revealing the limits to social change within the context of imprisonment.

### **5.3 – Access to Justice**

Neutralization techniques have also been used by Ministry and OCDC officials to maintain the current state of affairs concerning the prisoners' access to justice. Given the loss of liberty, disempowered status, and isolation, individuals incarcerated in provincial jails such as OCDC are particularly vulnerable to rights violations (see Bronwyn, 2017). As outlined in the previous section, despite recent changes to the system, using the phone at OCDC remains financially burdensome and time-limited, which has implications for accessing justice.

The inadequate telephone system at the jail inhibits prisoners from fully accessing justice, as it hinders their ability to make vital legal arrangements and ultimately mount a defence at trial (Benslimane et al., 2019, p. 10). Given that roughly 70% of the Ontario provincial jail population is legally innocent before the law (i.e. on remand), the (in)ability to access justice remains paramount as these individuals defend themselves in court. This process is made significantly more difficult when considering that pretrial custody has “severe detrimental impacts on the accused person’s ability to mount a defense” (Benslimane et al., 2019, p. 10). According to prisoners currently incarcerated at OCDC, the insufficient phone system at OCDC poses significant and unavoidable barriers to accessing justice, a feat which is exceedingly difficult given their disadvantaged status in pre-trial detention (Speight et al., 2019c; 2019d).

As a result of the abovementioned factors, it is extremely important to ensure that prisoners at OCDC are able to fully access justice and exercise their fundamental rights as human beings. In this section, I analyze how internal complaint mechanisms, access to legal aid and information, and bail and release conditions present numerous barriers to incarcerated people accessing justice (see IROC, 2017a; Speight et al., 2019a; 2019b; 2019c; 2019d). In the OCDC task force action

plan, several recommendations were dedicated to improving prisoners' points of access to justice, ranging from improved prisoner complaint tracking and processing, additional funded bail beds, enhanced bail processes, and policing and court reforms (MCSCS, 2016a). Despite the Ministry's commitment to these recommendations, it is evident that several of the recommendations slated to ameliorate access to justice have not in fact resulted in meaningful change at the jail.

### **5.3.1 – Internal Complaint Mechanisms**

Even in the most transparent of settings, it is not enough to simply have rights set out in laws and policy; a just system must also provide mechanisms for complaint and redress (IROC, 2017a, p. 30). Given the opacity with which both the Ministry and OCDC operate, it is especially important to ensure that the appropriate procedures are in place to support incarcerated individuals. Indeed, a rights-based system must have a fair and expeditious complaint process allowing prisoners to seek redress for any injustices or illegal activity they might encounter while incarcerated, free of reprisal from jail staff and officials (IROC, 2017a, p. 30). According to both the UN *Body of Principles for the Protection of all Persons under Any Form of Detention* and the UN *Standard Minimum Rules for the Treatment of Prisoners*, prisoners must have access to complaint mechanisms which allow them to make regular complaints to bodies both inside and outside the institution, guarantee confidentiality, prompt action, and provide safeguards to protect prisoners from reprisal upon complaint submission (IROC, 2017a; United Nations, 1988; 2015).

Unfortunately, there are almost no laws which officially regulate prisoners' complaint procedures in Ontario jails (IROC, 2017a, p. 31). The only piece of legislation which touches on this subject is the *Ministry of Correctional Services Act* (MCSA), which states:

Where an inmate alleges that the inmate's privileges have been infringed or otherwise has a complaint against another inmate or employee, the inmate may make a complaint in writing to the Superintendent. (Ministry of Correctional Services Act, 1990, s. 28)

Aside from this section, there is no further guidance as to how these internal complaint mechanisms should operate in Ontario provincial jails. In order to address the inadequate complaint system at OCDC, the 2016 task force recommended that the prisoner tracking and complaint system be reviewed and revised to ensure that the procedures in place were clear, transparent, and up to standard (MCSCS, 2016a, p. 10). In the subsequent progress report, the task force stated that this recommendation had been completed and that the process had been updated to ensure that complaints were tracked, clear, and transparent (MCSCS, 2016b, p. 4). In spite of these claimed changes, a number of individuals incarcerated at OCDC continue to report that the complaint system at the jail remains dangerously insufficient. For example, the updated system requires that prisoners complete 'blue' forms and submit them to an officer on duty when they want to make a complaint (MCSCS, 2016b, p. 4). However, while OCDC officials claim to make complaint forms more identifiable, the brightly coloured paper makes it extremely difficult to successfully submit a complaint. One prisoner explains the difficulty of having such easily identifiable complaint sheets:

... the range gets searched and all our blue sheets have been taken, six or seven on the top bunk and they're all missing. (Speight et al., 2019b, p. 30)

Furthermore, it is problematic that these forms have to be submitted to frontline staff and officers for processing, as many prisoners are unwilling to file written complaints about staff behaviour given that these forms are first read by those very staff before they are filed (IROC, 2017a, pp. 34-5). Indeed, some prisoners at OCDC expressed concerns that their complaint forms were being thrown out, which ultimately prevented them from being able to access any form of justice:

Magically, the paperwork gets lost around here. (Speight et al., 2019c, p. 16)

This problem is further exacerbated by the fact that the updated internal complaint process requires prisoners to request complaint forms from jail staff (see MCSCS, 2016b). As a result, prisoners explain that jail officers demand justification as to why they need the form and, in some cases, refuse to give it to them (Speight et al., 2019c, p.14) Perhaps most concerning, individuals incarcerated at OCDC report that a significant fear of reprisal hinders their ability to submit a complaint form. Given that the forms are so easily identifiable and that they must be read and processed by jail staff, those imprisoned at OCDC fear that they may be involuntarily transferred or mistreated by staff as a result of the submission (Speight et al., 2019c, p. 18). Two individuals imprisoned at OCDC recount their experience trying to submit complaint forms to OCDC staff:

Since we have made the complaint, they have been giving us a hard time... They push us to become violent, so they can write reports and make us seem monstrous. (Speight et al., 2019c, p. 18)

Last time I complained to the Ombudsman about something, next day I was on a bus getting shipped out. (Speight et al., 2019c, p. 18)

As a result of this ‘new and improved’ system, prisoners face a number of significant barriers when trying to submit complaint forms, a right that should be afforded to them with confidentiality and transparency. However, considering the numerous accounts from individuals incarcerated at OCDC, there remains a number of significant barriers between them and their ability to access justice of any kind. Despite these proven inadequacies, in response to the first JAIL hotline report, the Superintendent of OCDC stressed that prisoners do indeed have sufficient channels available to address their concerns (Speight et al., 2019a; 2019c). Therefore, while OCDC claims to have changed their internal complaint mechanisms in line with the task force recommendations, they implemented a new system in a way which allowed them to operate in virtually the same fashion, continuing to obstruct prisoners from accessing appropriate complaint channels. This form of implementation illustrates the use of Mathiesen’s (2006) technique of

absorption, whereby an alternative to the current system is picked up by the jail but reformed to fit within the current order. That is, while the OCDC task force recommended a new alternative complaint system, OCDC officials implemented this directive in a way which subtly neutralized the new element, effectively defusing and rendering it non-threatening. As a result, the jail continues to operate in much the same way, while claiming that the task force recommendations are technically complete. Thus, by employing Mathiesen's technique of absorption, OCDC officials are able to subvert transformative social change and maintain the status quo in the face of continued criticism.

It is important to note that many prisoners within the federal penal system have reported similar barriers to accessing justice, ranging from the inaccessibility of complaint mechanisms, fear of reprisal, and severe backlogs in responding to grievances, in some cases being upwards of three years (OCI 2017; 2018). In this regard, a broader problem of insufficient complaint and grievance processes can be established within the Canadian penal system as a whole.

### **5.3.2 – Access to Legal Aid and Information**

Another pressing issue at the jail concerns the limited access that prisoners have to legal aid and information, in some cases inhibiting them from adequately defending themselves in court. Indeed, some individuals imprisoned at OCDC describe facing barriers posed by jail staff which hindered their ability to effectively participate in legal processes and represent themselves in court (Speight et al., 2019d). For instance, prisoners report that the jail restricts their access to the internet, impeding their ability to mount a proper defense and properly locate case law and legal information. Furthermore, the prohibitive institutional phone system restricts their ability to call cell phones,

hampering them from contacting individuals to obtain information relevant to their cases, such as expert witnesses (Speight et al., 2019d). As one prisoner aptly describes,

My right to fair trial has been in jeopardy because I am self-represented and it is a difficult case with co-accused and witnesses. I haven't been able to obtain evidence; I cannot Google caselaw; I have applied to have a phone available to me so I can call cellphones...This puts my chances to defend myself close to 0. (Speight et al., 2019d, p. 20)

Furthermore, a number of unrepresented and self-represented prisoners reported that they have extremely limited and irregular access to their disclosures (i.e. prosecutor's documents displaying charge information) as a result of the current policies and procedures in place at OCDC (Speight et al., 2019d). Moreover, the shift toward technological resources has negatively impacted individuals incarcerated at OCDC, as the jail does not possess the proper technology to access these documents. For example, it was reported that the software currently installed at OCDC is outdated and cannot support the majority of the files prisoners are meant to review for court. As a result of these barriers, some prisoners reported not receiving certain documents of great legal consequence to them (Speight et al., 2019d).

These issues are compounded by the restrictive institutional phone system outlined above that existed until recently. As a result of the inadequate phone system, individuals incarcerated at OCDC were not able to contact sureties to make the necessary arrangements for upcoming hearings, resulting in prolonged stays at the jail (Speight et al., 2019b). Additionally, the phone system hindered prisoners' ability to contact their lawyers, ultimately affecting their ability to represent themselves in court (Speight et al., 2019b). So long as jail phone calls are not free (CPEP and TPRP, 2020), the barriers for some prisoners to obtain sureties remain. As a JAIL hotline report further explains, "the operational constraints created by the policies and procedures of the institution pose a great threat to accused persons' rights" (Speight et al., 2019d, p. 21). This barrier represents the Ministry's use of the technique of reference to policy and procedure in order to

neutralize change and maintain the current state of affairs. By referring to existing policy, the system is able to subvert criticism of its practices and effectively defer meaningful change.

To improve access to legal information and advice, the OCDC task force recommended that the Ministry expand the use of video technology to facilitate prisoners' professional visits from lawyers (MCSCS, 2016a). In the subsequent progress report, Ministry officials contended that this was "a long term recommendation and the timeframe for implementation [would] be longer than one year" (MCSCS, 2016b, p. 15). The ensuing progress report surveyed various pilot projects in place at other provincial jails in Canada and assessed their potential viability at OCDC. In the final progress report, the Ministry claimed that they had not completed assessment and analysis of the pilot projects and were thus postponing the implementation of this recommendation (MCSCS, 2017b, p. 13). This logic illustrates Mathiesen's (2006) technique of postponement of an idea for not being fully tested and developed. Indeed, the new initiative was postponed for the "time being" to allow for further "data collection and analysis" (MCSCS, 2017b, p. 13). To this day, the initiative has been indefinitely postponed, thus effectively maintaining the status quo.

### **5.3.3 – Bail and Release Conditions**

In order to improve inadequate bail conditions and reduce crowding at OCDC (where around 65% of prisoners are awaiting their trials), the 2016 task force dedicated a number of targeted recommendations, such as enhanced bail processes, funded bail beds, accessible diversion programs, and increased discharge and parole application support (Mckendy, 2081; MCSCS, 2016a). In spite of this, most of these proposed initiatives remain 'in progress' and have yet to be implemented in practice. As a result, individuals imprisoned at OCDC report barriers to bail

programs posed by OCDC, inaccessible bail beds and diversion programs, and insufficient discharge support (see Speight et al., 2019c; 2019d).

A significant barrier stems from the previously detailed restrictive institutional phone system that impacts prisoners who are trying to coordinate residential treatment centre stays as a part of their release conditions or attempting to access bail beds in the community (Speight et al., 2019c). Indeed, many prisoners called the JAIL hotline unaware of the status of their application as they were unable to contact the service provider directly because of the significant limitations of the phone system (Speight et al., 2019c). Thanks to the persistent campaigning on the part of both CPEP and TPRP, some changes have been made to the OCDC phone system, now enabling prisoners to call cell phones and community service provider phone lines with switchboards (Jones, 2020b). However, as aforementioned, certain prohibitive elements remain, such as the continued call-time caps and calling fees for prisoners. Therefore, while some elements of the proposed reform were implemented by the system, others (e.g. free calling, no time cap) that have been effectively neutralized by the system continue to undermine initiatives to enhance access to community release. Further, prisoners explained that recent cuts to legal aid interfered with their ability to retain legal representation, ultimately affecting their ability to represent themselves in court. As a prisoner explains:

I do not think I am going to get bail because of the cuts to legal aid. (Speight et al., 2019d, p. 23)

When prisoners are finally able to be released, many report that discharge planning for people incarcerated at OCDC is largely insufficient (Speight et al., 2019d, p. 23). When combined, the inadequate legal aid and lack of institutional support in some cases led to prolonged stays at OCDC, despite the prisoner's best efforts. Prisoners also explained that most residential treatment centres available to them prioritize "extracting their resources and free labour over actually

addressing their challenges with substance use” (Speight et al., 2019c, p. 14). As one prisoner details:

They say it’s a Christian-based program for your sobriety – but all they do is train you how to use the phone, how to get donations on the phone for sales pitches. You don’t learn nothing about sobriety or making the right decisions... Once you get there you realize you are still in jail. (Speight et al., 2019c, p. 15)

When developing an appropriate bail action plan to increase bail programs and funded bail beds, Ministry and OCDC staff continuously referred to safety and security as a means of justifying the lack of meaningful progress in these areas. For instance, the Ministry noted that a bail action plan would balance the “need for timely and appropriate bail decisions with protecting public safety” (MCSCS, 2016b, p. 8). By referring to the safety and security of the general public, the Ministry is able to effectively halt any meaningful social change which would facilitate the release of more individuals incarcerated at OCDC. Further, when confronted with the persisting issues related to discharge support and planning, officials employ the technique of postponement (Mathiesen, 2006), whereby they defer alternative initiatives on account of the fact that they are not fully developed or tested. For example, in the first progress report, the Ministry stated that it was “having internal discussions on proposed approaches to improve discharge planning supports” (MCSCS, 2016b, p. 27). No significant progress was made, with the final progress report simply stating that the current discharge planner has a lot of work and sees approximately twenty prisoners per week (MCSCS, 2017b, p. 25). Further the Ministry restated its plans to continue to explore potential avenues to enhance discharge support and planning. Therefore, in spite of the OCDC task force directives, the Ministry has continued with virtually the same practices by postponing the new initiatives until they are ‘further developed.’

Inadequate internal complaint mechanisms, barriers to accessing legal aid and information, and poor bail and release initiatives pose significant barriers for prisoners attempting to access

justice at OCDC. Despite concerted effort on the part of the CAB, OCDC task force, and JAIL hotline, current conditions at the jail inhibit prisoners from accessing their fundamental rights. By employing a combination of absorption, puncturing, postponement, making reference to safety and security, policy and procedure, and higher authority, ministry officials and jail functionaries are able to subtly neutralize alternatives or initiatives which threaten the current order. As a result, prisoners are caged at OCDC in austere conditions of confinement with inadequate health care, and a lack of access to both internal and external justice.

#### **5.4 – Discussion and Conclusion**

How have the austere conditions of confinement and treatment of prisoners at OCDC been maintained despite concerted effort to ameliorate them? What are the impediments to transformative social change at the Innes Road jail? Through a qualitative content analysis of the OCDC task force recommendations and their ensuing implementation juxtaposed with CAB, JAIL, IROC and Ombudsman reports, I demonstrated how both OCDC and Ministry staff successfully deploy a combination of neutralization techniques to suppress competing recommendations, proposals, initiatives, and ideas that run counter to prevailing system interests. Specifically, by documenting the use of absorption, puncturing, reference, postponement, and defining ideas as irrelevant or impossible to implement, I highlighted how inadequate mental and physical health care, austere conditions of confinement, and barriers to accessing justice have been sustained at OCDC. In doing so, I expose the Ministry's proclivity to 'finish' (Mathiesen, 1974) alternatives which compete with the current system, ultimately gutting new ideas of their ability to generate meaningful social change. This assertion is underpinned by the reported real-life experiences of individuals incarcerated at OCDC gleaned from JAIL, CAB, IROC and Ombudsman reports.

As Mathiesen (1974) contends, the abolitionist agenda will not advance if prisoners protest alone. The main struggle must also take place outside the ranks of the expelled, advancing the voices and experiences supplied by the expelled (p. 228). For instance, the recent partial success of CPEP and TPRP's institutional phone system campaigns (e.g., CPEP & TPRP, 2020) serve as a reminder that when abolitionist movements effectively centre the voices and experiences of prisoners in concert with community organizing outside jail walls, social change – albeit limited – *is* possible. By mobilizing the collective experiences of current provincial prisoners and receiving significant buy in from a number of people who support their struggles, CPEP and TPRP were able to impact change. Nonetheless, this change was subject to neutralization techniques that ultimately frustrated the implementation of the most radical components of the alternative (e.g. free calling and removing call time caps). As Mathiesen (2006) explains, such counter-denial work which exposes the deep problems associated with the penal system while simultaneously “making the prisoners visible” (p. 166) has the potential to build solidarity and effectually incite change; however, this work must remain ‘unfinished’ – that is, sustained on a permanent basis in the pursuit of further gains (Mathiesen, 1974).

The findings of this chapter further illustrate that reforms that come from within the system – such as the OCDC task force recommendations – face significant resistance. In this regard, the system's opposition to the task force recommendations is reflective of a broader pattern of resistance to alternatives which propose transformative change. For example, in 1989, similar to the OCDC task force's mandate, the TFFSW was established to make recommendations to improve the conditions of confinement for federally sentenced women in Canada (Montford, 2012). In 1990, the TFFSW released *Creating Choices: The Report of the Task Force for Federally Sentenced Women* which set out a number of directives to ameliorate the conditions and treatment

of women prisoners at the federal level (TFFSW, 1990). However, despite CSC's commitment to carry out these recommendations, feminist criminologists continue to remark the significant disjuncture between the recommendations made by the TFFSW and CSC's subsequent implementation (see Hannah-Moffatt, 2000; 2001; 2008; Kendall & Pollack 2003; Montford, 2012; Moore & Hannah-Moffat, 2005; Pollack 2000; 2005; 2009). As Hogeveen and Woolford (2006) contend, "despite reformist or transformative intentions, critical programs placed under the aegis of a system designed to buttress oppression are invariably altered, if not inverted" (p. 691). Indeed, they are no longer challenges to the system, but rather subsumed into it. Therefore, alternatives that come from within the system fall short of their ability to incite change "because they are implanted into an alien body and translated according to its finite logic" (Hogeveen & Woolford, 2006, p. 691).

As Mathiesen (1974) contends, a change through which we leave one order in favour of another that is already waiting is not an abolishment, but rather a substitution that may involve differences in detail but does not involve a change in the underlying structure. Therefore, structurally, this 'new and improved' order simply perpetuates old solutions. As Mathiesen (1974) points out, abolition "takes place when we break from the established order and *at the same time* face unbuilt ground" (p. 25). Reforms of an improving kind may, by their very adjustment of the current status quo, re-legitimize the prevailing order and lessen the possibility for long-term abolition (Mathiesen, 1974). In other words, the OCDC task force action plan represents what Mathiesen (1974) terms a 'positive reform;' that is, changes which improve or build upon the system so that it functions more effectively in the sense that it persists with additional resources and greater legitimacy.

Positive reforms are often supported by those in power as they are an effective way of forgetting past mistakes. As Mathiesen (1974) explains, “they provide new legitimation – the legitimation fostered by improvement and progress – when the former basis of legitimacy has become too weak” (pp. 225-6). In other words, these positive reforms strengthen the system in times of weakness. For instance, as previously discussed, the OCDC task force was established in 2016 in direct response to a constant stream of litigation and media attention which exposed the egregious conditions prisoners were living in at OCDC.

Positive neutralizing reforms are especially dangerous when critics lose sight of the persistent issues that remain because of the effective propaganda of the system (Mathiesen, 1974, p. 226). As Mathiesen (1974) elucidates, when the system is eager to carry out a negating reform that proponents believe undermines the system, it can be taken as a sign that the neutralizing positive reform is actually hidden behind the negating reform (p. 226). For example, in response to widespread concern regarding its inappropriate facilities and reliance on segregation to manage prisoners with mental health issues, OCDC agreed to establish ‘step-down units’ as per the task force’s recommendation. However, upon further investigation, it was found that these ‘specialized mental health units’ are in fact just re-purposed segregation ranges which operate under ‘segregation-like’ conditions (see IROC, 2017b, pp. 80-1). Therefore, under the guise of a negative reform (e.g. limiting the segregation of prisoners with mental health issues), OCDC officials instead implemented a positive reform which re-legitimized the use of segregation in the face of a threat to restrict its use.

What then is the answer to this fiasco? How can abolitionists strive for meaningful transformative change? Abolitionists must work, not with reforms of the improving kind, but with short-term partial abolitions as links to the broader goal of long-range total abolition (Mathiesen,

1974). That is, critics must avoid the ‘finishing tendency’ and continue the overthrow. Stubborn and insistent maintenance of immediate partial abolitions is essential to avoid the danger of positive reforms and the finishing logic. Practically speaking, Mathiesen (1974) points to non-reformist reforms, which are not confined to what is already within the framework of the given system, but rather past it to what should be ‘realizable’ given human needs (p. 231). Thus, the reforms he suggests are ‘negative reforms’ which abolish or remove parts of the system and do not provide the positive addition of legitimacy (Mathiesen, 1974, p. 223). Therefore, in order to advance the abolitionist agenda, critics must work toward negative non-reformist reforms which operate outside the confines of the current system on unbuilt ground. For example, the JAIL hotline strives for transformative social change that removes power from the current system, ultimately improving conditions of confinement and reducing the use of imprisonment at OCDC. While working toward complete abolitionism, the JAIL hotline brings the voices of incarcerated individuals to the forefront, reduces the isolation experienced by incarcerated people, and generates awareness of the rampant human rights and re-entry issues faced by those currently experiencing incarceration (Speight et al., 2019d, p. 4). In doing so, the JAIL hotline initiative engages in both counter-functional and counter-denial work, fundamentally removing both power and legitimacy from OCDC and diminishing the inherent harms of being incarcerated.

While CPEP’s JAIL hotline and other initiatives still have much work to do as an abolitionist movement, it is necessary to have short-term, immediate goals which alleviate austere conditions for prisoners in the present. For example, CPEP’s recent phone system campaign saw the improvement of the previously insufficient phone system at OCDC. This reform did not purport to fix the system, but instead served as a means of diminishing the separation between those that are incarcerated and the community – the ultimate goal of their phone system campaign remains

decarceration. As Mathiesen (1974) explains, the point is to sharply define short-term, partial goals, but “let them remain steps on a road which is foreign and suggested only – unfinished” (p. 57). In the following chapter, I explore the significance of my findings, survey the limitations of my research, and suggest areas for future research within this field to address gaps in knowledge.

## CHAPTER 6: CONCLUSION AND FUTURE DIRECTIONS

In order to counter the dominant ideology of prison and jail spaces, it is essential that abolitionist campaigns continue to centre the voices and experiences of prisoners. Such visibility helps to counter the pervasive ideological functions of such spaces and further fosters an understanding of the *actual* practices which occur inside the walls of such oppressive and opaque spaces. As Mathiesen (1990; 2006) contends, this visibility is the “Achilles heel” of such functions (p. 166). In parallel, it is equally as important to expose the ‘fiasco’ of jail spaces by revealing the deep-seated problems with the logics of rehabilitation, deterrence, incapacitation, and justice that are said to guide imprisonment (Mathiesen, 2006, pp. 141, 160). By engaging in both counter-functional and counter-denial work, this research project sought to do just that. Furthermore, I sought to address a gap in the literature concerning barriers to social change within the Ottawa-Carleton Detention Centre (OCDC) and the Ontario provincial jail system, along with other sites of confinement.

Through a qualitative content analysis of official governmental task force directives, progress reports, and policy reviews on the one hand, and reports documenting the experiences of current provincial prisoners on the other, this project set out to address the following main research question:

How do government officials and jail functionaries maintain the status quo at the Ottawa-Carleton Detention Centre and thus impede transformative social change?

Guided by a penal abolitionist theoretical framework inspired by Mathiesen’s (1974; 1990; 2006) conceptualization of neutralization techniques, this study was able to identify the tactics employed by Ontario provincial government officials and jail functionaries to effectively maintain the deplorable conditions of confinement and treatment of prisoners at OCDC and resist transformative social change. I demonstrated how when faced with proposals to reform jailing,

Ministry officials and OCDC administrators make reference to competing demands, higher authority, policy and procedure or safety and security, define ideas as irrelevant or impossible to implement, postpone implementation for not being developed enough or possible now, as well as puncture and absorb policy alternatives to uphold the status quo at the facility. In doing so, I exposed the Ministry's proclivity to 'finish' (Mathiesen, 1974) alternatives which threaten the order of the current system and thus gut new ideas of their ability to impact meaningful change within the prevailing system. Having done so, it is my contention that government officials and jail functionaries subtly but effectively deploy various combinations of these neutralization techniques to maintain the status quo and impede transformative social change at OCDC.

This research study focused retrospectively on a unique period in time wherein a provincial jail—OCDC—was publicly denounced for its conditions of confinement and treatment of prisoners and subsequently subjected to proposals for change in a sustained manner. Nevertheless, OCDC was able to resist change and effectively maintain its current state of affairs. By relying on the voices and experiences of those currently incarcerated at the Innes Road jail as documented in Jail Accountability & Information Line (JAIL), Community Advisory Board (CAB), Independent Review of Corrections (IROC), and Ombudsman reports, this research study was able to reveal how problems at OCDC that reforms meant to address largely persisted. Given the opportunity to contrast OCDC task force progress reports and trend analyses with the insights provided by both JAIL and CAB reports, I was able to add to a limited body of research concerning conditions of confinement and social change (or the lack thereof) within the provincial context.

While my analysis sheds light on the barriers to change in the context of imprisonment, amid the global Novel Coronavirus (COVID-19) pandemic, several gains have been made in terms of conditions of confinement and transformative change at OCDC in recent months (see CPEP,

2020b; CPEP & TPRP, 2020c). As a result of the sustained campaigning on the part of two prominent prisoner activist groups – the Criminalization and Punishment Education Project (CPEP) and the Toronto Prisoners’ Rights Project (TPRP) – some changes were made at the notorious Innes Road jail. For instance, their *Contain COVID-19, Not People* (CPEP & TPRP, 2020e) campaign gained the support of hundreds of organizations and thousands of individuals who demanded an increased use of diversion and decarceration measures to expose fewer people to a heightened risk of contracting the diseases. This pressure contributed to OCDC decreasing its prison population to less than 60% of its 585-bed capacity as a result of decarceration measures (e.g. increased allowance of temporary absence permits) as well as diversion measures (e.g. increased reliance on bail) (CPEP, 2020b). Similarly, CPEP and TPRP recently helped to amplify the voices of fourteen prisoners on hunger strike at OCDC (CPEP & TPRP, 2020b), gaining significant national media attention surrounding the inadequate conditions of confinement and the need for better quality food and access to sanitary supplies (see CBC News, 2020; CTV News, 2020; Globe and Mail, 2020; National Post, 2020; Toronto Star, 2020). In response, Ministry and jail officials promised to provide better quality food and access to culturally-appropriate dietary plans, bringing the hunger strike to an end within 32 hours (CPEP & TPRP, 2020c). In addition, following the consistent campaigning surrounding the inadequate phone system at OCDC (see Benslimane et al., 2019), it was reported that prisoners at the facility are temporarily being granted 50 local calls or 52 minutes of long-distance calling per month and can now call cell phones which they were previously unable to do (CPEP, 2020).

As Mathiesen (2006) explains, it is essential for successful abolitionist movements to engage in counter-functional work by allocating resources to generating information and building campaigns designed to raise awareness of the injustices occurring behind jail walls. Crucial in this

communication effort is the difficult task of making prisoners visible to the public and bringing their voices to the forefront. As Mathiesen (2006) elucidates, “nearness creates nuances, nearness makes for understanding. It is the invisibility of the prisoner which makes it possible to maintain the ideological functions of the [jail]” (p. 166). Along these lines, the recent partial success of CPEP and TPRP’s activist campaigns demonstrates that if abolitionist movements can effectively mobilize prisoner experiences and garner public support of their demands, change *is* possible, albeit limited. While CPEP and TPRP were able to make gains while pushing for change, they were equally confronted with pitfalls. For instance, as a result of COVID-19, Ontario provincial jails such as OCDC are experiencing profound insecurity associated with the heightened risk of contracting the virus (CPEP & TPRP, 2020b). Therefore, in the name of public safety, prisoners remaining at OCDC have endured significant physical and psychological trauma as a result of losing access to visits, frequent lockdowns associated with labour disputes, and segregation placements taking place under the guise of medical isolation (CPEP & TPRP, 2020b, para. 4).

Therefore, while CPEP and TPRP were able to make gains and lay the groundwork for future abolitionist movements to incite social change, they were nevertheless subjected to neutralization techniques. As O’Malley (1999) so aptly points out, punishment is often “inconsistent, volatile, and contradictory” (p. 178). Indeed, the roots of incarceration are planted in political ambivalence and are highly responsive “to dilemmas, failures of political will, and conflicts of political interest” (O’Malley, 1999, p. 181). In other words, the objectives of imprisonment are multiple and contradictory (Piché, 2014), and so long as it exists, the practice will produce repressive outcomes even when liberatory measures are enacted.

Yet, the gains made by CPEP and TPRP demonstrate that space *can* be occupied and expanded by abolitionists to struggle towards real reductions in the use and harms of incarceration.

This indicates that such gains may one day lead to more transformative forms of justice in the place of criminalization and punishment as a way to respond to social conflict and harm. While many of CPEP and TPRP's social movement work has encountered neutralization techniques, they have nevertheless laid the foundation for the knowledge and relationships to be formed that have resulted in the gains seen during the pandemic. The challenge now is to build upon the gains made by past abolitionist movements and maintain the overthrow in spite of the neutralization techniques deployed to stop it. My research project helps to inform this movement by detailing what abolitionists can expect in terms of responses from government officials and other proponents of the penal status quo in the days, weeks, months, and years ahead.

Factors such as institutional protectionism, gatekeeping, and opacity restrict the production of critical criminological research and prevent scholars from conducting unfettered research behind the walls of provincial jails and prisons in Canada (see Parkes, 2017; Turnbull et al., 2018). Given the access to information gleaned from OCDC task force directives, JAIL, CAB, IROC, and Ombudsman reports, I was able to circumvent many of the barriers typically faced by critical abolitionist researchers and ultimately provide an important and original contribution to punishment and society literature. Nevertheless, this research was limited to a document-based analysis of open-source, published reports, and based on one provincial jail, limiting its regional/national applicability. Moreover, the lack of information published detailing the perspectives of Ministry officials and jail functionaries ultimately limited my ability to incorporate their standpoints.

With respect to these limitations, future research should employ this method of inquiry on a larger scale and build a more comprehensive and robust picture of the barriers to social change and reform at provincial jails across Canada, as well as jails elsewhere in the world that are seldom

studied (Piché, 2014). Furthermore, given the recent developments at OCDC during the COVID-19 pandemic, future research should gather material through freedom of information requests to obtain unpublished government records detailing the considerations shaping decision making by Ministry and OCDC officials (Piché, 2012) during the COVID-19 crisis to identify openings through which to enact further gains to reduce the use and harms of imprisonment. Another avenue for future research should explore the insights that an interview-based study with jail staff could contribute to the abolitionist struggle and cultivate further knowledge on the barriers to change within the context of imprisonment.

When facing barriers erected to slow the abolitionist movement, it is essential to continue to work towards abolishing limits on human freedom and justice. In the face of opposition, the abolitionist agenda must remain resolute and unwavering. At the end of his famous lecture *Politics as a Calling* in 1919, Max Weber made a statement that Mathiesen (2008, p. 62) echoes to describe the abolitionist stance, and which aptly describes the work ahead to end human caging:

Politics is like strong, slow drilling in hard boards. It requires passion and an accurate eye at the same time. It is throughout correct, and all historical experience confirms this, that one never reached the possible, if there were not a continuous grasp for the impossible.

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### Appendix A: Mixed Coding Grid

CODES	SUB-CODES	DEFINITIONS	IN-TEXT EXAMPLES
Reference	To higher demands and authority	Referencing higher orders, instructions, and/or superior authority that take precedence over external demands	
	To policy and procedure	Referencing the need to follow existing institutional, ministerial, and/or governmental policies and/or procedures	
	To safety and security	Referencing the need to maintain public, institutional, staff, and/or prisoner safety and/or security	
Defining ideas as irrelevant		Defining an alternative / initiative / idea as irrelevant, extraneous, or pointless in the context of operating a jail	
Defining ideas as impossible to implement		Defining an alternative / initiative / idea in conflict with the system as impossible to implement because it is not fully developed, tested, and/or explained	
Postponement	For not being fully developed	The implementation of an alternative / initiative / idea is postponed as it not fully developed, explained, and/or tested	

	For not being possible now	The implementation of an alternative / initiative / idea is postponed as it is deemed to not be possible for the time being (i.e. in the immediate future)	
	Puncturing	The significance and/or importance of alternative / initiative / idea is diminished, lessened or lowered while a front of understanding, interest, and/or enthusiasm for the alternative / initiative / idea is maintained	
	Absorption	The alternative / initiative / idea is adopted by the current system in name, but adjusted to fit within the current order	