

**SCHEDULE "A"****IN THE MATTER OF**

***CHRISTINA NADINE JAHN v HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,  
AS REPRESENTED BY THE MINISTER OF COMMUNITY SAFETY AND  
CORRECTIONAL SERVICES***

**BEFORE THE HUMAN RIGHTS TRIBUNAL OF ONTARIO****September 24, 2013****PUBLIC INTEREST REMEDIES**

WHEREAS medical care in Ontario correctional facilities is provided by consent and no medical assessment or treatment can be provided by the Respondent unless an inmate, or a substitute decision maker, where applicable, consents to the provision of medical care;

AND WHEREAS the parties recognize and acknowledge that medical decisions regarding appropriate assessment and treatment options for inmates must be made by qualified professionals according to their own judgment and professional standards;

AND WHEREAS no party to this agreement shall be liable for failing to perform, or delaying the performance of, the terms of this agreement in the event that such failure is caused by events outside of the parties' control, including, but not limited to, labour disruptions at the Respondent Ministry;

AND WHEREAS "inmate" refers to all incarcerated individuals, including both remanded and sentenced individuals;

**Facilities**

1. The Ministry commits to completing a report within 18 months on how best to serve female inmates with major mental illness. A copy of this report will be provided to the Commission.

This report will be prepared in consultation with a mental health expert and will consider various options for female inmates with major mental illness including, among other things, the viability of: building a secure treatment facility for women of a comparable nature to that provided to male offenders at the SLVCTC; creating secure treatment units for inmates with major mental illness in existing facilities; and incorporating a secure treatment unit for inmates with a major mental illness into all new correctional facilities built on or after 2014. All options considered will include the provision of 24/7 medical supervision, and require

decisions about the treatment and movement of inmates with major mental illness to be made in consultation with health care providers. The report will be evidence-based and will include recommendations.

The Ministry will commit to implementing the report's recommendations within a further period of 18 months. In the event the Ministry does not implement specific recommendations, it will provide a detailed written rationale to the Commission.

## **Screening**

2. The Ministry will ensure that all inmates are screened for mental health issues on admission to a correctional facility.

The Ministry commits to establishing mental health screening, using an evidence-based, gender-responsive screening tool approved by a correctional psychiatrist, of all inmates upon admission to all provincial correctional facilities within 18 months. A copy of the mental health screening tool will be provided to the Commission.

The Ministry will provide training on the mental health screening tool to all corrections staff who will be using the tool and will implement the use of the tool at all provincial correctional facilities within 24 months.

The Ministry has advised that it is currently piloting mental health screening using a gender-responsive, evidence-based screening tool in several selected facilities. The Ministry will commit to continuing to use this form of mental health screening until it establishes and implements mental health screening, using an evidence-based, gender-responsive screening tool approved by a correctional psychiatrist, for all inmates upon admission to all provincial correctional facilities, as required above. Information gathered during this pilot will inform the implementation of the screening tool that is ultimately established.

The Ministry will ensure that a physician conducts an assessment of all inmates who screen positive for mental health issues as soon as possible upon admission to all corrections facilities, and determines whether a further referral to a psychiatrist is necessary.

The Ministry will continuously reassess inmates using the mental health screening tool, and will commit to mental health professionals following up with inmates who have a mental health care need.

## **Access to mental health services**

3. The Ministry will complete a review of its psychiatric physician contracts within 6 months to ensure adequate sessions are funded and available to address the needs of inmates in all provincial correctional facilities at the earliest and most appropriate opportunity. The review will include an assessment utilizing interviews with health care staff and physicians, a review of waiting lists and waiting list times, and a review of alerts in the Ministry's Offender Tracking Information System ("OTIS").
4. For those inmates who screen positive for mental health issues through the aforementioned gender-responsive, evidence-based, mental health screening tool, a physician will develop an appropriate treatment plan. This treatment plan may be developed in consultation with mental health professionals. The treatment plan will be: accessible to all inter-professional team members involved in the case; identify the issues and goals, including addressing behavioural issues, illness, etc.; outline interventions; identify who is responsible for treatment and interventions; and set out how the treatment plan will be implemented. The Ministry agrees that amendments to or variance from the treatment plan can only be made in consultation with a primary care physician or a psychiatrist, as appropriate.

Those inmates with a major mental illness will be referred as soon as possible to a psychiatrist, who will develop an appropriate treatment plan. The treatment plan will: be accessible to all inter-professional team members involved in the case; identify the issues and goals, including addressing behavioural issues, illness, etc.; outline interventions; identify who is responsible for treatment and interventions; and set out how the treatment plan will be implemented. The Ministry agrees that amendments to or variance from the treatment plan for inmates with a major mental illness can only be made by a psychiatrist. Inmates with a major mental illness will also be assessed on an ongoing basis, as medically required in order to meet the requisite standard of care, by a psychiatrist.

In addition to psychiatrists, inmates will also be referred to other mental health resources as required to support the inmate where appropriate. The program personnel engaged in discharge planning will also be advised at the earliest opportunity to begin planning for the inmate's return to the community.

## **Segregation**

### ***Disciplinary Segregation [Disciplinary segregation includes close confinement]***

5. The Ministry will promptly amend the Inmate Management Policy on Discipline and Misconduct to require staff to:

- a. take mental health considerations into account as a mitigating factor in cases of misconduct;
- b. consult with a mental health professional to see if therapeutic alternatives are available before making a decision in accordance with the procedure set out in sections 31 and 32 of RRO 1990, Reg 778, regulation under the *Ministry of Correctional Services Act*, with respect to an allegation of misconduct on the part of an inmate with mental illness;
- c. not use segregation to discipline inmates with mental illness, unless the Ministry can demonstrate that alternatives to segregation have been considered and rejected because they would cause an undue hardship (including for reasons related to security and/or health and safety concerns); and,
- d. notify the Assistant Deputy Minister, Institutional Services, when any inmate has been in segregation in excess of 60 aggregate days in a year, and will indicate if the inmate has a mental illness.

The Ministry will provide the Commission with a copy of the amended Inmate Management Policy on Discipline and Misconduct.

Within 12 months the Ministry will, in consultation with a mental health expert, complete a review of its policies and practices regarding institutional misconduct handling to ensure the issues relating to inmates with mental health concerns are addressed in accordance with the Human Rights Code. The Ministry will provide the Commission with a copy of the review and advise of any changes it will make to its policies and practices regarding institutional misconduct handling as a result of the review.

***Administrative Segregation [Administrative segregation includes all other forms of segregation other than disciplinary segregation]***

6. The Ministry will amend its segregation policies to state that segregation for inmates with mental illness shall not be used unless the Ministry can demonstrate alternatives to segregation have been considered and rejected because they would cause an undue hardship (including for reasons related to security and/or health and safety concerns). The Ministry recognizes that segregation can have an adverse impact on inmates with mental illness.

The Ministry will continue to review the circumstances of inmates who are placed in segregation at least once every five days and again after a period of 30 continuous days in segregation. For inmates with mental illness, the Ministry shall document in the segregation reviews what alternatives have been considered and rejected, including whether a treatment plan is in place that may assist the inmate in leaving segregation. The Ministry will commit to notifying the Assistant Deputy Minister, Institutional Services, when any inmate has been in segregation for a period in excess of 60 aggregate days in one year, and will indicate if the inmate has a mental illness.

Any report to the Minister under section 34(5) of RRO 1990, Reg. 778 under the *Ministry of Correctional Services Act* of the reasons for an inmate to be in continuous segregation for over 30 days will indicate if the inmate has a mental illness, and shall document what alternatives have been considered and rejected, including whether a treatment plan is in place that may assist the inmate in leaving segregation.

The Ministry will complete a review, in consultation with mental health expert, of its policies and practices regarding the management of inmates housed in segregation, with a focus on the management of mentally ill inmates, within 12 months. The Ministry will provide the Commission with a copy of this review.

### **Assessment and access to mental health services for inmates in segregation**

7. When an inmate with mental health issues is placed in segregation, the Ministry will provide or offer to provide a baseline assessment by a physician, who will determine what, if any, changes are required to the inmate's treatment plan. For inmates with a major mental illness, the Ministry will provide or offer to provide a baseline assessment by a psychiatrist, who will determine what, if any, changes are required to the inmate's treatment plan.

The Ministry agrees that a physician will, subject to the inmate's consent, conduct an assessment of an inmate prior to each 5-day segregation decision/review. For inmates with a major mental illness, the Ministry agrees that a psychiatrist will, subject to the inmate's consent, conduct an assessment of an inmate prior to each 5-day segregation decision/review.

The Ministry will ensure that all inmates in segregation are offered individualized mental health services as appropriate on an ongoing basis.

### **Mental health training**

8. The Ministry is committed to delivering a training program on mental health issues to its front line staff and managers.

The Ministry has completed a pilot training program and will consult with the Commission and mental health professionals regarding the next steps in that pilot program.

The Ministry will implement a training program that specifically addresses the following:

- a. human rights obligations and the need to accommodate inmates with mental illness;
- 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.

Whereas the Ministry has advised that the process for delivering this training program will take some time to complete given the size of the Ministry, and the need to consult with its bargaining agent, the Ministry will commit to delivering this training within 24 months.

### **Inmate Handbook**

9. The Ministry will, within 12 months, review and revise its Inmate Handbook to reflect the rights and responsibilities of inmates, with specific reference to rights of inmates set out in section 34 of RRO 1990, Reg. 778 under the *Ministry of Correctional Services Act*, as well as Ministry policies (including those related to discipline and misconduct and/or administrative segregation, conditions of confinement, health care, and making complaints). This will be done in coordination with the review of its policies and procedures regarding institutional misconduct handling and the management of inmates housed in segregation. The Inmate Handbook will be posted on the Ministry's public website, will be made accessible to all inmates, and will be proactively offered to inmates who are subject to disciplinary or administrative segregation.

### **Statistical Reporting**

10. The Ministry will prepare a statistical report concerning the number of female inmates at the Ottawa Carleton Detention Centre placed in segregation for 30 continuous days and/or in excess of 60 aggregate days in one year and the reason(s) for each placement. This report will be provided to the Commission once annually for a period of 3 years commencing from the introduction of a revised OTIS, currently scheduled to be implemented in Spring 2014.