

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

STANDING COMMITTEE ON PUBLIC ACCOUNTS

ADULT INSTITUTIONAL SERVICES
(Section 3.02, 2008 Annual Report of the Auditor General of Ontario)

1st Session, 39th Parliament
58 Elizabeth II

Library and Archives Canada Cataloguing in Publication Data

Ontario. Legislative Assembly. Standing Committee on Public Accounts
Adult Institutional Services (Section 3.02, 2008 Annual report of the Auditor General of
Ontario) [electronic resource]

Issued also in French under title: Services en établissement pour adultes (Rapport annuel
2008 du vérificateur général de l'Ontario, section 3.02)

Electronic monograph in PDF format.

Mode of access: World Wide Web.

Issued also in printed form.

ISBN 978-1-4435-1736-2

1. Ontario. Adult Institutional Services—Auditing. 2. Correctional institutions—Ontario.
3. Ontario. Ministry of Community Safety and Correctional Services. I. Title. II. Title:
Services en établissement pour adultes (Rapport annuel 2008 du vérificateur général de
l'Ontario, section 3.02)

HV8395 O56 2009

353.3'9243909713

C2009-964067-8

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

The Honourable Steve Peters, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

Norman W. Sterling, MPP
Chair

Queen's Park
January 2010

STANDING COMMITTEE ON PUBLIC ACCOUNTS

MEMBERSHIP LIST

1st Session, 39th Parliament

NORMAN W. STERLING
Chair

TED ARNOTT
Vice-Chair

FRANCE GÉLINAS

LIZ SANDALS

PHIL MCNEELY

MARIA VAN BOMMEL

JERRY J. OUELLETTE

DAVID ZIMMER

DAVID RAMSAY

Katch Koch
Clerk of the Committee

Lorraine Luski
Research Officer

STANDING COMMITTEE ON PUBLIC ACCOUNTS
LIST OF CHANGES TO COMMITTEE MEMBERSHIP

LAURA ALBANESE was replaced by DAVID RAMSAY on September 15, 2009.

ERNIE HARDEMAN was replaced by TED ARNOTT on September 15, 2009.

CONTENTS

LIST OF SELECTED ABBREVIATIONS	ii
PREAMBLE	1
Acknowledgements	1
INTRODUCTION	1
Mandate: Adult Institutional Services	1
Number and Gender of Inmates in Correctional Institutions	2
Number and Breakdown of Ontario Correctional Institutions	2
Operating Expenditures	2
Objectives and Scope of the Audit	2
ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE	3
Changes in Inmate Population	3
Management of Institutions	4
AIRP Infrastructure Project Did Not Yield Expected Savings	4
Institutional Capacity	5
Overcrowding at Institutions	5
Community Programs	6
Electronic Supervision Program Improved	6
Institutional Security	7
Inmate Supervision Model	7
Management of Inmates	9
Rehabilitation Programming and Tracking the Results Needs Improvement	9
Inmates with Mental Illness and Special Needs	10
Earned Remission	11
Detection of and Reporting on Alcohol and Illicit Drug Use in Correctional Facilities	12
Management of Staff	14
Correctional Officer Absenteeism and Overtime Payments	14
CONSOLIDATED LIST OF COMMITTEE RECOMMENDATIONS	16

LIST OF SELECTED ABBREVIATIONS

AIRP	Adult Infrastructure Renewal Project
AIS	Adult Institutional Services
ESP	Electronic Surveillance Program
FPT	Federal-Provincial-Territorial
MOHLTC	Ministry of Health and Long-Term Care
OTIS	Offender Tracking Information System

PREAMBLE

In March 2009, the Standing Committee on Public Accounts held public hearings on the Adult Institutional Services (AIS), the subject of an audit (Sec. 3.02) in the *2008 Annual Report of the Auditor General*. Six senior representatives of the Ministry of Community Safety and Correctional Services appeared before the Committee. (For a transcript of proceedings, see Committee *Hansard* for March 11, 2009.) This report highlights the Auditor's observations and recommendations and presents the Committee's own findings, views, and recommendations.

Acknowledgements

The Standing Committee endorses the Auditor's findings and recommendations. It also thanks the Auditor and his team for drawing attention to these important issues pertaining to correctional services and institutions throughout Ontario. The Committee also extends thanks to officials from the Ministry for attending the hearings. Finally, the Committee would like to acknowledge the assistance provided during the hearings and report writing by the Office of the Auditor General, the Clerk of the Committee, and staff of the Legislative Research Service.

INTRODUCTION

Mandate: Adult Institutional Services

The Adult Institutional Services (AIS) division of the Ministry of Community Safety and Correctional Services (Ministry) operates provincial correctional institutions for incarcerated adults in Ontario. Inmates include convicted offenders and accused persons. Convicted offenders are those sentenced to terms of up to two years less a day, or those awaiting transfer to a federal penitentiary. Accused persons are those awaiting bail, remanded in custody awaiting trial, or those held for immigration-related reasons. AIS provides custody and supervision of inmates until discharge by a court, transfer to another jurisdiction, granting of parole, or completion of prison term.

Over the past decade, the proportion of Ontario inmates remanded in custody (i.e., awaiting bail or trial or being held for reasons related to immigration) as compared to those serving a sentence has changed considerably. Ten years ago, almost 70% of inmates were sentenced offenders versus 30% remanded in custody. Today, the reverse is true and this trend is expected to intensify. The growth of the population of inmates remanded in custody has created bottlenecks and overcrowding in correctional facilities, affecting every aspect of operations ranging from inmate programming to infrastructure renewal. The changing characteristics of the adult corrections population are not unique to Ontario. It has prompted the corrections and public safety community across Canada to come together as an interprovincial task force to study the nature of these shifts and how best to deliver efficient correctional services and programming in this challenging environment. Ontario has taken the lead and provided the resources to initiate the study of these trends.

A report titled *The Changing Face of Corrections* was released to Ministers in January 2009.

Number and Gender of Inmates in Correctional Institutions

On an average day in 2007/08, Ontario had approximately 8,800 inmates in its institutions—8,200 males and 600 females. This total included about 550 offenders who serve their sentence intermittently, typically on weekends.

Number and Breakdown of Ontario Correctional Institutions

AIS operate 31 correctional institutions across Ontario:

- 12 jails;
- seven detention centres;
- nine correctional centres—large facilities including one female-only centre and two “super jails;” and
- three treatment centres.

Operating Expenditures

AIS had operating expenditures of about \$575 million in 2007/08; 78% of which was for staffing costs.

Objectives and Scope of the Audit

The audit objective was to assess whether the Ministry had adequate procedures and systems in place to:

- ensure that institutional resources were managed with due regard for economy and efficiency;
- ensure that institutional services and programs were delivered in accordance with legislative and ministry requirements; and
- measure and report on the effectiveness of the key services and programs delivered for enhancing public safety, reducing recidivism, and contributing to the rehabilitation of offenders within society.

The Auditor last reported on this program in 2000. In conducting this most recent audit, the team considered the recommendations made in its previous audit report and the related recommendations made by the Standing Committee on Public Accounts in its 2001 Report.

ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE

Changes in Inmate Population

Over the past decade, incarceration levels in Ontario have increased 11% due in part to increased policing and the laying of charges, and changing sentencing practices of the courts. At the same time, the ratio of offenders remanded in custody to sentenced offenders has also increased.¹ For the 10-year period 1997/98 to 2007/08, the proportion of inmates remanded in custody awaiting bail or trial has increased from 40% to almost 70% of all inmates.

In recent years, almost 80% of inmates have received short-term sentences of three months or less, and over 50% have received sentences of one month or less. Moreover, courts in Ontario and elsewhere in Canada have credited inmates for time served while remanded in custody prior to sentencing, usually crediting two or even three days of sentence time for each day spent in pre-sentencing incarceration. The focus on the offenders remanded in custody versus the sentenced inmates has dramatically affected all the routines of correctional facilities and has required Ministry staff and management to re-think virtually all of its operations and capital programs. A report addressing this issue titled the *Changing Face of Corrections* was released to federal, provincial, and territorial (FPT) ministers responsible for justice and public safety in January 2009.

The Auditor recommended that the Ministry review the impact these changes have had on the traditional delivery of correctional programs, and review its mandate and existing operations to determine whether changes are needed in correctional program delivery and in the roles and responsibilities of the provincial and federal governments. Ontario's involvement in a national study on the changing characteristics of the adult corrections population is a good first step in this regard.

During the public hearings the Committee heard that the reasons why an inmate might be held on remand include: bail being denied or rescinded; charges brought forward; first appearance; setting a date for trial; setting a date for sentence; or to hear a plea. Each year the AIS division processes about 80,000 inmate admissions. In Toronto and the GTA the average number of court appearances by inmates from arrest to final disposition is 13. Members were told that the multiple court processes and delays are one of the root causes of the ballooning remand inmate population which has created bottlenecks and overcrowding in correctional facilities.

The Standing Committee on Public Accounts is aware that the study on the *Changing Face of Corrections* was released to Federal-Provincial-Territorial (FPT) ministers responsible for justice and public safety in January 2009; but it has not yet been released to the public.

¹ Throughout the Committee's Report, the phrase "inmates remanded in custody" refers to accused persons who are awaiting bail, did not meet the bail conditions imposed by a judge, or are otherwise denied bail. Such persons are, therefore, remanded in custody pending trial. Inmates remanded in custody should not be confused with inmates who, having been convicted by the courts, are sometimes referred to as sentenced offenders or convicted offenders.

The Standing Committee on Public Accounts recommends that:

- 1. The Ministry of Community Safety and Correctional Services report to the Standing Committee on whether some or all of the findings of *The Changing Face of Corrections* study can be shared with the Legislature and the public to foster greater awareness of the issues. In addition, the Ministry should report to the Standing Committee on any initiatives it plans to introduce in response to the FPT study.**

Management of Institutions

AIRP Infrastructure Project Did Not Yield Expected Savings

The Ministry expected its 10-year, over \$400 million Adult Infrastructure Renewal Project (AIRP) investment to modernize correctional institutions and increase efficiency. The Ministry also aimed to achieve one of the lowest operating costs in Canada (from \$120 per inmate per day to \$75). This ambitious target was not met. Instead, Ontario's costs rank highest among the six largest provinces. Ontario's two new super jails did, however, operate at costs comparable to those of other provinces.

The Auditor recommended that the Ministry research correctional services in other provinces and identify economical and efficient practices such as less costly staffing models. He further recommended that the Ministry study operating costs in Ontario correctional facilities to identify opportunities for reducing costs including where anticipated savings from infrastructure investments over the last decade were not achieved. This information should be used to set realistic operating-cost targets for each institution and the correctional system as a whole, with a goal of achieving overall costs that compare more favourably to those of other provinces.

The Ministry informed the Committee that in the fall of 2008 it embarked on a study of correctional facility operating costs including cost-savings practices in other jurisdictions. The results of the cross-jurisdictional scan were expected to be completed by spring 2009 and to be followed up with a review and implementation of cost-saving initiatives.²

The Ministry also disclosed that the AIS division directed senior staff to identify cost-savings targets by spring 2009. These results—indicated by institutions' ability to operate more efficiently—will be measured quarterly.³

During the public hearings, the Committee heard that the significant increase in the proportion of inmates who are remanded in custody has created capacity issues and costly expenditures for the Ministry prompting it to reverse earlier decisions to

² Ontario, Ministry of Community Safety and Correctional Services, Office of the Deputy Minister, *Summary Status Table* (March 4, 2009), p. 2.

³ Ibid.

close several institutions. To not have done so would have worsened the current capacity pressures.

The Standing Committee on Public Accounts recommends that:

2. **The Ministry of Community Safety and Correctional Services report to the Standing Committee as to the status of the cross-jurisdictional scan initiated by the Ministry to examine correctional facility operating costs and cost-savings, and any best practices identified from other provinces and the federal government that can be applied in Ontario.**

Institutional Capacity

Overcrowding at Institutions

The Ministry's 2004/05 strategy to divert incarcerated offenders from correctional facilities to community supervision and thereby eliminate 2,000 beds and save \$60 million annually by 2007/08 was not realized. Instead, the daily number of inmates grew by almost 1,000. Correctional institutions currently operate overall at 100% capacity with 11 operating at up to 135%, raising concerns about overcrowding and corresponding health and safety risks to inmates and staff.

The Auditor recommended that the Ministry establish plans for forecasting short- and long-term demands for correctional institutions, with appropriate involvement from justice-sector stakeholders. He further recommended that the Ministry develop and implement effective strategies to meet expected demand both by freeing up bed capacity through alternative diversion measures—such as appropriate programs for the mentally ill, and community supervision and work programs—and, where necessary, by providing sufficient beds, including seeking appropriate approvals for a capital construction program to address expected shortfalls.

During the public hearings the Committee heard once again about the serious and costly implications of the large remand population on institutional capacity. The remand numbers have doubled in the last 10 years and now comprise two-thirds of the average daily inmate population; up from one-third 10 years ago.

In response to the Auditor's recommendations, the Ministry conducted a capacity study to develop the means of forecasting both long and short-term demands for institutional bed space—examining what is available today versus requirements for the next 5, 10, and 15 years. The Ministry has also developed a statistical model that will project the institutional demographics to the year 2022 by various categories and trends—numbers of inmates, gender, and status (sentenced versus remanded). The Committee also heard that AIS has been tracking a growing trend in the number of female inmates. The number of women in correctional institutions has risen by 40% over the past five years. In preparation, the Ministry has started working with the Ontario Realty Corporation to determine which correctional institutions should be maintained, expanded, or replaced.

The Committee was told that some offenders awaiting sentence choose to remain in aging, overcrowded facilities such as the Toronto Jail instead of transferring to less crowded facilities in an effort to get a “two-for-one” or “three-for-one” credit on their sentence time—a reduction in their sentence for pre-sentencing time spent in such facilities.

Some Members wanted to know what the Ministry is doing to ensure that it doesn’t have facilities that warrant the judiciary making those two-for-one or three-for-one sentencing decisions.

AIS will be adding approximately 2,000 beds through two capital projects—the proposed Toronto South Detention Centre will provide over 1,650 new beds to replace 550 beds at the aging, overcrowded Toronto Jail and the proposed South West Detention Centre in the Windsor area will provide approximately 350 new beds, and replace 125 beds at the old Windsor Jail.

The Standing Committee on Public Accounts recommends that:

- 3. The Ministry of Community Safety and Correctional Services in consultation with the Ministry of the Attorney General report to the Standing Committee on options to discourage inmates from “gaming” the system, i.e., declining opportunities to be transferred out of facilities such as the Toronto Jail to secure a “two-for-one” or “three-for-one” reduction in their sentence for time already served in aging, overcrowded jails.**
- 4. The Ministry of Community Safety and Correctional Services report to the Standing Committee on the results of its capacity study, and in particular, the expected number of inmates and its forecast of capacity to meet demand over the medium and long term.**

Community Programs

Inmate participation in community-based programs, designed by the Ministry to reduce the number of offenders serving sentences in institutions, remains low. The Ministry’s goal of having 1,300 offenders serve their sentences in the community with electronic monitoring devices has fallen short by two thirds. And, instead of having 800 low-risk offenders serve their sentences on weekends in the community instead of the institutions, only 100 were doing so.

The Auditor recommended that the Ministry re-evaluate its community-based programs for their design and support by stakeholders to identify more effective means of achieving desired offender-participation rates.

Electronic Supervision Program Improved

Members asked the Ministry to verify whether it was true that electronic supervision resource officers (ESORs) would no longer be required to conduct an on-site inspection of an offender’s residence as had been the practice. The Ministry explained that it has taken steps to improve the program overall and to provide

greater value to the service. The installation, maintenance, and the retrieval of the ankle bracelets was outsourced to The Salvation Army while the resource officers were assigned responsibility to ensure that the equipment worked in the home and that the technological reports were completed properly. The Ministry claims that the electronic surveillance program is operating better than before and is also achieving savings.

The Standing Committee on Public Accounts recommends that:

5. The Ministry of Community Safety and Correctional Services report to the Standing Committee on its assessment to date of the electronic supervision program (ESP) of inmates. Specifically, the report should address:

- **whether the Ministry is meeting its objective of having a higher percentage of inmates serve their sentence under the electronic supervision program;**
- **how the Ministry's partnership is working out with The Salvation Army, whose staff serve as ESP officers; and**
- **what monetary savings and other benefits may have resulted from the ESP generally (e.g., lower re-offending rates).**

Institutional Security

Inmate Supervision Model

Although there has been an increase in the daily average number of inmates, the Ministry has made substantial progress in reducing the number of security incidents in its institutions. Ontario currently uses an indirect supervision model for the 60% of all inmates now housed in modern facilities including the super jails that were newly built or retrofitted under the AIRP. The Auditor pointed out that, initially, AIS management noted that all new correctional facilities in Ontario would operate on the direct supervision model.⁴ However, the Ministry has conducted no formal studies to support this decision. The choice of model is important as it has the potential to reduce or raise operating costs and risks to the health and safety of inmates and staff.

⁴ Alberta and British Columbia operate direct-supervision models. Correctional officers are typically stationed inside cell areas with no physical barriers between themselves and inmates. Officers interact with and observe inmates throughout their work shift—a practice which monitors and manages inmates' behaviour. The indirect supervision model is used in the newer, modern facilities in Ontario including the super jails. The design of these facilities includes the placement of recreation areas within interior walls, more restricted inmate movement within the facility, and better surveillance. Correctional officers are stationed outside of cell units in centrally located observation posts. Communication with inmates occurs between physical barriers or by intercom. See Ontario, Office of the Auditor General, *2008 Annual Report* (Toronto: The Office, December 2008), pp. 85-86.

The Auditor recommended that the Ministry conduct a formal analysis of the different inmate-supervision models with respect to financial, operational, health and safety, security, and other considerations—using this information to support its decisions on the appropriate type or types of supervision models to be used in existing and any new institutions in Ontario.

The Ministry indicated during the public hearings that Ontario institutions are currently a mix of direct and indirect supervision. While there is data supporting the direct supervision model, officials indicated that it is too early to say which model the division will select.

The Auditor also recommended that the Ministry track and report on incidents of inmate-on-inmate assaults and use this information to identify best practices at better-performing institutions that can be shared with other institutions. The Ministry should investigate reasons for non-compliance with security policies and procedures in institutions. It should determine what further action is needed to address institutions that have recurring non-compliance issues.

The Ministry indicated to the Committee that about 18% of inmates belong to gangs that pose a security threat ranging from traditional organized crime to terrorists, extremist and hate groups. In response to the Auditor's recommendations, all AIS senior managers have been directed to document and report all inmate-on-inmate assaults at each institution.

The Ministry's newly-created Security Threat Group Criminal Intelligence (STGCI) Unit is comprised of intelligence officers strategically located throughout the province in correctional institutions large and small. They function as a link between the security officer/manager at each institution and the law enforcement community outside the institution. The Unit's expertise is in managing security threat group or gang members—determining what living units gang members should be housed in, separating gang members from other gangs, determining what contraband is being brought into the institution, and linking with law enforcement outside the institution to share intelligence. Their primary purpose is to share information so that those inside and outside the institution are informed about gang members' activities.

The Standing Committee on Public Accounts recommends that:

- 6. The Ministry of Community Safety and Correctional Services report to the Standing Committee on when the Ministry will be ready to report its choice of inmate supervision model. If the Ministry has already selected its preferred model, the report should indicate the supporting reasons for its choice.**
- 7. The Ministry of Community Safety and Correctional Services report to the Standing Committee to indicate when the Security Threat Group Criminal Intelligence (STGCI) Unit became operational, and whether there are any early signs that this initiative is (or is not) making a positive difference in terms of the Ministry's ability to manage gang**

issues and security threats efficiently inside the institution. The report should also indicate how the Ministry plans to assess the success of this initiative going forward.

Management of Inmates

Rehabilitation Programming and Tracking the Results Needs Improvement

Following the 2000 audit, the Ministry had implemented processes for improving rehabilitation programs for offenders. However, institutions were not properly tracking participation and completion rates. Information was lacking on work-related, rehabilitation, and other institutional programs as well as the effectiveness of these programs in changing inmate behaviour. Enhancements to the Ministry's Offender Tracking Information System (OTIS) may provide better information to allow management to address this issue.

The Auditor recommended that the Ministry gather information on all its inmate programs to allow for institutional and province-wide assessment of their availability, participation rates, quality, and level of success in achieving their intended outcomes. The Ministry should also research programs offered in other jurisdictions as a cost-effective means of identifying best practices given the trend to shorter sentences and the large proportion of the inmate population remanded in custody.

During the public hearings, the Ministry advised that it is starting to track its inmate population and their correctional programming/rehabilitation needs. For example, about 50% of inmates have yet to complete high school and a large percentage is illiterate. Almost half of women inmates and close to 40% of males lack a source of income. Members asked whether AIS was monitoring which institutions were meeting their targets for offering training programs to inmates. The Ministry responded that this area needs improvement. In March 2008, AIS instituted a new institutional programming tracking instrument to enhance its Offender Tracking Information System (OTIS). According to officials, the system enhancement has not been in place long enough to do an evaluation.

Members asked how the large number of inmates remanded in custody is affecting the rehabilitation and correctional programming.⁵ The Ministry indicated that remanded individuals tend to remain in AIS care for short stays; however, rehabilitation programs in the AIS division are currently directed to sentenced offenders with sentences of six months or longer. (In addition, the people representing accused persons often don't want them to take programs such as sexual offending or anger management while they are remanded in custody, because it may then suggest to the courts that they are guilty.) Given the short stays of inmates remanded in custody, AIS is trying to find more suitable or appropriate programming to influence this population.

⁵ See the footnote at the bottom of page 3 for a fuller description of the distinctions within the inmate population—accused persons remanded in custody pending trial and sentenced offenders.

The Ministry described some of the programs aimed at the inmates remanded in custody, including Alcoholics Anonymous (AA), Narcotics Anonymous (NA), and life skills. Other short courses include those geared to basic literacy and numeracy. Volunteers from various agencies such as the Salvation Army provide instruction to inmates remanded in custody. The Ministry also works with the Ministry of Education to provide programming and to help inmates remanded in custody to earn their high school diploma.

The Standing Committee on Public Accounts recommends that:

- 8. Given the significant increase in the proportion of inmates who are remanded in custody pending trial, the Ministry of Community Safety and Correctional Services should report to the Standing Committee on the specific steps being undertaken to address the programming needs of these inmates and the availability of programs to them.**
- 9. The Ministry of Community Safety and Correctional Services shall report to the Standing Committee on the issue of rehabilitation and correctional programming for those offenders who serve intermittent sentences at correctional facilities.**

Inmates with Mental Illness and Special Needs

The Ministry has made progress in diverting inmates with mental disorders from the criminal justice system and from its correctional facilities. Yet, in this more recent audit, information about inmates' mental-health status was lacking, as was any formal indication that the Ministry was providing adequate care and treatment for their conditions.

The Auditor noted that inmates with mental illness and/or special needs who are not being treated elsewhere should be provided with the appropriate levels of support and treatment. He recommended that the Ministry identify the necessary processes and resources to allow for proper assessments and identification of the mental-health status and special needs of inmates. Furthermore, the Ministry should identify the need for specialized treatment units in each institution and province-wide to accommodate the estimated number of inmates requiring such treatment, and determine the short and long-term options for meeting these needs. The Auditor also recommended that the Ministry monitor and report on the identified needs of inmates with mental illness and/or special needs and the extent that AIS facilities and programs for this group meets their needs.

During the public hearings the Ministry indicated that approximately 36% of inmates suffer from mental illness. Committee members asked what strides AIS is making in addressing the needs of those offenders.

The Ministry explained that AIS is working with the Ministry of Health and Long-Term Care (MOHLTC) in a \$50 million dollar "Service Enhancement Strategy" that aims to keep individuals suffering from mental illness out of corrections. AIS uses eight psychiatrists, 18 psychologists, and one psychometrist working in the

area of adult community care (to assist these individuals making the transition from correctional facilities into the community) for its 31 facilities.

AIS also has five centres to help determine the mental fitness of inmates.⁶ These individuals may be transferred from one of the five centres to any of the 432 mental health beds in the system. The division also has a 100 bed facility in Brockville for male sentenced inmates with major mental health conditions (there, the division contracts with the Royal Ottawa Health Care Group). AIS is also working with Dr. Greg Brown from Nipissing University in the development of a resident assessment inventory tool to assist the division in classifying individuals who suffer from mental health issues.

The Standing Committee on Public Accounts recommends that:

10. The Ministry of Community Safety and Correctional Services report to the Standing Committee on its assessment of how the Ministry effectively deals with the large number of inmates suffering from mental illness including its capacity to do so currently and over the long term.

11. The Ministry of Community Safety and Correctional Services in conjunction with the MOHLTC, report to the Standing Committee on the impact (to date) that the \$50 million Service Enhancement strategy funding is having in terms of keeping individuals who suffer from mental illness out of correctional facilities.

Earned Remission

Inmates may earn a half-day remission of their sentences for each day served. To earn the sentence reduction, inmates must follow prison rules, demonstrate good behaviour, and participate in rehabilitation. Generally, the reduction is credited without the inmates having to undergo an assessment of compliance as required by legislation. The Ministry advised that similar to other provinces, Ontario would only withhold earned remission where an inmate had seriously violated prison rules.

The Auditor recommended that the Ministry either establish processes at all institutions to assess inmates' conduct and participation in work and rehabilitation programs in order to determine whether inmates are entitled to reduced sentences; or, request and obtain amendments to the *Ministry of Correctional Services Act* with respect to the requirements for earning remission and update the Ministry's website to reflect current practices.

The Ministry uses a "default" model for managing earned remission. Inmates who abide by institutional rules and expectations do not receive misconducts. The Ministry continues to ensure that earned remission is revoked through the

⁶ These include the following: 1) the Ottawa-Carleton Detention Centre; 2) the Algoma Treatment and Remand Centre; 3) the Hamilton-Wentworth Detention Centre; 4) the Maplehurst Correctional Complex; and 5) the Vanier Centre for Women.

misconduct processes where required.⁷ In response to the Auditor's recommendations, the Committee was informed that Ministry has pledged to review its practices with respect to the granting of earned remission by spring 2009. Should any changes be required, the Ministry will respond through the development of implementation plans.⁸

Detection of and Reporting on Alcohol and Illicit Drug Use in Correctional Facilities

AIS lacked adequate information on the extent and impact of alcohol and illicit drugs among inmates in its correctional facilities. Despite commitments made following the Auditor's 2000 audit, the Ministry has not introduced random alcohol and drug testing of inmates in connection with determining inmates' entitlement to early release.

In his more recent 2008 audit, the Auditor highlighted the need for Ministry officials to detect and report more effectively on the use of alcohol and illicit drugs in Ontario's correctional institutions and reduce their detrimental impact on institutional safety, inmate health, and rehabilitation programs. He recommended that the Ministry of Community Safety and Correctional Services improve its information systems to better capture and report on the details and trends of such incidents that are detected in its institutions. Furthermore, the Ministry should implement more rigorous detection practices such as random testing of inmates (as is done in certain other Canadian jurisdictions) to detect and deter alcohol and illicit drug use.

During the public hearings Committee Members asked about the extent to which alcohol and drugs are problems in the institutions. Ministry staff could not indicate the proportion of inmates who abuse alcohol or drugs. However, as already noted, the correctional institutions offer programs such as Alcoholics Anonymous and Narcotics Anonymous to help inmates deal with their addictions.

In response to Committee questions, the Ministry indicated that there were a total of 30 inmate deaths between fiscal 2000/01 and 2008/09 in which alcohol and drugs were determined to be a contributing factor, and 21 deaths where alcohol and drugs were directly related to the cause of death.⁹

The Ministry told the Committee about the ploys sometimes used by inmates to smuggle illicit substances into correctional institutions. Offenders serving intermittent sentences increase the risk of contraband due to the "in-and-out" nature of their movements. Keeping contraband out of correctional institutions is a priority for the Ministry. Officials highlighted the many and varied ways of

⁷ Ontario, Office of the Auditor General of Ontario, *2008 Annual Report* (December 2008), p. 94.

⁸ Ontario, Ministry of Community Safety and Correctional Services, Office of the Deputy Minister, *Summary Status Table* (March 4, 2009), p. 9.

⁹ Information provided to the Standing Committee on Public Accounts by the Office of the Deputy Minister of Correctional Services, Ministry of Community Safety and Correctional Services, April 17, 2009.

detering or detecting contraband, including: monitoring inmate-counsel and inmate-family interactions; seeking out corrupted correctional officers; intercepting contraband thrown over the fence; utilizing narcotics detection wands; undertaking canine searches, cell and institutional searches; and authorizing strip searches of new admissions including visual checks of their bodies and clothing.¹⁰

Noting that the Ministry had informed the Public Accounts Committee in 2001 that it planned to introduce random testing of inmates for alcohol and drug use, Members asked the Ministry how the initiative is progressing.

The Ministry explained that although the Auditor had recommended random alcohol and drug testing, there are no regulations in place to authorize a framework to support testing of inmates for these substances. The Ministry, with the support of the Minister is pursuing a different approach. Instead of random drug testing, the Ministry will be seeking to prevent the illicit substances from entering the institutions through prevention, education, and enforcement initiatives.

The Ministry also drew the Committee's attention to a 2006 Supreme Court of Canada decision, *R. v. Shoker* which ruled on the matter of search and seizure of bodily samples.¹¹ The principle in *Shoker* was that the sentencing judge lacked the jurisdiction to require the testing of bodily samples because he was not statutorily authorized to do so under the *Criminal Code*. According to the Ministry,

A recent Supreme Court decision indicated that it wasn't possible to conduct random tests of inmates for drugs and alcohol. We're still following that case and will certainly take every possible method we can to prevent¹²

When asked by Committee Members whether the Ministry would use random alcohol and drug testing of inmates if the regulations were in effect and if it weren't contrary to court rulings, Ministry officials replied that they would absolutely consider it.

The Standing Committee on Public Accounts recommends the following:

- 12. Given that random alcohol and drug testing of inmates is practised in certain other Canadian jurisdictions, and in light of the number of deaths in Ontario institutions related to alcohol and illicit drugs, the Ministry of Community Safety and Correctional Services shall report to the Standing Committee as to whether it is prepared to make a regulation to authorize random alcohol and drug testing of inmates and if so, when?**

¹⁰ Ontario Legislative Assembly, Standing Committee on Public Accounts, *Hansard: Official Report of Debates*, 39th Parliament, 1st Session (11 March 2009), pp. 267 and 271.

¹¹ *R. v. Shoker*, 2006 2 S.C.R. 399. See link at <http://csc.lexum.umontreal.ca/en/2006/2006scc44/2006scc44.html>

¹² Ontario, Legislative Assembly, Standing Committee on Public Accounts, *Hansard: Official Report of Debates*, 39th Parliament, 1st Session (11 March 2009), p. 279.

Management of Staff

Correctional Officer Absenteeism and Overtime Payments

AIS continues to have a serious problem with the absenteeism of correctional officers, including the abuse of sick leave and overtime provisions. The average number of sick days per officer, based on an eight-hour day, was 32.5 days per year at the end of 2007. This was an increase of 63% since 2001. As a result, AIS incurs almost \$9 million in additional costs for replacement workers and a further \$11 million in overtime payments each year.¹³ By way of comparison, Alberta and British Columbia both had significantly lower absenteeism than Ontario.¹⁴

Noting that correctional institutions should be staffed appropriately and chronic or culpable absenteeism be properly dealt with, the Auditor recommended that the Ministry re-evaluate its Attendance Support Program to ensure that it can properly identify and deal with employees who abuse sick leave benefits.¹⁵ The Ministry should also investigate the reasons for large overtime payments program-wide and to individual employees and implement corrective measures to reduce overtime costs. Furthermore, the Ministry should investigate the reasons other jurisdictions have lower absenteeism, including the possible effect of 12-hour shifts. Finally, the Auditor recommended that the Ministry set targets for reducing absenteeism to acceptable levels and implement effective measures for achieving these targets.

During the public hearings, the Ministry characterized the cost associated with staff absenteeism and overtime as one of the Ministry's most problematic issues. Members asked the Ministry if it was convinced that the absenteeism levels among correctional officers constituted acceptable or "culpable absenteeism." The Ministry responded that AIS has looked at a number of indicators suggesting the problem is culpable absenteeism, particularly when they tracked the days correctional officers were taking. The Ministry indicated that it does not take issue with legitimate absenteeism but culpable absenteeism must be addressed. The matter has been the focus of recent collective bargaining for the correctional officer bargaining unit within the Ontario Public Service. In the Ministry's view, between 36% and 40% of correctional officers are abusing their sick days.

In response to Committee questions, the Ministry indicated that the three correctional institutions that ranked highest in terms of sick leave in 2007 were the Toronto Jail, the Toronto East Detention Centre in Scarborough, and the Central East Correctional Centre in Lindsay. Over the last 15 years, no correctional officer

¹³ Correctional officer absenteeism and staff shortages may also lead to offender lockdowns at correctional institutions which disrupt offender routines, rehabilitation programming, and court appearances.

¹⁴ In these two provinces, correctional officers worked no compressed work weeks and typically worked shifts of less than eight hours. See Ontario, Office of the Auditor General of Ontario, *2008 Annual Report* (December 2008), p. 98.

¹⁵ According to the Ministry's Attendance Support Program Manual, "culpable absenteeism" is defined as abuse of sick leave provisions involving deliberate misrepresentation or misuse of sick leave." *Ibid.*, p. 97.

has ever been dismissed due to culpable absenteeism.¹⁶ The Ministry believes that the tentative collective agreement negotiated with the correctional officers will lead to improvement in lowering the absenteeism rate.¹⁷

Some Members expressed the concern that unsanitary conditions of aging, overcrowded jails such as the Toronto Jail may contribute to the high rate of absenteeism among some correctional officers, noting that it was not surprising that this particular institution reported the highest rate of sick time among correctional officers.

The Standing Committee on Public Accounts recommends that:

- 13. The Ministry of Community Safety and Correctional Services report to the Standing Committee indicating the AIS management targets and time frame for the reduction of the average number of correctional officer sick days. The report should provide this information for each institution. The Ministry should also provide in this report the details of any actions taken to improve working conditions at institutions with high levels of absenteeism.**

¹⁶ In response to a Member's question posed during the March 11 public hearings, Ministry officials indicated that at least one correctional officer was dismissed over the last 15 years for culpable absenteeism. Ministry officials offered to double-check this information and in April, 2009 clarified that a review of records for the period 1995 to March 27, 2009 confirmed that no correctional officers have been dismissed due to absenteeism. E-mail correspondence from the Office of the Deputy Minister, Ministry of Community Safety and Correctional Services, April 17, 2009.

¹⁷ The Ministry implemented a new Attendance Support Management Pilot Project (ASMPP). It replaces the former Attendance Support Program (ASP) for the OPSEU correctional bargaining unit and its managers. The ASMPP applies to non-culpable absenteeism. It is intended to reduce and manage absenteeism through a consistent and fair process. Employees move through its 4 levels and each is triggered if an employee exceeds four occurrences in a 12-month period, or if any occurrence or a combination exceeds seven days of absence in a twelve-month period. Both parties also agreed to establish a Joint Attendance Strategy and Implementation Committee (JASIC) made up of employer and union representatives. The Committee was established to set worker absenteeism targets; monitor the rates of attendance; explore health and productivity programs to improve health, wellness, and levels of attendance; and cooperative approaches to accommodation. JASIC meetings have been suspended pending resolution of a policy grievance scheduled for hearings in November 2009. To prepare for the launch of the new ASMPP, 21 information sessions were conducted for over 480 managers across Ontario between June and September 2009. Feedback from the sessions was positive. See: Corrections' Response to Standing Committee Query, Standing Committee on Public Accounts, October 29, 2009.

CONSOLIDATED LIST OF COMMITTEE RECOMMENDATIONS

The Committee requests that the Ministry of Community and Social Services provide the Committee Clerk with a written response to the following recommendations within 120 calendar days of the tabling of this report with the Speaker of the Legislative Assembly.

1. **The Ministry of Community Safety and Correctional Services report to the Standing Committee on whether some or all of the findings of *The Changing Face of Corrections* study can be shared with the Legislature and the public to foster greater awareness of the issues. In addition, the Ministry should report to the Standing Committee on any initiatives it plans to introduce in response to the FPT study.**
2. **The Ministry of Community Safety and Correctional Services report to the Standing Committee as to the status of the cross-jurisdictional scan initiated by the Ministry to examine correctional facility operating costs and cost-savings, and any best practices identified from other provinces and the federal government that can be applied in Ontario.**
3. **The Ministry of Community Safety and Correctional Services in consultation with the Ministry of the Attorney General report to the Standing Committee on options to discourage inmates from “gaming” the system, i.e., declining opportunities to be transferred out of facilities such as the Toronto Jail to secure a “two-for-one” or “three-for-one” reduction in their sentence for time already served in aging, overcrowded jails.**
4. **The Ministry of Community Safety and Correctional Services report to the Standing Committee on the results of its capacity study, and in particular, the expected number of inmates and its forecast of capacity to meet demand over the medium and long term.**
5. **The Ministry of Community Safety and Correctional Services report to the Standing Committee on its assessment to date of the electronic supervision program (ESP) of inmates. Specifically, the report should address:**
 - **whether the Ministry is meeting its objective of having a higher percentage of inmates serve their sentence under the electronic supervision program;**
 - **how the Ministry’s partnership is working out with The Salvation Army, whose staff serve as ESP officers; and**
 - **what monetary savings and other benefits may have resulted from the ESP generally (e.g., lower re-offending rates).**

6. **The Ministry of Community Safety and Correctional Services report to the Standing Committee on when the Ministry will be ready to report its choice of inmate supervision model. If the Ministry has already selected its preferred model, the report should indicate the supporting reasons for its choice.**
7. **The Ministry of Community Safety and Correctional Services report to the Standing Committee to indicate when the Security Threat Group Criminal Intelligence (STGCI) Unit became operational, and whether there are any early signs that this initiative is (or is not) making a positive difference in terms of the Ministry's ability to manage gang issues and security threats efficiently inside the institution. The report should also indicate how the Ministry plans to assess the success of this initiative going forward.**
8. **Given the significant increase in the proportion of inmates who are remanded in custody pending trial, the Ministry of Community Safety and Correctional Services should report to the Standing Committee on the specific steps being undertaken to address the programming needs of these inmates and the availability of programs to them.**
9. **The Ministry of Community Safety and Correctional Services shall report to the Standing Committee on the issue of rehabilitation and correctional programming for those offenders who serve intermittent sentences at correctional facilities.**
10. **The Ministry of Community Safety and Correctional Services report to the Standing Committee on its assessment of how the Ministry effectively deals with the large number of inmates suffering from mental illness including its capacity to do so currently and over the long term.**
11. **The Ministry of Community Safety and Correctional Services in conjunction with the MOHLTC, report to the Standing Committee on the impact (to date) that the \$50 million Service Enhancement strategy funding is having in terms of keeping individuals who suffer from mental illness out of correctional facilities.**
12. **Given that random alcohol and drug testing of inmates is practised in certain other Canadian jurisdictions, and in light of the number of deaths in Ontario institutions related to alcohol and illicit drugs, the Ministry of Community Safety and Correctional Services shall report to the Standing Committee as to whether it is prepared to make a regulation to authorize random alcohol and drug testing of inmates and if so, when?**
13. **The Ministry of Community Safety and Correctional Services report to the Standing Committee indicating the AIS management targets and time frame for the reduction of the average number of correctional**

officer sick days. The report should provide this information for each institution. The Ministry should also provide in this report the details of any actions taken to improve working conditions at institutions with high levels of absenteeism.