

# Doing Uncertain Time: Understanding the Experiences of Punishment in Pre-trial Custody

by

Holly Pelvin

A thesis submitted in conformity with the requirements  
for the degree of Doctor of Philosophy

Centre for Criminology and Sociolegal Studies  
University of Toronto

© Copyright by Holly Pelvin 2017

# Doing Uncertain Time

Holly Pelvin

Doctor of Philosophy

Centre for Criminology and Sociolegal Studies  
University of Toronto

2017

## Abstract

On any given day in Ontario's provincial prisons, there are more legally innocent people in prison than there are sentenced prisoners. Yet, little is known about the experiences of these prisoners and the challenges they pose for correctional institutions. I seek to fill this gap by drawing on in-depth interviews with 120 pre-trial detainees (60 men and 60 women) and 40 staff at four maximum-security facilities in Ontario. My analysis focuses on the three temporal dimensions distinctive to what is known as pre-trial custody or 'remand imprisonment' that have been neglected by prior research: experiences of arrest and police custody, making bail and court appearances, and daily life on remand. My findings indicate that this process inflicts a series of state-sanctioned harms on legally innocent prisoners. Much of the harm of this experience can be traced back to the fact that the criminal justice system is ignorant of or unconcerned with the human costs of this process. Police, acting under their authority to arrest, can apprehend and hold an individual, and have no legal obligation to allow a personal phone call so that arrangements about their lives can be made. Court appearances typically require some advance preparation; yet remand prisoners in Ontario must grapple with an outdated phone system that permits collect-calls to landlines but not cellular devices, leaving many unable to contact lawyers or loved ones, and seriously limiting their ability to prepare for court. Daily life in these facilities is characterized by

uncertainty for both prisoners and staff, who must grapple with whatever challenges come their way in the form of an unpredictable flow of new admissions. In this thesis, I argue that disruption and uncertainty are unique features of pre-trial imprisonment and I examine the costs of these on the individuals confined to and working inside these facilities.

## Acknowledgments

Nothing I write can accurately describe the ways I have been supported by the wonderful people around me, but I need to try. Perhaps it is easiest to start with the obvious sources. First and foremost, I am forever grateful to the interview participants in this study. Without their trust and willingness to share their personal experience, this research would not have been possible. I would also like to thank the Ministry of Community Safety and Correctional Services for granting me research access, and each individual research site for providing valuable resource support and cooperation throughout the data collection process.

I owe a debt of gratitude I will never be able to repay to two people in particular: Tony Doob and Rosemary Gartner. Tony saw my potential to take on an empirical project of this size and scale early on, and with his encouragement, I made a believer out of myself, too. His willingness and insistence that I call him at any time – day or night – whenever or if ever I encountered any problem was the kind of support that made this study possible. In addition, his obsession with backing up my data and chapters is the sole reason that when my hard drive crashed two weeks before submitting my thesis, I did not lose a single word. I am honored to have been one of Rosemary Gartner's students. Rosemary – you have been there through all the ups and downs of my graduate journey and have helped me overcome what felt like insurmountable obstacles. I can never thank you enough for your mentorship, training, and friendship. Without your seemingly endless editorial support, this thesis would have been a 400 page mess. Having you in my life has been profoundly transformative and I will always have you to thank for any success that may come my way.

Without the support of the Centre and the John Beattie Fund, this thesis would not have been possible. I am grateful for the legacy of John Beattie and the generosity of donors such as Jim

Phillips for giving me the opportunity to do this research. Kelly Hannah-Moffat has always challenged me to think about the ‘so what’ of my research, and her guidance throughout my time as a graduate student has improved my work and thinking about punishment. I would also like to thank Mariana Valverde for her support over the years and for encouraging and fostering the collegial and interdisciplinary nature of the Centre. The staff at the Centre help make it the special place that it is. Lori Wells and Wilhemina Peter are two of the most kind and helpful administrators you will ever find and I thank you both for everything you have done for me over the years. I owe a special thanks to Jessica Chlebowski for her friendship and for allowing me to vent at almost any time about the highs and lows of life as a graduate student.

Getting through graduate school is not simply about working well with your supervisors. To make it to the finish, you also need a supportive network of peers. I am so grateful to have had Marianne Quirouette and Marie-Pier Joly to go through this journey with. We started together, and (many) years later, we have all reached the finish line together. Our friendship has meant so much to me and I look forward to supporting each other through to the next milestone. I also wanted to extend my thanks to my peers at the Centre for Criminology and Sociological Studies, past and present. Our chats in the hallways, offices, and spaces beyond the Centre helped to encourage and keep me sane along the way.

At different points in this journey, I benefited from the support, encouragement, and feedback from members of the larger academic community. Since early on in my graduate career, Megan Comfort fueled my curiosity and interest in prison research. Her mentorship has helped me to pursue and engage with some of the thorny issues raised in this work.

Randol Contreras offered insights and feedback that were invaluable to my thinking on key

issues such as positionality. A special thank you is owed to Jonathan Simon, my external evaluator, for his deep engagement and thoughtful reading of this thesis. Thank you to Carla Cesaroni for teaching me the ropes of research in these settings. I would also like to thank Reuben Miller, Alessandro De Giorgi, Stefania De Petris, Allison McKim, and Robert Werth for offering me their time and advice when they had little incentive or reason to do so.

When it came time to write this thesis, I needed more tools and resources than I had at the time. Enter the University of Toronto's Dissertation Boot Camp. I am so thankful for this workshop and for subsequent writing supports offered by Rachael Cayley, who helped to demystify the thesis writing process. Through those resources, I met Jen Raso. Jen is the kind of colleague that you dream of: someone who is about the work, but makes it fun. Jen, your work ethic and dedication helped to make the writing happen. There is no one else I would rather meet in the library for a long day of dissertating, and I look forward to continuing our friendship and 'office hours' at the University of Alberta!

Apart from my committee members, no one has commented on my work more than Marie-Christine Bourdua. Having a friend that is an indie-game producer is an excellent exercise in making your work more accessible to a non-specialist audience. She earned the moniker "PhD coach" during the writing process, literally checking in daily, to help lift my spirits or to give me a motivational push. MC - I am so grateful for your friendship and for being a part of your life and family.

Many others have offered advice, assistance, a push, or a sympathetic ear along the way.

Thank you to Sue, Chris, and the entire Bonnell family for everything over the years. I also want to thank my Toronto community of neighbours: Arthur Keinberger, Susan O'Neil, Anya Hamman, Stephen Cooley, Cuba, and the staff at Tearo. Thank you to Angele Leger

for being a loyal and kind friend through many challenges along the way. Finally, I am particularly grateful to Jennie Ormson for bringing me back to life and helping me to heal.

Pursuing a project of this size meant making many (many) sacrifices along the way. No one has felt this more than my husband, Ryan (and our dog, Kingston). Ryan, you have been there for me – and challenged me – throughout this crazy journey. You never complained when I spent significant time and energy away from our life to collect this data. Everything and anything that I have achieved in this time has been because you have supported and encouraged me to pursue my goals. Thank you for working tirelessly to keep a roof over our heads and food on the table. But mostly, thank you for loving me.

# Table of Contents

Acknowledgments.....	iv
Table of Contents .....	viii
List of Tables .....	xi
List of Figures .....	xii
List of Appendices .....	xiii
<b>Chapter 1</b> .....	1
Overview of Research.....	5
Key themes .....	7
Overview of the Thesis.....	9
<b>Chapter 2</b> .....	12
What is Remand?.....	12
Remand Prisoners .....	12
The Legal Context for Remand . .....	13
The Remand Process .....	18
Trends in and Characteristics of Remand and the Remand Population .....	21
The Growth in Remand .....	21
Shifts in Provincial Correctional Institutions .....	22
Conclusion.....	24
<b>Chapter 3</b> .....	26
Research Sites.....	29
Sunshine Correctional Centre .....	29
The Greenhurst Women’s Facility and Brookdale Correctional Centre .....	32
The Parkview Detention Centre .....	41
Recruitment .....	45
Informed consent .....	50
Staff interviews.....	53
Conducting Research in Correctional Settings .....	54
Method.....	58
Process.....	60
Sample .....	61



Prisoners .....	61
Staff .....	65
Conclusion.....	66
<b>Chapter 4</b> .....	<b>67</b>
Background .....	69
Being Plucked Out: The Disruption of Arrest.....	74
Communication .....	80
Police Custody.....	92
Conditions of Confinement .....	93
Other Experiences.....	103
Discussion and Conclusion .....	108
<b>Chapter 5</b> .....	<b>112</b>
Background .....	113
Attending Court.....	115
The Process and Conditions of Attending Court .....	117
The Court Appearance .....	124
Returning from Court .....	126
Uncertainty .....	128
Video Court .....	130
Bail .....	133
Communicating with People Outside of Prison .....	133
Sureties .....	137
Delay .....	144
Bail Denial.....	148
Plea Bargaining .....	149
Discussion and Conclusion .....	152
<b>Chapter 6</b> .....	<b>157</b>
Background .....	158
Admission and Discharge.....	162
Daily Routine .....	169
Conditions of Confinement .....	171
Programs .....	173

Visitation .....	177
Healthcare .....	179
Intake .....	180
Courts and Healthcare .....	184
Mental Health .....	186
Special Populations .....	189
Segregation .....	190
Protective Custody.....	196
Lockdowns .....	198
Disrupting Dysfunction .....	204
Dislocation/Disconnection .....	208
Conclusion.....	211
<b>Chapter 7</b> .....	216
Key Findings and Recommendations .....	218
Remand as a Cross-Institutional System .....	225
Appendix.....	231
References .....	245

## List of Tables

### Chapter 3

Table 1: Selected characteristics from interviews of male and female remand prisoners ..... 63

Table 2: Staff interviews by job type ..... 66

### Chapter 4

Table 3: Characteristics of interviewees at the time of arrest..... 76

Table 4: Concerns upon arrest ..... 79

Table 5: Living arrangements at arrest ..... 81

Table 6: Issues related to children..... 84

Table 7: Experience of police holding ..... 93

### Chapter 5

Table 8: What is the worst part about attending court? ..... 115

Table 9: Court preference. .... 131

Table 10: Number of court appearances ..... 144

Table 11: Purpose of next court appearance ..... 148

### Chapter 6

Table 12: Select measures of disadvantage..... 205

# List of Figures

## **Chapter 2**

Figure 1: Arrest Decision and Outcomes .....	21
Figure 2: A Superjail in Ontario .....	23

# List of Appendices

Appendix A: Characteristics of Interviewees .....231

# Chapter 1

## Introduction

People get to prison in one of two ways. Sentenced prisoners typically know or can anticipate the likelihood that on a particular day (i.e., at their sentencing) they will go to prison. They may not know the exact day of their release from prison, but they also know, or can readily find out, the expected range of the length of their stay (i.e., between the one-third and two-thirds points in sentence). Even those sentenced to life in prison know when they can first appear before a parole board to argue they should be released.

People on remand, however, have no such knowledge. Thus, remand prisoners—who constitute approximately 37% of those in prison on an average day and almost twice as many of those who enter prison each year in Canada—cannot have a clear idea about when they will be released back into the community. The lives of these remand prisoners have been put on hold indefinitely and often with no notice to the individual or those who depend on and care about them.

The experiences of remand prisoners and the challenges they create for correctional institutions are both likely to be different from those related to sentenced prisoners. However, for a variety of reasons, most of the empirical research on prisoners by criminologists and other social scientists looks at felony convictions and sentenced prisoners (Kohler-Hausmann, 2013). Empirical study of the front-end of the system, and bail and jail experiences in particular, has been largely neglected (Subramanian et al., 2015; Wagner, 2015; Baylor, 2015; Appleman, 2012). The major contribution of this thesis is its focus on this under-studied group, that is, people in custody who have not been convicted of a crime

and therefore are not legally ‘punishable’. In addition, by bringing together the voices of both prisoners and staff—who have been traditionally studied in isolation from one another—this study advances our understanding of daily life and operations in remand settings.

When we think of prisoners – particularly those who are detained before conviction – we might think of particularly dangerous people who need to be removed from our communities. However, the reality is that nearly half of those on remand in Ontario in 2009 were released back to the community, the vast majority of whom (47%) had no supervision of any kind post-release (Doob, 2012). Perhaps this is due to the fact that nearly seven out of ten admissions to remand custody are individuals charged with non-violent offenses, most commonly, failure to comply and breach of probation (Porter and Calverley, 2011). What this means is that tens of thousands of remand prisoners have their lives disrupted by being imprisoned without having been found guilty of a criminal offense, only to be returned to their normal lives with the expectation that they pick up the pieces from when they were, often without any warning, imprisoned. The problem is not just with the number of people affected, but with what this disruption costs these people and their families.

In this thesis, I unpack both the uncertainties and disruptions of remand imprisonment by examining three of its core and distinctive dimensions: 1) arrest and police custody; 2) conditions and experiences of court processing; and 3) daily life inside remand facilities. More broadly, these periods and processes have been relatively unexamined in first-hand accounts of imprisonment, yet there are reasons to believe they present some particular challenges relative to the experience of sentenced imprisonment. I briefly review these reasons below.

First, people are forced into the custody of the state upon their arrest. Since people are typically unprepared for their arrests, this disruption produces a range of immediate concerns and consequences: many have employers to report to, partners, children, or pets who depend on them, personal belongings and housing that are left unsecure, and household expenses and bills they are unable to deal with. Yet, the criminal justice system is typically unconcerned with the reverberations that flow from an arrest (Comfort, 2007). Even the basic process of notifying family or friends typical of other social institutions, such as hospitals, is not enshrined in policy or practice in the criminal justice system (Ibid), and is an issue that has particular significance for remand prisoners, who require time-sensitive assistance from outsiders to pursue bail release.

Second, shortly after their arrest, those held in police custody begin the court process. Though most of us can readily recall an image of a prisoner attending court—perhaps shackled and in prison garb, or neatly dressed next to their attorney—we know surprisingly little about the experience and consequences of this process. The outcomes at stake on court days can be high: some can hope to gain their release through the bail process, and others may know or expect their chances at bail are unrealistic. In Ontario, an accused person's prospects for release are rooted in the courts' reliance on sureties (Myers, 2009), who are effectively a family or relational equivalent of a bail bondsmen.<sup>1</sup> Though this may seem an attractive alternative to a cash bail system, the consequences of this path to release have been largely unexamined.

Third, while dealing with the fallout of their arrest and court processing, remand prisoners are held inside maximum-security facilities. Remand prisoners pose a fundamental challenge

---

<sup>1</sup> I explain sureties and the system of bail in Ontario in Chapter 2.



to the presumption of innocence by the very fact that their imprisonment is not the result of a finding of guilt (Friedland, 1965). Being legally innocent creates distinct challenges for the remand prisoner inside prisons, which are generally designed to house and supervise sentenced prisoners (Beattie, 2006). Remand prisoners are ineligible for most correctional programming and treatment programs (Johnson, 2003; Harvey, 2005) they cannot be employed in the facility (which means they spend more time inside their cells than sentenced prisoners), have “closed” visits behind glass with family and friends (in contrast to the “open” contact visits available to sentenced prisoners), and have limited or no access to a variety of other activities or services while they are on remand (Edgar, 2004). Apart from these basic material and tangible deprivations (Sykes, 1958), remand prisoners are subject to an ever-changing correctional population driven by the constant flow of new admissions. These new arrivals ensure that the dynamics of life inside remand facilities are constantly shifting.

Finally, the flow of admissions is also an operational problem for correctional facilities (McCrank et al., 2009). They must manage and house an unknown number of newly-arrived prisoners each day, and ensure their attendance in court and their care and control inside the facility. These institutions have no ability to turn their population away: they are at the mercy of the police and courts (Ibid). As scholars have long noted, jails are the dumping ground for those living on the margins, struggling with mental illness, addiction, or homelessness (Rottman and Kimberly, 1975). The demands that the nature of remand imprisonment poses for these facilities has yet to be examined.

Some of these issues and concerns have been raised as public and official awareness and documentation of the prevalence and problems of remand imprisonment have grown, both in Canada and in other Western nations (see Deshman and Myers, 2014; Subramanian et al., 2015; Schoenteich, 2014; Human Rights Watch, 2017; Sarre, King and Bamford, 2006).<sup>2</sup> Nevertheless, first-hand accounts of this experience have yet to be explored in a systematic fashion. In this study, I seek to fill this gap and to develop an understanding of the experiences and consequences of remand imprisonment for those currently in custody and for the facilities tasked with the custody and care of the remand population.

## Overview of Research

This study is centrally concerned with the experiences and consequences of remand imprisonment. To understand these issues, I conducted in-depth interviews with a sample of prisoners in remand custody at four maximum security provincial prisons in Ontario, Canada. Since I also had an interest in whether and, if so, how remand imprisonment differs by sex or gender, I interviewed equal numbers of male and female remand prisoners.<sup>3</sup> This resulted in a sample of 120 remand prisoners (60 male, 60 female), distributed equally across the four institutions. Given the unique operational challenges that remand imprisonment poses for correctional institutions relative to sentenced imprisonment, I thought it was necessary to consider staff perspectives as well. Initially, I intended to conduct a small number of interviews with senior officials at each research site. As the research progressed, so did the

---

<sup>2</sup> In contrast, see Hucklesby (2009) for a discussion of the stabilisation of the remand population in England.

<sup>3</sup> I understand that the nature of this sampling strategy oversampled female prisoners. I was not concerned with generalizing to all remand prisoners, and for that reason, I was willing to oversample from the women's population to have information from equal numbers of male and female prisoners. If I had tried to be more representative, I would have ended up with a much smaller sample of women, and this could have raised other challenges in understanding if and how gender differences in remand imprisonment had meaning.

staff component, and I eventually interviewed members of nearly every unit working in these facilities. By the time I completed my research, I had conducted interviews with 40 staff members drawn from the ranks of senior management, supervisors, front-line correctional officers, healthcare workers, social workers, and program staff. These interviews gave context to the issues raised by prisoners, and are fundamental to the larger set of questions that come out of this research. Together, these 160 interviews form the basis of this thesis.

The permissions necessary to conduct this research took over a year to acquire, and the data collection process spanned just over a year. To collect this data, I traveled on a bi-weekly basis to the four correctional facilities—all located in southern Ontario—where I conducted my research. For each of these fieldwork visits, I would plan four days of back-to-back interviews. This typically produced two to three interviews a day over a 12-hour period inside the facility, though there were times when I was unable to conduct any interviews because of lockdowns or other operational challenges. Interviews with prisoners ranged from one to three hours, with most at or near two hours in length. During these interviews, I asked people a series of both closed and open-ended questions about their experiences of three core dimensions of remand: 1) arrest and police holding; 2) attending court and navigating release on bail; and 3) daily life and conditions of confinement in remand custody. Staff interviews were conducted at each facility upon the completion of interviews with the prisoner sample. This allowed me to get a sense of the institutional climate at each facility and to more effectively select staff who could speak to specific concerns or challenges prisoners faced at a given facility. Staff interviews were shorter than the prisoner interviews, typically one hour in length, and were based on a few general open-ended questions. These were designed to target the challenges brought about by remand imprisonment; if and how these may have

shifted over time or are different for male and female prisoners; and how workers navigate competing interests or mandates (i.e., security vs. healthcare) in the remand context. I discuss the data and methods for this research in greater detail in Chapter 3; for now, I turn to the key themes that emerged from these interviews.

## Key themes

Four core themes emerged from this research: uncertainty; disruption; punishment; and variation by institution and gender. These characterize and shape the experiences of remand prisoners, their families, and the institutions that house them at each stage of the arrest and remand process. I will explain how these themes emerge and take shape in each of the analytic chapters, but for now, I provide a brief explanation of each theme.

1. Uncertainty. For individuals on remand, uncertainty is an overriding feature of daily life. This begins at the moment of arrest and punctuates the entire court process, until the point of adjudication. This uncertainty also reaches beyond the prison walls to kinship networks, members of which cannot expect or plan for when their loved ones' incarceration will end. Daily life inside remand facilities is also characterized by uncertainty for both prisoners and staff. There, much of the uncertainty of remand is produced by the constant turnover, or churn, of remand admissions, which disrupts the dynamics and operations inside these facilities.
2. Disruption. Remand prisoners are typically unprepared for their sudden incarceration, which begins at the moment of arrest. The disruption of arrest is mediated by the immediate circumstances of an individual's life at that moment; what they were doing

and who they were with at the time can play an important role. Being arrested when one is not expecting it has particular and pressing consequences for people's housing and belongings, their dependents and pets, and their employment or assistance payments. Since remand prisoners are unable to directly manage the fallout of their arrest, these tasks are typically downloaded or taken on by family or friendship networks. Though the consequences of this disruption are mostly negative, in some cases, the disruption of remand can produce positive outcomes as well.

3. Punishment. Individuals on remand experience a range of extra-legal punishments, beginning from their arrest through to the completion of their case. In this study, use of the word punishment refers to extra-legal state sanctions that produce either physical or psychological harm and/or trauma. In this study, I also refer to these extra-legal punishments as hidden harms. Importantly, these punishments are imposed or experienced by remand prisoners while they are legally innocent. The cascading effects of these punishments can also be felt in the lives of those once removed from the criminal justice system, i.e., remand prisoners' family and friends.
4. Variation by institution and gender. I found two important sources of variation in some, but not all, stages of remand prisoners' experiences that have also been identified in research on sentenced prisoners: gender and the specific institutional context. I discuss these two sources of variation, where relevant, in the description and analysis of findings.

## Overview of the Thesis

In Chapter 2, I describe the legal context for remand imprisonment and highlight some key changes over time. I outline the basic steps in the remand process then turn to trends in remand in Canada and Ontario specifically. Finally, I consider the correctional context in which remand occurs and document some recent shifts in correctional philosophy and practice as they bear on remand imprisonment.

In Chapter 3, I describe the data and methods of this study. I give an overview of the research sites and the process of gaining access and collecting the data that followed at each site. I then provide information on my sample of prisoners, including their demographic and other background characteristics. This is followed by a description of the characteristics of my staff sample.

In Chapter 4, I investigate remand prisoner's experiences of arrest and police custody. I point to the ways that the disruption of arrest is mediated by the circumstances of the individuals' life at the time of their arrest, and their treatment at the hands of the police. Here I highlight variation in the policies that govern the treatment of individuals in police custody and indicate how this can lead to the disparate treatment of those in police custody. I conclude with a discussion of the individual and collateral consequences of this period of confinement.

In Chapter 5, I examine the court process from the defendant's perspective. I consider the range of state-sanctioned harms that are produced as people travel to and from the courts. I then turn to the barriers those on remand must confront in order to pursue their release on bail, focusing specifically on Ontario's reliance on the surety system. Throughout the

chapter, I suggest how the challenges brought about by the physical, psychological, and legal demands of the court process may induce adjudication outside the formal trial process.

In Chapter 6, I turn to the experience of daily life on remand. Prisoners returning from court and new admits may have a number of needs or concerns, and facilities are tasked with responding and managing those challenges. This turnover or churn of remand disrupts daily life inside these facilities and sustains the uncertainty that is characteristic of remand imprisonment; it also has cascading consequences for operations and life inside these facilities, including programs, services, and the conditions of confinement. In this chapter, I also consider how workers deal with the operational challenges brought about remand prisoners' often distinctive needs, using the example of healthcare. I describe the particular challenges of health care delivery for the remand population. Here I focus on the public health and social service role that is downloaded to facilities from police and courts. I argue that jails are increasingly tasked with managing what is essentially a non-jailable population, in that many people who enter these institutions have basic health and welfare needs that are absorbed by the criminal justice system because of a lack of alternative solutions. I consider how the nature of remand imprisonment amplifies these issues.

In Chapter 7, I weave the findings of this study together and discuss their collective meaning and significance. Here I return to the key themes of this research, and how these were developed based on first-hand accounts of the remand experience and the challenges that this period of imprisonment poses for facilities. I provide some policy recommendations intended to address some of the basic harms and consequences of remand imprisonment, and people's prospects for release on bail. I conclude by calling for further investigations into the

human costs of remand, and for research that considers how this form of imprisonment can blur the boundaries of state-sanctioned punishment.



## Chapter 2

### Remand in Canada and Ontario: Background and Context

In this chapter, I describe some of the main elements and concepts that provide the backdrop and context for this research. I begin by defining remand and the legal context for this form of incarceration in Canada. Following this, I document basic trends in remand and the remand population in Canada and Ontario specifically. I conclude by pointing to some of the larger changes that have occurred in the last two decades in provincial corrections, and how these have shaped correctional philosophy and practice in remand settings.

#### What is Remand?

##### Remand Prisoners

I use the term ‘remand prisoners’ throughout this dissertation to identify people who are legally innocent but in custody pending a bail decision or other outcome. Remand prisoners are composed of two ostensibly distinct groups (Doob, 2012). The first is composed of those who are in the bail process, and the second is composed of those in the trial process or those who have no intention of pursuing bail release,<sup>4</sup> or have been denied bail release.<sup>5</sup> In other jurisdictions, these groups of people may be referred to as ‘detainees’. In practice, however, use of this term can create slippage and confusion about the legal status of those in custody before conviction by assuming they have been formally detained in court.

---

<sup>4</sup> I discuss the reasons why some remand prisoners do not pursue bail release in Chapter 5.

<sup>5</sup> There is technically a third group of remand prisoners as well, comprised of those who have been found guilty but have not yet been sentenced. Data do not allow us to know how large this group is, but it is thought to be relatively small.

Remand prisoners are in a detention facility either because they are in the bail or trial process.<sup>6</sup> For those remanded during the bail process, their detention began when they were arrested, and will typically result in about a week of detention until a bail decision is reached. Those in the trial process may or may not attempt their release on bail. Some strategically put off a bail hearing until their lawyers have received disclosure on the evidence against them, while others attempt to secure bail shortly after their arrest. Still others go through the remand process without ever having a formal bail determination (see Webster, 2009), a decision I explain further in Chapter 5. Thus, the remand population is composed of two main groups; short-term detainees (typically less than one week) who are in the bail process and long-term detainees (more than one to two months) who are in the trial process (Doob, 2012).

### The Legal Context for Remand

Though the origins of bail can be traced back to the 12th and 13th centuries, the fundamental purpose of bail across all jurisdictions—to secure the accused’s appearance in court—was stated clearly in the law by the late 19th century in England. Indeed, the intent and purpose of bail were firmly stated when in 1898, Lord Russell C.J. said “[i]t cannot be too strongly impressed on the magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at the trial” (as cited in Trotter, 2010, p.6).

Present day bail practices, both in Canada and in other Western nations, stem from these same historical origins. There were, of course, several developments that took place to

---

<sup>6</sup> The term ‘trial process’ is used here mainly to describe the period *before* an actual trial, given that a trial is such a rare occurrence. In Ontario, just 4.5% of all criminal cases ended with a trial (Ontario Court of Justice, 2017). In this study, those in the ‘trial process’ are typically awaiting sentencing or other outcome of their case.

change bail practices in different countries according to shifts in the socio-political landscape. The US monetized its system of pretrial release, creating an industry where bail bondsmen profit from the jailing and bailing of accused people.<sup>7</sup> Canada adopted aspects of both English and American systems, relying on both sureties (discussed further below) and cash bail as a path to release, until reform efforts led to change. Calls for bail reforms were galvanized by Friedland's (1965) seminal study of magistrate's courts in Toronto. Analyzing some 6000 cases in which defendants were charged with violations of federal laws, he found that the vast majority (85%) of accused people were held by police until their first appearance and that nearly two-thirds (62%) could not afford to raise the bail amount set by a justice of the peace (hereafter, JP) and languished in pretrial custody. Friedland found that accused people who were not bailed were more likely to be convicted of their charges and to receive a sentence of imprisonment, relative to those who were bailed. Friedland's calls for bail reform were soon followed by the McRuer Report (1968) and the Ouimet Report (1969), both of which also pointed to the need for fundamental shifts to the operation of the bail system in Canada.<sup>8</sup> Together, these reports called for more police latitude to release accused people at the earliest opportunity, for the bail decision to be clearly expressed in court, for the practice of monetary release to be used with restraint, and for the onus of the detention decision to shift to the state, whereby the state would have to argue against presumptive release of the defendant (Myers, 2013).

As a response to the growing concerns about fairness in the bail system, *The Bail Reform Act* of 1972 legislated a more systematic approach to bail based on the addition of new criteria

---

<sup>7</sup> See Page (2017) for a discussion of the bail bondsmen industry in the US.

<sup>8</sup> Bail reform in Canada coincided with the bail reform movement in the US, which was rooted in the early work of Foote (1954; 1964) and brought into sharp focus by Manhattan Bail Project (Ares, Rankin & Sturz, 1963). The Manhattan Bail Project was credited as the main driver of the Bail Reform Act of 1966.

and goals, set out in section 515(10) of the *Criminal Code*. For the first time, there were additional criteria for bail other than to secure the attendance of the accused in court, now termed the primary grounds for detention. The new and additional criteria were referred to as the secondary grounds for detention under s.515(10)(b) of the *Criminal Code*; these secondary grounds were based on public interest and the likelihood that the accused would commit another offense while on bail.

Since these reforms, there have been other changes to bail laws. Several of these amendments expanded the types of crimes for which an accused person could be placed under a reverse onus provision. In general, bail is governed by a presumption of release until trial, except in the case of some offenses (Trotter, p. 23). The first “reverse onus” provision of bail release was enacted in 1975. It required, for certain offences, that the accused person satisfy the courts that they are a suitable candidate for release, rather than requiring the crown to justify detention. Since that time, the number of reverse onus provisions has increased to include a larger number of offenses, such as terrorism, drug, and weapons offenses, among others.

In 1982, Canada enacted the *Charter of Rights and Freedoms*, and with it came the introduction of fundamental rights to bail. Section 7 of the Charter specifies that everyone has the right to “life, liberty and security of the person and not to be deprived thereof except in accordance with the principles of fundamental justice.” Section 9 states that “everyone has the right not to be arbitrarily detained or imprisoned”. And finally, s. 11(e) states that “any person charged with an offense has the right not to be denied reasonable bail without just cause.” In 1992, the Supreme Court of Canada heard two cases that challenged the constitutionality of the accused persons’ detention. Of particular significance was the Court’s interpretation of the term ‘public interest’ in weighing the likelihood of reoffending in

s.515(10)(b). The Court struck down this phrasing, ruling it unconstitutionally vague. In 1997, Parliament enacted a new version of the public interest provision, in what became known as the ‘tertiary grounds’ for detention under s. 515(10)(c). This gave justices the power to detain an accused person only in cases where the primary and secondary grounds are not at issue. In these cases, the JP must assess whether bail release would compromise the public’s confidence in the administration of the criminal justice system.<sup>9</sup>

Of greater significance for the remand population was the legislative shift that changed the credit given for time spent in pre-trial custody (Weinrath, 2009). *The Truth in Sentencing Act* (Bill C-25) was passed in 2009 in part to change the presumptive credit given for time spent in pre-trial custody from two days for every one day spent in pre-trial custody to a straight day for day credit.<sup>10</sup> Under this new law, a maximum of one and a half days of ‘enhanced credit’ is justifiable under special circumstances (s. 719(3.1)).<sup>11</sup> The logic for this shift was puzzling. As Doob and Webster (2013) argued, the government had its arithmetic wrong in imposing this change to the standard practice of two for one credit. As they posit, the presumptive credit given at the pre-trial stage in part accounts for the fact that if a remand prisoner was serving sentenced time, statutory release would be at the two-thirds point of their sentence,<sup>12</sup> and so changing the credit to one for one means that remand prisoners are not credited the same way that sentenced prisoners are for their time in custody. Indeed, the

---

<sup>9</sup> See *R v Pearson* (1992); *R v Morales* (1992) and *R v Hall* (2002) for a detailed discussion of the development of tertiary grounds, and its legal challenges.

<sup>10</sup> Part of the rationale for this shift was concern that remand prisoners were abusing or delaying the bail process in order to maximize their pre-trial credit.

<sup>11</sup> Importantly, however, before and since the passage of this legislation, justices are not required to give any credit, and they maintain the discretion in this regard.

<sup>12</sup> Under *The Corrections and Correctional Release Act* (CCRA) in Canada, sentenced prisoners have the right to be released after serving two-thirds of their sentence. They do not have to apply for parole. Those on statutory release are supervised by parole officers and can return to prison if they present risks to the community or commit a new offense. Those with life sentences or indeterminate sentences are not eligible for statutory release.

Supreme Court of Canada (SCC) recognized this issue in a 2014 decision that clarified the legislation and affirmed that the presumptive credit should in fact be one and a half days for one, though judges retain the discretion for awarding this credit. In effect, the restrictions that do not allow for a 1.5 to 1 credit have been invalidated by this recent SCC ruling, and more recently, the one remaining exception to the 1.5 to 1 credit is supposedly to be removed as part of a recent bill tabled in the House of Commons. Importantly, however, although the credit of one and a half for one is in line with the logic of sentenced imprisonment, it does not compensate remand prisoners for their comparatively harsh conditions of confinement.

In general, changes in the legislative approach to bail have moved the Canadian system away from its historic reliance on a cash bail system to a system of presumptive release (Friedland, 2012).<sup>13</sup> Even though there is a system of presumptive release, in reality remand prisoners must demonstrate to the courts that they are suitable candidates for bail. On its face, this means that the courts must be satisfied that the accused is not a flight risk and does not pose a danger to society. Though these formal requirements are in line with the legislative purpose of bail, the courts in Canada and in Ontario, in particular, have come to increasingly rely on a third-party system of ‘sureties’ as a path to secure pre-trial release (Myers, 2009; Dushman and Myers, 2014).

In its simplest form, a surety is a family member or relational equivalent to a live-in bail bondsman. The state effectively downloads this “quasi-policing” role to sureties to ensure that an accused person complies with their release conditions and attends scheduled court dates (Myers, 2009). If an accused person breaches their bail conditions, their surety is required to notify police and in effect ‘pull bail’. In order to satisfy the courts that they are

---

<sup>13</sup> However, cash bail is allowed in Canada, and is frequently used in the province of Alberta (Friedland, 2012).

suitable for this role, sureties typically cannot have a criminal record. In addition, a surety is typically required to demonstrate assets and employment and is vetted on these bases during the bail hearing. These shifts in bail laws and practice have led to increases in the amount of time it takes to reach a bail decision since now it appears that sureties must appear in court (Deshman and Myers, 2014).<sup>14</sup> The requirements for sureties mean that few accused people are ready to proceed with a bail hearing at their first appearance.

The amount of time and number of appearances required to make a bail decision have increased over time. In 2008, Ontario officially acknowledged that inefficiencies in court operations were a major problem and announced a plan to reduce delay through its “justice on target” initiative (Webster, Doob, and Myers, 2009). Data from 2013/14 suggest that of the 47% of cases that had a bail hearing and were completed in Ontario that fiscal year, 37% took three or more appearances to resolve the bail issue. One reason for the length of time to resolve bail may be case complexity, as measured by the number of charges. The average number of charges in cases increased from 2.46 in 2001 to 3.15 in 2014 (CANSIM). However, reform efforts to reduce inefficiencies in Ontario’s court system have produced reductions in the number of appearances required to complete a case, since peaking in 2008. With this as a background to formal bail proceedings, it is useful to map out the steps of the remand process.

### The Remand Process<sup>15</sup>

In order to understand how a person becomes remanded, it is important to specify how a person is processed through the criminal justice system, beginning with the initial arrest and

---

<sup>14</sup> Rather than being vetted by a justice of the peace outside of court.

<sup>15</sup> The process described here is adapted from Trotter’s (2010) book on the bail process in Canada.

up to the detention decision.<sup>16</sup> The main steps in this process are shown in Figure 1. Except in the case of very serious offences, a person arrested without a warrant can be released on the spot or at the police station.<sup>17</sup> This can be done by way of unconditional release or by issuing an appearance notice.<sup>18</sup> In addition to these options, the police may issue a release on recognizance or conditional release (without sureties) in an amount up to \$500, but without the deposit of money.<sup>19</sup> If none of these options are suitable, an officer may decide to hold the accused in custody for a bail hearing. The officer would do this under any of the following conditions: to establish the identity of the accused; to preserve the integrity of the criminal investigation; for public safety; or to secure the accused's appearance in court.

If the police officer decides to make an arrest, the accused person enters police custody; however, this decision must be reviewed by another peace officer or "officer in charge".<sup>20</sup> This process is meant to be a review of the initial decision to hold a person in lieu of the available release options. At this stage, the accused may still be released on a promise to appear or they may be released on their own recognizance by the officer in charge. A release

---

<sup>16</sup> The following discussion applies to incidents **not** involving a warrant and, unless otherwise specified, refers to the police bail process in Canada.

<sup>17</sup> Arrests without a warrant occur if an officer has reasonable and probable grounds to believe a suspect has committed an indictable offense or where they find a person in the act of committing an offense. Arrests with a warrant occur after an officer has provided a JP or judge with reasonable and probable grounds to believe that an indictable offense has occurred. If the judicial official issues the warrant, it grants police authority to arrest the accused.

<sup>18</sup> Once an officer issues an appearance notice they must have it examined and authorized by a justice of the peace (Trotter, 2010).

<sup>19</sup> A deposit of the money would only be required if the accused fails to appear in court.

<sup>20</sup> Trotter, known as the authority of the law of bail in Canada, explains that the legislative purpose of consulting the "officer in charge" was to enhance accountability in the police bail process by mandating a street-level police officer to consult a senior officer on the decision to detain the accused until a bail hearing is held. However, the definition of "officer in charge" was never clearly articulated in the legislation, and as a result is open to interpretation. The arresting officer may consult with another peace officer, or, as in the case of smaller units, may face the possibility of being the officer with the most seniority in the unit. In these cases, the process of discretion and accountability may be undermined and as Trotter (2010, p. 5) states "half-measures in the police bail provisions may contribute to injustices in the bail process as a whole". In addition, King, Bamford, and Sarre's (2009) research in Australia found that there was a high rate of agreement on remand decisions between the arresting officer and the officer in charge.



on recognizance is an acknowledgment by the accused of “indebtedness to the Crown which is defeasible upon fulfillment of certain conditions” (Trotter, 2010, p. 33).

Alternatively, the officer in charge may decide that holding the accused for a bail hearing is the best course of action. This means the accused would await a bail hearing in a police holding cell; bail hearings usually occur within 24 hours or as soon as possible.<sup>21</sup> At the bail hearing, the JP can decide to release the accused with or without conditions, such as recognizance or a surety. It is important to note that even if an accused is given release options by the JP, they may still remain in remand custody. This is because some accused cannot meet the conditions of their release (for instance, they are unable to find a suitable surety). The JP can decide to deny bail and detain the accused into custody on a number of grounds set by the Canadian *Criminal Code* guidelines for the appropriate use of pretrial detention in s. 515. These include: a) to ensure the accused attendance in court; b) the protection or safety of the public; and c) on any other just cause being shown and where the detention is necessary in order to maintain confidence in the administration of justice. These are respectively referred to as the primary, secondary, and tertiary grounds for detention. In the event of a delay in the bail decision (which results in the prisoner being remanded) or a detention order,<sup>22</sup> the accused would be transferred from police custody to correctional services. The majority of remand prisoners, while in a detention facility, are still in the bail process. That is, they were remanded to custody at their first bail appearance, but have not yet had a bail determination. For these prisoners, delay of their bail outcome may have

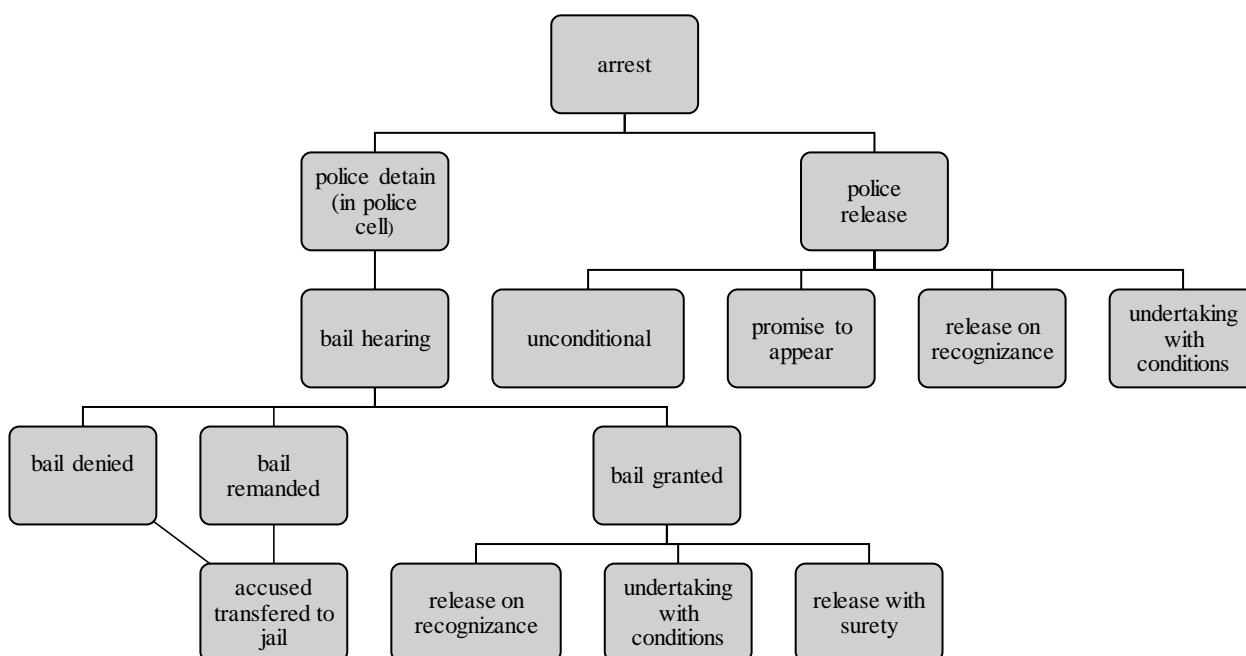
---

<sup>21</sup> In some jurisdictions, bail court only sits during regular court (weekday) hours, whereas other jurisdictions have special weekend and holiday bail courts.

<sup>22</sup> If an accused person is detained, their detention is subject to judicial review. For summary offenses (those that are less serious in nature), the review period is every 30 days. For indictable offenses (crimes that are more serious in nature), the review period is every 90 days. This review is conducted in court and is ostensibly meant to review the case progress for those detained pending trial (see s. 525(1) of the Criminal Code).

occurred for a number of reasons, but commonly it is to allow the defence to secure a surety (which is a rapidly increasing requirement for many individuals; see Myers, 2009) or other conditions that may be favourable to their release. Regardless of whether the accused is held in detention or granted bail, both groups are considered legally innocent until they are found guilty in court.

Figure 1: Arrest Decision and Outcomes



## Trends in and Characteristics of Remand and the Remand Population

### The Growth in Remand

As noted in Chapter 1, on a typical night in provincial and territorial prisons across Canada, there are more legally innocent people doing time behind bars than there are convicted prisoners. Growing concern about remand imprisonment has been rooted in the increase in the use of remand over time. Indeed, remand admissions rose from 28% of those admitted to

provincial/territorial prisons in 1982 to 59% in 2015/16 (CANSIM).<sup>23</sup> On its face, the logic behind the growth in remand admissions to provincial prisons is puzzling since crime in general in Canada has been on the decline (Porter and Calverley, 2011).<sup>24</sup>

Changes in the nature of remand imprisonment that occurred more generally in Canada have been particularly pronounced in a few provinces, including Ontario. Here, nearly two-thirds of admissions (62%) and daily counts (65%) are accounted for by remand prisoners (CANSIM). Remand imprisonment, in terms of correctional data, is driven by two factors: the first is how many people are admitted to custody, the second is how long they stay there (Doob, 2012). While growth in the rate of remand admissions in Ontario increased four-fold from the late 1980s to the late 2000s, there have been signs of stability in recent years, with remand admissions accounting for 67% of all provincial prison admissions in 2010 and 62% of all admissions in 2015 (CANSIM). Women accounted for between 13-14% of all remand admissions in Canadian provinces and territories in 2015, a pattern that holds true for Ontario as well. Of those remand prisoners who were released from custody in 2015, the median length of their incarceration was just nine days (Ibid).

### Shifts in Provincial Correctional Institutions

The growth in remand imprisonment in Ontario in the 2000s coincided with major shifts in the province's correctional infrastructure and practice. The origins of these changes date back to the election in 1995 of a Conservative provincial government intent on slashing social services and spending and moving towards "no frills" corrections (John Howard Society of Ontario, henceforth JHSO, 2000). Following this ideologically-driven shift, the province

---

<sup>23</sup> This increase was in both relative and absolute terms. The growth in remand peaked around the late 2000s, and has since shown signs of stability.

<sup>24</sup> However, the reduction in sentenced admissions is likely related to convicted persons being sentenced to 'time served'. Though these sentences would reduce sentenced admissions, they would not impact remand admissions. Thus, this may account for the shifts in the proportional growth of remand admissions.

closed many of its smaller local jails in favour of large austere regional facilities that provide few programs and resources to prisoners. By the early 2000s, two new ‘superjails’ were constructed in the greater Toronto region (JHSO, 2006). These facilities operate under a model of closed supervision, which moved staff outside of the living units and restricted their interaction with prisoners to an ‘as-needed basis’ (Ibid).<sup>25</sup> This was a significant departure from the model of direct supervision that had been in place at the smaller jails. Under a direct supervision model, correctional officers work on the living units and engage directly with prisoners (Sexton, 2012; see also Sapers, 2017).

Figure 2: A ‘Superjail’ in Ontario



Source: Bondfield construction, 2017.

The correctional pendulum has swung back to a more rehabilitative approach under the direction of the Liberal provincial government, which assumed power from the conservatives

---

<sup>25</sup> Examples of ‘as needed basis’ include taking prisoners out of their living units for courts, travel to and from yard, or to retrieve and return meal carts.

in 2003. Under the current Liberal regime, which was elected in 2014, there has been a major push for correctional transformation (Sapers, 2017). To this end, the province constructed two new detention facilities, one in Toronto and the other in southwestern Ontario that opened in 2014 and 2015 respectively (Ibid). These facilities were designed specifically to house a remand population under a direct model of supervision and to include more programs and services. As an example, the Toronto facility also included in-house space for community mental health supports. Importantly, these facilities have received widespread media attention and condemnation for a number of shortfalls, broken promises, and problems brought to light by the plight of those inside these facilities (Ibid; see Taekama, 2015; Dempsey, 2015 for examples). Though these issues are beyond the scope of this study, it is important to understand that there are and continue to be major challenges in provincial corrections generally (Sapers, 2017) and remand imprisonment in particular (Wyant, 2017), regardless of the stated philosophy.

## Conclusion

In this chapter, I outlined the legal context for remand in Canada, and the main developments that have changed the process over time. These reforms have moved Canada away from a cash bail system to one in favour of presumptive release. However, particularly in Ontario, changes over time in bail practices have resulted in an increasing reliance on sureties as a path to secure bail release (Myers, 2009). I then provided a basic overview of the remand process, beginning with arrest. Here we see that in nearly all cases, police officers have the power to release a suspect before a bail hearing (Wyant, 2017). Despite these powers, trends in remand imprisonment reveal that remand admissions and counts have increased over time (Beattie, 2006; Webster et al., 2009), and in particular over the last decade, though there are

signs of recent stability. The nature of provincial imprisonment has transformed over a relatively short period from a largely sentenced to remand population, which has implications for day to day operations inside these facilities (see McCrank et al., 2009). Yet, changes in the design, philosophy and practice of provincial corrections also bear on day to operations inside these facilities (JHSO, 2006). Both prisoners and staff inside these facilities have been subject to different correctional ideologies over time that have intended to either restrict daily life and prisoner-staff relations or to facilitate more programming and encourage more prisoner-staff interaction. With this as a background to the larger context of remand, I now turn to the data and methods used in this research.

## Chapter 3

### Data and Methods

The lack of academic investigation of the remand population may, in part, be due to the challenges with gaining research access to correctional facilities (Watson, 2015; Mopas and Turnbull, 2011; Wacquant, 2002). The correctional ‘gatekeepers’ for my research may have been motivated to grant access for this project because I was studying a population that poses distinctive operational challenges for their institutions and staff. Housing a remand prisoner can require more correctional resources than would a sentenced prisoner for a number of reasons, such as that remand prisoners frequently travel to and from court (McCrank et al., 2009; Wyant, 2017). In addition, the constant turn-over of remand prisoners adds to the uncertainty and stress for staff and prisoners in these facilities because of the range of services that need to be coordinated upon a person’s arrival or departure. Because of the challenges remand prisoners pose to the institution, I included the views of management and staff in my research to provide a broader context for understanding the remand experience. Therefore, my interest in remand might have been seen as advantageous to the government ministry that oversees corrections in Ontario, which might benefit from an investigation of this understudied population. It was in this context that I was able to gain formal research access to remand facilities, the first of many challenges that lay ahead in collecting the data for this dissertation.

I began my research on June 12, 2013, a day after the provincial Ombudsman released a report condemning the use of force by Ontario correctional staff against prisoners. This report revealed the prevalence of assaults by staff on prisoners, the code of silence that protects staff from consequences, and the fact that three out of four of my research sites were

among those institutions with the highest volume of complaints about use of force in the province. Because of the details that were uncovered in the Ombudsman's investigation, I knew that its release might affect my data collection. Thus, before I could attempt to understand the challenges of remand imprisonment, my first task was to gain the trust and willingness of the managers, prisoners, and staff at each of my research sites.

In this chapter, I explain the research data and methodology that form the basis for my description and analysis. I begin with a description of my research design, sites, and access process. Next, I discuss the strategies used to recruit research participants. I then discuss the process of collecting data at these sites, and how these methods evolved over time. Finally, I conclude the chapter with a description of the research sample and review of relevant data.

When I was developing the methodology for this study, I knew I wanted to speak to a large number of male and female remand prisoners in several custody facilities across southern Ontario to establish a baseline understanding of the experience of remand imprisonment.

Working with official data from the Ministry of Community Safety and Correctional Services (MCSCS), I identified four facilities that had both male and female prisoners and that were large enough to allow me to sample at least 20 men and women from each site. Meeting these conditions meant that I could draw comparisons on the basis of sex and institution. I collected my data in three phases: phase one at the Sunshine Correctional Centre; phase two at the Greenhurst Women's Facility and the Brookdale Correctional Centre; and, phase three at the Parkview Detention Centre.<sup>26</sup>

---

<sup>26</sup> The names of the research sites, as well as the names of the participants in this study, have all been changed to protect the anonymity of staff and prisoners at each of the research sites.



I wanted to try to capture two groups of remand prisoners: those who were newly admitted (within the previous month) and those who had been on remand for a long period of time (over three months). In theory, looking at these two groups would capture different parts of the remand process - those who were trying to navigate the bail system and those whose cases were proceeding to trial or some other form of adjudication. In practice, however, I knew it would be very difficult to capture the first group of remand prisoners because many of them could be in court on any given day. Random sampling via institutional records would be problematic for the same reason: because someone is on the books does not mean they are actually inside the facility that day. Therefore, I set out a methodology for the data collection that could allow me to capture newly admitted and long term remanded prisoners without relying on official data from the institution. My proposed plan was to solicit study volunteers by being present on the living units on the days that I was conducting interviews.<sup>27</sup> This strategy hinged on the support and cooperation of the research sites to allow me to be in the living units and speak directly with the prisoners about the study.

In order to gain research access and support from the research sites, I arranged meetings with the senior administrators and/or the project facilitators at each facility. These were high-stakes meetings that would determine the ground rules at each facility vis-à-vis access, support, and recruitment protocols. In support of this effort, I attended all initial site meetings with one or two members of my dissertation committee to demonstrate to the administrators that I had institutional support. I now turn to a description of these research sites.

---

<sup>27</sup> This had the added benefit of building on a strategy I had used as a research assistant on a separate project involving remanded youth that had worked well.

## Research Sites

Each of the institutions where I conducted this research varied in its ability or willingness to work with the above protocol. Because of this, I discuss each site separately, beginning with brief descriptions of each facility.

### Sunshine Correctional Centre

Sunshine Correctional Centre (Sunshine) is located in a rural region approximately two hours outside of Toronto. The facility opened in 2003 but had been designed and built during a push by the Conservative provincial government (1995-2003) to establish a new era of “no frills” correctional philosophy and practice that would cut access to recreational equipment and limit programming (JHSO, 2000). As part of this shift, the province closed many of its small facilities, which operated under a ‘direct supervision’ model—meaning that staff worked face to face with prisoners inside the living units. In place of these facilities, the province built regional ‘superjails’, which would operate under a ‘closed supervision’ model that moved staff outside of the living units and restricted their interaction with prisoners to an as-needed basis.

Sunshine was one of two ‘superjails’ where I conducted research. These facilities boast an American pod-style design where prisoners live on one of six self-contained pods (JHSO, 2006). Each 192-bed pod contains six two-story living units wedged around a central guard rotunda and includes a professional corridor for programming and meetings. Correctional officers assigned to these units spend their time in the space between the command rotunda and day units, separated from the prisoners by a two-story set of glass walls and an access door to each unit. The living units contain 16 shared cells and a day room equipped with a few steel tables and one television. During unlock times, prisoners are free to socialize,

exercise, or use one of two showers or three phones on the unit. Each unit rotates access to a pod's sole concrete yard, which is almost fully enclosed in wire fencing.

Like most custody facilities in Ontario, the majority (about two-thirds) of prisoners at Sunshine are on remand, even though the facility also houses prisoners sentenced to less than two years. Sunshine is also by and large a male population, as female beds account for only 52 of the available beds in the facility, spread across two pods. The main pod for women has two living units, two program spaces, and an adjoining segregation corridor. The second space for women is located on the smaller medical pod, though the women housed there are not in medical segregation and are there only because of space limitations. Even though there are protective custody (PC) units for men, no such accommodations were made for women during the design and construction of the facility, resulting in the segregation of PC women.

### Research Access

I first met with staff at Sunshine to discuss research access in May 2013. I traveled to the meeting along with one of my supervisors, Professor Anthony Doob. We met with the Deputy Superintendent of Programs and the Manager of Social Work to discuss the guidelines and procedures for data collection at Sunshine. These officials, perhaps more than any others I met, were extremely cooperative and supportive of the research protocols I had designed.<sup>28</sup> The Deputy Superintendent of Programs was a proponent of the direct supervision model of prison staff interaction, and my intent to recruit face to face was seen by this official as an appropriate method of recruitment.

---

<sup>28</sup> I believe this was because both officials - who held Master's degrees - understood the value of research and the challenges in conducting research in correctional facilities, especially with remand prisoners.

The agreed upon data collection strategy at Sunshine meant that I would have a general duty officer (GDO) assigned to work with me for the duration of the research day. The GDO would meet me at the reception area upon my arrival in the morning, and accompany me through the security checkpoint and onto the living unit(s) to recruit prisoners. During the interview, the GDO would sit in the hallway outside and provide assistance as needed in the movement of prisoners to and from the interview space.

Before the research began, the Deputy Superintendent suggested that I spend my first official day at the facility involved in some orientation activities to help me get situated in and familiar with the research setting, and to allow the staff to get accustomed to and aware of my presence at the facility. First, I attended the morning manager meeting to ensure that all levels of management were aware of the research. Second, I got a tour of the living units of the facility by a unit manager and a tour of the staff areas by the Manager of Social Work. Finally, and at my request, I was able to spend some time in the admitting and discharge area shadowing the manager in charge to understand how they handled the flow of newly arrived prisoners and those traveling to and from court. This series of introductions to the institution conveyed that the administrators were willing to be as helpful and cooperative as possible in facilitating the research. Together, both the agreed upon research protocols and orientation activities set the tone for data collection at Sunshine.

Because I worked with a correctional officer each day, I was able to build rapport with the day-to-day gatekeepers who can make or break an outsider's experience in custody facilities. This allowed more freedom of movement around the facility, and provided a basis from which I could begin to understand staff dynamics and select key players for staff interviews. In addition, the efforts on the part of management to ensure that I was introduced and

accommodated at Sunshine legitimated my presence in the facility and meant that I could always find someone to help with any matters related to the data collection. I traveled to the Sunshine Correctional Centre every other week for about three months, and completed interviews with 40 remand prisoners and six staff. During the time I was at Sunshine, I had to leave the facility twice during interviews because of institutional lockdowns.<sup>29</sup> One lockdown was related to an incident of severe self-harm; the other incident involved a security threat to the prisoners.

### The Greenhurst Women's Facility and Brookdale Correctional Centre

The Greenhurst Women's Facility and the Brookdale Correctional Centre are located on the same grounds, about 40 minutes from Toronto. Though they are two separate facilities, each one can access the other through a shared corridor for services such as the kitchen, laundry, and pharmacy. Because senior managers at Greenhurst and Brookdale have a friendly working relationship, they proposed conducting an initial access meeting together at Greenhurst. Before discussing this meeting and the data collection procedures that followed, it is useful to provide brief descriptions of each facility.

#### Greenhurst

The Greenhurst Women's Facility was originally built in the late 1960s on another site and boasted a campus style construction where prisoners were monitored under the direct model of supervision. This changed in 2003, when the 'old Greenhurst' was moved to a more austere facility in the wake of the provincial push towards "no frills" corrections (JHSO, 2006). Greenhurst is now partially located in what was once the Brookdale Correctional Centre for men. Although the building was renovated over two years to be more suitable for

---

<sup>29</sup> However, prisoners frequently told me about lockdowns that had occurred while I was *not* in the facility. In addition, I was told that interviewing during the month of August would not be possible because there are regular weekend lockdowns because of staff shortages.

a female population, signs of this hasty adaptation can be seen throughout the building. Two units from the original Brookdale building were retained in the construction and retrofitted as medium security units for women: one for sentenced prisoners, and one for remand prisoners. The 92-bed remand unit makes Greenhurst the only facility in the province that, to my knowledge, can house remand prisoners on medium security, though most women on remand are held on a separate 138-bed maximum security pod.

There are three basic distinctions between medium and maximum custody. First, apart from meal times, women on the medium security side have freedom of movement around their unit during the day and are only locked in their cells at night, whereas women in maximum-security are locked in their cells three times daily. Second, women on the medium-security unit have enhanced access to programming and supports while women on maximum-security have little to no programming. Finally, the medium-security unit is run under the direct supervision model of prisoner-staff interaction whereas the maximum-security unit is operated under the closed supervision model. Essentially, the medium unit functions like the 'old Greenhurst' and the maximum-security unit is the 'new Greenhurst'. The original intention behind the medium-security unit was to have all women enter the facility on the medium side where they could then be classified and transferred as needed to maximum-security. However, due to pressure to open its doors before construction could be completed, this vision for Greenhurst never became reality and instead all women are admitted to maximum-security custody where they must wait a minimum of five days to be classified.<sup>30</sup>

The maximum-security prisoners are housed on one of six units on the newly built 138-bed pod. This pod includes a special housing unit that is unique in the province in that it can

---

<sup>30</sup> Days where prisoners have to make a court appearance do not count toward this five day period, meaning that prisoners often wait weeks before they can be classified.

accommodate both protective custody and special needs prisoners. This means that women who would typically be confined to segregation can do their time on a living unit and interact with others. However, space restrictions pose a challenge for these two groups of women (protective custody and special needs prisoners) who must share the same range. The solution to this space problem is a rotational lockdown where one group has access to the range while the other is locked in their cells for the entire day and night. This rotational lockdown is one of the realities of being a special population female prisoner. A further example of the challenges with special populations can be seen in the existence of an abandoned infirmary unit that was constructed during the 2003 renovation but never became operational. On my tour of this abandoned unit, a senior administrator disclosed that there had been talks over the years about repurposing the space to house transgender prisoners; because this never happened, trans-women at the time were housed in male facilities unless they have received sex reassignment surgery.<sup>31</sup> Though touted as a ‘women centered’ institution by senior management, the constraints of correctional practice for female prisoners in special population units reflect the argument that women in custody “can’t have it both ways” (Pollack, 2009; see also Hannah-Moffat, 2001).

### Brookdale

The current Brookdale building underwent a massive renovation and expansion project in the early 2000s and opened as the first ‘superjail’ in the province in 2003 (JHSO, 2006). At the time of my research, Brookdale was the largest provincial correctional facility in the province, housing over 1200 male prisoners in six pods, with about two-thirds of the population on remand. As a ‘superjail’, the facility is based on the same American pod-style

---

<sup>31</sup> The Ministry has since updated its policies regarding the housing and treatment of trans -people in provincial custody. Prisoners now have a right to be housed according to their gender identity, “unless it can be proven that there are overriding health or safety concerns present, which cannot be resolved.” (MCSCS, 2015).

construction that I laid out in my description of Sunshine. Essentially, the pods, living units, and yards look exactly the same but for a lone unit that remains in operation from the original Brookdale building. This run-down unit houses both PC and segregation prisoners in a single-story “I” shape unit. Segregation prisoners are arranged in cells facing the entrance, followed by a corridor where the guards congregate under the closed supervision model. The PC prisoners are housed at the other end of the corridor in two units on either side of the correctional officers.

Another distinctive feature of Brookdale is that from the moment one walks in the doors of the reception area, it is clear that one is in a large and busy facility. To me, the single-story reception area felt more like a hallway in a busy courtroom than a reception area of a provincial prison. A range of people congregated here to prepare to enter the facility. Lawyers, both criminal and immigration, worked out their deals and concessions for the day as they prepared to meet with their clients, while regular visitors and volunteers collected there while waiting for their visits or programs. All outsiders had to take a number and wait in a queue to be registered before entering through the security screening where their belongings were inspected. The sheer volume of outsiders seeking access to prisoners meant that I had to leave extra time to get through this process. It also meant that I had to compete for interview space with immigration officials who were constantly meeting with clients at the facility because of the large number of immigration detentions at Brookdale.<sup>32</sup> This meant that on some days, my escort and I would speed walk through the facility in order to claim precious interview space.

---

<sup>32</sup> Because Brookdale is located close to an international airport, it also houses immigration detainees on dedicated units inside the facility. Though Sunshine also houses those on immigration detention, I never witnessed any immigration officials inside the facility. One possible explanation for this difference was the rural setting of Sunshine and its distance from the city centre.



Access and research protocols for these facilities were worked out over two meetings with senior officials at each facility. For the first meeting, I travelled with two of my committee members to meet with the superintendents and senior administrators at both Greenhurst and Brookdale. As it happened, the superintendents of both facilities were former graduates of the criminology program in my department, and at least one recalled being a student of one of my committee members. This was perhaps the catalyst for a very warm introduction where these same officials seemed to want to demonstrate their professionalization and competence as correctional officials. This resulted in a pre-arranged tour accompanied by senior management, followed by a catered lunch where we informally discussed methodology and access. A follow-up meeting with the Deputy Superintendents of both facilities and me was when final details about recruitment were worked out. Since the details of research access differ for the two facilities, I describe the process at each separately.

#### Research Access at Greenhurst

At the time of these research meetings, there had been a years-long hiring freeze within the Ministry that had resulted in correctional officer shortages across the province. The Deputy Superintendent of Programs at Greenhurst explained that these staff shortages would prevent me from having a correctional officer escort and recruiting participants face to face on the living units. Instead, this administrator decided that it would work best to recruit participants through a poster method. I put together a simple informational poster that was displayed inside each unit. The poster explained the research in simple terms and provided space for individuals to sign up. My concern with this method was that it would exclude women who struggled with literacy and those who did not see the poster. In addition, because I had almost no access to the daily living units, I was concerned that I was unknown to prisoners until they arrived for the interview.

However, I found that after the first few days of conducting interviews word spread through the living units about the research and this helped to increase interest. As an example, participants would often tell me upon completing their interview that they had a friend with whom I should speak or who might be interested in participating in my research. Because I was unable to recruit women face to face, I would respond by suggesting that they tell their friends to sign up for an interview. While I have no way of knowing how many women were encouraged to sign up by fellow prisoners, participants often said that they decided to volunteer for an interview after hearing about the experience from a friend or cellmate.

The staff shortages at Greenhurst also shaped my interactions inside the facility. Since I had very little access to the daily living units and was escorted to and from the research space by managers, my time at Greenhurst was a distinct experience. Each morning, I was met at reception by a manager who brought me directly into the facility, most often without checking any of my belongings. From there, I was brought to the manager's office where I could store my lunch. The manager would then escort me to the interview space and communicate to the staff my needs with regards to bringing prisoners who had volunteered for interviews to and from the living units. Before I began the interviews, the manager would provide me with instructions for how I could reach them when I required an escort in and out of the facility. This meant that I had very little cause for interaction with any staff outside of management ranks.

This restricted access also affected the staff interviews I conducted at Greenhurst. It was difficult to recruit correctional officers and staff at this facility because I was a relatively unknown quantity. To make matters more difficult, many of the people familiar with me had only seen me with managers, which might have made them more reluctant to approach and

interact with me. In addition, because I did not have the same access to the living units as I did at Sunshine, I had less of a sense of who the key players were amongst the correctional officers and, by extension, who I should request interviews with. In contrast, because I spent much of my time with senior management, they were quite willing research participants and I was able to develop an understanding of the management challenges at this facility.

Over the course of three months, I traveled to Greenhurst every other week and completed interviews with twenty prisoners and eleven staff at Greenhurst. During the time of my interviews, there were no full institutional lockdowns. However, I was unable to do any interviews in the evening on the medium security unit because they had no staff to run programs. This also meant that women on the medium security unit received no programming in the evenings, which one guard told me was a recent problem brought about by scheduling changes.

#### **Research Access at Brookdale**

After the initial group access meeting with Greenhurst, I met with the Deputy Superintendent of Programs at Brookdale to discuss the next steps. At this time, they disclosed that the facility and staff were a bit apprehensive about hosting a new research project because they just had a difficult experience with another researcher who had caused some disruptions to the daily operations of the facility. One of the two issues was that correctional officers had concerns that this researcher's survey questions might prompt unrest among prisoners, who could then lash out against the officers. When the correctional officers requested information about the research from the previous investigator, they were met with silence; this then prompted the correctional officers to threaten a labour disruption. The second issue occurred after the previous investigator had completed data collection. At this point, this other

researcher began corresponding with prisoners through the mail in a way that once again prompted security concerns among the staff. This resulted in a suspension of mail services until the matter could be resolved. In the wake of this earlier research experience, my first task during the one-on-one meeting with the Deputy Superintendent of Programs was to demonstrate that I would not be a liability to the facility.

Like its sister facility, the Brookdale Correctional Centre was facing labour shortages during the time of my research that meant my preferred access and recruitment method would be impossible. Instead, the Deputy Superintendent of Programs arranged to have three members of the social work staff assist me with daily escorts and recruitment of prisoners on a rotational basis. We met as a group for a preparatory research meeting, and worked out the details that in theory would have enabled me to have some direct contact with prisoners during recruitment. In practice, however, daily recruitment on the unit almost never happened. The social workers would instead ask me about the type of prisoner I would like to speak to or would describe the men on their unit who they thought might be interested, and allow me to choose based on that information. This was the least ideal method of recruitment for the research, as I was concerned that only those prisoners who accessed or required social work support might be made aware of the research. It took me a long time to understand why, despite having access to the pods, I was not being brought directly onto the living units to recruit face to face. It was not until a few weeks into my time at Brookdale when I witnessed a social worker having a meeting with a prisoner through the glass on the day unit that it hit me: I was not being brought onto the living units because the social workers themselves rarely went onto the living units. Based on my observations, this was because there was obvious tension between the correctional officers and social work staff that meant

that the social workers did their best to avoid asking for correctional officer assistance in conducting their daily duties.

Despite my concerns about the constraints on recruitment, word of the research quickly got around and I received a wide range of interest from people who had no interactions with social workers. One of the reasons that word of mouth spread is that the social workers would often bring me onto the pod to let the staff know that I would be conducting research for the day. Recall that in the central rotunda area one can see all the living units arranged in a wedge like fashion around the pod. Therefore, prisoners would be able to see that I was on their unit, and many of them would come up to the access door to check me out or ask about why I was there. This helped to build awareness about the project and interest in participation.

Since my experience of data collection was shaped chiefly by my interaction with and reliance on social workers, I had a different viewpoint on staff challenges at Brookdale than I did at my other research sites. Working with social workers allowed me to develop an understanding of the challenges of this role in providing assistance to prisoners and working within a larger correctional context. But this also meant that I might have been viewed by correctional staff as an extension of social services, and as a result I was very much restricted from access to this group of workers. Those who did indicate a willingness to participate in staff interviews sometimes took extra steps to connect with me in secrecy away from the glares of other staff or COs. Thus, while I did have some access to staff, perhaps at this facility more than any others I felt the tension among and between different groups of workers that made it difficult to recruit front line workers for interviews.

Over the course of three months, I traveled to Brookdale every-other week for intensive periods of data collection with 20 prisoners and 10 staff. On three research days there were partial lockdowns of the facility that meant I was locked out or prevented from interviewing for part of the day. Two out of three lockdowns were during the evening free time, and one lockdown occurred following the morning unlock time.

### The Parkview Detention Centre

The Parkview Detention Centre (Parkview) is located in southwestern Ontario, about an hour and a half outside of Toronto's city centre. The facility was originally constructed in 1977, and even though it has been retrofitted three times since opening, the aging infrastructure and functionality of the building make it a unique correctional environment. Unlike the concrete facades and imposing structures of 'superjails', much of Parkview was accessible from a single story brick enclosure. Indeed, Parkview did not have the look and feel of the maximum-security facilities that I had become accustomed to over the course of data collection. Instead, in my field notes that describe my first impressions of the space, I commented that parts of the construction reminded me of my elementary school – particularly the small brick hallways and a central atrium that provided a large amount of natural lighting perfect for the garden at its centre. This atrium also created a natural space for staff to congregate during breaks, and as I discuss later, this space became advantageous for my data collection at Parkview.

Apart from the existence of the garden and central atrium, Parkview is different from the other research sites in a few important ways. First, it is a detention centre and as the name suggests, was designed to hold a population that had not been convicted. Parkview is also a small facility, closest in size to Greenhurst, though it houses both male and female prisoners.

The vast majority of the prisoners at Parkview are men, though they can accommodate about 40 women on two housing units. All housing units at the facility are obstructed from guards' view in an awkward layout that stations staff outside the units without any direct sight lines of prisoners and poses unique security challenges for the facility. Parkview was also the only facility that provided male special needs prisoners access to a living unit, where they could socialize with other special needs prisoners instead of being confined in segregation as they would be at other facilities. Another atypical feature of this facility was its large PC population that accounted for roughly half of all prisoners at Parkview. This may, in part, be related to a final distinguishing feature of this facility: throughout the province, it had a notorious reputation for violence and administrative problems. For this reason, I decided that Parkview would be my last facility, so that I would be better prepared for any challenges related to the data collection at this site.

### Research Access at Parkview

In preparing for my research access meeting at Parkview, I came to realize that its reputation for violence should not be taken lightly. While searching online for directions to the facility days before the access meeting, I learned that a prisoner had been killed by his cellmate just four days earlier. I assumed for this reason that I might not be granted access to Parkview, and discussed the problem with one of my advisors, Anthony Doob, who would be accompanying me to the meeting. We had hoped that since the access meeting was scheduled well before any plans to begin the data collection at Parkview (a full four months) this would allow the facility (including both staff and prisoners) to recover. However, we knew the homicide would likely shape data collection at this facility.

We met with the Deputy Superintendent of Programs to establish research protocols exactly one week after the killing. He was immediately relieved to learn that I did not want to begin data collection at Parkview for some time. I had one other advantage going into this meeting in that by this time I was known to correctional authorities within the province. In fact, the Deputy Superintendent of Programs disclosed that he had checked me out and heard that I was “OK”. This vetting seemed to assist me during the course of the meeting, as the Deputy Superintendent was agreeable to every request for data collection procedures at Parkview. Even though he agreed to allow me to interview staff, he warned me there were many staff at the facility who were “anti-prisoner”, and he assumed I would want to avoid them. I politely responded that I was aware the correctional environment includes a range of staff perspectives on prisoners, and I would like to try to capture that range without privileging any particular group. Two weeks before I began data collection at this facility, two correctional officers and one manager at Parkview were charged with criminal negligence relating to the death of the prisoner discussed above.<sup>33</sup>

The approved research protocols meant that I would have a GDO work with me each day to facilitate face to face recruitment on the living units, as I did at Sunshine. Recall from the earlier discussion that working with a GDO is advantageous because it expedites the interviewing process. Having a GDO as a research escort can open up the facility to an outsider by removing some of the real and invisible barriers to daily access inside correctional environments. Even though I worked with the COs each day to assist with data collection, I was also immediately enmeshed with the programming staff. Their manager was

---

<sup>33</sup> The fact that these charges were laid at about the same time I arrived at Parkview might have accounted for the fact that, while getting an introductory tour of the facility on my first day of research, four correctional staff asked me if I was “from the Ministry”.



my point of contact at Parkview, and he decided that it would be best for me to have access to the program staff office as a home base during breaks and meal time. This fortuitous mix of access to correctional officers for research support and program staff for break space allowed me to develop connections with two key groups of staff. The final feature of enhanced access to staff at Parkview was the atrium space, described earlier. The space I was assigned for interviews with male prisoners was located on the perimeter of the atrium, and looking out from inside this space one could see who was in the atrium. This space was a natural setting for staff to congregate – mainly correctional officers, but sometimes managers or program staff – allowing me to have a number of informal conversations with staff. This access also provided the basis for developing rapport and relationships with workers who held a range of views about prisoners.

As an example, one of my biggest allies at this research site was the head of the institutional crisis and intervention (ICIT) team, whom I first met while waiting in the atrium for an escort. These ICIT officers are best characterized as a para-military subset of the correctional staff who are trained in enhanced use of force techniques. Over a short period of time, this officer and I developed a friendly rapport rooted in his direct and indirect attempts at flirtation. I was able to use this advantageously to break through the intangible access barrier within this hyper-masculine group. Through this connection, I was eventually able to secure interviews with two key staff members, in addition to one of my most memorable experiences throughout the data collection: attending a training session with the ICIT team. While I do not report the full details here, I was invited to take part in an ICIT training session which took place at an abandoned correctional facility. Members of ICIT were placed on teams - “inmate” or ICIT – and played out a riot scenario. I was invited to play the role of

‘inmate’ and given an orange jumpsuit along with several others. The ICIT members put on their uniforms and protection equipment and we began a day of drills. During the course of this day I was taken hostage, struck with a rubber pellet, and pepper sprayed. Though this experience was entirely unrelated to the goals of my research, it gave me a deeper understanding of correctional culture and practice, and perhaps more importantly, allowed me to form relationships that would transform my research access at this site.

Over the course of a four-month period, I traveled to Parkview on a bi-weekly basis and during that time, interviewed 40 prisoners and 13 staff. Throughout my time at Parkview, I witnessed 10 lockdowns, and five of these were full-day, full-institutional lockdowns – two of which occurred on the first two days of data collection. Reasons for the lockdowns ranged from pieces of lighting fixtures that had gone missing, to staff injuries, to mental health crises. There were also two cell extractions of prisoners during my time that were conducted by the institutional crisis and intervention team (ICIT) in full riot gear.

## Recruitment

The research protocols that established data collection procedures at each facility were not the only factors shaping the recruitment of participants. I now turn to a more detailed discussion of how these strategies operated on the ground, discussing in particular face-to-face recruitment on the living units and strategies for gaining access as an “outsider” (Bucerius, 2014).

As stated above, at two of my research sites – Sunshine and Parkview – I was able to recruit prisoners face-to-face on the living units during their unlock time. In practice, this meant that the GDO would escort me to a desired unit where we would first speak with unit staff about

the research and be informed of any issues that might affect or restrict my ability to recruit on the unit.<sup>34</sup> Provided there was no resistance from the unit staff to the recruitment protocols, the GDO would then open the door to the dayroom and call the attention of the prisoners. From there, I would take control and introduce myself and the project by saying a version of the following research pitch:

Hey, my name is Holly, and I'm a graduate student at the University of Toronto. I'm writing a book about remand and I'd like to hear about your experience in a confidential interview (often I'd add: I don't work for the Ministry and I don't work for this facility). The interview will take about an hour and a half, and everything we talk about will be confidential. Is there anyone who'd like to speak with me?

While I had my dayroom pitch down to a few key points, what I said was only one of the factors that would determine a prisoner's interest in this study. My appearance and physical attributes – my gender, race, age, and style – were keenly observed by prisoners, and before I had a chance to speak I was likely judged on those bases. Because of this, I was often strategic with my choice of dress and how I put myself together (as in Maher, 1997; Bucarius, 2014; Ugelvik, 2011). On the days I interviewed on a men's unit I would wear no makeup, have my hair pulled back in a bun, and dress in a simple t-shirt with plain jeans, a hooded sweatshirt, and Chuck Taylor sneakers. I was aware as a young female that my presence in a men's facility might arouse some of the prisoners, and I did not want to present myself to the prisoners or staff as a person who was flaunting her femininity. Despite my attempts to “ease the tension”, I could not escape or set aside my gender (Bucarius, 2014, p. 198; see also Arendell 1997), especially in correctional environments where sex is a structural feature. A prime example of this occurred at Parkview when I was on the special

---

<sup>34</sup> I was able to choose which unit I would recruit participants based on my knowledge of the various populations housed on a unit (i.e., PC, segregation, etc.) unless there were institutional factors that prevented me from recruiting on that unit. As an example, any individual unit could be locked down if there was a fight between prisoners and so I would not be allowed to recruit from that range that day.

needs unit recruiting male participants. As I left the unit, one prisoner began to openly masturbate while saying “fucking bitch, fucking bitch, fucking bitch”. Two others started doing pull ups from the unit’s cell bars, and the combined activity prompted an observing female correctional officer to laugh, saying, “they may be SNU [special needs unit], but they are still men.”

On days that I interviewed women, I preferred to wear a bit of makeup to enhance my appearance. It was a subtle shift in my presentation of self, and one that I developed after realizing in a previous project that even though I was concerned about my dress or appearance (because prisoners have limited or no access to cosmetics) showcasing my femininity in subtle ways helped to connect with young girls. The same was true for the women. Some would say “I love your eyebrows!” or “I like your sweater”; and “I have a pair of Chucks, too!” So essentially I would look marginally more feminine on the days I interviewed women in order to attract their interest in talking to me not just as a researcher, but as a woman.

One aspect of my appearance that was helpful in recruiting both male and female prisoners was my tattoos. Exposing some of my tattoos in a t-shirt was a simple way of attracting interest in me or the project, either of which was likely to result in an interview. The tattoos were readily accessible symbols that I was at least not a ‘square’ and that talking to me may not be worse than any of their other options for passing time. Most days the tattoos boosted interest among prisoners, but one day in particular comes to mind when recalling the process of recruitment in this regard. I had just entered a unit that was dominated by black males and was feeling very aware of my white skin, knowing that it might make some men less interested in speaking to me because at first glance I could appear as a typical white middle-

class woman. My sleeve was a bit rolled up, showing most of the name tattooed on my arm. To my surprise, a prisoner approached me and showed me that his forearm was also tattooed with the same name. This provided an instant bond and way to build rapport, and he volunteered for an interview that I doubt I would have gotten without my tattoo. Given that I had a very short window of time with which to drum up research support, I was willing to use this non-sexual symbol to my advantage.

A brief note is useful here about how these same features shaped my interactions with staff. In my experience, correctional officers responded in a similar fashion as prisoners to my informal cues communicated through dress and appearance. Only the male guards commented on my appearance. At least two times male officers told me that I knew how to present myself in correctional environments, unlike other female professionals. One officer was particularly forceful on this point, saying that other women come in wearing dresses and open toe shoes and do not understand where they are or what they are doing. My style of dress seemed to convey to this officer that I was aware of my environment (that I was not exaggerating my femininity) and that I would not pose a security threat (I knew it was better to wear sneakers than heels). Others were less concerned about the effect of my clothing on prisoners and more interested in knowing if my tom boy sense of style meant that I was a lesbian - and if so, what my partner might look like: specifically, “are you the hot one?” But by far the most frequent commentary about my appearance from correctional staff – be it officers, support staff, or management – was about my sneakers, and everyone seemed to love them. As stated earlier, these were also a favourite among prisoners so much so that at one prison I was known as the “Chucks girl” (a short form name of the iconic sneaker I was wearing).

One final feature of my appearance that may have shaped the collection of data was something that I had no control over: my race. While race relations in Canadian jails are nothing like the conditions demonstrated in Walker's (2016) research in the U.S., there is certainly some evidence from my study that race can shape the experience of remand.

Although I cannot say with certainty to what degree my race affected the data collection, I am certain that it did (see Gustafson, 2011). In the descriptive statistics presented below, you will see that white prisoners were over-sampled in this study. The fact that I am white may have been a particular research barrier for some, especially in the case of Indigenous prisoners, who seemed as a group to be less interested in all forms of recruitment (whether face to face, sign-ups, or social worker assisted). This barrier is perhaps not surprising given the history of colonialism in Canada and the harms experienced by Indigenous communities at the hands of white settlers.

Regardless of the barriers in recruiting prisoners, I usually could count on at least a few volunteers from any given unit. If I had more than three volunteers, I would select participants based on their race and age, attempting to get as much variation in the sample as possible. I would never tell prisoners when discriminating on any of these bases during recruitment. Instead, I would simply say "Ok, I'll take you, you, and you." Although I make no claims to have a sample representative of the remand population, I did attempt to target certain groups where possible in order to increase my understanding of remand across a range of positions (i.e., on the basis of race, age, and population type (general population; protective custody; SNU)). Once I had volunteers I would establish an order based on their preference, knowing that the GDO would assist in bringing prisoners to and from the living unit to the research space. The three-person per day limit was a consequence of the time

constraints for access to prisoners, and my personal limits as a researcher. Most of the facilities allowed prisoners' access to the living units from 9-11; 1-4; and 6-8. In theory this could allow me to conduct up to three interviews in a day. In practice, however, this was often a challenge and I simply did the best I could to complete any interview I started knowing that if I did not finish there was no guarantee I would see that prisoner the next day because of court appearances, lockdowns, or other institutional factors. Some days, if I was too emotionally exhausted or drained, I would choose to leave after a second interview. I did this only when I felt like I could not be fully present and engaged out of respect for the interviewee, in keeping with principles of feminist standpoint theory (see Acker, Berry, and Esseveld, 1991).

### **Informed consent**

After prisoners initially volunteered for the research, I would take them through the informed consent process once we were alone in the interview space together. I read over the details of the consent form in plain language and directed them to the items of central importance. I focused on ensuring that people understood the interview was completely confidential unless they told me they were self-harming or being harmed by others; that they could decline to answer any questions they chose; and that they could stop the interview at any time without repercussion. These were ways that I tried to be attentive to the risks of harm by recalling any trauma or adverse life events. Because I never directly asked about trauma history or abuse, individual respondents chose whether or not they volunteered this more sensitive information. Although there were resources I could direct participants to if they felt upset by the interview, no one to my knowledge made any contact with social workers or sought psychological support in the facility after my interviews. Because these are legally innocent

people, I was careful to emphasize that I was not interested in hearing any details about their alleged offense and that their name would never be recorded or used in any way.<sup>35</sup> I also reiterated at this time that I did not work for the Ministry or the institution. People were given a copy of the consent form that included my contact information where they could be in touch if they had any follow-up questions or wanted to withdraw their interview. To this point, no one has been in touch with me about their interview. Finally, I reminded prisoners that the interview would take between one and two hours.

After going through the informed consent procedure, one woman declined to be interviewed because she said it would take too long. All others agreed to the protocols and began interviews, but in two instances interviews needed to be stopped. Both involved female prisoners. One interview was stopped at the 45-minute mark because the respondent told me that the effects of drug withdrawal were becoming too much for her to deal with and she needed to lay down. She allowed me to use her interview data, but could not complete the full interview. I kept her interview because it helps to illuminate some of the individual and institutional challenges within this population. However, a second interview with a female participant had to be cut off almost immediately because her mental state made her unfit for the interview. There was no usable data in this interview and it is not counted as part of the full sample. I provide the details of this encounter below, as it also represents the only time during my data collection where I felt unsafe during an interview.

One day at Sunshine, I was asked if I would be willing to interview one prisoner who was suddenly experiencing some mental health issues. Management decided that they were going to place her in segregation unless her behaviour changed, but they wanted to see if an

---

<sup>35</sup> Although I never recorded the names of my interview subjects, pseudonyms are used throughout this thesis to protect the anonymity of interviewees.



interview would help and asked me if I would be willing to try to speak with her. Sadly, a few questions into our interview the woman began repeating my questions back to me and when I tried to redirect her or ask how she was feeling she would give a nonsensical response. I then suggested that we do the interview at another time, when she might be feeling a bit better. She then demanded that we continue the interview in a tone that was clearly threatening. I tried to signal for the correctional officer outside our interview room for assistance, but the officer had fallen asleep on a chair in the hallway. At this point, the respondent got out of her seat and began pacing and repeating a few phrases – clearly not of her right mind. I calmly began packing up any items that I worried could be used to harm her or myself, moving slowly and carefully while trying to keep some level of contact through neutral questions and small talk. My escort eventually woke up, saw the situation, and along with another officer slowly entered the interview room. The woman then hid behind the table next to me crouched on the ground with her knees in her chest, rocking back and forth and repeatedly plead “don’t let them come and get me”. As the guards approached, I slowly left the room and went across the hall to a vacant staff space where I was met by the manager who had initially asked me to do the interview. The manager apologized to me about what had happened and asked if I was doing “OK”. I was shaken and felt a bit emotional, but told him I would be fine. Knowing she was going to be placed in solitary made me feel awful about her situation and I decided to leave for the day to regroup.

The correctional environment is a difficult setting for any research project. Though the above factors shaped the experience of data collection in direct and indirect ways, they only begin to speak to the challenges of collecting data in correctional institutions. Before I discuss these issues any further, I first provide a brief description of the staff interview sample.

## Staff interviews

At each facility, I wanted to have a sample of staff interviews to facilitate my understanding of the operational challenges in managing the remand population. I initially set out to do a small set of staff interviews (three to five) at each site, to provide a balanced assessment of life in these settings. At first, these interviews were meant to be restricted to senior management and front-line correctional officers. However, I soon found that staff could illuminate issues in a way that was extremely helpful in understanding some of the core issues facing prisoners, such as healthcare. Over time, more staff from a greater diversity of roles were included in this study. Staff were recruited non-randomly based on my daily observations of the facility. I targeted staff who demonstrated particular knowledge of an area or population (for example, mental health or female prisoners) for interviews and would recruit them face-to-face, simply asking if they would be willing and/or interested in participating in my research. Staff were also targeted on the basis of their views (for example, pro or anti-prisoner),<sup>36</sup> where possible, to provide a range of perspectives. Some staff declined to participate in an interview, though this was rare.<sup>37</sup> All staff were subject to informed consent protocols and participated in audio-taped interviews. Research questions solicited basic information about their employment history in corrections before moving on to a small number of open-ended questions that centered on working with the remand population and with other groups of workers in the institution. In total, this resulted in a staff

---

<sup>36</sup> At my first research site, I interviewed only two correctional officers. Since these interviews were planned during shift time, each staff member wanted me to secure permission from a Manager. When I provided their names to a Manager I was familiar with to ensure they could be covered, the Manager turned to me and said “you know you got one good apple and one bad one, right?” I politely assured them that I understood who I was asking and that I had my reasons for doing so. This was the only instance in which staff had asked me to secure permission for their time away for the interview.

<sup>37</sup> One male officer that was openly anti-prisoner laughed when I asked him if he would participate in an interview. Another male CO said he would participate in an interview, but only if it could be off-site. Despite multiple attempts to schedule an interview, I never interviewed him. A third officer, this time a female, said she would do an interview, but also off-site. This also never worked out.

sample of 40 workers who covered a range of roles, responsibilities, and operational mandates. These are discussed in greater detail later in this chapter.

## Conducting Research in Correctional Settings

On most days that I conducted interviews, the most difficult part of my job was working with correctional officers, who in general seemed hostile towards people who treated prisoners with humanity and/or respect. After any prisoner volunteered for the research, I would ask for their name while offering a handshake and thanking them for their participation. This simple act of respect between researcher and subject was often interpreted by staff in a negative way, and they were not afraid to say it. According to my field notes from one day, a staff member told me that it was “disgusting that I would shake their [prisoner’s] hands. Don’t you know they are going to masturbate later? If I were you, I’d disinfect my whole body!” My response was to usually ignore this kind of remark, but sometimes I could not resist a sarcastic laugh or retort.

Though I encountered many staff who silently resisted the above view of prisoners, disparaging remarks about prisoners were freely thrown around at each facility. An example of dealing with this at a basic level occurred in between interviews at one facility. The GDO who was assisting me came in after escorting the first volunteer back to his cell, asking me who I wanted next. Was it “the black guy with the smushed face?” To this, another guard chimed in over the radio saying “as long as it’s not that ugly fucker - you know who I am talking about.” Though certainly unpleasant, this hostile climate towards prisoners is a regular feature of life in correctional environments, and in order to collect data in these settings, I had to learn to live with hearing these kinds of comments.

The challenges of working with staff were not limited to my direct interactions with prisoners. Some correctional staff seemed to take pleasure in delaying my access to the facility with onerous security checks and/or unreasonable delays. One correctional officer took considerable interest in every single item I brought into the facility, inspecting everything carefully multiple times per day. She flatly refused to allow me to bring in my water bottle. While this may, of course, be in line with security protocols for regular visitors, I had special permissions to bring in my lunch and a water bottle that had been communicated via email to staff from management at this particular site. In response to my claim that an email had been sent out to this effect, the correctional officer responded “I don’t read email.” Because of this incident, I had to request a letter in writing from the Deputy Superintendent who rolled her/his eyes when I told her/him I was having resistance from security. She/he immediately provided me a letter. But before I was allowed to bring in my water, this same security officer now sniffed the bottle each and every time I entered the facility to ensure I was not “bringing in any alcohol”.

Despite these issues, there were instances at every research site where staff provided me with kind or helpful assistance in collecting the data. Sometimes this was in the form of simple pleasantries or a friendly smile on a hard day. Other times, such as when I had a sudden attack of vertigo during an interview, the kindness of staff surprised me. Even though I am very familiar with the effects of vertigo,<sup>38</sup> the GDO working with me at the time insisted that I be examined by a nurse in the healthcare unit. This officer then offered me a ride back to my hotel so that I could rest even though I would normally walk the 15 minutes back by myself.

---

<sup>38</sup> I have long struggled with a balance disorder that can result in sudden and long-lasting bouts of vertigo.

Though the biggest challenges for this data collection stemmed from my interactions with staff, working with a population of prisoners created its own set of issues. The correctional schedule often meant that prisoners might have to choose between making a phone call and volunteering for an interview, a problem that was more likely to occur during the evenings when free time is more precious for connecting with those on the outside. In terms of gender or sex differences, I found it relatively straight-forward to recruit and interview male prisoners, who in general stuck to the point of the question and were emotionally reserved. The same cannot be said for my interviews with female prisoners. First, I had to work with the fact that many of the female prisoners were coming down from addictions and as a result were having problems with basic functioning. During interviews, female prisoners generally were much more emotional than male prisoners, and this made these interviews particularly draining as a researcher. However, because women were more forthcoming about the personal details of their experience in general, I found their stories often more helpful in elucidating a concept or problem during the analysis and writing of this research.

For both male and female prisoners, the threat of lockdowns was a constant challenge for data collection. There are two types of lockdowns: one for security purposes, the other because of staff shortages. Security lockdowns are an unfortunate but inevitable feature of maximum-security institutions, and these cannot be predicted or avoided completely. Staff-related lockdowns, on the other hand, occur because of labour shortages when there is not enough staff to safely operate the facility. Because all facilities had felt the effects of the hiring freeze in one way or another, there were often whole months where I was unable to

conduct interviews, which prolonged the research process.<sup>39</sup> Typically this meant that I could not conduct interviews in August and December nor, generally, on weekends. However, interview space was at a premium during the week, and so an interview schedule was determined during access meetings with each facility to balance both labour and resource shortages.

A final challenge for researchers inside correctional facilities is a personal one. The mental and emotional toll of this work is impossible to capture fully in writing, though it is something that I could distinctly *feel*. For much of what I experienced there was simply no way to prepare. A poignant example of this happened one day while I was interviewing female prisoners. I was walking down a corridor on my way to a unit with the Deputy Superintendent when I saw a female prisoner walking towards me. At first, I did not notice anything out of the ordinary – she was simply another prisoner walking in my direction with a guard to escort her. And then, I heard her say something as our paths crossed – “that’s my sister”. At that moment, my knees buckled.

It was in fact my sister - foster sister, more accurately, as I disclosed to the Superintendent after this chance encounter. I had not had any recent contact with her; yet, this was a person whom I had shared my childhood with – my mother with – as she reminded me upon seeing her again later that week, this time saying “tell mom I said hi” while she served breakfast to the prisoners on her unit. I remain unsettled by our encounters in prison, and the memory of seeing her in the prison garb under close watch from guards while I walked the hallways with the top officials of the prison is particularly upsetting. While I was typically guarded in

---

<sup>39</sup> A full discussion of the labour issues in Ontario corrections at the time is beyond the scope of this research, but see Sapers (2017) for more context on this point. Readers interested in an examination of labour issues in correctional unions can see Page (2011).

revealing any of this personal history, I sometimes offered up parts of my story to prisoners who became emotional around child welfare contact or issues I had familiarity with. This is in line with feminist standpoint theory that advocates using aspects of personal identity and experience with interview subjects (Acker et al., 1991; Oakley, 1981; Devault, 1990).

## Method

Interviewing was selected as a means to effectively capture the prisoners' situation, beliefs, thoughts, and experiences with remand. As an investigator, I was comfortable using this method in correctional environments because of my prior experience in a separate study. I also felt that interviews were an ideal way for me to gain an understanding of the challenges of remand. Past experience has shown me that prisoners are receptive to interviews if they are able to see how their responses are recorded. All interviews were tape-recorded. During the interviews, I entered people's responses into my laptop computer and later transcribed them.<sup>40</sup> Having my laptop with me during the interviews allowed me to temper my level of direct engagement with participants. If someone was having a hard time with eye contact or emotion, I could provide them "space" by transcribing. In other interviews where prisoners responded more openly to direct eye contact, the laptop was simply there to prompt my interview questions.

I developed the interview guide for this study by drawing from previous research in the areas of gender and punishment broadly. Specific questions were borrowed from or informed by the literature that has explored men's imprisonment (Sykes, 1958; Zamble and Porporino,

---

<sup>40</sup> It was impossible and indeed not desirable to attempt to capture every single word on the computer during the interview, as this would cause delay or disruption to the interview flow. All interviews were transcribed by either myself (100) or a transcriber (60).

1988; Liebling, 2004a, 2004b; Liebling, Hulley, and Crewe, 2011), women's imprisonment (Kruttschnitt and Gartner, 2005; Hannah-Moffat, 2001; Bloom, Owen and Covington, 2004), and a comparison of boys' and girls' imprisonment (Cesaroni and Pelvin, 2016).

The interview guide was made up of a few main sections. The first section solicited basic demographic information through simple questions about the interviewees' lives outside of custody and their prior criminal justice contact. Following this, I began to target the specific challenges of remand by asking prisoners to describe if and how their lives had been disrupted by their arrest and initial imprisonment. In this section, I also included closed and open-ended questions that targeted prisoners' experiences in police custody and treatment by officers.

In the next section of the interview guide, prisoners were asked about their experience in the court process. This began with simple closed-ended questions about their case status and then moved to more open-ended questions about their experience of court days as prisoner and perceptions of their treatment by key criminal justice actors, such as the crown attorney and the justice of the peace.

Next, I asked prisoners about their institutional adjustment in order to understand how they were responding to their experience of imprisonment. These questions were developed from the work of prison scholars (Sykes, 1958; Zamble and Porporino, 1988; Kruttschnitt and Gartner, 2005; Liebling 1999; 2004; Adams, 1992) to capture prison stresses. In this section, prisoners were asked to rate their responses to the restrictions of imprisonment using a Likert scale, followed by an open-ended discussion of key dimensions of interest, such as admitting and discharge, healthcare, programming, family contact, prisoner-staff relationships, and life on the unit.



Finally, respondents were asked to reflect on their experience of remand. Specifically, I asked how their time on remand has impacted their lives, and if there was anything positive they could take away from the experience. The final interview question - "If there was something you could change about remand, what would it be?" - was included with the hope that it could be useful in forming policy suggestions.

After drafting the interview guide, I asked to consult with staff at two of the major prisoner NGOs that provide advocacy and support for current and formerly incarcerated men and women. This consultation was meant to review the interview guide and make any necessary or relevant changes based on their expertise. After this meeting, I pre-tested the interview guide with four former remand prisoners (two men, two women) and through this process, I made further improvements to the guide.<sup>41</sup>

## Process

When I first began the research, I was eager to get inside and complete my interviews as quickly as possible, knowing it would be a long road ahead. After five interviews, I found that the flow of my guide needed further refinement and so I made one major change to the ordering of questions; I moved healthcare questions near the beginning of the guide from their previous location towards the end of my guide. This improved the flow of the interviews, as prisoners up until this point had wanted to dive right into healthcare challenges before discussing other dimensions of life inside prison walls.

During my first weeks of data collection, I busied myself feverishly transcribing during the breaks in my interview day and again in the evening when I returned to my hotel. This often

---

<sup>41</sup> I want to include a special thank you to my peers at the Centre for Criminology and Sociolegal Studies who offered to be early test subjects so that I could improve the interview guide before pre-testing with former remand prisoners through prisoner advocacy organizations in Toronto.

resulted in 14-hour days where I was focused on getting down what was on the tape. Even though I mostly focused on interview data, I also recorded field observations in a notebook. Before I completed interviews at my first research site, however, I had abandoned all transcribing activities and concentrated mostly on field notes.<sup>42</sup> At first, these notes were largely based on interview data, but rather than transcribing, I was attempting to understand the themes and issues discussed in the interviews. As the project moved into the second and third research sites, my notes began to reflect the larger correctional environment that I was in, and gave more weight to my observations and interactions outside of interview times. Perhaps because of this shift, I became increasingly interested in staff and their views about the challenges with remand and began to ask more staff to participate in interviews. As discussed earlier in this chapter, however, my interactions with staff were tempered by research access and protocols for recruitment. And so, it was not until I arrived at the final research site that the stars aligned with data collection. By this point, I was engaged in as much informal observation and interaction with the staff as possible outside of my interviews with prisoners. These allowed me to develop a fuller picture of the institutional environment and enriched my understanding of prisoners' experiences at this facility.<sup>43</sup>

## Sample

### Prisoners

Characteristics of the prisoners I interviewed are listed below in Table 1.<sup>44</sup> White prisoners were the dominant racial group across the sample – though there were higher and lower

---

<sup>42</sup> I ended up with hundreds of pages of field notes in addition to the transcribed interviews.

<sup>43</sup> But to be clear, I do not believe that I would have received this same level of support and interest from this facility if I began at this site. Part of the reason I was allowed to occupy space within the walls of this facility was due to the fact that I had been to other jails and not posed any challenges for staff or operations.

<sup>44</sup> See Appendix A for a brief description of each interviewee. In order to maintain confidentiality, the appendix does not include summaries of staff interviews.

proportions of white prisoners at Greenhurst and Brookdale, respectively. Women at Greenhurst tended to be slightly older on average than prisoners at other research sites. Most prisoners were single and had children, and these proportions were roughly equivalent across institutions. Roughly half of the sample had not received a high school diploma, though this problem was particularly pronounced at Greenhurst. The proportion of prisoners who were employed at the time of their arrests varied across the facilities, with the highest proportions at Brookdale and the lowest proportions at Greenhurst and Parkview. Similarly, participants from Greenhurst and Parkview were more likely to be on social assistance at the time of their arrest, while participants at Brookdale were the least likely. Housing status ranged across research sites with the vast majority (80%) of participants from Sunshine and Brookdale reporting stability while prisoners at Parkview and Greenhurst were more likely to say they were precariously housed or were homeless at the time of their arrest. Mental health problems were common across the sample, though the highest proportion of self-reported issues was among prisoners at Greenhurst and Parkview. Self-reported addiction was least common at Sunshine – with nearly half the sample (47.5%) reporting no current or former addiction issues. However, the proportion of prisoners who said they had addiction issues grew in subsequent institutions, from 70 percent of prisoners at Greenhurst, 75 percent at Brookdale, to a full 80 percent at Parkview.

Table 1: Selected characteristics from interviews of male and female remand prisoners

	Sunshine	Greenhurst	Brookdale	Parkview	Total
Number interviewed	40	20	20	40	120
<b>Race</b>					
White	62.5% (25)	70% (14)	45% (9)	62.5% (25)	60.8% (73)
Black	15% (6)	15% (3)	35% (7)	12.5% (5)	17.5% (21)
Aboriginal	2.5% (1)	10% (2)	--	7.5% (3)	5% (6)
Mixed/Other	20% (8)	5% (1)	20% (4)	17.5% (7)	16.7% (20)
<b>Age</b>					
18-29	40% (16)	30% (6)	45% (9)	57.5% (23)	45% (54)
30-39	20% (8)	40% (8)	30% (6)	25% (10)	26.7% (32)
40-49	25% (10)	20% (4)	15% (3)	7.5% (3)	16.7% (20)
50-59	10% (4)	10% (2)	10% (2)	10% (4)	10% (12)
>59	5% (2)	--	--	--	1.7% (2)
<b>Marital Status</b>					
Single	50% (20)	55% (11)	60% (12)	57.5%	55% (66)
Married	15% (6)	--	15% (3)	--	7.5% (9)
Common-law	15% (6)	10% (2)	15% (3)	30%	19.2% (23)
Divorced/Separated	15% (6)	35% (7)	5% (1)	12.5%	15.8% (19)
Widower	5% (2)	--	5% (1)	--	2.5% (3)
<b>Children</b>					
Yes	67.5% (27)	70% (14)	65% (13)	70% (28)	68.3% (82)
No	32.5% (13)	30% (6)	35% (7)	30% (12)	31.7% (38)
<b>Education</b>					
High school or less	67.5% (27)	55% (11)	75% (15)	78% (31)	70% (84)
Some college/Uni	15% (6)	30% (6)	10% (2)	12.5% (5)	15.8% (19)
Diploma/Degree	15% (6)	15% (3)	15% (3)	5% (2)	11.7% (14)
Post-graduate	--	--	--	2.5% (1)	.8% (1)
Missing	2.5% (1)	--	--	2.5% (1)	1.7% (2)
<b>Employment Type</b>					
Unemployed	42.5% (17)	65% (13)	35% (7)	72.5% (29)	55% (66)
Working	50% (20)	25% (5)	65% (13)	25% (10)	40% (48)
Student	5% (2)	10% (2)	--	2.5% (1)	4.2% (5)
Retired	2.5% (1)	--	--	--	.8% (1)
<b>On Social Assistance</b>					
No	60% (24)	45% (9)	70% (14)	40% (16)	52.5% (63)
Yes	40% (16)	55% (11)	30% (6)	60% (24)	47.5% (57)
<b>Housing Status</b>					
Stable	80% (32)	60% (12)	80% (16)	50% (20)	66.7% (80)
Precarious/homeless	20% (8)	40% (8)	20% (4)	50% (20)	33.3% (40)
<b>Mental Health Problems</b>					
No	57.5% (23)	31.6% (6)	65% (13)	35% (14)	46.7% (56)
Yes	42.5% (17)	68.4% (13)	35% (7)	65% (26)	52.5% (63)
<b>Addiction</b>					
No	47.5% (19)	30% (6)	25% (5)	20% (8)	31.7% (38)
Yes	52.5% (21)	70% (14)	75% (15)	80% (32)	68.3% (82)

<b>Charge Type</b>					
Admin/breach	20% (8)	10% (2)	5% (1)	12.5% (5)	13.3% (16)
Property	5% (2)	15% (3)	15% (3)	10% (4)	10% (12)
Drug	12.5% (5)	15% (3)	15% (3)	20% (8)	15.8% (19)
Violent	35% (14)	50% (10)	45% (9)	37.5% (15)	40% (48)
Weapons	20% (8)	10% (2)	15% (3)	15% (6)	15.8% (19)
Other	7.5% (3)	--	5% (1)	5% (2)	5% (6)
<b>Previous Convictions</b>					
Yes	72.5% (29)	65% (13)	75% (15)	87.5% (35)	75% (90)
No	27.5% (11)	35% (7)	25% (5)	12.5% (5)	25% (30)
<b>First Remand</b>					
Yes	20% (16)	35% (7)	30% (6)	17.5% (7)	24.2% (29)
No	80% (24)	65% (13)	70% (14)	82.5% (33)	75.8% (91)

Turning to criminal justice contact, the most serious charge for nearly half of the participants was an administrative breach, property crime, or drug crime.<sup>45</sup> This ranged from a low of 35% of the charges among participants at Brookdale to a high of 42% of the charges for participants at Parkview. More specifically, administrative charges (breaches) accounted for a full 20% of the most serious charge at Sunshine. On the other end of the spectrum, violence and weapons related offenses were the most serious charges for just over half of the prisoners at all research sites, ranging from a low of 52.5% at Parkview to a high of 60% at Greenhurst and Brookdale.<sup>46</sup> Although the vast majority of prisoners had previous convictions, the highest proportion was at Parkview (87.5%) while the lowest proportion was at Greenhurst (65%). Even though most prisoners had been on remand in the past, 20-35% of prisoners at each site were on remand for the first time, with the highest proportion at Greenhurst (35%). Because I did not have access to institutional data on remand prisoners at these sites, I am unable to compare sample characteristics to characteristics of the total remand populations of these facilities. I do not claim that my sample is representative of the

<sup>45</sup> Recall from Chapter 1 that about 7 out of 10 admissions to remand custody in Canada in 2009/2010 were for non-violent offenses, most commonly failure to comply and breach of probation (Porter and Calverley, 2011). Unfortunately, the lack of information about the nature of people who go into remand precludes further comparisons between my sample and the larger remand population.

<sup>46</sup> However, it is important to note that this category obscures the level and seriousness of violence. For example, a simple assault and a first-degree murder are both technically violent offenses.

population at these interview sites because of the fact that I only interviewed those in custody on any particular day. This excludes those in court and as stated previously, most remand prisoners are in and out of these facilities in less than a month. The result is that participants in my study were largely drawn from the population of remand prisoners in custody for a longer period of time, though short-term remandees are also included in the sample.

## **Staff**

I chose staff for my interviews based of their job type (correctional officer, social worker, health care worker, management, etc.). My hope was that in targeting specific groups of workers, I could gain an understanding of the various challenges that staff faced in managing and housing the remand population. To this end, I asked staff a few broad open-ended questions about how they came to their current role; the changes to their job over time; the challenges they faced in working with remanded male and/or female prisoners; and the issues, if any, in working in a correctional environment where there can be competing employment objectives. As stated in the description of research access and protocols, the staff sample grew from facility to facility, and the proportions of interviews from specific groups also changed depending on my ability to recruit key participants. I felt that interviews at Parkview were most fruitful in that participants seemed to be more open and honest with me at this institution compared to others. The table below provides a summary of the staff sample according to job type.

Table 2: Staff interviews by job type, n = 40

<b>Position</b>	<b>Sunshine</b>	<b>Greenhurst</b>	<b>Brookdale</b>	<b>Parkview</b>	<b>Total</b>
Management	2	2	3	5	12
Program	--	3	1	2	6
CO	2	2	3	3	10
Healthcare	1	2	1	2	6
Social work	1	2	2	1	6
<b>Total</b>	6	11	10	13	40

The largest single group of staff (35%) were drawn from the management ranks, in keeping with my goal of understanding the operational and resource challenges of remand imprisonment. This was followed by interviews with correctional officers (25%); program and social work staff (both 15%); and healthcare staff (10%).

## Conclusion

This chapter has described the data and research methods I used in this study. My goal has been to document the process of data collection at each facility, including in my interviews and interactions with both prisoners and staff. Though research protocols were of great consequence for my ability to recruit and interview study participants, recruiting and interviewing were also affected by individual factors and characteristics that I had more or less control over. My positionality as someone with prior contact with the child welfare system and familial contact with the criminal justice system deeply influenced both my relative ease in these coercive environments and my one-on-one interactions with prisoners and staff. Although some of my methods evolved over time, at the heart of this research are the stories of the individual men and women on remand. In the chapters that follow, I examine the challenges prisoners face while doing time on remand and how the facilities and their workers manage and respond to those issues.

## Chapter 4

### The Disruption of Arrest

Before remand prisoners enter a correctional facility, they have spent anywhere from a few hours to a few days detained in police custody. This period, which I term police custody, marks the beginning of imprisonment for remand prisoners (Subramanian et al., 2015).

Though imprisonment as an experience has been (is commonly) understood to commence at the gates of the prison, this *process* in fact begins upon arrest. The moment of arrest is an extremely disruptive event:<sup>47</sup> it is when people are plucked out of their lives in the community and find themselves suddenly subject to a “total institution” (Goffman, 1961) in the form of police custody. Because remand prisoners typically are unprepared for their sudden incarceration, this disruption has real and immediate effects on their lives, notwithstanding the legal meaning of their arrest (i.e., that they are ‘legally’ innocent).

Even though police custody is a critical period in the trajectory of criminal justice processing, it remains little understood and investigated outside of journalistic accounts of, for example, the recent high-profile deaths of people such as Freddie Gray and Sandra Bland.<sup>48</sup> As we have clearly seen in these cases, the consequences of this phase of imprisonment can be lethal. Even though these deaths occurred in shocking and relatively well-documented circumstances, they have helped to expose the gap in our understanding of this generally hidden phase of criminal justice processing. They are also an incentive to develop a broader understanding of punishment and its consequences. Indeed, even though all prisoners have

---

<sup>47</sup> For the purposes of this dissertation, I refer to arrest as the moment incarceration begins for people on remand. In this study, everyone I interviewed was arrested and detained in police custody before making their first appearance in court, where they were remanded to custody.

<sup>48</sup> Freddie Gray was arrested by Baltimore police and died after use of force during his arrest and transport led to fatal spinal cord injuries. Sandra Bland was found hanging in her cell in a county lockup in Texas under suspicious circumstances, following a routine traffic stop that led to her arrest and detention.



gone through an arrest and period of custody outside of prison walls,<sup>49</sup> we know very little about the early moments, hours, and days of incarceration preceding a prisoner's arrival in a correctional centre. What we do know about this period of custody is based largely on two classic texts: Spradley's, "You Owe Yourself a Drunk" (1970) and Irwin's, "The Jail" (1985). Their work finds that those who are arrested and detained by police face both immediate challenges in terms of the conditions of their confinement, and practical concerns owing to the unexpected nature of their incarceration. Despite Spradley's and Irwin's claims that police custody can be experienced as punishment, scholars have paid scant attention to the topic of police custody in North America, though there are some international exceptions from researchers in the UK (Skinns, 2012; Newburn and Hayman, 2002; Choong, 1997; 1998).<sup>50</sup> Perhaps some of this neglect is related to the practical challenges of conducting empirical studies inside police lockups or jails. However, theoretical work has also been largely inattentive to the period of police custody (Harkin, 2015). The result has meant that this period of imprisonment – a process that impacts far more than just those who end up serving sentenced time in prison – is a sorely neglected area of scholarship, particularly in Canada and the US. Given the importance of this early period of incarceration for remand prisoners and the lack of oversight and understanding of the issues they face, it is a particularly pressing site of exploration.

---

<sup>49</sup> As discussed in Chapter 2, not everyone who experiences an arrest ends up being detained by police for a bail hearing. The arresting officer can decide to issue a summons or a promise to appear or release the suspect on their own recognizance at the time of arrest. If they decide to hold the detainee, they must bring them back to the police station where their charge is reviewed by the officer in charge. This officer makes a final decision whether to release the accused or hold them until they can appear before a justice of the peace in bail court (Trotter, 2010). Although there are no Canadian data on this point, one UK study suggests that rather than providing independent oversight, reviews of the initial decision to arrest and detain are administrative, routine, and never overruled (Dixon et al., 1990: 130-132).

<sup>50</sup> Yet, the laws of police detention in the UK are vastly different from Canada, which makes drawing comparisons across regions difficult.

In this chapter, I begin to fill this gap so that the experiences and consequences of arrest and police custody can be better understood. In what follows, I explore the range of challenges prisoners face upon their arrest and detention in police custody. I argue that this experience marks a significant disruption in the lives of remand prisoners because these people typically are unprepared for their arrest, face barriers to communication with and notification of family, friends, and legal counsel, and endure immediate and punitive conditions of confinement. I begin by highlighting how the circumstances of arrest shape the weight of this disruption. Next, I turn to the issue of communication and demonstrate its central function in managing the immediate fallout of an arrest. Third, I shift my focus to the police station and the conditions of confinement that remand prisoners endure. In this regard, I am less interested in documenting the processual dimensions of becoming a prisoner - that has already been well-established in classic works (see for example, Goffman, 1961; Spradley, 1970; Irwin, 1985). Building on the most recent investigation of this setting (Skimms, 2012), I argue that an arrest and detention disrupt the lives of remand prisoners and results in immediate and mostly unintended punishments that can have cascading and collateral consequences for remand prisoners and those around them. I call for future research to consider a larger trajectory of custody – beginning from the disruption of arrest - in order to better understand the experience of punishment before conviction.

## Background

As discussed in Chapter 1, the overwhelming majority of research and scholarly attention devoted to the experience of punishment in the criminal justice system has been limited to the prison. Research has also been attentive to the challenges that result from a person's release from custody (Travis, 2000; Petersilia, 2003) and how these can help us to reconsider

conventional notions about “re-entry” and punishment (Werth, 2012; Miller, 2014). But what is missing in research on this custodial trajectory is attention to the point of entry into the criminal justice system. This curious vacuum within a large and robust punishment literature came into sharp focus in Comfort’s (2007) research review, where she highlighted the lack of scholarly attention to the experiences and consequences of arrest. The following brief review will bring together the work of those who have studied various aspects of police custody, and point to the gaps in both empirical and conceptual work in this area.

The classic studies of James Spradley (*You Owe Yourself a Drunk*, 1970) and John Irwin (*The Jail*, 1985) were the first to draw attention to the issue of police custody. Spradley’s pioneering ethnography of urban nomads who were repeatedly arrested and detained for alcohol-related offenses in the late 1960s in Seattle found that detainees endure punitive conditions in police lockups, particularly related to communication, food, and dignity. In addition to noting the harsh conditions of confinement in police custody, Spradley also called attention to the practical realities of a sudden arrest. These can create unintended and punitive consequences arising from restrictions on a detainee’s communication with family, friends, and legal counsel and, by extension, an inability to manage the fallout of an arrest. Irwin’s (1985) ground-breaking ethnography of the jail draws similar attention to the impact of arrest, where people begin a process of “disorientation” that fractures their ties to society. He describes how, upon arrest, people can become “pre-occupied with personal needs and the actions they should be taking. They may be hungry, sick or in pain; they may feel pressed to contact family, friends, employers or attorneys” (57).

For both of these scholars, the issue of human dignity is of central importance to the experience of police custody and is tied to detainees’ treatment at the hands of officers.

According to Spradley, the most devastating condition detainees endure is “being treated as an animal, is being robbed of what he feels should be his right, is being told symbolically that he is not a human being worthy of respect and better treatment” (1970: 161). The goal of this treatment, in his view, is to ritually strip those living on the margins of their identity, which he suggests sets the stage for further degradation and entrenchment as an outsider. For Irwin, the goal of the “process degradation” that flows from arrest is to ensure obedience. Taken together, these scholars view the process of confinement that begins at arrest as a tool to manage the underclass of society – Irwin’s “rabble” and Spradley’s “tramps” – and posit that contact with the criminal justice system further entrenches systems of inequality.

Since these early studies, the bulk of the empirical work in this area has been conducted by legal scholars who typically examine police officers’ compliance with existing legislation and case law when in contact with suspects. Studies have focused on the specific problems of interrogation (see, for example, McConville, Sanders, and Leng, 1991) and/or the treatment of suspects during their detention (Dixon et al., 1990; Choong, 1997; 1998). Much of this work is based in the UK and examines police conduct following the enactment of the Police and Criminal Evidence Act (PACE) of 1984. Drawing from two research projects that included data from nearly 3000 custody records before and after the implementation of the PACE legislation, interviews with 160 officers, and 870 hours of police observations, Dixon et al. (1990) studied the effects of PACE on policing in England. They found that the introduction of procedural safeguards, such as the involvement of a third party for vulnerable suspects, had little effect on the reality of arrest and detention; for example, people experienced delays in the notification and arrival of third parties that had the effect of prolonging their detention. Other protections, including the oversight of police detention by

a magistrate, also had little practical effect on the detention and questioning of suspects.

Rather than acting as an independent overseer, the magistrate took on the role of essentially legitimizing the practices in the police station. Dixon et al. (1990) conclude that despite the addition of safeguards to protect suspect's rights, there is a tension between law on the books and law in practice that makes regulation and reform of police practice a challenge.

Taking into account the individual experience of police custody, Choong's (1997) study aimed at understanding police conduct during a person's detention. Drawing on interviews with 80 detainees who were arrested but never charged and informal conversations with police officers in police stations in England, Choong investigated whether Packer's (1964) crime control or his due process models better characterized the treatment afforded to detainees. Rather than finding support for one model over another, he argues that there are two systems at work during this phase – one driven by official goals, and a second 'shadow' system of police punishment, which is disconnected from the official demands of the system. In general, Choong found that police routinely denied the rights of detainees, who were expected to behave with complete submissiveness, hand over property, tolerate abuse and threats of violence, and were incarcerated in cells that respondents described as filthy (p. 631).

Building on Choong's empirical work, Skinns (2012) conducted interviews with 53 people (including suspects, police officers, and civilian staff) at two police lockups in England. She found that the conditions suspects endured had improved since Choong's (1997;1998) research, and pointed to the value of including staff voices to gain a more 'balanced' assessment of the issues in police lockups. Even though Skinns (2012) found that the PACE laws have generally improved the treatment of suspects in police custody, she ultimately

argued that these procedural safeguards and the inclusion of civilian staff that came with them have done little to change the reality of power and punishment in these settings.

Civilian staff (including physicians, addiction counselors) were ultimately at the mercy of the police when making decisions about care, which had a chilling effect on compliance with the amendments brought about through PACE. Drawing on Sykes' (1958) classic work, she argued that the 'pains of police detention' have been neglected by policing and socio-legal scholars.

Harkin (2015) suggests that policing scholars might draw on insights from the literature on punishment to understand police actions as a form of state-sanctioned pain delivery. Building on Sykes' (1958) classic work, Harkin argues that those subject to police power experience what he terms the "pains of policing". He questions how the police remain largely unaccountable for their acts even in the face of growing public critique and suggests that unlike other forms of punishment, the "pains of policing" are uniquely insulated from change because the very nature of police power is linked to the officially sanctioned use of force (see Bittner, 1967). Harkin's conceptual framework might be a useful way for researchers to consider the "boundaries of punishment" (Hannah-Moffat and Lynch, 2012: 119).

Finally, some scholars have called for investigations of the ways that a person's involvement with the criminal justice system extends the boundaries of punishment to their kinship networks. With regard to arrest and the initial experience of imprisonment, Comfort's (2007) review points to the potential harms on partners and children who may bear witness to an arrest. In the case of children, as Bloom's (1995) policy review describes, care may be disrupted when a parent or guardian is suddenly taken into custody due to a lack of coordination between child welfare systems and the criminal justice system. Partners of

detainees also can suffer some immediate consequences in terms of their finances or housing (Marchetti, 2002), although Comfort's (2008) work complicates this by suggesting that some partners of imprisoned men experience an improvement in their lives or relationships following their incarceration. Goffman's (2009; 2014) ethnography of young 'wanted' men in a Philadelphia ghetto provides some evidence in support of both findings, in that even the fear of arrest can disrupt social networks; and yet, once arrested, a person's capture can abate the state intrusion on their kin and restore daily routines that are ruptured by "system avoidance" (Brayne, 2014: 367). Clearly then, more empirical research is needed to disentangle the various ways social networks are affected by a person's arrest and detention. In sum, research on the period of arrest and police custody has been scarce since the classic work of Spradley (1970) and Irwin (1985). What we do know about this period of custody suggests that detainees typically endure difficult conditions while subject to the official policies and actual practices in police custody, and that the unexpected nature of arrest and confinement can produce additional problems beyond the legal consequences of arrest.

## Being plucked out: the disruption of arrest

For those who end up in remand custody, the moment of arrest marks a significant disruption in their lives. It is the exact moment when people transition from enjoying their freedom 'on road' to life as a prisoner.<sup>51</sup> Upon arrest and/or detention, officers are required to comply with basic human rights and freedoms set forth in *The Charter of Rights and Freedoms* (hereafter, *The Charter*). In addition, in police agencies across Ontario, there are policies and

---

<sup>51</sup> Remand prisoners frequently used the term 'on road' to describe their life outside of custody. I use this term throughout this dissertation in the same manner.

procedures directing the treatment of persons in custody.<sup>52</sup> I will review these rights and policies throughout this chapter to bring attention to the ways these formal rules are experienced by those I interviewed.

Unaware of their impending arrest, most people I interviewed were going about their daily lives when they were arrested and taken into police custody; only three of the people in my study turned themselves in and so did not experience an arrest in the community. As I quickly found out during the course of my interviews, the circumstances surrounding their arrests – the location, who they were with, or what they were doing – mattered a great deal in how they talked about the consequences of their arrest. Table 3 provides a snapshot of the circumstances of my interviewees' lives and the details of their arrests, including the location of their arrest and whether they experienced police use of force.

---

<sup>52</sup> I reviewed the formal police policies for three major police services that worked the main catchment areas for the facilities where I conducted interviews through freedom of information requests. I use these documents to provide a perspective on the accounts of those I interviewed.



Table 3: Characteristics of interviewees at the time of arrest (N = 120)

	<b>Men</b>	<b>Women</b>	<b>Total</b>
<b>Marital Status</b>			
Single	56.7% (34)	53% (32)	55% (66)
Married	6.7% (4)	8.5% (5)	7.5% (9)
Common-law	26.7% (16)	11.9% (7)	19.2% (23)
Divorced/Seperated	8.3% (5)	23.7% (14)	15.8% (19)
Widower	1.7% (1)	3.4% (2)	2.5% (3)
<b>Dependents</b>			
Yes	71.7% (43)	66.1% (39)	68.3% (82)
No	28.3% (17)	35% (21)	31.6% (38)
<b>Housing Status</b>			
Stable	70% (42)	62.7% (37)	66% (79)
Precarious	30% (18)	37.3% (22)	34.2% (40)
<b>Health Status</b>			
Addiction	65% (39)	72.9% (43)	68.3% (82)
Mental health	46.7% (28)	58.3% (35)	52.9% (63)
Concurrent disorder <sup>53</sup>	40% (24)	53% (32)	46.7% (56)
<b>Location of arrest</b>			
Home	38.3% (23)	37.3% (22)	37.5% (45)
Driving	11.7% (7)	8.5% (5)	10% (12)
Public	33.3% (20)	40.7% (24)	36.7% (44)
Undisclosed	11.7% (7)	3.4% (2)	8.3% (9)
Other	5% (3)	10% (6)	7.5% (9)
<b>Police Weapon<sup>54</sup></b>			
Gun	25% (15)	13% (8)	19.2% (23)
Taser	3.3% (2)	1.7% (1)	2.5% (3)
Other	1.6% (1)		.8% (1)
Total	30% (18)	15% (9)	22.5% (27)
<b>Police Assault (yes)</b>	20% (12)	13.6% (8)	16.7% (20)

Though the data in Table 3 provide some context for people's experience of arrest, they say little about the nature of interviewees' daily lives before arrest, and how these and other factors combine to shape its impact. Thus, I will rely on individual stories to demonstrate how a constellation of factors work together to produce the experience of arrest. What I found was that the sometimes-dramatic encounters people had with police during arrest – the

<sup>53</sup> Concurrent disorder is used in this study to refer to people who had both addiction and mental health problems.

<sup>54</sup> Used at the time of arrest.

early morning raids, for example – were what you might expect: chilling, scary, and high-intensity. However, what I would hear more often were ways in which seemingly trivial features of daily life shaped the immediate or short-term consequences of arrest and detention.

Though classic research has pointed to the fallout of arrest, my research highlights that much of the immediate concern has to do with the specific circumstances of a person's life at the time of the arrest. A key to this discussion is the manner in which the circumstances of a person's arrest can produce immediate extra-legal punishments. Building on the insights from one of Harvey's (2005) interviewees who said that "when you first come in, you had plans for the next day" (p. 238), I asked people the following question: "Can you take me back to the day you were arrested, and tell me what it was like once you realized you weren't going back to your normal life that day?" Few people experienced more swift or certain consequences from their arrest than Tom, who had been driving across the country at the time of his arrest. He says after he was pulled over and placed under arrest:

...I tried to get at least some of my possessions, like at least get them to hold, put them in my personals – my passport, my wallet and all my stuff that was mine that I needed. They didn't care. They said "it's in the car. You'll get it when you're released." They kept saying you want to get people to come up and get your stuff. Well, Richfield, Ontario is 3600 kilometres from home so it's literally like a world away. For me to pay for somebody to fly up there would've cost me 2500 bucks so there was no possibility, so in other words they pretty much told me I lose everything I own. Everything that I owned is gone.

Tom was unique among the prisoners I spoke to, in the sense that he *immediately* lost all his belongings. More commonly, people were uncertain about the fallout of their arrest, an issue I discuss more later in this chapter. But Tom's case highlights a recurring challenge for remand prisoners – that their experience of police arrest and custody is shaped not only by

the circumstances of their lives, but also by the actions of individual police officers.

According to official police policy in the jurisdiction in which he was arrested, officers are directed to secure personal valuables in a property bag upon a person's arrest. Yet, a narrow reading of these policies might suggest they only apply to valuables on a suspect's person, leaving the belongings in Tom's car in a precarious legal position and subject to the officer's discretion.

When the police arrived to arrest Sara, she was in a bikini, shorts, and tank-top after swimming with her boyfriend at the motel they lived in. Sara recounts how she immediately knew the importance of those circumstances for her night in police holding:

When I was being arrested I asked if I could change, because I had a bikini and little clothes on. So I said "please let me put different clothes on", "No." Because I know how cold it is in holding and they wouldn't. And then they give me a jump suit, but that doesn't really do anything. It's paper.

Sara knew that the conditions of her night in holding would be more difficult if she was not allowed to change her clothes. But more importantly, Sara's story helps to illuminate how initial decisions like these – even if seemingly trivial – can have cascading negative effects. Because remand prisoners attend court in their street clothes, this meant that Sara would appear in court in a bikini and shorts covered in a paper jump suit, unless she could get a change of clothing at the facility.<sup>55</sup> There is no policy that I could locate that directs officers to attend to a person's appearance or clothing at the time of an arrest, unless it is for evidentiary purposes.<sup>56</sup> Perhaps for this reason, some people, such as Megan, had a different outcome. She was sleeping at the time of her arrest, and says about the police:

---

<sup>55</sup> In any case, clothing change is not possible until arrival at the facility. I discuss the challenges of court appearances in Chapter 5, and discuss the issue of clothing in more depth at that point.

<sup>56</sup> In these cases, accused were given a paper jump suit in lieu of clothing.

Yeah, they weren't even gonna let me to put clothes on. I was in a pair of underwear and a tank top, and I was like "It's freezing out, it's January."

HP: So they weren't going to let you put anything on?

Megan: No, they were just gonna take me down. I'm like "I can't go to court like this, let me put on something." And they did.

These experiences illustrate some of the immediate consequences of an arrest, and how these are affected by the discretion of the arresting officers.

I also asked people what they worried about most upon being arrested. Their responses are shown below in Table 4.

Table 4: "What worried you the most on the day you were arrested?"

	<b>Percent mentioning it (n)</b> <sup>57</sup>
Shock at being arrested	22.5% (27)
Disruption of the family	36.7% (44)
Concern about children	20% (24)
Concern about pets	5.8% (7)
Concern about one or more (family, children, pet)	55.8% (67)
Property (belongings, housing) disruption	20.8% (25)
Job/school disruption	10% (12)
Legal disruption (concern about jail, courts)	35% (42)
Addiction disruption	10.8% (13)
Other	13.3% (16)

These responses will be discussed in more detail in the coming sections. For now, it is important to note that many of the concerns listed in Table 4 are directly related to the issue of communication with the outside world.

<sup>57</sup> Percentages add to more than 100% because some people mentioned more than one worry and their responses did not convey that one was more important than the other.

## Communication

I was 72 hours unable to communicate with no one. I felt mentally ill, I felt that someone was out to get me. I didn't understand why they [police] did me like this. (Pierre)

To understand what it means to be arrested, I would suggest a 'thought experiment'. Think about what would happen if you were arrested as you finish reading this sentence. What would your immediate concerns be? You might, for example, need to contact a family member or loved one to let them know about your situation. You might need to arrange care for a dependent or pet, alert employers, or secure belongings. However, these considerations are not usually taken into account during the course of an arrest – especially if you happen to be alone at the time. Lack of access to communication is one of the initial barriers people face upon their arrest, in part due to the structure and practice of police policy regarding detainees. The popular notion of the 'one phone call' rule where a person can call whomever they want following an arrest is factually untrue. According to the *Charter*, following an arrest, an accused person has a legal right to contact a lawyer. There is no such right to personal calls, leaving it to individual policing services to choose what standard, if any, they adopt for personal calls.

## Personal Calls

According to the official policy of the three main police services represented in this research,<sup>58</sup> there are allowances for personal phone calls during an accused's arrest, though they vary according to police service. Specifically, the Raleigh Police Service (RPS) policy states that a person should be permitted "reasonable" use of the phone. The Bellstate Police Service (BPS) directs officers "at their own discretion, [to] permit the prisoner to make

---

<sup>58</sup> The names of the police services have been changed to maintain the anonymity of the institutions where I conducted this research.

additional telephone calls apart from those made to legal counsel.” Finally, a third agency’s policy specifies that “there shall be no arbitrary limits placed on the number of calls or their duration” (Mainland Police Directive, 2015, p. 21). Despite these allowances in official policies, only 19 out of the 120 prisoners (16%) I spoke to were allowed to make a personal phone call following their arrest. Almost all of the people I spoke to expressed concern about this restriction, counter to Skinns’ (2012) research that found even though suspects have a legal right not to be held ‘incommunicado’, less than half requested a notification call. Jim was like most people I interviewed in that he was unprepared for his arrest. For people like him, being suddenly plucked out of their lives presented a series of practical challenges that can be made worse by the denial of a personal phone call. When I asked Jim how he felt after being denied a personal phone call, he said:

That makes me feel like I don’t matter. That makes me feel like I don’t have any rights, that makes me feel like I’m not being treated fairly. Um, what happens if it was them? How would they make arrangements for their kids and how would they let their family know what’s going on and say “Hey, can you come to court tomorrow and try to bail me out?” Or anything, you know, “Hey, can you bring my meds to me, or, you might want to pick the dog up (laughs) and take care of the dog cause I might be away for a while.” Like, you know.... anything like that right? So yeah, it’s not good.

The consequences of the restrictions on communication varied based on the circumstances of people’s lives at the time of arrest. Table 5 provides basic information about the living arrangements of those I interviewed when they were arrested.

Table 5: Living arrangements at arrest

<b>Living arrangements at arrest (n=120)</b>	
Alone	35.8% (43)
With Partner	18.3% (22)
With Children	5.8% (7)
With Partner and Children	12.5% (15)
Other family/roommate/friend	27.5% (33)

While a person living with family might be expected to have pressing needs for communication, even those who live alone experience distress if they are unable to make calls. For some people with addiction issues, such as Khalid, a lack of communication can mean others fear for their well-being:

I didn't feel good. Like, I definitely wanted my, like, ex-wife to know where I was because I just... like, we're still like... you know, like, we've actually had a good thing since we've separated, and I just let her know because she's always worried because of my drug use. If she doesn't hear from me, she assumes I might [be] in hospital or... she doesn't know... like, you know, maybe worse even, and, like, them not hearing from me made me worried that they're going to think that something happened to me.

For those with dependents, a lack of communication can amplify the rupture of an arrest.

This was true for Dan, who was arrested while walking to pick up some take-out food for his family one evening. When I asked if he was able to notify his family, who were waiting for him to return with dinner, he said "No... nothing. They wouldn't let me give her a call... she didn't even know I was arrested. All she knew I was going ... she was waiting for pizza to come back." When I asked him what challenges they faced from his arrest, he put it simply: "Disappearance. 'Where is dad?' and 'Where is my man?' right?" Dan's case demonstrates how people can simply disappear from their lives because of the restrictions on communication. However, because Dan knew his children were with his wife, his concerns were mostly about notification.

For others, arrangements would have to be made for the care and custody of their children.

On the day she was arrested, Michelle and her young daughter were arriving home when she noticed that her front door was open and police were inside. She began to panic, and decided to take her daughter to a nearby friend's house so that she wouldn't see what was going on.

Once there, Michelle looked out the window and saw that her husband was being arrested on the front lawn. At this point, she understood her arrest was imminent, and she began to prepare for it by getting high in the bathroom while attempting to arrange temporary guardianship by texting her friend.

Well, it pretty much made me freak out, 'cause I'd contacted [my friend Jen] when I was in the house getting arrested, like, sent a text. I was actually in the middle of writing "I, Michelle give guardianship to Jennifer for now until I'm whatever." And uh, then I thought 'oh my god, they're gonna come for me now!' And then, that was it. They knocked on the door and I said "Ok, I love you Cassandra" and I gave her a kiss. And I knew it was over at that point. I walked myself outta the house without them coming in and like swatting me, you know, so she couldn't see anything... And knowing that I can't call Jen and make sure that she got Cassandra and that Cassandra's not crying and freaking out and scared of me um, kind of sent me into downward spiral mode, like depression, you know, and angry that I couldn't quickly make a phone call.

This initial call can be crucial as it may be the only opportunity for contact with the outside world for some time. Without it, people can disappear from their lives in what may be considered a state-organized abduction. As Dan and Michelle's stories suggest, the importance of communication is crucial for ensuring that those once removed from the actual experience of arrest are notified and cared for. Yet, their experience also demonstrates the differential impact on those who are sole or primary caregivers. Of central importance to the immediate fallout of arrest are the living arrangements and circumstances of people's lives. Even though most people (68% or 82) had children, their arrests did not disrupt custody or living arrangements for all of their children, as can be seen in Table 6.



Table 6: Issues related to children

<b>Living arrangements at the time of arrest (for those with children) n=82</b>	<b>Men</b>	<b>Women</b>	<b>Total</b>
Alone	34.9% (15)	28.2% (11)	31.7% (26)
With Partner	18.6% (8)	20.5% (8)	19.5% (16)
With Children	4.7% (2)	10.3% (4)	7.3% (6)
With partner and children	16.3% (7)	20.5% (8)	18.3% (15)
Other family	11.6 (5)	12.8% (5)	12.2% (10)
Roommate/friend	14% (6)	7.7% (3)	11% (9)
Total	43	39	82
<b>Who is taking care of children</b>			
Current partner/spouse	18.6 (8)	7.7% (3)	13.4% (11)
Ex-partner	32.6% (14)	30.8% (12)	31.7% (26)
Family member	4.7% (2)	7.7% (3)	6.1 (5)
CAS	2.3% (1)	7.7% (3)	4.9% (4)
No custody/Crown ward	30.2% (13)	28.2% (11)	29.3% (24)
No longer dependents	9.3% (4)	15.4% (6)	12.2% (10)
Other	2.3% (1)	2.6% (1)	2.4% (2)
Total	43	39	82

Some people, such as Emma, did not have concerns about family notification, because she was living with her father and all parties were at the house when she was arrested there:

I got arrested Thursday at about 8:45 am, I was outside having a cigarette with my daughter and my cousins were there. [Starts crying] My cousins came and said that there was two gentlemen at the front and my older cousin had gone and brought them out back. And once I seen their badge, I wanted to run. But instead ... I told my daughter to go inside to poppa, and then the cops were like, "We're placing you under arrest, is there anything you need to do before we take you?" And I was like, "Go say bye to my daughter."

Emma was the only person I spoke to who talked about the police providing on-the-scene assistance to manage the disruption of arrest. Had they not allowed her to say goodbye to her daughter and had she not been living with her father at the time, Emma might have had concerns about her family, rather than simply about the legal consequences of her arrest.

Regardless of whether they have children or with whom they live, those who do not get a phone call must grapple with the uncertainty of their personal affairs after their arrest. Spradley (1970) termed this “communication barrier” as a more “devastating” feature of custody than the cell environment because its existence is “intangible” and “denied by others” (P. 162). Because people lose their freedom and autonomy upon their arrest, they rely on others to manage the repercussions. In essence, people are forced to shift a range of roles and responsibilities to their families as a result of their sudden detention (Comfort, 2016). Those who can make a phone call can hope to have some peace of mind from knowing that their affairs will be taken care. Lynn was a 41 year-old single mother and had sole custody of her son at the time of her arrest. Upon her arrest, her family was thrust into a system of support to ensure her affairs would be in order. As she explains, this had some immediate and short-term effects:

Oh lots -- I mean I had a home, I had my vehicle in Ottawa had to be picked up and brought back from Ottawa to home, I had a cat in my house – nobody had keys to get in so they had to break into my house, uh.. you know my son was obviously confused, it was just horrific the whole thing and it was so unnecessary that’s what was so brutally sad about it, they put on a show.

Because the processual dimensions of arrest and detention in police custody do not operate in isolation, having one aspect of this transition go well does not in and of itself mitigate the disruption of arrest. For Lynn, the disruption of the arrest was not punctuated by her inability to make arrangements for her life. Instead, it was rooted in the secondary impact on her son who witnessed her arrest. As she says, her primary concern upon her arrest was:

My son. They had been investigating me for 14.5 months; all they had to do was call my lawyer – I lawyered up right away. All they had to do was call my lawyer and tell me to turn myself in, they didn’t have to involve my seven year old son. So ... they followed me... pulled in behind my truck and the guy on the other side handcuffed me in front of my son and there was the other officer trying to explain to my son what

was happening, well how do you explain that to a seven year old, you know. Anyway end result I begged them to let me take my handcuffs off so I could talk to my son and say goodbye to him because they were taking him in a cruiser.

The secondary effects of a person's sudden imprisonment were not limited to family or kin.

Some people were concerned instead about how their arrest would disrupt social networks.

Colin was arrested in front of his former partner, and said that his

...first thought was my business because I had employees. If I'm not there to, you know, set the jobs up and get the jobs going, who is going to do that? I have a lead hand, but I couldn't get a hold [of] him. He probably didn't have a clue what was going on. I don't know if my ex would call him and say, "Hey, this is what's happening" or whatever. She probably panicked so I don't know what was going on there so that would be my main concern.

These stories reveal some of the ways the disruption of arrest is mediated through access to communication. Those denied personal calls typically suffer the pain of uncertainty, while those who make contact with the outside world download the disruption onto their kinship networks and, as a result, extend the punitive arm of the state to those once removed from its reach (Comfort, 2007; 2016). In both instances, the disruption of arrest is amplified by challenges with communication. Irwin (1985) suggests that the powerlessness that individuals face in managing the fallout of their arrest is part of the "disorientation" that begins upon arrest, which produces serious consequences even for people in custody for a brief period.

Only a few people I spoke with—Gavin being one of them—said their arrest did not cause major disorder in their lives, because they were prepared for it. He argues that the only people who prepare for their arrest are the 'one percenters': career criminals, like him.

That's part of being a career criminal – when you're a career criminal you absolutely know at any second that you can be grabbed. So everything at that point, you always have to think, "If I leave right now, what state of affairs is everything in?" The condo's covered for 6 more months so they'll be able to move everything, all the

stuff. The rental, to store your furniture, has already been paid. The money for this, this and this has been set aside. The ten percent for the lawyer you've already been saving. So every step of the way, and this is a very rare case, because a career criminal is very different from the 99 percent of people here that are doing crime to survive. You know what I mean?

Gavin underscores that in addition to the personal interruption of one's affairs, an arrest also brings about legal consequences, and that few people are prepared for this reality.

### Legal Consultation

In contrast to personal phone calls, calls to a lawyer upon an arrest are guaranteed by s.10b of the *Charter*, and as such, police services have a legal obligation to comply with this right. In this study, approximately four out of every five people I spoke to were able to contact a lawyer following their arrest. The fact that some did not speak to a lawyer may, in part, be related to the police service and the specific policy it follows.<sup>59</sup> For example, the RPS provides general guidelines for officers to ensure that the accused "has been informed of the Right to Counsel, including the availability of free legal advice through Duty Counsel and Legal Aid" (2009). The Mainland Police Directive (MPD) is more specific, stating that the accused person should be provided with "a secure private environment, the use of a telephone, a telephone directory, and any assistance required, without delay, and as soon as practical" (2015: 21). Finally, the BPS states an accused person's s. 10(b) rights shall be upheld and that "steps taken to afford the prisoner of their right to speak to legal counsel of choice shall be fully documented by the arresting/escorting member" (4). From these policies, it is clear that there may be variation across jurisdictions in the manner in which a person's s.10(b) rights are operationalized.

---

<sup>59</sup> While all police services must ensure that their treatment of detainees complies with the *Charter*, each policing service has its own interpretation of what this means in practice, which can be found in the corresponding policy manual.

In practice, people experienced a range of resistance to or compliance with their s. 10(b) rights. In this study, 23 (19%) people were not able to contact a lawyer when they asked to do so. For them, a lack of communication not only exacerbates the practical challenges following arrest, but also has some immediate consequences for their legal processing (Baylor, 2015). This is especially true for people who were also denied a personal call, such as Sue.

Well, I can't exactly get bail my first court appearance. I can't exactly get any help, and the lawyer doesn't even know I'm there (laughing). How the hell is anybody going to help me? At least if I could've talked to even just my lawyer I could've had him call my grandparents. I could have him call the father of my kids – you know, let everybody know where I was instead of people thinking that I just fucked up and fucked off again.

However, contacting a lawyer is not as simple as having permission to do so. Some people, such as Damon, tried to contact a lawyer, but were unsuccessful:

First they [the police] called for me but he didn't answer, my lawyer never answered, but on the machine when they called my lawyer's office, it has an emergency number to contact my lawyer. I think it's his cell phone and they didn't listen out for it, they just hung up, and they didn't get a hold of him.

Damon's experience demonstrates the practical challenges of contacting counsel, where legally innocent accused people rely on police to provide assistance. Cheryl is developmentally delayed and explained that having access to her lawyer is preferable because she understands Cheryl's specific needs:

...I wanted to talk to my lawyer 'cause my lawyer knows my case and everything and she understands my mental health and all that stuff so I wanted to talk to her specifically 'cause we have a good relationship. They were supposed to find the number for me and they never did. So I talked to this person and I don't even know who it is, which is fine, I shouldn't be complaining, at least I was able to make that phone call. But I just, like me, knowing I can talk to somebody I know is a lot better.

Research from the UK supports Cheryl's claim. Leggett, Goodman, and Dinani (2007) found that one of the main concerns for those with intellectual disabilities who were being questioned by police was that they had the legal assistance of someone who they knew and trusted. In fact, police have a legal duty to provide "reasonable assistance" to facilitate contact with a lawyer of choice. But in practice, this umbrella term can create real variation in experience, as shown in the above cases. If a person is arrested and an officer has made reasonable attempts to contact that lawyer, it is not a violation of their s.10(b) rights to instead direct them to duty counsel.

### Duty Counsel

As it relates to the right to consult counsel while in police custody, the duty counsel system in Ontario is a 1-800 service that allows accused people across the province to contact an on-call attorney. This attorney provides basic legal advice aimed at ensuring that an accused person understands their legal rights while in police custody (R. Bacchus, personal communication, August 4, 2015). Even though the duty call system is designed to ensure that people can exercise their 10(b) rights, in practice, the system can be inadequate for those seeking legal advice or to remedy the immediate fallout of their arrest. This can be especially true for first timers, who can be confused about the process they find themselves in.

Karen was a first timer and despite her claim that she "knew the day was coming" when she would be arrested, she did nothing to prepare herself and had no lawyer at the time of her arrest. So, when police came to her nephew's birthday party to arrest her, Karen assured her family that she would call them as she was being led away by police. Once back at the station, however, she was denied a personal phone call. She explains that because she had no lawyer, her only communication was with duty counsel.

I believe they asked me if I had a lawyer, and I would've said no. So, I don't know if it's legal aid or who it was but they put you in a room and you pick up a phone and – I do remember this -a man gets on the phone, he's like “Ok Ms. [ ], you have a lawyer? Ok, you'll be going to court tomorrow, and don't you say anything. If they ask you any questions I want you to say ‘no comment’ – do you understand? What are you gonna say?” “I'm gonna say ‘no comment’”. “Ok, ‘no comment’, ok bye.” That's exactly how that sounded. [Laughs] I walked out of there and I was like, who did I? [Pauses] It was like the twilight zone or something, like who did I just speak to? Like you could tell he'd done that spiel a thousand times.”<sup>60</sup>

Although Karen was confused about this exchange, she could take some comfort in the fact that she had been arrested in front of her family, meaning they knew where she was and could help make arrangements for her life.

As with any aspect of the disruption of arrest, the ability to contact a lawyer depends on the circumstances of a person's life at the time. This is why for Nick - who was arrested at home where he left behind a dog - the duty counsel system was not just confusing, but woefully inadequate in handling the immediate aftermath of his arrest:

I asked to call my mother and legal aid and they [police] refused. So they just automatically put me with [duty counsel]. And they do nothing for you. They're like “don't talk to the police, I'll see you later” and hang up – that was the extent of my exchange. So no one really knows that I'm in prison, no one knows what's going on. No one outside knows where I am because there was no one there to tell anyone where I was and they don't allow you to have... like you can't call. Like nowadays no one remembers a number by heart.

Nick went on to talk about how a lack of communication and other practical challenges can exacerbate the disruption of arrest:

The whole time I'm in here – the first three days I had no idea what was happening, why I was being charged. I don't know why I was arrested really. I don't know – my rent wasn't being paid. It was the first and my rent wasn't paid. I had a rental car and somebody came and picked it up and it fucks your whole life. And you can't do

---

<sup>60</sup> I spoke to one lawyer who worked the duty counsel call system for 20 years. He said that counsel on average spend six to seven minutes on a call with an accused person (though Karen's description of her discussion with duty counsel was the most in-depth of all the people I spoke with). The lawyer told me that the duty counsel's focus during this time is to ensure that an accused person understands their right to silence and will often coach the person, as Karen described she had been.

anything about it. You're in here not knowing what's happening, not being able to reach on the outside, not being able to pay your rent, call your job, I can't even call ... I couldn't tell anyone.

Nick's story highlights how the problems of personal and legal communication can combine with practical challenges to produce some unintended consequences. Because he was unprepared for his arrest and was not able to make a personal call, Nick's conversation with duty counsel was the only contact he had with the outside world during his police detention.

It is clear from the above descriptions that the duty counsel system, while formally satisfying the requirements of an accused person's s. 10(b) *Charter* rights, is inferior to speaking with a personal attorney (see also Brockett, 1970; Baylor, 2015), who may be able to make arrangements for an accused's personal life on their behalf. Indeed, one duty counsel informed me that they *cannot* make arrangements or calls on the accused's behalf because they would first need the officer's consent to ensure they are not interfering with an investigation (R. Bacchus, personal communication, August 4, 2015). Even if they could make these arrangements on an accused's behalf, it would likely be too onerous for duty counsel to take on that responsibility as there are anywhere between one and five duty counsel lawyers on call at any given time for the entire province of Ontario. In practice, this creates a two-tier system in which those with personal attorneys (whom they can contact) are privileged over those who must resort to the duty call system in terms of managing the fallout of their arrest.

Communication with the outside world is one of the initial challenges people face as they are apprehended and taken into custody. These manifest in the form of both formal restrictions and practical challenges that can interact to produce barriers to communication with the



outside world (Spradley, 1970; Irwin, 1985; Baylor, 2015). As described above in the words of my interview subjects, these barriers can amplify the disruption of arrest.

In the chapters that follow, I will explore in more depth the consequences of being unprepared for a term of remand imprisonment that can be traced back to the initial disruption. For now, it is important to understand that the initial disruption of arrest is only one of the issues facing those who have been detained by police. Regardless of the circumstances of their lives, each person I interviewed was held for a period of time in police custody. I now examine the specific period of time in police holding, and explore the range of experiences people had there.

## Police custody

After their arrest, accused people are brought to a police station where they are held in custody before making their first court appearance. Depending on the timing of an arrest, an accused person could spend anywhere from a few hours to a few days in police custody.<sup>61</sup> During their time in police holding, accused people are formally processed into custody.<sup>62</sup> Some are strip-searched and/or interrogated by police, others are not. Before a detainee is placed in a holding cell, officers must remove valuables and items that can be used to self-harm. In practice, this means that in addition to belts and ties, people are often forced to give up comfort items such as sweaters or jackets. After this processing and being placed in a holding cell, they await their transfer to a courthouse for their first appearance.

---

<sup>61</sup> The variation in duration depends on when a person was arrested as well as the schedule for court operations. If a person is arrested on a Friday evening, for example, they may stay in police custody until Monday morning, unless there is a weekend bail court.

<sup>62</sup> An arresting officer's decision to detain an accused person for a bail hearing is supposed to be reviewed by the officer in charge. Only one of the 120 people I interviewed mentioned this review. The fact that no one brought it up means one of two possible things: that this process is invisible to them, or that it is so inconsequential that it is not worth mentioning.

In order to understand people’s experiences of police custody, I asked them to tell me what it was like for them to be in police custody, and how they were treated by police. I group the range of responses into broad categories shown in Table 7. As in previous sections, I highlight the accounts and experiences that reflect the complexity of these issues.

Table 7: Concerns expressed in response to the question “Can you describe for me your experience of police holding?”

<b>Concern</b>	<b>Percent mentioning it (n)</b> <sup>63</sup>
Food	23 % (28)
Conditions of confinement	44% (53)
Treatment by police	54% (65)
Other	5% (6)

### Conditions of Confinement

On its own, removing clothing or jackets may seem like a trivial matter once a person has been arrested. But in reality, this means that one of the first challenges people must deal with after their arrest is getting through a night in notoriously cold holding cells (Skinns, 2012).

Randy’s experience reveals what this can be like.

You know, there’s circumstances that people have... the reason why we don’t get a blanket is because someone tried to hang themselves - and what an idiot - and the rest of us get nothing, get to suffer. We got no blanket, and, you know, we don’t get our... sometimes we don’t get our shoes or our sweaters, like I said, or anything. Like, I just felt like there should be... a lot more could be done to service our needs because they’re there to watch us and to watch over us, and if we need something, they should be there to provide it... with our... what we’re eligible to have. Yeah, because there’s still human rights...

Even though all police agencies had policies about the removal of personal property that could be used to harm, only one agency (MPD) directed officers to *provide* for the comfort of

<sup>63</sup> Percentages add to over 100% because some respondents mentioned more than one concern.

detainees. In this case, detainees were given a blanket,<sup>64</sup> mattress and wash basin, but only after they had been held for *over* eight hours (Ibid). Vanessa's story is illustrative of how this is experienced:

It was ridiculous! So they put me in this holding cell that was [emphatically] freezing cold. My socks were wet. I had this tank top on. Like I was so cold, my feet were so cold, I was blowing into my tank top and wrapping it around my feet. And I was like "Can I please have a blanket?" And they were like "No, we don't have blankets here!" There was no food. No cup for drinking water, none of that till later. Like around 4 in the morning ... and I was arrested in the afternoon.

Some, such as Matt, felt that the conditions of police confinement are intended to be harmful, by denying basic human needs, such as sleep:

It's uncomfortable on concrete. You don't get a blanket. You don't get, like, even a thin foam mat, anything. Like, even a couple blankets would suffice, but they don't give you nothing. They just want you to rough it up. Well, that's kind of inhumane to... especially when you know, well, this guy is going to be here over night. You should be able to sleep at night. I don't care who you are. And, I mean, who's to say, "Oh, you can't sleep," and by making someone trying to sleep on cold... you know they're not going to sleep that night. You know they're going to be wide awake so...

Some people felt there was no mechanism for addressing their basic needs while in holding because they were ignored or had no one they could ask. This was noted in Skinn's (2012) work as well, though she found that in most cases, suspect's needs were not intentionally unmet. All police policies that I reviewed had some language about ensuring the welfare of detainees, ranging from vague "check the condition" of the detainee directives (RPS, 2009: 2) to specifics that "a member speaks to the prisoner and visually verifies their well-being, at least once every 30 minutes" (MPD, 2015: 11). In turn, people's experiences of these directives varied. Although I did not ask people if they had been checked on, time and again they mentioned this issue when talking about how they were treated by police while in

---

<sup>64</sup> The blankets provided to detainees are specifically designed to ensure they cannot be used to self-harm and are made from a paper-like material.

holding. Some people said they saw officers periodically walk along the corridor of the holding cells to check in to an electronic system that records the time of the patrol. Others said they were routinely checked on, though this was rare. Most people who brought up the issue commented that they were never checked on or that there was no way of addressing their needs.

To be clear, being ignored in and of itself is not a clear violation of any police policies about the condition or welfare of detainees (Skinns, 2012). But, being ignored can have some unintended consequences when it comes to basic needs, as revealed by Karen's story:

I was on my period – this is so disgusting, so... I was on my period, I was wearing a pair of black tights and a sweater dress. It was winter, and they took my boots from me, and my coat, and my purse, whatever. And so that's all I had on, a sweater dress and tights. So after interrogation, "no you can't make a phone call" they put me in a cell. No blanket, no whatever, that was fine. It was freezing, but that wasn't the worst part. They wouldn't give me a tampon. I asked for a tampon, it was, you know, you hear the drunk tank people screaming and yelling and stuff, no tampon, no nothing, no toilet paper. I went to court the next day like that, by the time I got back to Greenhurst and they did their strip search – thank goodness it was black tights because yes, I mean I had to, I was so, it was so... I was covered.

Karen's story is telling of some of the humiliations that can result from a denial or dismissal of basic needs. But most importantly, her experience reveals that the way people are treated by police can affect their experience of remand. Because Karen's request for a tampon was ignored, she had to endure the embarrassment of her first court appearance and strip search while her dignity was compromised.

The experiences of those described above reveal some of the ways people struggle to address their basic needs while in holding. Their stories suggest that it is not so much the process of becoming a prisoner through the stripping and removing of personal items that is difficult. Yet, this process produces the conditions under which people rely on police to provide for

their physical comfort and hygiene. The police, acting under little or no formal obligation to address these basic needs, appear to vary in their willingness to provide welfare services to detainees. While the range of welfare needs might be impossible to formally anticipate through policy, one basic need that is uniform across all detainees is food, an issue I turn to next.

### Food

Although I did not ask people about their access to food while in police custody, people often raised the issue of food and hunger while in police custody (Skinns, 2012). In the worst instances, people such as Myriam complained that they were not fed at all: “I ask them to give me something for food because I never eat. And I said please just give me something, I was freezing and hungry and they said no.” In the best cases, people were provided with a take-out meal. In two such cases, religious or dietary restrictions meant that an accused could not eat the meal provided, and in one of these cases, an accused was provided an alternative. However, for the vast majority of people who talked about food in police holding, their experience was like Joe’s.

That’s one of the worst times, cause you are sitting there – I sat there from 4 o’clock till pretty much 24 hours or whatever, with one juice box and one NutriGrain bar.

To understand the variation people experienced in food rations, I looked to official police policy. All three police services whose policies I was able to access had meal provisions for detainees. The substance of these instructions was mainly directed towards the administration of meals. Both the BPS and MPD provide specific times that meals should be delivered, while the RPS simply states that detainees should be provided “with a meal when detained during meal hours.” Importantly, no policies defined what a “meal” consists of. Other details varied slightly, with some services directing officers to be sensitive to dietary restrictions

(BPS; MPD), allergies (RPS), and religious beliefs (MPD, RPS). The main take away from these policies is that they are vague enough to allow for considerable variation in their interpretation, both within and across police agencies.

Stations in the Mainland Region, for example, tend to provide detainees with hamburgers from McDonalds. Other police services seemed to vary more widely in the supply of meals from station to station. In practice, this meant that the location or jurisdiction of an arrest could determine in part the conditions of confinement, as Adeena describes. Although she received a coffee and hamburger from McDonald's, she was keenly aware of the fact that the location of her arrest determined this.

But if it was Newton it would be totally different. Newton is brutal. Nutri-grain bar and an apple juice, that's all you get there, and if you send your kids to school with something like that you're going to have CAS [the child protective services] come against you but you feed adults that? That's not right.

Importantly, both the town where she was arrested and the city she compares it to are located in the same region, but are served by different policing agencies. As we will see in Chapter 5, the problem of providing meals extends beyond the initial period in police holding to the provincially run court system. For now, it is important to understand that food allowances are just one of the factors that people deal with in police holding (Skinns, 2012).

How these factors come together shapes a person's experience, as Mike recounts:

The police station is a horrible experience. They don't give you a blanket and you're on a concrete slab. And, no matter what time of year it is it's always very cold down there. And, I think I was there two days – no matter how long they detain you at the station for, you get a granola bar and a cold coffee. Cause they're not allowed to serve you hot beverages.

The above stories demonstrate some of the ways in which people's welfare and basic needs are addressed – or not – by official policy and practice in holding. Medical issues are also an important welfare consideration for any examination of police custody.

### Healthcare

As shown in Table 1, many of the people who end up on remand have addiction and mental health issues. Some also disclosed chronic health conditions that required ongoing care. For people with health problems, their arrest can signal not only the practical disruptions described above, but can also mean they are at risk for a medical disruption (Skinns, 2012; Hassan et al., 2011; McKinnon and Grubin, 2010). While I take up the issue of the medical treatment in more detail in Chapter 6, here I want to highlight the ways in which police policies can interact with the circumstances of an arrest to shape the medical care of detainees.

Marla was a 27-year-old drug user living with epilepsy, HIV and Hepatitis C at the time of our interview. When I asked about her treatment by police, she claimed they treat junkies (as she described herself) like her as “lost causes” who can be “thrown away”. I pressed her about why she felt this way.

Marla: I didn't get fed while I was there, and I have epilepsy and they didn't give me my medication so I had a seizure while I was in there, and they still didn't give me anything to eat, but I pretty much slept the entire 24 hours while I was there.

HP: When you had a seizure, can you back up a bit and tell me how that happened – was that because of your epilepsy?

Marla: Yes.

HP: If you don't eat kind of thing?

Marla: Yeah, and I wasn't on my medication. They wouldn't give me my medication there.

HP: Okay, so you were on your medication on road, and you had your meds with you when you were arrested or no?

Marla: No. I didn't have them with me, but they know me there. They know... like, the cop... it's a small town so they know me and they know my medication I'm on, and they know the pharmacy I go to, but they wouldn't get it for me.

Marla's account reveals some of the challenges facing both detainees and police during this initial period of custody. According to police policies, Marla had a right to a meal of some sort during her time in holding. The fact that she was not given any food or medication, according to Marla, was the cause of her seizure while in police custody. Yet, as a drug user who was high on drugs at the time of her arrest, even if Marla had her medication, the police would be unable to dispense it to her because of the risk of overdose or other medical problems (see also Skinnis, 2012). Even though her drug use precluded her from receiving any medication, it was likely related to her ability to sleep for most of the time she was in holding. In any case, her experience demonstrates the complexities that can result from high needs individuals who are multiply disadvantaged.

Marla contended that the police treated her poorly because they denied her medication even though they knew her and the pharmacy where she received her medications. At first, I thought that it was a stretch to assume that this was a feasible course of action for police. Yet, Adeena, who I introduced in the previous section, provides an interesting point of comparison. Once again, her experience in police custody reveals some of the variation that can happen with medical needs.

Well, it was actually not that bad, I had a mattress. I had a blanket thing, a plastic thing I guess that keeps the heat in. I had coffee... it was actually pretty good. They checked on me every 10, 20 minutes. And then afterwards they took me to the clinic so I could get my medication. So, that was actually very nice of them, and Dunsville



is a small town, so they are very easy going and they know me, so they are very nice to me as well, so I think that's why I was able to get treated as well as I was treated. There are no directives that compel officers to take detainees to pharmacies or clinics, unless of course there is a medical emergency, and in this case accused would be transported to hospital.

Based on Marla and Adeena's accounts, prisoners seem to understand the role that the discretion of individual officers may have in these decisions. However, what is also important to note was at the time of their arrests, the two women had some important differences. Marla had serious health conditions and had asked for her medication. According to one policy, this should have compelled officers to bring her to hospital. Although I have no way of knowing exactly where she was arrested (and thus if officers were directly contravening policy), those details are not important to convey the larger issue of regional variation with regard to official practice. Taking a closer look at Adeena's circumstances at the time of arrest is helpful here. She was a 28-year-old mother of four children, who later revealed she was in the early stages of her fifth pregnancy. Though she was not showing signs of being pregnant at the time of our interview and did not talk about disclosing this to police, this could have been a factor in her being taken to the clinic. But perhaps what played a larger role was that she was clean and sober at the time, and if police were willing, they would have been able to dispense her medication had she had it on her at the time of arrest. The fact that she did not have her medication and that the police went to such lengths to supply it to her is further evidence of the regional variation that can occur with respect to detainees held in police custody.

Indeed, according to official policy of one police service (BPS), the police can only dispense medication that detainees have in their possession in a labeled prescription container. Further

permissions are provided by BPS which allows a “responsible adult” to bring medication to the front desk upon request. Yet, BPS (2016) restricts all medication unless a prisoner can “...recite dosage, condition, length [and] who prescribed it.” Both these exceptions can be problematic, for different reasons. Allowing a “responsible person” to bring in medication is a potential solution for remand prisoners, but assumes that detainees can contact someone who would be suitable and available. Asking a detainee to recite details about their prescription first assumes that a prisoner understands their medication or prescriptions, and second, that they remember all the prescribing details, which would likely be a barrier for most detainees, but might disproportionately affect the most disadvantaged people. However, none of these policies sufficiently reflect or address the ways in which people manage their health.

Research on the health needs of detainees in police custody has found that few people who require medications have them on their person at the time of arrest (Payne et al., 2010). This was borne out in this study as well, but my interviews also highlight additional restrictions to the dispensing of medications. Katie is a developmentally delayed woman who had been arrested one night while she was at a bingo parlour. Even though she is not a drug user and kept her twice daily anxiety medication with her at all times, because it was in a weekly dispensing tray and not in a prescription bottle, she was denied her medication. As she explains, she soon felt the effects of a sudden disruption to her medication:

[It was] really rough. Really rough, cause I’ve been taking it for a long time, over 20 years. And then when I came here it took another three days before I got them so it was like a five day total by the time I got them.

When I asked her to explain what it was like to spend a night in holding, her comments reveal how the denial of medication was one factor among many that shaped the conditions of confinement.

It was really cold. Um, cause I was arrested in shorts and a tank top. Like August was still pretty warm out so, um - but it was really cold, it was hard on my hips because you're sleeping on cement and I have hip problems as it is so that was really hard. I think it was because I was really nervous, but I was getting sick a lot, like throwing up. But I think it was just cause of my nerves but I'm not sure, like it could have been a combination of anything. Um, but yeah, I think it took me the second day that we were kept at the police station I got a nice officer and he gave me a blanket. It wasn't like a big blanket but at least it was something.

The disruption in Katie's medication clearly made her time in holding more difficult. Yet, the full picture of Katie's experience included her concern over the welfare of her cat. This was the major source of her anxiety that evening, because she was unable to make arrangements for his care.

Well, at that time I was really worried about my cat, 'cause I had a cat. Um, and I've had him for ten years. And um, I was really worried about him. Like, where's he gonna go? 'Cause I knew my family couldn't take him, and stuff like that. So, he went to the SPCA for a little while but he ended up getting sick so they had to put him down. So, that really broke my heart.

Because she was both unprepared for her arrest and unable to make arrangements for her life, the arrest itself was a harmful experience with tragic consequences for her pet. But perhaps more importantly, Katie's experience demonstrates how a constellation of factors come together to produce the consequences of arrest and police custody. Any one of the issues she described might have been difficult for a person to manage, but their collective weight is what formed her experience. Katie's case underscores, once again, the importance of individual circumstances at the time of arrest. Her account was not simply the culmination of the conditions of confinement and her treatment at the hands of police, but also due to her life circumstances at the time of her arrest. The experiences of police custody described by these

prisoners demonstrate that people's basic welfare needs typically are of paramount importance to them during their time in police holding.

There were, however, a few people who did not take issue with the basic conditions of confinement in police holding. To be clear, these were the exception to the general tendency to view police custody as one of the worst parts of the remand experience. But as Eric's account suggests, some people come to accept the bleak conditions of confinement. In Eric's case, this acceptance reflected the fact that he had been arrested several times.

You're going to jail and everything. I don't know what you should expect when you're there. People are thinking they want a mattress and a blanket and a pillow. You know, like, they're yelling for that. At first I felt like that should've been what we got in the first place too, really... and then after you come to realize it, you're in jail, you know. You did a crime and now you want to be like... you know, have a blanket and a pillow and all kinds of stuff like that, and that's not how it works. You know, a lot of people come to it after... like, they give you a granola bar and a little cup of coffee and, you know, "I can't get by on this," and have everybody yelling, you know, "I want something to eat" and things like that, and I just laugh at them. Like, you know, don't come to jail. 'What did you do? You were out stealing cars and you want to be fed properly?'

What I have described thus far highlights some of the general problems that flow from arrest and police holding. However, the experiences of some people I spoke to do not neatly fit in the above accounts.

## Other Experiences

### Intoxication

When I asked people to tell me about their experiences that first night in holding, there was a small group of prisoners who had trouble recollecting it. Thirty-eight people had either no memory of the experience (15% or 18) or were drunk at the time of their arrest (16.7% or 20) (see also Foote, 1956; Spradley, 1970). Kim and Aisha's memories of the night in police custody characterize those of others who were intoxicated at the time of their arrest. When I

asked them how they were treated during their night in holding, Kim said, “I don’t really remember because I was really high (laughing). But it’s usually not that bad.” Nearly the exact same sentiment was expressed by Aisha, who said, “I wish I could remember. I remember that I was high, so it couldn’t have been that bad (laughing).”

As some of the accounts of the night in holding have suggested, those who are intoxicated can make the conditions of confinement difficult for other prisoners. Richard’s account is more specific about this:

I got maybe two hours sleep because the people that were in there... there was one guy who was just crazy, and I know he was comin’ off of something, and it just is like that. But he was hollerin’ and screamin’ and swearin’ all night long, and then the other guys had to tell him to shut up, and then they’re making noise... and it just kept going and going and going, and then down the hall they had some women that were brought in, and they were fighting so it was just ‘welcome to zoo’.

Although people like Richard had trouble sleeping because of the chaos in holding, what is missing from this narrative thus far are the challenges that intoxicated detainees can pose for police following an arrest. Dana offers a rare and frank account:

They just left me by myself because I was high and I threw my shoes at them and I spit at them (laughs) and they brought me McDonald’s and I threw it at them and stuff, like. They tried to treat me good but...

HP: You were too fucked up?

Dana: Yeah, I was just pissed.

As the above excerpts demonstrate, the experience of holding is also shaped by the actions of the prisoners themselves. While Skinns’ (2012) found that intoxicated suspects were more likely than those who were sober to request a range of legal protections (such as phone calls, meals, and other services), my findings contrast this work. Instead of requesting more police supports, those who were intoxicated were less likely than others to report negative experiences or unmet needs. Perhaps paradoxically, detainees who are intoxicated may be

uniquely positioned to endure the conditions of police holding.<sup>65</sup> But still others, such as Dana, act out against the police and any assistance they provide, and in turn, worsen the conditions of confinement for themselves and others.

### Violent Disruption

In this study, 27 people (23% of those I interviewed) were subject to a show of force, and 20 (17%) claimed they had been assaulted during their time in police custody.<sup>66</sup> This is higher than reported by prior research (Irwin, 1985; Skinnis, 2012), and may reveal the importance of asking about the moment of arrest. For these people, such as Eric, typically the worst part of the experience of arrest and detention was the use of force by police. As he explains:

I don't think it's right how the jail guards and police and the people treated me, you know. When I got arrested, the cops... the cop came and tackled me down and started punching me and hitting me and maiming me and stuff, right. I'm like, "What are you doing?"

In this way, Eric was similar to many of the people that I interviewed who had been subject to use of force or assaults during their arrest and detention in police custody. Rather than talking about their basic conditions of confinement, these people talked about the violence they endured at the hands of police. For those who experienced police threats or violence, their immediate concerns were for their own or others' safety. George was a first timer who had been arrested at gunpoint after stopping to get gas, an experience he recounts as follows:

Ah... It's a weird feeling that I can't really explain – your heart kinda sinks into your stomach – you just feel like 'that's it.' You're like 'that's it, I'm going away.' I guess the only things that come to your mind is your family and the ones you love. Like I was thinking of my son at the time. I was more or less – it's kind of too much to think about at the time when you're being thrown down to the ground with a gun in your

---

<sup>65</sup> However, this is not to say there are not serious concerns about the treatment or needs of those who are intoxicated while in police custody. Indeed, there are serious medical risks with this population. A discussion of these issues is beyond the scope of this thesis, but see Pollanen et al. (1998); Razack (2011); Naik and Lawton (1996) for more on this topic.

<sup>66</sup> These categories are not mutually exclusive.

face you don't really have much to think of except 'I hope his finger doesn't slip! (laughs) and shoot my face off.'

George's story is unique among those who were arrested at gunpoint in that he was suddenly arrested by street-level officers. More commonly, people who were arrested at gunpoint were apprehended during a raid. These raids were typically conducted on their homes while they were asleep, and often with their loved ones nearby. Freddie was a somewhat reserved interviewee, especially when it came to talking about the night the police raided his home while he was asleep with his partner and children:

I think they were a little strong I'd say in how they treated me. They came in hard, my kids were there, they kicked the door in, used a flash bang. Pointed guns at me...

In cases like these, the tactics police deploy in a raid – the element of surprise and the show of force - are experienced as an unnecessary disruption and threat to safety not just for individuals, but to those around them in ways that can extend the trauma of arrest (Comfort, 2007). Though the stories of those arrested at gunpoint or in a raid are unusual compared to the typical trajectory of arrest and detention, they demonstrate some of the ways in which some people have a distinct experience of punishment in relation to the physical threat of state power.

Not all experiences of threats or violence during arrest involved an officer's gun. Some people talked about being apprehended through an unnecessary use of force. Jessica, a 28-year-old mother of three, including a three month old, describes her arrest one morning:

They badly bruised my face when they slammed it off the hood of their car... Nine undercover officers arrested me, three SUV's pulled up out nowhere... 7 in the morning I was just going across the street to get a pack of cigarettes and a bag of milk. When I came in here I was bruised all down the side of my face ... They were really rough with me, and well, my attorney is looking into it because it was unnecessary for that much force, it was brutal. I shouldn't have been bruised because of them. There was no need for it. There was no need for nine officers for me either. I

mean I could see it if I was a violent offender or something but I'm not. I've had one charge before, one adult charge that stuck [nine years ago].<sup>67</sup>

Others discussed police violence as an explicit physical assault or beating by police. In the most extreme cases, people required medical attention as a result of injuries they sustained during the course of an arrest. After attempting to evade police who had called out her name on the street, Liz alleged that she was tackled by police and said they “beat the shit out of me”. When I asked her what she recalled of the event, she said she was punched and her head was knocked on the ground, which she claimed induced a seizure. She remembers waking up in hospital, handcuffed to the bed under the supervision of four police officers. When I asked her how she felt at the time, she responded:

Like, ‘holy fuck – did I kill somebody?’ Like honestly I thought I – cause I didn’t remember anything, right, so I was like what really happened? How long have I been here? I was covered in vomit. They didn’t try to change me or nothing – it was garbage.

When I asked her to tell me what she recalled, if anything, about the seizure, she said:

The cop was smashing my face off the cop car and off the ground and I remember saying “I’m not resisting – please stop!” ... And I had a huge goose egg on my head. And they sent me to court in a dress – like you know the hospital gowns? They sent me to court in one of those. So the girls at the court house all gave me their clothes to wear so I looked acceptable in front of the judge so I didn’t go out there with my ass hangin out and a fucking dolly dress on.

HP: So you were brought to the courthouse after all of this in a hospital gown?

Liz: Yeah, with a big goose egg on my head and I still like stunk of vomit really bad – I had a lot of vomit on me.

The humiliation of Liz’s arrest and initial processing lasted several days as she sat handcuffed to a bed covered in her own vomit. While her account was one of the more brutal

---

<sup>67</sup> At the conclusion of our interview, when I had asked her if there was anything she wanted to mention, Jessica disclosed that she had been sexually assaulted by police nine years ago, during her transport to jail on previous charges. She said police raped her in a ditch off the side of the highway. In exchange for her silence, she alleged that police allowed her to keep some of the drugs she was arrested for so that she could smuggle them into the facility.



examples of police violence, it demonstrates the power of arrest as a form of state-sanctioned extra-legal punishment.

## Discussion and Conclusion

In this chapter, I have argued that an arrest is best characterized as a disruption not only in the lives of individual accused but also in the lives of those around them. One aspect of this disruptive power is produced by the sudden nature of remand imprisonment, beginning with an unanticipated arrest. Because most people are unprepared for their arrest, they face a range of challenges either immediately or in the short-term future. People's experiences in this study made clear that the weight of this rupture is determined by the circumstances of their lives and by the actions of police officers. Together, the "pains of policing" form some of the initial punishments accused people experience (Harkin, 2015; Skinns, 2012) and may have an even larger impact on their lives than the legal outcome of their case (Rabinowitz, 2010).

Although the immediate circumstances of an individual's life can shape the disruption of arrest, the most powerful tool in managing the fallout of arrest is access to communication. However, in this study, I found that prisoners were arbitrarily denied access to personal phone calls when compared to the allowances set out in official policy. In the worst instances, those denied personal calls can literally vanish from their lives in what amounts to a state-organized abduction. That so few were permitted to make arrangements for their lives resulted in emotional distress, particularly for those worried about dependents. Others were concerned with the barriers to legal advice, especially if they were forced to rely on the duty counsel system. Access to communication can produce two-tier effects, where some prisoners receive meaningful assistance through their lawyers while others do not. But in

general, the effect of this “communication barrier” was the start of a period of uncertainty (Spradley, 1970: 162), a key dimension of remand imprisonment (Freeman and Seymour, 2010). As Spradley keenly observed:

When a tramp reaches the cement drunk tank he has a great need for assistance. His mind is filled with questions about the threads of his life outside the bucket: Where is my car? Who will notify my employer so I will not lose my job? What will happen to my clothes and other belongings when the room rent is not paid tomorrow? Where are my glasses? How will I explain this to my family and employer? Who will believe I was robbed by the police? How can I get in touch with an attorney? Who could I get to bail me out? If he is going to get information and assistance in answering these questions he needs help from someone outside the jail. He has other immediate questions which are often more pressing: How can I get a cigarette? What will I do when I start getting the shakes? Will I go into delayed DT's? What is left in my property? Where are my identification papers? Can I get some medicine for my chronic ailments? Can I make a phone call? ... As these questions pour through his mind, the man in the drunk tank has already learned there will be difficulties in answering them (1970:162).

Spradley’s discussion of the fallout of arrest still rings true nearly 50 years later, in a different country, and with a broader swath of the prisoner population. As he astutely observes, the uncertainties brought about by arrest weigh heavily on people’s minds and bodies. What people can hope for in the place of certainty is that they are given fair treatment as they endure the conditions of confinement in police custody. However, I found that the treatment that people experience in police custody ranged widely. Some people I interviewed reported that they were treated fairly by the police (16 or 13%). Others said they were too drunk to remember their treatment. More commonly, when people talked about their experience in police custody, they described being ignored, degraded, or abused. Indeed, many people discussed how the conditions of their confinement were made more difficult because of a lack of police concern for or compassion in addressing their needs. While some of this experience is structured by official organizational policies meant to protect detainees

from risks, a portion is also created by a perception that officers purposely acted in ways that amplified the harms of police custody (Skinns, 2012). The experiences of those I interviewed also showed how these interactions could have cascading effects on the remand process.

As prior policy research has suggested, it can be difficult to legislate change that will create real improvements in the treatment of detainees in police custody, and the similarities between Spradley's findings and my own are a testament to this. Up until this point, legislative changes in other regional contexts (i.e., the UK) have been shown to have mixed effects. Because any policy change relies on proper implementation and oversight, the hidden nature of police custody means that little is likely to improve simply by updating policies and procedures (Dixon et al., 1990; Choong, 1997). Indeed, while some of the negative outcomes might be traced to a lack of policy, it is also the case that no amount of policy will fully address the broad range of concerns that are brought about upon arrest.

The findings in this chapter lend support to Choong's (1997; 1998) argument that both official and 'shadow' systems of punishment affect the experiences of those in police custody. Drawing on Harkin's (2015) concept of the "pains of policing", I suggest that both official and actual practices of confinement in police custody constitute the first moments of life in "total institutions" (Goffman, 1961). I view the experience in police custody – throughout arrest and detention - as a degradation ceremony. Garfinkel (1956) first conceived of a degradation ceremony as "any communicative work between persons, whereby the public identity of an actor is transformed into something looked on as lower in the local scheme of social types" (p. 420). Building on this work, I argue that the degradation of arrest and police custody can produce immediate extra-legal punishments. However, these effects were not limited to the intended target of state apprehension. Indeed, people in this study

often talked about the secondary impacts of their sudden arrest or treatment in police custody (in relation to communication, for example) on those around them. As Comfort (2007) suggests, the criminal justice system often assumes that the individual accused is a “free-standing actor” (p. 272) and, unlike other social institutions such as hospitals, the criminal justice system does not extend practical courtesies to kinship networks. As a result, individuals often end up sharing the disruption of arrest with their families and social networks.

Arrest and police custody play a central role in the trajectory of incarceration, because they are often experienced by those subject to them as the first stage in the process of state punishment, even though those people are legally innocent. As with the later stages in this trajectory – i.e., the experience of imprisonment for those found guilty and sentenced to prison – there are often collateral consequences both for the person directly affected and for those around them. Yet those consequences typically go unrecognized as part of the punishment process, by the criminal justice system and the wider society, despite the fact that they are experienced by many times more people than those convicted and sentenced to prison.

## Chapter 5

### Bail and Courts

Remand prisoners are some of the most publicly visible people in custody because of the basic defining feature of remand: engagement with the court process. Indeed, most of us can probably easily recall an image of a prisoner before the courts. Maybe this person is wearing prison garb, shackled, and confined to a prisoner's box, or perhaps they are neatly dressed and sitting beside their attorney at the defense table. But outside of these popular images, little is known about the experience of attending court as prisoner.

In this chapter, I unpack how individuals navigate the courts while on remand, and the obstacles and fundamental concerns they experience. I begin with an overview of the conditions of confinement on court days to illuminate the processual dimensions of court engagement. I argue that the symbolic degradations of the court process are punitive and can result in both physical pain and mental distress. More broadly, I link the courts' procedural vagaries with the uncertainty of outcome to demonstrate how these factors shape the willingness and ability of people on remand to engage with the courts and seek their due process rights.

In part two, I turn to the bail process to examine how people attempt to secure their release. Here I draw attention to Ontario's reliance on sureties and point to some of the problems with downloading state responsibility to non-state actors. I then connect the demands of the bail process with the reality of life in custody to demonstrate the ways in which the prospects of pre-trial release are further restricted for those in custody. Taken together, I argue that these

features of the court process are central in understanding the weight and scope of remand prisoners' experience of punishment before conviction.

## Background

The legal consequences of a term in pretrial detention have long been noted (Beeley, 1927; Foote, 1954; Friedland, 1965). Those who are in pretrial detention are more likely to be convicted (Ranking, 1964), more likely to be sentenced to a prison term (Goldkamp, 1980) and more likely to receive longer sentences than those who secure release (Ares et al., 1963). Recent research has shown that a period of detention for as little as two days can produce negative legal outcomes (Lowenkamp, VanNostrand, and Holsinger 2013). Apart from the effects on case outcome, little is known about the costs of engagement with the court process for the detainee. We know that barriers to bail release, have been rooted in a defendant's inability to post cash bail (Demuth and Steffensmeier, 2004; Subramanian et al., 2015; Human Rights Watch, 2017) and/or to secure a surety for release (Deshman and Myers, 2014; Myers, 2009). As Feeley (1979) argued in his classic study of New Haven courts, the costs of the court process for most accused people are simply not worth the hassle of due process – and many, as a result, plead guilty.

Most of the empirical research drawing on the voices of detainees has examined their views of fairness in the court process (Casper, 1972) or by specific criminal justice actors (Casper, Tyler, and Fisher, 1988; Eisenstein and Jacob, 1977; O'Brien et al. 1977). An exception to this work is Rabinowitz's (2010) study of 67 former detainees who were remanded in Chicago's Cook County lockup. Her findings supported the work of previous scholars who have argued that the costs of the court process for those on detention induce defendants to

plead guilty (Feeley, 1979; Brockett, 1970). She argues that detainees believe there is no way out of jail but to plead because of the challenges of delay, limited opportunities to stand up for themselves in court, the assumption amongst criminal justice professionals that detainees are guilty, and the restrictions on contact with legal counsel. Importantly, she adds that by the time they have entered a plea, detainees have already experienced punishment. Things like belongings and housing can become at risk when a person is detained, long before they are convicted. Additionally, some of her interviewees hinted at some of the lesser known dimensions of attending court while prisoner: the paddy wagon ride, for example, was noted by one woman for its filthy conditions.

Specific investigations of the experience in court or during the court process are rare. Drawing on court observations, Irwin (1985) notes that degradation is built into the court process, which is designed to “condemn disreputability” (p.78). Indeed, many of the defendants he observed in court did not understand the performance required of them, and some disrupted or did not understand the routine operation of the courts (see also Feeley, 1979; Van Cleve, 2016). In addition, detainees often wear jumpsuits or the clothes they were arrested in (Irwin, 1985), which can produce an immediate bias in favour of the prosecutor (Mukai, 1971).

What we know about this experience, so far, is based mostly on anecdotal interview evidence or data from courtroom observation. These studies have offered some important insights, and demonstrate the need for systematic investigations of the human experience of court processing.

## Attending Court

For many people, among the biggest challenges of attending court while on remand were the conditions they had to endure throughout their court day (Table 8). These included how their basic needs (e.g., access to food, clothing, and medication) were or were not met, what they were allowed to bring with them, how they were transported, and how they were treated by CO's and court officers throughout this process.<sup>68</sup> These conditions deeply marked and defined prisoners' experiences of appearing in court.

Table 8: What is the worst part about attending court?

Conditions	27.5% (33)
Waiting/uncertainty	31.2% (38)
Family/public shame/humiliation	10% (12)
Multiple	10% (12)
Other	20.8% (25)
Total	100% (120)

When I first asked people to describe what their day was like when they had to attend court, they related a variant of the following process:

They are awoken in their cells by correctional officers (typically GDO's) in the early morning (usually 5am). Because of the hour, those travelling to court try not to disturb others when leaving their cells and the living unit. This means that many do not use the toilet if it would require flushing. From their living unit, those traveling to court are escorted to the admission and discharge (A and D) area. The A and D unit is a secure reception area used

<sup>68</sup> Court officers work inside the courthouse and are responsible for the care and control of prisoners throughout their time inside the courthouse.



only to process prisoners' arrival and departure from the facility. I discuss this reception area in more detail in the following chapter. For now, it is important to understand that any prisoner going to court from the facility is taken from their living unit and escorted into the A and D area. Once there, prisoners are prepared for court. This involves a simple breakfast, a search (sometimes a strip search), a change into court clothes, and waiting (despite being awoken at 5am, many do not leave for court until 8am or later) in bullpens.<sup>69</sup> They wait for the court transportation vehicle—hereafter, the 'paddy wagon'—to arrive and take them to court. Once the paddy wagon arrives, prisoners are lined up and secured to one another. Depending on a variety of seemingly unknowable factors, remand prisoners are transported in these wagons in handcuffs, with or without ankle shackles, and are often chained to at least one other prisoner. In the jurisdictions where I conducted my research, transportation to the courthouse can take anywhere from 15 minutes to nearly two hours.

Upon arrival at the courthouse, remand prisoners are paraded through a secure entrance in the lower level of the courthouse into a screening area for a pat-down search, before being placed in the courts holding cells. These holding cells were uniformly described as filthy, and lacking in basic amenities like toilet paper, which must be requested from court officers, who only periodically check the holding cells. Prisoners remain in these cells throughout the day when they are not in the courtroom. Even though handcuffs are removed for prisoners in the holding cells, many remain in ankle shackles in these holding cells, which may or may not be taken off for their court appearance. According to my interviews, prisoners in holding cells are given something to eat around 1pm. In the afternoon, paddy wagons begin a staggered

---

<sup>69</sup> I use the term bullpens and holding cells interchangeably in this dissertation to designate large cells that are meant to serve as temporary holding for prisoners awaiting transfer to the courtroom or to another location inside the custodial facility.

departure from the courthouse. Because of the nature of the courthouse as a transportation hub for those on their initial assignment to a remand facility, wagons often have to delay departure until the last court appearance concludes to ensure they have everyone who requires transfer to a given facility.

Once back at the facility, remand prisoners are placed in the bullpens in A and D. Returning prisoners are placed into separate cells from new admits, who must go through a full intake process including a medical assessment conducted by a nurse and an administrative intake for the facility (where prisoners are photographed, given an ID bracelet, and review basic personal information with an administrator). Both new and returning detainees require an escort to be taken (back) to their units. Because of the length of this process, remand prisoners often arrive back on their living units (referred to as ‘the range’) after the evening lock-up time and are placed in their cells for the night without any access to the dayrooms that contain both the phones and showers. Although the details vary from prisoner to prisoner and among facilities, the basic process is the same.

What I learned from my interviews was that the process of going to, appearing in, and coming from court provided some of the most visceral experiences of humiliation, degradation and pain during pre-trial detention.

## The Process and Conditions of Attending Court

In this section, I discuss some of the ways that the challenges of attending court affected the people I spoke to. I begin with some basic welfare issues before turning to the particular difficulties brought about by transportation in the paddy wagon and confinement in court cells.

## Basic Needs

Many people discussed basic welfare issues, such as food, clothing, and medication, when describing their experience of court days.

*Food.* The availability and type of food for those being transported to and from court were frequently mentioned by my interviewees. They noted that the 5am cold breakfast tray – a cereal breakfast without a hot beverage – was not enough to last them until lunch. At the courthouse around 1pm, they might only get a Nutrigrain bar and a juicebox, which is less than has been reported in other research (Smoyer and Lopes, 2017). Since dinner is served at the facility around 5pm – before most paddy wagons have returned from court – many miss the evening ‘hot tray’ (i.e., hot meal) when they return to the facility. Some might receive a hot tray if there are sufficient extras, while others get a meal that is patched together from the available leftovers. There were, of course, some exceptions to this general trend, but these were in the minority of cases, as made clear to me when Lola spoke with enthusiasm about how she gets the “best” court meal:

Actually we get the best as I’ve heard, and they tell me to shut up every time I come back. Because we get bagels with cream cheese on them with coffee. Other places you get juice boxes with nutrigrain bars.

In general, those on what was known as the ‘Nutrigrain program’ felt a sense of injustice and indignity at the idea that a Nutrigrain bar would provide enough sustenance to last through a court day, and is line with research that has argued that meal provisions for prisoners constitute punishment in and of itself (Sexton, 2015; Godderis, 2006). As Devon says:

If I sent my daughter to daycare with two nutrigrain bars and a juice box, CAS [child protective services] would be calling me. I’m a grown man, how are they feeding me that? So I don’t think I’m being treated like a human.

Brian's experience helps to further illustrate what people are faced with at meal times in provincial courthouses in Ontario. Like Devon, he too received only Nutrigrain bars at mealtimes. He also said there was no access to a fountain and drinking water was rarely available.

I've had a cup and had to share it with the same five cells. Cause there's no other cups, and once in a while the guards would come down and fill up the water and you'd sip half the cup, just the little cup, the shot cups, and pass it along.

Lack of access to sufficient food and water made it more difficult for accused people to prepare for and sustain themselves through court days. Prison food has been the subject of lawsuits and noted as a form of power and punishment over prisoners (Ugelvik, 2011; de Graaf and Kilty, 2016). My findings support these claims but highlight the importance of considering meal provision across custodial and court institutions, and how that may help us understand prisoners' engagement with the court process. But dealing with the food was just *one* of a series of conditions that made court days generally more difficult than life in the facility.

*Clothing.* It could be reasonable to assume that remand prisoners would prefer to go in their civilian clothing to the courthouse. Indeed, as Mukai (1971) argues, this should be a right, but one that should be waivable if an accused person would prefer to go in their prisoner uniform. According to Mukai, whose interests focused on the presumption of innocence, forcing prisoners to go in their uniform is "evil" and "psychologically demoralizing" (p. 392; see also Ash, 2009). Recalling the circumstances of the arrest is important here because these can affect how people experience the court process. At three of the four institutions where I conducted research, prisoners were required to change into the clothing they were arrested in for their court appearance. Clothing could be changed at the institution upon a formal request

by a prisoner. In order to get a clothing change, however, individuals must have an outsider willing to bring clothing to the facility during specific dates and times.

...when you're in here before they take you to court they change you to the clothes you were arrested in. So I'm thinking to myself 'yay, I'm going to court in pyjamas,' cause I had gotten arrested in my pyjamas. So I was like 'that's really not a good thing, going to the judge.' Cause the judge will look at me and be like, really? But then again I'm coming from jail, so there's really nothing we can do. I've asked to stay in my greens and they said 'no'. Cause I only have a tank top and it like comes down to my tits, and I was there, and there's boys that can see me and I'm not too fond of guys so I was like 'can I wear the sweater?' and she was like 'no you can't wear any jail clothes.' (Beth).

Beth endured the embarrassment and public shame of being inappropriately dressed in the courts. Parading her in front of men was not only an added degradation, but was a gendered punishment. Clothing and appearance are important to those in the court process, but those in the trial process can often face the compounding challenges of consecutive appearances.

Repeated 12 hour days in court quickly take their toll on the cleanliness of clothing, leaving many of those in the trial process without regular access to their own clean clothing.

... going down to court, no, they won't wash our clothes for us, they say it's a security thing, but they won't even wash it for us. And then you can put in a request for Salvation Army but we're only allowed two sets of clothes and if it goes above that they'll take your clothes in exchange. And usually... I don't want to. (Tanya)

Tanya had lost all her possessions following her arrest. Faced with a life sentence if convicted on her charges, she held close to the remaining items she had from her life on the outside and in particular the cardigan she was arrested in. In order to have clean clothing for court, she would have to "trade" her own clothing for clean clothes provided by the Salvation Army, and thus lose her sole remaining possession.

*Medications.* Another condition of appearing in court that presented problems for people relates to healthcare conditions and medications, as Adam explains:

Like, they don't give me my medication, right? The judge orders them... they are supposed to bring my meds to the courthouse to give them to me after lunch. And they never do. So, my heart rate is usually going crazy. So, the days go by, the day in court is not very good.

Many people, like Adam, are routinely denied their medication on court days. As a matter of policy, any narcotic medication is not administered on court days. The reason is that people may be released from court and then could self-medicate, which could put people at risk of overdosing. In order to mitigate this risk, the institutions I conducted research in did not administer these medications on court days. Others described medical interruptions on court days even though they were not on narcotic medication. For people on certain types of drugs (e.g., pain medication, anti-anxiety medication, anti-depressants), there were often substantial and negative consequences of this policy. People described being in severe pain and discomfort, being overly anxious, being unable to think clearly, and having unstable or altered moods.

Some remand prisoners found their way around these policies by "hooping" their drugs for the day – i.e., hiding their medication or contraband in bodily orifices. Denise explained:

Like, if I didn't hoop my Seroquel [an antipsychotic medication] to court, I'd be having... I'd go crazy. I'd be pacing back and forth, or if I were to be going up, and it'd be before lunch, I'd be, like, "Am I going on the first goose [paddy wagon]?" "No!" "Why?" "We haven't got your paperwork yet." I'm, like, "For fuck's sake. I just went up to court!" (laughs)

Although hooping her drugs for the day allowed Denise to manage the anxiety of the court process, it also meant that she sometimes appeared drugged up during her court dates.

*Treatment by CO's and court officers.* Many people reported harsh and what they felt was intentionally cruel treatment by guards or court officers. They would talk about being insulted for their appearance or ridiculed for their charges, or complain that officers treated them with contempt and a lack of compassion during their court processing. Physically

abusive treatment was not mentioned by anyone, except for Myriam. As she explained to me, during her first court appearance she was very confused, partly because she had never been in trouble with the law before and did not understand what was happening. She had been shackled and complained to the guard that the shackles were too tight.

And [one of the female guards], I'm telling you I don't want to lie to you, she was pushing me and put me like that [pushing motion and grabbed her by the neck] and put me in the courtroom. I was scared to go the courtroom again, I wanted to say to the judge I am scared to go back to the holding cells because she is very dangerous, but I am scared. I am really scared. Just because I am telling you please it's too tight, it's too tight, please. She says shut up, I cannot, and she put me like that in the hold [grabbing neck] and tell me shut up, I do not want to know anything about you. And she called me bad words. And this is not one time. Anytime I go from the jail to the court and I am in the court, they say oh, she is coming back... I don't know to say this word, but I was very abused.

Myriam's case underscores the hidden nature of court punishments, whether subtle or explicit. Even though Myriam was in a courthouse, she was not protected from abusive treatment at the hands of officers. Additionally, Myriam's case helps to illustrate the point that the whole experience of court can be worse for first timers, who may not understand the process. These examples are a fraction of the challenges that people face with the conditions of confinement on court days. One of the biggest complaints among these conditions was the transportation via paddy wagon to and from the courthouse.

### Transportation

The ride to and from court is perhaps the hallmark of the court experience for those on remand. The "paddy wagon", as it is referred to by prisoners and correctional workers, is a steel box transportation vehicle.<sup>70</sup> It has one large holding compartment where the majority

---

<sup>70</sup> There is some contestation about the origins of this term. The Oxford dictionary traces its origins to the 1930s, rooted in the dominance of Irish heritage among the New York City police, and thus those who drive the police vans led to their moniker as "paddy wagons". Others suggest it has a longer history rooted in the large numbers of arrests of Irish immigrants for drunkenness in the 19<sup>th</sup> century. These people were rounded up and thrown into police vans, and in this case, the "paddy wagon" is a derogatory term. I use this term throughout

of prisoners ride on a U-shape bench, bolted to the floor and walls. There are also two smaller compartments, designed to allow separation between some groups or individuals. Before being placed in the wagon, prisoners are typically shackled to at least one other prisoner and led in groups of about five prisoners into the main compartment of the paddy wagon.

At one facility, Sunshine, prisoners were uniformly shackled together. Prisoners often had particularly difficult circumstances of confinement in the paddy wagon on their court days, as Mya explains:

It's long, boring, hot. Some of the OPP that drive you they can be real assholes and turn the heat on when it's hot outside. Cause if they think you are being an asshole to them, that's what they do. There's been certain situations where they slam on the brakes and go really fast. Certain roads that they take they know we get affected by certain things, but the bumps and everything else. They drive really fast and there's no seatbelts in there, so you get hurt. I remember a couple of times being in the winter time they wouldn't turn the heat on and stuff. They put the handcuffs on way too tight. I remember my ankles bleeding because of the shackles and they still wouldn't take them off as the blood was just pouring down my ankles. That actually just happened. I was crying and everything and telling them to loosen them and being pregnant as well right, and they still didn't even do that. And I had wear them and I bled all over the floor and everything.

Experiences like Mya's were not uncommon. Many of my interviewees talked about the physical pain or discomfort brought about by transportation in the paddy wagon in the way Mya described. Another woman suffering from rheumatoid arthritis was also routinely placed in ankle shackles on her way to court. In addition, she was denied permission to wear her ankle braces throughout her detention on the basis that they present a security risk. Others described dizziness and nausea to the point of vomiting brought about by the ride. For Phil, one of the challenges of the paddy wagon ride was being shackled to another person:

---

this dissertation because it was uniformly used by the study participants to describe the police van, with the exception of a few prisoners who would call it the "goose".



In the wagon... you're attached to at least six people. Attached with shackles and cuffs on. It's very, very uncomfortable – very uncomfortable in there. Some guys stink, some guys are just talking. It gets annoying. Sometimes your shackles can be on too tight. Your cuffs may be on too tight, so uncomfortable in there you can't wait to get out to the court house. The ride's very bumpy too – and certain turns you would be slide on to next mans (sic). If you get an itch and you're shackled one guy will have his hands attached to another guy, you're going to have to say 'bro I need to itch right here', or I don't know. It's hard cause say you have an itch or something, I don't know.

Phil's story is not the most striking compared to others, but I use his case to show the extent of autonomy and comfort people are forced to give up on court days, in ways that would not figure into their daily experience of confinement in jail. Indeed, Ray's account sums up the general experience of the paddy wagon:

I think that's the only thing that's worse than sitting in the court cells all day. [Why?] Because the guards... like, I'm not trying to, you know... [I know.] These are jail guards, right, and they don't like us. We're pretty much, you know, the worst people of society. People don't like us. We're a nuisance, blah, blah, but they'll mess with our area back there. We sit in a little compact area, and it's kind of like sitting in a fridge, a walk-in fridge, right? It has a metal closed door. Yeah, right, so they make you hot. They can turn up the heat full blast, or they can turn up the air conditioner full blast, right, and it makes it really cold back there, right, or they can make you sweat, and they're just really rude like that. You don't think they would be, but they are. Man, it's just like, "How old are you guys? We're in jail already. What do you got to be like that for?"

These are just some of the examples of how the practical operation of court system can impose extra-legal punishments on people, well before conviction. These can be subtle, as some of the above examples illustrate, but they can also stem from negligence and, in the view of some prisoners like Ray, intent.

### The Court Appearance

When people talked about appearing in court, they used words such as "embarrassed", "ashamed", "frustrated", "humiliated". This was often related to the way people perceived others to judge them based on their clothing, handcuffs or shackles, and to being led through the court under the close supervision of court officers. Although implicit in many of the

accounts described above, some people, like Joe, directly engaged with the humiliation or embarrassment of appearing in court while in custody:

It's one of those things that you are humiliated all day because you're frustrated, you're in shackles, you're handcuffed. You're treated like cattle, you know what I mean, and a big part of the day that's just the way it is. And it's not a pleasant experience at all, you know. I get really frustrated doing it actually.

The most visible part of the court experience – appearing inside the actual courtroom – provides an image of prisoners that many people can easily recall. Scholars have noted that the appearance of prisoners in the courthouse can make them look guilty before they have been convicted of anything (Foote, 1954; Feeley 1979; Mukai, 1971). In this study, prisoners would often comment about how the security measures that go hand in hand with remand appearances (the shackling, handcuffing, and monitoring by guards) made them look guilty.

It's a known fact. Everyone says it. ... when you go from road, like, dressed up nice and everything you're treated far differently than when you're, like, taken into a prisoner box with CO's... like court officers surrounding you, you know. You look guilty. Like, it looks like this person needs court officers around, you know, just to walk up those five steps, you know. You look kind of guilty, I mean. (Terry).

Indeed, the symbolic elements of a court appearance may make remand prisoners look guilty, but more importantly, perhaps, can make them feel guilty.

When you're brought into the courtroom. When you're handcuffed and shackled and brought into court. You feel like Hannibal Lecter or something coming in there like that.

Despite the humiliation of a court appearance, prisoners must make their appearances as required. While there is little they can do to combat the general features of this process, some, like Mary, tried to ensure they are seen as people:

The Crown, they used to say they'd stare right at you and scare you out of your boots or something. And so I'm trying to avoid their face and as my lawyer would say "You always try to avoid so that they don't stare right into you" and for me, I'm trying to stare right into them. I'm trying to say "See me as a human being here".

Mary's sentiment – that accused people in court are not seen as human - was widely expressed in one way or another by the people in this study. Importantly, however, people's experience in the court process is not temporally or spatially bound to the courthouse. Indeed, as Rabinowitz (2010) notes, the courts and jails have a bi-directional relationship.

### Returning from Court

When I asked prisoners if going to court had any impact on their life at the facility, I was surprised that many people talked about looking forward to coming back 'home' to life in the facility. There, they can at least enjoy the relative 'privileges' of meals and a bed. To get there, however, they must endure a ride back in the paddy wagon and the same routines of A and D described above (i.e., little or no meals, waiting in bull pens). As Richard explains, when he gets back from court, he is:

Tired, drained. You come into A and D and then you go into the little holding cell, and nobody is in any hurry. You just want to get back to your cell so they take their time and you could be three hours going through the process. It's totally unnecessary. 20 minutes it should take, but they'll feed you with whatever they have on hand. Sometimes it's not enough. Sometimes it's leftover from the day before or two weeks before or a week before. If you're lucky, it was yesterday hot tray, but not always. You don't get the shower so you're grimy, dirty; and if you have to go back to court again the next morning, you do it all again.

This can be made worse both by the outcome of court that day, other prisoners, and CO's.

As Carly described:

All you want to do is get back to your range, and that's when A and D is awful. Because depending on how many people are in there. Like, for example when the last time I came back with this girl that was so freaking whacked out on drugs and alcohol and I wanted to smash her, I'm not even kidding you, cause I was stone sober. I just got denied bail, and I'm not in a good mood, and they put me in the same cell with her in A and D after I asked them not to. And then she kept yelling out to the A and D guards, "but sir, sir" and so they made us wait longer. They're walking us back to the range and they said "you know when you yell out it's worse".

Indeed, I personally witnessed COs ignore the requests of those in holding cells in the A and D area. When I asked why they would not respond to the requests from prisoners, one officer explained that if they did, they would be overwhelmed with requests. Irwin (1985) also noted this issue in his study over thirty years ago:

Booking officers [CO's in A and D], who must manage this stream of mostly disreputable and often disorderly new prisoners day in and day out, learn to ignore most requests in order to reduce their own discomfort on the job. In addition, they often develop a profound distaste for incoming prisoners, and sometimes express hostility (p. 57).

My findings reveal that this general sentiment still rings true today, in a different context, and with a wider swath of the prisoner population.

Recalling the influence of the courts is useful here in elaborating on how prisoners are processed back into life at the facility following a court appearance. The day before his most recent court appearance, Quincey's grandmother came to visit him in detention. It brought back memories of his arrest in her apartment, where police had kicked in her door in the search for Quincey. As he explains:

And the next day I had court, came back from court, and then I went through the whole thing like I do every day when I come back from court I started thinking about family, and how old they're gonna be when I get out and you know, my little cousins and all that and I started getting emotional, starting cryin. So the CO came and came to my door, and just came out of nowhere and just said "You're fucked up." Yeah, I donno, it's like she felt like I was going through something and she came and she said I'm fucked up. I'm like "Excuse me?" "Are you high?" I'm like "No." "Are you ok? your eyes are red!" I'm like, "Yeah, I'm fine miss, I'm just havin a little trouble, I had court today." And then she walked off, she went and got the white shirt, and the white shirt came and cuffed me. And then they put me on suicide watch. So they stripped me down and put me in a pink little dress and put me in a room with a little pink sheet and mattress, not even a mattress. And I was there for like five days cause I was crying after court.

As Quincey's account demonstrates, attending court can be traumatic experience. Rabinowitz (2010) has argued that a period of detention can be a deeply distressing experience for

accused people. My findings support this claim. In addition, however, I found that the experience of attending court can solidify the reality of people's detention for an unknown duration, and that anguish can be made worse by the reactions of COs and others when they return to jail. Indeed, the uncertainty of remand in general may be most keenly felt by prisoners on court days.

## Uncertainty

Some researchers have argued that uncertainty is central to understanding the experience of remand imprisonment (Freeman and Seymour, 2010; Harvey, 2005; Edgar, 2004; see also Crewe, 2011). Writing about those who have been convicted, Mason (1990) argues indeterminate sentences can be experienced as cruel and unusual punishment because, in the words of one ex-prisoner Mason interviewed over the phone, "there was nothing to look forward to...nothing to see at the end of the tunnel. Who knew how long I'd be there?" (p. 116). Still others have suggested that scholars have over-stated the role of uncertainty (Rabinowitz, 2010). My findings lend support to the importance of uncertainty for remand prisoners generally, and its specific role in the court process. As noted above, much of the sample stated that waiting and uncertainty were the most difficult part of court days. This is perhaps not surprising. Uncertainty is built into the process of attending court. If there were certainty in the matter, individuals would not have to engage with pretrial court processes in the first place. Like any important event, the build up to a court appearance can be a source of anxiety. For Dwayne, the hardest part about the court process is:

Waiting to know what you're getting. That's it, you know. Everything else is alright, but just waiting... you don't know if you're going to be getting out or you're getting probably charged. You never know.

Court appearances can be particularly unnerving for prisoners because of the array of possibilities and their inability to control or contribute to much of the process. For Irene, the early days of her detention while she attempted bail were the most difficult to endure:

Going for bail is the hardest part. Like, that dealing with bail, I was just hoping my parents were there then. Like, if they're not there, I'm going to be crushed. If I have to go back to jail, I'm going to be crushed, so it's worse at the beginning. Now it's just like whatever. I know I'm coming back [since she is going through trial]. When you don't know what's happening, it's so bad.

Others that were in the trial or sentencing phases of their remand imprisonment also expressed that the uncertainty of outcome was the worst part of going to court. As Dianne explained, going to court was:

Extremely stressful. Very stressful, it gets me very down, because you're - I'm already, cause of my anxiety I guess I just, for weeks I just like felt nervous and stressed and pacing, just a lot goes through your mind, you don't sleep properly. And it's very disappointing when you get there and then nothing's been done, so you have to go through it all over again. Because it's hard when you're - when you go to the court because you spend like five minutes in the court when you've spent like six hours in the cell by yourself all day.

Indeed, Ben, who like Dianna had pleaded guilty and was awaiting sentencing, shared a similar experience:

At this point I just want this to get over. Up until this point you're a bag of nerves. You don't know what's going to happen. You don't know what kind of bullshit is going to happen when you get there. I'm waiting to get sentenced so, I mean, I have to deal with it so I just want this over with. I want to get this behind me. Yeah, but your anxiety takes you over, and I don't sleep the whole night. I toss and turn all night - every court date. It doesn't matter if it's just... I know I'm going to be in front of the judge for five minutes, and literally it takes longer in the elevator to get to the courtroom than it does that you're standing in front of the judge at the time. That's a nine-hour day.

I discuss the issue of waiting and uncertainty later in this chapter. But for now it is useful to understand that both the routines and conditions of attending court and the uncertainty of the

outcome are important reasons why the vast majority of the people I interviewed preferred to go by video court.

## Video Court

All of the facilities I visited were equipped with a video link that allowed prisoners to appear at some of the courthouses. But not every courthouse has a video link, and so some prisoners must attend every court date in person. In theory, video appearances are in lieu of in-person appearances to help resolve bail matters, but in one district, video court could also be used to enter guilty pleas. Research suggests that video courts may not be living up to their expectations to reduce inefficiencies in court processing. Webster (2009), for example, found that video court tends to contribute to the culture of delay more than it helps to actively resolve bail matters. Yet, Webster also pointed to some obvious benefits of the video system in that it reduced wait times between cases owing to the logistical challenges of bringing prisoners to and from the court cells; and, it also reduces the resource expenditures with transportation to and from the institution. McKay (2016) also noted that the use of video may have the benefit for accused people of avoiding the pain of attending court. However, others have found that the introduction of video technology can negatively affect accused people's legal outcomes. Diamond et al. (2010) reviewed bail decisions eight years before and after the introduction of changes to bail proceedings that led the Cook County court system to conduct hearings by video. Upon the release of the study's findings that accused people were more likely to be detained on higher bail amounts, the court system voluntarily returned to live bail hearings. My findings suggest that accused people prefer video remands to reduce the pain of attending court. Well over half the sample (59% or 71) indicated a preference for video court over an in person appearance, as shown below in Table 9.

Table 9: Court preference.

In person	8.3% (10)
Video	59.2% (71)
Depends on appearance	22.5% (27)
No preference/ not sure	10% (12)
Total	100% (120)

To avoid the experience of making an in-person appearance, many people, such as Fatima, instead opt to appear via video link. As she says, this avoids the many challenges and personal affronts to dignity that occur on court days:

You know I thought when you go in person it makes a difference. But I feel in my situation it doesn't... It's just a lot because you're going in, you wake up early in the morning and you're there and you're sitting on nerves all day long and then you go for two seconds before the judge and then you gotta go back in there and gotta wait for the truck and then you gotta come back here. And it's like just being on video all these times -- it was like I had the girls, I had programs, I had stuff to take my mind off of things and I'd go for video court and then I'd come back, and I'd have a few minutes to be upset and unhappy and then you get back to life here.

Several people stated their preference for an in-person or video appearance depends on the reason for the court appearance. If there was a chance that the appearance was going to be meaningful – for example, a decision about their bail or the trial process was being heard in court that day – people uniformly stated they would prefer to go in person. For example, Greg, who had been on remand for ten months, said he would tolerate the “embarrassment” of court, but only if the appearance was consequential for his case. “Now that I know it's my prelim, I want to be there and see the accusations being made against me, obviously.”

Of the few who preferred an in-person appearance (10 or 8%), the stated reason was typically rooted in the length or conditions of their detention. For this reason, a trip to the courthouse



provided welcome relief from life in the facility, as was the case for Tina, who said “I’d rather go in person because I’m in seg so it breaks up the day”.

Preference for an in-person appearance can also be telling of how challenging life can be while on remand. As a transwoman, Tina’s preference for an in-person appearance was rooted in the isolation and boredom of daily life in segregation, broken up only by brief yard and shower breaks throughout the week. Only one person in this study was vehemently opposed to making a court appearance via video. Even though he told me that he was “scared” and “intimidated” by going to court, it was important to Milton that he appear in person:

Because I like to know... I like to see the person. I like to be here, like, me and you are – one on one. I can see the judge and talk to him, but on the screen it’s just... it’s not even real. (chuckles) I’m not even really in court. I’m just on the screen. I’m not in court. My face is in court. I’m not in court. It’s very injustice to be on a screen. It’s very incorrect. I don’t care.

He went on to describe the lack of humanity and care more generally within corrections, and how greater technological advancements work to remove individuals and human emotion from the criminal justice system even further (see Schept, 2015). This supports the work of McKay (2016) who argued that video court closes off already limited opportunities for human interaction. Yet, Milton seemed to be alone in this view of the video system. Prisoners overwhelmingly described their in-person appearances as more traumatic and painful than their experiences with video. Because of this, it is useful to turn to a consideration of the criminal proceedings that people in detention are engaged in. I begin with a discussion of bail proceedings and the barriers to release. I follow this with a discussion of other outcomes such as plea or trial.

## Bail

“The way I think of it is... the system kidnaps us, and without us having any money or any assets, we can't be released. So we are kidnapped by the government and held as ransom, and if we don't have ransom to pay them, they won't release us.” Randol.

Recall from Chapter 2 that to secure release on bail, accused people have to arrange a plan that would satisfy the courts. Because accused people in Ontario typically require sureties to secure their release (Myers, 2009), they are in urgent need of basic resources such as the ability to communicate with people (and lawyers) on the outside. In this section, I first describe the barriers that obstruct or subvert access to communication with those outside of prison before turning to the surety requirement.

## Communicating with People Outside of Prison

Since the earliest studies of jailed populations, researchers have pointed to the challenges of communication for those in custody (Foote 1954; Irwin, 1985; Spradley, 1970; Brockett, 1970). This study is no different and highlights how this challenge affects people's ability to make an acceptable bail plan. What is different from the past, however, is the advent of new technologies that have reinforced these perennial communication barriers (Jewkes and Reisdorf, 2016). Because provincial facilities in Ontario's jails do not have payphones, individuals who need to contact those on the outside are reliant on the collect-call system, which permits calls to landlines, but not cellphones. Richard provides a clear example of the difficulties of communication that remand prisoners currently face in Ontario.

That's where we come into one of the biggest, in my humble opinion, injustices... and that's the issue with the phones. You cannot call anybody on a cell phone. It is a cell phone world and not allowing it... you may as well just say, “You know what? Let's just stop the charade. Get used to it. You're never going home,” end of story, and you know what, we're not even going to bother with a trial because, really, what's the point,” and that's where all that opinion starts to take shape and really settle in. So I ran into that because everyone I know has a cell phone. ... {blows air through lips in extreme frustration} I don't understand why you cannot call whoever you're supposed to call, especially at that time. That's a critical time. If you're

trying to get bail, you need to contact people. So all my friends have cell numbers. I couldn't reach any of them. I couldn't access numbers because they took all my stuff. They took my cell phone. It's on there. I don't have it memorized.

During the time of my interviews a new security feature was added to the phone system as an attempt to further restrict people's ability to make three-way calls, something the prisoners relied upon to connect with a cell phone. New security features meant that the phones would become sensitive to these attempts and disconnect the call. As Ivan explains:

I'm going to let you know how hard it is to get people here. Cause now these days a lot of people don't have home phones, they have cell phones. Just two weeks ago, on our phones, you can't call three way to a cell phone. Because as soon as they hear a click they hang up, and it says three way your call is not allowed. So it's almost mission impossible to just even find people to help you with your case. It doesn't happen.

Like others, however, Ivan had developed a 'work around':

...we found a loop hole. When someone is about to click over we make a noise like yell or something and it clicks over. Or unless we have a call forwarding and it connects to a blackberry or iphone so when it clicks over it just flashes over. That's the only way we can do it; that's why it's impossible for a lot of people when they first get arrested to even find people to show up to court for them. That's one of the biggest problem remanders have. Especially we are in 2013 everybody has cell phones not landlines.

In addition to the structural problems with the phone system, people on remand must also deal with the obstacles that are presented by life in maximum-security settings, where prisoners can frequently be locked down in cells. Lockdowns, as I will discuss in Chapter 6, are a regular feature of life inside jails. They occur for a variety of reasons, but the result is that prisoners are confined to their cells for an unknown duration. These are not individualized punishments – lockdowns can be deployed on specific living units or can affect the entire facility. As Liz describes, these can exacerbate the challenges of making a bail plan.

Even though we got phones, when I first came in we were on lockdown for two weeks. Not allowed to use the phone, not allowed to even get out to use the phones to call someone collect. So you're shit outta luck when it comes to that... You can't get a hold of anybody when you need to and that screws up... how do you make a bail plan when you can't even call somebody?

On top of the challenges with contacting potential sureties, those on remand also struggle to reach their lawyers (Baylor, 2015). Karen, along with most others, said she “strongly disagreed” that she had access to her lawyer when she needed it:

Karen: Because it's very difficult to get a hold of him. I can get a hold of his office sometimes, depending on the phone system, but it's very difficult to communicate with your lawyer in here, you gotta beg, beg and plead.

HP: What do you mean by that?

Karen: Availability of phones, because you have to wait for a social worker, so if you need to talk to your lawyer tomorrow good luck, because you've gotta put a request in for a social worker. The phones up here don't always work for the lawyer's office, yeah, so their new phone system with the collect calls for whatever reason, they kick it off. So in order to get a hold of your lawyer your best chance is with the social worker to actually use the physical phone, right? Or landline that doesn't have collect call.

HP: And I know they have a separate phone on the ranges that's supposed to be for your lawyer...

Karen: Yeah, that's called access defense line, and that has to be set up with your lawyer. So your lawyer's office has to call the prison and set up and say “I would like to set up an access defence with X at whatever time” and then you get a slip from the institution saying you have a call on Friday at 2 o'clock with your lawyer. So I mean that's gotta be a scheduled thing, and so that takes again a week. But if you need to call your lawyer for whatever reason, like I need to talk to my lawyer today or tomorrow or whatever, no – you're not gonna be calling your lawyer within 24 hours that's for sure. And even the access defence, you can leave a message with your lawyer and say like “I really need my lawyer, I want to set up an access defence” - it doesn't happen. It doesn't happen with, and I'm not the only one.

Karen's account of the barriers to contacting legal counsel were felt by most people, and are perhaps not surprising given the consistency with which scholars have noted the problems with communication. In addition to these barriers, however, prisoners are further restricted

from access to their lawyer's office and other services in the community by a bizarre security feature: calls must be answered by a live attendant, or they will be cut off. In the current technological era, this places curious limits on people's ability to make outside contact. As one social worker told me, even the jails themselves use automated attendants, and these restrictions on calls mean that prisoners require the help of staff for simple everyday needs.

As one prisoner said to me:

The phones here suck, because sometimes you want to call other places than home like a bank or stuff, you can't. But what about toll-free numbers, aren't they supposed to be free? (Kelli).

Collectively, the above quotes illustrate the structural challenges with outside communication, or what has been termed the 'invisible barrier' of imprisonment (Irwin, 1985; Spradley, 1970; Baylor, 2015). When these communication restrictions are considered in light of the process of attending court described earlier, the prospects of securing a timely bail plan become more unlikely. Monique was in custody at the sole women's facility where she had the relative privilege of being a server on the unit. This meant she had extra time outside of her cells as part of her duties in delivering and returning meal carts and trays from the kitchen at meal times.<sup>71</sup> Because of this role, servers have more ability to move around, make calls, and assist others with personal needs. As she told me:

When you're trying to get bail your first time, you go to court three, four days in a row. So you don't shower for three, four days. You don't get to use the phone for three, four days.<sup>72</sup> Once you see the nurse you go to the other cell with the old girls

---

<sup>71</sup> Being a 'server' was a coveted role for remand prisoners, since most of these people are restricted from work opportunities or programs. As a result, being a server or unit cleaner was one of the few pathways to secure more time outside of cells. Because of the churn of the remand population, servers are typically drawn from those who will be at the facility for a longer duration. As evidence of this, Monique had been denied bail and as a result, knew she would stay in custody until her trial, a process that she anticipated could take a year or more.

<sup>72</sup> She added that "The one time you use the phone is the first day you come to Vanier while you are waiting for the nurse." Monique was the only woman who mentioned this phone access, and for that reason, I have left this as a note to not take away from the overwhelming majority of people who described having no access to the

from Greenhurst. And girls are like “I wanna use the phone!” And I’m like “Are you going to court tomorrow?” They’re like “yeah.” “Well, you can’t use the phone, I’m sorry! Like I don’t know what else to tell you.” “I’d really like to call my kids, I don’t have a house number to call.” I’m gonna have ta put in a request to see a social worker, but that takes two or three days. And they’re like “But I’m not gonna be on range.” And I’m just like “I can’t do anything, I’m sorry, like my heart goes out to you.” Like sometimes if I have cell mates that are going through stuff they’ll write down a number for me and then while they’re at court I’ll call one of my friends or family members, give them the message, and they’ll call that person’s family and let them know they’re ok, they’re in custody, this is what’s going on.

Without the ability to contact those on the outside, a bail plan cannot be made. This in turn means that that the basic work of notification following an arrest may be left to networks of prisoners and their families on the outside. Unlike other state institutions that have notification procedures in place for next of kin, those arrested and detained have no rights to contact those on the outside, leaving many to rely on the goodwill of other prisoners, or on payment and other trades to ensure that people can get in touch with those on the outside. As Foote (1965) argued, restrictions on communication and outside contact are illegitimate in terms of the function of bail and amount to punishment for detainees (see also Rabinowitz, 2010).

Further barriers to the bail process are brought to light by the surety requirement, an issue I now turn to below.

### Sureties<sup>73</sup>

Half the sample (50% or 61) reported that they had a surety available to them. Most of those who had a surety relied on an immediate family member (29% or 35) or had multiple sureties (15% of 18), and only a few used their spouse (3% or 4).

---

phone during the initial days of their incarceration. However, the fact that Monique had access to the phone during her intake would not surprise me given the variation in practices regarding remand more generally.

<sup>73</sup> See Chapter 2 for a discussion of the legal basis for the surety system and a basic overview of this role.

For those who did not have a surety (40% or 49) or did not know if they could secure one (9% or 11), the surety requirement in essence ensured their detention. As Courtney explained to me:

Courtney: I'm a completely 100% unloved person. (laughs).

HP: Did you say unloved?

Courtney: Unloved person. No seriously – to tell you the truth, here's the thing - in order to get bail, you need to either be rich or loved. You need some of those things. If you're not rich and there's nobody that gives a shit for you, this is where you are (laughs). There are people out there that just don't have anybody.

Indeed, the surety requirement may appear to be neutral on its surface, but has unequal consequences on those seeking bail. The surety requirement is based on normative assumptions about kinship networks that are readily available and willing to assist in the event of a criminal charge. The argument in favour of considering community ties over other factors, such as charge type, were documented in some of the earliest studies of bail (Beeley, 1927). However, subsequent work has contended that community ties are closely tied to income (as measured by employment and education, for example) and may thus disadvantage some accused people (Goldkamp, 1977; see also Quirouette, 2017; Deshman and Myers, 2014). Similarly, the surety requirement in Ontario does not accord with the reality of many people's lives, particularly if they are multiply disadvantaged or have a history of state intervention in their lives. As Aisha explains:

I went for bail last August with my mother, my boyfriend and my boyfriend's dad. My boyfriend's dad is a crackhead, my boyfriend is a crack dealer. My mother had got on the stand and she did really good and they found out she has an outstanding warrant for prostitution which does not look good under my charges. So, my bail was like – it was just to try it – nobody thought I was gonna get it cause look at my sureties. I don't have family here, all my family is back home in Newfoundland. So my mom is the only one who could bail me out. I don't have anybody – I just moved back to Toronto recently.

HP: Were you out East?

Aisha: I was in Ottawa, actually. I was bounced all over Ontario in group homes. So, I never really stayed in one place for a very long time so I don't really know anybody.

HP: Yeah, so not having roots would be a problem in terms of the courts.

Aisha: Yeah, you've gotta know them for at least five years and it's so stupid.

For Aisha, the fact that she was a product of the child welfare system and bounced from home to home produced the conditions under which her detention could be justified under the law. But in reality, Aisha was in effect being punished for her background and the history of state intervention in her life. Her experience in state care disrupted her community ties, and in the logics of risk assessment, became a justification for her detention.

Others, who could not rely on family or were in need of treatment services or community agencies to secure release,<sup>74</sup> were frustrated by the lack of supports available to them. Indeed, the challenges meeting the surety requirement for those who struggle in the community are difficult to overcome. For Kelli, the barriers to release ultimately caused her to self-harm:

Kelli: I tried to take myself out, which put me into the psych. If I would never have gotten into the psych hospital, I would never have got out. And even my lawyer said, "If you didn't do what you did, you'd still be sitting in Parkview," and I would've been there for about four months until it was finally resolved. So if it wasn't for me doing what I did down in the court cells I'd still be in here. [She was subsequently re-arrested on a breach].

HP: Sorry – are you saying that you tried to self-harm so that you would get medical...

Kelli: So I'd get out of here because I knew if I did that they'd take me to St. Thomas General, which means they would lock me in the psych for at least 72 hours, right? By that time, who knows what would happen, right, and that's what happened. They put me in a Form 1. A doctor at St. Thomas General Hospital put in a Form 1, which sent me to the psych for 72 hours. I could not leave the psych for 72 hours or the police would take me back. Well, I talked to the doctor and he put me on a Form 3,

---

<sup>74</sup> Some prisoner organizations that operate in the community, such as John Howard Society, offer bail programs to help assist those who cannot rely on personal networks to secure bail. These programs allow an accused person to have a community partner act as surety to supervise their release (see Quirouette, 2017). However those who have a record of breaches are not eligible for these services. Still others knew there would be a treatment requirement to secure their release as part of their bail plan and thus were attempting to make the appropriate arrangements.



which kept me there for two weeks, and then the court advocator for the hospital got me out on an assurety (sic) base, but they wouldn't let me out on an assurety (sic) base before. That's crap. What's the difference? "Just because I went to the hospital you guys let me out on an assurety (sic), but when I tried to do it on my own you guys wouldn't do it?" That's bullshit.

The fact that Kelli attempted suicide as a means of securing her release on bail reveals the emotional distress people are under during this time, and recalls the trauma and uncertainty more generally in the remand process. Indeed, other research has documented that the prevalence of self-harm, anxiety, and distress is higher during the detention period than other points of imprisonment (Liebling, 1999; 2004a; Zamble and Porporino, 1988; Harvey, 2005; Edgar, 2004). As Kelli's case suggests, the daunting prospect of securing release may play a role in the motivations to self-harm.

### Practical Challenges with the Surety System

The reality of surety release presents still other challenges for accused people. In practice, living on surety bail can be highly disruptive for an accused person and/or their surety. As

Don explains:

Well, they have a life, and you have to be with them when you live in a house. It's very difficult, you know, because, okay, I got to go to my doctor here, and then I got to go to this, and they're like, "Well, I gotta to be at work for three. I can't do this." And so it's stressful in that way, and then you live by their time. So it's hard to be on bail with somebody else...

Indeed, the requirements of surety release can be impractical for people with families and their own housing, who may be forced to uproot themselves, leaving their homes or partners behind, to live with others. As Jerry describes:

So, yeah, like I say, they didn't want to give me bail, but they ended up making my bail conditions so crazy to live with that they probably knew that I was going to end up blowing it eventually anyways, right? Like, I could only be with my wife or my nephew, and I had to live at my nephew's house after being married for 30 years. I couldn't even live with my wife. Like I had to go live with my nephew. Like, how

much sense does that make, but they just wanted it as uncomfortable as I can be, I guess, you know what I mean, like...

While in the community, Jerry was charged with a breach of bail conditions for dropping his grandson off to hockey practice. At the time of his arrest, Jerry was on surety release under the supervision of his nephew. As he described, living with his nephew was an unnecessary disruption to his intimate relationship, and one that he felt set him up to 'blow it'.

Furthermore, surety release cannot only rupture individual and family lives, but sureties themselves can have their lives upended by their commitment to this responsibility. Monique, who I introduced in the previous section, recalls how far her mother was willing to go to secure her release on bail. Monique was first denied bail after her mother and aunt agreed to act together as sureties, but that supervision was deemed insufficient since the alleged offense occurred at her aunt's home. After some time, Monique decided to appeal her bail decision, since her mother agreed to act as sole surety. In order to act as sole surety, Monique's mother moved out of the three-bedroom apartment she shared with her two children. This rationale is described by Monique:

So that they couldn't say nothing, yeah. She moved to a two bedroom, my brother will have one bedroom, she said "This bedroom is just for me and her so I can always keep an eye on her. You guys can put her on house arrest, she won't have no phone, she won't breach, no nothing." And I still got denied bail.

The fact that Monique's mother literally uprooted her life and moved into a different apartment demonstrates the reach of the criminal justice system into the lives of individuals and families before conviction. For those on remand, their arrest can spark a cascading series of disruptions to themselves and their kinship networks. While Monique, a first-time accused person, was lucky to have these networks and was also a university student, these markers of

middle-class normativity were ultimately insufficient to secure her release. As a result, Monique was preparing herself for the long wait until her trial.

In addition to the practical challenges with the surety system, the legal process in itself can further complicate people's willingness to act in this role. As Anthony explains:

I wanted to have a bail hearing but my step-father did not understand what a surety was. That's why he didn't want to sign up for me. He thought he was all responsible 100% percent and if I don't show up he's going to have to pay the five or ten thousand dollars. He was confused, nobody explained him what the surety was from A to Z.

Indeed, many people mentioned that their sureties did not understand this role and responsibility. Still others had to negotiate relationships with sureties who intended to use their legal power to coerce, manipulate or extort those on bail. As Sharon explains:

...that person [surety] is responsible and has control. They can say "Do the dishes, and if you don't do the dishes I'll pull your surety!" You know what I mean? Like "Oh and if you don't do this I'm gonna pull your surety." And using it above them - like threatening them with it, basically.

Indeed, Sharon's claims were a harsh reality for at least two of the men I interviewed. George recounted his desperation to secure his release after being arrested and spending several nights awake in his cell, vomiting from the fear and anxiety brought about by his circumstances. His family was of modest resources, and so on the advice of his lawyer, he enlisted the help of a distant acquaintance of his brother's, who agreed to act as surety. George secured his release on bail, but soon found himself in a different type of desperate situation:

So what happened is I ended up becoming a slave for this guy who said he was gonna hire me. Um, and I was doing - I was living with them cause I had no choice and the husband does renovations, so I was doing renovations for the longest time and finally I just - it got to the point where I couldn't use the internet; they took my phone; I wasn't allowed to see my son; my brothers weren't allowed to come over; my dad wasn't allowed to come over. I was more or less in jail, but worse, because I was

there! I'm outside and I can't see my family, I can't make phone calls – they changed the wifi for the house, like it was crazy. And then they started demanding money, like “We put up a hundred thousand dollars, like what if you breach? We heard that 10% usually if you breach is what you take, so we want ten thousand dollars or you're going back to jail.” I don't wanna go back to jail, so I hounded my family, I'm like “Listen, we need to do this. Give them the deposit and let them hold onto it.” So my family got the ten thousand dollars for them.

In the end, however, George's sureties ended up pulling his bail, which was a relief of sorts for George, except for the fact that they made off with the money from his family. George was not the only person who described attempts at extortion in return for continued freedom. However, Pierre provided a more sinister account of the extent to which his surety was willing to exert this state responsibility:

He said I had to give him forty thousand dollars, or he wouldn't be my surety anymore. So I took that letter – he actually sent me a letter – and I gave it to my lawyer. That Saturday he put a death threat on me and said he would kill me if I didn't give him forty thousand dollars. So I phoned the police and made a report, and they thought I was good. Monday, he went to the courthouse to recede himself from my surety, which caused a warrant for my arrest.

As a consequence of Pierre reporting the threats against him, he ended up being placed back in detention – an example of how those who live on the margins or in conflict with the law do not have access to its protective authority (Razack, 2011). More importantly, however, the above accounts demonstrate the potential for harm when the state downloads the responsibility for control or surveillance onto personal networks. George and Pierre's experiences are a realization of the potential for harm brought about by the surety system, originally articulated by Deshman and Myers (2014). Taken together, the problems with surety release increase the barriers to bail and can exacerbate the punishment meted out to people during this process.

Another issue arising from engagement with the court process in general – whether through bail or in the trial process – was the operation of the courts and, specifically, the problem of delay.

## Delay

Most of my interviewees said they had made multiple court appearances by the time of our interview. Indeed, nearly two-thirds (61.7%) of my sample had made more than five appearances.<sup>75</sup>

Table 10: Number of court appearances

1	5% (6)
2	10% (12)
3-5	23% (28)
>5	20% (24)
>10	11.7% (14)
>20	30% (36)

For some people, the number of appearances they make in court is a result of delays in the bail process. Recall that the number of appearances required to resolve bail hearings increased in Ontario in the early 21<sup>st</sup> century, from an average of 6.4 in 2001 to 8.1 in 2007 (Webster et al., 2009). When I asked people why they were experiencing delays in the bail process, many pointed to the issues I identified in the previous section, i.e., difficulties in arranging a surety or bail plan (17.5% or 21) or cited multiple reasons (28.3% or 34). Some people simply did not know why their bail matter was delayed (6% or 7).

---

<sup>75</sup> I cannot be sure if people included their video and court appearances together in this category.

Brad, who had spent considerable time arranging what he called the “perfect plan” for his bail release, was frustrated by the fact that court adjournments had resulted in several remands.

Brad: You never have enough time. I went to court on the first, they had – I was up at 2:30 and the Crown wanted to go to some educational program that was later on at 5:30 or something, and my hearing was three hours and they said that they’re not gonna have enough time to go through all the facts or whatever so they just remanded it. And they’ve done that twice.

HP: So you’ve been ready – you’ve had your treatment set up, and you’ve had two remands. How does that make you feel?

Brad: I wanna smash through the glass. (long pause). It makes me speechless, you know? I’m there, trying to get help, you know... I’m actually one of the people that is more than willing to do what they’re asking, more than willing to re-book my appointments not once, not twice, but this is now the third time. And they don’t – I don’t know if they even see that, right? It’s just – it’s very frustrating.

Brad’s experience is not an anomaly, according to observational research on bail courts in Ontario. Myers (2009) found that there was a culture of delay in the court process whereby the priority of the court on any given day was to simply clear the docket as quickly as possible, chiefly by way of adjournments. This sort of delay can be infuriating, especially when, in a case like Brad’s, the person is trying to make arrangements to address issues that are bringing them into conflict with the law. But as Brad explains, these preparations can be in vain given the operation of the courts. Indeed, as described above, getting prepared for a court appearance while in custody takes a great deal of effort that often extends into community networks.

Although courtroom delays can frustrate accused people and their personal networks, simple issues of courtroom organization can also produce the same results, as Dale explained to me:

...like a lot of times you get traversed from this courtroom to another courtroom. This has happened to me. I’ll be told Courtroom 101. They put me in 103. My family has been waiting in 101 all day for me. Boom, they transferred me over to 103. They don’t know that. They don’t tell anybody this. I’m already in and out of a

box – boom, put back downstairs. My family is still in 101. I don't come up there. "Like, what's going on? Then they talk to duty counsel. "Well, he was brought downstairs. He's gone already on the wagon." "We've been here all day." It's not fair to the families. That's where... how it affects family, and then it's not like they don't work. My family works. They got jobs. They can't take a day off work. They lose a day's pay to come, and they don't even know what's going on. They don't even see me.

Dale's experience recalls the fact that institutions of criminal justice, such as the courts, are often unconcerned or blind to the effects on kinship networks (Comfort, 2007; see also Van Cleve, 2016).

Courtroom inefficiency, delay, and disorganization, while regularly mentioned by those going through the bail process, were more commonly discussed by those at other stages in their processing. Those in the trial process were particularly likely to discuss multiple ways in which delays affected their criminal justice proceedings. In general, delays are deeply wedded to the institutional culture of the court and its actors. Because of space constraints and the fact that these issues have been discussed in other research (see Myers, 2009; 2013), I limit my discussion to some of the ways in which the culture of delay is experienced by accused people.

As Rodney explained to me, the court process became more complicated after he was denied bail:

After they denied me, right, it's time to play – let's go back and forth for the next 15 times, so the lawyers... Now, it's not the lawyer's fault. It's the crown attorney's fault because he's so backlogged that he has to get disclosure to my lawyer. They have to get search warrant for my phones. They have to go through all these processes on, you know, getting... gathering all the evidence that the crown attorney can get to try to fry me. So when the lawyer gets me back... every two weeks I go for the remand, and the judge goes, "Well, what do you prefer to do today," and my lawyer will say, "Well, we're still waiting for the crown attorney for disclosure. We're waiting for this and waiting for that." "Okay, put it off for two weeks. They put it off for two weeks. Two weeks later I'm back. The judge says, "What do you prefer to do today," and my lawyer will say, "Well, we're still waiting for the crown

attorney.” I have to go back and forth. While we’re going back and forth, I’m still doing time.

For a host of reasons, delays were a particular problem for those in the trial process, because the very nature of these proceedings required longer engagement with the court system and, by extension, increased the likelihood of delays. Rodney’s example is representative of the way in which accused people experienced delay – i.e., they are simply put off and without much seeming to happen about the problem of delay. As Myers (2013) has noted, courts are complicit in the culture of adjournment (see also Webster, 2009). Moreover, each day or appearance in court is considered in isolation, without a consideration of prior appearances (Myers, 2015). This exacerbates the frustration of the accused, who find this lack of continuity stymies the processing of their case. This was made clear by Kevin when talking about his experience with the courts:

Kevin: They played these dirty games like “They don’t have disclosure, we don’t have disclosure.” “How do you not have disclosure?” Then it’s “Oh, we can’t – we haven’t got back the forensic work.” It got to the point where a judge said “Have it by the next court date or I’m gonna do something about it.” Still didn’t have it, because when you go to remand it, every time you come back, it’s a different judge! So one judge is mad about it and sides with the defense, and then one is with the Crown, so it depends on which day you go.

HP: So you weren’t even having the same judge seeing through the prelim?

Kevin: Well no, this is just to get my disclosure to set the prelim date. Different judge, different judge, different judge. Then there’s video court, then there’s in person, then there’s just a lot of stupid things that didn’t make sense to me. How can somebody – I think you should have a judge from beginning to end so you can actually evaluate what’s going on. I had so many judges and then there’s motions and that judge is different from the trial judge, and your trial judge can’t know what happened at the motion, it’s sealed in a voir dire, and I’m like – “What sense does this make?” If we catch someone who’s blatantly lying at the motion and we can’t bring it up in the trial, how do I get a fair trial? Didn’t make sense to me.

For the individual accused person, these procedural hassles contribute to delay. The reality is that each remand means that a person is sent back to the institution without any advancement in their case. As Rodney aptly stated “I’m still doing time.” In fact, when I asked people



what the purpose of their next court appearance was, some readily identified that their next appearance would simply be for another remand, or, more commonly, said they did not know what was to happen at their next appearance, as shown below in Table 11.

Table 11: Purpose of next court appearance

Remand	8.3% (10)
Plea	5.8% (7)
Sentence	10% (12)
Trial proceedings (preliminary inquiry, pre-trial, trial)	30% (36)
Bail hearing	10% (12)
Don't know	21.7% (26)
Other	14.1% (17)
Total	100% (120)

Those who knew their next appearance would be yet another adjournment voiced frustration at the fact that they would have to suffer through a long day in court for no reason. As Brian explained:

[W]hen you know you're going to court and you know it's gonna be remanded, but you gotta go anyway. It's like 'fuck, now I gotta sit in a fucking cell all day, I know it's gonna get put over, the lawyer already told me it's gonna get put over, so why do I have to go?' Just bullshit.

The problem of delays adds to the challenges of court engagement described above. These and other factors were related to a person's likelihood to enter plea negotiations. Before I discuss those issues, I first consider those who had their bail denied.

## Bail denial

Almost all of those who had a bail hearing (32 or 94%) told me they were denied bail, but two stated that they could not meet their release conditions. The most common explanation

offered to those denied bail was their bail plan (10% or 12). Few people mentioned they were denied bail for any of the expressed legal criteria (i.e., the primary, secondary, or tertiary grounds) discussed in Chapter 2. For example, one person said they were a flight risk, which relating to the primary grounds for detention. Others offered explanations that related to the secondary grounds – i.e., risk of re-offending or harm to the community (4% or 5) -- and a few people pointed to the tertiary grounds (3% or 4). However, some people were confused by the terms and so lacked an understanding of the reasons for their denial of bail. For example, Alexis told me, “It’s because of the ... tertiary grounds. I don’t know what that means.”

Still others, such as Nathan, said they were denied bail apparently without an explanation:

Well, as I said this is my third breach, so they’re basically saying I had no respect for their conditions or the law so why should they do it again, at least that’s what I think they are thinking because no one has told me.

Importantly, both the bail laws and the *Charter of Rights and Freedoms* state that an accused person must not be denied bail without explanation. Indeed, research has consistently shown that the accused and their legal comprehension and due process rights are at best secondary and at worst antithetical to the practical operation of lower courts (Feeley, 1979; Van Cleve, 2016). Most commonly, people identified their bail plan (i.e., surety, housing arrangements, etc.) as the main impediment to pre-trial release (33% or 40 people). Yet, some people had no intention of pursuing bail release, and instead were planning on pleading to their charges to secure their release.

## Plea bargaining

Prisoners who are held in pre-trial detention are more likely than their counterparts to enter a guilty plea (Friedland, 1965; Foote, 1954; Kellough and Wortley, 2002), so it is perhaps no

surprise that in my sample some people indicated they would waive their bail (15% or 18) or were planning to plead if they could not secure their release on bail. As Feeley (1979) has argued, part of the incentive for accused people to plead guilty is that it may not actually be worth the costs of defending oneself. Building on this work, Kohler-Hausman's (2013) has shown that court requirements outside of conviction can be onerous, time consuming, and punitive in and of themselves (see also Quirouette, 2017; Hannah-Moffat and Maurutto, 2012). My interviews demonstrate people's understanding of these consequences and their willingness to plea to avoid court stipulations or conditions.

Katrina was facing petty charges, and told me that it would not be worth the time for her to attempt bail release. As she explained to me:

I never really go for bail because I usually have petty charges and it's, like, 20 days, a week or whatever [her sentence]. It's pretty soft. It's easy time. I might as well get it over with. I just say, "I want a plea."

Others said they wanted to plead to avoid bail conditions that would either set them up to fail or be too onerous on their lives in the community. As Jolene told me:

Jolene: It's easier because, like, you go out on bail, and then you got stipulations to follow. You got this and that. When you get out on probation and stuff like that, you still got enough stipulations. Like, that's hard enough, but the bail...

HP: Too difficult?

Jolene: That just setting me up for more failure. I've learned that. I learned that early, like, (laughs) and I'd rather get sentenced right away because then I know what my time is, and then, you know... you know, like, I don't like sitting here and doing dead time and just not knowing.

While the issue of indeterminacy figured in her decision to forego bail, Jolene also points to the problem that bail release conditions can create for life on road. Many people spoke about the challenges of living in the community under conditions. Danielle further explained how the nature of conditions, particularly for those with addiction issues, can increase the

likelihood of breaching (see also Turnbull and Hannah-Moffat, 2009; Hannah-Moffat and Maurutto, 2012; Deshman and Myers, 2014).

I think they have a formula they follow. And so then the Crown brings me back, and then the JP will say “Ok, 30 days.” And then I go back to plea court, and then I plead and then I get 20 [days] and this is my past ten breaches where, yeah, I was drinking, and that’s a condition. But I’m an alcoholic. Why is one of my conditions not to drink? ... I’m an alcoholic, so why instead wasn’t a condition to seek treatment a long time ago? I’m sick. You know, they are setting me up to fail, and that’s how the system has been treating me.

Danielle’s comments also give the defendant’s perspective on the “going rate” in the “plea market” that harkens back to the work of Sudnow (1965), Feeley (1979) and contemporary research on ‘misdemeanor courts’ (Kohler-Hausman, 2013). This work finds that court actors develop a shorthand to determine case outcomes, in part, based on a sense of substantive justice. But this is part of what made matters difficult for Danielle. In her view, the conditions of her release were unjust because they criminalized her addiction. Danielle was not alone in this frustration.

Still others, such as Irene, complained about the logic of breaches as it related to the criminalization of lifestyle and, in particular, romantic partners.

Just the condition not to be with my boyfriend, I don’t understand... I just don’t agree with it. How can you tell someone they can’t be with someone?

The logic of these and other conditions, which seems to be based on normative assumptions about people’s lifestyles in the community, ends up further criminalizing individuals for behaviours that in and of themselves are not criminal, such as drinking (Hannah-Moffat and Maurutto, 2012; Deshman and Myers, 2014; Myers and Dhillon, 2013; Subramanian et al., 2015). As a result, people often feel like they are set up to fail and decide to plead guilty to avoid the imposition of conditions upon release.

Another incentive to plead is produced by the conditions of remand relative to those of sentenced custody. To some extent, the conditions of confinement are likely to weigh more heavily on those facing trials and the possibility of sentenced time. This was more common among men who talked about the incentive to plead. As Terry describes:

...the way it's set up, it's made for us to plead guilty because the CC [sentenced] side actually has more, like, activities... like more things/activities for us to do than now, like, and this is when we were presumed innocent. That's when we've been found guilty and we actually have more rights and more access to more things, you know, so it's almost like they're, like, hanging a little bone there for you to go plead and to get to work where you get to do this and get to do that. Meanwhile... and the waiting time is... just twiddle your thumbs. It's the worst part.

Terry's comparative reflection on the conditions of remand and sentenced time are telling and again relate to the irony that the legally innocent are subject to the harshest form of confinement. The fact that in exchange for a plea, prisoners are given access to basic services and goods -- such as education, programs, food and other canteen items -- was not lost on the people I spoke to and for some, such as Terry, it was an inducement to plead guilty.

But as the experiences of Terry, Jolene, and others discussed throughout this chapter have made clear, waiting and uncertainty in the court process made the experience of remand imprisonment particularly difficult to bear. Indeed, as shown in Table 8, 31% of people said that the hardest part of going to court was waiting and uncertainty.

## Discussion and Conclusion

Throughout this chapter, I have gestured towards an issue that underpins the court process and the desire to plead in particular: uncertainty. I found that uncertainty was a defining feature of the remand process, and is a main difference in the experience of custody between

remand and sentenced prisoners. This contrasts with research by Rabinowitz (2010), who argued that uncertainty was not an important feature of the pretrial detention experience. However, this finding may reflect the fact that she interviewed former detainees, who by virtue of their release, were certain about their outcome. Indeed, for staff I spoke to in both informal conversations and interviews, one of the only distinctions they saw between sentenced and remand prisoners was that sentenced prisoners were more relaxed and calm, because their fate had been decided. This supports the work of others who have also argued that uncertainty is a central experience of remand custody (Freeman and Seymour 2010; Oleski 1977; Rottman and Kimberly, 1975), as well as immigrant detention (Turnbull, 2015) and indeterminate sentencing in general (Mason, 1990; Cole and Logan 1988). Without a release date, many people on remand, such as Katie, are on edge:

Well that was my argument this morning. One of the two girls I'm housed with, I'm like "Look, it's not like I'm coming down hard on you guys, but quit talking about your out dates!" Like this one girl – she's getting out on Saturday, and other girl is getting out in May. I know that's a ways away but still, you're getting out, you have an out date - I don't. Shut up! (laughs).

As a result of the indeterminacy of their incarceration, many are unable to prevent a freefall in their lives on road. As Carly explains, if she does not secure her release soon:

I'm going to lose my house and I'll probably lose what little bit of sanity I have left. And then when I do get out... by the time I do get out and I have nothing, cause my dog won't know me by then either. And I'll have lost my house and my jewelry, everything. I'll imagine I'll be so much worse off then...

Indeed, the uncertainty that remand prisoners experience is not only related to their legal fate, but to their life in the community as well. Without an ability to plan for reunification, partners may be reluctant to stick around. As Ivan explains:

You don't know, you can't even count dates together, count down. After two years they're like 'see ya!', I don't have a date. At least if I got sentenced now I have a date and we can countdown dates together.

These and other extra-legal harms, discussed above, were some of the most immediate and painful consequences of confinement for the people I interviewed.

Regardless of how remand imprisonment reverberates in prisoners' personal lives, they must engage in a court process to resolve their legal case. And as described near the beginning of this chapter, the process and ceremonies of attending court can produce physical and psychological pain. Indeed, people in this study uniformly described unpleasant and, at times, deplorable conditions of confinement on court days marked by hunger, nausea, discomfort, and pain. Many of these issues are built into the system and process of attending court, which is perhaps why these problems were so ubiquitous. Other pains can be traced back to what prisoners described as intent by court officers or CO's to make life more difficult on court days. In the worst case, one prisoner told me she was assaulted by a court officer who had grabbed her by the throat and thrown her against the wall for asking questions. Still others struggled with the distress and mental anguish brought about by the uncertainty of outcome. Since the court system in Ontario has a culture of adjournment and delay (Myers, 2013), there is no guarantee that a person's case will be heard that day, meaning some endure this process for nothing. As a result of these conditions, people overwhelmingly preferred to make routine court appearances by way of video.

The stress of the unpredictability of the court process is further underscored by the bi-directional relationship between the courts and custody facilities (Rabinowitz, 2010). In order to prepare for their release on bail, prisoners rely on access to basic services, such as

communication with lawyers and family. Remand prisoners in this study, however, routinely described the ways that apparently simple needs, such as making a phone call to arrange a surety, are subverted or hampered by the infrastructure of the institution. The phone system inside these facilities restricts calls to landlines, not cellphones, leaving most people with few if any people they can call. These restrictions on communication present a challenge to the logic of the bail system itself, which in Ontario, relies heavily on a system of sureties for bail release. Given that these communication restrictions are illegitimate for the purposes of bail, this in and of itself constitutes a punishment (Foote, 1954; Thaler, 1978; Rabinowitz, 2010).

All of this contributes to the uncertainty that remand prisoners face during their detention more generally. This uncertainty is produced from the moment of their arrest, described in the previous chapter, and is punctuated throughout their court proceedings. Because remand prisoners are subject to this process, one of the few ways they can reclaim autonomy is to plead guilty.

These issues cannot be fully understood and appreciated without closer consideration of the nature of remand imprisonment, and daily life in these settings. Indeed, as Rabinowitz (2010) has argued, courts and custody facilities have a bi-directional relationship. Because the courthouse is a hub for the arrival of new prisoners to the facility, trips to and from the courthouse can exacerbate the uncertainty of making a court appearance, as Pierre suggests:

Just the waiting all day and, ugh, worrying about who's going to be in the bullpen with you. (chuckles) Am I going to have problems in there? Am I going to be going to my bail hearing with a black eye or... (laughs) just... yeah, the waiting; and if they don't have enough time, am I going to have to go back with the same people, or who am I going to be going back with next time, yeah. Yeah, just waiting and not knowing what's going on.



Pierre's account hints at a major source of uncertainty for both prisoners and staff at these facilities: the unknown range of potential problems that can stem from the flow of prisoners from the community into the facility and to and from court. In the next chapter, I take up the experience of daily life and examine how the themes of disruption and uncertainty can shape both the individual experience of punishment and daily operations inside remand facilities.

## Chapter 6

### Daily life in Remand Custody

The fact that remand prisoners travel to and from maximum-security facilities as they attend court proceedings amplifies the punitive nature of remand imprisonment, as described in the previous chapter. But the nature of remand also poses distinct challenges for daily life inside these facilities. Remand imprisonment strains the resources of these facilities, which receive and house a constant flow of new admissions directed from the police and courts. For prisoners, the constant flow of new admissions and the demands of the court process disrupt life on range and can amplify the challenges of confinement. Before I discuss these specific issues, I want to provide some information about the operation of correctional facilities more generally in Canada, where we have two levels of imprisonment, provincial and federal.

Federal prisons—which house those who have been convicted of an offense and sentenced to a minimum of two years imprisonment—had 7618 new admits in 2015 (CANSIM).<sup>76</sup> These people were admitted to federal facilities throughout the country. Many of these prisoners would have been held in remand custody prior to their sentence, meaning they already spent time in custody and are transitioning from one custodial environment to another. Since these prisoners are sentenced, when they are admitted to a federal facility, staff can make informed decisions about their management and accommodation, in addition to planning for their release.

Provincial corrections—where remand imprisonment occurs—are relatively chaotic custodial environments by comparison. They are tasked with the housing and management of prisoners

---

<sup>76</sup> Including 2544 people who had previously been in a federal prison but whose conditional release was revoked.

brought into custody from the community through the police and court systems. In Ontario alone in 2015, provincial facilities had 46 874 remand admissions (CANSIM). All of these people needed to be processed, housed, and transported to and from court dates while in custody. In addition, each new admit requires a health screening and may require follow-up care. The fact that their release dates are unknown also makes it difficult for facilities to provide programs and supports to the remand population, as they are highly mobile and may be in the institution one day, and released at court the next. Finally, the fact that remand prisoners are not sentenced means that facilities cannot anticipate or make plans for their release (Gaetz and O'Grady, 2006).

In this chapter, I address some of the ways that the remand context poses distinct challenges for daily operations and life inside these facilities. I begin with a discussion of the reception area as a site where individual and institutional uncertainty meet, and I trace the after-effects through a discussion of daily life and the specific challenges that arise in the remand context because of issues such as healthcare, special populations, and lockdowns. I draw attention to gender and institutional variation if and when these introduce depth and complexity to these features of institutional life. Before I examine these issues, I situate the reader in the relevant literature on imprisonment.

## Background

Currently, what we know about the impact of incarceration is based almost solely on studies of sentenced prisoners. The era of mass incarceration in the US has given rise to an unprecedented number of studies that address and explore the prison as an institution that produces and exacerbates social stratification, rather than reducing crime. This literature

finds that incarceration has no specific deterrent effect (Loeffler, 2013; Green and Winik, 2010), produces barriers to employment (Pager, 2007; Pettit and Western, 2004), heightens the challenges of reentry into the community (Petersilia, 2003; Travis, 2002), and creates secondary effects on partners and families of prisoners (Comfort, 2007; Wildeman, 2009). We know that the experience of life inside prison is shaped by individual characteristics and institutional culture (Kruttschnitt and Gartner, 2005; Sparks, Bottoms, and Hay, 1996), including prisoner-staff relationships (Crewe, Liebling, and Hulley, 2011). However, the relevance of these findings to the remand population is unknown but perhaps limited, because remand prisoners are a distinct group facing unique challenges. First and foremost, sentenced prisoners have been found guilty of an offence, and in this way their imprisonment is based on a broadly accepted model of due process in our legal system. Second, sentenced prisoners (with few exceptions) have a largely predictable release date, which means they can anticipate and make plans for their return to the community. Finally, sentenced prisoners are eligible for correctional programming and treatment programs; they can be employed in the facility (which gives them more time outside their cells), have “touch” visits with family and friends (in contrast with visits behind glass or through video), and have access to a variety of other activities while they do time.

Remand prisoners, on the other hand, pose a fundamental challenge to the presumption of innocence by the very fact that their imprisonment is not the result of a finding of guilt (Friedland, 1965). That they are legally innocent creates distinct challenges for their lives inside prison, which are generally designed to house and supervise sentenced prisoners. As a consequence of their legal status, remand prisoners have restricted access to programs and services in the prison (Freeman and Seymour, 2010; Zamble and Porporino, 1988; Johnson,

2003; Beattie, 2006; Harvey, 2007) that may be mandated following a conviction, such as anger management or substance abuse counselling. This in turn leads to the prolonged confinement of remand prisoners in their cells with little purposeful activity (Edgar, 2004), and is why prisoners refer to time on remand as ‘dead time’ (Marchetti, 2002). In addition, the nature of much remand imprisonment – the rapid turnover, and the mobility of this population to and from the courts – only serves to exacerbate the challenges of providing programs and services to this population. For these reasons, time in detention is generally considered to be particularly difficult or harsh compared to time in sentenced custody (Friedland, 1965; Foote, 1965; Marchetti, 2002). This is why remand prisoners were, until recently, often given a presumptive credit at sentencing of two days (and very occasionally more) for every one spent in remand custody.<sup>77</sup>

Researchers have argued that the pains of imprisonment – experienced by all prisoners – are of special significance for those who are in detention (Zamble and Porporino; 1988; Liebling, 2004; Friedland, 1965; Player, 2007). Indeed, some studies find that remand prisoners could readily identify with the “pains of imprisonment” (Sykes, 1958) after only three days in custody (Zamble and Porporino, 1988). This may be because the sudden nature of remand imprisonment means that when remand prisoners first come into custody, they had plans for the next day (Harvey, 2005, p. 238). In turn, this can cause a range of immediate concerns about the practical challenges brought about by their sudden incarceration (Freeman and Seymour, 2010; Irwin, 1985; Rabinowitz, 2010; Marchetti, 2002).

---

<sup>77</sup> Recall from Chapter 3 that Judges may now give up to 1.5:1 days credit for presentence custody.

Some of the consequences of the sudden nature of remand imprisonment have been described in studies of prisoner adjustment. Scholars have argued that remand imprisonment is highly distressing (Liebling, 2004; Zamble and Porporino, 1988; Harding and Zimmerman, 1989), and filled with feelings of uncertainty, loss, separation, and concerns about safety (Freeman and Seymour, 2010; Harvey, 2005; Edgar, 2004; Johnson, 2003). These problems are typically made more challenging because remand prisoners experience both temporal and event uncertainty, in that the length of their confinement and the outcome of their case is unknown (Lindquist and Lindquist, 1997; Harvey, 2007; Gibbs, 1987, Harding and Zimmerman, 1989). Perhaps because of these distinct challenges, remand prisoners are more likely than sentenced prisoners to commit suicide (Liebling, 1999; Edgar, 2004; Eyton et al., 2011; Zamble and Porporino, 1988).

Most of what we know about the experiences of imprisonment, like other areas of criminology, is based on studies of males. However, there are many studies that shed light on how women adapt to life in prison and how they do time as prisoners (see Ward and Kassebaum, 1965; Hannah-Moffatt, 2001; Carlen, 2002; Kruttschnitt and Gartner, 2005; Dodge and Pogrebin, 2001; Jiang and Winfree, 2006; Pollack, 2009; Pollock, 2002; Bosworth, 1999; Rowe, 2011; Player, 2007). While this research is largely based on samples of sentenced women (and men), there are some that include (Kruttschnitt, 2005; Liebling, 2004) or focus on (Player, 2007; Edgar, 2004; Eyton et al., 2011) remand prisoners. This research has characterized the women's remand population as being more troubled and problematic for the criminal justice system compared to men and sentenced prisoners in general (Player, 2007; Kruttschnitt, 2005). Specifically, research based in the UK has argued that women in remand are more likely to be serious (intravenous and opiate addicted) drug

users and have a higher prevalence of mental illness compared to their male and sentenced counterparts (Edgar, 2004; Player, 2007).<sup>78</sup> Edgar (2004) reported that women on remand in the UK and Wales were twice as likely as sentenced women to have been previously admitted to a secure mental health facility. In addition, the risk of suicide is greater for female remand prisoners than males (Edgar, 2004; Eyton et al., 2011).

In sum, research on imprisonment has demonstrated that the challenges prisoners face in custody are based on both prisoner characteristics and the prison environment itself. There is evidence to suggest that these factors may weigh especially heavily on remand prisoners and the institutions that house them. I now turn to the evidence from my research on the challenges of life inside these facilities. By way of introduction to life on remand, I begin with a discussion of the admission and discharge area as the site where individual and institutional uncertainty meet.

## Admission and Discharge

Remand prisoners, like all prisoners, are introduced to the facility through the admission and discharge unit (A and D). Scholars in the US have long documented the processual dimensions of intake (Goffman, 1961), while more recent investigations of A and D (Goodman, 2008; Walker, 2016) have shown that race plays an important role in the institutional management of prisoners. Like all people processing facilities, A and D is an administrative hub where individual needs and institutional management meet. New admits, fresh from their arrest and first court appearance, arrive at the facility in often desperate circumstances, as first described in Chapter 3. Returning prisoners, back from a day in the

---

<sup>78</sup> These findings were also supported by research in Switzerland (Eyton et al., 2011).

courthouse, may be particularly agitated, emotional, or exhausted from the degradations and outcomes from court. Together, these prisoners are managed and processed (back) into the facility by the staff in the A and D area before being transferred to their living units. There, remand prisoners are folded into the routines and dynamics of institutional life, which vary unit to unit.

On my first day conducting research for this study, I was invited to observe the operations in A and D at one of my research sites. The scene was a bit intimidating for my first day, especially since my dress flats and slacks had seemed appropriate for my meetings with top officials earlier that day, but now felt grossly inappropriate in the unsavoury conditions of the reception area (see also Ugelvik, 2011). I followed along with my escort and the manager from A and D, a kind, firm lady who continually offered up her food and snacks to me (“Are you sure you don’t want any carrots?”). She showed me around the facilities, introduced me to her staff, and informed them I would observe the arrival of a wagon. From my fieldnotes:

Before any prisoners arrived, I was warned by two female correctional officers in A and D that there are ‘lots of off colour jokes here and sexual harassment.’ A male CO piped in and said, ‘No, we’re not allowed to do that’ while he slowly and suggestively slid on a pair of plastic gloves. This was followed up by the manager who told me that ‘Freudian dynamics are alive and well at the facility because the female prisoners do better when managed by the male guards and vica versa’.

With that as an awkward and frank introduction to the environment in A and D, I stood by and observed the arrival of prisoners while trying to keep up with the volume and speed at which a range of processes unfold. Based on this experience and on tours I received of A and D at all but one facility, I provide a brief and general description of this setting to situate the reader.



The arrival of prisoners is signaled by a monitor or greeting officer [a CO] in A and D, who notifies their colleagues that a paddy wagon has arrived. Most of the facilities transported prisoners through an agreement with local or provincial police, who would review the warrant information<sup>79</sup> with a correctional officer before transferring ‘custody’ of the prisoners. Once the warrants are received, a ‘greeting’ officer directs small groups and individuals to parade through the main entrance and form a line with their backs against the wall. Groups shackled together kneel, and one by one, their cuffs are removed. Those returning from court are placed into ‘dirty cells’<sup>80</sup> until they are strip-searched and change their clothes. Following this security screening, prisoners are placed into ‘clean cells’, and given a meal while they await an escort to take them back to their living units. If the prisoner is a new arrival, their charges and information are confirmed with a booking or records officer during an administrative intake. These prisoners remain in some restraints while the records officer reviews or generates their file, including basic personal information, medical alerts, previous incarcerations, gang affiliations, and tattoos. Once completed, new admits undergo a medical screening with a nurse in the A and D area. Before they are transferred to a unit, prisoners are strip searched, their clothing and property is inventoried and stored at the facility, and they are issued a standard prisoner uniform for provincial facilities: orange track suits for male prisoners or green for female prisoners.

What was clear during my observations and confirmed through my interviews with staff in A and D was that the reception area was the site of an unknown range of potential problems for the facility. While the prisoners I spoke to voiced their personal concerns about their welfare

---

<sup>79</sup> The warrant information is a court document that lists the identity of the accused person and their criminal case information. This document is used to confirm the identity of a person who is transferring between the court and custody system.

<sup>80</sup> ‘Dirty cells’ are where prisoners are kept until while they await a strip search and clothing change. Clean cells refer to holding cells for prisoners who have had a security screening.

needs during this process, managers talked about the institutional pressures associated with the reception and discharge area.

The superjails in Ontario bear the brunt of the tyranny of remand admissions. At the largest site where I conducted research, Brookdale, the A and D manager told me they processed about 150-200 prisoners a day through A and D, and of those, anywhere from 40-60 were new admissions.<sup>81</sup> The remaining prisoners were returning to the institution after a day in court. Both groups have slightly different needs that shape the operation of the A and D area.

As one manager explained to me, for new admissions:

We utilize as much universal cautions as we can down there because we don't know. Our other thing too is we're getting guys from the street that are either coming off of drugs, have open sores. They're street people, not happy with the situation, mentally ill. We don't know what we're dealing with when they're coming in. We're basically reception. We have to interview the prisoner. We have to assess the prisoner, and properly house them. Unfortunately, we do have a lot of revolving door prisoners so we know about them. (Steve)

Other challenges arise from remand prisoners returning from a day in court. As Steve explained, these prisoners place a different set of stressors on the facility.

Okay, so for returns from court we're dealing with aggravation, agitation. "Mom didn't show up to bail me out. I didn't get it. It's all your fault. You kept me down here too late last night. I didn't get a phone call." Right? "The judge says I need my phone numbers. The judge says I need access." So we're getting hostility down there. With returns as well, court orders, where I'm getting a phone call from the records staff stating that "Prisoner so-and-so requires a shower," so now I've got to go to the staff and say "He needs a shower." So with those remanded offenders, that's what we're dealing with as far as trying to quell any situation. Something may have happened in the court cells with someone else as well with another prisoner so we're

---

<sup>81</sup> Here I would like to recall that in 2015, there were 75,319 admissions to provincial prisons (and of that number, 46,874 were on remand). This is about 10 times the size of the admissions to federal custody, which totaled 7,618 in 2015 (CANSIM). Let us assume that there are about 250 days a year when these facilities can admit prisoners (excluding weekends and holidays). Using this logic would mean that there are roughly 29 admissions to federal custody throughout the entire country per day, in contrast to about 40-60 new admissions at this one institution.

dealing with that. We rely heavily on communication with the court escorts, with the court staff as far as anything that's happened, anything that's transpired.<sup>82</sup>

The court orders that Steve referred to were occurring with increasing frequency, as I was told by both of the A and D managers I was able to interview. These orders typically were for hygienic or welfare needs, such as a hot meal, clothing change, or showers and razor access. But these orders could also be frustrating for A and D managers, who were exasperated by the operational pressures placed on them by the courts. As one of them explained to me:

Steve: We have what's called a shower and shave program. So if we've got a judge's order for a prisoner that's in... mainly it's for prisoners going through trial, so if they're going through trial we'll get a judge's order stating that the prisoner needs a shower or shave, and what we have is a template where it's shower, shave, phone call, hot meal, and we tick it all off. We're seeing a huge influx in the amount... we're showering maybe on average 30 a night now.

HP: And that's happening in A and D?

Steve: In A and D. So we're at the mercy now where we have one shower stall, and it... once you see... with three shower heads so you're putting three prisoners in there in a communal shower.

HP: In one shower. Oh, wow.

Steve: They're locked in, but the staff are still doing their strip-searching of the other prisoners as well so you've got three in the shower. You've got six that are being strip-searched. We make it work. It does create quite a bit of a lag in the operation scheme of it, but it's been in its existence before I was there. What we're finding now, though, is the orders are getting a little bit more specific. For instance, we have two offenders right now where administration have to go to court over because the judge's order states two meals in the morning, right? When they're at court, the courts are involved as well... that they need specific meals or a variety of meals, and then they get two hot meals when they return... So what we're having now is other prisoners are seeing this. Preferential treatment, right? I can't very well put those two prisoners in with 13 other prisoners because they may have their food taken from them, right? Little bit of an unspoken hierarchy with prisoners, right?

HP: Absolutely.

---

<sup>82</sup> Indeed, this manager explained that there was a recent meeting with representatives from the police services of their catchment area to call for better and more open lines of communication, to reduce some of the uncertainty with the reception of prisoners from the court.

Steve: So now I have to separate them so that they meet... so that we follow the court order in that the requirements that are on the court order are met and the prisoners get their food, so now they're separated and isolated and that's creating a little bit of issues where they're being labelled as being special, or, you know, misinterpreted as protective custody or something of that nature so it puts... those two particular prisoners in a bad position, and, I mean, that was voiced as well by senior administration to the courts, but unfortunately this is what the defense lawyers wanted, and the courts approved it so we're doing it.

Indeed, a Toronto based lawyer discussed how he and others were increasingly turning to these orders to remedy some of the deplorable conditions their clients were exposed to on court days (Chidley, 2014). Of particular concern was the practice of providing NutriGrain bars to prisoners in lieu of meals while at court. As discussed in the previous chapter, meals and other basic welfare needs are particularly pressing for remand prisoners during the court process, particularly for those engaged in trial proceedings. One of the ways that prisoners have been able to counteract the deprivations of attending court is through these judicial orders. Yet for the institutions that house remand prisoners, these extra meals create a safety risk, and have resulted in the segregation and isolation of those prisoners.<sup>83</sup>

The provision of meals and showers appear to be the topic of most frequent orders, but there are other reasons for judicial orders about treatment of prisoners at the facility, as Steve continued to explain:

We're getting orders for haircuts. Like, it's frustrating because you think, okay, I don't think the courts know exactly what happens in the institution or what is required for this to happen. I had a court order where it was "The prisoner must be given the opportunity to be in another prisoner's cell so that he can get a haircut". Well, our Ministry standards is if you modify a razor blade – so you take off the plastic – then you're on a misconduct. Well, the judge is basically condoning that because that's what you have to do in order to cut hair is remove the blade, put it on a comb and cut

---

<sup>83</sup> The provision of extra meals was discussed only at the men's facility. At no point during my interviews did I hear about provision of extras affecting the female prisoners. In fact, women would often discuss sharing or trading to ensure that collectively, women on the unit were having their needs met. A discussion of these specific prisoner dynamics and social structure is beyond the scope of this dissertation.

the prisoner's hair so the judge is condoning the destruction of government property, which is, for us, a misconduct. So it's one of those things where... you try to explain, but it's one of those things where whatever the judge says and whatever's on the order has to be done.

Though Steve found this process frustrating, Allison (who managed the A and D unit at a separate institution) thought that the court's ignorance of correctional practice was downright offensive:

I'm really, really, really shocked at how few judges actually know the correctional system. Yeah, it's... actually, it's kind of insulting, really.

It was made absolutely clear to me by prison staff (and prisoners) that there is a major gap in the communication and collaboration between the courts and the facilities, and that this can cause problems for both institutions, as well as prisoners. Because of this, and in order to handle the range of people these facilities receive, the staff in A and D work out a way to process people as best they can.

It was after 9 pm on my first day of this study and I was still in A and D. Ten prisoners still awaited their healthcare screening and many had only just received an evening meal tray.<sup>84</sup> A prisoner called out for help, and one staff member forcefully strode over to him and shouted "Keep it down." There was nothing I could observe that would have prevented the staff member from assisting this prisoner. The manager later explained to me that they need to be careful with how they answer or respond to prisoners' requests, otherwise staff will be inundated and overwhelmed. I questioned if some prisoners might have immediate welfare concerns, owing to their sudden arrest or the day in court. The manager answered "One can

---

<sup>84</sup> The prisoners I interviewed often complained that they did not receive an evening tray or that their meal was put together by whatever leftovers were available in the facility, and the manager's confirmed this practice was in part rooted in the fact that they cannot predict the number of new admissions and returns from court each day.

expect that your life will be interrupted after your arrest, and if you don't like it, don't get arrested.”

The A and D area is a chaotic environment where individual and institutional uncertainty meet and mesh. Those who work in A and D are tasked with processing an unknown number of prisoners into the institution each day. New prisoners, relatively fresh from their arrest and lives in the community are transferred to the control of institutions. They may have a range of needs upon their arrival to the facility, and staff in A and D make decisions about what, if any, of those needs can be met. This becomes further complicated by the unknown potential of health or wellness problems, which I will discuss later in this chapter. Those returning from court may bring with them the agitation from an unfavourable outcome or delay, and instructions about their care and welfare from the courts. The facility may then be forced to comply with an order from a judicial authority that has no understanding of the environment in which their orders are to be carried out, and the cascading consequences of these remedies may pose challenges for both facilities and prisoners. As we will see throughout this chapter, the problems that arise in and flow from A and D can be traced back to the churn of remand admissions, and all these factors work together to shape the experience of daily life in these settings.

## Daily Routine

Despite widespread and longstanding acknowledgement of the comparatively harsh conditions of remand as compared to sentenced imprisonment, few studies have examined daily life for these prisoners (Appleman, 2012; Baylor, 2015; Subramanian et al., 2015). This gap is likely owing to the more general decline in prison research since the heyday of prison

sociology and the classic work of Sykes (1958) Irwin, (1985) Clemmer, (1940), and Jacobs (1977). As Wacquant (2002) and others have noted, the decline of research inside ‘the belly of the beast’ is due at least in part to the difficulties in gaining permissions to enter prisons, as research is virtually “all risk” for prison administrators (Simon, 2000, p. 303).

However, there have been some accounts of daily life for remand prisoners. Rabinowitz’s (2010) interviews with former detainees found that the basic conditions of confinement were experienced as punishment: detainees were often held in filthy conditions where they were demeaned by their treatment from guards and the physical structure of the institution. She argues that the conditions of confinement in the Cook County Jail were part of the degradation that detainees experienced and formed the central traumatizing experience of detention. Other work has also noted the grim conditions of jails in the US where prisoners may be held in overcrowded and dirty cells (Wacquant, 2002; Appleman, 2012) where daily life can be shaped by the additional restrictions from the prisoners’ social structure (Walker, 2016). Still others have found that those on remand struggle with the problem of isolation (Brockett, 1970) and the idleness of ‘dead time’ where there are few, if any, programs or services available to detainees (Marchetti, 2002; Freeman and Seymour, 2010; Harvey, 2007; Beattie, 2006). Additionally, the difficulties and restrictions of contact with those on the outside (including the lack of ‘touch visits’ and the challenges of placing phone calls) are enduring features of imprisonment that are particularly pronounced for detainees (Irwin, 1985; Rabinowitz, 2010; Brockett, 1970; Baylor, 2015). For these reasons, jails have long been described as warehouses (Foote, 1959; 1965; Thaler, 1978; Irwin, 1985).

How people respond to these environments is not well understood, because of the lack of studies of prisoners more generally and in jails specifically. Almost 25 years ago Senese and Kalinich (1993, p. 132) noted that “the largest gap in the literature on jails is the lack of study of their day-to-day operations”, a situation that remains true today. One of the few studies of the experience of remand – Freeman and Seymour’s (2010) study of young people on remand in Ireland – found that prisoners were chiefly concerned about the uncertainty of time on remand. They argue that the uncertainty remand prisoners face is twofold: they are imprisoned for an unknown duration and their case outcomes are unknown (see also Harvey, 2007; Lindquist and Lindquist, 1997). This temporal and event uncertainty was found to filter into all aspects of life on remand, and a full three-quarters of the young people interviewed by Freeman and Seymour (2010) stated that uncertainty was the most difficult part of doing time on remand.

## Conditions of Confinement

Ontario’s superjails were constructed during the ‘no frills’ era of provincial corrections, when programs and activities were deemed luxury items and ‘criminals’ were seen as having it too easy (JHSO, 2006). In response to this perceived problem, these superjails were purposefully built to *house* prisoners, not to accommodate professional or programming needs. This has had the desired effect on life in the facility. Prisoners have little or no access to services and supports, and though the correctional pendulum has swung back to emphasize the need for programming under provincial Liberal leadership, what is possible inside these superjails is severely limited by their design. Additional restrictions are brought about by the nature of remand itself, where the rapid turnover of most of the population and prisoners’



frequent absences from the facility while they attend court make it difficult to provide structured and regular programming (McCrank et al., 2009).

Daily life for remand prisoners looked much the same across the facilities where I conducted this research. Almost all remand prisoners were held in cells with at least one other prisoner, and together they would share access to a small table and steel toilet, with an attached wash basin. Thin foam pads were placed on top of a steel slab as a bed, and a second bunk was secured above, but because it was closer to the light that remains on all evening, prisoners vied for the bottom bunk. In the worst cases, prisoners were double-bunked in small single cells, meaning one prisoner slept on the floor beside the toilet. At both superjails and the women's facility, cells also included a small window. At the sole detention facility, prisoners had radios inside their cells (though most were broken). Prisoners were secured in their cells by a large steel door that had a small window and a metal food slot. In general, those on remand spend roughly 17 hours a day inside these cells, where they eat all their meals. Prisoners are required to leave their cells for 'unlock' time between 9-11; 1-4; and 6-8.<sup>85</sup>

Recall from Chapter 3 that each living unit has a common area, called a 'dayroom', which includes eight steel table and chairs that are bolted to the floor, a few shower stalls, three payphones, and a television. During unlock times, prisoners are free to use these basic amenities. Prisoners are entitled to 'yard' access once a day for twenty minutes. These 'yards' are small concrete enclosures located just outside of the living units, topped with razor wire and a half-roof that obscures much of the sunlight (see also JHSO, 2006).

Prisoners are not given any recreational equipment to occupy their time outside, but many

---

<sup>85</sup> Sometimes, select prisoners could stay inside their cells during unlock times if they had special permission from a CO. This was only discussed in this study when a person talked about being dope sick or coming down off of drugs.

engineer balls out of juice bags or laundry items so that they can play basketball or soccer while outside. Others simply walk or stand around outside, and still others refuse ‘yard’ time because of the bleak conditions. The exception to this general trend was at Parkview, where prisoners had access to a large courtyard in the middle of the facility. This yard also boasted basketball nets (minus the mesh nets) and prisoners were given a basketball so that they could play.

During unlock times, remand prisoners played cards, talked on the phone, or worked out. Because there is no access to recreational or workout equipment, prisoners relied on the physical structure of the institution (for example, the staircases on either side of the cell block) to exercise. If there were programs available to remand prisoners, they typically ran during the evening unlock time, because they were usually offered by volunteers who came in the evening. However, this also made programs more susceptible to the problem of lockdowns, an issue I will discuss later in this chapter. As a result of these general restrictions, daily life on remand is as noted earlier, typically referred to as dead time because there is little or nothing a prisoner can count on to occupy their time. Joe summed up the sentiment of many remand prisoners I spoke to about the daily conditions of confinement:

Programs would be good. Schooling. Anything like that. Just to keep you busy and keep your mind active. You just sit here and you’re idle, you do nothing. This place is built to break you. People in the pen they get to go to school, order from a grocery store. The stories... you almost want to go out and commit a real crime. But instead, they get you here, you are like cattle and you go to your cell, and then you come out and they feed you in your little patch... it’s hard.

## Programs

Remand prisoners are restricted from the vast majority of programs and services offered by the prison (Friedland, 1965; Zamble and Porporino, 1988; Johnson, 2003; Edgar, 2004;

Harvey, 2005). The same policies that brought about no frills corrections in the 1990s meant that remand prisoners in Ontario were mostly ineligible for institutional programming (JHSO, 2000). Part of the issue with programs is a function of the remand population as well. Because the majority of remand prisoners cycle in and out of the facility in less than a month, it is difficult to provide programming, particularly with the added constraints of maximum security. In addition, programming is often tied to criminal offending: for example, anger management for those convicted of assault or violent crimes, which poses a challenge for remand prisoners' and the presumption of innocence. Finally, the facilities need to direct resources towards sentenced prisoners, who they have an obligation to provide programming for. As a result, there is often little that the remand inmate can do to occupy any free time they are permitted outside their cell.

Nevertheless, nearly all facilities offered some type of programs or services to remand prisoners. Indeed, the Ministry officially acknowledges the provision of 'core programming' inside provincial institutions. These core programs are typically offered by the social work staff and outside volunteers and consist of life skills (e.g., healthy relationships) and rehabilitation programs (e.g., anger management, substance abuse). Since most facilities had a short supply of social workers and professional space, programs were difficult to run. Because correctional resources are directed towards the sentenced population, many of the prisoners I spoke to depended on a volunteer base for their programs. Volunteers would typically come in the evening to offer basic addictions services such as Alcoholics Anonymous (AA) and Narcotics Anonymous (NA).

In this study, 69% of the prisoners I spoke to described having access to programs, though this was higher for women (78%) than men (60%). Similar to other research, when

respondents talked about having access to programs they most frequently cited AA or NA (Gray, Mays, and Stohr, 1995). However, some mentioned other programs, such as chapel or life skills programming and occasionally, even yoga. These varied widely across and even within facilities.

Perhaps more germane to the issue of programs and services is the remand environment, where lockdowns, court dates, and operational uncertainty were routine. Because of the challenges of frequent lockdowns, program staff and management can do little to facilitate the running of programs in an environment where security comes first. As one of the managers said of daily operations in these settings, “What's essential? Everything but programming.” As a result, when a problem arises relating to labour or security, programs do not run. This relates to the larger practice of lockdowns that will be discussed later in this chapter. As Brad told me:

NA was around once in a while, AA was around once in a while, but we're locked down so often that nothing is consistent in here, nothing. You know, once you think that you're gonna have a visit you probably won't right? Chances of you having it is always a 50/50. Even getting to a program that you've been waiting a month for doesn't mean you're gonna get it, right.

Similarly, Bishop told me that he:

tried to get into this anger management program, but cause we're always locked down they never came, and then they came. They came, I think, a week ago... one of those weeks we're always getting locked down. I just told them I'm not going. It doesn't make sense. I'm gonna go there for one week, and then you guys aren't gonna come back for another three or four weeks. It doesn't make any sense.

Women in general were more likely to describe access to a variety of programming than men. This was particularly the case for women at Greenhurst, and was likely rooted in the fact that half of my interviews at this site were conducted on the only medium-security

remand unit in the province. This lower security rating meant women enjoyed access to recreational staff who would offer arts and crafts, movie nights, and other activities.

Regardless of facility, however, women most often described access to the one-hour life skills programming, as described by Sharon:

These programs that they have here, they're pretty hokey – I mean, like, especially the 1-hour ones. Like, I mean, I've even had a lawyer and judge say that those are nothing. Like, they've got a fancy printing machine here or something that prints them off, you know, like...

Sharon noted that the certificates are printed on pink paper (which was not the case for men and illustrates how notions about gender creep into small details of remand prisoners' lives) and are “not worthy of anything”. The benefit of these programs, however, is that they do not require much a commitment from those on remand, who may be in the institution one day and gone the next.

Though men in general were less likely to receive programs than women, this was particularly true for men at Sunshine. Part of this is a result of geography. Sunshine is located in a rural region, and is geographically dislocated from community services and volunteers more readily available to those at all other custody sites. Because volunteers typically run NA or AA meetings inside these setting, this severely impacted the men at Sunshine. As a result, Dave captured the sentiment of most of the male prisoners at Sunshine on remand in stating that “You don't really get access to programs when you are not sentenced.”

Interestingly, women at this facility were not as affected by the volunteer shortage since they were housed on the same units as sentenced women and could participate in the programming offered to them by staff.

The lack of programming makes daily life in these settings idle, a problem that Liebling (1992) has argued contributes to prisoner's levels of distress (see also Freeman and Seymour, 2010). Certainly, the prisoners I spoke to mostly complained about the lack of programs or the quality or nature of that programming. In general, men were more likely to complain about the lack of programs, whereas women were more likely to complain about the quality of them. These differences also played out across institutions, but not in a systematic fashion. This variation is further evidence of the range of experiences and conditions that one can endure through the remand process.

### Visitation

Those on remand face significant barriers to maintaining their ties to the outside world. Here I briefly discuss the maintenance of outside contact through visitation.

Visitation is possible for remand prisoners, but the timing and rules differ slightly by facility. Most facilities offer up to two visits per week, regardless of whether the prisoner is on remand or sentenced. However, many facilities allow double the visitation time for sentenced inmates (40 minutes) compared to remand inmates (20 minutes). At all but one facility (Brookdale) visits need to be booked in advance. Everyone on remand is subject to 'closed visitation' behind a glass wall where they communicate through a telephone. Brookdale and Greenhurst were the only research sites that permitted contact visits for sentenced prisoners.

Among my interviewees, 73% had received one or more visits at the time of our interview. Many had positive things to say and enjoyed their time with whoever came to visit. Others were quick to point to the pain of visitation in the remand context, where visitors must speak

over the phone and behind glass walls to their friends, partners, and family. Monique's experience was typical:

My little sister came to see me but it's just the whole being behind the glass. And it's just like I feel like a criminal. Like I can't hug my friends and family. Have to talk through the phone.

As Monique explains, the conditions of these visits can deepen the stigma and degradation that pre-trial detainees experience, particularly because they are still legally innocent (Rabinowitz, 2010). In addition, Freeman and Seymour (2010) found that remand prisoners were reluctant to have visitors because the uncertainty of their release meant they could not plan for their reunification. Similarly, in this study I found that these conditions meant that remand prisoners were selective about who could visit them. Randol only allowed

...my mom and my sisters. I don't want to see my children. I guess I'll be one of those mental patients if I see my children. It's so hard... you're just talking through a window.... You can't touch, you can't hug. Sometimes I don't want them to come see me. And it's so far away from home, I'm from Toronto, and we're far away, in farm land.

The distance that visitors had to travel was commented on by a number of my interviewees, particularly those at Sunshine. Given that Sunshine had a particularly large catchment area and was located in a rural setting underserved by public transportation, this is not surprising.

As Ashley explained:

And if you don't have a car for example the way that the visiting hours work are conflicting with transportation so you'd have to spend the night in the hotel. It's really far for a lot of people, it's almost 2 hours here, so it's like, you know and you get 20 minutes. Who is going to do that? And a lot of people don't want to see you in jail because they don't want to make you uncomfortable and a lot of people don't know you are in here because you can't use the phone! [Laughs]

For those who wish to see their family or friends, they must first rely on the ability to make contact to a landline, an increasingly challenging prospect. Then come the additional restrictions brought about by the remand environment: a lack of touch visitation and the

geographical isolation from public transportation and city centres. Taken together, these form some of the reasons that people elect to restrict or avoid visitation while on remand.

## Healthcare

There is an extensive literature documenting the health needs of prisoners. This body of work overwhelmingly finds that prisoners are often “socially marginalized and disadvantaged individuals with a high burden of disease” (National Research Council, 2014, p. 202).

Survey research consistently finds that, relative to the general population, prisoners have high levels of mental and physical health problems (James and Glaze, 2006; Hammett et al., 2002; Maruschak, 2012; Binswanger et al., 2009), addiction (Karberg and James, 2005; Harrison, 2001; Small et al., 2005), and poverty and homelessness (Gaetz, 2012; Gaetz and O’Grady, 2009; Kellen et al., 2010). In addition, the presence of co-occurring disorders (such as addictions and mental health issues) is much higher among prisoners than the general population (Ditton, 1999; Steadman et al., 2009). When research considers female prisoners or compares them against their male counterparts, it highlights women’s distinct health challenges as they relate to reproductive health or lifestyle in the community (Hatton, Kleffer and Fisher, 2006; Sered and Norton-Hawk, 2008; 2013; Bradley and Davino, 2000). There is consensus that women typically suffer from greater mental health needs (Conklin, Lincoln, Tuthill, 2000; Binswanger et al., 2010) though the findings are less clear when it comes to addiction because of the varied methodologies and instruments employed by researchers (Fazel et al., 2006). Studies that consider variation by type of custodial institution (e.g., jail or prison) tend to find higher levels of health needs among the jail population as compared to other facilities (Torrey et al., 2010; James and Glaze, 2006; Teplin, 1990;1994).



Public health scholars have pointed to two main challenges regarding the delivery of healthcare in custody: the prioritization of security over well-being and continuity of care in the community (Magee et al., 2005; Prout and Ross, 1988; Stoller, 2003; Freudenberg et al., 2005; Veysey et al., 1997). In addition, some have acknowledged that there are unique challenges to service delivery in jails because the opportunity to provide care is typically brief (Hatton et al., 2006).

My interviewees reported many of the same concerns voiced by prisoners more generally in relation to the typically poor nature of medical care in custody. Given the robust literature on the topic of prisoner healthcare, I focus only on the issues that are distinctive for the remand population. I begin with an overview of the main issues that people had with regard to accessing or maintaining care following their intake. I then consider the institutional setting and the resources therein that shape healthcare delivery.

### **Intake**

The high turnover of the remand population, as discussed throughout this thesis, creates a never-ending cycle of prisoners in need of healthcare services. The first time prisoners are administratively processed into the facility, they are seen by a nurse who assesses their basic healthcare needs and flags any follow-up issues for the doctor inside A and D. During the intake, the nurse also considers what, if any, continuity of care can be provided. For these reasons, Prout and Ross (1988) have argued that the medical screening is a critical step in determining the range of care that a prisoner might be given. Yet, this is often made more challenging for newly arrived prisoners because of the coordination of health care services, consent, and information required from the community (Veysey et al., 1997; Fellner, 2006).

As described in Chapter 4, when arrested, many people on prescription drugs do not have their medications with them. This can result in an immediate disruption of their medical treatment on their first night in police holding, but it can also exacerbate the amount of time it takes to get back on medication once transferred to the facility. Similar to what others have found (e.g., Stoller 2003; Hassan et al., 2011; Sered and Norton-Hawk, 2013), the disruption of medication is not atypical for those who are remanded into custody. Over one-third of my sample (39% or 47) experienced a delay, discontinuation, or other problem with regard to their medication.

The distinctive nature of remand may amplify the potential for this medical disruption. For remand prisoners, much of the value of a medical screening in maintaining treatment or medications is dependent on the timing of an arrest. When I asked Ashley if she was able to remain on her medication in custody, she said:

No – medication and treatment here is extremely slow, if you are remanded especially. If you come in for example on a Friday you are lucky to see your medication and things by Sunday. And if you're on certain medications, you can't go that long without it...The medical system in here is horrible.

Ashley's experience is a good starting point for the discussion of the medical disruption because it points to the intersection of life in the community and life in the institution. The characteristics of the individual, their medication, and the timing of the arrest can all bear on the transition to life in the institution.

Another common occurrence was a partial dispensing of prescriptions, where people received some but not all the medications they were taking in the community. This was particularly common for people who were on narcotic medication for pain management, as others have noted (Ross and Prout, 1988). For example, Mya, who was pregnant at the time of her arrest,

had been taking methadone in addition to other prescriptions. She explains her concerns following the disruption in care brought about by her arrest:

Some of them and I had to wait a couple days on it. And I'm on methadone which it's really crucial that you take your medicine every single day because uh... you can actually die from the withdrawal, and me being pregnant I needed it. So it was actually pretty quick, I had to wait a day or two, but it was actually a lot quicker than it was before because I ended up giving them all the right information. But some of my medication I didn't end up getting because I was getting medication from different places and they didn't take the time to look at the other pharmacy that I was getting medication from.

Here Mya points to a crucial factor in the dispensing of medication for new admits:

validating and locating prescriptions in the community. Accurately reciting details about medications or the pharmacies one uses can be difficult for anyone, but is particularly challenging for people coming into custody, who are often confused, disoriented and may be coming off of drugs or alcohol (see also, Skinnis, 2012). One of the healthcare workers I spoke to recounted an experience of trying to provide continuity of care at intake:

...it's very rare that we ever do get an inmate that comes in and can say, "This is my doctor. This is his address. This is the phone number." So this morning – which is another case in point – I spent pretty much the majority of my morning tracking down a patient that was supposed to have care on the outside, got remanded into custody. ...she was supposed to go for some treatment on the outside, never did, and announces this to the doctor and we're freaking out because we need to get this stuff rolling. So she said, "I went to this place and it was at this address." That's it. She can't say a doctor. She can't say the procedure. She's can't say... so since yesterday evening I've been on the phone filling out consents to disclosures. The nurse have (sic) gotten them to sign it. I have to guess that I'm faxing it to the right place, and I've been on the phone right before you came for maybe 45 minutes just trying to determine if this is the right place. Luckily, it was the right place so now I'm finally waiting for the results so that has taken up, technically speaking, six hours between yesterday and today, but it's very important because that could be a potential cancer diagnosis, so we've got to get on it and we got to get on it fast because she's not in custody for very long, yeah, so that's an idea... that gives you an idea of a patient... and she's always here. This is a patient that is always remanded, never usually sentenced, and we're constantly having to play detective and pick sense out of nonsense because we don't have all the pieces of the puzzle. On the contrary, a patient that came in to us last week said, "This is the name of my specialist. This is the name of the clinic. This is the street. They're located in this city", which never happens, and I was able to fax

that consent to disclosure within 30 seconds. I was jumping up and down so much because I thought it was a complex case, but she was able to give me that information that means she knows what time it is and what's going on so it's very... it's a much different case.

The difficulties of obtaining and validating an accurate medical history can affect the nature of care people experience in both the short and long run. As a result, many of those in pre-trial detention must await an appointment with the doctor before any medications are dispensed. Healthcare in the institution, first and foremost, depends on the ability to access care. However, over half of my sample (57%) told me they had experienced a delay in seeing a general practitioner, psychiatrist, or both.

Indeed, seeing a doctor is also difficult in these settings, as described by Adam:

I think that they should have a doctor in this building. I waited 11 days before I got anything ... I never slept for the first 11 days. And then when they did give them to me they gave me different, wrong pills, the wrong strength of pills. And so, at first they gave me like double what I was supposed to get, alright. And then when I figured it out, I noticed it by the next morning because I was drowsy and I couldn't even... basically ready to go back to bed for the rest of the day. I explained it to them that "I'm not on this dose, I don't know where you get this dose from?" And they said, "*your doctor on the outside isn't your doctor on the inside,*" [emphasis added] is what they said. Now they cut things in half, all the pills are totally different than what I was taking on the outside. And so, they could be giving me anything, I don't even know what they are giving me. I'm taking it because I'm trusting it's what I take on the outside.

Adam's experience underscores the disconnection from life in the community that occurs when an individual is placed in remand custody. The medical disruption that stems from arrest creates cleavages in care that divide individuals into two categories of state-funded medical care: care in the community and care in custody. This contributes to the general disruptions of remand imprisonment, when people's lives are suddenly interrupted upon their arrest. I will return to this issue later in this chapter.

## Courts and Healthcare

Particularly relevant to the issue of providing health care for remand prisoners is their frequent appearances in courts. For healthcare staff, making decisions about care for remand prisoners to some extent hinges on the uncertainty of the court process. One healthcare manager explained some of the challenges that arise from treating patients on remand. According to her “The biggest challenge is appointments because of their court dates.” As she explained to me, they have problems coordinating care in the community, particularly with specialists who need to be booked well in advance. This can create problems when court dates arise or change unpredictably for people on remand. As she told me:

We think the guy isn't going to court. He goes to court, and then he ends up in trial or... another court date. We call [the specialist]. We say, “We have to cancel, sorry. Can we rebook?” I've had doctors say, you know what, we're not even taking their patients anymore. We're not dealing with your shenanigans, and they've just pulled their services right from us. (Latisha).

In order to combat this problem, healthcare workers at this facility tried to work with the courts to get them to be more “lenient” and “understanding” about the need to provide care to patients. Instead of allowing the prisoner to attend a healthcare appointment, one health care worker claimed that judges would say “You'd better be in the hospital or half dead to not appear in court.” Because of the difficulties in providing a continuity of care, healthcare staff at this facility ended up traveling to the courts to educate them on their duty to provide care. As a result of these consultations, there have been improvements in the tension between courts and healthcare systems because they now have people to liaise with in the courts.

So they're more lenient when we can phone records and say to records, “Okay, this guy really needs this appointment. Could you see if the judge could do it on video remand rather than him go in person so he can do court and do his appointment at the same time? So that's getting better. That was a huge... one of the biggest problems.

Here we see how the uncertainty of remand affects the daily operations of healthcare delivery. Not knowing if and when a court date will come up, healthcare workers are forced to make decisions based on limited information. Even if healthcare delivery can be delayed for a court appearance, canceling appointments in the community can disrupt relationships with outside providers. That is why some medical staff discussed the importance of communication with the courts to advocate for healthcare delivery. In effect, nurses have to make judgements about whether a person's health needs are more pressing than their legal proceeding, and if so, they advocate for the patient via the courts to arrange a new date.

When I spoke to Latisha about the challenges of healthcare delivery for remand prisoners, she talked about the challenges of providing care to the 'frequent flyer'<sup>86</sup> population. As an example, she recalled the case of one woman who is "here today, gone tomorrow" – i.e., frequently in custody. She was pregnant, and on remand,

[B]ut it looks like she's always doing these little charges so she never serves enough time, but when she's on the outside she's not getting any prenatal care. How do you handle someone like that, and they are a high risk that require certain things done during their pregnancy? Well, not too long ago she was here and we had to actually write a letter to the presiding judge to hold her back to ensure that she met criteria for the care because some things were time sensitive that needed to be taken care of during the pregnancy. She was upset, but we were very scared that she was putting the baby at risk so we had to write a letter to the presiding judge so... excuse her from court so that we can facilitate that through the hospital to make sure she got the care that she required.

When I pressed her about the fact that this patient was held in custody longer to receive medical care, she said that they "had to secure the fact that she needed this care and it was at the risk of the baby. And so is it something we do every day, no, but it's something that we know that we absolutely have to do and we have to step forth and advocate."

---

<sup>86</sup> This term is used by both staff and prisoners to refer to people who are in custody regularly. These people are also referred to as the revolving-door population.

As this example illustrates, the benevolent intentions of healthcare providers can mean that people are held for longer periods in pre-trial custody to ensure they receive medically needed care. Healthcare workers need to rely on collaboration with the court system to provide services to remand prisoners. This is one way healthcare workers work within and around the constraints of the remand environment, but it can also prolong the period of time in custody before conviction.

## Mental Health

The management of mental health needs is a major issue inside jails, as stated in the beginning of this section. At two out of the four facilities where I conducted research, there are no dedicated housing units or accommodations for prisoners with mental health needs, a problem consistent with the argument that jails are not a substitute for mental health services that have disappeared in the community (Ben-Moshe, 2017). The two facilities that provided special housing units for prisoners with mental health needs were able to house these prisoners on units where they could replicate parts of the typical 'daily routine', described earlier. This meant that these prisoners had access to a dayroom and could mingle with others on their unit when not locked in their cells. There was also a case management approach to their supervision, which meant that there was integration between psychiatric supports, CO's, and social workers on these units.

At the other two facilities, there were no dedicated housing accommodations for prisoners with mental health issues. As a result, those who could not function on general population units were often placed in segregation. To be clear, I was not given ready access to recruit prisoners in segregation at any of the research sites; this was partly mediated by the functioning and well-being of prisoners and the willingness of staff. Consequently, I never

pushed to interview mental health prisoners living in segregation at any of the sites where I conducted research.<sup>87</sup>

To more fully understand the issue of providing mental health care, it is necessary to recall the A and D environment. As one healthcare worker explained to me, “your most important hub... is A and D because that’s where you’re going to pick up on your mental health, your addictions, any medical history.” For healthcare workers like Anna, A and D is also where the “biggest challenges” are. She continued that in A and D:

I can get an idea of someone who’s schizophrenic before they’ve even walked in the door because I can hear the officer saying, “Get in line. What are doing? Why aren’t you listening?” And then they come in and they look at me like they’re shell shocked, and it’s like you know right away they’re hearing voices. They’ve been off their medications, and they can’t distinguish... their legs and their arms are tied up to other people. This guy is talking and that guy is talking, and this guy is yelling at him to do this, do that. He can’t. He’s hearing voices. He doesn’t know what’s going on so now you’re sitting and having a conversation to try... because they’re not going to come in and go, “Yes, ma’am, I’m schizophrenic and”... They’re terrified, and so you’re starting the conversation – “How are you?” – and you got the officer out there stomping his foot. I’ve had them say to me, “What are you doing? Are you just sitting there having a good time, or are you guys buddies or, like, are you going to take him home? Are you going to have a beer with him?” (Anna).

Indeed, many of the health care staff discussed the challenges of managing mental health in a context where security is prioritized (Haney, 2017), beginning in A and D. This points to the more general problem that healthcare in corrections is regulated under the authority of the Correctional Act. In the community, mental health care is governed by the Mental Health Act. This creates cleavages in care that are particularly relevant to the remand population, where there is an overrepresentation of people with mental health and concurrent disorders (Torrey et al., 2010; James and Glaze, 2006). Below I provide an extended excerpt from an

---

<sup>87</sup> However, recall from Chapter 3 in the discussion of informed consent that there was one prisoner I interviewed who was having a mental health episode and the interview needed to be terminated.



interview with one healthcare manager than helps illuminate the complexity of mental health delivery in these settings. As Brendan explained to me:

There's a gap between the Criminal Code and the Mental Health Act. That's what I thought. There was a gap. When I got to [a different facility] and I was working the correctional setting versus the setting of a forensic psychiatric hospital, I realized that there was no 'gap'. Like, it's a *canyon*, and for lack of a better term, it's almost as though the left hand just does not know what the right hand is doing, and it's frustrating because it was almost like it was getting worse; the inmate population who require pretty significant mental health services is increasing all the time, and I don't really know how to even address that... An offender can get arrested for whatever reason, and if they're not visibly ill – and that's a really poor term to use, but – then there's a good chance that they're just going to roll through the system and never get the assistance that they need.

When we turned to what this means for service delivery to the remand population, the reality of treatment for those with mental health issues became even more stark:

Brendan: The remanded inmate who requires mental health care is probably the most vulnerable of everybody [in custody] because in my experience, what we've had to rely upon is putting them on APA or a Form 1...

HP: Sorry, what is APA?

Brendan: It's an Application for Psychiatric Assessment. It's a Form 1.<sup>88</sup> So when we put them on a Form 1, we can only hope that when they go to court that they are sent to hospital or that somebody pays attention and ensures that they get follow-up care because the remanded guy... and because of how the politics play out, sometimes the hospitals aren't necessarily too happy about receiving somebody directly from jail, and the form just either lapses or they don't have to endorse it type of thing, and they lay eyes on it and make a determination and let them go. So the remanded guy is really susceptible for recidivism and re-offending because of inadequate community supports as well, I guess, is what I should say... All we have is one treatment centre in the province for people within the correctional system to go and get care during their sentence, but it does not treat remanded inmates.

As Brendan makes clear, the challenge for mental health delivery are exacerbated in the remand context, where there appear to be silos of care that people can easily fall between.

---

<sup>88</sup> Prisoners, staff, and others often refer to this simply as a 'form' or 'forming' a person. A formal "Form 1" under the Ontario Mental Health Act is a form signed by a physician ordering a psychiatric assessment essentially on the grounds that the person is a threat to themselves or others.

When they do, the jail is left to manage them, and yet, there is little the jail can do to ensure that people living mental health issues get the care they need (Haney, 2017). Part of this is conditioned by the fact that secure mental health beds in the correctional context are not available to remand prisoners, meaning that they will likely filter in and out of the system without treatment. In the absence of other resources, facilities rely on the available accommodation inside the institution to manage the flow of mental health problems. As Allison, one of the A and D managers explained to me:

So in that area we have to assess where we're going to put them if we're going to put them in regular living units in our protective custody or if I have to segregate them for medical reasons or mental health. One of my biggest challenges as a manager is the segregation space needed for the amount of mental health cases that do come through our doors, and by no means are we qualified to say, "He's bipolar, hasn't been on his meds for a long time"... Working in this and seeing it, can we make an educated guesstimation of what the mental is, yes, and we do have to do that. Would it ever hold up anywhere in law? Absolutely not, but just from experiences that's what we have to work with and, again, we don't have training on this.

## Special Populations

At each of the facilities where I conducted research, there were prisoners housed in the general population (GP), described above, and those who were accommodated on special units. Most often, the only other housing options for prisoners were protective custody. In some cases, there were special handling units for prisoners with mental health problems. When these services were not available or were at capacity, facilities relied on the use of segregation space to accommodate those who could not be placed on GP units, a problem noted by Ben-Moshe (2017) who argued that jails should not be considered "the new asylums" for this and other reasons related to the lack of treatment services. I discuss the segregation and special population units in turn below.

## Segregation

Segregation refers to the placement of prisoners in isolation from the general population (MCSCS, 2016). In practice, this means that people in segregation are confined “to a six by nine foot cell for 22 or more hours a day, with little human interaction” (Sapers, 2017, p. 1). People can be placed in segregation for two primary reasons: because of administrative reasons (i.e. someone with mental health problems who cannot be accommodated elsewhere) or because of institutional misconduct (i.e. prisoner altercation, contraband). The issue of segregation has been at the core of debates about correctional practices in Canada, at both the federal and provincial level. Indeed, the recent high-profile cases of Ashley Smith, Adam Capay and Edward Snowshoe have galvanized media and political efforts at reform (White, 2014, 2017; Fine and White, 2015).

In Ontario, concern about the use of segregation has been widespread and is an official reform priority of provincial corrections. As a response to a range of high-profile incidents involving the practice of segregation, particularly as it concerns the management of mental health, the Ministry of Community Safety and Correctional Services implemented a review of its segregation policies and practices. This report reveals major gaps in legislation, policy and procedure with regard to segregation in provincial prisons. Sapers (2017), the author of the report, found that even though the average custodial population is shrinking in Ontario, the number of admissions to segregation is increasing. This increase has had a disproportionate impact on remand prisoners, who accounted for over 70% of the 575 people detained in Ontario segregation facilities in 2016. The report also found that the vast majority of these placements are for administrative reasons, chiefly, for prisoner protection. Sapers (2017) attributes some of the increased use of segregation to management problems, a lack of suitable alternatives, and the aging infrastructure of many provincial prisons. Over half of the

people sent to segregation in Ontario had a mental health alert<sup>89</sup> on their file and nearly half (42%) were flagged as suicide risk (Ibid). This is particularly troubling given the evidence that segregation exacerbates the mental health problems that may bring people to segregation in the first place.

Most people who had been in segregation described it as a horrible and psychologically painful experience. People described feeling like they were “going crazy”, “looney”, “starting to see shadows or hear voices” from the isolation and conditions of confinement. Many described difficulty in getting the CO’s attention for basic needs or requests (i.e., telephone, sanitary products, etc.) and stated that no one cared about their conditions or needs during this time.

In this study, over a third (40% or 48) of the people that I spoke to had been in segregation – whether for administrative or disciplinary reasons. Anyone who is placed in segregation is subject to regular reviews to determine if their confinement is justified (Sapers, 2017). Over half of those who had been in segregation disclosed a mental health problem (57%), and seven people disclosed that they were placed in administrative segregation on suicide watch, like Frank.

### Administrative Segregation

Frank was coming down from his opiate addiction at the time of his arrival at Parkview. He said he made a sarcastic remark about the cleanliness of the admission area to one of the CO’s, whose response was to punch him in the face; prompting other CO’s to join in. During the medical intake that immediately followed this assault, Frank reported to the nurse that he was experiencing symptoms of withdrawal, saying that he felt like “spiders were crawling all

---

<sup>89</sup> A mental health alert is simply a notation on a prisoner’s institutional record that flags a mental health problem.

over him”, and that he was going to “ram [his] head into the wall if [he] didn’t get help for the pain.” Frank was placed in segregation on suicide watch for three days and had his clothes forcibly cut from his body while pinned on the ground by CO’s. While on suicide watch, he was clothed only in a security gown and given special meal trays without cutlery, forcing him to eat with his hands. He said kind guards would check in on him, but that he was mostly ignored and left alone. This is just one example of how medical needs (as they relate to addiction) are managed through a punitive lens (see also Pollack, 2009). Segregation and the degradation of having clothing forcibly removed demonstrates the way that needs are reinterpreted as security risks in these settings (Hannah-Moffat, 2004).

Frank’s reasons for being placed in segregation is indicative of the common demands placed on these facilities to manage and accommodate prisoners with mental health or addictions problems. However, there are others that are systematically segregated while in provincial custody. Transgender people in Ontario facilities are treated as a safety risk and at the time of my research, they were typically segregated from both sexes (see also Arkles, 2009).<sup>90</sup> Tina was the only trans-person I had the opportunity to interview for this study. She became known to me only after I was speaking to one of the unit managers on the female side, who asked if I wanted to speak to an “odddity” they had in segregation. The manager then added that she felt bad about Tina’s situation, because all they can do is keep her in solitary.<sup>91</sup> When we sat down for an interview, Tina immediately disclosed she was transgender and asked how I had come to know that she was in the institution. I politely stated that they allowed me to speak with any of the people in segregation (which in fact, was a lie). I asked

---

<sup>90</sup> Recall from Chapter 3 that there had been a policy shift since the time of this research that now meant trans-prisoners could elect to be held on a unit that corresponded to their gender identity.

<sup>91</sup> Tina was originally housed on the men’s segregation unit, but was eventually transferred to the female side.

Tina what it was like for her to do time on remand. She was “stuck in segregation just for being who I am.” When she complained to the staff about not having access to any of the programs on the female side, Tina said that they asked her what her sperm count was

[b]ecause they’re afraid that I’d get a girl pregnant... They had ping pong here last Friday and they take 2 girls from the unit and I’m like why can’t I play ping pong. It’s like right here supervised with the other girls who are on administrative segregation? We haven’t done anything wrong.

The fact that the facility wanted to know Tina’s sperm count demonstrated not only a very narrow understanding of gender and its relationship to sexuality; but more importantly, how the experience of transpeople in custody constitutes distinct gendered punishments (Arkles, 2009). Tina’s trans identity presents structural problems to a facility that operates within a gender binary, but it also allows for individualized punishments on the part of staff. On top of all of this, the nature of remand may amplify the difficulties for transwomen in particular, who require regular access to razors to maintain a feminine appearance. When she was first brought into the facility, Tina was housed on the male side. She describes how the nature of remand with regular court appearances could make her life more difficult:

Hard, it was male clothing. Showers every other day except for the weekends. And razors only twice a week unless you were going to court and then you’d get one the day before you were going to court. It be like if I went to court on Thursday I’d get a razor on Wednesday, and then if my shower day was that Thursday that I went to court then I don’t get a razor until the next week. So Thursday would have been my shower day, I was at court so Friday nothing, Saturday shower but no razor, Sunday no shower no razor, Monday would be shower razor, and then Wednesday. And then Friday wouldn’t be a razor. The only give it to you if the next day could be a court day. They slammed the hatch up there when you are trying to ask something and walk away.

Tina’s experience of custody revealed how her gender identity fundamentally shaped her experience and treatment by staff (Arkles, 2009). Even though she was eventually transferred

to the women's side, this did little to improve her daily living conditions as she was still in segregation. But as some of her comments suggest, how she was treated depended in part on the staff she was dealing with. One of the senior managers at the facility advocated for housing Tina on the female side – a first for this facility. Another staff member consulted Tina privately because her own child had recently come out as transgender. This complicated Tina's experience of custody, since she felt some pride in breaking down barriers at the facility. However, this did little to change the reality of her living conditions.

### Disciplinary Segregation

According to Ministry policy, when a prisoner is sent to segregation for disciplinary reasons, they are supposed to be adjudicated and sentenced by a manager. Additionally, they are entitled to an appeal, and to a pamphlet about their rights while in segregation. Thirty percent (14) of the people who spent time in segregation were given options to appeal their confinement. Part of the rationale for the adjudication is to ensure that people know when they are to be released from segregation. Yet, those who were sent to segregation for disciplinary reasons uniformly stated they were sent to segregation before they were adjudicated or sentenced. If a person was adjudicated, it often happened at the end of the process, and as Ivan explains, this could be easily manipulated by staff.

Let's just say the rules are when you go to seg, within three days a white shirt is supposed to see you and sentence you to how long you got to stay in the hole.<sup>92</sup> But there was times where I went in the hole they don't even see me in two weeks, but the misconduct is only for three days, the most or a week. And sometimes they'd take two to three weeks to come see me, and by the time they'd come and see me they'd say 'ok you got a couple days left', or more, whatever. So that's how they could just manipulate the procedure of that.

---

<sup>92</sup> A 'white shirt' is a colloquial term for a manager. CO's were usually referred to as 'blue shirts'.

Ivan and others I spoke to suggested that prisoners held in solitary are often confined for an unknown duration until they are about to be released. In the remand context, this can amplify the uncertainty prisoners face on a daily basis. Not only do they struggle with the unknown outcome of their case and imprisonment, but their segregation from the general population can also be for an unknown duration. Importantly, this is all occurring in the context of legal innocence.

Still others had an experience that demonstrates how the practice of segregation can be hidden from official records. During our interview, Mary told me she had recently spent time in segregation because of a fight with another prisoner. She was not adjudicated or told how long her time in segregation would last, and even though she asked for the pamphlet explaining her rights, she was never given one. Although Mary understood that the failure to adjudicate her was a violation of her rights, what bothered her most was that upon her official release from segregation, she remained in solitary confinement in a makeshift arrangement in her cell, where she was denied access to the range and remained isolated from others. As she said:

The worst part about it was... Fine, they didn't give me the human rights book but they put me in the [seg] cells. But [after] they put me in the cells at the very very end [of the unit] and they put a curtain over it, and they said – we have to move you [back into the unit] slowly, we can't give you [a cell mate] yet. Oh, and I can't go out for day room. So I'm still in seg, but I'm in a cell.

By circumventing the formal practice of solitary, this period of confinement may be hidden from official records and is one of the ways in which the practice of solitary confinement can be manipulated by correctional officials (see also Sapers et al., 2017).



## Protective Custody

Protective custody (PC) is a designation for prisoners who either elect to ‘sign-in’ or are assigned there upon admission into the institution. Typically prisoners elect to go PC or are assigned there because the nature of their alleged offense would put their safety in jeopardy on a GP unit. For example, those charged with sexual offenses and crimes against children are almost always directed into PC beds upon their entry into the institution for safety reasons. The PC units I was able to visit inside men’s facilities or units of mixed-sex facilities differed depending on the institution. Yet, daily life on these units looked much the same as in other units (i.e., prisoners had a cell mate and the same daily routines and schedules as GP prisoners, but were simply housed along with other PC prisoners). Importantly, this meant that even though these prisoners were PC, they had the relative ‘privileges’ associated with a regular living unit in that they could expect regular time outside of their cells. At one men’s facility (Brookdale), the PC population outpaced the available bed space, and meant that at the time of my interviews, men were tripled bunked in cells. This meant that one prisoner slept on the floor while two others were assigned to bunks. At Parkview, fully half of the male population was PC, a problem noted by prisoners and staff at this facility as rooted in the specific problems of violence at this site, originally discussed in Chapter 3.

For women, protective custody is a resource problem that has been structured into the daily operations at facilities that house women across the province. Women need PC for the same reasons men do: some of their charges mean that they cannot be safely housed on regular GP ranges. Recall from Chapter 3 that Greenhurst was only one of two facilities in the entire province that had a PC unit. Yet, this two-tier unit was in fact split with a mental health unit. Those on the cellblock’s lower level were mental health prisoners who were single-celled.

On the top level of the cellblock, PC women were double bunked in cells designed for a single occupant, meaning that one prisoner slept on the floor. All prisoners on this unit shared access to the day room on a rotational basis, described in Chapter 3, which meant that each population was locked in their cells every other day to allow the other group access to the dayroom during ‘unlock’ times. This PC arrangement was a particular point of frustration for one of the managers I spoke to at Greenhurst who highlighted the gendered nature of this provincial wide shortage:

PC is there [shared with the mental health unit] because nobody thought women were PC. We don’t have PC women. They all hold hands and sing ‘Kumbaya’. And that’s what happened. They were taking up seg because they were coming in for the violence, and the other prisoners do take exception to that, and, unfortunately, the women who get involved in that kind of crime that is distasteful to other prisoners usually don’t keep their mouth shut... Since Greenhurst opened in February 2003, women have been sleeping on the floor [in PC] because there’s not enough beds. (Hilary, senior management).

Vanessa is one of the women in PC at Greenhurst. She was in PC because the nature of her violent sexual crime meant she could not be housed on a GP unit. Vanessa and her cellmate take turns sleeping on the floor, but she does not complain about that. Instead, she’s grateful for the opportunity to be housed on a range. Her charges originate from another region, and when her court dates near, she is transferred back to a separate facility that does not have PC beds, meaning she is housed in segregation. Confronting this reality, Vanessa asks:

How many women in this province are being forced to live in solitary confinement because our correction system is not appropriately equipped to deal with PC women? ... I don’t know how many facilities you’ve been to, but here and Ottawa are the only places that have female PC. I was thinking, I wonder how many women across Ontario are living in seg because there’s no PC? Like how can you just let somebody live in seg and why as women PC is obviously becoming more and more of an issue as time goes on, why doesn’t the system – I know not every jail could have PC but why are they not creating something so these women are not having to live in seg. Why is PC women so limited when PC men is so abundant?

These comments highlight how gendered assumptions about women's use of violence – or lack thereof – are structured into these institutions. The inability or unwillingness to view women as violent or as having the potential for violence means that women who transgress those boundaries are subject to additional punishments.

## Lockdowns

Lockdowns are a regular feature of institutional life. A lockdown refers to the confinement of prisoners in their cell. This is not a select punishment of individual prisoners – lockdowns occur either for full unit(s) or across the entire institution. Lockdowns typically happen for one of two related reasons: security and labour issues. Lockdowns for security reasons arise mainly because of physical fights among prisoners and/or because of the infusion of goods into the illicit prison economy. Prisoners suspected of or known to be carrying contraband can set off a wave of institutional searching that can result in partial, full-day, and multi-day lockdowns. Recall from Chapter 3 that the start date at one of the research sites was set back three full days due to an institutional lockdown. In that case, pieces of a lighting fixture had gone missing, causing concern about the potential for violence. Lockdowns because of labour issues happen because of staff shortages. There is a ratio of prisoners-to-staff that needs to be met in order for a unit to operate under normal conditions. If there are insufficient staff to run the unit, the prisoners on that unit may be locked down. At the time of my interviews, correctional services in Ontario were grappling with a major labour shortage that resulted from a three-year hiring freeze between 2010-2013 (Sapers, 2017).<sup>93</sup>

---

<sup>93</sup> This often interfered with data collection, particularly during the summer, and caused routine lockdowns at the facilities where I conducted my research.

During the time of my interviews, prisoners were experiencing frequent lockdowns. Nearly all of the people I spoke to had experienced an institutional lock down at some point during their detention (94% or 113). About a third of these people had experienced fewer than 10 lockdowns (35% or 41), but nearly as many (28% or 34) had been locked down over 50 times. Most often, these would be partial lockdowns that would occur during one or more of the unlock periods (usually, in the evening between 6 and 8) but experiences of full or multi day lockdowns were not uncommon.

Official data on the practice of lockdowns is not publicly available. However, *The Toronto Star* – the largest daily newspaper in Canada – recently conducted an investigation into the practice of lockdowns across Ontario, based on data they obtained through freedom of information requests (Vincent, 2015). They received data on all custody facilities in the province for the year 2014, which was when I was conducting my fieldwork. Three of the four facilities with the largest number of lockdowns were research sites for this study:

Sunshine had 199 lockdowns over the year, Parkview had 192, and Brookdale had 120.

Most of the people I spoke to expressed frustration at the frequency of lockdowns, or talked about the difficulties associated with the additional time that they were confined in their cells and restricted from the relative privileges associated with access to the dayroom.

Derek said that he has experienced a few multi-day lockdowns and about 20 lockdowns in total. When I asked him to describe what lockdowns were like for him, he said:

Recently we've had a lot, we've been locked down each night. I remember the day I came back from my bail being denied, we were locked down for like three days, I came back into the lockdown. I was in the cell by myself with no TV, I couldn't see the TV from my cell, and yeah, I was there for three days by myself. The first day, a lot of things were going through my mind, I was going crazy those first hours being locked up because it was my first time experiencing one... we've had a few after that.

The longest I've had was a four-day lockdown... Makes the time go by a lot longer, slower.

To some extent, the conditions of a lockdown depend on whether you have a cell mate or not. This is not always in ways that are clearly better or worse. Some prefer to do lockdown time with a cellmate so that they do not feel so isolated. Others prefer to be alone because the close quarters are made smaller and more degrading when shared. Those with cell mates must confront violations of their privacy during a lockdown when dealing with some of the basic functions of the human body. Jade cringed at the mention of lockdowns, since she refuses to use the toilet when locked down with another prisoner.

Jade: Yeah, I don't really do that, right? I try to hold because, like, if we get locked down for three days, you know, I have to hold. I don't do...

HP: You won't go to the bathroom?

Jade: No.

As a result, Jade gets "really sore" during lockdowns, an example of some of the ways in which prisoners can inflict punishments on themselves or others because of the restrictions of the institutional environment (see also, Walker, 2016).

As with so many aspects of the remand experience, uncertainty was another consequence of lockdowns. Not being able to anticipate when you can get back out on range, make phone calls, and resume a sort of routine inside the institution increases the uncertainty that already characterizes life on remand. As Jayden explains, lockdowns are "Stressful. Not knowing. The not knowing is the hardest part."

The experience of being on lockdown was not uniformly negative, however. In fact 13% (16) of the people I spoke to said they enjoyed lockdowns, and another 20% (24) stated that their experience of lockdowns is not all bad. Part of what conditions this response is that the

remand environment – much as it is uncertain – is also riddled with boredom because of the lack of programming or other activities; and the lack of suitable outlets to relieve the stress of uncertainty of remand can animate the chaos of life in the facility. As a result, lockdowns can create a break from the dynamics on range for people such as Deanna, who did not mind the extra time in cells.

Well, sometimes it's actually better because... just depending on... if you're locked down, hopefully your cell mate is reasonably, you know, accommodating or whatever. You can share the cell accordingly, but I don't mind being locked down as long as you know why and for how long, and sometimes it's kind of nice for the quiet time. Sometimes it's just like a bloody zoo... like, really, a bunch of animals yelling and hollering and, like, I just... I want to stay locked down.

As Deanna suggests, lockdown time can be a relief or respite from the relative chaos of life on range. Others understood that lockdowns can be a management tool, as Larry explained:

They have to do lockdowns, it gets everybody to calm down. Lock down can be a good thing. But when somebody doesn't show up for work Saturday night because they are out partying, not a good thing.

Indeed, many of the prisoners and staff I spoke to cited staff shortages and labour problems as the primary driver of lockdowns. As Ivan, who we first met in the discussion of segregation, explains:

This past two weeks it's been almost every day – like half days or full days. It's because summer is ending. Before they used to do it whenever, however often, but this past year they got smarter so they pick which times; so I knew it once they started it cause it's the last two weeks of summer, it's almost every day. So right after Labour Day, it's starting to go back to normal. And [emphatically] back in the days, holidays used to be lockdowns but now every holiday there's no lockdown because they get overtime pay. See, nothing move but the money.

In fact, some facilities in Ontario had such major labour challenges that they instituted set lockdowns, as Lynn describes:

At [the other facility]<sup>94</sup> what they did in the summer because all the staff call in sick all summer long, so what they decided to do was post mandatory lock down days. So no matter what we were locked down Mondays and Thursday or Mondays and Sundays or Wednesdays or Saturdays to accommodate for these people not coming to work. Like how do they possibly get away with that? And I just sent a notice to my lawyer after all this bullshit and getting sent here I finally understand why I never ever worked with a union or in the public sector because this is just ridiculous. How do they get away with treating people like this?

Although remand prisoners and staff both pointed to the labour shortages as the primary driver of lockdowns, prisoners also contributed to the likelihood of lockdowns. Prisoner-related lockdowns in the remand context are rooted in a deeper problem: the churn or number of admissions to remand custody. Admissions disrupt the regular routines of prisoners through a constant cycle of individuals in and out of the community. On the men's side, people are forced to mix across neighbourhood or racial lines in ways that produce or exacerbate the tension between masculinity and violence in these settings (Jewkes, 2005). By and large, the violence that results from the churn of remand is a male problem. Gavin, a self-described 'one-percenter' described it in this way:

On a daily basis, you might have to deal with anyone from a predator who's used to sexually assaulting guys. Like, they always think a rapist is raping women. There's a lot of guys who rape men. There's a lot of super alpha males who only rape alpha males. As a sign of control and dominance. So, you might have to deal with that on a day and you might have to deal with an actual crazy person. They don't have a crazy place anymore. They put the crazy people here. And unfortunately, crazy people like to work out a lot. And crazy people learn how to fight, so you get crazy, super fit and violent all in one. Being an older man, and being a quasi-leader, I'm put in the position where I have to deal with everything that comes through the door – whether it be a rival gang member trying to start a fight with a guy, whether it be five guys trying to jump a guy, whether it be a guy who's physically attracted to another guy and has it in his head he's gonna rape him. So I have to deal with all that on a daily basis.

As Gavin's comments suggest, the churn of remand creates uncertainty for prisoners and can amplify the problems that masculinity poses for men in these settings.

---

<sup>94</sup> This facility was not a research site for this study.

Female prisoners rarely spoke of violence and even then, it was not described as serious. For female prisoners, lockdowns often stemmed from searches for contraband brought into the institution through the cycle of new admissions. This problem was also noted by healthcare providers, who stated that one of the differences between men and women on remand is women's greater ability to smuggle in illicit drugs. Though this can add to the challenges of obstetrical care in these settings, it can also increase the likelihood that prisoners caught with contraband will cause the entire unit to get locked down. Yet, for women in shared-sex facilities, lockdowns could also be the result of problems on the men's side. This was made clear by Vicky who described her experience of lockdowns:

It's just ridiculous. It really is. Considering it's the boys, we have nothing to do with the boys. Our section is blocked off from them so when they have weapons why are we locked down? Like, you know, I get it that they can send it through food trays and laundry and stuff, but if they're locked down then there's no way of it getting to us. And then if we do something wrong, the boys don't get locked down, but if they do one thing wrong we're locked down immediately so it's not right.

Even though both women and men can be at risk of a lockdown owing to the other's behavior, men never stated they had been locked down as a result of an incident on the women's side. Yet, several women talked about how they were regularly locked down because of men's behavior. This had the effect of increasing the tension on women's units, just as it did on men's units.

Regardless of the reasons for a lockdown, these were a regular feature of institutional life for remand prisoners (Vincent, 2015). This was animated during my data collection by a years-long hiring freeze that increased the likelihood of staff shortages on any given day and particularly during the summer months. On top of the labour shortages, the nature of remand imprisonment and the churn of admissions produced a constant cycle of new admits that



could disrupt life on the unit in ways which increased the tension or infused the illicit economy. Together, these factors increase the likelihood of lockdowns and the nature of uncertainty in these settings.

## Disrupting Dysfunction

Overwhelmingly, the people I spoke to described the ways in which their arrest and experience of life in detention disrupted their lives, with both immediate and long-term negative consequences. However, my analysis would be seriously flawed if I did not address the fact that many of the people I interviewed had a more complicated experience rooted in the fact that while in custody, they were able to address their basic health and welfare needs in ways they could not in the community. This unsettling paradox has been noted in other work. Indeed, Comfort's (2008) study of the wives and partners of men incarcerated in San Quentin has highlighted similar complex and contradictory aspects of imprisonment. In the following discussion, I unpack this perplexing proposition: that in the context of the erosion of the welfare state, the prison is one of the few places where those who live on the margins can access basic health and welfare services that have disappeared or are unavailable in the community. In this sense, the time spent in custody can actually mark a reprieve or improvement from even worse daily living conditions in the community (see also Comfort, 2012; Conklin et al., 2000; Kruttschnitt, Gartner, and Miller, 2000; Kruttschnitt, 2005; Henriques and Manatu-Rupert, 2001). The relevance of this problem for remand prisoners lies in the nature of their lives before their arrest. Here I would like to begin by highlighting select measures of disadvantage across the sample.

Table 12: Select measures of disadvantage

Child welfare contact as youth	32% (38)
Housing precarity/homelessness	33% (40)
Welfare/disability	48% (57)
Unemployment	54% (65)
<u>Health status</u>	
Addiction	68 % (82)
Mental health	53% (63)
Concurrent/comorbidity	47% (56)
Recent hospitalization	18% (21)
Total	100% (120)

In Chapter 4, I argued that the moment of arrest and subsequent detention are incredibly disruptive forms of state intervention that can have immediate and cascading consequences on individuals and others. Yet some people, such as Randa, retrospectively recast the moment of arrest as rescue from addiction and/or others struggles they may face in the community:

[It was] bittersweet in a way because I was happy that I could have another chance to get clean and get my kids and have the life I want to have. You know, I felt like I was arrested, but in another way I felt that I was rescued.

Randa was one of many people who reframed their arrest as rescue from life in the community. But Sharon's experience of arrest was literally life-saving:

Cause the whole situation I got here – I actually OD'd. They found a lot of drugs down my pants when I was OD'ing [during the arrest] so I went to the hospital and they had to give me narcan<sup>95</sup> – you know that the needle that you have that stabs you in the chest? So they did that at the hospital and they had to carry me to court because I was so fucked up from that, so it was really hard. So my first three days here I didn't remember anything, and so I'd probably be dead if I wasn't in here. This is the first time I've been off of heroin since I was 16 years old.

<sup>95</sup> Narcan is the brand name for the drug naloxone that is used to reverse the effects of overdose.

Sharon's and Randa's experiences and histories of addiction are telling of the larger problems facing those who are multiply disadvantaged. The retrenchment of welfare services means there are service and care gaps in the community, and when people fall through those gaps, the criminal justice system may be the only state institution that cannot refuse care (see also Watkins-Haies, 2009). In Sharon's case, had the punitive arm of the state not intervened, she would have likely died. As one healthcare worker told me:

They need... like, there's no other way they're going to get it. If they come here, that's why I say jail is not always a bad thing for them because they come there. Yes, they lose certain rights and privileges, but they wouldn't get better or they wouldn't get the resources that they would need. They wouldn't know of that so they need to... sometimes they do need to be here, unfortunately. From my health care perspective, it's absolutely a blessing more times than not.

Indeed, this was not the only healthcare worker who pointed to the medical benefits of coming into custody. One healthcare manager told me that she found this problem to be particularly pronounced in the female population, which she said in general suffered from higher rates of addiction and mental health issues (Andersen, 2004). She continued:

Mostly they come in because of addictions and abuse and alcohol, and sometimes it's their way of coming in to clean up, to get clean. "I need a break. I'm going to die if I don't." You know, it's almost like jail is saving them. Come in. Get clean for a while. Get healthy. Put on some weight. So they're looking to get better.

There are significant problems that arise when welfare services are deployed within a maximum-security institution. Because of that, people's welfare needs can also become ways in which they can be further punished or degraded. A telling example of this was offered by one correctional officer, who told me that the police should have a "DNA" (Do Not Arrest) policy when it came to those who suffered from addiction. As he put it, "arresting them saves their lives" because they gain access to basic health and welfare services in the facility. In his view, they should be left to die on their own. This was the most vivid illustration of the

general disdain and hostility I witnessed from correctional officers towards prisoners who were multiply disadvantaged, but others stories emerged that were telling of the argument that prisoners “can’t have it both ways” with regard to treatment and incarceration (Pollack, 2009).

For those who struggle to get by in the community, time in remand can disrupt cycles of poverty in ways that influence their engagement with the court process. The by-product of this retrenchment of welfare services is that it can incentivize the prospect of incarceration in a way that leads some to waive bail or plead guilty, as Judy describes:

Judy: I just waived my bail a lot of the time. Cause I knew I wouldn’t get it, so.

HP: How do you know you’re not gonna get it?

Judy: How do I know? Because I don’t have anybody to bail me [laughs].

HP: And how does that make you feel? Do you think that’s fair you can’t get out because of that?

Judy: It doesn’t bother me. It’s better than living on the street, I don’t have to worry about where my next meal is coming from. I don’t like it here, but it’s better than having nothing.

Because Judy lacks community support and secure housing, her daily living conditions in custody are an improvement upon her life on the outside. Those who rationalize their experience this way often used the phrase “three hots and a cot” to explain the minimum standard of care in custody. And because this standard of care is a requirement, prisoners can come to rely on the certainty of these basic services while in custody. Here it is important to recall the uncertainty of these environments and the larger system of remand. In a liminal space where everything is uncertain, one of the only things remand prisoners can rely on is the provision of regular meals and shelter. And for some people, these basic services represent a material benefit over the conditions of their lives outside of the institution.

## Dislocation/disconnection

Since remand prisoners are not sentenced, they are restricted from discharge planning inside facilities, which exacerbates the challenges in preparing for their release. Indeed, discharge services are only available to those who are sentenced to a period of 30 days or more in the institution.<sup>96</sup> The lack of discharge services has been noted for some time in jails (see Freudenberg et al., 1998; Burke et al. 2006), but an examination of the individual experience is revealing of the broader forces that shape the disruption and consequences of life in detention.

When I asked Brian about the challenges that he would face upon his eventual release, he said:

Same as all the time. Not going back to the same lifestyle... cause you can't even get a plan for when you're released here, they kick you out the fucking door, or you get out at court. Then you don't even get your shit sent, so you come back to the jail and get your shit in 90 days or it's getting thrown out, and that's it. There's no admission or dismissal.

Ashley helped to illuminate how logistical challenges and institutional location also shaped the initial hurdles post-release:

Huge, huge. Because like I said they won't allow you to have [bring your] property [to court]. Think about this, if your wallet and keys are here, how are you going to get back here if you don't know anybody, you don't have anybody to drive you? It's impossible - you have to come back or you lose it after 90 days.

Ashley went on to tell me that the courts will typically give her a sentence of 'time served' after a short period in remand, meaning that she is released from the courthouse instead of

---

<sup>96</sup> In 2015, there were 70,967 releases from Ontario correctional institutions (remand, sentenced, and other combined). Only 7409 (10.4%) of these prisoners had actually served 30 days or more as sentenced prisoners and would thus be eligible for discharge services.

the facility. And because the facility is geographically dislocated from the community, returning to the facility to retrieve essential belongings becomes “impossible”.

Staff also acknowledged that this arrangement poses some practical challenges for corrections, and in particular, A and D units that are tasked with the management of property. Allison explained that at her facility, staff were constantly inundated with requests to arrange delivery of personal items, such as wallets, upon a person’s release. In this manager’s view, this problem began when “the government created this system to warehouse prisoners through the construction of superjails”. That construction prompted the closure of small town jails in favour of large, austere, regional facilities, as described in Chapters 2 and 3. The downstream effects of those closures are that people’s basic needs upon their release – to retrieve their identification and belongings – are hampered by an infrastructure that is antithetical to the realities of people’s lives. Many of the remand prisoners I spoke to lacked the ability to get in a car and return to the jails they were incarcerated at, and this problem was made worse by the fact that at least one of the institutions was underserved by public transportation. In fact, those released from court in Sunshine’s catchment area might be able to retrieve a transportation voucher from the Salvation Army, but as that worker told me, there is no public transportation to take them back to the facility. As a result, people often leave the courthouse with no ability to retrieve their property or identification, which makes the prospects of stability bleaker for those living on the margins.

In addition, the infrastructure within the facilities also prevents individuals from actively preparing for their release and/or a continuation of care. Recall that there are no payphones in Ontario provincial facilities, leaving prisoners reliant on the collect-call system, which

permits calls to landlines but not cell-phones. Kelli explains the implications of this for her ability to prepare for her return to the community.

I can't call the main people I need to call because I can't call them collect, like doctors – you know, not really family, but doctors and other people that I can't call collect. Like CMHA [Canadian Mental Health Association] and, you know, people that I need to be involved with to keep my life stable and mental health stable – I can't get in contact with because I don't have the proper phone.

Kelli's experience helps to recall how the day-to-day challenges of life inside provincial facilities can create problems that extend beyond prison walls. What is particularly concerning about these types of restrictions is that they serve no purpose for bail or remand custody. They simply add to the punitive nature of pre-trial detention for those who are legally innocent.

Still others, who had temporarily improved their basic health and wellbeing in custody, also faced a disruption in care upon their release (Veysey et al., 1997). I first introduced Dan in Chapter 4 when discussing the immediate disruption of arrest; Dan vanished from his life while picking up dinner for his family. To complicate that disruption, I will pick up on his story. Dan was HIV positive and, while in the community, had been refusing to seek treatment. However, about two weeks before his arrest and at the urging of his common-law partner, he agreed to see a doctor who prescribed him medication. However, Dan was unable to afford the cost of the prescription drugs on his disability payments. When he arrived at the jail, he was immediately put on a special diet, and within two days, he was receiving the medication he needed. Within a week, Dan said, he felt a noticeable improvement in his health. However, Dan's health improvement was likely temporary in nature. Upon his release, Dan would be unable to afford his meds once more. As one healthcare manager explained to me:

Another big thing that happened with the Ministry... they're thinking for discharge planning also is the medications were not... some of the medications weren't covered under ODSP [Ontario Disability Support Program] so we have a guy, say, on remand in here. He's on a medication that's not covered under ODSP. He was a mess when he came in, and we got him started on meds. He's really starting to feel better. He's doing well. He's going to get... he gets out of here. He can't afford it so what good was it starting? (Sunshine healthcare manager)

The result is that for some people, the provision of basic services and the production of order while in custody are by nature temporary and unconnected with daily life in the community. And yet, what is most distressing about Dan's story is that even though the jail was a site where he could temporarily manage and improve his health, the jail itself produced his health status. Dan disclosed that some seven years earlier, while in detention, he was sexually assaulted by another prisoner and became infected with HIV. In a painfully ironic twist, the jail produced the conditions for its role as a social service provider. Because Dan was assaulted in the jail and did not have an appropriate level of care in the community, the jail became a site where he could receive needed care. Indeed, Hatton et al. (2006) also argue that the institution can sometimes produce the health conditions it has to treat.

## Conclusion

In this chapter, I have described the ways daily life on remand is influenced by the distinctive features of remand imprisonment. The sheer volume of admissions to these institutions—in contrast to federal prisons—makes remand environments unique custodial settings.

Additionally, the fact that most of the remand population cycles in and out of custody within one month means that these facilities are in the business of processing a steady stream of prisoners to and from the courts. Although they do not choose their population, these facilities are forced to house and provide a battery of essential services for whomever is sent



to them through the police and court institutions. Since jails cannot make predictions about who they will house that day, they operate the A and D department under the weight of uncertainty, and with the goal of getting through the slew of new admissions and returning prisoners. At one facility, this meant that up to 200 prisoners churned through their gates in any one day. This has significant downstream effects on life in these facilities, both for daily operations and for prisoners.

The ‘churn’ of remand on any given day, from an institutional perspective, is made up of prisoners who are returning from court and prisoners who are new admissions. Prisoners who return to the institution from court may be upset about their cases. In addition, they may bring court orders that instruct the institution on special care. While these orders are in part borne out of the restrictions in the provincial court systems, the remedies to these restrictions—with food, hygiene, or other welfare concerns—are downloaded to these maximum-security institutions. New admissions, on the other hand, bring a range of unknown potential problems into the facilities. They may require a coordination of health and mental health services that strain already bare resources. Although many of these people are in need of mental health and treatment services, they are managed and regulated under the correctional act while in provincial custody. Even though some healthcare workers attempted to engage the other institutions which could determine a person’s continuity of care, the result of the silos in healthcare regulation create cleavages of care. Taken together, both groups of prisoners present operational challenges for workers that amplify the problems of uncertainty in these settings.

For prisoners, the churn of the remand population also affects daily life in these settings. Not knowing who is coming back from court or who will arrive on a unit means that there is

uncertainty in daily life on these units. First, those returning from court may add to the tension on range, particularly if they have an unfavourable outcome. Those who are newly admitted to the institution can disrupt the dynamics of life on range by bringing in new people who may have street beefs with others in the facility. This was, however, by and large a male problem. Women, on the other hand, spoke more freely about the infusion of illicit goods into the facility through new arrivals. Yet, for both men and women, an unknown range of issues can walk through the door and is something that everyone has to deal with on a daily basis.

Other features of life inside these settings amplified the nature of uncertainty for remand prisoners. The management of special populations could place additional restrictions on prisoner's daily life. Those who are in PC or who have mental health issues could expect to be isolated or segregated from the general population of remand prisoners. Some of this was distinctly gendered in that PC women, for example, were often segregated because they were not assumed to need PC accommodation. Similarly, many of the prisoners in segregation were housed there simply because there was nowhere else to put them inside a maximum-security facility. This was particularly true for those suffering from mental health issues, who in general lacked accommodation in the provincial system, especially if they were on remand. Regardless of the reason they were sent to segregation, many described the worst part of this experience to be the uncertainty of their release. To be clear, this was not release from remand, but rather from the additional restrictions on their liberty while in segregation. Most importantly, these people were legally innocent and yet subject to the most onerous form of confinement inside maximum-security settings.

One issue that underpins the operation of daily life inside these facilities is the problem of lockdowns. Though this can be tied to the risk of violence and the influx of goods into the informal economy, a primary driver of lockdowns during my study was labour shortages. These shortages meant that prisoners were frequently locked in their cells, particularly during the evening unlock time, when programs were most likely to run. This disruption of daily life was in fact a regular feature of custody, and some prisoners came to depend on these lockdowns as a break from the chaos of daily life on the units. What was clear from my interviews was that the biggest problem of lockdowns was the looming uncertainty. When they would occur and how long they would last were two key features of lockdowns that made this additional restriction particularly challenging for remand prisoners, who already suffered under restrictive daily conditions.

Taken together, the picture of daily life in these settings for most people was extremely bleak. The deprivations of life on remand in particular were seen to be harsh and unfair compared to sentenced custody. Yet, for some people, these conditions were a net improvement on their daily life in the community. To understand this unsettling paradox, it is important to recall that many of the people in these settings, and particularly those who cycle in and out of these facilities, are living on the margins and may be battling with cycles of addiction, poverty, and homelessness. This cycle can be disrupted by the state through an arrest in ways that provide for people's basic needs—for shelter, clothing, and meals—that are unmet in the community. However, I found that the temporary nature of this reprieve added to the general disruption of remand more generally.

Indeed, regardless of a person's experience in custody, remand imprisonment is by nature temporary. The temporal and event uncertainty of remand imprisonment means the

institution does not provide any discharge planning for those on remand and individuals are left to pick up the pieces of their lives when they are disposed out of the system through the courts. Even though remand imprisonment may temporarily bracket poverty (Marchetti, 2002), without plans for their return to the community, people are likely to lose any stability they might have gained upon their release.

## Chapter 7

### Conclusion

The goal of this study was to develop a systematic account of the remand experience, and the challenges that remand imprisonment poses to those caught up in the process and to the facilities tasked with their custody. I have tried to draw attention to the distinctive features of remand by pulling apart its temporal dimensions: arrest and police custody, bail and courts, and daily life in the facility. This revealed the importance of the disruptive nature of remand imprisonment, and the role of uncertainty in reinforcing, punctuating, and deepening this disruption.

Similar to others who have studied jailed populations, my findings highlight the fact that much of the punitive nature of the remand experience occurs in the days and weeks following arrest. My findings advance this literature by showing that the immediate circumstances of an individual's life at the time of arrest and their treatment by police can exacerbate the sting of the transition from the community to custody.

I also found that, in navigating the bail process, individuals face a custody system that subverts prisoners' attempts or efforts to meet the requirements of the courts. Phone systems cannot call outside lines, leaving people unable to make contact with sureties, who the courts have increasingly come to rely on in Ontario (Myers, 2009). Perhaps more troubling was that the surety requirements were at odds with the realities of people's lives, and meant that many people languished in custody because they did not have a (suitable) surety to secure their release. Furthermore, this surety requirement downloaded state and policing responsibilities

to individuals who may use that authority to manipulate or coerce accused people in ways that pose serious concerns about the use of sureties.

Remand prisoners grapple with the legal uncertainty of their cases in maximum-security facilities, where a scarcity of resources means that prisoners have virtually nothing to do while on ‘dead time’. On top of the gruelling conditions of confinement, remand prisoners must endure the operational uncertainty that stems from the churn of people in and out of the institution. Each day, the population inside remand facilities is infused with a new group of individuals from the community who may bring a wide range of potential problems into the facility. This churn also presents a host of challenges for front-line staff, who must process and house whoever walks into admission and discharge, directed from the police and court institutions. With few resources to deal with the growing remand population, a large portion of which is in need of mental health and addictions services, these facilities struggle to house, accommodate, and provide care for people who often are in correctional institutions for reasons related to their health and welfare needs.

In this chapter, I revisit some of the main findings from my interviews with 120 prisoners and 40 staff about the experience of remand imprisonment and the challenges of managing this population. Throughout this discussion, I gesture to ways we might think about addressing some of the major shortcomings in policy or practice revealed or restated by this study’s findings. Finally, I consider the importance of taking a broader approach to our understanding of imprisonment and criminal justice contact, an approach that emphasizes the inter-connected responsibilities and challenges of the variety of organizations and actors involved in remand imprisonment.

## Key Findings and Recommendations

In Chapter 4, I considered the role of arrest as disruption. The sudden nature of most arrests means that people are unprepared for the abrupt and sometimes violent transformation from life in the community to life in custody. This has a host of consequences for a range of immediate concerns—such as housing, property, jobs, and dependents—and needs—such as legal advice, basic health and welfare—that people typically confront while in police lockups. Policies (or lack thereof) regarding notification of next of kin following arrest leave most people dependent on the goodwill of individual officers to make outside contact. Depending on the circumstances of their lives at the time of their arrest – including what they were doing or wearing, whether they were alone or with others – people can literally vanish from their lives upon their arrest, in what amounts to a state-organized abduction.

What is most interesting about this part of the remand process is that the means to address the problems are not complex. First and foremost, the sheer number of criminal cases that start in bail court suggest that police are not utilizing their powers to release as set out in *The Bail Reform Act* of 1972. Recall that in all but the most serious of offenses police have wide latitude to release accused people before their first court appearance. Others have hypothesized that police are “passing the buck” when it comes to making release decisions (Webster et al., 2009; Myers, 2013); doing so, I found, has enormous costs to those subject to arrest and police detention, exposing them to some of the most traumatic aspects of remand imprisonment. Indeed, the nature of some detainee’s experience of police custody reveal that future research should consider and take seriously people’s experiences of arrest and their treatment at the hands of police in order to understand and advance empirical and theoretical work on punishment. On a more practical note, it seems clear that the spirit and intention of

bail laws should be followed more closely in order to minimize the damage to accused people at this early stage in the process.

Once arrested, people are in need of personal calls. Yet, they find themselves in a position where their only legal rights to communication are one phone call to an attorney. In reality, this call did little to address the many concerns that flow from arrest, and simple changes could address the fact that people need to be able to communicate with the outside world upon their arrest. These calls are needed to tend to any immediate welfare or security needs in the community (to secure housing, arrange placements for dependents or pets, etc.). On top of these personal reverberations of arrest, calls are necessary for engagement with the bail process, and specifically, the arrangement of sureties. The result is that all those detained in custody would benefit from allowances for personal calls, and in the event there is concern that this would interfere with a criminal investigation, an officer could make a notification call to next of kin.

In Chapter 5, I described the manner in which prisoners were required to attend court and their barriers to gaining release on bail. This revealed that some of the most harmful and degrading parts of the detention experience are the hardships people are forced to endure to attend court—in particular, the shackling, transporting, meagre food rations, and arbitrary restrictions on what they were allowed to wear.<sup>97</sup> For this reason, the vast majority of prisoners preferred to make routine appearances (especially requests for adjournments) over the video-conference system. Indeed, remand prisoners in this study advocated for an

---

<sup>97</sup> Publicly available data from Statistics Canada suggests that Ontario in 2015 spent an average of \$215 per day per prisoner. It is likely that the total cost of remand prisoners is considerably higher than that, given the added costs of transportation and court supervision of remand prisoners. One suspects that the issue of adequate food for prisoners who are moving back and forth between prisons and courts is not one of cost.



increased use of the video-link system, which would allow them to appear over video in court for a wider range of purposes. For example, at the time of my research, guilty pleas could be conducted via video in only one region. Expanding this to all courts with video conferencing capabilities might be a suitable starting point. Yet, given the evidence of unfavourable outcomes for bail appearances when conducted via video (Diamond et al., 2010,) more research is necessary before a full expansion of video technology should proceed. More generally, however, if more effort was put into resolving bail issues at the first (or perhaps the second) appearance (e.g., by allowing better communication between the person arrested and those in the community), then many of those who were detained would be less in need of any type of appearance until their actual plea.

To secure their release, prisoners in this study were almost invariably required to obtain a surety. There are three main problems that stem from the surety requirement. First, to contact a surety, one needs access to a phone system. Inside provincial custody facilities in Ontario, prisoners are restricted from calls to cellular phones through an outdated collect call system. Consider what this might mean if you were arrested. Would there be someone you could phone on a landline who might act as your surety? Could you recall their phone number from memory? If not, you might end up like many of the people I spoke to who struggled to or were unable to make bail plans under these restrictions. Moreover, these communication barriers are antithetical to the aims of the bail process, and effectively prolonged or denied prospects for bail release for many of the people I spoke to.

Second, I found that the courts' reliance on sureties was based on normative understandings of people's intimate and social networks that did not accord with the reality of most people's lives. An assumption that an arrestee has a willing and ready base of support that can

intervene to assist with bail release is flawed and does not account for the fact that many of the people who cycle in and out of these institutions struggle with addictions and/or mental illness, poverty, and homelessness, which may have damaged or strained personal relationships (see also Comfort, 2016). Though some may have friends or family who can intervene, many people are drawn from communities or embedded in networks subject to disproportionate criminal justice contact that may make their family members and friends ineligible to intercede. On its face, this ostensibly neutral surety requirement produced unequal consequences in that those who did not have what the courts could deem as appropriate supervisors had virtually no prospects for bail release. In addition, some people's experience of the surety system is revealing of a more sinister by-product of this state-sanctioned responsibility: manipulation or coercion by sureties who rely on the threat of 'pulling bail'. The seriousness of some people's experiences with sureties suggests that there are immediate and pressing concerns with the surety process that call it into question.

Perhaps most importantly, the courts' reliance on surety release described by those in this study seems to contravene the spirit and purpose of bail laws in Canada—as described in Chapter 2—and may be a violation of an accused person's constitutional right to reasonable bail (JHSO, 2013). Indeed, the Supreme Court of Canada (SCC) recently took on the issue of Ontario's "over reliance" on sureties, in a ruling that addressed some of the more general problems in bail administration and variation across Canada, "despite the fact that the Code applies uniformly across the country" (para 65, *R v Antic*). In *R v Antic*, the Court stated that the "ladder principle" for bail release—where a justice must not order a more onerous form of release unless a Crown can demonstrate why a less onerous release was not appropriate—"must be adhered to strictly" (para 67 s. d). According to our bail laws "A recognizance with

sureties is one of the most onerous forms of release. A surety should not be imposed unless all the less onerous forms of release have been considered and rejected as inappropriate.”(para 67 s. g). This decision makes clear that bail courts in Ontario need to fundamentally rethink their reliance on sureties and adhere to the legislative intent of bail.<sup>98</sup>

Future research on sureties needs to address three main problems. First and foremost, researchers should attend to a surety’s legal comprehension of their responsibilities. Given that many people in this study stated that their surety’s lacked a basic understanding of their role and responsibilities, it may be useful to explore first-hand accounts of sureties’ legal comprehension to determine if this shaped their willingness to act on behalf of an accused person. Second, understanding how sureties adopt and carry out their state-sanctioned supervisory role could yield important information as to how partners, families, and personal networks become embedded (or not) in the fabric of the criminal justice system before conviction. This might include an examination of the ways in which sureties are asked or required to reconfigure their lives in order to act in this role, the ways in which sureties may be subject to additional scrutiny or observation by the criminal justice system, and any adverse or negative consequences of their assistance during pretrial release.

In Chapter 6, I explored people’s experience of daily life in remand settings. Similar to other accounts of daily life for remand prisoners (Freeman and Seymour, 2010), I find that uncertainty best characterizes the central experience of punishment before conviction. I add to this literature by highlighting the disruptive nature of daily life in remand settings, where legally innocent prisoners must grapple with the restrictive conditions of maximum-security

---

<sup>98</sup> The ruling also went on to address the issue of conditions tied to bail release, stating that they “must not be imposed to change an accused person’s behaviour or to punish an accused person”, which seems to speak to the separate issues of breaches brought about by the criminalization of addiction noted by many of the people in this study.

imprisonment, the navigation of their court case, and an unknown range of possibilities that stem from the flow of people in and out of the community and to and from the court system. On top of these issues, the threat of lockdowns (brought about, in large part, by a hiring freeze on correctional officers from 2010-2013) means that access to the facility's scarce resources for remand prisoners was frequently interrupted and that people were often locked in their cells for an unpredictable duration.

Importantly, the churn of remand admissions and the cycle of people to and from court is perhaps the single most distinguishing feature of the operational challenges placed on facilities that house remand prisoners (see also McCrank et al., 2009). This churn is managed through the admissions and discharge hub, where the individual needs of prisoners and the operational demands of the facility meet and mesh. Each new admission requires a range of basic services upon their arrival, and may require additional supports that cannot be known until their arrival. The flow of new admissions also brings in a population of people who are struggling in the community with mental health and addiction issues. As a "catch all bureaucracy" (Watkins-Haies, 2009), institutions that house remand prisoners are de-facto receiving agencies for police and court institutions. This has been noted for some time, as Rottman and Kimberly (1975, p. 358) have argued:

Jails are used to dry out drunks, to house people suspected of mental illness, and to shelter those who have no home. At times this is due to the absence of the organizations which might better care for these problems; in other cases it is because, though the organizations exist, they do not want the particular individual in them. The jail can thus become a repository for persons excluded from other isolating organizations for a variety of reasons, basically because the local jail is least able to resist demands for accommodations directed to it.

Based on my interviews with staff, I found that this population brought about a particular set of challenges for the remand facilities that housed them that have been neglected by prior

research. People who were ‘frequent flyers’ were in some ways easier to manage because they were known to staff, but in other ways, could be a greater challenge because of their need for welfare and (mental) health services that were secondary (or unavailable) within maximum-security remand settings. I explored this tension by focusing on healthcare delivery.

I found that one of the biggest challenges of healthcare delivery in the remand context is engagement with the court process. Anticipating when and how often a person will attend court is something that healthcare workers grappled with when working with detainees. Importantly, I found that to provide care for remand prisoners, healthcare workers depend on collaboration with both community partnerships and court officials. Future work might consider how these decisions are made and the role that healthcare and/or court workers may have in prolonging detention and relatedly, how and when the state intervenes to provide care.

An undergirding problem in the treatment and management of remand prisoners in custodial institutions stems from the differentiation between remand and sentenced prisoners. Remand prisoners are in a liminal legal space. Though there have been reasonable and probable grounds for their arrest, these accused people are still legally innocent. Their freedom has been taken away, and yet, they do not have the same support as sentenced prisoners. That they do not have the right or entitlement to many of the programs and services offered inside institutions often made the people in this study envious of the sentenced population. As an example, at some facilities, there seemed to be arbitrary differences between remand and sentenced prisoners’ access to canteen items (through the commissary) that gave sentenced

prisoners access to food items (such as pop and instant noodles) that are not available to remand prisoners (de Graaf and Kilty, 2016).

This suggests that remand prisoners' treatment might be improved if we took the position that a prisoner is a prisoner, and by nature of their imprisonment, they should be entitled to certain rights and privileges while in custody. If remand prisoners were treated the same as sentenced prisoners that status might entitle them to a minimum amount of discharge support. Recall that prisoners sentenced to over 30 days in provincial institutions are given discharge support. In Ontario in 2015, there were nearly 10 000 releases from remand custody for people who had spent a minimum of 30 days in custody (CANSIM). While a portion of those inevitably entered sentenced custody, a large number of this group would be returning to the community, without any support in place for their release (Gaetz and O'Grady, 2006).

Remand facilities might work toward the reintegration of remand prisoners in the community beginning at their intake. Even though there are a range of processes that unfold at this time, almost none of them have to do with these social work services—such as providing assistance with property retrieval, transportation, medication, and accommodation—that are typically needed to prepare for release.

## Remand as a Cross-Institutional System

At this point, it is useful to consider these individual components of the remand process collectively by relating the story of one prisoner. Prior to his arrest, Kevin was nearing the completion of his college diploma, and had plans to start a family with his fiancé, whom he shared an apartment with. Upon arrest—his first ever—Kevin found himself in police custody, where he was subject to a gruelling night in holding clad in only a paper jumpsuit,

which his large frame tore through almost immediately, exposing his backside. Because of dietary restrictions, Kevin could not accept the food provided him, and he spent the night cold and hungry in police cells. Kevin took some relief thinking he would be released fairly quickly through the bail process, given his clean record and family and community ties that could help to coordinate his plans for bail release. At his bail hearing a few weeks later, Kevin was shocked to learn that despite having a strong bail plan, including two sureties (a family member and a college instructor), he was denied bail on the basis that his release would threaten public confidence in the administration of justice (recall from Chapter 2 that this is called the 'tertiary grounds'). At this point, the reality of his circumstances set in, which were made all the more difficult by his fiancé's revelation that she was pregnant. Devastated at the prospect of doing time but determined to prove his innocence, Kevin waited out the trial process while confined to one of Ontario's superjails.

At the time of our interview, Kevin had spent over two years in remand custody, where his greatest privilege and freedoms were tied to the fact that he was a unit cleaner, meaning he had access to the range during lock up times. Apart from this, there was little he could do to occupy his time or stem the tide of losses in his personal life. Though he and his fiancé are still together, the pain of his incarceration and the policies against touch visitation meant that he refused to allow her to bring their infant daughter to visits. Although Kevin had tried to fight against the policies on closed visitation on the basis of his parental rights, he recently abandoned his advocacy on this issue for fear that it may cause him to be transferred to a different facility, further away from his family. Summing up his experience of remand, Kevin told me:

The system as a whole – it's flawed. It doesn't - you're punishing those you say are innocent. You're punishing their family, you're punishing everybody. And that's the worse thing is that if I go to trial and I end up beating my charge you do nothing for me! I've already been stigmatized because everybody already knew I was in jail (...) and then you just walk out. You don't give me any money for lost wages, you don't give me anything! I lost my job, I lost my house, doesn't matter. It doesn't make any sense! And then you penalize us for things, like, you basically get punished again and again and again for the same thing. I mean I got arrested, I'm doing remand. Now I have no programs. I go to court and they tell me I gotta do programs, they punish you for that too. It just – it doesn't make sense. It's all pile on, there's no win.

This highlights the lack of recourse or redress available to legally innocent people when they are arrested and subject to the disruption of remand imprisonment, where it appears that there is little or no regard for the human costs of this process. In addition, Kevin's experience also points to the importance of considering remand imprisonment as a process involving several elements of the criminal justice system, where practices and decisions at one stage have repercussions for all subsequent stages. Although there is a tendency to understand and see people in custody as only prisoners, various institutions that contribute or intervene during the period of remand imprisonment should be brought into any discussion of prisons or the costs of incarceration. People on remand are not only prisoners; they also are detainees in police stations and defendants in court. Had I not asked people to describe their experiences with police and court institutions, I would have had an incomplete portrait of remand imprisonment. People experienced a range of extra-legal punishments, long before their conviction, that would have been missed through a sole examination of bail or case outcomes. By examining the human costs of remand, I found that the punitive dimensions of this process are vast and have been understated by previous research.

Policies and practices prisoners and staff described to me or that I observed through this research suggest that the criminal justice system often neglects or fails to consider the



“repercussive effects” (Comfort, 2007, p. 287) that flow from people’s total confinement or entanglements with police, courts, and custody institutions. Additionally, these institutions are not closed-off from the community; they are part of a system that processes people in and out of the community. This has day to day implications for the operations of remand facilities, which process a steady churn of people from the community and court systems. Many of these people require care that is unsuited to the mandate of correctional authorities (Haney, 2017, and that requires collaboration with community partnerships that are severely impeded by the real and invisible walls between them (Fellner, 2006). As one healthcare manager told me, the gaps between the management of this population in custody and in the community make clear that “the left hand just does not know what the right hand is doing”.

This points to the larger and more systemic issues facing remand facilities, which must provide basic health and welfare services that may be unaddressed in the community. For those who are most marginalized, the failure to address their needs in the community can produce or hasten a pattern of institutional cycling, where people go from one institution to another—including prisons—seeking basic welfare, support, and stability (Gaetz, 2012; Sered and Norton-Hawk, 2014; see also Comfort, 2007). While the state has a duty to provide for prisoners housed inside correctional facilities, it does not have this same duty to provide in the community. This is put into focus in Naveah’s story. As a child, Naveah was placed in the care of child welfare services. She had a series of abusive relationships and, additionally, struggled with addiction, mental health problems, and homelessness. She had four children who are all in the care of the state. By the time of our interview in the fall, Naveah had already been in detention four separate times since the spring. She said she was getting sick of her life and her problems. As she put it:

I can't function out there. Like I have to be in rehab, detox, treatment, jail, or in a half-way house. That's the only way I can function.

The gaps between welfare allotments, housing services, and drug and mental health programs leave people with complex-needs underserved in the community. Naveah, like many other multiply disadvantaged people I spoke to, had come to rely on the stability from state institutions like the jail. This dependency on the prison as social service provider does not neatly fit with traditional logics of punishment that assume prisons punish the poor (Wacquant, 2009) or push those undeserving of the prisons' social service function out of it (Lara-Milan and Van Cleve, 2016). However, it does suggest the importance of considering how and when the state intervenes to provide basic social services. For some, the basic services offered inside the prison – primarily, food and shelter – “temporarily bracket” (Marchetti, 2002, p. 428) cycles of poverty or addiction. However, in the absence of long-term solutions, these “remedial” effects “have little chance of persisting after release” (Ibid). These are issues I would like to more fully investigate in the future.

This study's primary concern was to develop an empirically-rich description of the remand experience, which has received little attention from scholars of punishment. A secondary interest was to examine the ways in which the nature of remand poses distinct challenges for daily operations in remand settings. Although these facilities are easy targets for critique, I have tried to point to some of the systemic issues that influence their operation and by extension, the experiences of the people inside. Indeed, as McCrank et al. contend:

Corrections can't fix the [remand] problem; it can only cope with it... The population – who goes to prison, when they arrive, and how long they stay – is the product of many decisions by many people corrections does not control or influence (2009, p. 16).

Without a coordinated reform effort that addresses long-term, systematic issues, fractured and one-off solutions to the remand problem are likely to continue. Indeed, even though the recent Supreme Court of Canada ruling has some people hopeful that a “sea change” is coming in the way that bail courts in Ontario operate (Manishen, 2017), this addresses only some parts of the system. Unless and until we engage with the full impact and human costs of criminal justice processing on remand prisoners, these legally innocent people are likely to endure some of the most traumatic and visceral experiences of punishment in our justice system.

## Appendix

### Characteristics of interviewees\*

\*The institution in which participants were held on remand is indicated by the letter in parenthesis following their name (S=Sunshine; B=Brookdale, G=Greenhurst, and P=Parkview). The individual names and institutional research sites have been changed to protect the anonymity of research participants.

**Adam** (S) – 34-year-old white man with a common-law partner and two young children, who were in the care of his parents. He had one prior conviction for which he spent two months on remand. He was arrested on drug-related charges over a month before our interview.

**Aisha** (G) – 20-year-old white woman, who was facing her first adult criminal charge for which she had spent over a year on remand. She had served sentenced time in youth custody, and had also been in the care of child protective services as a teen. She had a crystal meth addiction, and also had problems with her mental health.

**Alex** (B) – 40-year-old married white male with two children. He was charged with domestic assault and possession of an illegal firearm. He was a first-timer who had been on remand for 10 months.

**Alexis** (S) – 50 year-old white woman, divorced, with four adult children. She was on disability assistance at the time of her arrest, and had one previous experience with remand custody for a minor violent crime related to her addiction and mental health issues.

**Alicia** (G) – 31-year-old Black woman, who was separated from her husband (and co-accused), with whom she had a three-year-old son, now in the care of her father. She had been on remand for two and a half years, facing a charge of second-degree murder.

**Andrew** (B) - 39 year-old white male, with a two-year old daughter who he did not have custody of. He had been through foster homes as a child, struggled with addiction, and was in and out of both remand and sentenced custody as an adult. He had been on remand for three months facing two counts of possession.

**Anthony** (S) – 39-year-old Black man with young twin daughters that were being cared for by his partner. He had been on remand once before, and had been in for six weeks at the time of our interview on robbery charges. He decided to waive his bail hearing because he could not secure a surety.

**Anwar** (P) – 20-year old mixed race man who was living with his parents at the time of his arrest. He was an alcoholic and paranoid schizophrenic, and a first-timer. He was arrested eight months prior to our interview for first-degree murder.

**Ashley** (S)– 30-year-old white woman. This was her third time in remand for breaches, and the longest, at nine days. She doubted she would get released through the bail process as she did not have a surety and had problems reaching her addictions counsellor in the community.

**Ashton (P)** – 30-year-old white male, who was living alone at the time of his arrest. He grew up in foster homes, and struggled with addiction issues. He had been in and out of custody since he was a teenager, and was arrested 10 months prior on two counts of robbery.

**Bailey (S)** – 26-year-old white man with two young children who were in the care of his parents. Bailey had been in and out of custody since he was a teen, and had problems with alcohol and drug addiction. He had been on remand for a few weeks at the time of our interview, but explained that he wouldn't get bail because of his record of breaches.

**Ben (B)** – 39-year-old white man, with a common-law partner with whom he shared a home. He was arrested and charged with aggravated assault and sexual assault against a minor, for which he had gone to trial and been found guilty. After 31 months in remand custody, he was still awaiting his sentencing.

**Beth (S)** -- a 20-year-old mixed race woman with one child. At the time of her arrest, Beth and her five year-old-daughter were living with Beth's father, who was acting as a temporary guardian for his granddaughter. Beth was on remand for three days for minor non-violent charges that were characteristic of her many short stints in remand custody. Beth had been in foster care as a child, was on welfare when she was arrested, and suffered from addiction and mental health issues.

**Bishop (B)** - 29-year-old Black male, with two young children who were in their mother's care. He had a recent accident and was receiving disability assistance at the time of his arrest. He had no prior convictions, but had been on remand twice before. He was found guilty of robbery and weapons charges, and was awaiting sentencing after spending nearly three years in remand custody.

**Brad (B)** – 29-year-old white man with two young children in the care of his ex-partner. He had been on welfare at the time of his arrest, and had addiction and mental health issues. He had many prior bouts of remand and sentenced custody. He was charged with break and enter and uttering threats and was still hoping to secure release through the bail process after five months on remand.

**Bree (P)** – An 18-year-old Indigenous woman, who had been living on the streets for about a year at the time of her arrest. She had been in state care as a child, and had been in and out of custody since she was a teen owing to battles with drug addiction and mental health. She was on remand for six weeks on breach and theft charges.

**Brian (P)** – 27-year-old white male with a common-law partner and two children, who were living with their mothers. He was in state care as a child, had mental health and addiction issues, and was living back and forth between the streets and his common-law and youngest child. He was arrested six months prior and charged with robbery and forcible confinement, which he planned to take to trial.

**Bronwyn (G)** – 26-year-old white woman, with a young child who was removed from her care prior to her arrest. She had a history of addiction and mental health issues and a record

comprised almost entirely of administrative breaches. She was on remand for four months facing assault and weapons related offenses.

**Brooke** (G) – 36-year-old white woman, with addiction and mental health issues. She had two children who were no longer in her custody. She had been on remand twice before, this time, for six months on charges of possession and administrative breaches.

**Cameron** (S) – 46-year-old white man with an adult daughter. He was struggling with addiction and living off of disability at the time of his arrest, and had been in and out of sentenced and remand custody for the last ten years. At the time of our interview, Cameron had been in custody for over two months and had waived his bail hearing.

**Carly** (S) – 28-year-old white woman, who was recently widowed. She also had ovarian cancer and struggled with mental health and addiction issues that she says were made worse following the recent death of her husband. She had one prior conviction for a drug crime, and had been in remand on two previous occasions.

**Cheryl** (G) – 22 year-old white woman with a common-law partner and two young children who had been placed in state care prior to her arrest. She was developmentally delayed and had addiction issues. She had been in remand for a week, charged with simple assault and a breach.

**Cheyenne** (S) - 51-year-old Indigenous woman who was married with four adult children. This was her third time on remand, and the longest, given that she was accused of attempted murder of her husband. She had no memory of her first three weeks in custody because she claimed she was still too intoxicated from drinking. Prior to our interview she had been out on bail for eight months before her surety had to pull bail so that he could act as surety for his own son.

**Chris** (B) – 42-year-old Black man. He had a teenage daughter, but had lost his oldest child to a car accident some years earlier. He was institutionalized as a child in Nova Scotia's "Home for Coloured Children", and had been in and out of custody as an adult. He was charged with assault and weapons offenses, and had been fighting them for nearly three years in pre-trial custody.

**Courtney** (G) -- a 38-year-old woman who had been in custody for 18 months and was appealing her conviction on arson-related charges. When I found out she was sentenced, I told her she would be ineligible for the study, but she asked if we could complete the interview given that her case outcome was still unknown. For those reasons, I do not include her case in any of the quantification of cases, though I draw on her experience of the bail process in the qualitative analysis.

**Dale** (B) – 26-year-old Black man who was on welfare and living with his fiancé at the time of his arrest. He had problems with drugs and alcohol, and also suffered from depression. He had a series of minor assaults involving his fiancé for which he had been in remand and sentenced custody in the past. He had been on remand for a month on charges of assault and breaches, and was planning to take his case to trial.

**Dan (S)** – 29-year-old white man with a common-law partner and two young children. He was living on disability assistance at the time of his arrest for a non-violent crime, seven days prior to our interview. He had a host of issues related to his complex needs: he was bipolar, had a drinking problem, and struggled to manage his two communicable diseases: Hepatitis C and HIV.

**Danielle (G)** – 48-year-old white woman, divorced, with one teenage son. A self-described ‘revolving door’ prisoner, she explained that she comes into remand custody because she is an alcoholic and gets charged with breaching abstention conditions.

**Dave (S)** – 45-year-old black man. He had struggled with drug and alcohol addiction, and had been in remand and sentenced custody a few times before. He was arrested 10 days before our interview on drug and assault charges. He didn’t know if anyone would be his surety, so his lawyer advised him to wait for bail until he received disclosure.

**Deanna (G)** – 53-year-old white woman. She was divorced, and was living month-to-month in rooming houses. Deanna had never done sentenced time, but had been on remand twice before, after becoming addicted to oxycontin following a back injury. She was charged with theft-under and simple assault, and had been on remand for 17 days.

**Debbie (G)** – 40-year-old white woman, with nine children who were all wards of the state. She was living on the streets at the time of her arrest with concurrent disorder. She had a long record of custodial sentences, and had been on remand for 35 days, charged with a break and enter and theft under.

**Denise (P)** – 21-year-old Black woman, with addiction and mental health issues. She had been in state care as a child, and had been in custody as a teen. She had been on remand for two months, following her release from sentenced custody a month earlier. She was facing trafficking charges and was hoping to be released on bail.

**Derek (S)** – 24-year-old Black man, who was in school and living with his mother at the time of his arrest on weapons-related charges. He had no prior record, but had been on remand once before. At the time of our interview, he had spent seven months in custody and was preparing to try for bail release a second time, after he was denied in his first attempt despite having three sureties.

**Devon (S)** – 22-year-old Black man with a two-year-old child who was in the care of his partner. This was his third time on remand, and he had spent about four months in custody at the time of our interview for charges related to his alleged involvement in a prostitution ring.

**Dianne (G)** – 49-year-old white woman, divorced, with four adult children. She was a first-timer and had spent over a year in remand custody on charges of attempted murder, for which she had recently plead guilty and was awaiting sentencing.

**Don (P)** – 52-year-old mixed-race man, with five children. He had drug and mental health issues, and was living alone and selling drugs at the time of his arrest. Don had been in state care as a child in the Home for Coloured Children in Nova Scotia and then through the foster

care system until he aged out of care. As an adult, Don was in and out of custody and was arrested eight months prior on charges of drug trafficking and breaches.

**Dwayne (P)** – 37-year-old Black male, with three children and another one on the way with a new partner. He had addiction issues, and had been in custody twice before. He was arrested four months earlier and was charged with possession of drugs and weapons.

**Ellen (G)** – 42-year-old white woman who struggled with addiction and mental health issues. She had been on remand for three months, and was hoping to get bailed out while she fought her sexual assault charge.

**Emma (G)** – 56-year-old white woman, divorced with an adult son. She was on disability assistance and lived with addiction and mental health issues, and was constantly in and out of custody, “doing life on the installment plan”. She was charged with conspiracy to traffic drugs and waiting for trial.

**Fatima (S)** – 28-year-old mixed race woman who was married and pregnant with twins. She had one prior conviction for a non-violent crime, for which she spent time in remand custody. At the time of our interview, Fatima had spent over two months in custody, and during this time, one of the fetuses died. The fetus was be medically aborted while she was in shackles.

**Fiona (S)** – 67-year-old white woman, university graduate, retiree, and widower. She had multiple convictions for non-violent offenses related to her addiction and mental health issues, which started following the death of her husband. She drinks, has panic attacks, and then dials 911. She told me that when she calls, she never knows who is coming to get her: the ambulance, or the police.

**Frank (P)** – 39-year-old white male, who had a common-law partner and young child. He also struggled with addiction and mental health issues. He was in custody for two months and was awaiting sentencing after pleading to two counts of trafficking and one breach.

**Gavin (S)** – 43-year-old white male, no partner or children. A self-described “one-percenter”, Gavin was well-acquainted with all aspects of the criminal justice system given his lengthy record for violence and weapon related offenses that resulted in several stints in federal custody.

**George (B)** --Arabic man in his late 20s, with a three-year-old son whom he shared custody over. He was a first-timer with no prior arrests or charges, and had been in custody for eight months fighting a firearm possession charge.

**Graham (P)** – 24-year-old white male, who was living with friends and working in landscaping at the time of his arrest. As a child, he was removed from his home after he was molested by a cousin. He had addiction and mental health issues, and many priors. He had been on remand for two years on second-degree murder charges, and was waiting until after his preliminary trial to have a bail hearing.



**Greg (B)** – 26-year-old white male who was engaged. He had problems with cocaine and steroid addiction. Although he had previous minor convictions, this was his first time on remand. He was arrested 10 months prior on a charge of first-degree murder.

**Howard (P)** – 54-year-old white male, divorced, with three adult children. He had a drug addiction, and had been in and out of remand and sentenced custody many times in the past. He had been in custody for about six weeks on mischief charges.

**Irene (S)** - 20-year-old white woman on remand for the second time after getting into trouble with her boyfriend. She was worried about the threat of federal time that came with her weapons-related offense.

**Ivan (S)** - 38-year-old Asian man who was on remand for three and a half years at the time of our interview. He was charged with a series of trafficking related drug and weapons offenses that he was fighting through the trial process.

**Jackson (P)** – 23-year-old white male, with fetal alcohol syndrome and addiction issues. He was living alone in the house he inherited from his grandparents. He had been in remand and sentenced custody several times, and was arrested eight months prior on fraud, assault, and theft charges.

**Jade (G)** – 30 year-old Black woman, with a young child who was being cared for by her mother. She had no prior convictions, but had been in remand on two previous occasions. After more than three months in remand, problems with meeting the surety requirement led her to debate pleading out or fighting her charges of aggravated assault and weapons offenses.

**James (B)** – 46-year-old white married man with three children. He was on disability assistance after a series of cancer operations, and struggled with addiction and mental health issues. He had one prior conviction, and had been on remand for over a month. He could not recall all his charges but knew they included at least one count of assault related to domestic violence.

**Janis (P)** – 52-year-old white woman, with four adult children and a common-law partner. She had mental health issues, and was arrested seven months prior on charges of conspiracy to commit murder.

**Jason (S)** – 42-year-old white man with two teenage children, who were in the care of his ex-partner. He had been on remand once before, years prior. He had spent over three years in custody trying to fight his gun trafficking charges, but by the time of our interview, he decided he was going to plead out.

**Jayden (P)** – 24-year-old Indigenous man who was on assistance and working odd jobs at the time of his arrest. He was an alcoholic and had a series of convictions for minor assault and breaches, in line with his current charges for which he had been on remand for a month.

**Jeff (P)** – 23-year-old white man, who was homeless and drug addicted. He had a number of prior convictions and was “happy” to be in jail facing federal time for firearm and drug possession charges as it gave him an opportunity to get clean and turn his life around.

**Jerry (S)** – 53-year-old white man, who was married with two adult children. He had been in remand and sentenced custody many times before, stemming from his admitted involvement in organized crime. At the time of our interview, he had been on remand for about a month on assault and breach charges.

**Jessica (S)** – 28-year-old white woman, married with three children, the youngest of whom was three and a half months old. This was her second time on remand for a non-violent drug charge. Coming from an Orthodox-Jewish family, she refused to tell anyone apart from her husband about her arrest, because she feared the stigma would ostracize her family from the local religious community.

**Jett (P)** – 25-year-old Indigenous woman, who had addiction and mental health issues and was receiving disability assistance payments. She had a five-year-old child who was no longer in her care. She was on remand for one week, only six weeks after being released from an eight month term in custody. She was charged with breach, assault, and one charge she did not want to disclose.

**Jill (S)** – 22-year-old white woman, with a five-year-old son. She was unemployed at the time of her arrest, and living alone with her son. She was arrested on a breach and other non-violent charges, which she claimed stemmed from her pill addiction. She had been on remand many times before, but during this 15-day stint she was mostly worried that she would lose custody of her child.

**Joe (S)** – 40-year-old white man with two minor children and an oxycontin addiction. He was living on welfare at the time of his arrest, and at two months, his current time on remand had been his longest for the non-violent charges that typically bring him into conflict with the law. He lost everything upon his arrest and would have to start all over upon his release.

**Jolene (P)** – 35-year-old white woman with a common-law partner and two young children who had been adopted. Her original charges stemmed from five years earlier, but she was often in and out of custody for breaches of her abstention and non-association conditions. She had been in custody for two months and was planning to plead in the hopes she would be released on time served.

**Judy (S)** -- 40-year-old white woman, who was living with AIDS and a crack addiction. She had been living on the street her entire adult life, and had been in and out of custody for the last 20 years. She has three children all of whom are Crown wards. She claimed she was wrongly accused of a homicide, and insisted that her long record of petty crimes and prostitution offenses was proof she was a non-violent person. Because of this, she was taking her case to trial.

**Julie (P)** – 29-year-old white woman, with a six-year-old child who she had lost custody over due to her drug addiction. She described being forced to breach drug court conditions by

people in the community who had threatened to harm her or her child if she did not bring drugs into the institution. She tried to tell a CO, but was instead charged with institutional trafficking and was in remand for five months.

**June (S)** – married, 58-year-old white woman with three children – two of whom had died. Following the death of her adult son, she began drinking and doing drugs, and says that being in jail is one of the three options for people involved in alcohol or drugs (the other two being the streets or death). She had been on remand once before 13 years ago, and at the time of our interview had been in custody for six weeks for a breach of her abstention order.

**Karen (G)** – 38-year-old white woman, divorced with two young adult children. Karen was a first-timer who had served 11 months in remand custody. She was awaiting sentencing after pleading guilty to fraud-related offenses.

**Katie (P)** – 39-year old white woman, engaged, with five children. She has shared custody of her youngest three children, and lost custody of her two oldest children (who have special needs) to her ex-partner. Katie had a learning disability and had been on remand for nearly three years for charges of aggravated assault and forcible confinement. The judge recently declared a mistrial in her case and she was waiting to hear if a new trial would be ordered.

**Katrina (G)** – 37-year-old Indigenous woman with addiction and mental health issues. She had two teenage children who were adopted at a young age, repeating her own experience as a child. She was in remand for one month on a breach, after getting caught stealing a bike.

**Keegan (P)** – 21-year-old Indigenous man with addiction and mental health issues. He was on welfare assistance and living with his grandmother. He had been in sentenced and remand custody “countless” times, and was arrested three weeks earlier on charges of minor possession and breaches.

**Kelli (P)** – 41-year-old white woman, with two young adult children. She had addiction and mental health issues, and had been in and out of the system many times for breaches of abstention orders. She had been in for two weeks and was planning to plead the next day and hope for time served.

**Kevin (B)** – 28-year-old Black male, with a fiancé and young daughter. He disclosed that he suffered from depression, but refused to treat it through medication. He was a first-timer who had been on remand for over two years, fighting his 14 charges related to robbery and weapons offenses.

**Khalid (B)** – 34-year-old South-Asian male, divorced with a young child. He was living alone in a basement apartment after his heroin addiction tore his family apart. He had a few minor drug convictions, and had been in remand custody for five months on first-degree murder charges.

**Kyle (B)** - 29-year-old white male, who was living with his girlfriend at the time of his arrest. He had problems with alcohol and cocaine addiction and was frequently in and out of custody. He was facing drug possession and trafficking charges and had been in custody for

three months. His lawyer told him he was an unsuitable candidate for bail, so he was weighing his options to plead out or fight the case.

**Larry (S)** -- 61-year-old white man who was divorced with four adult children. He was a first-timer, charged with first-degree murder, and had spent over four years in remand custody fighting his case through the trial process.

**Lisa (G)** – 22-year-old mixed-race woman, with a four-year-old son who was in a temporary care arrangement between her family and the father of the child. She was a first-timer, and had been on remand for over a year while she pursued a trial in her second-degree murder case.

**Liz (P)** – 20-year-old white woman with a four-year-old child whom her mother had custody of. She had been in state care as a child, and struggled with addiction and mental health issues. She was living and working in hotels as a “working girl” prior to her arrest two months earlier on charges that included possession of stolen property, drug possession, and breaches.

**Lola (S)** – 27-year-old white woman whose two young children were placed in the care of child protective services upon her arrest for the alleged violent assault of one of her children. She has one prior conviction on an unrelated offense, and had been spending time in segregation because of a lack of protective custody beds.

**Lynn (S)** -- 49-year-old white woman on remand for the first time on a charge of first-degree murder. She had sole custody of her 8-year-old son, who was in the care of her sister after her arrest. Despite being in custody for over a year, she had yet to go for a bail hearing on the advice of her attorney, who told her it would be best to wait for disclosure.

**Manny (B)** – 24-year-old mixed-race man with three young children, all in the care of his ex-partner. He said he had drinking and mental health problems, which led to his current arrest after a disagreement with his mother - who was also his surety - led to his re-arrest on a breach and weapons offense. He had been in custody for six months and was taking his case to trial.

**Maria (P)** – 34-year-old Hispanic woman, divorced, with two teenage sons. She was a first-timer, charged with a few counts of sexual assault, and despite being in remand for eight months, she had no idea about the status of her case and why she could not secure bail.

**Marla (P)** – 27-year-old white woman, with one child who was put up for adoption as a baby. She was couch surfing at the time of her arrest, living on welfare payments, and struggled with addiction and mental health issues. She had been arrested twice the same week she came into custody, each time for a breach. She was on remand for two weeks facing four breaches, simple possession, and fraud under.

**Mary (S)** – 38-year-old white woman, married, with four teenage step-children. This was her first time in remand custody, and at the time of our interview, she had spent over three and a

half years on remand while trying to fight her weapons-related charges through the trial process.

**Megan (G)** – 30-year-old white woman, who had been on remand for nine months facing charges of drug trafficking and weapons related offenses. She was arrested in a large-scale raid, which resulted in several of her own family members being arrested along with her, because of their relationship or proximity to her at the time of arrest.

**Michelle (P)** – 31-year-old white woman, with a five-year-old child who was in a temporary care arrangement following her arrest two months prior. She struggled with addiction and mental health issues and had a series of minor convictions and remands in her past. She was planning to plead guilty to her charges of break and enter and theft under.

**Mikaela (P)** – 24-year-old mixed race woman with two young children who were in the care of her common-law partner. She had been in and out of custody since she was a teenager, and struggled with addiction and mental health issues. She was in custody for six weeks facing armed robbery and break and enter charges.

**Mike (P)** – 47-year-old black male with a common-law partner who he shared two children with. He had two other children with his former partner, who died just before he was arrested from a chronic illness. He was charged with possession for the purpose and had been on remand for 11 months without having a bail hearing.

**Milton (B)** – 54-year-old Black male, single, with five children who were in the care of his ex-partner. He was living with his mother and brother at the time, and getting by on disability payments. He said he has been in custody “more than a hundred times” for minor property crimes. He was in custody for one week, charged with theft and a breach, and told me he “doesn’t get bail anymore” because of his breaches.

**Monique (G)** – 23-year-old Black woman and first-timer, who was in university at the time of her arrest on weapon charges. She had spent four months on remand, and after two unsuccessful attempts to secure bail release, was resigned to the fact that she would await her trial while in custody.

**Mya (S)** - 28-year-old mixed-race woman. She was pregnant and had four young children who were in the care of her abusive partner. She had over ten short stints on remand custody, and had been in for over a month at the time of our interview. She had grown up in the care of children’s aid society and struggled with addiction and mental health issues from a young age.

**Myriam (S)** - 39-year old European immigrant who was separated from her husband and living with their two adult children at the time of her arrest. Following her first arrest on non-violent charges, she had spent 11 months on remand fighting her charges through the trial process. She had a heart condition that she did not disclose to staff for the first six-months of her imprisonment out of fear she would be further mistreated while in custody.

**Nathan (S)** – 48-year-old black man, who was divorced with two teenage children. He was a first-timer, and had been in custody for three weeks at the time of our interview on domestic-violence charges. He expected he would lose his job as a result of his imprisonment since he had no way of contacting his employer.

**Naveah (G)** – 33-year-old Indigenous woman, with four children who were wards of the state. She had been in state care as a child too, and struggled with drug and mental health issues. She had been on remand for four days, after being charged with a breach of her probation.

**Neeve (P)** – 32-year-old white woman, with a teenage daughter who was taken by child protective services as a child. She had problems with addiction and major mental illness, and was frequently in and out of remand and sentenced custody. She had been on remand for three weeks and was charged with three breaches.

**Nick (S)** – 37-year-old white man with two teenage children who were in the care of their mother. He had a prior conviction for a drug crime, which he spent a week on remand custody for. He had been in custody for two weeks at the time of our interview, for non-violent drug charges.

**Nikki (P)** – 22-year-old white woman, a first-timer who had been on remand for six weeks and was hoping she could secure bail release while she fought charges of accessory to murder.

**Paul (B)** – 32-year-old white man, who was living in a basement apartment and struggling to survive on welfare and a low-wage job. He had been in foster care as a child, had a drug addiction, and had been in and out of remand and sentenced custody. He had been on remand for over a month, charged with three minor thefts and a breach.

**Phil (S)** – 20-year-old black male, who had been on remand for 10 months on his first adult charges. He had been a unit cleaner prior to our interview, but had that position taken away from him after he became upset that guards ignored his requests for medical attention following an accidental injury to his eye that became infected.

**Pierre (P)** – 42-year-old white man, engaged, with a newborn baby who was taken by child protective services upon his arrest. He was a first-timer and had been in remand for three weeks, facing drug and theft-over charges.

**Quincey (B)** – 24-year-old Black male who struggled with addiction and managing his schizophrenia diagnosis. He was homeless and in the shelter system at the time of his arrest nearly a year prior, charged with second-degree murder. He was in state care as a child, and had received three of his four high-school credits during previous stints in sentenced custody.

**Rachel (P)** – 28-year-old white woman, with no prior convictions but two previous remands. She was living on welfare payments and struggling with addiction and mental health issues at the time of her arrest. She had been in custody for five weeks and was facing drug and weapon possession charges.

**Randa** (P) -- 28-year-old white woman, with three children in the care of her mother and ex-partner. She struggled with addiction and mental health issues and had been in sentenced and remand custody a few times prior. She had been in custody for one week on breach and weapons offenses, and was planning to attempt bail release the day after our interview, though she had not talked to her lawyer or made arrangements for surety.

**Randol** (S) – 24-year-old mixed race man, with two young children who were in their mother’s care. This was his first arrest and experience with remand custody, after being charged with first-degree murder and attempted murder two and a half years prior.

**Ray** (P) – 27-year-old Indigenous man with a nine-year-old child that was in the custody of his ex-partner. He grew up in state care, and had addiction and mental health issues. He had been in and out of custody since he was a teenager, and was couch surfing at the time of his arrest, four months earlier. He was charged with break and enter, possession of stolen property, and two breaches. He was hoping to plead out and get sent to treatment.

**Richard** (B) -- 54-year-old divorced man with one child who he had joint custody of. Rick was a first-timer who was charged with two counts of fraud, and had been on remand for over a year and a half.

**Rodney** (P) – 53-year-old white male, divorced with two teenagers who were living with his ex-wife while he lived in his own apartment. He was upfront about being in and out of custody many times over the years for selling marijuana to supplement his welfare payments. He was arrested over seven months prior on trafficking charges and had been denied bail.

**Royce** (B) – 31-year-old black male, with four children who were in the full-time custody of his ex-partner. He said he had a drinking problem, and had been in sentenced and remand custody in the past. He had been on remand for over two months for aggravated assault and possession charges, which he planned to take to trial.

**Sara** (S) - 28-year-old white woman who had two young children with her common-law partner. Both children had been in the custody of her parents prior to her arrest. She had no prior convictions, but had been on remand once before. She was arrested on a breach for living at an unapproved address. She had drug and alcohol problems from a young age, and was on disability assistance related to her mental health issues at the time of her arrest.

**Scott** (P) – 22-year-old white male with a three-year-old child, who was in the care of his ex-partner. He had mental health issues and had spent time in group homes as a child, but was living with his parents and on disability assistance at the time of his arrest. He had been in custody for one month, charged with a home invasion. His bail was denied the day before our interview.

**Sharon** (G) – 22-year-old white woman, who struggled with addiction. She was arrested along with her boyfriend on drug trafficking and weapons-related offenses. She had been on remand twice before, but at two months, this was her longest experience yet. Because of issues with sureties, she expected to remain in remand until her trial.

**Sue (P)** – 32-year-old white woman, with two young children in the care of their father. She had been waiting on subsidized housing and had secured an apartment only three days prior to her arrest, which she would lose unless she could get out before month's end. She said she suffered with addiction and PTSD, and was on disability support at the time of her arrest for breaching her house arrest three weeks earlier.

**Tamara (P)** – 27-year-old Black woman, with two children in state care. She had addiction issues and was living in a rooming house on welfare benefits at the time of her arrest. She had been on remand custody over ten times, but had never been in sentenced custody. She was charged with a breach and weapons offense.

**Tanya (S)** – 27-year-old Asian woman, charged with first-degree murder. She had been on remand for 33 months at the time of our interview. This was her first-ever arrest and experience in custody.

**Tina (S)** - 41-year-old white transwoman, was recently released from federal custody after serving time for fraud and property crimes. She was subsequently arrested and held on remand on unrelated charges that she claimed stemmed from transphobia and discrimination.

**Todd (P)** - 24-year-old white male, who was living on his own at the time of his arrest. He was a first-timer, but was open about the fact that he had a long and profitable career selling heroin. He was arrested over two years earlier and charged with attempted murder and firearms offenses.

**Tom (P)** – 28-year-old white male, with two children. Tom had been in jail and prison before, and was arrested two-and-a-half months earlier on charges including simple assault, theft, and a breach.

**Tyler (S)** – 46-year-old white man with two teenage children who were in the care of his ex-partner. He had issues with alcohol that ended up costing him a career in law enforcement. Years later, he was arrested and charged with second-degree murder. At the time of our interview, he had spent over three years in custody and was going through the trial process.

**Vanessa (G)** – 32-year-old white woman, with three young children who were in the care of her ex-husband. Vanessa was a first-timer, who had mental health issues. She was in the trial process on charges of first-degree murder.

**Vicky (P)** – 30-year-old white woman, with a common-law partner and two children who had been taken by child protective services shortly before her arrest. She had one minor drug conviction in the past, but this was her first time on remand. She described herself as a “functional drug addict” who was earning her living on the street and moving frequently when she was arrested four months earlier. Some of her initial charges were dropped, leaving her to face one count of simple possession.

**Victor (P)** – 24-year-old Black male, with a child who was in the care of his ex-partner. He had spent time in foster homes as a child, and had spent time in jail as a teen. He had no adult



convictions, but had been in remand many times. He was on remand for nine months after being charged with possession of a firearm.

**Vijay (B)** – 35-year-old South-Asian man, married, with two children. He had problems with alcohol and drugs in the past, and was living with another woman when he got arrested two months prior to our interview. He was charged with minor assault, weapon possession, and a breach of his abstention order.

**Vikram (S)** – 31-year-old South-Asian man who was on remand for serious violent charges. He had been on remand for over three years, the last year of which was spent in continuous solitary confinement.

## References

- Acker, J., Barry, K., & Esseveld, J. (1991). Objectivity and truth: Problems in doing feminist research. In M. M. Fonow & J. A. Cook (Eds.), *Beyond methodology: Feminist scholarship as lived research*. Indianapolis: Indiana University Press.
- Adams, K. (1992). Adjusting to prison life. *Crime and Justice*, 16, 275-359.
- Andersen, H. S. (2004). Mental health in prison populations. A review—with special emphasis on a study of Danish prisoners on remand. *Acta Psychiatrica Scandinavica*, 110(424), 5-59.
- Appleman, L. I. (2012). Justice in the Shadowlands: Pretrial detention, punishment, & the Sixth Amendment. *Washington & Lee L. Review*, 69(3), 1297.
- Arendell, T. (1997). Reflections on the researcher-researched relationship: A woman interviewing men. *Qualitative Sociology*, 20(3), 341-368.
- Ares, C. E., Rankin, A., & Sturz, H. (1963). The Manhattan Bail Project: An interim report on the use of pre-trial parole. *New York University Law Review*, 38, 67.
- Arkles, G. (2009). Safety and solitary across gender lines: Rethinking segregation of transgender people in detention. *Temple Political and Civil Rights Law Review*, 18(2), 515-561.
- Ash, J. (2009). *Dress behind bars: Prison clothing as criminality*. London: IB Tauris.
- Baylor, A. (2015). Beyond the visiting room: A defense counsel challenge to conditions in pretrial confinement. *Cardozo Public Law, Policy & Ethics Journal*, 14, 1, 3-37.
- Beattie, K. (2006). Adult correctional services in Canada, 2004/2005. *Juristat: Canadian Centre for Justice Statistics*, 26(5), 1.
- Beeley, A. L. (1927). *The bail system in Chicago*. Chicago: University of Chicago Press.

- Ben-Moshe, L. (2017). Why prisons are not “The New Asylums”. *Punishment & Society*, 19(3) 272-289.
- Binswanger, I. A., Krueger, P. M., & Steiner, J. F. (2009). Prevalence of chronic medical conditions among jail and prison inmates in the United States compared with the general population. *Journal of Epidemiology & Community Health*, 63(11), 912-919.
- Binswanger, I. A., Merrill, J. O., Krueger, P. M., White, M. C., Booth, R. E., & Elmore, J. G. (2010). Gender differences in chronic medical, psychiatric, and substance-dependence disorders among jail inmates. *American Journal of Public Health*, 100(3), 476-482.
- Bittner, E. (1967). The police on Skid-Row: A study of peace keeping. *American Sociological Review*, 32(5), 699-715.
- Bloom, B. (1995). Public policy and the children of incarcerated parents. *Children of Incarcerated Parents*, 271-284.
- Bloom, B., Owen, B., & Covington, S. (2004). Women offenders and the gendered effects of public policy. *Review of Policy Research*, 21(1), 31-48.
- Bosworth, M. (1999). *Engendering resistance: Agency and power in women's prisons*. Aldershot: Dartmouth.
- Bradley, R. G., & Davino, K. M. (2002). Women's perceptions of the prison environment: When prison is “the safest place I've ever been”. *Psychology of Women Quarterly*, 26(4), 351-359.
- Brayne, S. (2014). Surveillance and system avoidance: Criminal justice contact and institutional attachment. *American Sociological Review*, 79(3), 367-391.

- Brockett Jr., W. A. (1970). Presumed guilty: The pre-trial detainee. *Yale Review of Law and Social Action*, 1, 10.
- Bucerius, S. M. (2014). *Unwanted: Muslim immigrants, dignity, and drug dealing*. Oxford: Oxford University Press.
- CANSIM. (2015). Statistics Canada.
- Carlen, P. (2002). Carceral clawback: The case of women's imprisonment in Canada. *Punishment & Society*, 4(1), 115-121.
- Casper, J. D. (1972). *American criminal justice: The defendant's perspective*. Upper Saddle River: Prentice Hall.
- Cesaroni, C. and Pelvin, H. (2016). Young people doing time: Consequences of custody for young offenders. In J.V. Roberts and M.G. Grossman (Eds.) *Criminal justice in Canada: A reader, fifth edition*, 278-292. Toronto: Nelson.
- Chidley, D. (2014, April 26). Ontario inmates get 'inadequate' food in court, lawyers say. *The Canadian Press*. Retrieved from:  
<http://www.cbc.ca/news/canada/hamilton/news/ontario-inmates-get-inadequate-food-in-court-lawyers-say-1.2616042>
- Choongh, S. (1998). Policing the dross: A social disciplinary model of policing. *The British Journal of Criminology*, 38(4), 623-634.
- Choongh, S. (1997). *Policing as social discipline*. Oxford: Oxford University Press on Demand.
- Coll, C. G., Miller, J. B., Fields, J. P., & Mathews, B. (1998). The experiences of women in prison: Implications for services and prevention. *Women & Therapy*, 20(4), 11-28.
- Comfort, M. (2007). Punishment beyond the legal offender. *Annual Review of Law and Social Science*, 3, 271-296.

- Comfort, M. (2008). *Doing time together: Love and family in the shadow of the prison*. Chicago: University of Chicago Press.
- Comfort, M. (2016). "A twenty-hour-a-day job": The impact of frequent low-level criminal justice involvement on family life. *The ANNALS of the American Academy of Political and Social Science*, 665(1), 63-79.
- Comfort, M. (2012). "'It was basically college to us': Poverty, prison, and emerging adulthood." *Journal of Poverty*, 16, 308-322.
- Conklin, T. J., Lincoln, T., & Tuthill, R. W. (2000). Self-reported health and prior health behaviors of newly admitted correctional inmates. *American Journal of Public Health*, 90(12), 1939-1941.
- Covington, S. S., & Bloom, B. E. (2007). Gender responsive treatment and services in correctional settings. *Women & Therapy*, 29(3-4), 9-33.
- Clemmer, D. (1940). *The prison community*. New York: Holt, Rinehart & Winston.
- Crewe, B. (2011). Depth, weight, tightness: Revisiting the pains of imprisonment. *Punishment & Society*, 13(5), 509-529.
- Crewe, B., Liebling, A., & Hulley, S. (2011). Staff culture, use of authority and prisoner quality of life in public and private sector prisons. *Australian & New Zealand Journal of Criminology*, 44(1), 94-115.
- de Graaf, K., & Kilty, J. M. (2016). You are what you eat: Exploring the relationship between women, food, and incarceration. *Punishment & Society*, 18(1), 27-46.
- Dempsey, A. (2015, Sept 30). Judge cites jail lockdowns in delivering shorter sentence. Retrieved from <https://www.thestar.com/news/canada/2015/09/30/toronto-jail-lockdowns-lead-to-shorter-sentence-for-man-who-carried-gun-to-park.html>

- Demuth, S., & Steffensmeier, D. (2004). The impact of gender and race-ethnicity in the pretrial release process. *Social Problems, 51*(2), 222-242.
- Deshman, A., & Myers, N. (2014). *Set up to fail: Bail and the revolving door of pre-trial detention*. The Canadian Civil Liberties Association and Education Trust.
- Devault, M. (1990). Talking and listening from women's standpoint: Feminist strategies for interviewing and analysis. *Social Problems, 37*(1), 96-116.
- Diamond, S. S., Bowman, L. E., Wong, M., & Patton, M. M. (2010). Efficiency and cost: The impact of videoconferenced hearings on bail decisions. *The Journal of Criminal Law and Criminology, 100*(3), 869-902.
- Ditton, P. M. (1999). Special report: Mental health and treatment of inmates and probationers. *Washington, DC*: US Department of Justice, Bureau of Justice Statistics.
- Dixon, D., Bottomley, K., Coleman, C., Gill, M., & Wall, D. (1990). Safeguarding the rights of suspects in police custody. *Policing and Society: An International Journal, 1*(2), 115-140.
- Doob, A.N. (2012). Bail and remand: One problem or two? *Discussion paper, Centre for Criminology and Sociolegal Studies*.
- Dodge, M. & Pogrebin, M.R. (2001). Collateral costs of imprisonment for women: Complications of reintegration. *The Prison Journal, 81*, 42-54.
- Edgar, K. (2004) *Lacking conviction: The rise of the women's remand population*. London: Prison Reform Trust.
- Eisenstein, J., & Jacob, H. (1977). *Felony justice: An organizational analysis of criminal courts* Boston: Little, Brown.

- Enos, S. (1998). Managing motherhood in prison. *Women & Therapy, 20*(4), 57-73.
- Eytan, A., Haller, D. M., Wolff, H., Cerutti, B., Sebo, P., Bertrand, D., & Niveau, G. (2011). Psychiatric symptoms, psychological distress and somatic comorbidity among remand prisoners in Switzerland. *International Journal of Law and Psychiatry, 34*(1), 13-19.
- Fazel, S., Bains, P., & Doll, H. (2006). Substance abuse and dependence in prisoners: a systematic review. *Addiction, 101*(2), 181-191.
- Feeley, M. (1979). *The process is the punishment*. New York: Russell Sage Foundation.
- Fellner, J. (2006). A conundrum for corrections, a tragedy for prisoners: Prisons facilities for the mentally ill. *Washington University Journal of Law and Policy, 22*, 135–144.
- Foote, C. (1954). Compelling appearance in court: Administration of bail in Philadelphia”(1954). *University of Pennsylvania Law Review, 102*, 103.
- Foote, C. (1964). The coming constitutional crisis in bail: I. *University of Pennsylvania Law Review, 113*(7), 959-999.
- Freeman, S., & Seymour, M. (2010). ‘Just waiting’: The nature and effect of uncertainty on young people in remand custody in Ireland. *Youth Justice, 10*(2), 126-142.
- Freudenberg, N., Wilets, I., Greene, M. B., & Richie, B. E. (1998). Linking women in jail to community services: Factors associated with rearrest and retention of drug-using women following release from jail. *Jamwa, 53*(2), 89-93.
- Freudenberg, N., Daniels, J., Crum, M., Perkins, T., & Richie, B. E. (2005). Coming home from jail: The social and health consequences of community reentry for women, male adolescents, and their families and communities. *American Journal of Public Health, 95*(10), 1725-1736.

- Friedland, M. L. (1965). *Detention before trial: A study of criminal cases tried in the Toronto magistrates' courts*. Toronto: University of Toronto Press.
- Friedland, M. L. (2012). The bail reform act revisited. *Canadian Criminal Law Review*, 16(3), 315.
- Gaetz, S. & O'Grady, B. (2006). The missing link: Discharge planning, incarceration and homelessness. *John Howard Society of Ontario*.
- Gaetz, S., & O'Grady, B. (2009). Homelessness, incarceration and the challenge of effective discharge planning: A Canadian case. *Finding Home: Policy Options for Addressing Homelessness in Canada*, 672-693.
- Gaetz, S. (2012): *The Real Cost of Homelessness: Can We Save Money by Doing the Right Thing?* Toronto: Canadian Homelessness Research Network Press.
- Garfinkel, H. (1956). Conditions of successful degradation ceremonies. *American Journal of Sociology*, 61(5), 420-424.
- Gibbs, J. J. (1987). Symptoms of psychopathology among jail prisoners: The effects of exposure to the jail environment. *Criminal Justice and Behavior*, 14(3), 288-310.
- Godderis, R. (2006). Dining in: The symbolic power of food in prison. *The Howard Journal of Criminal Justice*, 45(3), 255-267.
- Goffman, E. (1961). *Asylums: Essays on the social situation of mental patients and other inmates*. Washington, D.C.: Anchor Books.
- Goffman, A. (2009). On the run: Wanted men in a Philadelphia ghetto. *American Sociological Review*, 74(3), 339-357.
- Goffman, A. (2014). *On the run: Fugitive life in an American city*. Chicago: University of Chicago Press.



- Goldkamp, J. S. (1980). The effects of detention on judicial decisions: A closer look. *The Justice System Journal*, 5(3), 234-257.
- Goldkamp, J. S. (1977). *Bail decision making and the role of pretrial decision making in American justice*. (Doctoral dissertation). State University of New York, Albany, New York.
- Goodman, P. (2008). "It's just black, white, or hispanic": An observational study of racializing moves in California's segregated prison reception centers. *Law & Society Review*, 42(4), 735-770.
- Gray, T., Mays, G. L., & Stohr, M. K. (1995). Inmate needs and programming in exclusively women's jails. *The Prison Journal*, 75(2), 186-202.
- Green, D. P., & Winik, D. (2010). Using random judge assignments to estimate the effects of incarceration and probation on recidivism among drug offenders. *Criminology*, 48(2), 357-387.
- Gustafson, K. S. (2011). *Cheating welfare: Public assistance and the criminalization of poverty*. New York: NYU Press.
- Hammett, T. M., Harmon, M.P & Rhodes, W. (2002). The burden of infectious disease among inmates of and releasees from US correctional facilities, 1997. *American Journal of Public Health*, 92(11), 1789-1794.
- Haney, C. (2017). "Madness" and penal confinement: Some observations on mental illness and prison pain. *Punishment & Society*, 19(3), 310-326.
- Hannah-Moffat, K. (2001). *Punishment in disguise: Penal governance and federal imprisonment of women in Canada*. Toronto: University of Toronto Press.

- Hannah-Moffat, K. (2004). Losing ground: Gendered knowledges, parole risk, and responsibility. *Social Politics: International Studies in Gender, State & Society*, 11(3), 363-385.
- Hannah-Moffat, K., & Lynch, M. (2012). Theorizing punishment's boundaries: An introduction. *Theoretical Criminology*, 16(2), 119-121.
- Hannah-Moffat, K., & Maurutto, P. (2012). Shifting and targeted forms of penal governance: Bail, punishment and specialized courts. *Theoretical Criminology*, 16(2), 201-219.
- Harding, T., & Zimmermann, E. (1989). Psychiatric symptoms, cognitive stress and vulnerability factors. A study in a remand prison. *The British Journal of Psychiatry: The Journal of Mental Science*, 155, 36-43.
- Harkin, D. M. (2015). The police and punishment: Understanding the pains of policing. *Theoretical Criminology*, 19(1), 43-58.
- Harrison, L. D. (2001). The revolving prison door for drug-involved offenders: Challenges and opportunities. *Crime & Delinquency*, 47(3), 462-485.
- Harvey, J. (2005). Crossing the boundary: the transition of young adults into prison. In Liebling and Maruna (Eds.) *The effects of imprisonment*, 232-254. Portland: Willan.
- Harvey, J. (2007). *Young men in prison: Surviving and adapting to life inside*. Collumpton: Willan.
- Hassan, L., Senior, J., Edge, D., & Shaw, J. (2011). Continuity of supply of psychiatric medicines for newly received prisoners. *The Psychiatrist*, 35(7), 244-248.
- Hatton D.C., Kleffer D., Fisher A.A. (2006). Prisoners' perspectives of health problems and healthcare in a US women's jail. *Women's Health*, 44(1), 119-136.

- Henriques, Z. W., & Manatu-Rupert, N. (2001). Living on the outside: African American women before, during, and after imprisonment. *The Prison Journal*, 81(1), 6-19.
- Hucklesby, A. (2009). Keeping the lid on the prison remand population: The experience in England and Wales. *Current Issues in Criminal Justice*, 21(1), 3.
- Human Rights Watch. (2017). Not in it for justice: How California's pretrial detention and bail system unfairly punishes poor people.
- Irwin, John. (1985). *The jail: Managing the underclass in American society*. Berkeley: University of California Press.
- Jacobs, J.B. (1977). *Stateville: The penitentiary in mass society*. Chicago: University of Chicago Press.
- James, D. J., & Glaze, L. E. (2006). Highlights mental health problems of prison and jail inmates.
- Jewkes, Y. (2005). Men behind bars: "Doing" masculinity as an adaptation to imprisonment. *Men and Masculinities*, 8(1), 44-63
- Jewkes, Y., & Reisdorf, B. C. (2016). A brave new world: The problems and opportunities presented by new media technologies in prisons. *Criminology & Criminal Justice*, 16(5), 534-551.
- Jiang, S., & Winfree, L. T. (2006). Social support, gender, and inmate adjustment to prison life: Insights from a national sample. *The Prison Journal*, 86(1), 32-55.

John Howard Society of Ontario. (2000). *The changing face of Ontario corrections: An assessment*. Retrieved from: <http://www.johnhoward.on.ca/wp-content/uploads/2014/09/facts-15-the-changing-face-of-ontario-corrections-an-assessment-august-2000.pdf>

John Howard Society of Ontario. (2006). *The superjails in Ontario*. Retrieved from: <http://www.johnhoward.on.ca/wp-content/uploads/2014/09/the-superjails-in-ontario-june-2006.pdf>

John Howard Society of Ontario. (2013). *Reasonable bail?* Retrieved from: <http://www.johnhoward.on.ca/wp-content/uploads/2014/09/facts-15-the-changing-face-of-ontario-corrections-an-assessment-august-2000.pdf>

Johnson, W. W., Bennett, K., & Flanagan, T. J. (1997). Getting tough on prisoners: Results from the national corrections executive survey, 1995. *Crime & Delinquency*, 43(1), 24-41.

Johnson, S. (2003). Custodial remand in Canada, 1986/87 to 2000/01. *Juristat*, 23(7), 1-20.

Karberg J.C., & James D.J. (2005). Substance Dependence, Abuse, and Treatment of Jail Inmates, 2002. Washington, D.C.: National Institute of Justice, Bureau of Justice Statistics.

Kellen, A., Freedman, J., Novac, S., Lapointe, L., Marranen, R., & Wong, A. (2010). *Homeless and jailed: Jailed and homeless*. Toronto: The John Howard Society of Toronto.

Kellough, G., & Wortley, S. (2002). Remand for plea. bail decisions and plea bargaining as commensurate decisions. *British Journal of Criminology*, 42(1), 186-210.

- King, S., Bamford, D., & Sarre, R. T. (2009). Discretionary decision-making in a dynamic context: The influences on remand decision-makers in two Australian jurisdictions. *Current Issues in Criminal Justice*, 21(1), 24-40.
- Kohler-Hausmann, I. (2013). Misdemeanor justice: Control without conviction. *American Journal of Sociology*, 119(2), 351-393.
- Kruttschnitt, C., Gartner, R., & Miller, A. (2000). Doing her own time? Women's responses to prison in the context of the old and the new penology. *Criminology*, 38(3), 681-718.
- Kruttschnitt, C., & Gartner, R. (2005). *Marking time in the Golden State: Women's imprisonment in California*. Cambridge: Cambridge University Press.
- Kruttschnitt, C. (2005). The politics of confinement: Women's imprisonment in California and the UK. In A. Libeling and S. Maruna (Eds.), *The Effects of Imprisonment*, 209 – 231. Portland: Willan.
- Lara-Millan, A., & Van Cleve, N. G. (2017). Interorganizational utility of welfare stigma in the criminal justice system. *Criminology*, 55(1), 59-84.
- Leggett, J., Goodman, W., & Dinani, S. (2007). People with learning disabilities' experiences of being interviewed by the police. *British Journal of Learning Disabilities*, 35(3), 168-173.
- Liebling, A. (1992). *Suicides in prison*. London: Routledge.
- Liebling, A. (1999). Prison suicide and prisoner coping. *Crime Justice*, 26, 283–359.
- Liebling, A. (2004). The late modern prison and the question of values. *Current Issues in Criminal Justice*, 16 (2), 202–219.

- Liebling, A. assisted by Arnold, H. (2004). Prisons and their moral performance: A study of values, quality and prison life. Clarendon Studies in Criminology. Oxford: Oxford University Press.
- Liebling, A., Hulley, S., & Crewe, B. (2011). *Conceptualising and measuring the quality of prison life*. London: Sage.
- Lindquist, C. H., & Lindquist, C. A. (1997). Gender differences in distress: Mental health consequences of environmental stress among jail inmates. *Behavioral Sciences & the Law*, 15(4), 503-523.
- Loeffler, C. E. (2013). Does imprisonment alter the life course? evidence on crime and employment from a natural experiment. *Criminology*, 51(1), 137-166.
- Lowenkamp, C. T., VanNostrand, M., & Holsinger, A. (2013). The hidden costs of pretrial detention. *Laura and John Arnold Foundation*.
- Magee, C. G., Hult, J. R., Turalba, R., & McMillan, S. (2005). Preventive care for women in prison: A qualitative community health assessment of the Papanicolaou test and follow-up treatment at a California state women's prison. *American Journal of Public Health*, 95(10), 1712-1717.
- Maher, Lisa. (1997). *Sexed work: Gender, race and resistance in a Brooklyn drug market*. Oxford: Oxford University Press.
- Manishen, J. (2017, June 27). Supreme Court decision on bail a potential sea change. *The Lawyer's Daily*. LexisNexis Canada. Retrieved from:  
<https://www.thelawyersdaily.ca/articles/4018/supreme-court-decision-on-bail-a-potential-sea-change>

- Marchetti, A. (2002). Carceral impoverishment class inequality in the French penitentiary. *Ethnography*, 3(4), 416-434.
- Maruschak, L. (2012). HIV in prisons, 2001–2010. *U.S. Department of Justice*. Retrieved from <http://www.bjs.gov/content/pub/pdf/hivp10.pdf>
- Mason, G. L. (1990). Indeterminate sentencing: Cruel and unusual punishment, or just plain cruel. *New England Journal on Criminal and Civil Confinement* , 16, 89.
- Maxwell, K. (2014). Historicizing historical trauma theory: Troubling the trans-generational transmission paradigm. *Transcultural Psychiatry*, 51(3), 407-435.
- McCrank, N., Doob, A.N., Keefe, D., & Lang, T. (2009). Changing Face of Corrections. *Task Force Report*.
- McKay, C. (2016). Video links from prison: Permeability and the carceral world. *International Journal for Crime, Justice & Social Democracy*, 5(1), 21-37.
- McKinnon, I., & Grubin, D. (2010). Health screening in police custody. *Journal of Forensic and Legal Medicine*, 17(4), 209-212.
- Miller, R. J. (2014). Devolving the carceral state: Race, prisoner reentry, and the micro-politics of urban poverty management. *Punishment & Society*, 16(3), 305-335.
- Ministry of Community Safety and Correctional Services. (2015). *Correctional Services Policies and Guidelines: Admission, classification and placement of trans inmates and staff training*. Retrieved from <http://www.mcscs.jus.gov.on.ca/sites/default/files/content/mcscs/docs/ec167993.pdf>
- Mopas, M., & Turnbull, S. (2011). Negotiating a way in: A special collection of essays on accessing information and socio-legal research. *Canadian Journal of Law and Society*, 26(3), 585-590.

- Mukai, C. (1971). Prisoner's clothing during trial. *Cleveland State Law Review*, 20, 391.
- Myers, N. M. (2009). Shifting risk: Bail and the use of sureties. *Current Issues in Criminal Justice*, 21, 127.
- Myers, N. (2013). *Creating criminality: The intensification of institutional risk aversion strategies and the decline of the bail process* (Doctoral dissertation). University of Toronto, Toronto, Ontario.
- Myers, N. M., & Dhillon, S. (2013). The criminal offence of entering any Shoppers Drug Mart in Ontario: Criminalizing ordinary behaviour with youth bail conditions. *Canadian Journal of Criminology and Criminal Justice*, 55(2), 187-214.
- Myers, N. M. (2015). Who said anything about justice? Bail court and the culture of adjournment. *Canadian Journal of Law & Society/La Revue Canadienne Droit et Société*, 30(1), 127-146.
- Naik, P., & Lawton, J. (1996). Assessment and management of individuals under the influence of alcohol in police custody. *Journal of Clinical Forensic Medicine*, 3(1), 37-44.
- National Research Council. (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. Washington, DC: The National Academies Press.
- Newburn, T. and Hayman, S. (2002). *Policing, surveillance and social control: CCTV and police monitoring of suspects*. Cullompton: Willan Publishing.
- Oakley, A. (1981). Interviewing women: A contradiction in terms. *Doing feminist research* 30, (6) 1.



- O'Brien, S., Pheterson, S., Wright, M., & Hostica, C. (1977). The criminal lawyer: The defendant's perspective. *American Journal of Criminal Law*, 5, 283.
- Ontario Court of Justice. (2017). *Criminal court statistics*. Retrieved from: <http://www.ontariocourts.ca/ocj/stats-crim/>.
- Ouimet Report. (1969). *Report of the Canadian Committee on Corrections, Toward Unity: Criminal Justice and Corrections* by Chairman Roger Ouimet.
- Packer, H. L. (1964). Two models of the criminal process. *University of Pennsylvania Law Review*, 113(1), 1-68.
- Page, J. (2011). *The toughest beat: Politics, punishment, and the prison officers' union in California*. Oxford: Oxford University Press..
- Page, J. (2017). Desperation and service in the bail industry. *Contexts*, 16(2), 30-37.
- Pager, D. (2003). The mark of a criminal record. *American Journal of Sociology*, 108(5), 937-975.
- Payne-James, J., Green, P., Green, N., McLachlan, G., Munro, M., & Moore, T. (2010). Healthcare issues of detainees in police custody in London, UK. *Journal of Forensic and Legal Medicine*, 17(1), 11-17.
- Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. Oxford: Oxford University Press.
- Pettit, B., & Western, B. (2004). Mass imprisonment and the life course: Race and class inequality in US incarceration. *American Sociological Review*, 69(2), 151-169.
- Player, E. (2007). Remanding women in custody: Concerns for human rights. *The Modern Law Review*, 70(3), 402-426.
- Pollock, J.M. (2002). *Women, crime, and prison*. Belmont: Wadsworth.

- Pollack, S. (2009). "You Can't Have it Both Ways": Punishment and Treatment of Imprisoned Women. *Journal of Progressive Human Services, 20*(2), 112-128.
- Pollanen, M. S., Chiasson, D. A., Cairns, J. T., & Young, J. G. (1998). Unexpected death related to restraint for excited delirium: A retrospective study of deaths in police custody and in the community. *Canadian Medical Association Journal, 158*(12), 1603-1607.
- Porter, L., & Calverley, D. (2011). Trends in the use of remand in Canada. *Juristat, 3*, 85-102.
- Prout, C., & Ross, R. N. (1988). *Care and punishment: The dilemmas of prison medicine*. Pittsburgh: University of Pittsburgh Press.
- Quirouette, M. (2017). Community practitioners in criminal courts: Risk logics and multiply-disadvantaged individuals. *Theoretical Criminology*.
- Rabinowitz, M. (2010). *Holding cells: Understanding the collateral consequences of pretrial detentions*. Evanston: Northwestern University.
- Rankin, Anne. (1964). The effect of pretrial detention." *New York University Law Review, 39*, 641.
- Razack, S. H. (2011). The space of difference in law: inquests into aboriginal deaths in Custody. *Somatechnics, 1*(1), 87-123.
- Rottman, D. B., & Kimberly, J. R. (1975). The social context of jails. *Sociology and Social Research, 59*(4), 344-361.
- Rowe, A. (2011). Narratives of self and identity in women's prisons: Stigma and the struggle for self-definition in penal regimes. *Punishment and Society, 13*(5), 571-591.
- Royal Commission of Ontario: Inquiry into Civil Rights, volume 2. (1968). *Report of the inquiry into civil rights* by Commissioner J.C. McRuer.

- Sarre, R., King, S., & Bamford, D. (2006). Remand in custody: Critical factors and key issues. *Trends & Issues in Crime and Criminal Justice*, 310, 1-6.
- Sapers, H. (2017). *Segregation in Ontario*. Independent Review of Ontario Corrections.
- Schept, J. (2015). *Progressive punishment: Job loss, jail growth, and the neoliberal logic of carceral expansion*. New York: New York University Press.
- Schonteich, M. (2014). *Presumption of guilt: The global overuse of pretrial detention*. New York: Open Society Foundations.
- Senese, J. D., & Kalinich, D. B. (1993). A study of jail inmate misconduct: An analysis of rule violations and official processing. *Journal of Crime and Justice*, 16(1), 131-147.
- Sered, S., & Norton-Hawk, M. (2008). Disrupted lives, fragmented care: Illness experiences of criminalized women. *Women & Health*, 48(1), 43-61.
- Sered, S., & Norton-Hawk, M. (2013). Criminalized women and the health care system: The case for continuity of services. *Journal of Correctional Health Care*, 19(3), 164-177.
- Sered, S. S., & Norton-Hawk, M. (2014). *Can't catch a break: Gender, jail, drugs, and the limits of personal responsibility*. Berkeley: University of California Press.
- Sexton, L. (2012). *Under the penal gaze: An empirical examination of penal consciousness among prison inmates*. Irvine: University of California Press.
- Sexton, L. (2015). Penal subjectivities: Developing a theoretical framework for penal consciousness. *Punishment & Society*, 17(1), 114-136.
- Simon, J. (2000). The 'society of captives' in the era of hyper-incarceration. *Theoretical Criminology*, 4(3), 285-308.
- Skinns, L. (2012). *Police custody: governance, legitimacy and reform in the criminal justice process*. London: Routledge.

- Small, W., Kain, S., Laliberte, N., Schechter, M. T., O'shaughnessy, M. V., & Spittal, P. M. (2005). Incarceration, addiction and harm reduction: Inmates experience injecting drugs in prison. *Substance Use & Misuse*, *40*(6), 831-843.
- Smoyer, A. B., & Lopes, G. (2017). Hungry on the inside: Prison food as concrete and symbolic punishment in a women's prison. *Punishment & Society*, *19*(2), 240-255.
- Sparks, R., Bottoms, A. E., & Hay, W. (1996). *Prisons and the problem of order*. Oxford: Clarendon Press.
- Spradley, James P. (1970). *You owe yourself a drunk: An ethnography of urban nomads*. Long Grove: Waveland Press.
- Steadman, H. J., Osher, F. C., Robbins, P. C., Case, B., & Samuels, S. (2009). Prevalence of serious mental illness among jail inmates. *Psychiatric Services*, *60*(6), 761-765.
- Stoller, N. (2003). Space, place and movement as aspects of health care in three women's prisons. *Social Science & Medicine*, *56*(11), 2263-2275.
- Subramanian, R. et al. (2015). *Incarceration's front door: The misuse of jail in America*. New York, NY: Vera Institute of Justice.
- Sudnow, D. (1965). Normal crimes: Sociological features of the penal code in a public defender office. *Social Problems*, *12*(3), 255-276.
- Sykes, G.M. (1958). *The society of captives: A study of a maximum security prison*. Princeton: Princeton University Press.
- Taekema, D. (2015). Inmates at Toronto South Detention Centre threaten to resume hunger strike. *The Toronto Star*. Retrieved from <https://www.thestar.com/news/gta/2015/08/23/inmates-at-toronto-south-detention-centre-threaten-to-resume-hunger-strike.html>

- Teplin, L. A. (1990). The prevalence of severe mental disorder among male urban jail detainees: Comparison with the epidemiologic catchment area program. *American Journal of Public Health, 80*(6), 663-669.
- Teplin, L. A. (1994). Psychiatric and substance abuse disorders among male urban jail detainees. *American Journal of Public Health, 84*(2), 290-293.
- Thaler, J. (1978). Punishing the innocent: The need for due process and the presumption of innocence prior to trial. *Winconsin Law Review, 1978*(2).
- Torrey, E. F. (1995). Jails and prisons-America's new mental hospitals. *American Journal of Public Health, 85*(12), 1611-1613.
- Torrey, E. F., Kennard, A. D., Eslinger, D., Lamb, R., & Pavle, J. (2010). More mentally ill persons are in jails and prisons than hospitals: A survey of the states. *Arlington: Treatment Advocacy Center.*
- Travis, J. (2000). *But they all come back: Rethinking prisoner reentry.* Washington, D.C.: US Department of Justice, Office of Justice Programs, National Institute of Justice.
- Trotter, G. (2010). *The law of bail in Canada*, (3<sup>rd</sup> ed.). Scarborough: Carswell.
- Turnbull, S., & Hannah-Moffat, K. (2009). Under these conditions: Gender, parole and the governance of reintegration. *The British Journal of Criminology, 49*(4), 532-551.
- Turnbull, S. (2016). 'Stuck in the middle': Waiting and uncertainty in immigration detention. *Time & Society, 25*(1), 61-79.
- Ugelvik, T. (2011). The hidden food mealtime resistance and identity work in a Norwegian prison. *Punishment & Society, 13*(1), 47-63.
- Van Cleve, N. G. (2016). *Crook County: Racism and injustice in America's largest criminal court.* Stanford: Stanford University Press.

- Veysey, B. M., Steadman, H. J., Morrissey, J. P., & Johnsen, M. (1997). In search of the missing linkages: Continuity of care in US jails. *Behavioral Sciences & the Law*, 15(4), 383-397.
- Vincent, D. (2015, July 13). Soaring lockdowns in Ontario prisons 'not acceptable'. *The Toronto Star*. Retrieved from <https://www.thestar.com/news/queenspark/2015/07/13/soaring-lockdowns-in-ontario-prisons-unacceptable-ndp-says.html>
- Wacquant, L. (2002). The curious eclipse of prison ethnography in the age of mass incarceration. *Ethnography*, 3(4), 371-397.
- Wacquant, L. (2009). *Prisons of poverty*. Minneapolis: University of Minnesota Press.
- Wagner, P. (2015, Aug 14). Jails matter. But who is listening? *Prison Policy Initiative*. Retrieved from <https://www.prisonpolicy.org/blog/2015/08/14/jailsmatter/>
- Walker, M. L. (2016). Race making in a penal institution. *American Journal of Sociology*, 121(4), 1051-1078.
- Ward, D., & Kassebaum, G. (1965). *Women's prison: Sex and social structure*. Chicago: Aldine.
- Watkins-Hayes, C. (2009). *The new welfare bureaucrats: Entanglements of race, class, and policy reform*. Chicago: University of Chicago Press.
- Watson, T. M. (2015). Research access barriers as reputational risk management: A case study of censorship in corrections. *Canadian Journal of Criminology and Criminal Justice*, 57(3), 1-33.

- Webster, C. M. (2009). Out of sight, out of mind: A case study of bail efficiency in an Ontario video remand court. *Current Issues in Criminal Justice*, 21, 103.
- Webster, C. M., Doob, A. N., & Myers, N. M. (2009). Parable of Ms. Baker: Understanding pre-trial detention in Canada. *Current Issues in Criminal Justice*, 21, 79.
- Weinrath, M. (2009). Inmate perspectives on the remand crisis in Canada. *Canadian Journal of Criminology and Criminal Justice*, 51(3), 355-379.
- Werth, R. (2012). I do what I'm told, sort of: Reformed subjects, unruly citizens, and parole. *Theoretical Criminology*, 16(3), 329-346.
- White, P. (2014, Dec 5). Confined: The Death of Eddie Snowshoe. *The Globe and Mail*. Retrieved from <https://www.theglobeandmail.com/news/national/confined-the-death-of-eddie-snowshoe/article21815548/>
- White, P. & Fine, S. (2015, Nov 13). Trudeau calls for ban on long-term solitary confinement in federal prisons. *The Globe and Mail*. Retrieved from <https://www.theglobeandmail.com/news/national/trudeau-calls-for-implementation-of-ashley-smith-inquest-recommendations/article27256251/>
- White, P. (2017, Apr 19). How a tweet led to unlocking Adam Capay's stint in solitary. *The Globe and Mail*. Retrieved from <https://www.theglobeandmail.com/news/national/how-a-tweet-led-to-unlocking-adam-capays-stint-in-solitary/article34756517/>
- Wildeman, C. (2009). Parental imprisonment, the prison boom, and the concentration of childhood disadvantage. *Demography*, 46(2), 265-280.

Wyant, R. E. (2017). Bail and remand in Ontario. Ontario Ministry of the Attorney General.

Retrieved from:

[https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/wyant/#\\_Toc46854411](https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/wyant/#_Toc46854411)

3

Zamble, E., & Porporino, F.J. (1988). *Coping, behavior and adjustment in prison inmates*.

New York: Springer-Verlag.

### **Legislation**

*Bail Reform Act*, SC 1970-71-72, c37.

*Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being

Schedule B to the *Canada Act 1982 (UK)*, 1982, c11.

*Criminal Code of Canada*, RSC 1985, c C-46, s515.

*Corrections and Conditional Release Act*, SC 1992, c20.

*Truth in Sentencing Act* RS, c C-46.

### **Case Law**

*R v Antic*, [2017] SCC 27

*R v Hall*, [2002] 3 SCR 309.

*R v Pearson*, [1992] 3 SCR 665.

*R v Morales*, [1992] 3 SCR 711.