

DO REVIEW TRIBUNALS CONSIDER
PROTECTIVE FACTORS IN THEIR
DECISIONS ABOUT PATIENTS FOUND
NOT CRIMINALLY RESPONSIBLE?

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OVERVIEW

- Not Criminally Responsible on account of Mental Disorder (NCRMD)
- Violence Risk Assessment
- Protective Risk
- Current Study
- Methods
- Results
- Discussion

NCRMD

- **Judgement of incapacity to form criminal intent** (Winko v. British Columbia (Forensic Psychiatric Institute), 1999)
 - Neither guilty nor acquitted
- **Relatively few cases** (Mental Health Commission of Canada, 2013)
 - Majority are non-violent offenses (Crocker et al., 2015)
- **Overseen by provincial Review Tribunals (RTs)** (Livingston, Crocker, Nicholls, & Seto, 2016)
 - Expert testimony most influential (Hilton & Simmons, 2001)
 - RTs not using violence risk assessments (e.g., Cote, Crocker, Nicholls, & Seto, 2012)

VIOLENCE RISK ASSESSMENT

- Clinical guidelines recommends VRA as integral to care and treatment (e.g. APA 2004)
- Actuarial vs **Structured Professional Judgement**
- Gold-standard: Historical Clinical Risk Management-20 (HCR-20) (Douglas, Hart, Webster, & Belfrage, 2013)
- Little correlation between clinician opinion and VRA results (Hilton & Simmons, 2001)

PROTECTIVE RISK

- Some factors have protective effects from reoffending
- Tools have been developed to measure such protective factors
 - Gaining attention as component of risk assessment
- Experts recommend measuring both when planning treatment
 - Overestimate recidivism
- Patients find strengths based inquiries positive in negative environment

CURRENT STUDY

- Very little research examining impact of strengths based approaches on RT proceedings
- Ontario Shores considering introduction of SAPROF
 - Adds incremental validity to risk for institutional misconducts
- Are protective factors currently being considered?
 - Will this change post-introduction?
- Get preliminary basis for how RTs use protective factors

METHOD

- Random sample of 67 cases
- July 2016 – June 2017
- Structured Assessment of Protective Factors (SAPROF) (de Vogel, de Ruiter, Bouman, & de Vries Robbé, 2012)
 - Modified
- File review
 - Cohens kappa (κ) = 0.845, $p < 0.001$

RESULTS

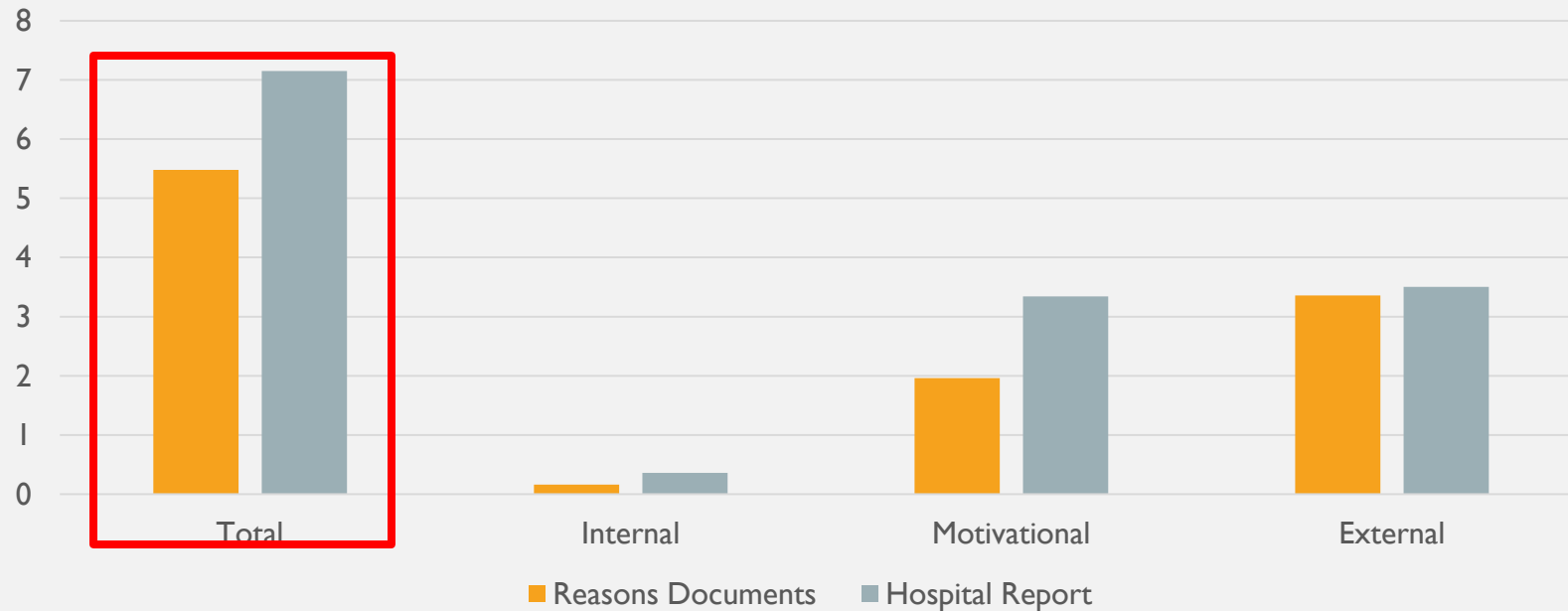


Fig. 1. Mean # of protective factors mentioned. * indicates significant difference

RESULTS

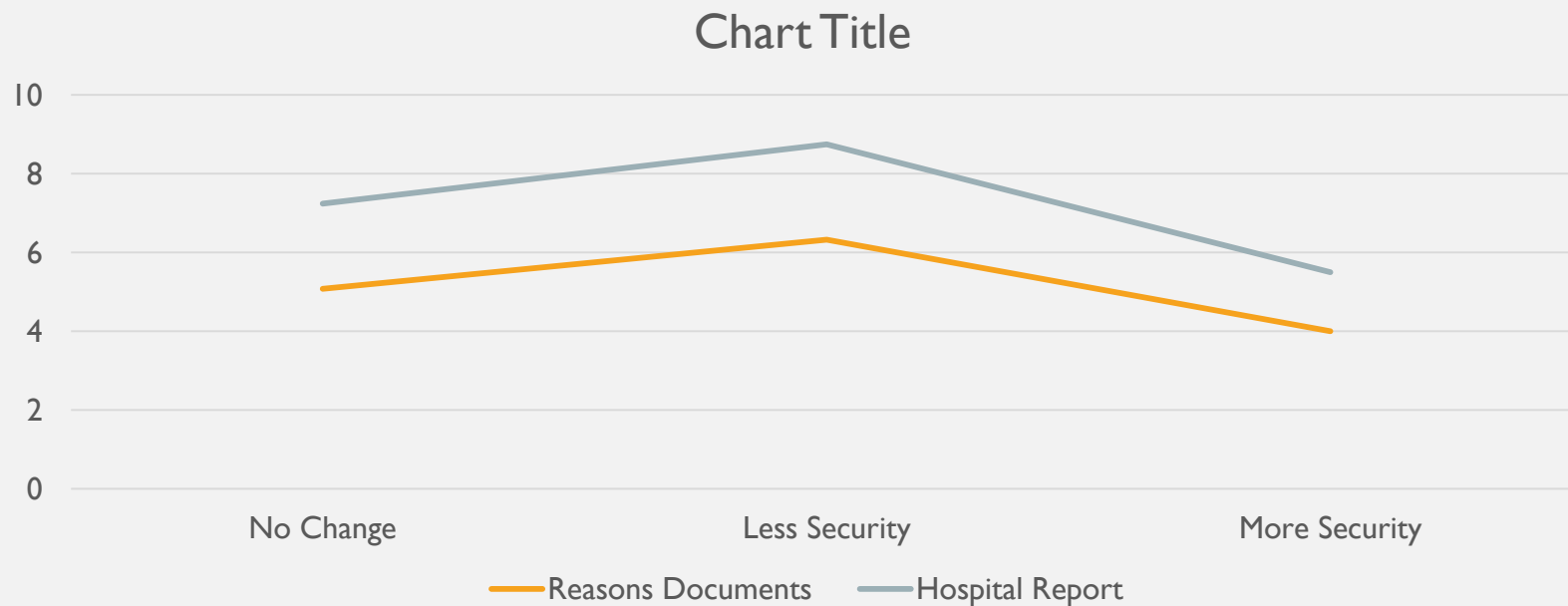


Fig. 2. Total # of mentions by disposition decision

DISCUSSION

- Some promise, room for improvement
 - Lack of use of protective factors
 - Improvement following implementation (Livingston et al., 2016)
- RTs should focus more on hospital reports
 - Too much focus on clinician testimony
- Negative experience may have consequences for trajectory

IMPLICATIONS

- Risk assessment procedure
 - Should include protective assessments to increase the focus on protective factors
- Evidence at hearing
 - What is presented and how it is presented
- Focus of treatment
 - Include methods of increasing protective factors.