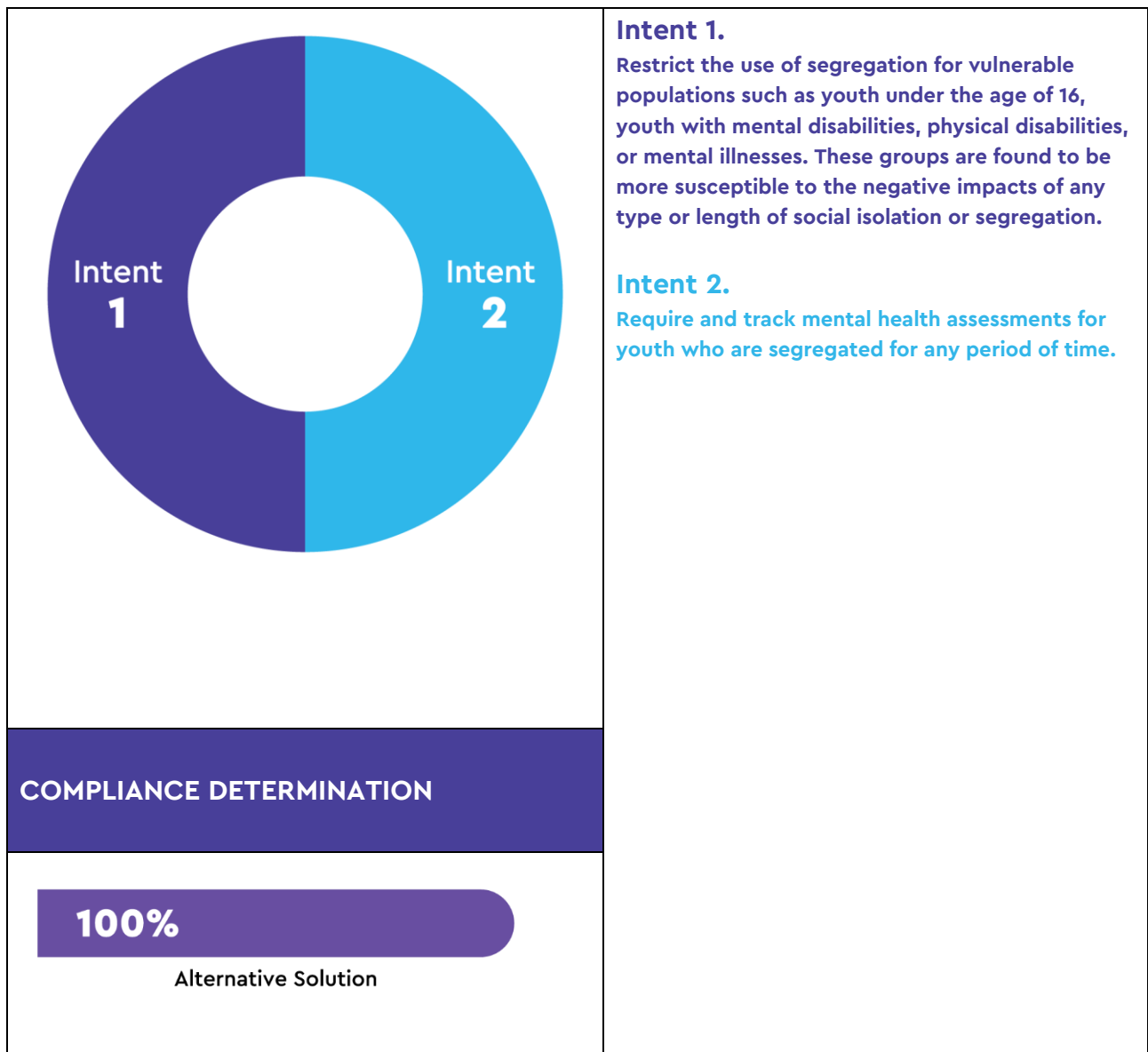


COMPLIANCE DETERMINATION

Mandela – Recommendation 2

Recommendation Summary: Restrict the use of segregation under 24 hours for vulnerable populations.

Primary Public Body: Manitoba Justice



Recommendation Compliance Summary



This form details the assessment of compliance with recommendations made under Section 27 and Section 31 of *The Advocate for Children and Youth Act*. MACY assesses recommendations for compliance once a year but receives updates from the public bodies every six months.

1. Recommendation Information	
Report Name:	Learning from Nelson Mandela: A Report on the Use of Solitary Confinement and Pepper Spray in Manitoba Youth Custody Facilities
Date Released:	2/21/2019
Full Recommendation: (including details)	<p>Recommendation Two:</p> <p>The Manitoba Advocate for Children and Youth recommends that the Manitoba government and Manitoba Justice restrict the use of any form of segregation under 24 hours in youth custody facilities through an amendment to <i>The Correctional Services Regulation</i>.</p> <p>DETAILS:</p> <ul style="list-style-type: none"> • That Manitoba Justice restrict the use of any form of segregation for the purposes of discipline, punishment, coercion, convenience, or retaliation. • That Manitoba Justice restrict the use of segregation by legislating maximum time limitations for these vulnerable populations and communicate clear expectations of what is required from the youth to be removed from segregation. • That Manitoba Justice track and require comprehensive mental health assessments for youth subjected to any period of segregation. • That Manitoba Justice conduct consultations with relevant stakeholders, including the Manitoba Advocate for Children and Youth, in preparation for amending <i>The Correctional Services Regulation</i>.
Intent(s) of Recommendation:	<ol style="list-style-type: none"> 1. Restrict the use of segregation for vulnerable populations such as youth under the age of 16, youth with mental disabilities, physical disabilities, or mental illnesses. These groups are found to be more susceptible to the negative impacts of any type or length of social isolation or segregation. 2. Require and track mental health assessments for youth who are segregated for any period of time.
Issue:	Solitary Confinement
Public Body	Manitoba Justice
Dates of Previous Official Updates from Public Body:	May 31, 2023
	June 30, 2022
	May 31, 2021

	June 30, 2020
	December 31, 2019
	June 26, 2019

2. Compliance Determination

Alternate Solution 1	Recommendation was not completed, but an alternative solution which met the intent of the recommendation was provided with sufficient justification and evidence for meeting the intent of the recommendation.
Self-Assessment	Alternate Solution
Previous Compliance Determination	Partially Compliant

3. Rationale for Determination
(How did you reach this compliance determination)

Intent 1: Restrict the use of segregation for vulnerable populations (youth under the age of 16, youth with mental or physical disabilities, youth with mental illness), who are more susceptible to the negative impacts of social isolation or segregation.

2023

- Manitoba Justice maintains and reiterates it does not use any form of segregation for the purposes of discipline, punishment, coercion, convenience, or retaliation, for any youth, including vulnerable youth in custody. The Department advised youth are placed in observation conditions for multiple reasons, with their mental health and wellness at the forefront of all interventions and placement locations.
- The Department maintains the terminology and definitions contained within its observation policy align with international minimum human rights standards for the treatment of youth in custody (Nelson Mandela Rules).
- The Department stated observation is used for a period of time to engage, monitor, ensure safety, and well-being. Manitoba Justice indicated observation can be used as an option for youth who do not feel safe, and/or for youth who have threatened/assaulted youth/staff, serving as a means to ensure their own safety within an institutional setting. The Department indicated use of observation is guided in principles for the best interest of all young people. They reported there is consideration for safety of all to guide appropriate placement, assessment, and intervention.
- In assessing vulnerability (alongside risk, need, responsivity), Manitoba Justice reports a holistic view and understanding of the young person is collected from all relevant collaterals. For instance, the Department offered an example where medical staff assess and communicate with institutional staff on what is best required to work with a youth provided their known medical diagnoses. Manitoba Justice reported ensuring continued support and collaboration with mental health and spiritual care, as well as other supports with whom the youth feels well connected, is best practice. The Department maintains all youth have unique and individualized needs and come with varying complexities, and it takes time to

unpack what is possible without placing a youth at greater risk.

- As it relates to policy restrictions for certain populations, the Department reported individualized needs are complex and multi-faceted. Manitoba Justice indicated it is difficult to create one frame of reference when emphasis is placed on the need to be child-centred and create individualized plans within a secure setting. A young person's needs may vary during their time at MYC, requiring fluid and adaptable responses, thus ongoing/consistent assessments are a foundation for caring for youth in custody. As an example provided by the Department, for a youth who struggles with emotional regulation, anxiety, and fear, being returned to general population may have a negative impact on their wellness, so placement in observation with the necessary and appropriate supports they need may have a more positive impact on the overall well-being of the respective young person.

2022

- Manitoba Justice has implemented a procedure requiring that management review and approve all Observation stays over 18 hours to ensure use of Observation is in accordance with their policies. This new procedure limits the use of Observation over 24 hours that falls outside the scope of their policies. Excluding COVID-19 related protocols requiring isolation per health guidelines, rates of segregation under 24 hours have decreased since 2019.
- In addition, Manitoba Justice reported that divisional policies (shared with MACY) are reviewed regularly and training is regularly conducted with staff about vulnerable youth in custody.
- The department also advised that Standing Orders will be reviewed within a period of one year, to include provisions/considerations for vulnerable populations.

2021

- In discussions over December 2020 and January 2021, Manitoba Justice has agreed to review and update its Standing Orders over the next year to include provisions that limit the use of segregation with vulnerable populations. Because no amended policies were provided for review, the intent remains limitedly compliant.

2020

- Section 5 of the Youth Observation Policy on Alternatives to Observation, specifically subsection a. on Temporary Placements/Restrictions, outlines when and how youth can be segregated under 24 hours. When a young person is in a Quiet Room for longer than 24 hours, that restriction "transition[s] to observation."
- There is nothing in the Youth Observation Policy that refers to vulnerable populations, nor does the policy restrict the use of segregation (e.g., maximum time limitations) on vulnerable populations. Rather, the use of observation is

defined by a minimum time period of "18 or more hours." There is no consideration to vulnerable youth, including youth with mental illnesses, in the use of observation/segregation.

Intent 2: Require and track mental health assessments for youth who are segregated for any period of time.

2023

- Manitoba Justice maintained ongoing assessments of all youth, with or without known mental health diagnoses, are continual. Legal guardian contact is the starting point for all information that assists and guides the development of plans to support youth in custody, in addition to relationship building with the young person. Staff are in direct and daily interaction with youth within the facility. Through relationship building and ongoing dialogue with the youth and their applicable community-based/institutional supports, staff are able to observe where a youth is at, changes to behaviour, and work to address what arises. Staff continually assess and observe behaviours the young people in the facility exhibit, and seek ongoing consultations with both MYC professionals and community-based supports.
- Mental health as generally conceptualized may not always be clear and simple, with an example provided that aggression may be a substitute for expressing emotions related to trauma. The Department maintains not all youth who are placed in observation require a mental health assessment while there. The Department indicated some youth are already connected and continue to meet with mental health professionals. For some, consultations commence while in observation, and, for others, referrals are made and the young person sees a professional once settled in a general unit. Of note, Manitoba Justice also noted that mental health assessments require voluntariness on the part of the youth.
- As reported by Manitoba Justice, referrals are submitted to mental health and/or spiritual care as requested, and as staff observe changes which may warrant consultation. If youth are unwilling to meet with a mental health professional, Juvenile Counsellors (JCs) will engage with who is deemed as having a relationship with the youth (at that time) to best provide for well-being. Trust and relationship forming with the young person is the first tool in collaboration with supports.
- Manitoba Justice advised all mental health assessments conducted are tracked by the Health Services Department at MYC with follow up by Registered Psychiatric Nurses, Psychology, and a Psychiatrist as is appropriate. These professionals follow youth in (and out of) observation as required and provide guidance to unit staff.
- As previously reported, MYC requires the MAYSI-2 be administered as soon as possible within 24 to 48 hours post admission to MYC for all youth, and not to exceed 72 hours. The Department confirmed with the MYC Health Services Department that medical and mental health nurses administer the MAYSI-2 upon a youth's admission, refer for additional consultations as needed, and share relevant

information with unit staff to best address needs and safely manage youth. Assessments are maintained in the Health Services files. This tool is utilized in part to assess and appreciate the current mental health needs of a young person.

2022

- Manitoba Justice reported that assessments are being completed and are used to inform case planning.
- Work is underway in collaboration with MACY to better understand how mental health assessments are defined, by whom they are carried out, and to track them as well as daily check-ins more systematically.
- The department reported its recent purchase of an endoscope to ensure youth are safe when a visual is not able to be attained.

2021

- Manitoba Justice is still in the process of ascertaining what would need to be involved for a comprehensive mental health assessment when youth are segregated in order to meet the intent of this recommendation. The department has engaged in discussions with MACY regarding what is expected to occur in such assessments.

2020

- According to the Youth Observation Policy, medical attention/visitation/review will take place in the form of a nurse on a daily basis, a medical supervisor on a weekly basis, or a psychologist after a young person is in observation for three consecutive days.
- According to the responses provided by the department to MACY's June 2020 questions, mental health nurses assess youth in observation a minimum of once a day. Mental health visitation by a psychologist occurs after a young person has been in observation for three days.
- As per the responses provided by the department at the July 13, 2020 pre-assessment meeting, the Massachusetts Youth Screening Instrument-Version 2 (MAYSI-2) is the screening instrument that is used to conduct a comprehensive mental health assessment on youth placed in observation. This tool was designed for youth 12 to 17 years of age with a primary use in juvenile corrections. It is a self-report inventory of 52 yes/no questions measuring various scales including: alcohol/drug use, anger, depression, anxiety, somatic complaints, suicide ideation, thought disturbances, and traumatic experiences.
- There is no indication that these assessments are being tracked systematically; they are kept in individual files.

Analysis Summary: MACY accepts Manitoba Justice's submission of an alternate solution, provided the distinctions between how the recommendation was worded and what occurs through observation, and the contextual realities of working with young people in

a youth correctional facility. MACY accepts the justifications which explain the rationale for not being able to clearly restrict observation for certain populations, particularly considering observation is often used as a means to protect said vulnerable populations. MACY further accepts the justifications for why not all youth in observation require a formalized mental health assessment. Assessments of diverse formalities continually occur, and not all youth may want to engage in a mental health assessment as this recommendation requires. MACY accepts the justifications Manitoba Justice practices a youth-centred approach to care, recognizing all youth have different and continually changing needs. Ultimately, this serves to meet the overall spirit of this recommendation which requires the department take careful consideration regarding treatment of vulnerable populations. As such, an Alternate Solution is agreed upon, warranting this recommendation to be accepted as met.