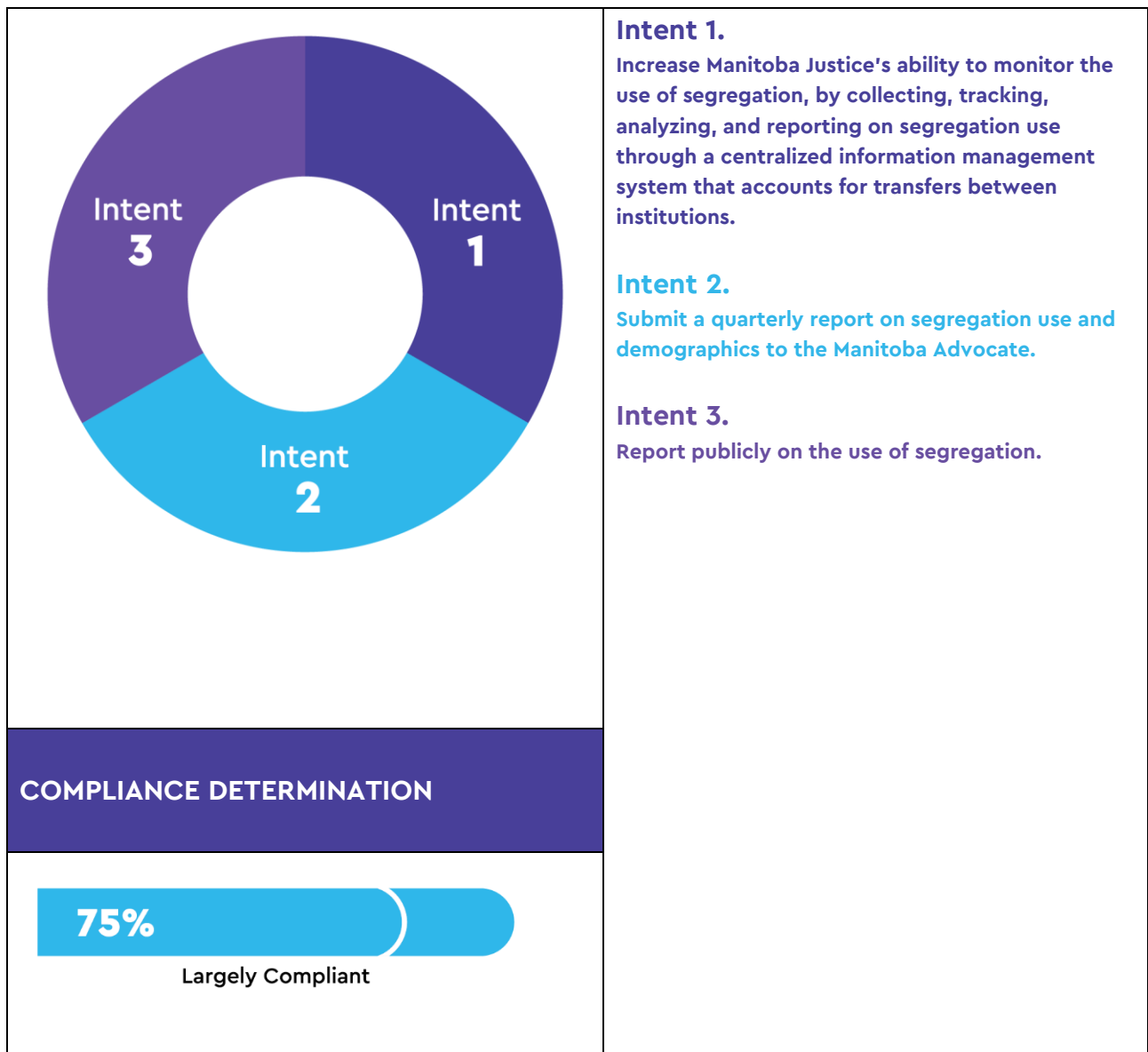


COMPLIANCE DETERMINATION

Mandela – Recommendation 3

Recommendation Summary: Collect, track, analyze, and publish reports of segregation incidents.

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 Three:</p> <p>The Manitoba Advocate for Children and Youth recommends that Manitoba Justice collect, track, analyze, and report on incidents of segregation across youth custody facilities to ensure transparency and accountability.</p> <p>DETAILS:</p> <ul style="list-style-type: none"> • That Manitoba Justice invest in the development of a centralized information management system to implement a process to aggregate data and analyze trends on the use of segregation by youth, reflecting transfers between institutions. • That Manitoba Justice submit a report quarterly to the Manitoba Advocate for Children and Youth on the number of youth placed in any form of segregation; the length of time each youth was in segregation; the race, ethnicity, age, and gender of each youth; facility staffing levels at the time of confinement; the reason each youth was placed in segregation; any knowledge of mental health (illness or cognitive vulnerability); and services provided while in confinement. • That Manitoba Justice report publicly on aggregated data of the use of segregation practices in youth custody facilities through their Annual Report.
Intent(s) of Recommendation:	<ol style="list-style-type: none"> 1. Increase Manitoba Justice's ability to monitor the use of segregation, by collecting, tracking, analyzing, and reporting on segregation use through a centralized information management system that accounts for transfers between institutions. 2. Submit a quarterly report on segregation use and demographics to the Manitoba Advocate. 3. Report publicly on the use of segregation.
Issue:	Solitary Confinement
Public Body	Manitoba Justice
Dates of Previous	May 31, 2023

Official Updates from Public Body:	June 30, 2022
	May 31, 2021
	June 30, 2020
	December 31, 2019

2. Compliance Determination

Largely Compliant 0.75	Actions taken meet the majority of requirements for implementation, only negligible requirements remain.
Self-Assessment	Alternate Solution
Previous Compliance Determination	Partially Compliant

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

Intent 1: Increase Manitoba Justice’s ability to monitor the use of segregation, by collecting, tracking, analyzing, and reporting on segregation use through a centralized information management system that accounts for transfers between institutions.

2023

- Given the closure of Agassiz Youth Centre (AYC) in July 2022, information pertaining to youth transfers between institutions is no longer relevant.
- Since August 2022, observation incidents have been analyzed and vetted through the Youth Justice Branch. With MACY, Manitoba Justice has co-developed and implemented a spreadsheet to track observation use incidents (24+ hours) for youths ages 12-17. Observation information will be collected and analyzed by Justice monthly to prepare for quarterly reports and (if necessary) meetings with MACY.
- As reported by the Department, Manitoba Justice will continue to track information to better support MYC in meeting the needs of young people. Manitoba Justice advised its own internal tracking has been helpful in identifying how the Youth Justice Branch can support themes from a strategic lens.

2022

- Manitoba Justice reported that it "tracks this data monthly but does not use a centralized management system." No further actions have been taken to do this work in-house or to integrate tracking into existing databases.
- In light of the closing of Agassiz Youth Centre (AYC), leaving only the Manitoba Youth Centre (MYC) in operation, MACY recognizes accounting for transfers between institutions is no longer needed.
- Work is underway with MACY to improve quality assurance of Observation data and to address differences in language with the goal of clarifying terms and definitions when a youth is separated from the general population.

2021

- As of May 2021, there has been no progress on Manitoba Justice's capacity to track, analyze, and report on segregation data in-house, other than to centralize/combine the spreadsheets from the two youth custody facilities into one. The department continues to collect and share said data with MACY, who subsequently track, monitor, and conduct analyses. MACY has also released a special report update in June 2021, summarizing findings from the spreadsheets Manitoba Justice has shared.

2020

- While Manitoba Justice reports the tracking form is "in use at both" youth custody facilities, there are inconsistencies between the two facilities' tracking forms and, as a result, inconsistencies in the data the department provides to MACY. Significant data cleaning is currently required to ensure that transfers of the same individual between segregation units at both facilities are accounted for, and it is difficult to see through current tracking mechanisms how many times and for how long a youth is placed in segregation.
- Storage and tracking of segregation data using a centralized information management system would allow Manitoba Justice to have a better understanding of the use of segregation per youth in custody, instead of per facility, and to identify cases of overuse. The department has not provided any indication that it will integrate the tracking form into their current centralized information management system, COMS, or develop an alternative centralized information management system.
- The recommendation calls for Manitoba Justice to track and analyze segregation data. At present, however, Manitoba Justice collects, tracks, and reports on segregation incidents on a quarterly basis to MACY (increased to monthly since the onset of the COVID-19 pandemic), and MACY Quality Assurance and Research staff subsequently analyze this data.

Intent 2: Submit a quarterly report on segregation use and demographics to the Manitoba Advocate.

2023

- MACY and Manitoba Justice's engagement in ongoing meetings allowed the opportunity for a joint understanding of what observation means, compared to the term segregation used to describe practices in the *Mandela* report.
- The agreed upon definition, communicated by the Manitoba Advocate to Manitoba Justice representatives on February 22, 2023 is as follows: "*Observation is the act of closely monitoring and assessing a youth, separate from the general population. Observation allows institutional staff the opportunity to identify potential risks or changes in behaviour. This includes preventative security measures such as placement on admission and threat identification, as well as*

investigating incidents of assault, medical isolation, suicide ideation, and youth self-requests/behaviour plans. Observation also involves identifying anomalies that may require further investigation or aid in risk prevention, such as potential contagion due to transmittable diseases or youth who request time away from their peer group. Timing in observation is individualized and continually assessed pending the originating circumstances. Observation requires close attention and analysis in order to ensure the safety of youth, peers and staff, and to provide the best possible care and support. In some cases, observation may involve the implementation of preventative measures such as one-to-one staffing for suicidal ideation or proactive emotional regulation for youth. Ultimately, observation is an essential component in providing quality care and ensuring the safety of all involved. The correctional center provides additional supports to youth who are in observation for more than 18 hours, depending on the youth's individual needs. The Manitoba Advocate for Children and Youth (MACY) are contacted for all youth who meet this time threshold, to ensure that the youth feels supported and that all necessary provincially funded services and supports are provided." This recognition guides the rationale for assessing compliance with relevant intents.

- Since last year, observation data had been provided on a monthly basis to MACY, but the data has been provided to MACY on a quarterly basis beginning April 2023.
- This intent was previously deemed met; however, fulfillment has since been downgraded as of April 2023. Since the refined spreadsheet referenced above was created, it has been utilized for the 2023 year. January to March data were assessed as meeting this intent in full; however, the information provided for April through June is deemed insufficient as Manitoba Justice has since opted to remove the names of the young people involved in observation incidents.

2022

- Manitoba Justice's actions continue to meet this intent and work is underway to improve quality assurance of this data.

2021

- As of May 2021, Manitoba Justice continues to submit spreadsheets on segregation use and demographics to MACY on a monthly basis, meeting this intent in full.

2020

- Manitoba Justice has been reporting quarterly on the use of segregation in Manitoba youth custody facilities to the Manitoba Advocate. Due to COVID-19 restrictions, the Manitoba Advocate requested monthly reports, and Manitoba Justice has complied with the request for more frequent reporting.
- Manitoba Justice segregation data submitted to MACY include the length of time each youth was in segregation, the Indigenous status, age, and gender of each youth, the reason each youth was placed in segregation, and any knowledge of mental health (illness or cognitive vulnerability). Manitoba Justice has not been

reporting on the facility staffing levels at the time of confinement or services provided to youth while in confinement.

- In the early stages of Manitoba Justice sharing its segregation data with MACY, some of the variables that this recommendation outlined as essential to be tracked had not been integrated into the department's tracking tool (e.g., Indigenous status, knowledge of mental health, gender). This was later corrected and updated. In addition, some of the columns in the data shared by Manitoba Justice contain many blank cells. Manitoba Justice has been working with MACY to rectify this and ensure any missing pieces are included in the quarterly/monthly submissions.

Intent 3: Report publicly on the use of segregation.

2023

- Manitoba Justice is not exploring options to publicly report on observation statistics. Manitoba Justice indicated since the *Mandela* report used the terms solitary confinement and segregation – which have different meanings to practices undertaken – the Department views it not appropriate to share statistics which may be misconstrued by the general public.

2022

- MACY acknowledges that there is a tension between Manitoba Justice and MACY around what is understood as segregation.
- The department reported that it “understands the intent is to be able to track and analyze data in-house, and report publicly,” but will not be reporting publicly on this data and has concerns about misconceptions that may result.
- Work will occur this year with MACY to address these concerns about misconceptions and to address differences in language with the goal of clarifying terms and definitions when a youth is separated from the general population, and the department making data public, as called for by MACY, to ensure transparency and accountability.

2021

- As of May 2021, Manitoba Justice still has not reported publicly on segregation use.
- Previous updates did not indicate any progress on this intent.

Analysis Summary: Given the closure of AYC, intent 1 for the present purpose is met provided Manitoba Justice's reported intention to continue internal monitoring and tracking of youth in observation. MACY recognizes the rationale for not publicly reporting as originally recommended in intent 3, and agrees the nuances and varied circumstances which occur for youth held in observation may be misconstrued by the general public provided the original language utilized in the *Mandela* report. The difference between observation and solitary confinement/segregation has been recognized by MACY during

ongoing meetings between departments, MYC visits from MACY, and the contextual details of observation situations reported by the Department. In order for Manitoba Justice to be fully compliant with intent 2, it is imperative the Department returns to reporting practices which occurred from January-March 2023, as this ensured MACY was appraised of both aggregate and individual themes within the institution. While the act of notification continues, simply being advised observation is occurring with associated general demographic information does not benefit youth, or MACY's overarching aim of ensuring right fulfillment. The removal of names from the data collected and sent to MACY inhibits MACY's ability to track patterns and follow-up with young people, if deemed necessary. It is noteworthy the requisite for follow-up advocacy, if deemed applicable, was presented to Manitoba Justice by the Manitoba Advocate on February 22, 2023, as insinuated by the agreed upon understanding of what observation is and how it is defined, and why MACY continues to take interest in understanding how often it occurs: *"to ensure that the youth feels supported and that all necessary provincially funded services and supports are provided."* As such, this recommendation is deemed Largely Compliant. The inclusion of names and continual quarterly observation reports are required to both obtain and retain completion status.