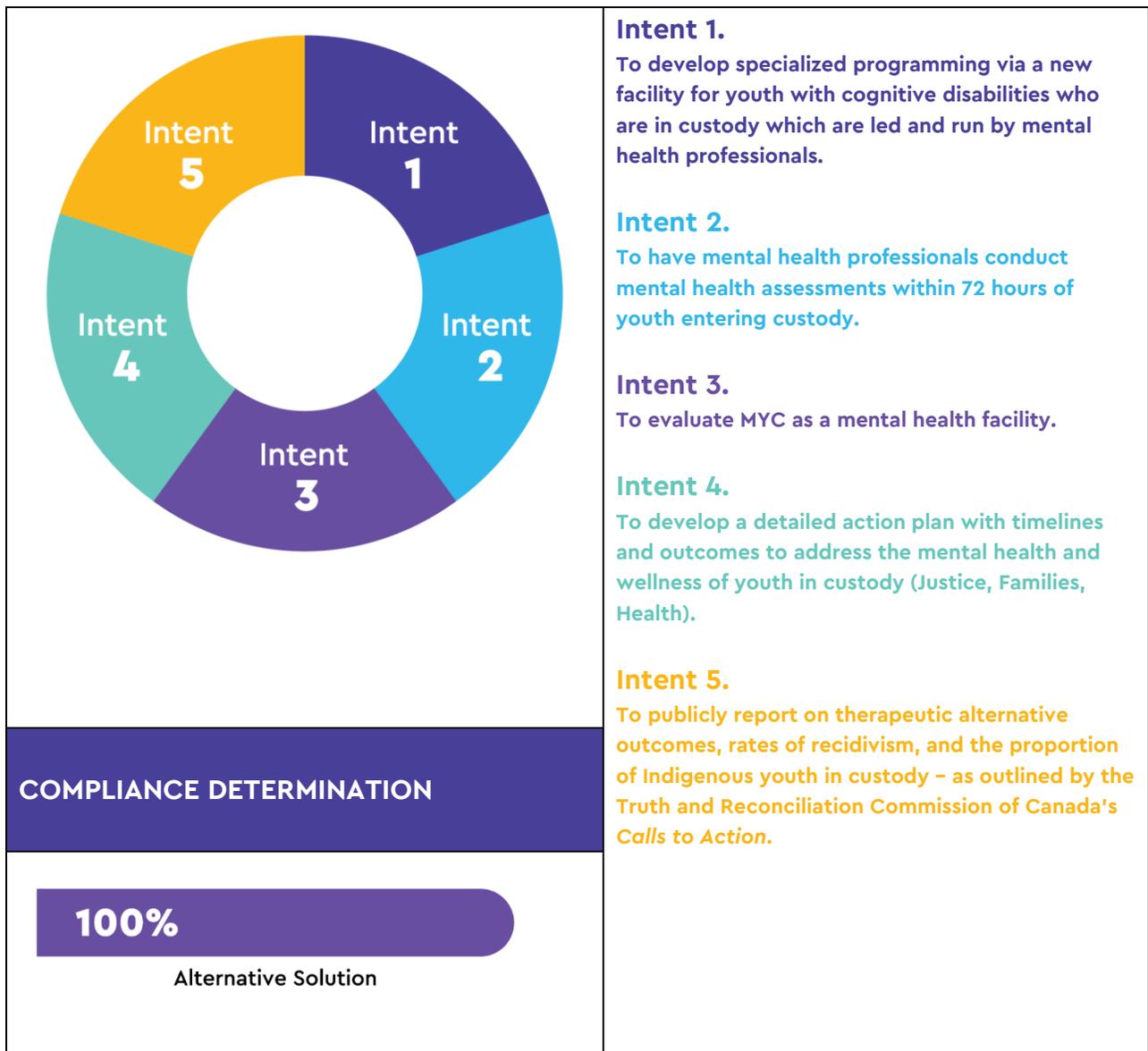


COMPLIANCE DETERMINATION

Mandela – Recommendation 6

Recommendation Summary: Create a specialized facility for youth in custody with cognitive vulnerability and mental illness, run by health professionals.

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 Six:</p> <p>The Manitoba Advocate for Children and Youth recommends that Manitoba Justice and Manitoba Health, Seniors and Active Living immediately embark on the development of a specialized health facility led and run by mental health professionals to provide evidence-informed programming for youth with mental illnesses or cognitive vulnerabilities in custody, including youth who are found not criminally responsible.</p> <p>DETAILS:</p> <ul style="list-style-type: none"> • That Manitoba Justice conduct comprehensive mental health assessments, followed by ongoing treatment and assessments by mental health professionals within 72 hours of youth entering custody. • That Manitoba Health, Seniors and Active Living, with the full cooperation of Manitoba Justice, evaluate the ability and capacity for the Manitoba Youth Centre to serve as a mental health facility as provided by <i>Facilities Designation Regulation</i> for the purposes of <i>The Mental Health Act</i>. • That Manitoba Justice collaborate with Manitoba Families, Manitoba Health, Seniors and Active Living, youth with lived and living experience in correctional facilities, subject-matter experts, correctional officers, and Indigenous Knowledge Keepers, as well as representatives with critical perspectives from the juvenile justice, health care, advocacy, and legislative arenas, in the development of a detailed action plan with timelines and measurable outcomes to address the mental health and wellness of youth in custody. • That Manitoba Justice identify, measure, and publicly report on the therapeutic alternative outcomes of the action plan annually, including rates of recidivism and the proportion of Indigenous youth in custody as outlined by the Truth and Reconciliation Commission of Canada's <i>Calls to Action</i>.
Intent(s) of Recommendation:	1. To develop specialized programming via a new facility for youth with cognitive disabilities who are in custody

	<p>which are led and run by mental health professionals.</p> <ol style="list-style-type: none"> 2. To have mental health professionals conduct mental health assessments within 72 hours of youth entering custody. 3. To evaluate MYC as a mental health facility. 4. To develop a detailed action plan with timelines and outcomes to address the mental health and wellness of youth in custody (Justice, Families, Health). 5. To publicly report on therapeutic alternative outcomes, rates of recidivism, and the proportion of Indigenous youth in custody – as outlined by the Truth and Reconciliation Commission of Canada's <i>Calls to Action</i>.
Issue:	Solitary Confinement
Public Body	Manitoba Justice
Dates of Previous Official Updates from Public Body:	August 18, 2023
	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	Largely Compliant
Previous Compliance Determination	Partially Compliant
3. Rationale for Determination	
<i>(How did you reach this compliance determination)</i>	
Intent 1: To develop specialized programming via a new facility for youth with cognitive disabilities who are in custody which are led and run by mental health professionals.	
2023	
<ul style="list-style-type: none"> • The Department highlights MYC is a youth correctional facility. Empowered by <i>The Youth Criminal Justice Act (YCJA)</i>, young people on remand and/or sentenced status are held in MYC. • Manitoba Justice maintains the circumstances that contribute to a youth's incarceration are multifaceted and complex. The Department advised not all programming at MYC is led by mental health professionals, as this is not viewed by the Department as best practice. For example, music therapy, art therapy, cultural 	

activities, and traditional teachings would not be delivered by a mental health professional. Teachers provide education and work with young people on their credit attainment, and also aid in identifying a youth's ability to comprehend content and collaborate accordingly with other professionals in the facility (e.g., to refer for assessments as required).

- Manitoba Justice maintains it is difficult to create one frame or style of programming when individualized youth circumstances evolve, while ensuring safety and security within an institutional setting. Manitoba Justice cited MYC staff training and mental health consultation opportunities, while asserting the ongoing efforts made to forge therapeutic bonds among youth and varied institutional professionals.
- Manitoba Justice provided MACY with a list of all programs available, information contained within other relevant recommendation assessments. Per the Department's report, some programs have been evaluated, and core programming quality assurance is maintained through the Divisional Program Coordinator.
- As noted in previous years, employed Juvenile Counsellors (JCs) receive basic core training prior to employment, and receive additional peer guidance and training on site. An overview of child/adolescent development is provided by a Psychologist. JCs are assigned as Case Managers to youth, and their interventions are overseen by their unit manager for guidance, quality assurance, and general oversight. Case Managers assigned can make appropriate referrals to other professionals.
- Regarding cognitive disability specialized programming, Manitoba Justice reports being among the leaders in Canada for fetal alcohol spectrum disorder (FASD) prevention/intervention initiatives, citing the FASD Court Docket and the FASD Youth Justice Program (and adult pilot project).
- As it relates to the FASD Justice program, the Department indicated since 2004 there have been approximately 1,740 referrals (ages 12-25), approximately 500 youth assessments completed, and the FASD Justice Program has assisted approximately 500 individuals transition into adult support services. Through a client-centred and strength-based approach, the goal is to ensure individuals impacted by FASD receive multidisciplinary assessments, appropriate judicial dispositions, and collaborative case management. This includes focused advocacy in custodial centres, the Court, and community, while linking participants with suitable resources to maximize success while transitioning from youth to adult services. The FASD Justice Program can also accept referrals for individuals ages 12-25 who have been previously diagnosed with FASD to receive case management follow up services. The FASD Justice Program works alongside the FASD Court Docket, Canada's first provincial court docket designed specifically for individuals diagnosed with FASD. The overall objective of the Court is to consider how FASD impacts the offending person's degree of responsibility while exploring a meaningful sentence that ensures participants are supported in the community. Related to FASD interventions, the Starfish program (specialized addictions programming for youth with FASD with two full time staffed positions) is

supported, in addition to department FASD training, and interdepartmental committee work. FASD Coordinators reportedly attend national conferences and engage in continued training to maintain knowledge of best practices. In 2023-24, the FASD Justice Program will design and deliver a one-two day training course that builds upon the FASD training already provided to staff (custody and probation) to gain further knowledge and enhance understanding of FASD to utilize in their daily roles.

- Manitoba Justice reported the federal Intensive Rehabilitative Custody and Supervision (IRCS) program. This is a contribution program, with all provinces and territories, for the delivery of specialized therapeutic programs and services for youth with mental health needs who are convicted of a serious violent offence. For specific youth connected to IRCS, additional professional resources (which may include psychology, occupational therapy, action therapy, music/art therapy, etc.) are contracted by the province for youth in custody and on community supervision.
- As reported within other intents and recommendations, Manitoba Justice noted the opening of the Youth Healing Lodge in Thompson, which will offer additional varied supports to youth involved in the Justice System.

2022

- Manitoba Justice reported that all Juvenile Counsellors are now trained in best practices to work with youth with cognitive disabilities, including trauma-informed care, mental health first aid, and case management principles of risk, need, and responsibility.
- In addition, the Manitoba Youth Centre (MYC) employs registered and licensed practical nurses, psychiatric nurses, and a psychologist.
- Youth have access to the FASD Justice Program, spiritual care providers, and community-based supports while in custody to strengthen and maintain relationships, and services to help transition back into the community.
- In light of this, Manitoba Justice advised it "Will not be actioning this Recommendation further," recommending it be removed, citing that the Manitoba Youth Centre (MYC) is deemed a mental health facility and is considered a hospital under the *Mental Health Act*, that juvenile counsellors are trained to work with persons with cognitive disabilities, and that youth have access to other programs and supports, including the FASD Justice Program, spiritual care providers, mental health professionals, psychologists, and psychiatrists.
- The fact that MYC is deemed a mental health facility as provided by *Facilities Designation Regulation* for the purposes of *The Mental Health Act*, was noted in the report and is the basis for Intent 3 of this recommendation (see below).
- More information is needed on how these existing programs meet the criteria of developing specialized programming and a space that is run and led by mental health professionals, as called for by this intent.
- The role of Manitoba Mental Health and Community Wellness in implementing this

intent remains unclear.

2021

- As of May 2021, Manitoba Justice has questioned the relevancy of this recommendation in light of the decrease in numbers of youth in custody since the *Mandela* report was released.
- The department has also cited "the [current] mental health supports available and the formation of the Department of Mental Health, Wellness and Recovery" as additional rationale for the irrelevancy of this recommendation. While the new department's formation is a legitimate reason for the delay of Intent 1, limited information was provided as to the quality of current mental health supports available for youth in custody. Service providers at the Manitoba Youth Centre (MYC) and Agassiz Youth Centre (AYC) identified the need for more specialized mental health supports in June 2021 (Manitoba Advocate for Children and Youth. 2021. *Breaking the cycle: An update on the use of segregation and solitary confinement in Manitoba youth custody facilities*, p. 16)

2020

- The numerous investments referenced in the Update on the Youth Justice Review dated June 16, 2020 speak to supporting positive outcomes for youth, reducing justice involvement in the area of mental health and addictions, which will support children and youth with complex multi-system needs (Confidential Information).
- There is no indication, however, whether a specialized facility run by mental health professionals is being considered as one of the specialized programming (Confidential Information).

Intent 2: To have mental health professionals conduct mental health assessments within 72 hours of youth entering custody.

2023

- This intent has been previously assessed as met. Manitoba Justice confirmed continued use of the MAYSI-2 within 24-48 hours of admission, not to exceed 72 hours.
- Once a young person is admitted to MYC, further collateral collaboration occurs between custody staff and the youth's support network. Initial contact to the youth's guardian begins the process of ongoing assessment of needs, other involved applicable systems, etc.

2022

- Given its closure, evidence that the MAYSI-2 is being done for every Agassiz Youth Centre (AYC) admission is no longer needed.
- The Department advised that "trained Juvenile Counsellors consistently assess the need for Mental Health referrals for youth to be assessed by psychiatric nurses."

- Further, the Youth Justice Review, which will include information and analysis about this recommendation in its purview, remains in progress.

2021

- As of October 1, 2021, Manitoba Justice began using the Massachusetts Youth Screening Instrument-Version 2 (MAYSI-2) tool for all youth admitted to MYC.
- In response to MACY following-up with the department to see if a snapshot of admissions during a specific time period could be provided to demonstrate that this process is indeed being followed for every single admission, Manitoba Justice sent MACY data of two weeks of admissions to the Manitoba Youth Centre (MYC) which showed a MAYSI-2 was completed every time.
- Evidence that the MAYSI-2 is being done for every Agassiz Youth Centre (AYC) admission is needed.
- As of May 2021, the Youth Justice Review, which would have provided information on mental health professionals conducting mental health assessments in youth custody facilities, has yet to be released due to the COVID-19 pandemic. In October 2021, the department additionally shared that the Youth Justice Branch was created in early 2021 to lead the review and that a review engagement strategy for the review would soon be established.

2020

- Upon admission, Manitoba Justice reported that all youth meet with a Correctional Psychiatric Nurse (CPN) for a suicide assessment and safety plan, and an assessment of risk within the facility. The risk assessment that is utilized is the (Y)LS/CMI. This is done at MYC within 24 hours and at AYC within 72 hours of a youth being admitted.
- Within 24 hours of youth being placed in observation, a mental health nurse uses the mental health assessment MAYSI-2 to identify signs of potential mental, emotional, and behavioural concerns, and assess mental health and cognitive capacity. Actions reported comply with the intent of this recommendation.
- Other than Manitoba Justice's response noting mental health assessments are conducted by a mental health nurse within 24 hours of a youth being admitted at MYC, and on the same day or within 72 hours of a youth being admitted at AYC, as of May 2021, no specific evidence was provided to prove this occurs. Assessments entail an initial greeting, orientation to assessing services, and an evaluation for any immediate needs. Assessments are documented within the youth's COMS record. Mental health nurses at each facility communicate with each other on any recommendations.

Intent 3: To evaluate MYC as a mental health facility.

2023

- The Department indicated it is not currently considering evaluating MYC as a

mental health facility given it is a youth correctional facility. Intersections of mental health and criminality are acknowledged, though ultimately the operations of MYC are governed by *The Youth Criminal Justice Act* (YCJA). Consistent with earlier responses and additional information provided to justify other intents, varied programming and mental health related services are available to young people housed in MYC.

- As noted in previous years, MYC is considered a hospital under *The Mental Health Act*. Psychiatrists, Psychologists, and Psychiatric Nurses work within the facility to care for the mental and medical health needs of youth. Should a youth's medical needs exceed what can be internally provided/treated, youth may be brought to larger hospitals.

2022

- Manitoba Justice advised this intent will involve collaborative work with Mental Health and Community Wellness.
- It further reported a mental health and addictions cross-departmental working group, being guided by best practices, mental health professionals, and their intent to do ongoing evaluation.
- The department also reported that "MYC is part of regular operations for the Justice department, and is considered a hospital under the Mental Health Act. Psychiatrists, psychologists and psychiatric nurses work within the facility to care for the mental health needs of the youth."

2021

- In May 2021, and confirmed in October 2021, Manitoba Justice reported that Intent 3 is on pause until the new Department of Mental Health, Wellness and Recovery is able to assist in reviewing this recommendation and provide feedback as to further action on evaluation of the Manitoba Youth Centre. COVID-19 has also contributed to the delay.

2020

- There is no indication in any of the documents provided by Manitoba Justice of a plan to evaluate the ability and capacity of MYC to serve as a mental health facility.

Intent 4: To develop a detailed action plan with timelines and outcomes to address the mental health and wellness of youth in custody (Justice, Families, and Health).

2023

- Manitoba Justice reports it will continue to work internally and collaboratively across departments, and in consultation with communities, to ensure programming, services, and resources are available to youth at MYC.
- The Reducing Youth Justice Initiative Social Impact Bond and development of the Youth Healing Lodge in Thompson (detailed in other recommendations) were

noted as examples demonstrating therapeutic developments.

- In August 2022, the vacant position of the Executive Director of Youth Justice was filled and an additional position, Director of Youth Justice, was created. Youth programming/initiatives are under review in relation to existing public reports to guide improved outcomes for youth. As the Youth Justice Branch develops, greater emphasis will be placed on highlighting youth initiatives through the creation of a Youth Justice Strategy. The framework is expected to be completed in the Fall of 2023.
- As noted in the details of other recommendations, there is evidence of cross-departmental collaboration to meet needs youth involved in the justice system present.

2022

- Manitoba Justice reported that "An action plan will be completed following the Youth Justice Review which is in the beginning stages. The Youth Justice Review, is a priority for the department however it has been delayed due to COVID."

2021

- As of May 2021, the Youth Justice Review, which would have resulted in the development of an action plan on the mental health and wellness of youth in custody, has yet to be released due to the COVID-19 pandemic.

2020

- The Youth Justice Review appears to be promising in fulfilling the development of a detailed action plan to address the mental health and wellness of youth in custody. Although on September 2, 2020 Manitoba Justice confirmed Manitoba Health, Seniors and Active Living has been engaged with the Youth Justice Review, no timelines for the completion of the action plan have been provided (Confidential Information).

Intent 5: To publicly report on therapeutic alternative outcomes, rates of recidivism, and the proportion of Indigenous youth in custody – as outlined by the Truth and Reconciliation Commission of Canada's *Calls to Action*.

2023

- Manitoba Justice publicly reports on recidivism rates; however, it did not advise of intents to report on proportion of Indigenous youth in custody, or other forms of youth-specific data related to youth corrections. Manitoba Justice cited reports authored by Justice Canada which highlight the overrepresentation of Indigenous youth.
- Manitoba Justice indicated that as the Youth Justice Branch develops, greater emphasis will be placed on highlighting youth initiatives through the creation of a

Youth Justice Strategy, a framework expected to be completed in the Fall of 2023. In addition, they reported that the Government website will include enhancements to highlight Youth Justice initiatives.

- According to them, Government news releases offer context on new initiatives, with an example being the [announcement](#) of the Youth Healing Lodge made in March of 2022.

2022

- The department did not achieve this intent within the past year, as projected in 2021 (see below).
- That said, Manitoba Justice has culturally safe programming guided by Elders and Knowledge Keepers, has a sweat lodge on site, is developing a Healing Lodge in Thompson, has launched a new program with Marymount to provide culturally safe and supportive programming aimed at reducing Indigenous youth involvement in the justice system, and has started the development of an outdoor therapeutic space at MYC.
- The department advised that it currently reports some of this information, such as recidivism rates, and is in discussion with MACY on what is required in order to meet this intent.

2021

- In their May 2021 MACY-RAP response, Manitoba Justice has committed to publicly reporting these statistics within one year, and is in communication with MACY regarding what is required.

2020

- The department reports publicly on recidivism rates and these statistics are available on the Manitoba government website. The department also annually submits data on the proportion of Indigenous youth in custody (if a youth self-reports as Indigenous) to the Canadian Centre for Justice Statistics, a division of Statistics Canada, and these statistics are made public on the latter's website. There is no indication in the documents provided that the department plans to report publicly on therapeutic alternative outcomes.

Analysis Summary: Progress, completion, and considerations of the varied actions taken for the intents of this recommendation are assessed as fulfilled through an Alternate Solution. For intent 1, MACY recognizes not all programming must be run by mental health professionals, and accepts the justification provided by the Department citing a range of professionals from diverse backgrounds. It is notable that specialized facilities which serve to respond to the needs of youth (with needs including addictions and mental health) continue to be advocated for through other existing recommendations. Intent 2 has been

met previously, and evidence shared this year is sufficient. Regarding intent 3, MACY acknowledges the domain differences between correctional facilities and mental health facilities. For intent 4, while there is no evidence of a formal action plan, justifications provided (for this, and other recommendations released by the *Mandela* report) prove sufficient, as there is evidence of cross-departmental and external collaboration (e.g., MKO partnerships) to address the needs of youth in custody. As for intent 5, MACY recognizes ongoing deficiencies remain concerning the proportion of Indigenous youth housed in MYC being publicly reported upon, as outlined in the TRC *Calls to Action* (which MACY supports). In saying this, ultimately this aim can be continually advocated for through public statements, future reports, public education campaigns, etc. It is the assessment of MACY that publicly reporting on youth Indigenous incarceration rates, while related, is a larger issue beyond this recommendation – which was initially released in the hopes of creating a specialized facility for incarcerated youth led and run by mental health professionals. Through ongoing monitoring of other recommendations and retaining youth justice as a designated/reviewable service, issues specific to youth mental health in custody can be continually advocated for as required.