

# COMPLIANCE DETERMINATION

## Mandela – Recommendation 6

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

**Primary Public Body:** Manitoba Justice

**1. Develop specialized programming for youth with cognitive disabilities who are in custody led and run by mental health professionals.**

All Juvenile Counsellors are now trained in best practices to work with youth with cognitive disabilities, including trauma-informed care, mental health first aid, case management principles of risk, need, and responsiveness. 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, maintain relationships, and provide services as they transition back into the community.

**5. Publicly report on therapeutic alternative outcomes, rates of recidivism, and the proportion of Indigenous youth in custody – as outlined by the TRC Calls to Action.**

Manitoba Justice reports on recidivism rates, 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.

**2. Have mental health professionals conduct mental health assessments within 72 hours of youth entering custody.**

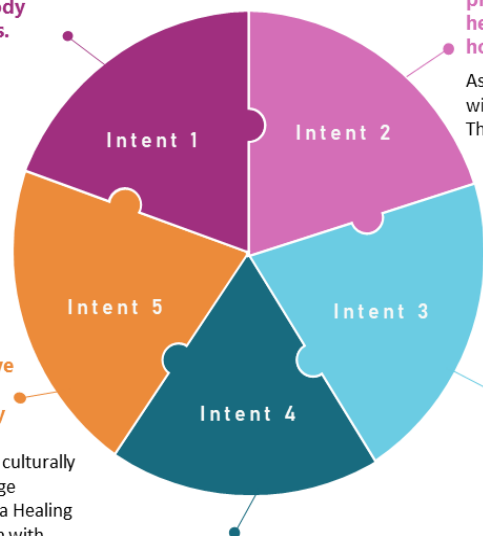
Assessments are conducted within 72 hours of admission. This Intent has been met.

**3. For Manitoba Health with Manitoba Justice to evaluate the status of the Manitoba Youth Centre as a mental health facility.**

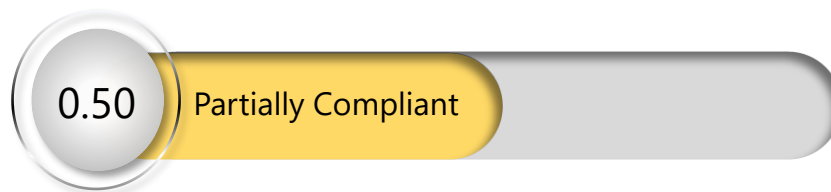
Manitoba Justice advised this Intent will involve collaborative work with Mental Health and Community Wellness. They further reported a mental health and addictions cross-departmental working group, being guided by best practices, mental health professionals, and their intent to do ongoing evaluation.

**4. For Manitoba Justice with Manitoba Families and Manitoba Health to develop a detailed action plan to address the mental health and wellness of youth in custody.**

Manitoba Justice advised an action plan will be completed following the Youth Justice Review, which is in the beginning stages.



### COMPLIANCE DETERMINATION



## Recommendation Compliance Summary

In accordance with subsection 11(1) clause (d) of *The Advocate for Children and Youth Act* (ACYA), the Advocate retains the responsibility "to monitor the implementation of recommendations included in reports made under section 27 (investigation) or special reports made under section 31."

This form details the assessment of implementation of compliance made under the referenced subsection of the ACYA. MACY assesses implementation of compliance with recommendations once a year but receives updates from public bodies every six months.

<b>1. Recommendation Information</b>	
<b>Special Report Name:</b>	<b>Learning from Nelson Mandela: A Report on the Use of Solitary Confinement and Pepper Spray in Manitoba Youth Custody Facilities</b>
<b>Date Released:</b>	2/21/2019
<b>Full Recommendation</b> (including details)	<p><b>Recommendation Six:</b> 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><b>DETAILS:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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>.</li> <li>• 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.</li> <li>• 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>.</li> </ul>
<b>Intent(s) of Recommendation:</b>	<p>The intents of the recommendation are:</p> <ol style="list-style-type: none"> <li><b>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.</b></li> <li><b>2. To have mental health professionals conduct mental health assessments within 72 hours of youth entering custody.</b></li> </ol>

	<p>3. To evaluate MYC as a mental health facility.</p> <p>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).</p> <p>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>.</p>
<b>Issue:</b>	Solitary Confinement
<b>Public Body</b>	Manitoba Justice Manitoba Health and Seniors Care
<b>Dates of Previous Official Updates from Public Body</b>	June 30, 2022 May 31, 2021 June 30, 2020 December 31, 2019 June 26, 2019
<b>2. Compliance Determination</b>	
<b>Partially Compliant 0.50</b>	Actions taken only implement part of the recommendation. Important requirements have been met and the recommendation is acted upon, however, deficiencies remain.
<b>Self-Assessment</b>	Partially Compliant (for Intents 1 and 4) Largely Compliant (for Intent 5) Fully Compliant (for Intents 2 and 3)
<b>Previous Compliance Determination</b>	Limitedly Compliant
<b>3. Rationale for Determination</b> (How did you reach this compliance determination)	
<p><b>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.</b></p> <p><b>2022</b></p> <ul style="list-style-type: none"> <li>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 responsivity.</li> <li>In addition, the Manitoba Youth Centre (MYC) employs registered and licensed practical nurses, psychiatric nurses, and a psychologist.</li> <li>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.</li> <li>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 <i>The Mental Health Act</i>, 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.</li> <li>The fact that MYC is deemed a mental health facility as provided by <i>Facilities Designation Regulation</i> for the purposes of <i>The Mental Health Act</i>, was noted in the report and is the basis for Intent 3 of this recommendation (see below).</li> </ul>	

- 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.**

#### **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.**

##### **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).**

##### **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*.****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 on Intent 1, Intent 2, and Intent 5 has occurred this year, including a sweat lodge, the newly launched Marymount program, an outdoor therapeutic space in its early stages of development at MYC, and more action to meet the intents of this recommendation expected upon the completion of the Youth Justice Review. Manitoba Justice's commitment to implement Intent 5 in consultation with Mental Health and Community Wellness continues to have the potential to move Intent 3 forward. Continued delays to the Youth Justice Review, however, due to the COVID-19 pandemic have impeded movement on Intent 4. In addition, Manitoba Justice's ongoing concerns related to the relevance of Intent 1 continue to impede the implementation of this

recommendation as a whole. As such, the department is partially compliant with this recommendation.