

Learning from Nelson Mandela	Recommendation Two	Reported Status: (not reported)
Report Sent: February 21, 2019	Public Body: The Government of Manitoba; Manitoba Justice	
<p>Recommendation Two: 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>. 		

Response from the Manitoba Government on June 27, 2019:

Summary of activities completed since report was released

Manitoba Justice restricts the use of segregation through its current policy, which was implemented in April 2018. While the policy is comprehensive and includes a formal review process, the department continues to strive for minimizing the use of segregation as much as possible.

As noted in Recommendation #1, the department will be considering appropriate legislative changes related to the youth justice review.

Analysis of Manitoba Government’s Response by the Manitoba Advocate for Children and Youth:

Activities Completed:

- Manitoba Justice again references the Youth Observation Custodial Policy that was implemented in April 2018, 10 months before the release of the special report, describing its “comprehensive” nature, citing a “formal review process” outlined in the policy, and again mentioning how the department “strive[s]” to minimize the use of segregation “as much as possible”.

- As with Recommendation One, Manitoba Justice notes that it will be considering legislative changes as it works on the youth justice review with Manitoba Families.

Level of Compliance

This response does not provide enough information to determine when or how the intent of this recommendation or its details will be met.

Analysis of Response

- The intent of this recommendation is to restrict the use of segregation for vulnerable populations such as individuals with mental or physical disabilities, including mental illnesses.
- While Manitoba Justice describes the April 2018 policy as prohibiting segregation exceeding 18 hours, the actual text of the policy instead cites the use of segregation for “18 or more hours”.
- The April 2018 policy does not restrict the use of segregation for vulnerable populations, including individuals with cognitive vulnerabilities or mental health challenges.
- The April 2018 policy also does not apply to temporary restrictions or other forms of segregation under 18 hours.
- MACY-RAP’s response to Recommendation Three states that Justice currently tracks incidents of segregation across youth custody facilities. The Manitoba Advocate will be requesting from Manitoba Justice the data that has been collected from this tracking system, from the time of the special report’s release (Feb 2019) until present, which would be the current numbers (in order to measure whether the use of segregation has indeed been minimized since the policy was implemented).

- How will the youth justice review work to meet the intent of this recommendation?
- What kinds of legislative changes might Manitoba Justice be considering?
- What is the timeline for the youth justice review?

- To be addressed in the short term*:
 - o Status of implementation
 - o Information indicating a timeline for implementation

*On September 30, 2019, the Manitoba Advocate sent a letter to the members of the government’s MACY-RAP committee and working group requesting additional information regarding the government’s progress



on recommendations made by the Advocate. The Advocate communicated to the government representatives short-term questions for information that could be provided quickly. Additionally, the Advocate sent long-term questions for the government to address in future progress reports. The questions are designed to seek clarification on activities, seek evidence or documentation to support the activities, or to determine how the government's responses are meeting the intent of the recommendations made by the Advocate. All of this information will be used by the Advocate to determine the levels of compliance with implementation, in accordance with s.11(1)(d), s.30(2)(d), and s.30(4), of *The Advocate for Children and Youth Act*.