



*Office of the Provincial Advocate
for Children and Youth*

*Bureau de l'intervenant provincial
en faveur des enfants et des jeunes*

Provincial Advocate for Children and Youth calls for immediate ban on solitary confinement for more than 24 hours

Toronto, ON (August 19, 2015) – Based on the findings of a new report, the Provincial Advocate for Children and Youth is calling on the Ministry of Children and Youth Services (MCYS) to put an end to placing youth in secure isolation (referred to as solitary confinement) for more than 24 hours. This is one of the six recommendations made by the Advocate's Office based on its review of the province's 20 youth justice facilities. The findings are highlighted in a new report entitled, "It's a Matter of Time: Systemic Review of Secure Isolation in Ontario Youth Justice Facilities."

"Youth justice custody is supposed to give young people the opportunities for rehabilitation so they can turn their lives around and later re-integrate into society. Solitary confinement runs counter to this model since it negatively harms an individual's mental and physical health, especially those with a mental health issue," said Irwin Elman, Provincial Advocate for Children and Youth. "An absolute ban on solitary confinement for more than 24 hours is consistent with the position of the United Nation Special Rapporteur on Torture."

In Ontario, solitary confinement is permitted under the *Child and Family Services Act (CFSA)* and refers to the locking of a young person in a specially-designated room to isolate him or her from others. Individuals under the age of 16 cannot be kept in solitary confinement for more than 8 hours a day or 24 hours each week. Individuals who are 16 years of age and over cannot be held for more than 72 hours unless approved by a provincial director to determine if more time in solitary confinement is required.

The review by the Provincial Advocate's Office revealed differences and trends in the way individual youth justice facilities are using solitary confinement, including:

- Range in time spent: The review found a wide range in the length of time individual facilities were placing youth in solitary confinement. The length of time ranged from one minute to 15 days depending on the facility.
- Exceeding 72 hours: In 2014, a total of 38 youth were placed in solitary confinement for longer than 72 hours (down from 86 youth in 2009). However, one facility had increased the number of times youth were placed in solitary confinement for longer than 72 hours every year.

- Exceeding 24 hours: International standards recommend that youth should not be placed in solitary confinement for more than 22 hours or it becomes harmful. In 2009, approximately one-third (415 instances) of all solitary confinement placements lasted more than 24 hours. This rate decreased to 23 per cent (164 instances) in 2014.
- Increase in youth under 16 placed in solitary confinement: Despite an overall decrease in the use of solitary confinement across Ontario's youth justice facilities from a total of 1,021 placements in 2009 to 701 in 2014, there's a growing number of youth under the age of 16 placed in solitary confinement. In 2014, 186 placements were reported - up from 106 in 2013.
- Dehumanizing conditions: Cells vary at each facility with differences in their physical size, features, cleanliness and other conditions. Many of the youth interviewed for this report described their experience in solitary confinement as "inhumane." In some facilities, youth said they had to wait for hours for staff to provide enough toilet paper or for staff to push the button (located outside of some cells) to dispose of bodily waste down the toilet. Others described fluctuating temperatures in their cell with periods of extreme heat and cold; bedding taken away during the day; and little access to fresh air and mental stimulation (e.g. magazines, books).
- Denied access to a lawyer or the Advocate's Office: In the *CFSA; the Provincial Advocate for Children and Youth Act, 2007*; the *Youth Justice Services Manual* and the procedures of individual facilities, it states that every youth who is placed in solitary confinement has the right to speak with a lawyer and/or advocate. Approximately half of all youth who were interviewed said that they were denied their rights while they were in solitary confinement. In addition, many youth said they were taunted by staff and called "sissies" when they asked to contact the Advocate's Office.
- Youth with mental health issues: Several studies have shown that solitary confinement is physically and mentally harmful, especially for individuals with mental health issues. At this time, there is insufficient information to determine how many and how frequently vulnerable youth with mental health issues are placed in solitary confinement. However, this population is believed to be highly represented in the overall youth justice system.
- Reasons for Confinement: Facilities reported a wide range of reasons for placing youth in confinement, ranging from posing a risk of harm to others or attempting self-harm. Of particular concern, the review found that 70 per cent of youth were not told why they were placed in solitary confinement until after they were released.

"Based on our findings, we need to take immediate action to ensure that youth in solitary confinement are not put at risk, their rights are protected and they are treated humanely and consistently across the system," said Elman.

The Provincial Advocate's Office is recommending the following changes:

1. The Ontario Government should amend the CFSA to prohibit the placement of a young person in secure isolation for a period that exceeds 24 hours without exception.
2. At a minimum, the Provincial Advocate for Children and Youth should be notified by the MCYS of any young person placed in secure isolation for a period of 24 hours and the name of the facility.
3. The Custody Review Board should be empowered to hear appeals from any young person whose placement in secure isolation extends beyond 24 hours and the authority to order the release of a young person from secure isolation.
4. The Provincial Advocate for Children and Youth should be notified anytime a young person is placed in solitary confinement for reasons related to mental health.
5. The MCYS should report the conditions of secure isolation in each youth justice facility and develop consistent standards.
6. The MCYS should put a process in place that tracks the use of secure isolation in youth justice facility by: frequency of use; actual length of time used; repeated placement of youth, gender, race and culture. Annual benchmarks should be developed and the results reported annually on the Ministry's website.

"I urge the province and the expert panel charged with reviewing the residential services system, which includes youth justice facilities, to immediately implement our recommendations," said Elman.

The review looked at statistical data obtained from the MCYS over three discrete time periods: April 1, 2009 to March 31, 2010; January 1 to December 31, 2013; and January 1 to December 31, 2014. In addition, a literature review was conducted; 141 youth were interviewed by advocates about their experiences in confinement; and facility logs were reviewed.

In Ontario, there are 20 secure custody and detention facilities ranging in size and features. Six facilities are directly-run by the province and 14 are operated by transfer payment agencies

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The report is available online at www.provincialadvocate.on.ca