

YOUTH in CUSTODY

Your LEGAL RIGHTS



This booklet explains your legal rights in youth custody centres in British Columbia, and how to exercise your rights.

Getting Legal Help

You can call **Prisoners' Legal Services** for legal help with problems in a youth custody centre. Phone calls to Prisoners' Legal Services are not allowed to be listened to by staff at the youth custody centre. Anything you tell Prisoners' Legal Services is confidential.

For help from Prisoners' Legal Services, first call the Legal Services Society at **604-681-9736** for a referral number. Then you can call Prisoners' Legal Services directly at **604-636-0464**.

Prisoners' Legal Services phones are open Monday to Friday from 9 to 11 a.m. and from 1 to 3 p.m.

Other resources

Provincial Director of Youth Justice Services

PO Box 9717, Stn Prov Gov, Victoria BC V8W 9S1

Telephone: 778-698-5706

Legal Services Society 604-681-9736

Ombudsperson 1-800-567-3247

Representative for Children and Youth 1-800-476-3933

Youth Custody Complaints Manager

(Investigation and Standards Office)

PO Box 9279, Stn Prov Govt, Victoria BC, V8W 9J7

Telephone: 250-387-5948

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Basic rights

The Ministry of Children and Family Development (the “Ministry”) is responsible for your care and control in youth custody.¹ You have the right to be treated fairly while in custody in a youth custody centre.² You also have the right to safe and humane custody and supervision.³

The Ministry must use the **least restrictive measures** in limiting your freedoms in custody. This means you should be allowed to move around the centre as much as you want, unless staff must keep you from moving around for the protection of the public, staff or young people.⁴

While in custody, you **keep all of the rights** you had in the community, except those rights that need to be taken away because of your sentence.⁵

The Ministry must make decisions about your custody and supervision in an **open, fair and timely** way. The Ministry must set up an effective complaint procedure for you to use if you are unhappy with a decision made about you.⁶ See the section on complaints later in this booklet for more information about how to make a complaint.

These rights sound pretty good on paper. In reality, it might be hard to have your rights respected. If you think your rights are not being respected, call Prisoners’ Legal Services.

1 British Columbia Youth Justice Act, s 30 [YJA].

2 Canada *Youth Criminal Justice Act*, s 3(1)(b)(iii) [YCJA].

3 YCJA, s 83(1)(a).

4 YCJA, s 83(2)(a).

5 YCJA, s 83(2)(b).

6 YCJA, s 83(2)(d).

Custody level

In British Columbia, there are two levels of custody – open and secure custody. **Open custody** is for youth who can be managed with less control. You have more privileges in open custody. **Secure custody** is for youth who have been found guilty of serious offences, who have committed a number of crimes or who cannot be managed in open custody.

There are two youth custody centres in British Columbia:

- Burnaby Youth Custody Services; and
- Prince George Youth Custody Services.

Both centres have an open and secure custody section.

You must be placed in the **least restrictive** level possible.⁷ The Youth Justice Court decides what level of custody you will be in.⁸ The Court decides this based on:

- how serious your offence was;
- your needs and circumstances, including your need to be close to family, school, work and support services;
- the safety of other young people in custody;
- the interests of society;

7 YCJA, s 83(2)(a); *Young Offenders Act*, RSC 1985, c Y-1, s 24.1(4) (a) [YOA], incorporated by YCJA, s 88.

8 Section 88 of the YCJA provides the province with authority to continue to use the YOA provisions regarding court determination of custody level. Those provisions are ss 24.1(2) and 24.1(3).

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- what programs are suited to you;
 - your risk of escaping custody; and
 - any recommendations of the Youth Justice Court or the Provincial Director.⁹

You or your parent can also **apply** to the Court for a review of a placement to secure custody.¹⁰

You can call the **Legal Services Society** for help at 604-681-9736 on a decision to put you in secure custody or to apply for open custody.

Custody and supervision

The Youth Justice Court decides how long you will spend in custody (known as your custodial sentence) and how long you will be supervised in the community.¹¹ You will normally serve two thirds of your sentence in custody, and one third supervised in the community.¹²

Leaves from custody

While in custody, you can apply to the Provincial Director for a short-term leave from the youth custody centre for **up to 30 days**.

9 YOA, s 24.1(4); Manual of Operations, Youth Custody Programs (1 April 2018), s E 2.01 [Policy Manual].

10 YOA, s 28, incorporated by YCJA, s 88.

11 YCJA, s 42(2)(n),(o).

12 YCJA, s 42(2)(n).

This is called a “**reintegration leave**”. Leaves can be given for any of these reasons:

- medical reasons;
- compassionate or humanitarian reasons (for example, to attend a funeral);
- rehabilitation; or
- reintegration into the community.¹³

You can also apply for a reintegration leave for **specific hours on approved days** to:

- go to school or training;
- go to work, find work, or do work or chores for your family;
- do programs to help you find a job or improve your education; or
- go to an out-patient treatment program or other program that will address your needs.¹⁴

You can also apply to have your leave **renewed**.¹⁵

To apply for a reintegration leave, talk to your centre Probation Officer or Case Management team to make a request. You will need to fill out an Application for Reintegration Leave (CF0241). The

13 YCJA, s 91(1)(a).

14 YCJA, s 91(1)(b).

15 YCJA, s 91(2).

Reintegration Leave Coordinator will guide your application through the process. The decision is normally made by the centre Director.¹⁶

Your leave can be **revoked** by a youth custody director at any time.¹⁷ Your leave can be revoked if you fail to comply with a condition of your leave.¹⁸

You can **appeal** if your application for a leave gets denied. Write to the Provincial Director of Youth Justice Services within 7 days of your denial (the address is at the beginning of this booklet).¹⁹

You must appeal within 7 days of being told your leave is denied. An adult advocate can help you. The Provincial Director must decide your appeal within 10 working days.²⁰

You can call Prisoners' Legal Services for help to apply for a leave. We can also help you if your leave is revoked or if your application for a leave is denied and you want to appeal. If you want help with an appeal, contact us right away.

Continuation of custody

The Attorney General or Provincial Director can apply to **extend your time in custody** instead of releasing you to be supervised in the community for part of your sentence. Even if your time in

16 Policy Manual, ss R 1.05, 3.01.

17 YCJA, s 91(3); Policy Manual, s R 9.02.

18 YCJA, s 91(4).

19 Policy Manual, s R 8.02.

20 Policy Manual, ss R 8.02-03.

custody is extended, you can only be kept in custody up to the end of your sentence.²¹

If this happens you have a right to a hearing in Youth Justice Court.²²

The Youth Justice Court will decide to keep you in custody if it thinks there are reasonable grounds to believe that:

- you would be likely to commit a serious violent offence; and
- no conditions placed on you in the community would be able to stop you from committing the offence.²³

You can call the **Legal Services Society** for help with this hearing at 604-681-9736.

Suspension of community supervision

While you are under supervision in the community, you can be returned to custody. This can happen if a community probation officer or a police officer believes that you have breached a condition of your supervision or you are about to breach a condition of your supervision, and that breach would increase the risk to public safety.²⁴ This is called a suspension of community supervision.

You must receive notice of your suspension in writing.²⁵

21 YCJA, s 98(1).

22 YCJA, s 98(3).

23 YCJA, s 98(3).

24 YCJA, s 106(1); Policy Manual, ss P 1.02-03, 2.04.

25 Policy Manual, s P 2.02 and general legal principles of fairness.

If your release to the community is suspended because of an alleged breach of your conditions, the Provincial Director must review your case within 48 hours. The Provincial Director can release you back to the community or keep you in custody and refer your case to the Youth Justice Court.²⁶

You have the right to speak at the review hearing. After hearing you speak, the Youth Justice Court will decide if you will be kept in custody.²⁷

If you are going to have a review hearing, you can contact the **Legal Services Society** for help at 604-681-9736.

Transfer to adult prison

You can be sent to an adult prison when you turn **18 years old**. The decision to send you to adult prison is made by the Youth Justice Court, if the Provincial Director applies to have you transferred. You must be given a chance to tell your side. The Court must be convinced that a transfer to adult prison is in your best interest or in the public interest.²⁸

When you turn **20 years old**, you will be transferred to adult prison unless the Provincial Director orders that you stay in the youth custody centre.²⁹

If you get a notice that you might be sent to adult prison, you can call the **Legal Services Society** for help at 604-681-9736.

26 YCJA, s 108.

27 YCJA, s 109.

28 YCJA, s 92(1).

29 YCJA, s 93.

Programs

Your youth custody centre **must have programs** for you to take. Programs should help you:

- improve your training or education;
- reduce your risk to the community; and
- rehabilitate and reintegrate into the community.³⁰

You **must take part in programs** as directed by a senior youth supervisor. You do not have to participate if:

- you have permission from centre staff or medical staff not to participate;
- it is a religious program that you do not want to take part in; or
- the program conflicts with a religious day of your faith.³¹

Programs include:

- **Basic programs:** These are programs that you have a right to, such as educational, religious and recreational programs, and family visits.
- **Core programs:** These are programs to help you learn the skills to take part in society without doing crime. They

30 Youth Custody Regulation, s 3(1) [YCR].

31 YCR, s 3(2); MCFD, *Person In Charge: Delegation of Authority under the Youth Justice Act (British Columbia) and Youth Custody Regulation (2018)* at 2 [*Delegation of Authority (2018)*].

include substance abuse, violence intervention and life skills.

- **Specialized programs:** These programs are directed at specific groups of youth, including Indigenous youth, girls, youth convicted of violent crimes and youth with mental health or drug and alcohol problems.
- **Reintegration programs:** These programs help you return to the community by providing community-based services.³²

Visits

You are allowed to have visitors while in custody.³³ If you want to have someone visit you, ask to have your visitor added to your visits list.

Visits should be in private, if possible. Most custody centres have supervised visiting areas. You can ask to have your visit in a private area.³⁴

Your visitors will need to show identification and can be **searched**, even if the custody centre does not think they are bringing in contraband.³⁵

32 Policy Manual, s I, 1.04.

33 YCR, s 4 and Policy Manual, s E 12.04.

34 Policy Manual, s. E 12.05.

35 Policy Manual, ss E 12.06, 12.19 – 12.30; YJA, s 32.2.

Senior youth supervisors can only **restrict your visits** if they reasonably believe it is needed or is advisable for the management, operation, security or safety of people in the custody centre. In that case, they can:

- refuse to allow someone to visit you;
- suspend, cancel or end visits;
- order that your visit be supervised; or
- put limits on when and how long your visits can take place.³⁶

You are also allowed to have visits from “privileged persons” in a private area. These include lawyers, the Representative for Children and Youth, the Ombudsperson, government representatives and the police.³⁷

Visits with “privileged persons” can be restricted **only** if the centre Director reasonably believes that the visit would jeopardize the security of the centre or the safety of someone, or would result in an offence being committed.³⁸

If any of your visits are restricted, you must be given the reasons for the restriction. You or your visitor can ask the centre Director to **review** the decision. The Director must respond within 5 days of receiving your request.³⁹

36 YCR, s 4(3); *Delegation of Authority (2018)* at 2.

37 Policy Manual, ss E 11.14 - 11.15; YCR, s 1.

38 YCR, s 4(5); *Delegation of Authority (2018)* at 2; Policy Manual, s E 12.17-18.

39 Policy Manual, s. E 12.13.

If you are not happy with the review decision, you can ask for another review by the Provincial Director of Youth Justice Services by calling 778-698-5706. You should receive a response within 5 days.⁴⁰

Phone and Mail

You are allowed to phone or mail friends, family, support people, government representatives and lawyers.

You can make as many calls as you want to “privileged persons” and at least four 10-minute phone calls per week to other people. The custody centre pays for these calls.⁴¹

Your communication with “privileged persons” (lawyers, the Representative for Children and Youth and the Ombudsperson) is private. Staff must **not** listen to these phone calls or read these letters for any reason.⁴²

Staff can look at your mail to see if there is any contraband in it.⁴³

Staff can record your telephone calls and copy your letters with family, friends or support people.⁴⁴

But they cannot listen to your calls or read your letters with family, friends or support people unless they have reasons to believe that you are:

40 Policy Manual, s. E 12.13.

41 Policy Manual, s E 12.32.

42 YCR, s 7; Policy Manual, s E 12.16, 12.39.

43 YCR, s 7(4); Policy Manual, s E 12.39 - 12.40.

44 YCR, s 7(2); YJA, s 32.5(2); Policy Manual, s E 12.42..

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- doing something illegal;
 - harassing or harming others; or
 - doing something that might threaten the management, operation or security of the custody centre, or the safety of anyone.⁴⁵

Staff can also listen to or record calls to maintain or repair the recording system.⁴⁶

The centre Director can **restrict your phone calls or mail** if they think it is needed for the management, operation or security of the custody centre, or for people's safety.⁴⁷ The custody centre should not restrict your right to contact a lawyer.

Searches

Your **integrity** and **dignity** must be respected when you are searched.⁴⁸

You can be searched:

- when you are entering or returning to the custody centre;
- to look for contraband (even if there are no reasons to suspect you have anything); or

45 YCR, s 7 (3); Policy Manual, s E 12.39, 12.41.

46 YCR, s 7 (3)(b).

47 YCR, s 9(2).

48 Policy Manual s. E 5.02.

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- if staff have reasons to think you have contraband or are going to commit an offence.

Your **room** can also be searched for contraband or evidence related to an offence.⁴⁹ Staff should allow you to be there for the search if possible.⁵⁰

You can only be **strip searched** when you are entering the custody centre from the outside or when a youth custody director believes that there is reason to think you have contraband or evidence relating to a contraband or trespassing offence.⁵¹

Strip searches must be done by a staff person of the **same gender** that you self-identify as, unless a senior youth supervisor determines that delaying the search would put someone's life or safety at risk.⁵² If possible, you should be told the reason for the strip search and how it will be done before the strip search is started.⁵³

Strip searches must be done with two authorized staff people present, in as **private** an area as possible and as **quickly** as possible.⁵⁴ You should not be left undressed before or after the search. You should not be fully undressed during the search.⁵⁵ Whenever you are strip searched, the staff member must file a written report.⁵⁶

49 YJA, s 32.1.

50 Policy Manual, s E 5.10.

51 Policy Manual, s E 5.05.

52 YCR, s 17(4); *Delegation of Authority (2018)* at 3; Policy Manual, s E 5.08.

53 YCR, s 17(2); YJA, s 32.1(5).

54 YCR, s 17 (3).

55 Policy Manual, s E 5.08.

56 Policy Manual, s E 5.09.

A strip search is a **visual inspection – no touching is allowed.**⁵⁷

The staff person looks at you and your open mouth, hands and arms, the soles of your feet and the insides of your ears. You can also be asked to run your fingers through your hair. They cannot ask you to bend over.⁵⁸ A second staff member must be present. They should be standing in a place where they can watch the first staff member but cannot see you.⁵⁹

The other ways you can be searched are by:

- **a frisk search:** This is when a staff person pats you down by hand or with an electronic wand when you are dressed. This includes a search of your clothes, pockets and shoes. This must be done by a staff member of the **same gender** as you self-identify. If the search is urgent because of safety or security and a staff member of another gender frisk searches you, a staff member of your gender must be present for the full search.⁶⁰
- **a screening search:** This is a search of you when you are dressed using a visual inspection or a screening device like a drug dog, ion scanner or metal detector. A staff member of either gender can do this kind of search.⁶¹

Searches, especially strip searches, can be very upsetting. Call Prisoners' Legal Services if you think your dignity was not respected during a search.

57 Policy Manual, s E 5.08.

58 YCR, s 17(1).

59 Policy Manual, s E 5.08.

60 YCR, s 16, Policy Manual, s. E 5.06.

61 YCR, s 16; Policy Manual, s E 5.06.

Use of force and restraints

Staff can use force against you **only** after they try all other reasonable ways of dealing with you. Staff can use force or physical restraint devices only to:

- prevent or stop harm to someone else;
- prevent or stop an offence (including escape); or
- stop you from resisting or to control you for the security of the custody centre.⁶²

You can be restrained only as long as needed for these reasons, and usually no more than 30 minutes.⁶³ Staff must use **as little force as possible**, only using force that is **reasonable and necessary**. They are not allowed to use force to punish you.⁶⁴

Staff can only use **physical restraint devices** approved by the centre Director. Only hand and leg restraints are approved for use. Staff are not allowed to use guns, tasers or mace against you.⁶⁵

Staff must use as little restraint as possible. Restraints should not hurt you unless it is needed to stop harm to someone. You should not be attached to anything unless it is needed in extreme circumstances. You should not be left alone while you are in restraints.⁶⁶

62 YCR, ss 14-15.

63 YCR, s 15; Policy Manual ss E 4.08-4.09.

64 YCR, s 14; Policy Manual, ss E 3.02-3.06.

65 Policy Manual, ss E 4.02 and 4.04.

66 Policy Manual, ss E 4.06 and 4.07.

You cannot be physically restrained in a restraint device **for more than one hour at a time**, unless a youth custody director approves it or you are being escorted away from the custody centre.⁶⁷

A youth custody director can approve physical restraints for **up to 2 continuous hours** if they think it is needed for the safety of the custody centre or the safety of another person, and other ways of dealing with you have been tried or are not reasonable.⁶⁸

A youth custody director can only allow you to be in physical restraint devices for **more than 2 hours** if they get the approval of the Provincial Director of Youth Justice Services. This decision must be reviewed with the Provincial Director every 2 hours and you must be given a health care assessment.⁶⁹

If being restrained is making you sick, hurt or really distressed, it must be stopped.⁷⁰

67 YCR, s 15(2); Policy Manual, s E 4.10.

68 YCR, s 15(3).

69 YCR, s 15(4)-(5); Policy Manual, s E 4.10.

70 Policy Manual, s E 4.11.

Infractions

The Youth Custody Regulation sets out a long list of “**infractions**”. These are rules you aren’t allowed to break. They include things like:

- disobeying a direction of staff;
- being insulting or abusive;
- going into an area where you are not allowed to go;
- roughhousing;
- giving or taking money or property without permission of a staff member;
- disobeying a rule;
- having or trying to get contraband;
- destroying or stealing property;
- assaulting or threatening someone; and
- taking intoxicants (drugs or alcohol).⁷¹

It is also an infraction to *try* to do any of the infractions listed in the Regulation, or to *help* someone else do any of the infractions. There are a total of 25 infractions listed in the Regulation.⁷²

If a staff person has reasons to think you have done any of the infractions, the staff person must stop you, or give you a chance

71 YCR, s 10.

72 YCR, s 10.

to stop what you are doing, make a positive change in your behaviour, or apologize to the person affected by your behaviour. If this resolves the problem, **you should not be charged** with the infraction.⁷³

If the staff person thinks the problem has not been resolved, they must file a written Incident Report with the centre Director as soon as they can practically do so. This must explain the infraction you are accused of, what happened, and what they did to give you a chance to stop what you were doing, make a positive change in your behaviour, or apologize.⁷⁴

You should be given a chance to tell your side of the story.⁷⁵

A senior youth supervisor must give you a chance to explain what happened and will then decide if there are “**reasonable and probable grounds**” to believe that you committed the infraction.⁷⁶ This means the custody centre does not need to **prove** that you committed the infraction, and could lead to an unfair decision to find you guilty.

If you are found guilty, the senior youth supervisor can give you one or more of the following consequences:

- less allowance;
- that you pay for property that was damaged or lost (there are limits)⁷⁷;

73 YCR, s 11.

74 YCR, s 11(2).

75 Policy Manual, s D 4.04.

76 Policy Manual, s D 4.04.

77 Policy Manual, s D 4.05.

-
- loss of privileges or activities;
 - extra work or other tasks, such as repairing damaged property, for up to 2 hours;
 - that you stay in a locked or unlocked room for up to 2 hours; or
 - that you be transferred to a different room or living unit in the centre.⁷⁸

They can also recommend to the Provincial Director to **cancel a reintegration leave (including day absences) that has been approved, or transfer you to a different custody centre.**⁷⁹

You can be **transferred to secure custody** for up to 15 days **only** if you escape or attempt to escape, or if it is needed for your safety or the safety of others in open custody.⁸⁰

Reviews and complaints about infraction decisions

For any of the consequences above, you can ask for a senior youth supervisor or a youth custody director to reduce or suspend the consequence.⁸¹ Asking to suspend the consequence means that you are given a condition that you need to keep for a period of time. If you keep that condition, you do not have to serve the consequence. For example, your sentence could be suspended for 60 days on the

78 YCR, s 12(1); *Delegation of Authority (2018)* at 3; Policy Manual, ss D 4.04-4.08.

79 YCR, s 12; *Delegation of Authority (2018)* at 3; Policy Manual, ss D 4.04 and R 9.02.

80 YOA, s 24.2(9); Policy Manual, s D 6.01.

81 YCR, s 12.1; Policy Manual, s D 4.09.

condition that you don't commit any infractions in that time. If 60 days pass and you haven't been found guilty of any infractions, you won't have to serve the consequence.

If you ask a senior youth supervisor or youth custody director to reduce or suspend your sentence, they must do the review within 72 hours.⁸²

If a youth custody director decides to transfer you to secure custody, you can appeal their decision to a different youth custody director and can have an adult advocate help you with the appeal.⁸³ They must review the decision within 72 hours.⁸⁴

If your reintegration leave is revoked, you must be given reasons within 72 hours.⁸⁵ You have the right to **appeal** the decision to the Provincial Director by calling 778-698-5706. You must appeal **within 7 days**. An adult advocate can help you with the appeal.⁸⁶

The Provincial Director must decide your appeal within 10 working days. If they deny your appeal, they must give you full written reasons.⁸⁷

The punishment must be the lowest level needed to correct your behaviour, should support your emotional and personal development, and should be fair.⁸⁸

82 YCR, s 12.1; Policy Manual, ss D 4.09, 6.12.

83 Policy Manual, s D 6.12.

84 YCR, s 12.1; Policy Manual, s D 6.12.

85 Policy Manual, s R 9.07.

86 Policy Manual, s R 9.08-09.

87 Policy Manual, s R 9.08.

88 YCR, s 12(3).

You have the right to **file a complaint** about a finding of guilt or any consequence given to you. You must be given a chance to tell your side. A youth custody director should give you a response within 5 working days. An adult advocate can help you make a complaint.⁸⁹

If you are not happy with the response to your complaint, you can file another complaint to the **Youth Custody Complaints Manager (Investigation and Standards Office)** or the **Ombudsperson**.⁹⁰ You can also contact the **Representative for Children and Youth** to help you and advocate for you.⁹¹ See the section on complaints at the end of this booklet for more information.

If you are charged with an infraction, you can call **Prisoners' Legal Services** right away for help. You might have more rights under the law than the policy gives you. Your freedom should not be taken away unless the decision is made fairly and for good reason.⁹²

89 Policy Manual, s D 4.11.

90 Policy Manual, s D 4.11.

91 Policy Manual, ss B 4.02 and D 4.11.

92 *Canadian Charter of Rights and Freedoms*, s 7.

Contraband

Contraband is defined in the *Youth Justice Act* as:

- an intoxicant (something that can make you drunk or high);
- a weapon or part of a weapon or ammunition, anything designed to kill, injure or disable, or anything altered so that it can be used to kill, injure or disable (if you do not have permission to have it);
- an explosive or bomb, or a part of an explosive or bomb;
- money (if you do not have permission to have it);
- tobacco or tobacco products (if you do not have permission to have it); or
- anything else that could threaten the management, operation, discipline or security of the youth custody centre, or the safety of people in the youth custody centre (if you do not have permission to have it).

Your centre may have a broader definition of contraband. But to be found guilty of an infraction related to contraband, the item must meet the definition in the *Youth Justice Act* (which is the definition in this box).

Separate confinement

Separate confinement is the most severe limit on your freedom in custody. It is also called segregation or solitary confinement. It is used to isolate you from other people.

In separate confinement, you have the **right** to:

- talk to a lawyer;
- see a doctor, psychiatrist or counsellor;
- religious services;
- counselling and support services set out in your behavioural management plan;
- regular meals of the same type you usually get;
- a mattress, bedding and clothing (unless it could endanger you or someone else);
- reading material, mail and visits (unless it could endanger you or someone else); and
- 1 hour outside of your cell each day (unless it could endanger you or someone else).⁹³

A senior youth supervisor can order you to be in separate confinement. To do this they must have reasons to believe that you:

- are endangering yourself or someone else (or are likely to);

93 Policy Manual, s. D 7.11.

-
- are threatening the management, operation or security of the custody centre (or are likely to);
 - have contraband hidden on or in your body;
 - have taken an intoxicant;
 - are at risk of serious harm if not confined separately (or are likely to be); or
 - need separate confinement for a medical reason.⁹⁴

The senior youth supervisor must tell a youth custody director that you have been placed in separate confinement.⁹⁵

The senior youth supervisor is not allowed to put you in separate confinement unless all other ways of dealing with you have been tried or are not reasonable.⁹⁶

A decision to put you in separate confinement can only be made by a senior youth supervisor. The senior youth supervisor can decide to keep you in separate confinement for up to 8 hours – but no longer than it takes to address the reason for putting you there.⁹⁷

You must be told why you are being placed in separate confinement as soon as possible, and within 4 hours of being placed there.⁹⁸

94 YCR, s 15.1(1); *Delegation of Authority (2018)* at 3.

95 Policy Manual, s D 7.04.

96 YCR, s 15.1(1)(a).

97 YCR, ss 15.1(2)(a) and 15.1(4); Policy Manual, s D 7.03; *Delegation of Authority (2018)* at 3.

98 YCR, s 15.1(5).

If a youth supervisor thinks you should be put in separate confinement, they must complete an Incident Report and give it to a senior youth supervisor.⁹⁹

The senior youth supervisor making the decision must give you a chance to **tell your side**.¹⁰⁰

If the custody centre decides to keep you in separate confinement, they must tell you **how long** you will be there, **what is expected of you** and what counselling and other services you will get while in separate confinement. They must tell you how to ask for a **review** of the decision or make a **complaint**.¹⁰¹

Your separate confinement should be reviewed every 4 hours.¹⁰²

You cannot be kept in separate confinement longer than 8 hours, unless a youth custody director approves it. They can only approve a further 40 hours (up to 48 hours in total).¹⁰³

You cannot be kept in separate confinement for more than 48 hours unless the centre Director or deputy director gets approval from the Provincial Director of Youth Custody Services. To keep you in separate confinement for more than 72 hours, every extra period of 72 hours would have to be approved by the Provincial Director.¹⁰⁴

99 Policy Manual, s D 7.04.

100 YCR, s 15.1(4)(b); Policy Manual, s D 7.04.

101 Policy Manual, s D 7.04.

102 Policy Manual, s D 7.09.

103 YCR, s 15.1(2); Policy Manual, s D 7.03.

104 YCR, s 15.1(3); Policy Manual, ss D 7.03, 7.10.

You must be told why your time in separate confinement was made longer as soon as possible after each extension, and within 4 hours of the new time starting.¹⁰⁵ You should also be told when your separate confinement will be decided again and what is expected of you.¹⁰⁶

You should be visited by health care within 12 hours of being in separate confinement and after that, at least once a day.¹⁰⁷

You must be released from separate confinement if health care says it is making you ill, severely emotional or physically stressed.¹⁰⁸

If you have not been told that you are on separate confinement, but you are in an area where you don't have contact with other youth, you have the right to consult a lawyer about your situation.

You have the right to make a **complaint** to a youth custody director about your separate confinement. Your complaint must be given to them right away. You have a right to be heard about why you should not be in separate confinement, and the right to an adult advocate to help you make a complaint. The decision must be given to you by the next business day.¹⁰⁹

If you are not happy with the decision, you can make a **complaint** to the **Youth Custody Complaints Manager (Investigation**

105 YCR, s 15.1(5).

106 Policy Manual, s D 7.10.

107 Policy Manual, s D 7.06.

108 Policy Manual, ss D 7.06 and 7.10; other sources – Call Prisoners' Legal Services if you need help.

109 Policy Manual, s D 7.12.

and Standards Office), the Representative for Children and Youth or the Ombudsperson. See the next section for more information.¹¹⁰

You can ask to call **Prisoners' Legal Services** for help in making a complaint about your separate confinement.

How to file a complaint

Staff of your youth custody centre are required to do their jobs using open and direct communication with you, in a cooperative, problem solving way.¹¹¹ Usually the best and fastest way to resolve a problem is by **talking to staff** when it happens.

If your problem is not resolved by talking to staff, or you are not comfortable talking to staff, you can file a **written complaint** with the **centre Director**. Staff should give you information on how to file a complaint if you ask for it.

You must not be treated badly by staff because you have filed a complaint. You have the right to have someone help you with your complaint.¹¹² You can call Prisoners' Legal Services, the Representative for Children and Youth or the centre's Youth Advocate for help.

You can only complain about things that affect you directly. Policy says that your complaint must be **in writing** and that you must use the centre's approved **complaint form**.¹¹³ Staff should give you the complaint form.

110 Policy Manual, s D 7.12.

111 Policy Manual, s B 4.01.

112 Policy Manual, ss B 4.03 and 4.13.

113 Policy Manual, s B 4.09.

Be sure to put the **date** that you submit your complaint on the form. You should **keep a copy** of your form. If you cannot get a copy, write out your complaint on another form and keep that one. Submit your form in a secure drop box.

The centre Director must investigate your complaint or ask somebody else to do so. You should be interviewed unless it is clearly impractical or unsafe.¹¹⁴

If your complaint is about **medical services**, the centre Director must consult with the youth custody medical director, who might review your medical file as part of the investigation.¹¹⁵

The centre Director must respond to your complaint within **5 working days** of when it was received to let you know that it was received and let you know the process that is going to take place to review your complaint. Your complaint should be resolved within 30 days of when it was received.¹¹⁶

114 Policy Manual, s B 4.12.

115 Policy Manual, s B 4.20.

116 Policy Manual, s B 4.15.

The Rep

The **Representative for Children and Youth** can help you make a complaint. They can tell you about your rights, make sure that your side is heard and make sure that you understand the reasons for the decision. The Representative cannot change a decision of the custody centre. The Representative also monitors youth custody centres and investigates serious injuries and deaths in youth custody. You can contact the Representative for Children and Youth at 1-800-476-3933.

If you are not happy with the centre Director's response to your complaint, you can file another complaint with the Youth Custody Complaints Manager (the Investigation and Standards Office):

Youth Custody Complaints Manager (Investigation and Standards Office)

Mailing address: PO Box 9279, Stn Prov Govt,
Victoria BC, V8W 9S1

Telephone: 250-387-5948

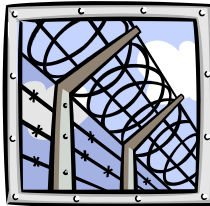
The Youth Custody Complaints Manager is an independent office of the Ministry who can take any type of complaint, even if you have not made a complaint at your centre first. The Youth Custody Complaints Manager will investigate your complaint with the centre. Your complaint will **not** be anonymous (it will **not** be kept secret that you have made the complaint).

If you go through the process with the Youth Custody Complaints Manager and you are still not happy, you can make another complaint to the **Ombudsperson** at 1-800-567-3247. The Ombudsperson cannot change a decision of the custody centre, it can only make recommendations.

You can also contact the **Representative for Children and Youth** at 1-800-476-3933.

Call Prisoners' Legal Services if you would like help filing a complaint, or if you are not happy with a complaint response. You might be able to take the issue to court. Call the Legal Services Society at 604-681-9736 and they will connect you to Prisoners' Legal Services.

This publication contains general information only. Each situation is unique. Law and policy can also change. If you have a legal problem, contact Prisoners' Legal Services or a lawyer.



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