



# Mapping Solitary Confinement: Alberta, Canada country report

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Cite as: Barkway, K. and Turcotte, A. (2022). Solitary Confinement in Alberta, Canada. In: S. Shalev, *Mapping Solitary Confinement* (online).

[https://www.solitaryconfinement.org/mapping\\_solitary\\_confinement](https://www.solitaryconfinement.org/mapping_solitary_confinement)

## 1. Country general Criminal Justice System facts & numbers

Alberta is a provincial jurisdiction in Canada and is responsible for supervising all adult pre-trial detention (non-sentenced) prisoners as well as all adults sentenced to a prison term of less than two years. The province is also responsible for all youth prisoners. Additionally, immigration detainees may be held in provincial prisons alongside other prisoners. Alberta provincial corrections oversees 8 adult correctional and remand centres (4 sentenced custody facilities and 4 remand centres) and 2 secure young offender centres. Prisoners may be placed in either a correctional or remand centre depending on “centre capacity, transfers between centres, and the best interest of inmates.”<sup>1</sup>

- In 2018/2019 the average daily count in Alberta provincial adult prisons was 3,615. This represents a rate of 108 per 100,000 adult population.<sup>2</sup>
- In 2018/2019 the average daily count for unsentenced prisoners on remand was 2,481. The average daily count for sentenced prisoners was 1,017.<sup>3</sup>
- In 2018/2019 a total of 30,978 adult male prisoners were admitted to provincial custody. Of these, 12,235 were Indigenous, 18,358 were non-Indigenous, and 385 prisoner’s Indigenous status was unknown.<sup>4</sup>
- In 2018/2019, 6,506 adult female prisoners were admitted to provincial custody. Of these, 3,535 were Indigenous, 2,875 were non-Indigenous, and 96 prisoner’s Indigenous status was unknown.<sup>5</sup>

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<sup>1</sup> <https://www.alberta.ca/adult-correctional-remand-centres.aspx>

<sup>2</sup> <https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl01-eng.htm>

<sup>3</sup> <https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl01-eng.htm>

<sup>4</sup> <https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl04-eng.htm>

<sup>5</sup> <https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl04-eng.htm>



- The average daily adult Indigenous custody population has increased by 53.5% over the past decade, with an annual growth rate of 4.9%. For non-Indigenous prisoners, the annual rate of growth has been 3.6%, with an increase of 36.9% over the past decade.<sup>6</sup>
- For youth secure custody, the average daily count was 93 young people in 2018-2019. Because of small populations, most youth are housed alone in their cell, regardless of where they are incarcerated.<sup>7</sup>
- Approximately half of youth in Alberta's young offender correctional facilities were awaiting trial.<sup>8</sup>
- In 2019-2020, Indigenous youth represented 48% of admissions to secure custody in Alberta.<sup>9</sup>

## 2. Legislative and administrative bases for use of solitary confinement

National laws & prison regulations on the use of solitary confinement. What is the practice called?

In Canada, the Youth Criminal Justice Act (YCJA) governs the provincial youth justice system. In Alberta, the Youth Justice Act is the legislation that governs youth correctional centres, but there is nothing in this legislation about segregation. Segregation practices for youth are determined at the level of the institution.<sup>10</sup>

"The Young Offender branch uses the term "placement" instead of "segregation" to describe when a young person is removed from regular programming and housed away from other young people" (p. 18).<sup>11</sup>

For adult prisoners, two pieces of legislation govern solitary confinement:

The Province of Alberta Corrections Act<sup>12</sup> and the Alberta Corrections Regulation.<sup>13</sup> Solitary confinement is referred to as disciplinary segregation. Administrative segregation also takes place in Alberta's prisons, but it is not referenced in the publicly available Corrections Act or Regulation.

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<sup>6</sup> <https://open.alberta.ca/dataset/aa0c25e9-2b1a-49b7-8a96-46da026e9269/resource/e90f5883-e332-412f-b440-cd9af7e27db4/download/trend-adult-custody-population-indigenous-status-2007-2017.pdf>

<sup>7</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>8</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>9</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>10</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>11</sup> [https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt\\_2019September\\_Care-in-Custody.pdf](https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt_2019September_Care-in-Custody.pdf)

<sup>12</sup> <https://www.qp.alberta.ca/documents/Acts/c29.pdf>

<sup>13</sup> <https://www.canlii.org/en/ab/laws/regu/alta-reg-205-2001/latest/alta-reg-205-2001.html>



## 3. Reasons for use and administrative regulations for each of the following:

### a. Solitary confinement as punishment

Following section 46(c) of the Corrections Regulation, if a disciplinary charge against a prisoner is substantiated by the adjudicator of a hearing, a prisoner may be confined to a disciplinary unit for a period of no more than 14 days. Prisoners must have been charged with a major offence to be placed in disciplinary segregation.

Section 52(1) Corrections Regulation – When the Deputy Director believes a prisoner has done something for which they may be charged, they can move the prisoner to a disciplinary unit. No prisoner is to be confined in the disciplinary unit for more than 72 hours without confirmation of punishment by the hearing adjudicator.

Section 54 Corrections Regulation - Prisoners who are confined in disciplinary units forfeit privileges, including the use of radio, television and the canteen, visits from family and friends and receipt of incentive allowance.

In disciplinary segregation, prisoners may be permitted to use the phone during their breaks but are not permitted visitors. Prisoners in disciplinary segregation do not have access to educational materials. Prisoners in disciplinary segregation have access to reading materials.

According to Section 26 of the Corrections Regulation, prisoners are entitled to daily exercise in the open air, dependent on weather and staff, space, and facilities availability.<sup>14</sup>

In 5 adult correctional centers, segregation cells are equipped with a desk. In 3 adult centers segregation cells do not have a desk. All cells are equipped with a functional toilet. In six correctional centers segregation cells have windows. In 2 correctional centers segregation cells do not have windows; these cells have grilled doors. There are no TVs in segregation cells. All segregation cells have a common area for showers.

For disciplinary measures in youth facilities, there is a Behavioural Incident Review (BIR) process. Youth are usually placed in a secure unit while awaiting their BIR. Secure unit rooms (pictured in the link in the footnote at p. 10) are empty except for a bed and sometimes a toilet/sink.<sup>15</sup> Within 24 hours of an event, a panel will meet with the youth to discuss the incident. Young Offender Branch policy [not publicly available] specifically prohibits segregation as a form of punishment for young offenders; however, Alberta's Child and Youth Advocate conducted interviews with youth prisoners who described segregation being used as a form of punishment.<sup>16</sup>

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<sup>14</sup> <https://www.canlii.org/en/ab/laws/regu/alta-reg-205-2001/latest/alta-reg-205-2001.html>

<sup>15</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>16</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)



## b. Solitary confinement as management of prisoners labelled ‘difficult’ or ‘dangerous’

Under section 51(1) of the Corrections Regulation, the Director may order the separation of a prisoner from other prisoners in the institution if the Director believes the prisoner is violent.<sup>17</sup> When the prisoner is separated, the Director is to report the separation to the Chief Executive Officer. No other information on this process is laid out in the Act or Regulation.

Although it is referenced in legal proceedings, such as in the case described below, neither the Corrections Act nor the Corrections Regulation provide any information on administrative segregation. I could not find publicly available policies that outline this practice.

A news story in the Edmonton Journal from 2018 reported that documents filed with the Court of Queen’s Bench argue that prisoners in segregation have “acquired skin conditions, gone weeks without seeing the sun, been fed only two sandwiches a day, and developed sores from sleeping on concrete”.<sup>18</sup>

Although prisoners in administrative segregation are supposed to have the same rights and privileges as prisoners in the general population, in the case of R v Prystay the judge found that prisoners in administrative segregation have a drastically different experience than prisoners in general population. Prisoners in segregation do not have access to an outdoor courtyard. Instead, they are provided access to a fresh air room that is 10x20 feet. The windows are often closed in the winter (meaning no fresh air).<sup>19</sup>

Prisoners in administrative segregation have access to canteen and educational materials. They have access to a common room during their exercise period, with cellmate or compatible prisoners when it is deemed operationally feasible. They may have visits, through CCTV.

Prisoners in administrative segregation can request self-study educational modules but cannot access group counseling or programming. No feedback is provided on their work for the modules.<sup>20</sup>

Segregation units are supposed to be visited by nurses every 24 hours, psychologist once every workday. By law, segregation status is to be reviewed every 14 days.<sup>21</sup>

Youth in segregation described being alone in a room for most of the day. They were only permitted 30-60 minutes out of the cell/room to make phone calls, shower, or have recreation time. Some youth reported not getting any recreation time or phone calls, while others reported

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<sup>17</sup> <https://www.canlii.org/en/ab/laws/regu/alta-reg-205-2001/latest/alta-reg-205-2001.html>

<sup>18</sup> <https://edmontonjournal.com/news/politics/alberta-hit-with-class-action-suit-over-jails-segregation-policies>

<sup>19</sup> [https://www.albertacourts.ca/docs/default-source/qb/judgments/r-v-prystay---reasons-for-judgment.pdf?sfvrsn=aa9abc80\\_2](https://www.albertacourts.ca/docs/default-source/qb/judgments/r-v-prystay---reasons-for-judgment.pdf?sfvrsn=aa9abc80_2)

<sup>20</sup> [https://www.albertacourts.ca/docs/default-source/qb/judgments/r-v-prystay---reasons-for-judgment.pdf?sfvrsn=aa9abc80\\_2](https://www.albertacourts.ca/docs/default-source/qb/judgments/r-v-prystay---reasons-for-judgment.pdf?sfvrsn=aa9abc80_2)

<sup>21</sup> <https://static1.squarespace.com/static/5ed6fe261164f9030679aabb/t/5f05340df6680542c53d6e6a/1594176527271/HRIA+Handbook+with+bleed+02-18-2018.pdf>



this was dependent on their behaviour. Youth also reported a lack of programming while in segregation. They had limited access to books and were expected to do their school work on their own. Inside the cells they were only provided with a mattress and blanket during sleeping hours. Otherwise they had to sit on the floor or metal bench. Temperature described as either uncomfortably cold or hot. Phone calls were limited to ten minutes and some youth didn't have the opportunity to make phone calls.<sup>22</sup>

### c. Solitary confinement for the prisoner's own protection

This is the same as administrative segregation above.

If prisoners are deemed to be a risk to themselves, they may be placed in the mental health unit in a cell that is stripped of everything but a mattress. They may also be forced to wear a restraint jacket or "baby doll".

### d. Solitary confinement pre-trial?

Segregation can be used in pre-trial detention. It is used to isolate prisoners in the name of safety and/or security. It follows the same regulations as disciplinary and administrative segregation outlined above.

All of the remand correctional centers have segregation cells with windows.

See R. v. Prystay finding for further description of the conditions in segregation.<sup>23</sup>

## 4. Restraints and chemical irritants

According to Section 50 of the Corrections Regulation, force may be used by employees when it is essential to maintain or restore order or prevent the continuation of acts of violence. No more force than is necessary is to be used. Employees may use mechanical and other restraints on a prisoner when necessary to prevent escape or injury. Nothing is specifically stated about use of restraints/chemical irritants when leaving segregation cells.

Alberta is one of four Canadian provinces that allows correctional officers to use OC spray in young offender centres. Alberta's Child and Youth Advocate has expressed concern about the use of OC spray on young people. In 2016, the provincial policy was changed to make it easier to use OC spray on incarcerated youth. Additionally, the Advocate has continued to try and influence the use of OC spray in segregation but has had very little success.<sup>24</sup>

## 5. Protected populations

In the August 2018 case of R v. CNN, the Alberta provincial court ruled that the practice of segregating youth contravened the UN Conventions on the Rights of the Child and the Youth

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<sup>22</sup> [https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt\\_2019September\\_Care-in-Custody.pdf](https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt_2019September_Care-in-Custody.pdf)

<sup>23</sup> [https://www.albertacourts.ca/docs/default-source/qb/judgments/r-v-prystay---reasons-for-judgment.pdf?sfvrsn=aa9abc80\\_2](https://www.albertacourts.ca/docs/default-source/qb/judgments/r-v-prystay---reasons-for-judgment.pdf?sfvrsn=aa9abc80_2)

<sup>24</sup> [https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt\\_2019September\\_Care-in-Custody.pdf](https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt_2019September_Care-in-Custody.pdf)



Criminal Justice Act (YCJA). The court determined that the young person (CNN) had been held for 23 hours per day in the behavioural management unit.<sup>25</sup>

In Alberta, there is no legislative basis for the use of segregation for young offenders. The provincial ombudsman found that “the practice of segregating a young person is based solely on division and centre policy” (2021, p. 2).<sup>26</sup>

An investigation by the provincial ombudsman noted that it is difficult to monitor the time youth are spending in segregation, because of institutional record keeping practices. The ombudsman found that sometimes segregation happens without a change in location, making it difficult to track. Further, the Young Offender Branch policies have no standards with respect to schooling and segregation. Their file review found that young people placed on behavioural units were generally not attending regular schooling. Documentation related to schooling in segregation was lacking.<sup>27</sup>

## 6. Statistical data on use of solitary confinement/segregation

For young offenders, between April 1, 2019 and March 31, 2020, the use of a placement for a disciplinary reason was reported 250 times between the two secure youth correctional facilities.<sup>28</sup>

Very little data is available to the public.

According to a government snapshot referenced in an Edmonton Journal news story, in February 2018 there were 247 prisoners in administrative segregation, compared to the 24 prisoners held in disciplinary segregation.<sup>29</sup>

## 7. Jurisprudence on solitary confinement

R v. CCN, 2018 ABPC 148.<sup>30 31</sup> – young person in segregation – it is noted that although staff “...testified that the 23 hours a day is a maximum because of generous opportunities provided to youth in segregation to meet with or telephone professionals and other persons, the Crown did not provide any evidence substantiating that CCN was ever provided any such ‘generous’ opportunities”. This mirrored findings from the provincial Ombudsman who found that time spent out of cell and meaningful human contact are not being sufficiently recorded.

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<sup>25</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>26</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>27</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>28</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>29</sup> <https://edmontonjournal.com/news/politics/alberta-hit-with-class-action-suit-over-jails-segregation-policies>

<sup>30</sup> This case is described in the Ombudsman’s report: [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>31</sup> <https://www.canlii.org/en/ab/abpc/doc/2018/2018abpc148/2018abpc148.html?resultIndex=1>



R v Prystay, 2019 ABQB 8.<sup>32</sup> – Mr. Prystay was placed in administrative segregation while held in a remand prison. He remained there for a period of 13.5 months. The judge found this constituted cruel and unusual punishment. The judge found that administrative segregation is not intended to be punishment and that prisoners in administrative segregation have the same rights and privileges as other prisoners, in reality prisoners in administrative segregation have a drastically different experience than prisoners in the general population.

R v Blanchard, 2018 ABQB 369<sup>33</sup>

Trang v. Alberta (Edmonton Remand Centre) [2010] A.J. No. 31, 2010 ABQB 6 (Alta. Q.B.).<sup>34</sup> - the judge ruled that the conditions of confinement had breached Section 12 Charter Rights for a group of prisoners who were confined with two prisoners per cell, for 18-21 hours a day, with limited access to recreation or other activities for an extended period (for months, or in some cases even years) (Parkes, 2014).<sup>35</sup> As Parkes (2014) notes, the outcome was only somewhat positive as the case took eight years and the outcomes resulted only in declarations of rights violations for individual prisoners.

## 8. Reports on the use of solitary confinement

Alberta Ombudsman. (2021). Youth in segregation. Office of the Alberta Ombudsman.<sup>36</sup> This report by the provincial ombudsman investigates the use of segregation in youth correctional facilities. The findings are troubling, demonstrating that youth are held in conditions that constitute solitary confinement. Segregation practices are left up to institutional policy, as they are not laid out in legislation and are not well documented.

John Howard Society of Alberta. Solitary Confinement. *John Howard Society of Alberta*.<sup>37</sup>

Office of the Child and Youth Advocate. Care in custody: A special report on OC spray and segregation in Alberta's young offender centres. *Office of the Child and Youth Advocate of Alberta*.<sup>38</sup>

Johnston, J. Mother of teen inmate critical of new pepper spray policy. *CBC*.<sup>39</sup>

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<sup>32</sup><https://www.canlii.org/en/ab/abqb/doc/2019/2019abqb8/2019abqb8.html?autocompleteStr=R%20v%20Pry&autocompletePos=4>

<sup>33</sup> <https://www.canlii.org/en/ab/abqb/doc/2017/2017abqb369/2017abqb369.html>

<sup>34</sup><https://www.canlii.org/en/ab/abqb/doc/2010/2010abqb6/2010abqb6.html?autocompleteStr=Trang%20v&autocompletePos=4>

<sup>35</sup> Parkes, D. (2014). The punishment agenda in the courts. *The Supreme Court Law Review: Osgoode's annual constitution cases conference* 67.

<https://digitalcommons.osgoode.yorku.ca/cji/viewcontent.cji?article=1301&context=sclr>

<sup>36</sup> [https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion\\_FINAL.docx.pdf](https://www.ombudsman.ab.ca/wp-content/uploads/2021/03/Alberta-Ombudsman-Youth-in-Segregation-Own-Motion_FINAL.docx.pdf)

<sup>37</sup> <https://www.johnhoward.ab.ca/wp-content/uploads/Infographic-202001-Solitary-Confinement.pdf>

<sup>38</sup> [https://www.ocy.a.alberta.ca/wp-content/uploads/2014/08/SpRpt\\_2019September\\_Care-in-Custody.pdf](https://www.ocy.a.alberta.ca/wp-content/uploads/2014/08/SpRpt_2019September_Care-in-Custody.pdf)

<sup>39</sup> <https://www.cbc.ca/news/canada/edmonton/mother-of-teen-inmate-critical-of-new-pepper-spray-policy-1.3725796>



Graney, E. (2018). Alberta hit with class-action suit over jails' segregation policies. *Edmonton Journal*.<sup>40</sup>

## 9. Good practice

The Young Offender Forensic Unit in Alberta Hospital uses special practices to help youth manage their behaviour and encourage rehabilitation. These practices include breathing strategies, engaging in activities such as reading, listening to music, or drawing.

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<sup>40</sup> <https://edmontonjournal.com/news/politics/alberta-hit-with-class-action-suit-over-jails-segregation-policies>