



Mapping Solitary Confinement: New Brunswick, Canada

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1. Country general Criminal Justice System facts & numbers

New Brunswick is a province in Canada and is located in the region known as Atlantic Canada. In 2020, New Brunswick had the fifth lowest crime rate in Canada.¹ The province is responsible for all adult prisoners serving sentences of less than two years and adults on remand. The provincial prisons may also house immigration detainees alongside other prisoners. The province is also responsible for all youth in custody. In New Brunswick there are four correctional institutions for adult males, one correctional institution for women, and one correctional centre for youth prisoners.

The correctional institutions under provincial jurisdiction are Dalhousie Regional Correctional Centre (capacity 100), Madawaska Regional Correctional Centre (capacity 70), The New Brunswick Women's Correctional Centre (capacity 56), Southeast Regional Correctional Centre (capacity 180), the Saint John Regional Correctional Centre (capacity 120), and the New Brunswick Youth Centre.²

- In 2020/2021, there were 2,513 admissions to adult custody. There were 897 admissions to sentenced custody and 1,899 remand prisoners pending a court appearance.³
- For youth, there were 66 admissions to youth secure custody. 51 youth were admitted to remand and 10 were admitted to custody and supervision orders.⁴
- The average daily counts at the provincial facilities was 407 in 2020/2021. This is the breakdown of average daily counts at the correctional institutions under the province's jurisdiction:⁵

¹ <https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl01-eng.htm>

² https://www2.gnb.ca/content/gnb/en/departments/public-safety/community_safety/content/corrections/institutions.html

³ <https://www2.gnb.ca/content/dam/gnb/Departments/ps-sp/pdf/Publications/annual-report-2020-2021.pdf>

⁴ <https://www2.gnb.ca/content/dam/gnb/Departments/ps-sp/pdf/Publications/annual-report-2020-2021.pdf>

⁵ <https://www2.gnb.ca/content/dam/gnb/Departments/ps-sp/pdf/Publications/annual-report-2020-2021.pdf>



St. John Regional Correctional Centre – 132

Southeast Regional Correctional Centre – 134

Dalhousie Regional Correctional Centre – 55

Madawaska Regional Correctional Centre – 51.4

New Brunswick Women's Correctional Centre – 29.3

New Brunswick Youth Centre – 5.3

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?

Adult prisons are governed according to the New Brunswick Correctional Services Act⁶ and the New Brunswick General Regulation⁷. The following policy details segregation: New Brunswick Policy Segregation (D-27)⁸

The practices are called segregation and administrative segregation. Segregation is imposed as a punishment in response to a disciplinary infraction. Administrative segregation is used for reasons related to the security and management of the correctional institution.

Youth prisoners are governed according to the Custody and Detention of Young Persons Act⁹ and the Regulation 92-71 under the Custody and Detention of Young Persons Act¹⁰. New Brunswick permits youth in custody to be held in either disciplinary segregation as a form of punishment for a misconduct charge within the institution or administrative segregation, which is used in response to concerns related to safety or security.¹¹

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

a. Solitary confinement as punishment

Sections 16(1)(d) and 16(1)(e) of the General Regulation outlines that where a Superintendent determines a prisoner has committed a misconduct, a penalty may be imposed, including

⁶ <https://www.canlii.org/en/nb/laws/stat/rsnb-2011-c-132/latest/rsnb-2011-c-132.html>

⁷ <https://www.canlii.org/en/nb/laws/regu/nb-reg-84-257/latest/nb-reg-84-257.html>

⁸ <https://www2.gnb.ca/content/dam/gnb/Departments/ps-sp/pdf/corrections/PolicyD-27.pdf>

⁹ <https://laws.gnb.ca/en/showpdf/cs/2011-c.137.pdf>

¹⁰ https://laws.gnb.ca/en/showfulldoc/cr/92-71/#anchorga:s_6

¹¹ <https://www.vice.com/en/article/eva85m/new-numbers-reveal-how-often-solitary-confinement-is-used-against-young-offenders-in-canada>



confinement to a dormitory, cell or unit; or segregation for an indefinite period of time (not to exceed five days without the prior approval of the Director of Correctional Services).¹²

Additionally, sections 19(c) and 19(d) permit a superintendent to place a prisoner in segregation if the prisoner is alleged to have committed a breach of the regulations governing the conduct of prisoners or the prisoner is in a sentence of segregation.¹³

Sections 9(2), 11(d), and 14(1)(e) of the New Brunswick Regulation 92-71 under the Custody and Detention of Young Persons Act permits the superintendent of the correctional institution to impose a disciplinary action on a youth who commits an infraction or misconduct. This disciplinary action can include confinement for a definite period of time to an area assigned by the superintendent. No specific maximum duration of time is provided.¹⁴

A 2008 report by New Brunswick's provincial Ombudsman and Child and Youth Advocate documents the conditions of segregation cells in the New Brunswick Youth Centre. This report describes youth segregation cells as being 9 by 6 feet with a 7.5 foot ceiling. The cells were equipped with a toilet and sink with a water fountain and a concrete slab topped with a mattress and bedding. Placements in segregation at this time typically involved youths being confined to their cell for 23 hours, with one hour out of the cell to shower and exercise. These cells have no window to the outside. There is a window in the door and a meal slot. Youth prisoners in segregation may be excluded from regular programming. The report details Ashley Smith's time in the province's youth prison, demonstrating that she was repeatedly restrained. This report also references New Brunswick Youth Centre Policy D-27, which provides for no young person to be confined in segregation for more than five days without the permission of the Regional Director.¹⁵

b. Solitary confinement as management of prisoners labelled 'difficult' or 'dangerous'

Section 19(b) of the New Brunswick Correctional Regulation allows a Superintendent to place a prisoner in segregation if, in the opinion of the superintendent, the prisoner must be segregated to protect the security of the correctional institution or the safety of others.¹⁶

A superintendent shall review the circumstances of each prisoner in segregation under Section 19 at least once in every 24-hour period to determine if segregation of the prisoner should be continued.

Sections 6 and 7 of the New Brunswick Regulation 92-71 under the Custody and Detention of Young Persons Act allow for a youth to be placed in segregation (also referred to as secure custody) if the young person must be segregated to protect the security and safety of the institution, the safety of another prisoner, or if the youth is alleged to have breached the institutional rules. A superintendent

¹² <https://www.canlii.org/en/nb/laws/regu/nb-reg-84-257/latest/nb-reg-84-257.html>

¹³ <https://www.canlii.org/en/nb/laws/regu/nb-reg-84-257/latest/nb-reg-84-257.html>

¹⁴ https://laws.gnb.ca/en/showfulldoc/cr/92-71/#anchorga:s_6

¹⁵ <https://www.ombudnb.ca/site/images/PDFs/AshleySmith-e.pdf>

¹⁶ <https://www.canlii.org/en/nb/laws/regu/nb-reg-84-257/latest/nb-reg-84-257.html>



must review the circumstances of the young person who is placed in segregation at least one time in each 24-hour period to determine if segregation should be continued.¹⁷

c. Solitary confinement for the prisoner's own protection

Section 19(a) and 19(e) of the New Brunswick Correctional Regulation allow prisoners to be placed in segregation if the superintendent believes the prisoner is in need of protection or if the prisoner requests to be placed in solitary confinement. Otherwise, segregation is same as response above.

Section 6(a) allows for a young person to be placed in segregation if they are in need of protection.¹⁸ Otherwise response is the same as above response to "b".

d. Solitary confinement pre-trial

Prisoners in pre-trial detention are subject to the same types of segregation as sentenced prisoners, as described in the above sections.

4. Restraints and chemical irritants

Section 21 of the New Brunswick Correctional Regulation outlines the use of force legislation. No specific information is provided related to the use of restraints and/or chemical irritants for prisoners in segregation.

5. Protected populations

There do not appear to be any protections for individuals belonging to vulnerable groups.

6. Statistical data on use of solitary confinement/segregation

According to news articles, New Brunswick only began tracking segregation placements in its provincial institutions in January 2016.^{19,20}

In January 2016, the province implemented a new process to track segregation placements. CBC news filed an access to information request for information on placements to segregation in New Brunswick's provincial prisons. From January 1st-June 10th 2016, New Brunswick reported a total of 316 different prisoners being sent to administrative segregation and 464 separate instances of prisoners being sent to administrative segregation. Of the 316 prisoners who were sent to administrative segregation, two were housed in a youth correctional centre and nine were housed in the women's correctional centre.²¹

The documents CBC received from the Minister of Public Safety in response to a request for information revealed that in 2014 359 prisoners were placed in segregation totaling 447 segregation

¹⁷ https://laws.gnb.ca/en/showfulldoc/cr/92-71/#anchorga:s_6

¹⁸ https://laws.gnb.ca/en/showfulldoc/cr/92-71/#anchorga:s_6

¹⁹ <https://www.cbc.ca/news/canada/new-brunswick/new-brunswick-segregation-tracking-1.3816211>

²⁰ <https://www.vice.com/en/article/eva85m/new-numbers-reveal-how-often-solitary-confinement-is-used-against-young-offenders-in-canada>

²¹ <https://www.cbc.ca/news/canada/new-brunswick/new-brunswick-segregation-tracking-1.3816211>



placements. In 2015, 340 prisoners were placed in segregation for a total of 417 different placements. Data for 2014 and 2015 did not include placements to segregation in the youth facility.²²

Vice News reported that New Brunswick provincial corrections reported at least two instances of youths held in disciplinary segregation for longer than 15 days and two instances of youths held in administrative segregation for longer than 15 days in 2016. As of May 31, 2017, fifteen youths had already been placed in segregation that year. Five of those fifteen youths spent between four and seven days in segregation.²³

7. Jurisprudence on solitary confinement

The in-custody death of Ashley Smith has been a key issue related to prolonged and indefinite solitary confinement. Ashley Smith was held for several years in New Brunswick's correctional facilities, first as a youth and then as an adult. Her time in these correctional facilities has received significant scrutiny following her in-custody death after her transfer to a federal penitentiary as an adult.

8. Reports on the use of solitary confinement

Ombudsman and Child Youth Advocate. (2008). Ashley Smith: A report of the New Brunswick Ombudsman and Child and Youth Advocate on the services provided to a youth involved in the criminal justice system. *Office of the Ombudsman & Child and Youth Advocate*.²⁴ This report focuses on the in-custody death of Ashley Smith. Ms. Smith died in an adult federal prison; however, prior to being transferred to a federal prison she was incarcerated for over three years in two provincial prisons in New Brunswick: the New Brunswick Youth Centre and the Saint John Regional Correctional Centre. The death of Ashley Smith drew intense scrutiny over segregation practices in Canadian prisons and resulted in many inquests, reports, and recommendations aiming to prevent similar events from taking place in the future.

Browne, R. (2017). New numbers reveal how often solitary confinement is used against young offenders in Canada. *Vice News*.²⁵

9. Relevant academic / research resources on solitary confinement

Please include links & short abstract / title in English where possible

Bromwich, R. & Kilty, J. M. (2017). Introduction: Law, vulnerability, and segregation: What have we learned from Ashley Smith's carceral death. *Canadian Journal of Law and Society*, 32(2), 157-164.

²² <https://www.cbc.ca/news/canada/new-brunswick/new-brunswick-segregation-tracking-1.3816211> (see documents at bottom of article for 2014 and 2015 data).

²³ <https://www.vice.com/en/article/eva85m/new-numbers-reveal-how-often-solitary-confinement-is-used-against-young-offenders-in-canada>

²⁴ <https://www.ombudnb.ca/site/images/PDFs/AshleySmith-e.pdf>

²⁵ <https://www.vice.com/en/article/eva85m/new-numbers-reveal-how-often-solitary-confinement-is-used-against-young-offenders-in-canada>



SUMMARY: At the ten-year anniversary of Ashley Smith's in-custody death, this introduction to a special issue reviews the widely accepted facts of this case.

Cesaroni, C. & Peterson-Badali, M. (2017). Ashley Smith and incarcerated young women: Marginalized at any age. *Canadian Journal of Law and Society*, 32(2), 249-267.