



# Mapping Solitary Confinement: Northwest Territories, Canada

Submitted by: Kelsi Barkway and Ashley Turcotte (University of Toronto).

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

<https://www.solitaryconfinement.org/mapping-solitary-confinement>

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

Northwest Territories (NWT) are a territory located in Northern Canada. In 2021, NWT had an estimated population of 45,504 people. NWT are responsible for adult prisoners serving custodial sentences of less than two years, prisoners who are on remand (pre-trial detention) and all youth custodial sentences. Immigration detainees may also be held in provincial prisons alongside other prisoners.

There are three provincial prisons in NWT. The North Slave Correctional Complex consists of an adult male unit and the youth unit, where male and female youth serving custodial prison sentences are held. Most adult males who are on remand are supervised here. The South Mackenzie Correctional Centre houses adult male prisoners and the Fort Smith Correctional Complex has separate units for adult women and adult male prisoners.<sup>1</sup>

- In 2018/2019 the average daily count of adults in custody was 183; this is a rate of 534 per 100,000 adults, one of the highest provincial/territorial incarceration rates in Canada.<sup>2</sup>
- In 2018/2019 the average daily count of adults on remand was 98 (rate of 286/100,000) and the average daily count of adults in sentenced custody was 85 (rate of 247/100,000).<sup>3</sup>
- In 2018/2019 856 adult males admitted to custody were Indigenous, 97 were non-Indigenous, and 9 had unknown Indigenous identity.<sup>4</sup>
- In 2018/2019 62 adult women admitted to custody were Indigenous, six were non-Indigenous and one had an unknown Indigenous status.<sup>5</sup>
- In 2018/2019 the average daily count of youth in custody was three, representing a rate of 10 per 100,000 young people (aged 12-17).<sup>6</sup>

---

<sup>1</sup> <https://www.justice.gov.nt.ca/en/correctional-facilities/>

<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/tbl02-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>

<sup>6</sup> <https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00016/tbl/tbl06-eng.htm>



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

In the Northwest Territories, a new Corrections Act<sup>7</sup> and Corrections Regulations<sup>8</sup> came into force on October 21, 2021. This Act governs the use of solitary confinement. In NWT, the practice of solitary confinement is referred to as separate confinement (formerly referred to as administrative segregation) and disciplinary segregation. Youth custody is governed by the Youth Justice Act.<sup>9</sup> This Act does not mention segregation.

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

### a. Solitary confinement as punishment

Section 42 of the Corrections Act outlines disciplinary or corrective measures that may be taken in response to prisoners who have breached prison rules.<sup>10</sup> Section 42(10) requires that the adjudicator (who conducts disciplinary hearings and makes determinations of guilt) shall take into consideration how a prisoner's mental health or developmental disability may have contributed to her or his conduct. Further, Section 42(11)(b) requires the adjudicator to review plans for the prisoner to have meaningful human contact with others if the prisoner is facing disciplinary segregation.

Section 42(12) of the Corrections Act stipulates that disciplinary segregation must not exceed 20 hours in a 24-hour period, unless required for reasons of safety and cannot exceed 13 consecutive days. Additionally, section 42(13) requires a Person in Charge to ensure that no prisoner is held in conditions that constitute disciplinary segregation for more than 60 aggregate days in a 365-day period. However, section 42(14) allows for a prisoner to be held in disciplinary segregation for more than 60 aggregate days in a 365-day period if the Person in Charge has determined that no other less restrictive placement or disciplinary or corrective measures are appropriate for the prisoner and the adjudicator has reviewed the matter and authorized the Person in Charge to exceed that 60-day limit.<sup>11</sup>

Section 28(1)(j) of the Corrections Regulations stipulates that if a prisoner is found guilty of breaching a rule in a disciplinary hearing, the adjudicator may impose a punishment of disciplinary segregation.<sup>12</sup>

According to section 30 of the Corrections Regulations, disciplinary segregation must not exceed 13 days. If a prisoner was in separate confinement between when the incident occurred and when the punishment of disciplinary segregation was imposed, the number of days spent in separate confinement prior to the sentence must be deducted from the disciplinary sentence imposed. Additionally, if disciplinary segregation is imposed as a punishment for multiple breaches, penalties

---

<sup>7</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>8</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.r3.pdf>

<sup>9</sup> <https://www.justice.gov.nt.ca/en/files/legislation/youth-justice/youth-justice.a.pdf>

<sup>10</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>11</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>12</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.r3.pdf>



that are served consecutively cannot result in a total period of disciplinary segregation of more than 26 days.<sup>13</sup> Given this, NWT has the longest maximum duration of disciplinary segregation in Canada's provinces and/or territories. However, if consecutive sentences are imposed and result in the prisoner spending more than 13 days in disciplinary segregation, after 13 days have expired the prisoner must be removed from disciplinary segregation for a period of 48 hours and be seen by a health professional before being returned to disciplinary segregation.<sup>14</sup>

The Person in Charge may suspend or reduce a period of disciplinary segregation if they consider that such a suspension or reduction is conducive to the prisoner's health, healing, rehabilitation and community reintegration and that any risk to any person at the correctional centre is minimal.<sup>15</sup>

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

Section 32 of the Corrections Act empowers the Director of Corrections to establish an enhanced supervision program for the purposes of determining the level of security, program and area limitations, access restrictions and other conditions of confinement for a prisoner.<sup>16</sup>

Section 36(1) of the Corrections Act outlines when separate confinement can be instituted. A Person in Charge may require that a prisoner be held in separate confinement if the Person in Charge believes on reasonable grounds that the prisoner is endangering or is likely to endanger another person, jeopardize the management, security, or operation of the correctional centre, or must be held in separate confinement for a medical reason. Additionally, if the Person in Charge has requested an examination of the prisoner under the Mental Health Act or believes that the prisoner has contraband on her or his person then the Person in Charge may require the prisoner be held in separate confinement.<sup>17</sup>

Section 36(2) of the Corrections Act notes that prisoners in separate confinement retain the living conditions and standards of prisoners outlined in Section 28 of the Act, except for those that can only be enjoyed in association with other prisoners or which cannot be enjoyed because the Person in Charge decides to limit the provision of living conditions and standards as is reasonable and necessary for the protection of security and the safety of persons at the correctional centre, as per Section 28(2) of the Act.<sup>18</sup>

Section 36(3) of the Corrections Act requires that prisoners held in separate confinement must be given access to all programs and services, individually or as a group, adapted to the circumstances

---

<sup>13</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.r3.pdf>

<sup>14</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.r3.pdf>

<sup>15</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.r3.pdf>

<sup>16</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>17</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>18</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>



only as is reasonable and necessary for the protection of security and the safety of persons at the correctional centre.<sup>19</sup>

Section 36(4) of the Corrections Act states that a prisoner who is held in separate confinement must not be confined in their cell for more than 20 hours in a 24-hour period, unless required for the protection of security and the safety of persons at the correctional centre.<sup>20</sup>

Section 36(5) of the Corrections Act outlines that within 24 hours of making the requirement that a prisoner be placed in separate confinement, the Person in Charge shall give the prisoner written reasons for the requirement of separate confinement. The Person in Charge shall direct that the prisoner be examined by a health professional within three days after the confinement, if the Person in Charge has reason to believe that the prisoner may have a mental health condition that would benefit from a treatment plan.<sup>21</sup>

Section 36(6) of the Corrections Act states that a prisoner may not be held in separate confinement for longer 96 hours.<sup>22</sup> However, section 36(7) of the Corrections Act notes that a prisoner may be held in separate confinement for a period exceeding 96 hours only if an adjudicator has reviewed a requirement by the Person in Charge for such a confinement and has confirmed the requirement or varied it to a period exceeding 96 hours under section 45 of the Act. Under section 45, an adjudicator must review a request to hold a prisoner in separate confinement for longer than 96 hours. If the adjudicator decides to extend the period of separate confinement, the adjudicator may extend the separate confinement for one or more periods, each of which must not exceed seven days. Before making a decision, the adjudicator shall give the prisoner a copy of the request, give the prisoner a reasonable opportunity to retain legal counsel and make submissions to the adjudicator about why the requirement should be rejected or varied and consider any examination report from a health care professional. After conducting a review, the adjudicator may terminate the requirement that a prisoner be held in separate confinement if the adjudicator believes that termination is conducive to the prisoner's healing, rehabilitation and community reintegration, and that any risk to any person at the correctional centre is minimal. A prisoner may appeal the adjudicator's decision. Additionally, at any time the Person in Charge may terminate a requirement that a prisoner be held in separate confinement if the Person in Charge believes that termination is conducive to the prisoner's healing, rehabilitation and community reintegration, and that any risk to any person at the correctional centre is minimal.<sup>23</sup>

Section 19 of the Corrections Regulations requires that the Person in Charge must not continue to hold a prisoner in separate confinement if, within five days of the commencement of the separate

---

<sup>19</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>20</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>21</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>22</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>23</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>



confinement, the Person in Charge has not caused the prisoner to be transferred out of the prison for the purpose of further examination under the Mental Health Act.<sup>24</sup>

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

Section 20 of the Corrections Regulations outlines voluntary separate confinement, when a prisoner can request to be held separately from other prisoners if they believe they are at risk of serious harm or would be at risk of serious harm if not confined separately. The Person in Charge will review and either approve or deny the request. The prisoner will not be confined separately if the Person in Charge believes the prisoner is not capable of making an informed request. If the prisoner no longer wishes to be in separate confinement, they will not be separately confined under section 20.<sup>25</sup>

Section 36(1)(a) of the Corrections Act allows for a prisoner to be held in separate confinement if the Person in Charge believes on reasonable grounds that the prisoner is endangering or is likely to endanger herself or himself.<sup>26</sup>

The procedures for separate confinement are otherwise the same as those laid out in the above response.

### d. Solitary confinement pre-trial

Solitary confinement is used in pre-trial detention in prison cells by order of prison officials. Solitary confinement in pre-trial detention facilities is subject to the same rules and conditions described in the above sections.

A 2015 Auditor General report found that prisoners of all security levels and sentenced and remand prisoners were all housed together.<sup>27</sup>

## 4. Restraints and chemical irritants

Section 21 of the Corrections Regulations governs the use of physical restraints. There is no specific, publicly available information with respect to the use of restraints or chemical irritants in separate confinement.

According to a CBC news story, Brooklyn Palmantier, 20, testified that he was held in an isolation cell while he was shackled, naked, and handcuffed. This prisoner also testified that he spent more than one month consecutively in segregation. He testified he wasn't given access to a shower, was not provided cutlery for his food, and was not provided a mattress.<sup>28</sup>

---

<sup>24</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.r3.pdf>

<sup>25</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.r3.pdf>

<sup>26</sup> <https://www.justice.gov.nt.ca/en/files/legislation/corrections/corrections.a.pdf>

<sup>27</sup> [https://www.oag-bvg.gc.ca/internet/docs/nwt\\_201503\\_e\\_40241.pdf](https://www.oag-bvg.gc.ca/internet/docs/nwt_201503_e_40241.pdf)

<sup>28</sup> <https://www.cbc.ca/news/canada/north/n-w-t-inmates-spend-months-at-a-time-in-solitary-1.2761737>



## 5. Protected populations

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

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

Minogue, S. (2014). N.W.T. inmates spend months at a time in solitary. CBC.<sup>29</sup> According to this news article, CBC obtained documents from an access to information request showing that between January 1, 2012 and July 1, 2014, 20 prisoners at the North Slave Correctional Centre spent almost 3,000 nights in administrative segregation. Administrative segregation was used on 94 occasions in this time period and two thirds of the cases involved prisoners held on remand (pre-trial detention).

## 7. Jurisprudence on solitary confinement

R v. Palmantier 2014 NWTTC 10.<sup>30</sup> In this case, a North West Territories judge found that Palmantier's stay in segregation violated Section 12 of the Charter. He often lacked basic necessities while in segregation, such as showers, a mattress, clothing, and bedding. During an eight month sentence, Palmantier spent 132 days in an isolation cell. The judge called the treatment of Palmantier "cruel and unusual".

## 8. Reports on the use of solitary confinement

Auditor General of Canada. (2015). Report of the Auditor General of Canada to the Northwest Territories Legislative Assembly – 2015 – Corrections in the Northwest Territories – Department of Justice. *Office of the Auditor General of Canada*.<sup>31</sup> This 2015 report identified significant shortcomings in the Department of Correction's ability to assess and provide programming to male prisoners. This audit also found that staffing to provide mental health services was limited at the male units. For example, prisoners often waited between two and three months to see a psychologist. This report also found that some prisoners were held in segregation without the required approvals, and daily and weekly approvals to see if prisoners would remain in segregation were not always completed (see page 16). Additionally, this report found that correctional staff failed to observe prisoners in segregation every 30 minutes, as is required by policy. This report also found that the Department of Corrections did not adequately ensure that key requirements for prisoners in segregation were being followed. Out of 48 prisoner files being audited, there were 18 prisoners who had been held in administrative or disciplinary segregation during 2012-2013 and 2013-2014 fiscal years. This audit found that weekly reviews were not consistently completed for

---

<sup>29</sup> <https://www.cbc.ca/news/canada/north/n-w-t-inmates-spend-months-at-a-time-in-solitary-1.2761737>

<sup>30</sup> <https://www.canlii.org/en/nt/nttc/doc/2014/2014nwttc10/2014nwttc10.html?autocompleteStr=2014%20nwttc%20&autocompletePos=2>

<sup>31</sup> [https://www.oag-bvg.gc.ca/internet/docs/nwt\\_201503\\_e\\_40241.pdf](https://www.oag-bvg.gc.ca/internet/docs/nwt_201503_e_40241.pdf)



segregation placements, including longer placements that ranged from 14-66 days (page 24-25 – see page 25 for a chart outlining failures to properly review segregation placements).

BCCLA. (2019). Recommendations for Northwest Territories Bill 45: Corrections Act. *British Columbia Civil Liberties Association (BCCLA)*.<sup>32</sup> In this report, the BCCLA provides recommendations to the NWT for their new Corrections Act.

CBC. (2014). N.W.T. Corrections says segregation protected inmates. CBC.<sup>33</sup> This news story provides the comments of then Director of Corrections Monty Bourke, who stated that two prisoners who spent 19 out of 30 months in administrative segregation were isolated for their own protection.

Minogue, S. (2014). N.W.T. inmates spend months at a time in solitary. CBC.<sup>34</sup> This news story also describes the two prisoners (one on remand, one sentenced) who spent more than 19 months out of 2.5 years in administrative segregation.

---

<sup>32</sup> [https://bccla.org/wp-content/uploads/2019/07/2019-07-04-NWT-Legislature\\_Corrections-Act.pdf](https://bccla.org/wp-content/uploads/2019/07/2019-07-04-NWT-Legislature_Corrections-Act.pdf)

<sup>33</sup> <https://www.cbc.ca/news/canada/north/n-w-t-corrections-says-segregation-protected-inmates-1.2764277>

<sup>34</sup> <https://www.cbc.ca/news/canada/north/n-w-t-inmates-spend-months-at-a-time-in-solitary-1.2761737>