



News Release

For Immediate Release

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Significant changes necessary to improve the experiences and outcomes of children and youth deeply impacted by the *Mental Health Act*

VICTORIA – In a new report released today, B.C.'s Representative for Children and Youth Jennifer Charlesworth says the provincial government must act to better protect the interests of children and youth involuntarily detained under the *Mental Health Act*.

Detained: Rights of children and youth under the Mental Health Act explores the system for involuntary detention and centres the voices of youth who have experience with detention under the Act. The report highlights their insights and raises serious questions about whether they are being made aware of their rights, whether their voices are being heard and acted upon and what the long-term impacts of involuntary detention are on young people.

“The problems with involuntary detention of youth are myriad,” Charlesworth says. “Although the objective of mental health detention is to keep young people safe, it is a powerful tool that is not always protective or therapeutic. Of the young people we heard from, detention was largely experienced as one more trauma on a trail of traumas – and this is not acceptable.”

Under the *Mental Health Act*, a young person can be admitted and detained against their will, have treatment imposed on them and be subject to discipline, restraint or periods of isolation. In addition to engaging with young people to understand their experiences under the *Mental Health Act*, *Detained* draws on RCY and external data, interviews with key stakeholders and a review of legislation, regulations and guidelines.

“Alarming, the number of children and youth who are detained involuntarily under the *Mental Health Act* increased 162 per cent in the 10 years between 2008/09 and 2017/18, bringing into question the adequacy of the voluntary, community-based system of care and treatment,” Charlesworth says. “As my Office has recommended many times previously, we must have in place a comprehensive system of culturally appropriate and youth-specific voluntary community services, so involuntary detention is only used as a measure of last resort.”

The report finds that young people are not always aware of their rights, including their rights to second medical opinions, Mental Health Review Board hearings and access to legal counsel, and that they rarely exercise their rights under the Act. Mental health detentions are among the most intrusive measures that a state can impose, depriving people of liberty. The need to ensure protections are in place and that young people are supported to understand the reason for their detention and what their rights are while detained is vital, as the ability for young people to understand rights may be lessened by their mental state when they are admitted for treatment.

Detained also finds that data is either not collected or varies greatly from one health authority to the next in a number of significant areas. It is impossible to know the number of Indigenous children admitted under the *Mental Health Act* – although the Ministry of Health believes they are disproportionately hospitalized involuntarily – or even provincial data on the length of time young people are detained. This lack of data on vulnerable young people leaves a gap in understanding the full effect of B.C.’s *Mental Health Act*.

“I am concerned that a standout memory for many young people is being isolated and restrained,” Charlesworth says. “The absence of legislation and regulation to guide the use of this extraordinary power is also troubling. The fact that these measures are coercive and may be experienced as traumatizing underlines the need for rigorous oversight and accountability.”

Understanding how First Nations, Métis, Inuit and urban Indigenous children and youth experience mental health detentions is also considered in this report, given the many ways in which Indigenous peoples have been robbed of rights, liberty and dignity as a result of colonization, with Indigenous young people recalling racism and an absence of culturally relevant treatment.

“The bottom line is that the *Mental Health Act* was not designed with the needs of children and youth in mind and is not meeting the needs of young people in this province,” Charlesworth says. “Of the young people we heard from, more than half disagreed with their treatment. Generally, they were looking for therapeutic support but found that, instead of that, what they received was forced medication.” Service providers also told the Representative that a serious lack of community based supports for young people on discharge results in young people staying in hospital longer than necessary or being discharged with little support.

“We support the Representative’s recommendations to increase choice, dignity and safety for children and youth when they are subject to the *Mental Health Act*,” says Jonny Morris, CEO Canadian Mental Health Association BC Division. “There is an opportunity for the province to embrace these current recommendations and commission an independent and fulsome review of the Act to ensure the legislation is responsive to the principles of modern mental health care and the advice of young people.”

This report includes 14 key recommendations related to admission, rights and treatment to improve the system of involuntary mental health care, including:

- identifying why involuntary mental health detentions are increasing
- notifying an independent body every time a young person is detained under the *Mental Health Act* and mandating this body to provide rights advice and advocacy
- enabling a First Nations, Métis or Inuit child or youth to notify their community or Nation of their involuntary admission
- ensuring First Nations, Métis, Inuit and urban Indigenous children and youth detained under the *Mental Health Act* receive trauma-informed, culturally safe and attuned mental health services
- ensuring that children and youth who are assessed as being capable of making their own decisions have greater agency in their treatment
- standardizing the collection and reporting of key data
- amending the *Mental Health Act* to ensure isolation and restraint are only used as a last resort and only in accordance with legislative or regulatory criteria, and
- piloting a new Mental Health Review Board hearing process for children and youth that is trauma-informed and culturally attuned.

Detained: Rights of children and youth under the Mental Health Act can be found at:
rcybc.ca/reports-and-publications/reports/detained

Media Contact:

Jeff Rud
Executive Director, Strategy and Communications
Cell: 250-216-4725
Email: jeff.rud@rcybc.ca