

Detained: Rights of children and youth under the Mental Health Act

RCY Annual Review Year 2

Summary: On January 19, 2021, B.C.'s Representative for Children and Youth Jennifer Charlesworth released her report *Detained: Rights of children and youth under the Mental Health Act (The Act)*. This report explored the system for involuntary detention of children and youth and centred the voices of youth who have experience with detention under the Act. The report highlighted concerns that government must act to better protect the interests of children and youth involuntarily detained under the *Mental Health Act*, explore the long-term impacts of involuntary detention on young people and ensure youth are made aware of their rights while detained. In her report, the Representative made 14 key recommendations related to admission, rights and treatment to improve the system of involuntary mental health care recommendations.

The Representative received the Mental Health Review Board's (MHRB) second annual update in October 2022, the joint update from the Ministry of Health (HLTH) and Mental Health and Addictions (MMHA) in April 2023, and an Action Plan and annual update from the Ministry of the Attorney General (MAG) in March 2023.

Throughout their response to *Detained* recommendation #14 the MHRB has shown a commitment to engaging and working with health authorities, First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate bodies, as well as children, youth, families, advocates, and academics with expertise in mental health. They have submitted a detailed plan for implementing and supporting a youth-centred Review Board hearing process that is trauma-informed and culturally attuned, and have already begun hiring navigators, updating their administrative processes, and shifting practice.

MAG's materials show that they have made considerable progress toward implementing a Rights Advice Service, including receiving an approval of their plan by cabinet (November 2021), a successful Treasury Board funding application (March 2022), and securing a contract with the Canadian Mental Health Association, BC Division (CMHA BC) to deliver the Rights Advice Service (April 2023). MAG reports that the Rights Advice Service will be implemented in stages starting in Fall 2023.

The joint update from HLTH and MMHA has not shown the same degree of progress seen in the MHRB and MAG updates. Overall, their work continues to focus on preliminary planning for *A Pathway to Hope*, a comprehensive and seamless system of mental health and substance use services for children and youth, including their expansion of the voluntary system of care. The Representative remains concerned that the more urgent recommendations, such as the right to retain personal items that do not pose a safety risk and access cultural supports when detained, have not seen more progress. Although efforts have been made to improve voluntary services, involuntary services continue to be a concern for the Representative, as current trends show that involuntary youth mental health admission rates continue to trend higher than voluntary admission rates. RCY's monitoring data of involuntary and voluntary mental health hospitalizations and trends of unique patients' admissions under 19 years old FY2020/21 to FY2022/23 show that both the overall admissions and unique cases continue to be higher for involuntary admissions compared to voluntary admissions, with 2,009 unique youth patients with one or more involuntary mental health hospitalization in 2022/23.

RCY Assessment Definitions:

- **Complete** = All activities that directly support the implementation of the recommendation are complete
- **Substantial Progress** = Most of the activities that directly support the implementation of the recommendation are complete
- **Some Progress** = Some of the activities that directly support the implementation of the recommendation are complete
- **No Progress** = None of the activities that directly support the implementation of the recommendation are complete (pre-planning may be underway but there has been no progress in formal planning or implementation).

Date Published: February 26, 2024 (amended March 25, 2024)

Recommendation	
#1	<p>Recommendation #1: That the Ministry of Mental Health and Addictions work with the Ministry of Health and the Ministry of Children and Family Development to conduct a review, after consulting with health authorities, First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate bodies, into the use of involuntary mental health care for children and youth to identify the conditions that are contributing to its increased use, and identify immediate opportunities to provide voluntary interventions or improve practices that would reduce involuntary admissions.</p> <p>Review to be complete by Jan. 1, 2022.</p>
Ministry's Response	RCY Assessment
Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>HLTH and MMHA have reported to the RCY that the emphasis of their work at this time is to improve and expand the voluntary system of care, with an aim to reduce the need for, or likelihood, of involuntary detainment. With that in mind, the action plan provided by the ministries aligns their response to Recommendation 1 with efforts underway to engage Indigenous communities in response to <i>In Plain Sight: Addressing Indigenous-specific Racism and Discrimination in BC Health Care</i>, and the ongoing development, planning and implementation of <i>A Pathway to Hope: A roadmap for making mental health and addictions care better for people in British Columbia</i> and the Children, Youth and Youth Adult Substance Use and Wellness Framework.</p> <p>In addition to efforts towards system change, HLTH and MMHA plan to complete a review of involuntary care for children and youth with the aim of creating recommendations to improve practices and oversight where necessary beginning by March 31, 2023.</p>	<p>No Progress</p> <p>HLTH and MMHA have reported ongoing engagement with health authorities First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate bodies, related to the systemic change underway that is relevant to, but not directly related to the use of involuntary mental health care for children and youth and conditions that are contributing to its increased use (ie: engagements related to former Bill 22, Youth Stabilization Care). These engagements have reaffirmed the risk of trauma associated with detaining youth and the Representative is encouraged to see the decision was made not to proceed with the legislative amendment.</p> <p>At this time, no direct progress has been made towards this specific recommendation and implementation is now overdue. The Representative is concerned to see that the review she called for will not begin until March 31, 2023, 15 months after the review was to be complete.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>The MMHA and HLTH submitted joint evidence summarizing work underway or completed as it relates to <i>Mental Health Act</i> amendment (former Bill 22, Youth Stabilization Care), <i>A Pathway to Hope: A roadmap for making mental health and addictions care better for people in British Columbia</i>, and their response to the report <i>In Plain Sight: Addressing Indigenous-Specific Racism and Discrimination in B.C. Healthcare</i>.</p>	<p>Some Progress</p> <p>The submission from HLTH and MMHA provided a detailed overview of work related to <i>Mental Health Act</i> amendment (former Bill 22, Youth Stabilization Care), <i>A Pathway to Hope</i>, and <i>In Plain Sight</i>. While it is clear the ministries have engaged with and consulted with health authorities, First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate</p>

<p>Their submission highlighted the engagement and consultation efforts that supported work on the previously listed initiatives, including consultation and engagement with: health authorities (including First Nations Health Authority (FNHA)), First Nations, Métis Nation BC (MNBC), urban Indigenous communities and leadership (BC Association of Aboriginal Friendship Centres), youth, families, nurses/nurse practitioners, physicians, and other bodies.</p> <p>Work from these initiatives that could support this recommendation included the implementation of Youth focused Mental Health and Substance Use Patient Experience Surveys (currently launched in Vancouver Coastal Health region with roll out into all other regions within three months).</p>	<p>bodies throughout their work on secure care, no evidence has been provided on engagements about the current use of involuntary mental health care for children and youth.</p> <p>The Representative is encouraged to see that the Mental Health and Substance Use Patient Experience Surveys may be used to complete a review into the use of involuntary mental health care for children and youth, and is hopeful that the next submission of evidence from the ministries will include more details about findings, how those findings may identify the conditions that are contributing to its increased use of involuntary care, and identify immediate opportunities to provide voluntary interventions or improve practices that would reduce directly contribute to an ongoing reduction in involuntary admissions. Furthermore, the Representative notes that, although the recommendation was directed to HLTH, MMHA and MCFD, the responses to date have been from HLTH and MMHA only.</p>
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Recommendation	
#2	<p>Recommendation #2: That the Ministry of Health require health authorities to collect and report key information pertaining to children and youth admitted under the Mental Health Act in a way that is standardized across the province and reported regularly, including but not limited to:</p> <ul style="list-style-type: none"> • identity factors (ethnicity, gender identity) • Indigeneity – First Nations, Métis and Inuit identity • standardized length of stay data across all hospital settings • admissions of children on a voluntary basis at the request of their parents • requests for, and outcomes of, second medical opinions • detailed seclusion and restraint data • data related to extended leave • outcomes related to quality of care, effectiveness and patient satisfaction. <p>This work to be completed by June 1, 2022.</p>
Ministry's Response	
RCY Assessment	
Year 1 Evidence – Received February 2022	Year 1 Assessment

<p>HLTH and MMHA have committed to develop a process to collect, monitor and report key information pertaining to children and youth admitted under the <i>Mental Health Act</i> in a way that is standardized across the province. At this time, HLTH and MMHA have not provided a detailed action plan for how they will approach this work and have indicated that it will not begin until March 31, 2023</p>	<p>No Progress</p> <p>The Representative is concerned to see the lack of response to this recommendation. Given the findings of <i>Detained</i> and the ministries' own engagements findings related to the former Bill 22, the trauma associated with detaining children and youth is established and immediate action to collect and report data related to detainment in a standardized way is essential.</p> <p>At this time, no progress has been made towards this specific recommendation and the Representative is concerned to see that the work towards it will not begin until March 31, 2023, 10 months after monitoring and reporting improvements were to be complete. The Representative notes progress towards data stewardship elsewhere in government, such as the proposed anti-racism data legislation, but notes that a robust data collection and monitoring strategy is required by HLTH to benefit from such enabling legislation.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>HLTH and MMHA have reported that recruitment and retention of Canadian Health Information Management Association (CHIMA) – trained staff is in a critical state for BC and nationally, leading to insufficient coding resources, coder burn-out, and substantial submission delays for existing data requirements. New data collection within the Discharge Abstract Database (DAD) is pending available resources.</p>	<p>No Progress</p> <p>At this time, no progress has been made towards this specific recommendation with the Ministry of Health and the Ministry of Mental Health and Addictions reporting resourcing barriers as a key barrier to progress.</p>

Recommendation	
#3	<p>Recommendation #3: That the Ministry of Health, in partnership with the Ministry of Mental Health and Addictions and the health authorities, review and reconcile s.20(a)(ii) of the <i>Mental Health Act</i> that permits the designated director to admit a child under 16 on a voluntary basis at the request of their parent or guardian with the mature minor doctrine.</p> <p>Review to be complete by Jan. 1, 2022.</p>
Ministry's Response	RCY Assessment
Year 1 Evidence – Received February 2022	Year 1 Assessment

<p>HLTH and MMHA have committed to review the use of involuntary care for children and youth, with the aim of creating recommendations to improve practices and oversight where necessary. This work is scheduled to begin March 31, 2023 and will include the administration and analysis of Mental Health and Substance Use Patient Experience Surveys of youth in in-patient mental health services. From this work, improvements in processes and standards for treatment, services and supports for youth, specific to the <i>Mental Health Act</i> will be identified and actioned.</p>	<p>No Progress</p> <p>At this time, no direct progress has been made towards this specific recommendation and the review is now overdue. The Representative is concerned to see that the review she has called for will not begin until March 31, 2023, 15 months after the review was to be complete. The Representative will work with the ministries to review the evidence from <i>Detained</i> that speaks to the urgency of this recommendation and explore options to prioritize reconciling s.20(a)(ii) of the <i>Mental Health Act</i> ahead of the review.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>HLTH and MMHA have not provided an update to this recommendation in their March 2023 evidence.</p>	<p>No Progress</p> <p>At this time, no direct progress has been made towards this specific recommendation, despite a commitment to begin their review in March 2023 in their Year 1 progress report.</p> <p>The Representative will continue to work with the ministries to review the evidence from <i>Detained</i> that speaks to the urgency of this recommendation and explore options to prioritize reconciling s.20(a)(ii) of the <i>Mental Health Act</i> ahead of the review.</p>

Recommendation	
#4	<p>Recommendation #4: That the Ministry of Health, and the Ministry of Mental Health and Addictions actively engage and consult with First Nations, Métis Nation and urban Indigenous health bodies and leadership to develop a process to enable a child or youth to notify their community or Nation of their involuntary admission.</p> <p>To be complete by Sept. 1, 2021.</p>
Ministry's Response	
Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>HLTH and MMHA are actively engaging health authorities, First Nations, Métis Nation, urban Indigenous communities and leadership, youth, families, and other bodies as appropriate to improve services and treatment for children and youth, in alignment with the</p>	<p>No Progress</p> <p>At this time, no direct progress has been made towards this specific recommendation and the Representative is concerned to see that youth still do not have a way to notify their community or</p>

<p>recommendations of <i>In Plain Sight: Addressing Indigenous-specific Racism and Discrimination in BC Health Care</i>. The purpose of this engagement is to support system improvements planning, implementation and monitoring.</p> <p>HLTH and MMHA have also committed to review the use of involuntary care for children and youth, with the aim of creating recommendations to improve practices and oversight where necessary. This work is scheduled to begin March 31, 2023 and will include the administration and analysis of Mental Health and Substance Use Patient Experience Surveys of youth in in-patient mental health services. From this work, improvements in processes and standards for treatment, services and supports for youth, specific to the <i>Mental Health Act</i> will be identified and actioned.</p> <p>HLTH and MMHA, in partnership with the Attorney General have also committed to develop a new independent service to provide rights advice to patients who are involuntarily admitted under the MHA, pursuant to a recommendation from the Ombudsperson.</p>	<p>Nation of their involuntary admission more than a year after the release of her report. Instead, HLTH and MMHA have submitted an action plan with six high-level actions to respond to all 11 of their <i>Detained</i> recommendations. Yet the ministries' current action plan does not speak to how these engagements will include consultation to develop a process to enable a child or youth to notify their community or Nation of their involuntary admission. While the Representative appreciates the focus of government on the transformational change required within the mental health system, the immediate needs and rights of children and youth must not be ignored.</p> <p>It is unclear in the ministries' action planning how the work of the <i>In Plain Sight</i> engagements, the review of involuntary care and the work to develop a new, independent service to provide rights advice to patients, will come together to develop a process for youth to notify their communities. The Representative recommended that the notification processes be in place by September 1, 2021 and are now overdue.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>The MMHA undertook exploratory discussions with Indigenous partners to understand perspectives on community notification and respect to hospital admission of youth for substance use emergency. According to the MMHA, partners did not indicate this as a priority at this time.</p>	<p>No Progress</p> <p>At this time, no direct progress has been made towards this specific recommendation and the Representative is concerned to see that youth still do not have a way to notify their community or Nation of their involuntary admission more than a year after the release of her report.</p> <p>At this time the Ministry of Mental Health and Addictions have highlighted that their exploratory discussions with Indigenous partners did not indicate this recommendation as a priority and so no actions towards or progress has been made. The Representative has requested the engagement findings to determine how youth-voice and the findings of the <i>Detained</i> report were considered to inform this decision.</p>

Recommendation

#5	<p>Recommendation #5: That the Attorney General in partnership with the Ministries of Health and Mental Health and Addictions, ensure that an independent body is notified every time a child or youth is detained under the Mental Health Act and that this body is mandated to provide rights advice and advocacy to children and youth.</p> <p>(BC Ombudsperson’s recommendations 21 to 23 from March 2019 report <i>Committed to Change: Protecting the Rights of Involuntary Patients under the Mental Health Act</i> are applicable, have yet to be achieved and are now overdue. Recommendation 5 in this RCY report adds to the Committed to Change recommendations to bring specific focus to children and youth.)</p> <p>Independent body to be in place by Dec. 1, 2021.</p>
Ministry’s Response	
Year 1 Evidence – Received February 2022	
<p>HLTH and MMHA, in partnership with the Attorney General have committed to develop a new independent service to provides rights advice to patients who are involuntarily admitted under the MHA, pursuant to a recommendation from the Ombudsperson. The ministries have reported that work is underway.</p>	<p>RCY Assessment</p> <p>Year 1 Assessment</p> <p>No Progress</p> <p>At this time, ministries report that work is underway, but the Attorney General has not provided an action plan or timeline to date. The Representative has assessed their progress as still within the pre-planning stage as there has been no evidence of progress towards implementation despite her call for the independent body to be in place by December 1, 2021. This work is now overdue.</p>
Year 2 Evidence – Received March 2023	
<p>MAG provided a detailed update on the development and implementation of a Rights Advice Service. Work toward developing an independent rights service began prior to the release of <i>Detained</i> in 2021, as this work has also been recommended by the BC Ombudsperson in their report 2019 report <i>Committed to Change: Protecting the Rights of Involuntary Patients under the Mental Health Act</i>.</p> <p>This work has included a jurisdictional scan, multiple engagements with stakeholders, the development of different service models, Cabinet approval of the current model (November 2021), Treasury Board approval for initial funding for the Rights Advice Service (March 2022), passing legislative amendments to the <i>Mental Health Act</i> that set out the duties and responsibilities of the Rights Advice Service and of directors of designated mental health facilities vis a vis the Rights Advice Service (June 2022), developing a Request for Proposal (RFP), and signing a contract with the Canadian Mental Health Association, BC Division (CMHA BC) to deliver the Rights Advice Service (April 2023) . The Canadian Mental Health Association</p>	<p>Year 2 Assessment</p> <p>Some Progress</p> <p>The Ministry of the Attorney General has made progress toward implementing a Rights Advice Service for individuals who are involuntarily detained under the Mental Health Act, including children and youth. Youth under the age of 16 who are admitted to a mental health facility on the request of a parent or guardian will also be able to access the service.</p> <p>The Representative is confident that the Rights Advice Service, when fully implemented, will meet the intent of this recommendation. However, whilst the recommendation remains in the planning stage, the Representative will continue to assess it has ‘<i>some progress</i>’ having been made and will await updates on implementation. The Office of the Representative will continue to monitor progress toward meeting the intent of the recommendation and will continue to assess the impact on the interests of children and youth.</p>

will subcontract with the Community Legal Assistance Society, Health Justice, Métis Nation BC, and three regional branches of the CMHA (Nanaimo, Vernon, and Prince George).	
The Rights Advice Service will be implemented in stages starting in Fall 2023.	

Recommendation	
#6	<p>Recommendation #6: That the Ministry of Health in co-operation with the Ministry of Mental Health and Addictions and the health authorities assess the appropriateness and accessibility of the information currently provided to children and youth and develop new information using multiple formats and media to better support young people to understand what’s happening to them and what their rights and options are when detained under the <i>Mental Health Act</i>. Youth with lived expertise to be engaged to advise on the information that is most helpful and how best to make information available to children and youth.</p> <p>Information to be developed by Dec. 1, 2021.</p>
Ministry’s Response	RCY Assessment
Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>HLTH and MMHA have committed to assess and improve information available to children and youth regarding treatment under the <i>Mental Health Act</i>. The ministries plan to begin this work September 1, 2023.</p>	<p>No Progress</p> <p>HLTH and MMHA have submitted an action plan with six high-level actions to respond to all 11 of their <i>Detained</i> recommendations. While the Representative appreciates the focus of government on the transformational change required within the mental health system, the immediate accessibility of their materials for children and youth must not be ignored. The ministries’ current action plan does not speak to steps they will take in their assessment or how youth with lived experience will be engaged. At this time, no progress has been made towards this specific recommendation and it is now overdue.</p> <p>The Representative is concerned to see that work to address this recommendation will not begin until 21 months after it was meant to be complete. Children and youth have a right to accessible materials that explain what is happening to them and what their rights and options are when detained under the <i>Mental Health Act</i>.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment

<p>HLTH and MMHA have developed an updated guide to the <i>Mental Health Act</i> that includes new information addressing treatment of children and youth, and information about cultural safety and humility. The guide is currently being reviewed by rights holders and other system stakeholders (including the First Nations Health Authority, people with lived experience, physicians, health authorities and health system leaders).</p> <p>HLTH and MMHA have also begun the process of: revising <i>Mental Health Act</i> forms so that they are more client centred and supportive to the families and guardians; creating a curriculum for practitioners and nurse practitioners; and administering Mental Health and Substance Use Patient Experience Surveys.</p>	<p>Some Progress</p> <p>HLTH and MMHA have provided details on the development of an updated guide to the <i>Mental Health Act</i>, <i>Mental Health Act</i> forms, training a curriculum for physicians and Nurse Practitioners, but have not indicated how/if updates include assessing the appropriateness and accessibility of the information currently provided to children and youth.</p> <p>At present, there is no evidence provided that indicates the development of new information using multiple formats and media to better support young people has been considered.</p> <p>The Representative is encouraged to see that the review of the updated guide to the <i>Mental Health Act</i> included consultation with those with lived experience and rights holders. However, there is still considerable progress to be made in supporting young people to understand what’s happening to them and what their rights and options are when detained under the <i>Mental Health Act</i>.</p> <p>Based on the evidence provided by the ministries, this recommendation is assessed as ‘<i>some progress</i>’.</p>
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Recommendation	
#7	<p>Recommendation #7: That the Ministry of Health work with the health authorities to develop a process to ensure that First Nations, Métis or Inuit children or youth who are either Detained under the <i>Mental Health Act</i> or are under 16 and admitted by their parent/legal guardian are offered services by hospital staff who assist Indigenous patients such as navigators, liaison nurses, nurse practitioners and Elders in residence.</p> <p>Process to be developed and operational by Jan. 1, 2022.</p>
Ministry’s Response	RCY Assessment
Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>HLTH and MMHA have committed to review the use of involuntary care for children and youth, with the aim of creating recommendations to improve practices and oversight where necessary. This work is scheduled to begin March 31, 2023 and will include the administration and analysis of Mental Health and Substance Use Patient Experience Surveys of youth in in-</p>	<p>No Progress</p> <p>At this time, no direct progress has been made towards this specific recommendation and the process is now overdue. Instead, HLTH and MMHA have submitted an action plan with six high-</p>

patient mental health services. From this work, improvements in processes and standards for treatment, services and supports for youth, specific to the <i>Mental Health Act</i> will be identified and actioned.	level actions to respond to all 11 of their <i>Detained</i> recommendations. While the Representative appreciates the focus of government on the transformational change required within the mental health system, the immediate needs and rights of children and youth to access culturally safe resources while detained must not be ignored. The Representative is concerned to see that the review meant to address this recommendation will not begin until March 31, 2023, 15 months after the review was to be complete.
Year 2 Evidence – Received April 2023	Year 2 Assessment
As part of the response to <i>In Plain Sight</i> , MMHA has begun discussions with Indigenous partners (including First Nations Health Authority (FNHA), First Nations, Métis Nation BC (MNBC), urban Indigenous communities and leadership (BC Association of Aboriginal Friendship Centres) to understand perspectives on Indigenous patient navigators/liaison nurses and other culturally safe services provided in hospital with respect to hospital admission of youth for substance use emergency (spring 2022 – winter 2023).	<p>No Progress</p> <p>MMHA appear to have begun their engagement with Indigenous partners to understand perspectives on Indigenous patient navigators/liaison nurses and other culturally safe services provided in hospital with respect to hospital admission of youth for substance use emergency.</p> <p>The Representative is concerned that part of the submission for this recommendation references the work completed by Mental Health Review Board to complete recommendation #14 (pilot a Review Board hearing process), as this differs from the stated intent of recommendation #7 which is to ensure that First Nations, Métis or Inuit children and youth are offered services by hospital staff.</p> <p>At this time, no direct progress has been made towards this specific recommendation and the process is now overdue.</p>

Recommendation	
#8	<p>Recommendation #8: That the Ministry of Health and the Ministry of Mental Health and Addictions put forward amendments to the <i>Mental Health Act</i> after actively engaging and consulting with health authorities, First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate bodies, that will ensure children and youth who are detained under the <i>Mental Health Act</i> have the right to retain personal items that do not pose a risk to their safety or the safety of others and continue practices that support their physical, emotional, mental, spiritual and relational wellbeing and their sense of identity.</p> <p>Amendments to be put forward by May 1, 2022.</p>
Ministry's Response	RCY Assessment

Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>HLTH and MMHA have committed to review the use of involuntary care for children and youth, with the aim of creating recommendations to improve practices and oversight where necessary. This work is scheduled to begin March 31, 2023 and will include the administration and analysis of Mental Health and Substance Use Patient Experience Surveys of youth in in-patient mental health services. From this work, improvements in processes and standards for treatment, services and supports for youth, specific to the <i>Mental Health Act</i> will be identified and actioned.</p>	<p>No Progress</p> <p>At this time, no direct progress has been made towards this specific recommendation and the Representative is concerned to see that the review she has called for will not begin until March 31, 2023, 11 months after amendments were to be put forward to the <i>Mental Health Act</i>. Instead, HLTH and MMHA have submitted an action plan with six high-level actions to respond to all 11 of their <i>Detained</i> recommendations. While the Representative appreciates the focus of government on the transformational change required within the mental health system, the immediate needs and rights of children and youth to retain personal items that do not pose a risk must not be ignored.</p> <p>Given the findings of <i>Detained</i> and the ministries’ own engagement findings related to the former Bill 22, the trauma associated with detaining children and youth is established. Immediate action to ensure youth have access to personal items that do not pose a risk to their safety or the safety of others is vital so that they may continue practices that support their physical, emotional, mental, spiritual and relational wellbeing and their sense of identity.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>MMHA held discussions with Indigenous partners to understand perspectives, including gaps and challenges in the provision of culturally safe services and supports in hospital with respect to hospital admission of youth for substance use emergency (Spring 2022 – winter 2023).</p>	<p>No Progress</p> <p>Although early discussions have taken place, at this time, no direct progress has been made towards this specific recommendation made by the Representative. While the Representative appreciates the continued focus by government on the transformational change required within the mental health system, the immediate needs and rights of children and youth to retain personal items that do not pose a risk must not be ignored.</p>

Recommendation	
#9	Recommendation #9: That the Ministry of Health, the Ministry of Mental Health and Addictions and the First Nations Health Authority actively engage and consult with First Nations, Métis Nation and urban Indigenous leadership and communities to identify changes needed in order to ensure that First Nations, Métis, Inuit and urban Indigenous children and youth are provided

	<p>with trauma-informed, culturally safe and attuned mental health services, including a diversity of treatment modalities specific to their unique culture, when detained under the <i>Mental Health Act</i>.</p> <p>Changes to be identified by Sept 1, 2021 and implemented in full by Sept 1, 2022.</p>
Ministry's Response	RCY Assessment
Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>HLTH and MMHA have committed to review the use of involuntary care for children and youth, with the aim of creating recommendations to improve practices and oversight where necessary. This work is scheduled to begin March 31, 2023 and will include the administration and analysis of Mental Health and Substance Use Patient Experience Surveys of youth in in-patient mental health services. From this work, improvements in processes and standards for treatment, services and supports for youth, specific to the <i>Mental Health Act</i> will be identified and actioned.</p>	<p>No Progress</p> <p>HLTH and MMHA have submitted an action plan with six high-level actions to respond to all 11 of their <i>Detained</i> recommendations. At this time, no direct progress has been made towards this specific recommendation and the Representative is concerned to see that the review proposed by ministries to identify changes necessary will not begin until March 31, 2023. The identification of changes needed to ensure that First Nations, Métis, Inuit and urban Indigenous children and youth are provided with trauma-informed, culturally safe and attuned mental health services, including a diversity of treatment modalities specific to their unique culture, when detained under the <i>Mental Health Act</i>, are now overdue.</p> <p>Given the findings of <i>Detained</i> and the ministries' own engagements findings related to former Bill 22, the trauma associated with detaining children and youth is well established. Immediate action is imperative to ensure that youth have trauma-informed, culturally safe and attuned mental health services, including a diversity of treatment modalities specific to their unique culture, when detained under the <i>Mental Health Act</i>.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>MMHA and HLTH have reported that an examination of <i>Mental Health Act</i> amendments included engagement with Indigenous partners, reaffirmed risk of trauma associated with holding youth against their will and a decision was subsequently made not to proceed with legislative amendments.</p> <p>MMHA and HLTH also reported a shift in Youth Substance Use Post-Emergency Response with active engagement with partners to identify measures to improve hospital-based care for youth</p>	<p>No Progress</p> <p>As in the previous year's assessment, with findings of <i>Detained</i> and the ministries' own engagements findings related to former Bill 22, the trauma associated with detaining children and youth is well established. Immediate action is imperative to ensure that youth have trauma-informed, culturally safe and attuned mental health services, including a diversity of treatment modalities specific to their unique culture, when detained under the <i>Mental Health Act</i>.</p>

<p>following a substance use emergency, including for discharge planning and culturally safe care (spring 2022 – winter 2023).</p> <p>HLTH, MMHA and Métis Nation BC (MNBC) have developed a sub-working group on Mental Health and Wellness and have held discussions to review culturally safe services, monitoring and reporting of youth substance use and services, and supporting relationships with health authorities.</p>	<p>The ministries are still reporting being in an active engagement and consultation phase of work towards this recommendation and as such no direct progress has been made to the recommendation which is of concern to the Representative.</p>
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Recommendation	
<p>#10</p>	<p>Recommendation #10: That the Ministry of Health, in partnership with the Ministry of Mental Health and Addictions and the health authorities, undertake a comprehensive review of practices for:</p> <ul style="list-style-type: none"> a) children under 16 who have been “voluntarily” admitted, and take all necessary legal and administrative measures to ensure that “mature minor” capacity assessments are carried out where treatment is proposed, that the results of those assessments are recorded, and that physicians understand their duty to comply with the views of a mature minor regarding treatment, subject only to the order of a court b) children assessed as mature minors who have been involuntarily admitted and take all necessary legal and administrative measures to ensure that (i) despite the deemed consent provisions, the views of the young person are obtained, recorded, and carefully considered before treatment decisions are made, and (ii) treatment information is conveyed in a manner that children and youth may understand. <p>Review to be complete by March 1, 2022.</p>
Ministry’s Response	RCY Assessment
<p>Year 1 Evidence – Received February 2022</p>	<p>Year 1 Assessment</p>
<p>HLTH and MMHA have committed to review the use of involuntary care for children and youth, with the aim of creating recommendations to improve practices and oversight where necessary. This work is scheduled to begin March 31, 2023 and will include the administration and analysis of Mental Health and Substance Use Patient Experience Surveys of youth in in-patient mental health services. From this work, improvements in processes and standards for treatment, services and supports for youth, specific to the <i>Mental Health Act</i> will be identified and actioned.</p>	<p>No Progress</p> <p>HLTH and MMHA have submitted an action plan with six high-level actions to respond to all 11 of their <i>Detained</i> recommendations. At this time, no direct progress has been made towards this specific recommendation and the Representative is concerned to see that the review she has called for will not begin until March 31, 2023, 13 months after the review was to be complete.</p>
<p>Year 2 Evidence – Received April 2023</p>	<p>Year 2 Assessment</p>

<p>HLTH and MMHA have highlighted that the <i>Guide to the Mental Health Act</i> is being updated and reviewed by rights-holders, stakeholders and people with lived experience. Whilst simultaneously the new <i>Mental Health Act</i> forms and curriculum are being developed.</p>	<p>No Progress</p> <p>Although the ministries have submitted evidence of the updating of guides and forms for use with the <i>Mental Health Act</i>, it is not yet clear if they will be doing a comprehensive review of practices.</p> <p>At this time, no direct progress has been made that specifically contributes towards implementation of this recommendation and the Representative is concerned to see that the review she has called for does not appear to have begun.</p>
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Recommendation	
#11	<p>Recommendation #11: That the Ministry of Health and the Ministry of Mental Health and Addictions put forward amendments to the <i>Mental Health Act</i> after actively engaging and consulting with health authorities, First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate bodies to ensure that, for children and youth who are detained under the <i>Mental Health Act</i>, isolation and restraint are:</p> <ul style="list-style-type: none"> • only used as a last resort when all other interventions have been exhausted, and • only used in accordance with specific legislative or regulatory criteria including assessment, time limits, reviews, documentation and reporting requirements. <p>Amendments to be put forward by May 1, 2022.</p>
Ministry's Response	RCY Assessment
Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>HLTH and MMHA are actively engaging health authorities, First Nations, Métis Nation, urban Indigenous communities and leadership, youth, families, and other bodies as appropriate to improve services and treatment for children and youth, in alignment with the recommendations of <i>In Plain Sight: Addressing Indigenous-specific Racism and Discrimination in BC Health Care</i>. The purpose of this engagement is to support system improvements planning, implementation, and monitoring.</p> <p>HLTH and MMHA have also committed to review the use of involuntary care for children and youth, with the aim of creating recommendations to improve practices and oversight where necessary. This work is scheduled to begin March 31, 2023 and will include the administration and analysis of Mental Health and Substance Use Patient Experience Surveys of youth in in-</p>	<p>No Progress</p> <p>HLTH and MMHA have submitted an action plan with six high-level actions to respond to all 11 of their <i>Detained</i> recommendations. At this time, no direct progress has been made towards this specific recommendation and the Representative is concerned to see that the review she has called for will not begin until March 31, 2023, 11 months after amendments were to be put forward to the <i>Mental Health Act</i>.</p> <p>Despite the delay of the review, the Representative recognizes other work occurring within the ministries' pursuant to former <i>Mental Health Act</i> amendment, Bill 22, Youth Stabilization Care, and supports the ministries' findings that reaffirmed risk of trauma associated with holding youth</p>

patient mental health services. From this work, improvements in processes and standards for treatment, services and supports for youth, specific to the <i>Mental Health Act</i> will be identified and actioned.	against their will and the subsequent decision not to proceed with the legislation. The Representative is also pleased to see that Child Health BC has updated the Provincial Least Restraint Guideline for the use of emergency restraint specific to children and youth exhibiting unsafe behaviors related to a psychiatric or behavioral crisis. The Representative hopes that this work will offer some important background information and leading practice to expedite the ministries upcoming review of youth detained under the <i>Mental Health Act</i> .
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>HLTH and MMHA report active engagement with partners to identify measures to improve hospital-based care for youths following a substance use emergency.</p> <p>HLTH, MMHA and Métis Nation BC (MNBC) have developed a sub-working group on Mental Health and Wellness and have held discussions to review culturally safe services, monitoring and reporting of youth substance use and services, and supporting relationships with health authorities.</p>	<p>No Progress</p> <p>The MMHA and HLTH update again touches on the Child Health BC update to the Provincial Least Restraint Guideline for the use of emergency restraint specific to children and youth exhibiting unsafe behaviors related to a psychiatric or behavioral crisis. Although the Representative had hoped that this work would offer some important background information and leading practice to expedite the ministries previous commitment to a review of youth detained under the <i>Mental Health Act</i>, MMHA and HLTH still report being in an active engagement and consultation phase of work towards this recommendation.</p> <p>According to the assessment by the Representative, no direct progress has been made towards the current recommendation.</p>

Recommendation	
#12	<p>Recommendation #12: That the Ministry of Health and the Ministry of Mental Health and Addictions conduct an evidence-informed and outcomes-based review of extended leave for children and youth who are detained under the <i>Mental Health Act</i> to:</p> <ul style="list-style-type: none"> • assess the effectiveness of extended leave as a mental health intervention for children and youth, and • if extended leave is determined to be effective, review the need for additional legislative or regulatory criteria and oversight mechanisms, and review the extent to which children and youth are aware of and exercise their rights on extended leave. <p>Review to be complete by Jan. 1, 2022.</p>
Ministry's Response	RCY Assessment

Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>HLTH and MMHA have committed to review the use of involuntary care for children and youth, with the aim of creating recommendations to improve practices and oversight where necessary. This work is scheduled to begin March 31, 2023, and will include the administration and analysis of Mental Health and Substance Use Patient Experience Surveys of youth in in-patient mental health services. From this work, improvements in processes and standards for treatment, services and supports for youth, specific to the <i>Mental Health Act</i> will be identified and actioned.</p>	<p>No Progress</p> <p>HLTH and MMHA have submitted an action plan with six high-level actions to respond to all 11 of their <i>Detained</i> recommendations. At this time, no direct progress has been made towards this specific recommendation and the Representative is concerned to see that the review she has called for will not begin until March 31, 2023, 15 months after the review was to be complete.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>Approach under review as reported by the MMHA and HLTH.</p> <p>No additional information on the progress of this work was provided in the year 2 update.</p> <p>At the time of submission, no updates were provided on the review of involuntary care for children and youth, stated to begin by March 31, 2023.</p>	<p>No Progress</p> <p>The update provided in March 2023 did not include information on the progress toward meeting this recommendation.</p>

Recommendation	
#13	<p>Recommendation #13: That the Ministry of Health and the Ministry of Mental Health and Addictions put forward amendments to the <i>Mental Health Act</i> after actively engaging and consulting with health authorities, First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate bodies to create mandatory periodic Mental Health Review Board reviews for (i) involuntarily detained children and youth, and (ii) children under 16 who are admitted at the request of their parents, to ensure that such reviews do not depend on the child’s knowledge or ability to make such a request. Mandatory reviews should only be conducted with the consent of the child or youth or their representative.</p> <p>Amendments to be put forward by May 1, 2022.</p>
Ministry’s Response	
Year 1 Evidence – Received February 2022	RCY Assessment
	Year 1 Assessment

MMHA and HLTH have not provided a progress report for Recommendation 13.	<p>No Progress</p> <p>In January 2022, MMHA and HLTH reported that Recommendation 13 would be led by the Mental Health Review Board, however, the MHRB confirmed in September 2022, that as an independent office of the Ministry of the Attorney General, they are not properly situated to lead legislative amendments and therefore are unable to lead the response to this recommendation. The RCY re-engaged with MMHA and HLTH in response to this recommendation in November 2022, and at this time, no government office has taken responsibility for this recommendation.</p>
Year 2 Evidence – Received April 2023	Year 2 Assessment
MMHA and HLTH have not provided a progress report for Recommendation 13.	<p>No Progress</p> <p>Neither the MMHA nor HLTH have taken responsibility for this recommendation, and so no direct progress has been made towards the current recommendation.</p>

Recommendation	
#14	<p>Recommendation #14: That the Mental Health Review Board pilot a new Review Board hearing process for children and youth that centres the young person and is trauma-informed and culturally attuned after actively engaging and consulting with health authorities, First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate bodies.</p> <p>Pilot to be operational by Oct. 1, 2022.</p>
Ministry's Response	RCY Assessment
Year 1 Evidence – Received February 2022	Year 1 Assessment
<p>The MHRB has developed a phased consultation plan to support the development of a new hearing process that centres the young person and is trauma-informed and culturally attuned. In Year 1, MHRB hired Project Coordinators to lead their response to Recommendation 14 and hired a contractor to complete consultations for Phase 1 & 2, to inform the development of a new hearing process. Consultations took place September 2021 – October 2021 and included a review of the current process and lessons learned from <i>Detained</i>. The Consultation Report is</p>	<p>Some Progress</p> <p>The Representative is pleased to see a swift response to create a new process for children or youth detained under the <i>Mental Health Act</i>. Some progress has been made towards the implementation of a new pilot through the completion of community consultation with health authorities, First Nations, Métis Nation and urban Indigenous communities and leadership and other appropriate bodies. Once the findings of the consultation process are applied to new policy and practice resources, most of the activities that directly support the implementation of the recommendation</p>

now being reviewed with a Community Advisory Council with the goal of implementing a new Board hearing process for children and youth.	will be complete and substantial progress towards the target Oct. 1, 2022 date will have been made.
Year 2 Evidence – Received April 2023	Year 2 Assessment
<p>Following the completion of the Consultation Report and the review by the Community Advisory Council, MHRB developed and submitted a robust and detailed plan for developing a Review Board hearing process. This included timelines, a job description for a Navigator position, the creation of information and communication materials for youth and families, substantial administrative processes to support this work, the development of Rule of Practice and Procedure, a revised youth centered hearing process, and plans for implementing a training process.</p> <p>The values of a youth centered approach that is trauma-informed and culturally attuned were evident throughout all materials submitted.</p> <p>While the pilot was not operational by Oct. 1, 2022, MHRB has a clear, detailed, and actionable plan to implement the hearing process.</p>	<p>Substantial Progress</p> <p>The Representative is pleased with the steps taken by the Mental Health Review Board to meet this recommendation for the creation of a trauma-informed, culturally attuned process for children and youth detained under the <i>Mental Health Act</i>.</p> <p>The impact of a methodical and thorough consultation process, and the commitment to create a supported youth centered process that is trauma-informed and culturally attuned is reflected in the work completed to date.</p> <p>Given that the Representative has received a detailed implementation plan and steady progress towards the implementation of the pilot in Fall 2023 has been documented the Representative has assessed this recommendation as having achieved ‘<i>substantial progress</i>’.</p>