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Education for Ontario Youth in Detention:

A qualitative report

November 2021



ABOUT CCLA AND CCLET

The Canadian Civil Liberties Association was constituted in 1964 to promote respect for and observance of fundamental human rights and civil liberties, and to defend and foster the recognition of those rights and liberties. We are a national, independent, non-governmental charity. We are in the courts, classrooms and in your community. Since our founding, CCLA has been at the forefront of protecting fundamental freedoms and democratic life in Canada. A wide variety of people, occupations and interests are represented in our membership. The Canadian Civil Liberties Education Trust, the CCLA's education arm, has been engaged in public education since its inception in 1968.

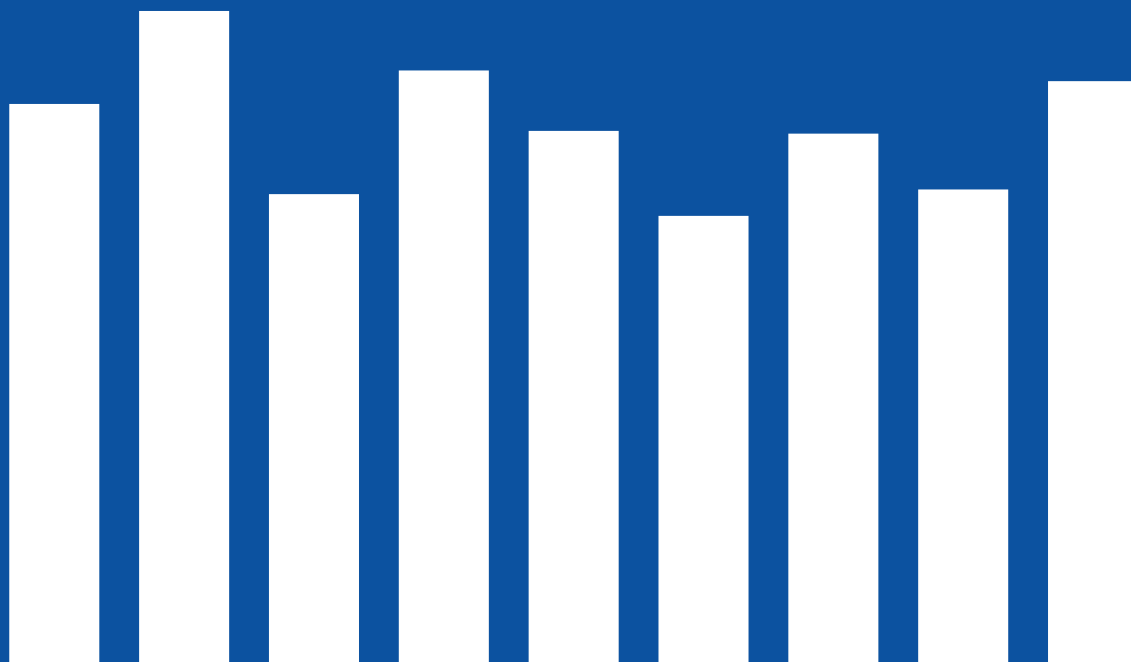
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Executive Summary

Youth in detention facilities across Ontario deserve a quality education. In this qualitative study, CCLA spoke with youth, staff and teachers at detention facilities, and justice system professionals with knowledge of detention facilities. Our goal was to examine the education available to youth in detention, and the barriers they may face. Public institutions are expected to provide a quality education to young residents of Canada. But that was not happening consistently in the Ontario youth detention facilities we encountered; our interview participants highlighted the many educational deficiencies and barriers youth in detention face while pursuing their education.

This report concludes that there are significant differences in the quality and quantity of formal education received by youth in different detention facilities. While the pandemic provides some extenuating circumstance, the root cause seems to be due to differences in organizational culture, with some facilities treating youth as security threats to be managed, rather than students deserving of rehabilitation through educational opportunities. To make matters worse, the evidence suggests that this is particularly the case where the majority of the youth are Black. This systemic racism must be addressed. It deserves and demands the immediate attention of legislators and governments. We also identified gaps in oversight and accountability which contribute to allowing the educational deficits identified to persist unabated.

DIFFERENTIAL AND LIMITED ACCESS TO EDUCATION BASED ON DETENTION FACILITY

Youth may face many barriers to their education while in detention facilities, but their experiences within facilities across Ontario vary considerably. There were significant differences in the number of daily educational hours available at facilities, and there were differences in the quality, breadth, and depth of programming available.¹ There were also significant differences between both the quantity and quality of time dedicated to education in detention facilities when compared to the general population attending mainstream schools in the community.

We were told that some of these differences were at least partly the result of a facility's culture, which seemed to hinge on a facility's attitude towards incarceration. Some facilities were viewed by participants to be therapeutically oriented, that is, focused on addressing youths' needs through evidence-based, youth-centered programming, rehabilitative treatment and relationship building. Other facilities, according to some participants, seemed to prioritize security over education. In those security-focused settings, youth were security threats first, students second. Systemic racism appeared to influence the culture adopted by a facility in some instances, with some participants suggesting that facilities with higher proportions of Black youth tended towards a severe corrections culture. Participants were concerned that it was because the youth were Black that they were more likely to be perceived as security threats by the facility and as

¹ The school day was impacted and further limited by the COVID-19 pandemic across facilities, but the differences between facilities continued.

a result, had their educational opportunities limited. For example, school hours at one “security-focused” facility were significantly reduced when a decision was made to segregate youth from different living units because of a perception that mixing between units posed a significant security threat. In order to maintain this separation, school hours were divided among the living units, with one cohort only attending school in the morning, and the other in the afternoon. Another example of educational opportunities being negatively impacted by a facility’s security culture is the way in which relatively minor behavioural issues are handled. In one facility it was reported that when a student talked back to the teacher, the student would be removed from the class and disciplinary action would be handled by the facility, rather than the teacher addressing the situation in class.

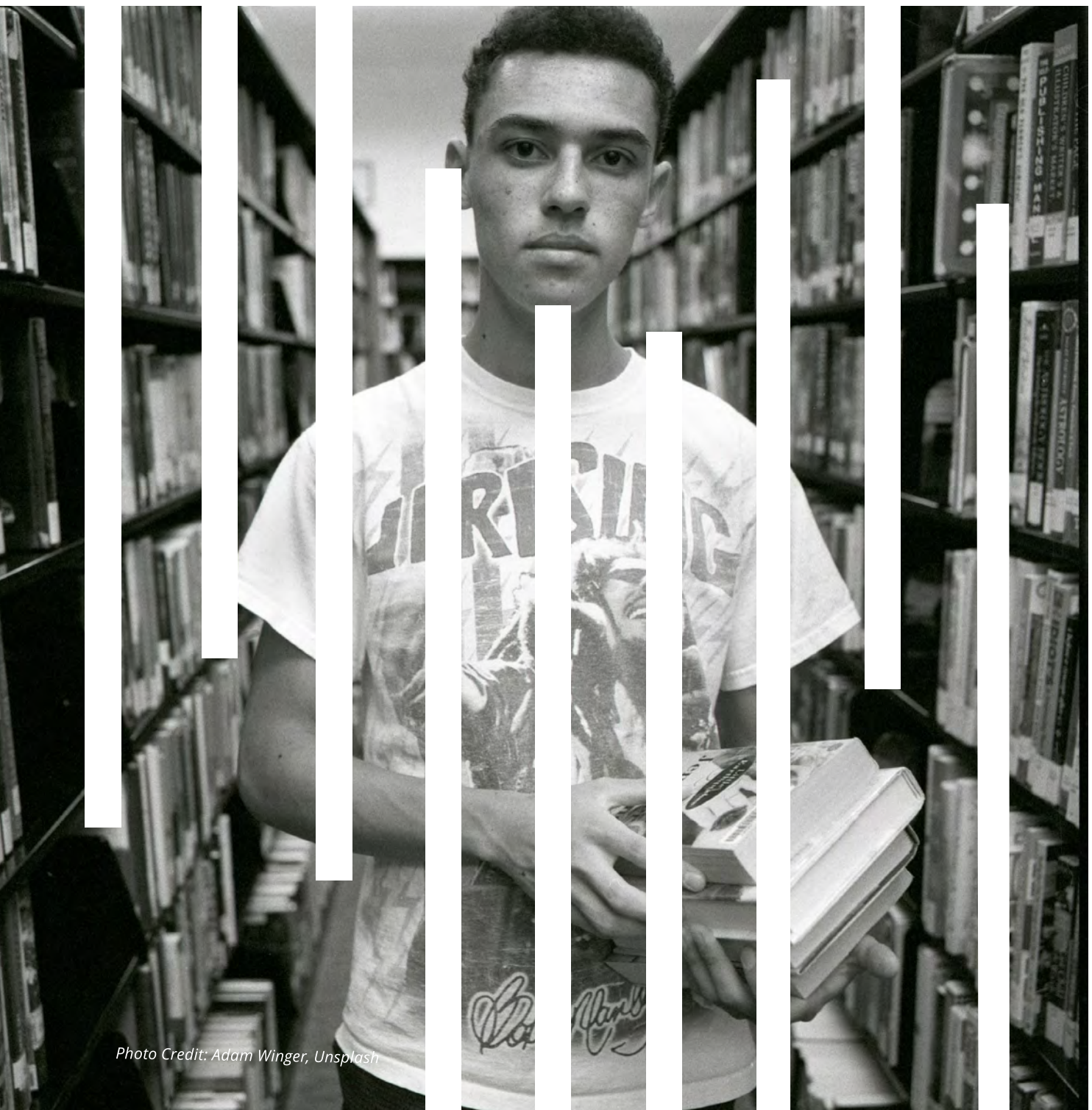


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RELATIONSHIP BETWEEN DETENTION FACILITIES AND SCHOOL BOARDS

Ontario school boards are not required by law to provide education to detained youth within their catchment area. Instead, school boards provide educational services through a voluntary partnership with detention facilities. While these are formalized by Memoranda of Understanding, the school boards can terminate the partnership at any time, leading to significant disruptions to youths' education. One facility in our study was unable to provide schooling for five months when their school board decided to cut ties after several years of providing educational services to that facility.

As a result of this tenuous and vulnerable relationship, detention facilities are extremely reluctant to criticize the school boards, its policies, and teachers, even in instances when criticisms may be warranted. This also impacts the provision of clinical services, such as counselling.

YOUNG PEOPLE IN DETENTION FACILITIES HAVE SPECIAL LEARNING NEEDS THAT ARE NOT ALWAYS MET

Academic literature confirms that many young people in detention have learning disabilities, struggle with their mental health, and have gaps in their education. As a result, they often have different learning needs. Interviewees noted that youth often arrived at facilities with very acute needs outside the educational sphere (some youth lacked safe housing, others were experiencing mental health crises), which also served as barriers to their educational success. Participants in our study, particularly youth, emphasized the importance of one-on-one, individualized support, and hands-on learning in addressing their various learning needs. The study found that the degree to which youth received individualized attention and support from teachers, however, varied across facilities.

Pre-existing gaps in the provision of education and individualized support in these facilities were only further exacerbated by the COVID-19 pandemic. Teachers were not able to come into the facilities, and as a result, young people were left to learn on their own. Various barriers made phone and video visits with teachers challenging and, in some instances, the overall hours dedicated to learning time were further reduced. While it is true that all young people across Ontario struggled with the removal of in-person learning, the transition to an entirely self-directed learning model was particularly challenging for youth in detention, especially those with significant learning challenges and acute needs.

IMPACTS OF LENGTH OF STAY IN DETENTION

Particular barriers to education arise depending on the length of stay in detention, with short, long and indeterminant stays all identified by participants as challenging in different ways.

Some adult participants explained that when youth were in detention for extremely short periods, they would often be released before the facility could obtain educational records or conduct assessments. During these short stays, facilities could only implement short-term solutions as opposed to working with youth to set them up for long-term success.

Both youth and adult participants noted that long stays in detention could be detrimental for youth's educational success,

particularly in facilities where daily learning hours were significantly shorter than those of “mainstream” schools. Several participants worried that youth would struggle to re-adjust to the longer school day after they left the facility and returned to a school in the community.

For youth without a predetermined, fixed release date, the indeterminacy of their time in detention also presented barriers, as youth were sometimes reluctant to start on educational programming under the belief that they would be released in a few days.

DEFICITS IN OVERSIGHT, ACCOUNTABILITY AND TRANSPARENCY

A common theme throughout interviews was that there is a severe lack of oversight into the education that youth are receiving while in detention.² The constitutional responsibility for education and youth corrections sits with the provinces. Within the provincial executive branch, accountability for youth detainees currently sits with the Ontario Ministry of Children, Community and Social Services. Most provinces also have an independent officer of the legislature responsible for reporting upon and making recommendations respecting children and youth. Since the closure of the Advocate for Children and Youth’s office in 2018, the Ontario Ombudsman’s Office has been given the mandate to investigate complaints in the youth detention system. Our participants described a range of practical problems they experienced with the current oversight system. In particular, accessing oversight mechanisms particularly during the pandemic, often requires participation and cooperation from the very facility the youth wish to complain about.

LACK OF APPROPRIATE CURRICULUM AND EXTRA-CURRICULAR PROGRAMMING

Interviewees explained that the educational programming available, including formal secondary school curriculum and extra-curricular programming which may have been developed for a “mainstream” youth audience, does not meet the unique needs of the youth in detention, many of whom have learning disabilities and struggle with mental health issues. There were also concerns expressed that programming was arbitrary and was not developed in partnership with youth to ensure it accounted for their lived experiences.

Racialized and Indigenous youth are overrepresented in detention, but courses are often written from a Colonialist lens that does not acknowledge other histories or present day lived experiences. This is a fundamental issue with the secondary school curriculum that is not specific to youth in detention. However, it was suggested by participants that developing lesson plans for the culturally appropriate delivery of the curriculum for youth in detention could be particularly impactful for many of the learners in that environment.

² In 2016, a review panel created by the Ministry of Children and Youth Services also noted the lack of coordinated oversight and accountability. See *Because Young People Matter*, *supra*.

YOUTH INVOLVEMENT

We heard from youth and facility staff who expressed a desire for youth to have a safe outlet to voice their concerns and suggestions about programming. Participants suggested that creating a youth advisory council within each facility would help to ensure youths' views, needs, and lived experiences are reflected in programming and decisions. This would provide youth who are not comfortable voicing their concerns directly to those in charge with an outlet, which could act as a "safety valve" for tensions.³ It may help youth to feel that they are contributing to decision making rather than "snitching". It would also provide youth who make up the youth council with valuable leadership experience. Councils or advisory committees in prisons have been found to promote interpersonal trust between people who are imprisoned, enhance relationships between officers and people who are imprisoned, and improve the quality of life for people who are imprisoned.⁴ They are currently successfully used in Canadian prisons for adults and could serve as a model for youth facilities.⁵

CONCLUSIONS

Education has been found to contribute to youth's rehabilitation, and as such, should be emphasized and prioritized within detention facilities. This qualitative study provides a snapshot of the current state of education in Ontario's youth detention facilities, as described by those who live or work with it, or in it. And that snapshot shows a system with some successes, but also some serious issues with educational access, inequality and accountability.

It is notable, and unacceptable, that many of our findings of gaps and inconsistencies in education for youth in detention correspond not only with the well-established findings in the academic literature on the topic, but with reports specific to Ontario's youth detention system dating back at least a decade. In other words, these problems are not new. What must be new is the societal and political will to finally make a sustained and focused attempt to fix them.

All youth deserve to have their interest in education encouraged and fostered. They deserve to enjoy the benefits that result from having educational opportunities. We, as a society, owe it to them to make access to education a lived reality. To do otherwise is to treat them as undeserving of the most elementary of services provided to Canadians. Detention is already a severe punishment; neglect of the state's duty to provide an education should not exacerbate that punishment, particularly given what we know about the negative impacts of incarceration for young people.

3 Enver Solomon & Kimmet Edgar, "Having Their Say: the work of prisoner councils" (2004) *Prison Reform Trust*, available: http://www.prisonreformtrust.org.uk/uploads/documents/HAVING_THEIR_SAY.pdf [Solomon and Edgar].

4 Beth Weaver, "Co-Production, Governance, and Practice: The dynamics and effects of User Voice Prison Councils" (2018) 53:2 Soc Pol & Adm 249.

5 Solomon and Edgar, *supra*.

RECOMMENDATIONS

Participants in the study identified many barriers to young people's education while in detention. The following reflect their and our, recommendations to address some of the most urgent shortcomings.

1. Minimize reliance on youth detention. Retain and enhance the focus on decarceration in keeping with the intention of the Youth Criminal Justice Act.
2. Ensure that the right to education is recognised and supported in every youth detention facility, with consistent and meaningful alternate learning supports provided if attending school presents a compelling risk to safety.
3. Proactive oversight, accountability, and transparency mechanisms at the level of facility, region, and province are needed to ensure youth have meaningful access to education.
4. Address the absence of an independent, well-resourced oversight body for corrections with a comprehensive mandate by creating an independent Corrections Inspectorate, as per the recommendation of the Independent Advisor on Correctional Reform.
5. Immediately commission an audit of the educational programs in youth detention centres. The results of this audit should be public.
6. Establish and publish minimum standards for the quantity and quality of education in youth detention centres, including:
 - a. ensuring the hours of education available to youth are on par with the broader educational system
 - b. ensuring youth should have consistent access to teachers and educational assistants who are trained to work with students with special needs.
7. Establish reporting requirements to the Ministry to ensure minimum educational standards are consistently met in every facility province-wide, including a requirement to notify the Ministry when there are significant reductions in educational opportunities or programming.
8. Create a focused strategy to collect data and promptly and effectively eliminate differential educational opportunities in facilities where Black or Indigenous youth are the majority of the population. This should be done in consultation with the relevant communities in each region.
9. Hire youth services officers who are committed to the goals of rehabilitation, youth well-being and service provision, and train youth services officers to prioritize those goals.
10. Consider structural and policy changes to facilitate increased interaction between clinical staff and youth services officers.

11. Mandate the creation of Youth Councils, modeled on the successful adult Inmate Committees, to allow young people's feedback to be conveyed to and considered by those in charge of decision making at facilities, teachers at facilities, and the main government ministries and school boards responsible for the provision of education and care while youth are in detention.
12. Amend legislation to require school boards to ensure there is continuity of educational services for youth who are detained for short periods, and that school boards with detention facilities within their geographic area are legally required to provide services to any students who are not already enrolled in a school or who are detained for longer periods of time. Regulations could help to formalize the relationship between school boards and facilities by setting basic standards, such as requiring teachers to have special education credentials.
13. Provide supports including resources for continuing education to teachers who are teaching or wish to teach in a detention facility to acquire credentials, including special education qualifications, in order to provide better educational support to youth in detention.
14. Ensure the ratio of teaching staff and educational assistants to students reflects student needs for special supports.
15. Ensure that curriculum offered in each facility includes opportunities across the full range of subjects in the Ontario secondary curriculum, including in the arts, physical education, and vocational courses.
16. Assess the provision of clinical support for mental health to ensure the staffing is reflective of the needs of the youth population in each detention facility across Ontario. This is particularly needed given the recent facility closures and the transfer of some youth.
17. Evidence-based programming should be developed with youth participation, to ensure it reflects a variety of youths' lived experiences. Share successful program concepts/materials across facilities where appropriate.
18. Require each facility to work with the relevant school board and teacher(s) to support the development of lesson plans for the culturally appropriate delivery of the curriculum for youth in detention.
19. Actively foster better connections between facilities and communities, including community organizations willing to provide culturally appropriate extra-curricular programming.



1. Introduction

Every young person in Canada is deserving of an education. For youth who have become involved in the criminal justice system, education “is commonly identified as a significant part of the solution to the problem of how young people involved in the criminal youth justice system can successfully re-join society.”⁶ The Canadian Civil Liberties Association, and our education arm the Canadian Civil Liberties Education Trust, conducted a study to explore the factors that may create barriers or enhance educational experiences for youth in detention facilities in Ontario based on the lived experience of those who know that system best. It is based on a series of qualitative interviews with young people in detention, staff and teachers at detention facilities, and justice system professionals who agreed to share their thoughts and knowledge with us.

The research sought to explore challenges and best practices to ensure continuity of education; discover challenges and barriers to working with this student population and examine environmental factors that enhance or hinder an effective educational experience. One caveat; while this report explicitly considers ways to address and eliminate the barriers to education within the existing detention system, our over-arching beliefs and positions support decarceration. Detention is automatically disruptive in terms of young people’s education and is harmful to young people generally. It takes youth out of their communities and away from their supports and puts them into a highly constrained environment at a crucial time in their personal and social development. By being placed in detention, youth will necessarily miss out on a variety of experiences and opportunities, educational and otherwise.

While our explicit focus is on formal, curriculum-based secondary education in youth detention facilities, the questions we discussed with participants were designed to also allow those we spoke with to contextualize and expand on their experiences. As a result, many other issues were raised during interviews, including the severe overrepresentation and criminalization of Black and Indigenous youth; the school to prison pipeline; the child welfare to prison pipeline; the negative impacts of strict bail conditions on young people’s ability to access education; the increased use of chemical and physical restraints against young people in detention facilities; and the overall negative impacts from a rehabilitative standpoint of putting youth in detention. Each of these issues is critically important, could warrant their own reports, and require attention and action, but are discussed in this report only to the extent that they impact on education.

Although the government has a duty to provide education to youth in detention, participants in this study told us that young people in detention facilities have limited and differential access to educational courses and instruction time. This report briefly lays out the study’s methodology and reviews the existing literature. It then explores the barriers to education that were identified by both youth and adult participants in a Findings and Discussion section. Finally, the Recommendations section reflects what interviewees called for to address some of the most urgent barriers and gaps to young people’s education while in detention.

6 Julie White et. Al. (June 2019). Improving educational connection for young people in custody: final report. Victoria University. P.11 . Available: <https://www.vu.edu.au/sites/default/files/Improving-educational-connection-for-young-people-in-custody.pdf>.



2. The Youth Criminal Justice System

In Canada, a youth can be sentenced to a custodial sentence only in very limited circumstances (e.g., violent offenders, indictable offences with aggravating factors) and only as a last resort.⁷ Young offenders serving custodial sentences are housed in provincial facilities, known as youth detention centres. Each province is required to maintain at least two levels of custody for young persons, distinguished by the degree of restraint of the young persons in them.⁸ The provincial director is responsible for determining the level of custody appropriate for each offender.⁹

In Ontario, the two levels of custody are known as open custody youth facilities and secure custody youth facilities.¹⁰ Open facilities “are generally smaller residences located in the community where youth can have access to staff supervised programming in the community.”¹¹ Secure facilities, on the other hand, “are generally larger sites, which have higher security measures (for example, fences around the property) and youth access to the community is generally facilitated only where approved.”¹² With some exceptions, the secure facilities are operated directly by the province, and the open facilities are operated by private companies receiving transfer payments.¹³ In recent years, the province has drastically reduced the number of youth detention centres (in 2012, there were 45 open custody facilities, and 20 secure custody facilities—in March 2021 alone, 26 of these were closed).¹⁴

⁷ *Youth Criminal Justice Act*, SC 2002, c 1, ss 39(1,2).

⁸ *Youth Criminal Justice Act*, SC 2002, c 1, s 85(1).

⁹ *Youth Criminal Justice Act*, SC 2002, c 1, s 85(3).

¹⁰ <https://www.ontario.ca/page/when-youth-found-guilty-court#section-2>

¹¹ <https://www.ontario.ca/page/when-youth-found-guilty-court#section-2>

¹² <https://www.ontario.ca/page/when-youth-found-guilty-court#section-2>

¹³ <http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/residential/residential-review-panel-report/youthjustice.aspx>

¹⁴ <https://www.auditor.on.ca/en/content/annualreports/arreports/en12/313en12.pdf> (AT PAGE 292). See also <https://nationalpost.com/pmnn/news-pmn/ontario-closes-half-of-its-youth-detention-centres-leaving-some-young-people-in-limbo>

3. Selected Themes from the Literature

This abbreviated review presents an overview of the major themes and debates in the social science literature on education for youth in detention facilities. As much as possible, it relies on Canadian sources, which are supplemented with research from Commonwealth countries and Ireland where relevant, due to these jurisdictions' similarities with the Canadian youth criminal justice system. Literature from the United States is also relied on, which is instructive as it has jurisdictions with demographic similarities to Ontario's population.

SOCIAL AND LEGAL DETERMINANTS OF YOUTH CRIME AND DETENTION

The social and structural factors that contribute to youth policing and criminal charges are well studied. Several Canadian studies have established that youth are more likely to be the subjects of discipline and criminal charges when they are poor, involved in the child welfare system, have undiagnosed and untreated disabilities and mental health issues, and are racialized or Indigenous.¹⁵

BARRIERS TO MEANINGFUL EDUCATIONAL PROGRAMMING IN DETENTION

Within detention facilities, numerous obstacles have been identified in previous studies as hindering the provision of education to youth. These include administrations that deprioritize school for youth on short stays, high turnover of youth within the system, a general lack of resources/underfunding,¹⁶ and the uncertainties surrounding the length of stay in detention that dissuade youth from engaging in long-term investments in their education and in forming relationships with staff.¹⁷ Bureaucratic processes have been noted to create additional barriers, such as impeding the timely transfer of student records.¹⁸ In addition, transferred records may be incomplete or unreliable if the youth did not attend school regularly before their arrest,¹⁹ making it difficult to determine where a youth's academic strengths lie. This difficulty is compounded by a lack of adequate academic testing or screening for disabilities within the justice system.²⁰

15 See for example: Raymond Corrado, Sarah Kuehn, Irina Margaritescu, "Policy Issues Regarding the Overrepresentation of Incarcerated Aboriginal Young Offenders in a Canadian Context" (2014) 14:1 Youth Justice 40 [Corrado et al]; Robin Fitzgerald and Peter Carrington, "Disproportionate minority contact in Canada: Police and visible minority youth" (2011) 53:4 Canadian Journal of Criminology and Criminal Justice 449 [Fitzgerald and Carrington]; Because Young People Matter: Report of the Residential Services Review Panel, Presented to Deputy Minister Alexander Bezzina (February 2016), online: <http://www.children.gov.on.ca/htdocs/English/documents/childrensaidd/residential-services-review-panel-report-feb2016.pdf> [Because Young People Matter]; Judy Finlay et al, "Cross-Over Youth Project: Navigating Quicksand" (2019), available online: <https://youthrex.com/report/cross-over-youth-project-navigating-quicksand/> [Finlay et al]; Leslie Macrae-Krisa, *Pathways and transitions of persistent youth offenders in Alberta, Calgary*: Canadian Research Institute for Law and the Family, 2013 [MacRae-Krisa]; Donna Macomber et al, "Education in Juvenile Detention Facilities in the State of Connecticut: A Glance at the System" (2010) 61:3 J Correct Educ 223 [Macomber et al].

16 Perie Reiko Koyama, "The Status of Education in Pre-Trial Juvenile Detention" (2012) 63:1 J Correct Educ 35 [Koyama].

17 Sinead Freeman and Mairead Seymour, "Just Waiting: The Nature and Impact of Uncertainties on Young People in Remand and Custody" (2010) 10:2 Youth Justice 126 [Freeman and Seymour].

18 Koyama, *supra*; Macomber et al, *supra*; Alexandra Miller, "Navigating Barriers to Special Education in a Juvenile Detention Centre" (2019) 70:2 J Correct Educ 2 [Miller]; Leslie Hart et al, "The development and evaluation of an educational placement screener for youths in pretrial detention" (2012) 28:4 European J of Psych Assess 321 [Hart et al].

19 Macomber et al, *supra*; Hart et al., *supra*.

20 Hart et al., *supra*; Koyama, *supra*; Macomber et al, *supra*.



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The challenges confronting correctional educators are not limited to problems with student records. Educators themselves often receive insufficient training to teach within the correctional context,²¹ where they often must fulfill multiple roles (such as counselor, mentor) in addition to their teaching duties.²² While the current youth justice legislation and policy aim to prioritize rehabilitation, the foundations of the youth detention/custody facilities are based on maintaining order, and as a result, students are treated as “threats” rather than pupils.²³

The youth themselves often enter the system with considerable barriers that make the provision of education difficult. This includes learning disabilities,²⁴ past histories of trauma, and family responsibilities, including young parenthood.²⁵ In Ontario, a particularly vulnerable group in regard to trauma are “cross-over” youth, or those who first are involved in the child welfare system and then later ‘cross-over’ into the justice system.²⁶ More generally, mental health issues are very prevalent among detained youth, with an Ontario study finding that approximately 30.8% of youths surveyed had DSM [Diagnostic and Statistical Manual of Mental Disorders] diagnoses, 91.2% had consumed alcohol or a prohibited substance in the past year, and 97.8% had some form of “mental health indicator” or another issue.²⁷

21 Jerry Flores, “Jail Pedagogy: Liberatory Education Inside a California Juvenile Detention Facility” (2012) 17:4 *Journal of Education for Students Placed at Risk* 286 at pg 296 [Flores]; Nicole Patrie, “Learning to be a Prison Educator” (2017) 4:1 *Journal of Prison Education and Reentry* 17 [Patrie].

22 Flores, *supra*, pg 292; Patrie, *supra*.

23 Morghan Vélez Young-Alfaro, “Students as Threats: Schooling Inside a Youth Prison” (2017) 48:3 *Anthropology & Education Quarterly* 301 [Young-Alfaro].

24 Miller, *supra*.

25 Judith Ryder, “Enhancing Female Prisoners’ Access to Education” (2020) 9:1 *International Journal for Crime, Justice and Social Democracy* 139 [Ryder].

26 Finlay et al, *supra*.

27 Evelyn Vingilis et al, “Pilot study of mental health and substance use of detained youths in Ontario, Canada” (2020) 116: 105126 *Children and Youth Services Review* [Vingilis et al].

APPROACHES TO PROVIDING EDUCATION IN YOUTH DETENTION FACILITIES

A study found that facility “school attachment,” or the degree to which a youth bonds with their teachers and engages with their facility school, is a better predictor of positive post-release outcomes than academic achievement (i.e. grades).²⁸ Youth in detention in Ontario and their advocates have expressed the need to adjust student-teacher ratios to correspond to needs of learners; reinforcement of academic achievement through incentives such as diplomas; orientation toward real life situations; utilization of multiple modes of learning; adequate special education; developing functional and adaptive skills; robust transition and reintegration planning; psychoeducational programming; small group discussion; connecting educational material to students’ lived lives; data collection and student evaluation.²⁹

The idea that staff could make or break an experience is also clear in the literature: before youth buy in to the program and allow themselves to be vulnerable, they must know that staff are respectful, engaged, and care about their futures.³⁰



Photo Credit: Taylor Wilcox, Unsplash

28 Lena Jäggi, Wendy Kliever and Zewelani Serpell, “Schooling while incarcerated as a turning point for serious juvenile and young adult offenders” (2020) 78:9 J Adolesc 23 [Jäggi, Kliever and Serpell].

29 Provincial Advocate for Youth and Children, “It depends who’s working: The Youth Reality at the Roy McMurtry Youth Centre” (2013), available online: https://ocaarchives.files.wordpress.com/2019/01/rmyc_report_en.pdf [It depends who’s working]; The Honourable Roy McMurtry and Alvin Curling, *The Review of the Roots of Youth Violence* (Toronto: Queen’s Printer for Ontario, 2008); Diana Cook & Judy Finlay, *Open detention and open custody in Ontario* (Toronto: Office of Child and Family Service Advocacy, 2007 [Cook and Finlay]; Eleanor Novek, “Making meaning: reflections on the act of teaching in prison” (2019) 19:1 Prison Education 55.

30 *It depends who’s working, supra.*



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THE BENEFITS OF PROVIDING QUALITY EDUCATION IN DETENTION

It has been widely demonstrated in the literature that providing education to those in detention leads to positive outcomes, such as improved behaviour and social-psychological health; greater likelihood of gainful post-release employment; and reduced recidivism—the literature overwhelmingly supports a negative correlation between educational attainment and crime.³¹

In addition to the prevention of crime and the social and economic benefits that accrue from that, investment in education can notably benefit the detainees themselves, including by promoting economic integration after release. In 2016, only 67% of young men without a high school degree were employed—the lowest rate Canada has seen since 1994.³² Given that the aim of the youth criminal justice system is rehabilitation and reintegration, investment in education is necessary to achieve that goal.

31 Lance Lochner & Enrico Moretti, “The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports” (2004) 94:1 American Economic Review 155; Paul R Wilson, “Recidivism and Vocational Education” (1994) 45:4 J of Correct Edu; Lois M Davis et al, “Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs that Provide Education to Incarcerated Adults” (2013), Report RR-226-BJA, Santa Monica, CA; Hadi Mohammed & Wan Azlinda Wan Mohamed, “Reducing Recidivism Rates through Vocational Education and Training” (2015) 204: August Procedia – Social and Behavioral Sciences 272; Stephen Manchin Olivier Marie, Sunčica Vujić, “The Crime Reducing Effect of Education” (2011) 121:552 The Economic Journal 463; Sonia Jurich, Marta Casper and Kim A Hull, “Training Correctional Educators: A Needs Assessment Study (2001) 52:1 J of Correct Educ 23.

32 Sharanjit Uppal, Young men and women without a high school diploma (2017) *Insights on Canadian Society: Statistics Canada*, 75-006-X, available online: <https://www150.statcan.gc.ca/n1/pub/75-006-x/2017001/article/14824-eng.htm>.

4. Methodology

Data for this qualitative research project was collected in Ontario through semi-structured, qualitative interviews with young people, 16 years of age or older, who have spent time in detention and with adults who have experience working in the youth justice system, including lawyers and court workers, and clinical, administrative, correctional staff within transfer payment and Ministry funded detention facilities, and teaching staff from transfer payment facilities. All participation was voluntary and informed.

This project took place between 2016 and 2021. After acquiring ethics approval from the Community Research Ethics Office (CREO), we conducted initial interviews, beginning in 2017, with adult participants with roles in the youth criminal justice system, outside of direct operated facilities. Initial participants were identified through organizational contacts, professional associations and in-person solicitation in court houses. Subsequently, we used a snowball methodology, where interviewers asked existing contacts to suggest or identify other potential participants. Interviews were conducted with participants who had experience in or knowledge of direct operated and transfer payment detention facilities, and who had experience working with youth in a professional capacity as educators, correctional staff, or justice professionals including legal counsel.

We attempted to include adult participants from the five provincial regions, North, West, East, South and Toronto Regions.

Our inclusion criteria for youth required them to be at least 16 years old, had spent time in an Ontario detention facility or had done so within the last five years, be able to communicate with the researchers in English, and clearly state their voluntary consent to participate. To conduct interviews with young people and staff within direct operated secure custody facilities, formal research approval from the Ministry of Children, Community and Social Services and vulnerable sector screening checks were required. The CCLA requested approval to conduct interviews in four of the six secure custody and detentions facilities directly operated by the Ministry where youth



Photo Credit: Shvets Production, Pexels

matching our inclusion criteria were held.³³ The facilities were in the North and Central regions of the province.

Due diligence to protect vulnerable youth is necessary and expected. However, as we progressed through the appropriately rigorous process of research approval put in place by the Ministry, the provincial election and subsequent change in government, and the COVID-19 pandemic caused significant delays in obtaining these approvals.

CCLA was ultimately granted approval to conduct interviews in the four direct operated facilities in 2021, during the COVID-19 pandemic. As a result, all interviews were conducted remotely and CCLA had no ability to recruit participants in person. Our ethics protocols were revised appropriately and approval from the Community Research Ethics Board was obtained for the changes.

Recruitment posters were sent to facility administrators for posting. Youth participants required an additional layer of cooperation from the facility: the facility needed to make the youth aware of the research study as well as facilitate the actual interview by scheduling it and by providing a secure and private communication tool (phone call or video conference) that youth could use to speak with our researcher in a safe, private space. Over 50 interviews were conducted. Roughly one quarter of these interviews were with youth participants. Data was transcribed, anonymized, coded, and analysed using HyperResearch qualitative analysis software.

4.1. Limitations of Data

This is a qualitative study. As such, it serves as a snapshot of a system, based on the lived experience of those working or living within it. There are many formal and informal barriers that make it difficult to speak with youth in detention. While some of these barriers are important as they protect vulnerable youth and ensure their privacy is maintained, they can also make it very difficult to obtain the perspectives of young people or to gain an understanding of what their experiences in detention are.

At the time interviews were conducted with staff at open custody transfer payment facilities, there were no youth available to be interviewed.³⁴ Because CCLA was unable to speak with young people in transfer payment facilities, the report's findings are missing young people's perspectives and experiences in open and secure custody transfer payment facilities.

When CCLA obtained the requisite approval to conduct interviews with youth in direct operated secure custody facilities, we had to rely on the Ministry and/or facilities to recruit youth participants.

Many critical youth perspectives are missing, including those of non-binary, female, and Indigenous youth, as only male-identifying, white and racialized youth participants were connected to us for voluntary participation in our study. We do not have data regarding the gender and identity characteristics of youth in custody during the interview period.

³³ We spoke to youth who had experiences in multiple facilities, including facilities in which we did not conduct direct interviews. Youth shared insights from their entire experiences in detention across all facilities. We are not identifying the facilities in order to respect our obligation to protect the identities of our research participants.

³⁴ Transfer payment facilities were also reluctant to allow researchers to speak with youth without approval from the Ministry of Children, Community and Social Services.



Professional, adult interviewees identified that female and non-binary youth have different needs from male youth, and Indigenous youth have different needs from non-Indigenous youth. The interconnected nature of race, Indigeneity, and gender cause youth to experience detention differently and it is highly regrettable that these viewpoints were not obtained.

Most stays in detention are quite short; participants suggested that many young people leave the facilities within two weeks and explained that 60% of youth are in detention for less than 90 days. However, all youth that were interviewed had been in detention for longer periods, between four months and 35 months (an average of 15 months). It is logical that youth in detention for short periods of time would have less opportunity to be recruited for the study; for example, youth spend the first two weeks in detention on an intake unit before being brought into the broader system where they might learn of the study. However, the length of time spent in detention was identified as something that impacts young people's access to education. Our attempts to elicit voluntary participation from youth in settings such as community-centres and court houses were largely unsuccessful. As such, subsequent study is needed to obtain the perspectives of young people who have experienced short stays in detention.

Finally, the perspective of teachers who work within secure custody, direct operated facilities is missing. Some school boards provided permission to interview teachers and school administrators, but none agreed to participate in the study, while one central district school board repeatedly denied CCLA's application to conduct research within the school board.³⁵

35 CCLA has submitted a Freedom of Information request that we hope will shed light on the justification for the repeated denials.

5. Findings and Discussion

5.1. Limited and Differential Access to Education Based on Facility

“My position has always been that if as a facility, you can't do what is required minimally ... then you need to close the place down or move these guys somewhere else where they can get access to education.”

There do not seem to be firm, centralized standards for educational programming offered to youth in detention, although there are regulatory requirements for all public schools in the province. Across the facilities we examined in this study, there were different school boards in charge of delivering educational programming, and there was no consistency in the number of daily classroom hours and instructional hours or programs available, leading to vastly different educational experiences and opportunities for a youth, depending on the facility they happened to be placed in. For example, for youth in detention over the summer months, the location of the facility would dictate whether they had any access to education: some interviewees explained that their facilities offer summer school programming, while interviewees at some smaller facilities serving remote communities expressed frustration that their facilities did not.

Interviewees consistently raised concerns about one secure custody facility in the Central region in particular, often contrasting it with other facilities. One staff member at another facility described it as “not a healthy place”. That person noted that when youth from the facility in which they worked were transferred to that Central facility for brief periods of time, which regularly happened in order to facilitate court attendance, those young people often would return discouraged and demotivated. The interviewee felt that time spent at that Central region facility undid much of the progress they had made and felt they would have to start over again when the youth returned. Multiple youth expressed relief to no longer be at that same facility noting that they received significantly more support, structure, and opportunities at other facilities.

5.1.1. Quantity

While Ontario regulations require that the standard school day be at least five hours per day, excluding breaks,³⁶ it is unclear whether this requirement applies to youth in detention. The guidelines for approval and provision of an Education and Community Partnership Program,³⁷ the type of program that provides education for youth in detention facilities, require that education be provided daily but “recognize the primacy of the care, treatment and/or rehabilitation needs of the youth”.³⁸ Our findings suggest that consistency is lacking across facilities, resulting in youth receiving significantly different instructional time depending on where they are detained.

36 RRO 1990, Reg 298: Operation of Schools – General, s 3(1).

37 Ministry of Education, Guidelines for Approval and Provision of an Education and Community Partnership Program (2021-22), online: https://efis.fma.csc.gov.on.ca/faab/Section_23/21-22/ECPP%20Guidelines%202021-22%20April%208_21%20FINAL_EN.pdf [Guidelines for Approval and Provision of ECPP]. Note that Education and Community Partnership Programs are also known as section 23 programs.

38 *Guidelines for Approval and Provision of ECPP, supra*, Page 6.



Photo Credit: Pixabay

Interviewees were concerned about what they perceived to be a lack of uniform standards for the minimum number of education hours youth receive in these facilities relative to community schools. Some of what we heard focused on COVID challenges and conditions, which predictably varied across facilities due to local conditions (see also section 5.3.1 which discusses COVID impacts). It is important to acknowledge that every school age child in Ontario was impacted during COVID. However, although the means of delivery of education underwent rapid shifts for all students, total hours of instruction, even when school shifted to online instruction, were not impacted in the same way in public schools, other than during a very brief transition period during the first shift to online education. In the population of youth in secure detention facilities, however, they were significantly impacted. For example, interviewees explained that one Central Region Youth Centre went from having four periods that were one hour and fifteen minutes each (5 hours/day) to only three periods that were forty-five minutes each during the pandemic.

Not all of the variability in school hours was due to COVID however. We were told that school hours for youth at another Central Region Centre had already been severely reduced pre-COVID. Multiple interviewees, including youth, explained that the initial reduction occurred after a significant security incident some years previous. Prior to the incident, youth had full-day school (~5 hours/day). They explained that school was completely shut down for a few months, where no learning took place. They expressed frustration that despite not having any major issues prior to this incident, the facility decided that youth from different living units could no longer be mixed. Youth in different living units were segregated, with some attending school in the morning and others in the afternoon, resulting in a persistent overall reduction in the amount of

schooling each youth received.

In that facility, during COVID, interviewees explained the time set aside for school was further reduced to as little as one hour per day and there was little to no actual instruction time with teachers. It was suggested by interviewees that youth had no meaningful access to education, with one saying,

"If I were in the community and I wasn't allowing my child to go to school, CAS would be coming to my door and saying that I'm a bad parent and it would be considered neglect and it would be considered all these very bad things. Right. But for a government institution to deny access to education, there is no such condemnation and there's no such consequences."

Interviewees noted what a missed opportunity it was, as they had previously seen youth become engaged in school when they were getting the support they needed and were achieving credits. After the time set aside for school was reduced and the access to teachers was severely limited, some youth lost motivation and stopped wanting to do schoolwork.

It was not just adult research participants who noted that the reduction in education hours was problematic. Youth also expressed concern and frustration over the limited hours of education time they received. Some youth had experience in multiple secure custody facilities and noted the difference between them, both pre- and post-COVID. One youth said:

"[The Facility] really did not take school seriously... instead of going to school for the whole day like a regular school would, you only go for like two or three hours. And you would just be back on the range, and you'll just be bored out of your mind. And that's what leads to other problems."

They contrasted their experience at that Centre with subsequent experience at another:

"I would say it's completely better. The teachers actually really care about how you're doing in school. They push you to do schoolwork on the unit. Staff do it too, they don't like you wasting time around, they actually want you to succeed in life and graduate from high school and then go onto college, you know?... They help you more and they pay attention more to you, like it's like actually being at an actual school, you know, going all day, every day. You can't skip, you have to go do the work. Teachers care about you. Staff care about you."

In addition to restrictions on instructional time, another issue affecting the quantity of educational hours was facility staffing. Youth interviewees noted that issues on the unit or staffing issues might prevent their whole unit from going down to school for an entire day, and that they were frequently brought down to school late and returned to the units early. This is not the first study receiving this feedback from youth; similar concerns were raised in a report by the Youth Advocate in 2010.³⁹

It should be noted that some students felt that they still achieved educational success, even at the Central Region Centre where the most complaints originated. They worked hard, achieved their goals of attaining credits, honed leadership skills, and talked about appreciating the individualized support they received from both facility staff and teachers.

39 N Russell and L Tustin, ...A summary of Advocacy Activities and Issues: August 2009 – February 2010, *Office of the Provincial Advocate for Children and Youth for Ontario* (March 2010), online: <https://ocaarchives.files.wordpress.com/2019/01/rmyc-report-aug-09-to-feb-10-mar-29.pdf> at page 7.

5.1.2. Quality

Concerns were raised by youth and staff interviewees about the quality of education the youth were getting at some facilities. They noted that facility schools take pride in the fact that the youth are earning a lot of credits and are being commended for their hard work and performance, which should be a positive indicator. However, there were questions in some facilities about whether youth were just being passed along and awarded credits when they had not actually learned the subject matter. One interviewee suggested it was possible to obtain all the high school credits (from grade nine to grade 12) within a year or year and a half, while another spoke of how a youth was unable to read or comprehend a document that was at a grade five level, but had been earning grade 10, 11, and 12 credits.

This concern was particularly salient at one centre, as interviewees with knowledge of the facility were perplexed as to how the youth were spending fewer hours learning but had somehow increased the number of credits earned. As one interviewee stated:

"I view it as something fraudulent in the sense of if we can shut down the school, limit access, but show that is not having any negative impact, then nobody's going to say anything about it, right? So nobody can complain because to any external entity, on paper, it looks quite good that all these young people are getting an education, whereas none of it is going on."

Some participants feared that credits were awarded to youth to make the school look good or to immunize it from questions about the minimal teaching hours provided, without regard for the impact this would have on the youth when they returned to schools within the community. They worried about the youth being given false hope or set up for failure, noting that education is not just about getting credits, it is about accruing knowledge. They worried that youth would face greater challenges in a higher education program and questioned whether they had been given the opportunity to learn the skills needed to pursue further education.



At the same time, interviewees also noted the importance of encouraging youth and having them experience success, sometimes for the first time, in a school setting. Youth participants explained they are driven by earning credits—some will stay up late and put in extra time to earn enough credits to graduate before they leave, and they often proudly spoke about how hard they had worked to earn the credits they did. Many adult interviewees wanted to ensure that the youth continued to experience success and did not want them to lose the motivation that came from earning credits. Interestingly, it was youth participants who pointed out that credits are not their sole motivating factor. Youth participants explained they are also motivated by additional factors, such as encouragement from staff and teachers and special incentives. One example provided was an incentive program where they were able to order a special meal after completing a credit, but this type of incentive could be expanded relatively easily to reward milestones along the way to credits and recognise other educational achievements.

It is a requirement for an Ontario secondary diploma to accumulate a number of volunteer hours. Interviewees explained that young people could obtain the volunteer hours required for a high school diploma at the facility, but their volunteer hours often consisted of chores like washing pinnies. A volunteering program, which enables the youth to develop skills (including leadership skills) would be far more beneficial, as noted by some interviewees.

5.1.3. Pedagogical Approaches

"Is this information relevant to the youth that we're serving? Is the language that they are using relevant?... Majority of the time we are dealing with youth from minority populations. And a lot of that research is written through a western lens. So making sure that we have the ability to shift that lens and include a diverse outlook, or diverse kind of meaning to it, so that it's relevant, is also important."

Racialized and Indigenous youth are overrepresented in detention, but an interviewee stressed that courses are often written from a colonial lens that does not acknowledge other histories or present day lived experiences. Many interviewees suggested that there was a need for increased cultural relevance in the standard curriculum, and that having teachers make that curriculum more relevant by adapting it or enhancing it with culturally relevant materials was important for many young people in detention. They further noted the importance of individualizing educational and other programming and its delivery for these youth. This is not a problem unique to youth in detention; indeed, the Ontario Black History Society launched a campaign in October of 2021 specifically to respond to repeated requests to more meaningfully and thoroughly include Black history in Ontario's education system.⁴⁰ However, it was suggested by participants that developing lesson plans for the culturally appropriate delivery of the curriculum for youth in detention could be particularly impactful for many of the learners in that environment.

It is also important to note that youth coming into facilities often have needs that are more severe than those of youth in the general public. Understanding these needs and the struggles that young people face is an important aspect of

⁴⁰ Ontario Black History Society [@OBHistory]. 2021, October 21). "The OBHS is launching this campaign to draw attention to just how little Black History is taught in Canadian schools and to elevate the demand of Black students and Black parents for the government to finally respond to the decades-long push to have Black history part of the mandated learning in Ontario. As part of government responses to calls to tackle anti-Black racism, the systemic exclusion of Black history from the curriculum across Canada must be addressed." Natasha Henry, OBHS President. Twitter.



photo Credit: Jeswin Thomas, Unsplash

teaching. For example, building trust and relationships with youth is critical, as many young people have experienced abuse or have been mistreated or looked down on by authority figures. Academic literature and interviewees note that many young people in detention have also experienced significant trauma, including intergenerational trauma.⁴¹ Interviewees shared that youth may have seen their friends and family members be killed or die from suicide at a young age, while others struggle with a lack of stable food and housing. They explained that many of these needs are acute and must be addressed before the young person can meaningfully engage in school.

Throughout our interviews, youth consistently identified hands-on and visual learning as something they particularly enjoyed. When teachers were able to bring concepts to life through experiments, videos, and demonstrations, students said they were more engaged. One student talked about how they wished they could conduct experiments and noted that even watching the teacher do the experiment or have the teacher show a video of an experiment would enhance their learning, but that this was not something they had access to at the facility they were staying at. Adult and youth participants also stressed the importance of ensuring youth are involved in determining curriculum options and educational priorities. Regrettably, CCLA researchers were unable to discuss pedagogical approaches and the unique challenges of the youth detention centre environment with educators in direct operated detention centres.

A related issue emerged in relation to the capacity to conduct research for schoolwork. While some facilities allowed youth to access the computer for research and other high school work, this was strictly prohibited at one facility due to “security concerns”, which will be discussed in more depth below. In that facility, computers were strictly reserved for online college courses and were not available for youth in high school. Interviewees explained that staff members might be able to look up questions on the computer for the youth or that at times, youth may call a parent to research something. Even in the case of a required accommodation due to injury, this prohibition on computer use for youth was upheld. One interviewee

⁴¹ See, for example, *Corrado et al, supra*.

explained that when a young person was unable to write due to a serious hand injury, a staff member transcribed for him instead of allowing the youth to type on a computer, which they felt would have been better for their learning.

5.1.4. Breadth of Course Offerings

Students had access to core curricular subjects, but they repeatedly expressed a desire for more arts courses (including music) and sports. These courses are important for youths' development and can help reluctant learners to reconnect with school and become engaged again. At one centre, students noted that while arts and sports credits were required to graduate, they did not believe such classes were available to them.

Youth expressed interest in vocational courses during their interviews, but only some had access to them. We were told that facilities for vocational courses available in the Ontario high school curriculum varied from centre to centre. In one, participants told us they have access to a full woodshop, a full automotive shop, and a bistro where they could learn how to cook, while one interviewee at a different centre suggested their facility might have had some of that infrastructure but simply does not use it. Our inability to conduct site visits means we cannot speculate as to the presence of such facilities.

One program was held up to us as a great success. Named the "Taking Responsibility And Developing Employable Skills" (TRADES) program, it allows youth to choose from and earn eleven industry recognized certificates, including a forklift license, Workplace Hazardous Materials Information System (WHMIS), working at heights, power elevated platform, safe food, smart serve, first aid and CPR. While some of these programs have shifted due to COVID and instructors from the community are no longer able to enter the facilities, they still include hands on components. Youth frequently spoke about how much they enjoyed the TRADES program, and some spoke of their plans to seek out employment when they return to their communities using the certificates they earned.



5.1.5. Corrections Culture and the Prioritization of Security Over Education and Rehabilitation

Some facilities were noted as being therapeutically oriented by clinical interviewees and there seemed to be consensus among participants that this was the best approach for the client population of marginalized youth, who struggle with developmental and mental health challenges.⁴² By contrast, other facilities were described as having a corrections culture, where security and discipline is emphasized at the expense of learning. Interviewees said they were unaware of an overall guiding philosophy to indicate that such a prioritization was inappropriate, leaving it up to each facility to develop its own culture.⁴³ Issues of culture in youth detention centres are longstanding, and the statements provided by interview participants in CCLA's study were consistent with findings in a report by the Youth Advocate a decade earlier, in 2010.⁴⁴

In 2016, a government report noted similar disparities between facilities that used an approach directed at fostering respectful, caring relationships and enabling staff to provide effective, evidence based interventions for youth, and

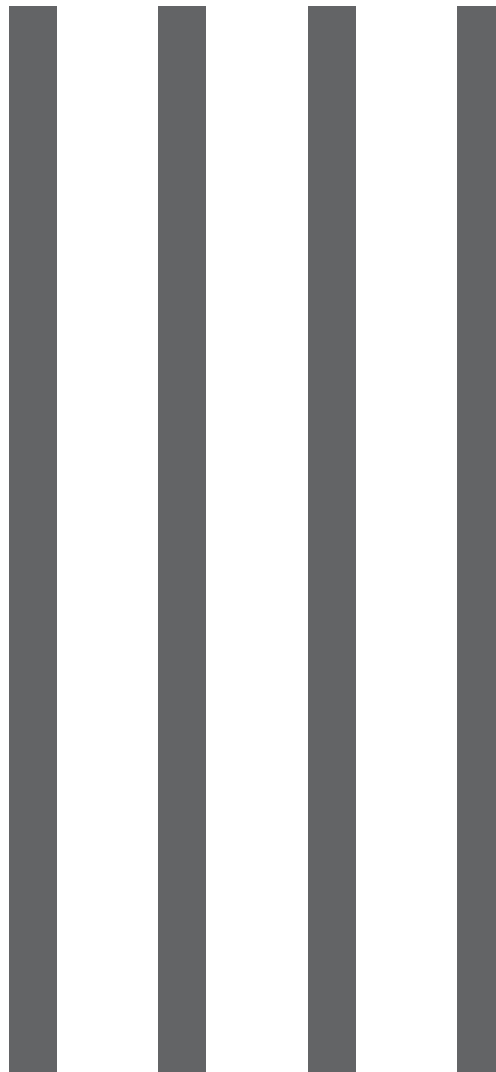
42 Participants in a review that took place in 2016 also agreed that the effective use of "relationship custody", which includes fostering respectful and caring relationships and providing evidence-based care, was desirable. See *Because Young People Matter, supra*.

43 The lack of clarity about the philosophy, goals, and expected outcomes of what a relationships custody (vs corrections) approach would require was highlighted in a Youth Advocate report in 2010: *Russell and Tustin, supra*.

44 *Russell and Tustin, supra*.



Photo Credit: Pexels



those that had a stubborn custodial culture.⁴⁵ That report identified that facilities that struggled to provide a therapeutic, youth-centred environment, were those staffed by Youth Services Officers with experience working in the adult correctional system, rather than those with experience working with young people.⁴⁶

Interviewees explained that in some facilities, Youth Services Officers (YSOs) took more of a security or prison guard role, while in other facilities they explicitly stated they were uninterested in acting as prison guards and instead focused on the provision of social services. They would work to support and complement the clinical staff and teachers and would even help to guide the students in the classroom when they needed extra support.

These disparities were not lost on young people. Our findings are similar to those reported in the 2016 report, suggesting little progress in this regard; young people found their experience to be more positive in facilities with a less security-oriented culture, and those who spent time at more than one facility were quick to point out the differences in their experience and explicitly attributed it in part to facility culture.⁴⁷

While safety and security are obviously important and are necessary conditions for youth to be able to learn, participants described approaches towards transgressions that varied dramatically and could be highly punitive. One youth talked about a situation where school supplies (such as a pencil or eraser) went missing in one facility; when this occurred, youth would be strip searched. In that same facility, youth were searched any time they wanted to use the washroom during school.⁴⁸ The young person found this discouraging and it engendered negative feelings towards the idea of school. Given that the Supreme Court of Canada deem strip searches “inherently humiliating and degrading,”⁴⁹ questions are raised by these descriptions we were unable to follow up and find answers to regarding the extent and frequency of such searches.

We were told by youth that in some facilities, the ability to attend school was withheld when they were punished for behaviour outside of school. One young person spoke of how they were involved in multiple fights. The consequence for this behaviour in one facility was to be “OP” or “off-privileges” and locked in their room for a significant period of time. They noted that they were not allowed even self-directed educational work during that time:⁵⁰

“So I couldn’t even go to school. They wouldn’t even bother with me. I’d just be in my room like reading the same books over and over again, listening to the same music over and over again. I was really depressed... And no one was really asking me like, oh, how’s your schoolwork going? We have schoolwork for you. Nothing like that. They didn’t really care to be honest. So, I definitely thought that, like, you know, I should just stop with school like I don’t—what’s the point of going to school? Like obviously people don’t care, so why should I care.”⁵¹

45 *Because Young People Matter*, supra.

46 *Because Young People Matter*, supra.

47 *Because Young People Matter*, supra.

48 Youth raised concerns about searches, including strip searches, in a 2011 review by the Youth Advocate, which were discussed in *It depends who’s working*, supra, pg 40.

49 *R. v. Golden*, 2001 SCC 83 at para. 90.

50 Issues surrounding the use of “OP”, including it inappropriately limiting youths’ access to education, was raised in a previous report by the Youth Advocate. See *It depends who’s working*, supra, page 49.

51 In 2010, the issue of youth being denied access to their education while they were “OP” was raised by the Youth Advocate: *Summary of Advocacy Activities and Issues*, supra.

That same young person went on to explain that they were later transferred to another facility where, they noted that they were always encouraged to do schoolwork, even if they were “OP” or being disciplined and had to complete the schoolwork from their room. Some adult participants explained that if a youth was OP and asked for schoolwork, it would be provided, seemingly placing the onus on the youth to seek out their education instead of the school automatically providing it for them.



Photo Credit: Pexels

Sometimes, youth were even kept out of the classroom for non-disciplinary reasons; for example, an interviewee explained that if a young person had to leave class for an appointment, they would be told by the school they were not allowed to return for the remainder of the day as it would be disruptive to the class if they returned.

The issue of harsh sanctions for misbehavior was raised by multiple interviewees, particularly in one of the centres. One person noted that sanctions for relatively minor behaviour (like talking back) were much harsher within the facility school than they would be if the same incident occurred within a community school. They thought that given the young people’s histories, their needs and challenges, the traumas they have faced, and their histories of mistreatment and being looked down on by authority figures, the school should attempt to be more understanding of them and more lenient in their responses. Instead of responding with compassion, this participant noted that there seemed to be disproportionate consequences for misbehavior. Some noted that instead of the school handling discipline for minor behavioral issues that occurred within the classroom, which would normally be handled by schools within the community, youth were just kicked out of class, and it was left up to the facility to implement disciplinary measures.

Lengthy and frequent suspensions were raised as an issue, with some interviewees even suggesting that suspensions were used to

reduce the number of young people in school. However, interviewees noted that the use of suspensions had decreased in recent years and explained that when school administrators were responsive to youth and focused on conflict resolution and restorative justice,⁵² young people could quickly return to school after an incident rather than facing a lengthy suspension.

52 Restorative justice is defined by the Justice Department as an approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of the crime. Government of Canada, Restorative Justice: What is Restorative Justice?, modified 07 July 2021, online: <https://www.justice.gc.ca/eng/cj-jp/rj-jr/index.html>.

Interviewees had a variety of ideas of why security was prioritized at the expense of education in some facilities. While it was noted that teachers within facilities were often open and receptive to ensuring access to education and to maximizing what is necessary for youth to find success, some interviewees (including youth) believed that unions or school boards demanded high levels of security for teachers. Interviewees suggested that youth do not have a body that provides a countervailing voice to look out for their educational interests or to balance the conversations, noting with concern that the Youth Advocate's office was closed in 2018 (which is discussed in more detail in section 5.1). As one interviewee explained:

"And if your job now is to keep the place safe and keep people safe in the name of security, if nobody goes to school, then everybody is safe—does that make sense? And so the access to school is now predicated on this perception of it being unsafe or, you know what I mean? And by virtue of that, you know what, we're not going to have any school. And I think those persons that were limiting access to school, they would view that as a safety and security issue."

The prioritization of security, in addition to limiting access to school, limits other activities that would complement young people's education, such as computer access. As touched on above, one centre does not allow youth to access computers for their high school education, despite their use at other facilities and in community schools. While some interviewees acknowledged the importance of learning how to use computers, others suggested that the risks of having internet access were too high as youth might "hack" or manipulate security measures put in place. Some participants found this justification unsatisfactory, noting that it is not sufficient to use security concerns as an excuse without first attempting measures to address concerns. For example, another facility described having "net nanny" program where computer use is monitored and a password is required every time the youth opens a new page on the internet. As one interviewee said:

"In our business, it's a matter of managing risk, not avoiding risk. You have to have the proper safeguards in place, restrictions, supervisions and oversight. And if there's an abuse or misuse of a privilege, policy, or procedures, then we deal with it. But don't just avoid an activity because there are risks involved; everything involves risk."

Adult and youth interviewees were frustrated at the idea that everyone was "held hostage" or limited because of the potential for abuse, which may or may not occur. They felt that there was a lack of will to implement solutions that would address any potential security or privacy concerns. Interestingly, computer access was made available for youth doing college courses at that same facility, seemingly without issue. Interviewees felt this reinforced the idea that computer and internet access were something that could be made available to youth to enhance their learning if the facility leadership was more willing.

The corrections culture also impacts the youths' rehabilitation. Interviewees felt that those facilities with a security-oriented culture, even if they have a rich complement of mental health professionals, are less effective in supporting young people or providing them mental health support. While an interviewee suggested the high prevalence of mental health issues among the youth in one particular facility⁵³ might suggest it should be considered a mental health institution, it is not run like one. One interviewee gave the simple example of youth in a more therapeutically-oriented facility being able to sit and drink tea

53 *Vingilis et al, supra* confirmed the high prevalence of mental health issues among youth detainees in Ontario

while talking to their psychologist, something that would never even be considered in a facility hyper focused on security. They suggested that the fact that other facilities provide services in a therapeutically oriented manner dismantles the assumption that safety concerns are impossible to mitigate without a strong security orientation.

Interviewees explained that some facilities attempted to justify their corrections culture by saying they had more dangerous youth, but found that when the “dangerous” youth were transferred to facilities that were more therapeutically oriented, they did not have any security issues at the new facilities.⁵⁴ A 2016 government report noted there is some indication that smaller facilities are often better at fostering a youth-centred, therapeutic focus.⁵⁵

5.1.6. Systemic Racism

“To deny these guys access to education is to keep them oppressed. And I think that’s probably one of the most profoundly racist things in the history of humanity, just to deny access to education to Black people.”

It is impossible to ignore the fact that the facility which interviewees suggested had the most severe corrections culture and limited access to education in terms of quantity, quality, and breadth and depth, is disproportionately filled with Black youth, and of those youth, many are first- and second-generation Canadians.⁵⁶ While participants suggested this facility justifies the differential access to education and programming by saying they have greater security concerns, adult and youth interviewees explained that youth from that facility will go to other facilities without strict corrections cultures and thrive.

Interviewees believed that it is because the youth are Black that they are perceived as a threat and that a corrections culture developed in response to this perceived threat. One interviewee explained:

“But I think also that is predicated on how people view these young people. They view them as gang bangers, they view them as thugs, they view them as killers. So why should we go out of our way? Why should we put ourselves in harm’s way? Why should we put our staff in harm’s way to provide them an education, like it’s not worth it? Like they’re not going to make any use of it. ...why I’m saying about the racism piece, is that how these kids are viewed, their value, their perceived value? These are kids on the margin for whom nobody’s calling, nobody’s caring. You can do whatever you want. Right. And we’ve seen the consequence of that through history.”

Some interviewees felt that adults in the facility were afraid of the youth, despite there being no incidents they were aware of where a teacher was attacked and despite finding that the youth were always respectful when treated respectfully. The idea that these young people are a threat who require extra security measures also cannot be disentangled from their Blackness or underlying beliefs about their worth.⁵⁷ One person expressed concern that this perception has led to the

⁵⁴ *It depends who’s working, supra*, page 44.

⁵⁵ *Because Young People Matter, supra*.

⁵⁶ Interviewees’ perceptions are CCLA’s only insight into current racial demographics at youth justice facilities, as there is a lack of public, race-relevant data available, an issue which is the subject of critique by scholars. See: Akwasi Owusu-Bempah et al, “Race and Incarceration: The Representation and Characteristics of Black People in Provincial Correctional Facilities in Ontario, Canada” (2021) *Race and Justice*; and Akwasi Owusu-Bempah & Paul Millar, “Research Note: Revisiting the Collection of Justice Statistics by Race in Canada” (2010) 25:1 *Can JL & Soc* 97.

⁵⁷ *In It depends who’s working, supra*, concerns about systemic racism and racist comments made by staff to Black youth were raised.



Photo Credit: Canva

increased use of both physical and chemical restraints (like pepper spray), including against Black youth with mental health issues.

Interviewees agreed that safe spaces are necessary for youth to learn but noted that when restorative justice processes (rather than corrections-focused discipline) were implemented, they felt that safety was better-managed, conflicts were reduced and access to education improved. While access to education is thought to improve outcomes for all young people, particularly marginalized youth, the corrections culture in some youth facilities that limits access to education disproportionately impacts Black youth in detention. This culture was not attributed by interview participants to any one person or group of leaders; instead, it was said that it is the entire system that has allowed Black youth to be left behind.

Some interviewees suggested a culture of complacency exists, where concerns about Black youth being denied education are raised and acknowledged, but no action is taken. This seems to be the result of a combination of people not feeling

empowered to act or unsure of whose responsibility it was to act, and people fearing reprisals for speaking out and taking action. The goals of facilities should include ensuring youths' access to education; staff who seek to improve youths' education should be recognized as furthering that element of the facility's mandate. If employees feel they are dissuaded from seeking to improve youths' access to education or might be subject to reprisals for doing so, the possibility of improvements to the system is precluded.

5.2. Relationship Between the Facility and School Board

"There's been a very protected relationship and it's been a very delicate relationship. And there's been this sense that, you know, the school board can go away any time and these dynamics are such that they don't want to be here, then they could just leave and that would put us in a bad spot. So we can't say anything."

We were told that the relationship between the facilities and the school boards is sensitive and at times strained. Despite the critical importance of education, there is no legislation that requires school boards to provide school programs for youth in detention/custody facilities. While school-aged children have a right under the *Education Act* to attend a school of a public board if they reside in the board's jurisdiction,⁵⁸ youth in secure custody detention facilities are physically unable to attend community schools. School boards instead provide services through "voluntary collaborative partnerships" with facilities, which are formalized by Memoranda of Understanding.⁵⁹ If a school board determines that they are no longer interested in continuing the provision of services at the facility, they can provide notice and end the services at any time.⁶⁰ This is a massive legislative gap, which impacts the education that youth receive.

Facilities have insecure relationships with the school boards as they fear that the board could end its services at any time. This is not a hypothetical fear. At one facility in the Central Region, after many years⁶¹ of providing services to the facility, the school board decided to end the provision of its services. An interviewee explained that the facility scrambled to find a new board and that from June to October of the year the previous school board left, no schooling was provided. This left youth without any access to education during those months. Even after a new board agreed to provide services, there was a period of delay as teachers needed to be trained on the facility policies and equipment needed to be brought in. While interviewees ultimately felt that the change to a new board was positive and that the teachers had higher standards for academics, this situation highlighted how vulnerable the relationship between facility and school board is.

The vulnerability of the relationship has made some facilities extremely reluctant to criticize the school boards, their policies, or teachers, out of fear that the school board will decide they no longer want to provide services. Interviewees shared stories of times that they had expressed concern over the teachers' actions, such as when a young person was

⁵⁸ *Education Act*, *supra*, ss 32-33.

⁵⁹ *Guidelines for Approval and Provision of ECPP*, *supra*, page 5 and 13. Under these MOUs, school boards are responsible for the educational programming, while the facility is responsible for the care, treatment, and/or rehabilitative services (see page 6).

⁶⁰ *Guidelines for Approval and Provision of ECPP*, *supra*, at page 26.

⁶¹ Participants suggested some teachers had been at the facility for 30+ years.

suspended for using a harmless coping mechanism that they relied on after experiencing severe trauma. Instead of advocating for the young person and fighting against the inappropriate suspension, the facility told its staff to not criticize the school, as the facility was “very fortunate to have them”. Any criticisms, regardless of how constructive or valid, were seen as a threat to the partnership between the school and facility.

Sensitivities to even perceived or potential criticisms limit the provision of clinical services, such as psychology, psychometry, and social work, which are provided at some facilities. Some facilities discouraged staff from discussing interpersonal struggles that occurred between young people and their teachers at the facility school during clinical sessions with youth, due to the delicate relationship between the facility and school board.

In response to any perceived or actual criticisms, facility staff are told they should be working as a team with the school board. However, the fact that the school board and facility are separate leads to complacency and allows them to blame the other entity for issues. For example, interviewees explained that when concerns are raised about the limited number of educational hours the youth receive, the facility suggests that the school board sets the hours and it is beyond their control, while the school board suggests that the hours are limited because of logistical barriers implemented by the facility, as the facility provides the space for the classroom. The issue does not seem to be a lack of willingness to change or improve, but instead a lack of consensus on whose responsibility it is to implement



changes. As one interviewee explained:

"It's not like the administrators at the facility are closed minded and they're not willing to do things differently. But working in a facility, it's very hard to introduce change for anything. And so a change in routine, a change in the resources, a change in the practices, it's tough to implement even when everybody's willing. You know, it's just the nature of an institution like a small "i" institution. And the fact that I don't know how much latitude or flexibility or creativity is afforded by the school board and the facility, I'm not suggesting either side is not amenable to change, but it just seems like, they just kind of agree that things need to be different. But then it kind of feels- it seems like they're stifled. It's like, OK, well, who's going to do that?"

Across different facilities and school boards, the relationships varied considerably. Despite the limited hours of education provided at one facility, interviewees generally spoke positively of the teachers provided through the School Board and their openness to improving education for the youth. Across direct operated and transfer payment facilities who contract with that same School Board to provide educational services, some interviewees felt the relationship between board and their facility was tenuous and made criticisms and improvements difficult, while others suggested it was strong and appreciated the board's approach in dealing with issues.

Other facilities working with different boards had vastly different experiences, with some transfer payment facilities explaining they struggled to provide schooling at all as the school board in their area refused to fund either a school within the facility or summer school. Some expressed frustration over how unresponsive their school board was and explained that they could not contact anyone over the summer months to determine what grade the young person was in. At one facility, which has since closed, the interviewees expressed concerns that the school board was sending



unqualified and ineffective teachers who lacked special education credentials, including teachers that had issues at other schools.

When facilities felt they had strong partnerships with their school board, they were able to provide more holistic services that served the youth and were beneficial for their rehabilitation. Interviewees seemed to agree that the relationship between the facilities and school boards was incredibly important and impactful, and expressed concern over the fact that there was no formalized requirement for the boards to offer educational services to the facilities.

5.3. Many Young People Require Supports to Address their Learning Needs

■ “[Our teacher] really should be a special education teacher as opposed to, like mainstream education.”

Academic literature confirms that many young people in detention often struggle with learning disabilities, mental health issues, and may have large gaps in their education.⁶² Participants echoed these findings. Most young people in detention require one-on-one, individualized support from teachers with special education credentials and educational assistants (EAs). Unfortunately, many participants explained that teachers within facility schools frequently do not have special education credentials, time with EAs is limited, and Individual Education Plans are not always implemented as the facility school claims that the learning is already individualized, and a lot of students are learning via self-study.

Youth repeatedly highlighted the importance of having one-on-one support from teachers, EAs, and staff who care about them, saying their encouragement is critical for their success:

■ “Most times, I feel like not doing any schoolwork at all. I just feel like lying in bed, just staying in my room all day, stop going to school. And then when I hear the staff talk to me, and they’re just like, you know, we believe in you. I know we can do this. You know, you can go do something with your life.”

Youth would note the difference between teachers who they felt did not care at all and were only there to make money, versus teachers who genuinely believed they could succeed:⁶³

■ “I like it because I have that help there and I have that push there. And certain teachers, you know, they do actually care about us, and they care for us to actually push through. And they tell us, “oh you can do this”... You know, it shows us that people are like, okay somebody does want to help me, so it gives me more motivations of trying to, you know, like better my life...Then there’s some and they don’t really give a shit, we get credits, they get their money, right?”

Staff interviewees also noted the importance of relationship building, even suggesting that the educational programming is not as impactful as the teacher and their relationship with their students.⁶⁴ They noted that youth are more willing to learn

62 O Tyrrell, “Analysis of Social Determinants of Health in Justice-Involved Youth: Relevance in the Context of Poverty” (2017) Electronic Thesis and Dissertation Repository at 52 [Tyrrell] citing Raymond R Corrado, Patrick Lussier, Alan Leschied, Serious and Violent Offenders and Youth Criminal Justice: A Canadian Perspective, ed (Burnaby, BC: Simon Fraser University Press, 2015); EL Lipman & MH Boyle, Linking poverty and mental health: A lifespan view (2008) Ottawa: Provincial Centre of Excellence for Child and Youth Mental Health at CHEO; RM Viner et al, “Adolescence and the social determinants of health” (2012) 379:9826 Lancet 1641.

63 The importance of having staff members who care was highlighted by youth in a 2016 report. See *Because Young People Matter*, supra.

64 This finding is echoed in academic literature. See Jäggi, Kliewer and Serpell, supra.



from teachers who they have built a relationship with, as a lot of youth may have previously shut down in school after not excelling and finding it negatively impacts their self-esteem. While some interviewees spoke highly of the teachers they worked with, others noted that their facility was sent teachers who had issues in other schools, teachers who looked down on the youth, or teachers who did not know how to work with the youth.

When asked about improvements to the education they receive while in detention, youth consistently said that having more time with a teacher and/or EA to guide them and answer their questions would be helpful. They noted that when they had one-on-one time, they felt more comfortable asking their teachers questions. While the youth appreciated when facility staff tried to fill the gaps and assist the youth, facility staff are not trained in education and did not always know how to help youth with their school-related questions. As one young person said, “Their job is to support us in life, not to teach us about education.” However, many times youth noted it was the facility staff that were instrumental to their educational success, particularly during COVID lockdowns when their access to teachers was severely limited (discussed below).

The success stories shared were consistent in that they highlighted the importance of positive reinforcement and motivation, individualized/differentiated instruction, and skilled and patient teachers. They noted the importance of having suitable learning materials, such as age-appropriate reading programs for youth struggling with literacy, so they did not feel embarrassed or that they were doing children’s work. While some enjoyed learning from the booklets that are provided for each course/credit, many suggested that the booklets were frustrating for the youth to do on their own, and that they required individual encouragement and support.



5.3.1. Limitations Due to COVID Related Restrictions⁶⁵

"I actually want to get my stuff together, but having to do it through facetime and stuff, like that is pretty hard, because the person is not there to show you how to do it. The person is on a whole other screen."

During the COVID-19 pandemic schooling for youth across Ontario has been significantly disrupted. Education in youth detention facilities was no exception. We consistently heard that teachers had not been providing in-person education for over a year and a half, even in communities where some in-person education had resumed. During the most recent round of interviews in the summer of 2021, some interviewees noted their facilities were looking into ways to have their teachers return safely.

The limited access to teachers presented challenges for the youth. While phone and video visits with teachers were made available, there were many barriers and limitations and the frequency was inconsistent across detention facilities. For example, one youth explained they might only be able to have access to a teacher via videocall once per week. Youth generally told us that in-person time with a teacher was the most beneficial to their learning. While this statement is likely true for most students across Ontario, youth at detention facilities have higher learning needs and higher incidence of learning disabilities, as confirmed by academic literature,⁶⁶ and may rely more heavily on the benefits of in-person learning. Some interviewees noted that they had heard that in other places, teachers who taught high-needs students with disabilities were allowed to continue in-person instruction during broader school closures.⁶⁷

⁶⁵ CCLA acknowledges that the COVID-19 pandemic was sudden, and decisions made early in the pandemic were chaotic in every educational setting. However, over a year and half later, a revised approach is both possible and appropriate.

⁶⁶ See for example Macrae-Krisa, *supra*; Fitzgerald and Carrington, *supra*; Cook and Finlay, *supra*; Finlay et al, *supra*.

⁶⁷ There were periods of time during the past year when some in-person special education classes were offered in Ontario, despite online learning still being required for "mainstream" classes. See Kate Dubinski, "Special education classes to go ahead in person on Monday, province says" (8 January 2021) *CBC News*, online: <https://www.cbc.ca/news/canada/london/special-education-classes-to-go-ahead-in-person-on-monday-province-says-1.5866108>.

Youth explained that video visits were okay but not as helpful, as there was still a disconnect between the teacher and student. They suggested that telephone visits with teachers were the most challenging; at one facility, youth explained that the phone was attached the wall with a very short cord, which forced them to stand up at the wall and attempt to juggle their booklet and the phone, with nowhere to put their work. Youth also explained that there were times when teachers did not answer the phones when youth called, which forced them to wait until the next day to ask their question. The many frustrations youth experienced with the phone led some youth to refuse to talk to their teacher via phone.

During the pandemic, the overall time allocated for learning was shortened. In some situations, youth needed to request to have a phone or video call with their teacher, raising concerns that reluctant or frustrated learners might not bother to request a call. Even when youth did request access, there are only a few teachers available for all the students and days could go by before a student would be able to access a visit with their teacher. Youth explained the difficulties they experienced in trying to learn on their own, with one youth saying:

"I do like learning and stuff, but I like learning in different ways, you know? Like I would rather be there with someone teaching me stuff or like doing stuff – doing things that make me learn, you know what I'm trying to say? But like me just sitting there in my room, just reading papers and writing, it's not really my thing. But I guess I do it because I want an education and I want something in life, you know?"

Unsurprisingly, interviewees also expressed concerns that children who attend community schools had far more access to support and teachers while learning online and at home than the youth at the facility had. This is incredibly concerning in light of the learning disabilities and challenges that many youths in detention face.

During lockdowns, youth were not able to go into the classrooms within the facility, and instead were expected to learn in their rooms or on the living unit. Youth explained it was incredibly difficult to focus while in their rooms and often felt distracted and discouraged because they couldn't get help from their teachers. They suggested that working in the classroom was much more conducive to their learning, as it was quieter and gave them a change of scenery. At one facility, youth seemed to have very limited supervision during school hour(s); interviewees explained youth would end up talking to one another and saying they would do their schoolwork later.

Youth who seemed to be doing well in school before coming to the facility were also struggling. One interviewee spoke of a student who came into the facility with more than half of the credits needed to graduate; in the six months since first entering the facility, they had not managed to earn a single credit. The interviewee thought this lack (or halting) of school progress could be attributed to the limited hours of instruction time and learning time offered at the facility during COVID, which led the youth to feel discouraged and express that they did not like school at the facility.

Justice system responses to COVID also resulted in the increased use of video court for youth in detention. Pre-COVID, interviewees noted that in more remote areas, going to court was a three-day process that was sometimes extended if a flight was cancelled⁶⁸ or there were severe weather conditions. Youth would not be allowed to bring a pencil when they left the facility to go to court, so the facilities suggested there was no need to send them with a work booklet, lead-

68 Courts and facilities may be located in different communities, some of which are accessibly primarily by airplane.

ing them to miss a significant amount of school for every court appearance. At times the actual court appearance could be over in five minutes. Across multiple facilities, it was noted that the increased use of video court because of COVID greatly reduced the length of time that youth would be pulled out of school and reduced disruptions to their education. Although there are other serious concerns with the impact of video technology in the court system,⁶⁹ the reduced interruption to youth schooling is potentially a tangible benefit.

It is important to note that plans to improve remote learning during the pandemic were described in some facilities. In one centre, for example, interviewees explained that they were working to ensure that each student would have access to a teacher (via video) during every school period, and that they would return to the full-length school periods.

5.4. Length of Time in Detention

"I think one of our biggest barriers to students accessing the education piece is that sometimes we have students on short stays and the amount of time that it takes to get their files and reports and different things so that we can set up an education plan for them, their IEPs, et cetera, is lengthy. So, by the time that we even start that process, the youth's out."

When youth are held in pre-trial or pre-sentence detention, the length of their stay in the youth justice facility is unknown. It is not uncommon for youth to attend court and be released from the facility without any notice, which can make planning for release and the delivery of educational programming difficult.

Interviewees discussed at length the many challenges young people faced with their education prior to their detention and how those challenges impact youths' engagement when they come to the facility. Many young people have learning disabilities, struggled with their mental health, were not treated respectfully by teachers and school staff, and experienced racism, but did not receive the support they needed to find success in community school. Interviewees noted that young people may have spent most of their waking hours feeling like they were not good enough or may have stopped attending because they became discouraged or were prevented from doing so due to a variety of barriers.

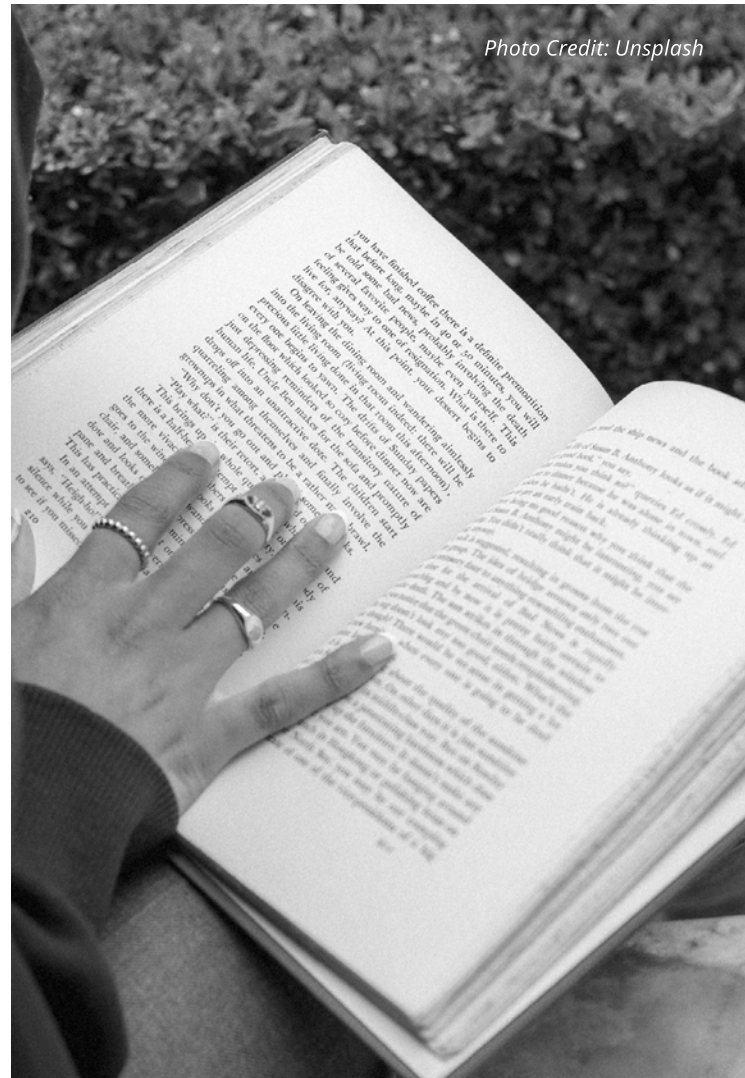


Photo Credit: Unsplash

69 For a discussion of drawbacks identified in the use of video in an Ontario remand court in the adult system, see Cheryl Marie Webster (2009) Out of Sight, Out of Mind: A Case Study of Bail Efficiency in an Ontario Video Remand Court, *Current Issues in Criminal Justice*, 21:1, 103-126.

5.4.1. Short Stays

Short and indeterminate stays were identified as a barrier to youths' education in detention by both participants and academic literature.⁷⁰ When youth first arrive at many facilities, they spend time on an "intake" unit before being transferred to a living unit and being brought into the broader system, which includes classroom learning and other programming. While youth are supposed work on some sort of educational material right away, staff highlighted that youth are often released before their educational files and records are obtained, assessments are completed, and an educational plan is made. Similar concerns are found in academic literature regarding the timely transfer of records.⁷¹

If young people were attending school in the community prior to their detention and plan to return to the same school, they face challenges as they have missed class and are behind in their learning. Participants suggested that schools often suspend or expel youth because of the incidents that lead to charges, forcing youth to transfer to a different school, which only widens the gaps in their learning time.

Interviewees raised concerns about what they term the "remand treadmill" or "I'm leaving" attitude, where youth in detention will have a court date two weeks in the future and not want to engage in educational or other programming believing they will be released, only to attend court and be remanded (required to stay within the facility) for an additional two weeks until their next court date, and then the cycle repeats. This may occur over a period of weeks or months. Youth may eventually engage in programming if they stay in detention for a longer period; however, the indeterminacy of the stay makes it difficult to motivate youth who are understandably more concerned with when they will be released. As one person put it:

"I wasn't really thinking of trying to graduate and I wasn't really thinking of trying to finish high school... Because like I was going through some stuff about my situation, my case and my lawyer, my crown, you know, my family at home and stuff. So I wasn't really thinking about school..."

These challenges all speak to the value of a decarceration approach to youth justice, a goal well recognised in Ontario and enshrined in the Youth Criminal Justice Act which was explicitly created to reduce over-reliance on custody for youth. The impact of short or indeterminate stays in detention on young people's education and the domino effect that has on their life, is just one compelling reason to keep decarceration in focus as an over-arching goal of the youth criminal justice system.

⁷⁰ Freeman and Seymour, *supra*, at 133. While the study was conducted in Ireland, the inability to predict a timeframe within which one could expect to return to the community is a common feature of youth justice detention in Ireland and Canada.

⁷¹ Miller, *supra*; Hart et al, *supra*.

5.4.2. Long stays

While some interviewees suggested that longer stays provided time for youth to become stabilized and engaged in their education, other expressed concerns about the negative impacts of a longer stay on a youth's overall educational success and ability to reintegrate into a community school. Multiple youth felt their education had been slowed down due to being in detention for a long period of time, mostly due to having very limited access to a teacher and few hours allocated for school within the facility they were at (which was discussed in section 5.1.1). This led to additional concerns about the challenges youth would face in adjusting to full-day school when they returned to the community, including from youth who did not previously struggle with community school.

Because youth are not separated by age in units, interviewees noted the negative impacts of placing a 12-year-old with 18 – 20-year-olds. Some feared that younger, impressionable youth would form peer groups that were not beneficial to them and were exposed to things that were not conducive for their success in the community or school.

5.5. The Use and Availability of Assessments

“Almost every youth being admitted needs some kind of assessment. We need to figure out their needs, past trauma which affects their behavior, their mental health, every aspect of their life. There is a limit to the number and quality of assessments we can conduct and at many times we are unable to provide an assessment.”

Interviewees consistently highlighted the importance of various assessments, which help staff to understand youths' behaviour, mental health struggles, learning disabilities, needs and strengths. They explained that budget constraints at times limit their ability to conduct assessments, despite their utility in enabling staff to provide services to youth effectively and efficiently. Importantly, assessments can help to diagnose and address issues that may have caused young people to struggle in school or that may have contributed to the behaviour that resulted in youth justice charges.

An interviewee explained that a different practical barrier prevented them from understanding young persons' needs. When a young person is in detention, because they are accused of an offence but have not yet had a trial, they are encouraged by their lawyers to not talk about the event that led to the offence. This helps to ensure that the young person does not self-incriminate or say something that could negatively impact their case. The interviewee explained that because of this, staff struggle to address issues that may have led to the incident and the trauma that may have resulted from the incident.

When youth are sentenced and assigned a probation officer, the officer conducts a Risk Needs Assessment (“RNA”) which explores some of the factors that put the youth at most risk in the community, including where they are at in their education, their family situation, their peers, and substance use. Interviewees found that RNAs enabled staff to conduct a higher level of case management by helping the youth to determine their own stage of change and what short- and long-term goals they want to set. While one interviewee suggested that they can conduct an informal RNA for youth in detention by asking similar questions and using the young person's family as a resource to uncover what

their needs are, another interviewee suggested the lack of formal RNAs for youth in detention was a significant barrier to meeting the youths' needs.

Issues that contributed to the young person's charges may have also served as barriers to the young person's education. If these issues are unidentified and if young people are not given the support they need to address these issues, they may continue to face difficulties in their education.

6. Recommendations in Context

The following recommendations reflect what the interviewees, including youth, have called for to address some of the most urgent barriers and gaps. The recommendations are ambitious, but they are practically achievable, if only because of the number of youth involved. Most people do not realize, no thanks to mainstream media, that the incidents of crime in Canada are extremely low, globally, and the number of people in custody lower than most would imagine.

This is particularly true of youth in custody, where there has been considerable effort, and considerable success, in reducing the number of young people in detention. This decrease may have a paradoxical effect. On the one hand, it is too easy to overlook the deficits in education within youth detention centres because the custodial numbers are low. On the other hand, the opportunity for improvement increases with this smaller population, because the fiscal impact per capita is so low.

In 2018/19 in Canada, there were 716 youth in custody on an average day or 4 youth per 10,000 population. In Ontario, the numbers were 267 average per day and 3/10,000.⁷²

6.1. Minimize Reliance on Youth Detention

The best way to improve education for youth in conflict with the law is to ensure they are not brought into custody in the first place. Detention is, by its very nature, disruptive to a youth's education. In 2018/19 there were over 2240 admissions to youth custody in Ontario; 1,904—a full 85%—of those admissions were for pretrial detention.⁷³ Ontario's youth bail system has been the focus of recent criticism.⁷⁴ Broader justice system recommendations to reduce reliance on incarceration, for both pretrial detention and sentencing, should be prioritized.

Recommendation:

- **Minimize reliance on youth detention. Retain and enhance the focus on decarceration in keeping with the intention of the *Youth Criminal Justice Act*.**

72 Jamil Malakieh, Canadian Centre for Justice and Community Safety Statistics, *Adult and youth correctional statistics in Canada, 2018/2019*, Statistics Canada – Catalogue no. 85-002-X, at Table 6.

73 Statistics Canada. Table 35-10-0005-01 Youth admissions to correctional services. Available: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510000501&pickMembers%5B0%5D=1.7&cubeTimeFrame.startYear=2014+%2F+2015&cubeTimeFrame.endYear=2018+%2F+2019&referencePeriods=20140101%2C20180101>.

74 John Howard Society Ontario (2021). *Unequal Justice: Experiences and outcomes of young people in Ontario's youth bail system*. Available: <https://johnhoward.on.ca/wp-content/uploads/2021/03/Youth-Bail-Highlights-Final.pdf>.

6.2. Enhance Proactive Oversight and public transparency

A common theme throughout interviews was that there is a severe lack of oversight into the education that youth are receiving while in detention.⁷⁵ The constitutional responsibility for education and youth corrections sits with the provinces. Within the provincial executive branch, accountability for youth detainees currently sits with the Ontario Ministry of Children, Community and Social Services. Over the years, the youth detention portfolio has resided in the Ministry of Children and Youth Services, and prior to that the Ministry of Community Safety and Correctional Services.

Most provinces also have an independent officer of the legislature responsible for reporting upon and making recommendations respecting children and youth. The Office of the Provincial Advocate for Children and Youth, an office directly accountable to the Legislative Assembly of Ontario, since 2007 had provided particular oversight of youth detention; it acted on behalf of the concerns of children and youth by undertaking reviews, making recommendations, and providing advice, all of which it could do on its own initiative (or in response to a request or complaint).⁷⁶

In 2018, the Ontario government announced that the Advocate for Children and Youth's office would be closed and some of its powers would be transferred to the Ombudsman's Office which is also a legislative office outside the executive accountable to Queen's Park.⁷⁷ The Ombudsman is an office of last resort, that primarily resolves and investigates individual complaints, although it has powers to launch systemic investigations.⁷⁸

The current complaints-based Ombudsman system is insufficient for systemic reasons largely beyond the scope of this report. Our participants focused on the practical problems they experienced with the system. In particular, the system, particularly during the pandemic, often requires participation and cooperation from the very facility the youth wish to complain about. The Ombudsman can accept complaints via email and telephone, but an interviewee explained that during the pandemic, the Ombudsman transitioned away from the live phone calls system. This presented difficulties, as it forced youth to either leave a message and wait until the Ombudsman called the facility and was connected back to the youth or required the youth to ask staff to email the Ombudsman on their behalf. In addition to the obvious barriers that result from the profound power imbalance between facility staff and vulnerable and marginalized youth, an interviewee explained that the delays that would result from the process would leave the youth to cool down and eventually decide against pursuing the complaint.⁷⁹

Adult interviewees suggested that youth may fear that no one cares about them and that no one would be receptive to their complaints. Interviewees explained that youth may have complained before and had no one care or follow up on it, so they

75 In 2016, a review panel created by the Ministry of Children and Youth Services also noted the lack of coordinated oversight and accountability. See *Because Young People Matter*, *supra*.

76 *It depends who's working*, *supra*, page 6. The Advocate also highlighted the lack of external oversight, transparency, and fairness (in relation to youth allegations against staff) – see pages 45-47. See also *Provincial Advocate for Children and Youth Act*, SO 2007, c.9, *repealed 1 May 2019*, s 16(1). See also <https://ocaarchives.wordpress.com/letter-to-youth/>

77 Ombudsman Ontario, About Our Office, online: <https://www.ombudsman.on.ca/what-we-do/about-our-office-en> [Ombudsman Ontario].

78 *Ombudsman Ontario*, *supra*.

79 The issue of youth being left to “cool down” before they could access a complaint mechanism (the Youth Advocate) was raised in *It depends who's working*, *supra*, page 56.

felt powerless and perceived themselves as pawns in a system that no one cares to listen to. While it was suggested that the Ombudsman has more powers and is better at follow up than the previous youth advocate was, an interviewee explained that learned helplessness or powerlessness may prevent youth from even making an initial complaint.

Interviewees also explained that youth, particularly Black youth, are reluctant to “snitch” by complaining internally or to the Ombudsman. Adult interviewees stated that youth could experience the most profound wrong and would be hesitant to say anything, and this hesitancy was apparent when youth were asked about barriers and challenges in interviews. It was suggested that staff might take advantage of this by calling youth “snitches” if they wanted to utilize complaint mechanisms such as the Ombudsman. This echoes findings in a 2013 report from the Provincial Advocate that some staff ridiculed youth for wanting to call the Youth Advocate’s office, saying “you guys are pussies” and calling youth snitches.⁸⁰

Some worried that youth want to appear cool and do not want to admit that they would rather have more time in school in front of their peers, which would prevent them from complaining, despite expressing concerns privately that they were not being educated sufficiently. Others felt that because some youth had such negative prior experiences in school and needed encouragement to reengage with school, they would not feel there was anything to complain about with respect to their limited access to school. Although they were being robbed of their education, they were relieved to be able to play video games or do other things because school was such a source of anxiety for them, making it unreasonable to expect youth to be responsible for demanding more access to education.

The absence of an Ontario Child Advocate, therefore, appears to have had a net negative effect on accountability and oversight, although our field research did not pre-date its closure to permit a structured comparison. Still, the gaps in pro-active oversight pre-date the 2018 repeal of that office. Indeed, it was evident from interviewing veteran staff that the current lack of accountability is a chronic problem, older than most of the youth themselves.

Other studies have made similar observations about the accountability gaps we identify. In the 2017 report of the Independent Advisor on Corrections Reform, a concrete recommendation was made to address the absence of an independent, well-resourced oversight body for corrections with a comprehensive mandate: the creation of an independent Corrections Inspectorate.⁸¹ This was on its way to being fulfilled prior to the last provincial election but has not progressed since that time. It remains, however, an important recommendation to address the accountability gaps in the corrections system, including those gaps we identify in this report.

This is not to presume that oversight even by a well-resourced legislative officer with powers to audit or investigate should displace robust executive oversight, wherein the ministry is accountable to the legislature. The two complement each other, often aiding the executive with the impetus to advance reforms.

In addition to structural fixes for enhanced accountability, there are relatively simple options to increase public

⁸⁰ *It depends who's working, supra*, page 8 and 45.

⁸¹ Howard Sapers et. Al (2017). Segregation in Ontario: Independent Review of Ontario Corrections, p. 107. Available: https://www.mcscs.jus.gov.on.ca/sites/default/files/content/mcscs/docs/IROC%20Segregation%20Report%20ENGLISH%20FINAL_0.pdf.

transparency in relation to youth education within corrections. Publishing the results of evaluations and assessments of the facilities' educational programs would be one such step. Transparency can also be increased by facilitating access to facilities by civil society organizations. While it is important to ensure that vulnerable youth are protected, some existing barriers are political or bureaucratic and unrelated to the youth. For example, when CCLA applied to conduct research for this project, approvals were put on hold because an election was called and were further delayed when the government transitioned. This limits transparency and the public's right to know what is taking place within the facilities. There is no discernable reason for an election or transition to delay research into a government institution, which continues to operate no matter the legislative calendar.

Many interviewees felt that even the knowledge that detention facilities would be scrutinized and questioned would encourage the facilities (and schools within them) to take more initiative to address issues that arise, instead of waiting for someone else to fix them. Interviewees said they witnessed extreme reductions in the use of secure de-escalation (a euphemism for secure isolation or solitary confinement) when accountability measures were legislated,⁸² and suggested that almost overnight, facilities were more creative and thought about ways to support the youth and alternatives to the use of secure de-escalation. It stands to reason that if attention was paid to youths' access to education, efforts would be made to improve it.

Recommendations:

- **Ensure that the right to education is recognised, and supported in every youth detention facility, with consistent and meaningful alternate learning supports provided if attending school presents a compelling risk to safety.**
- **Proactive oversight, accountability, and transparency mechanisms are needed to ensure youth have meaningful access to education.**
- **Address the absence of an independent, well-resourced independent oversight body for corrections with a comprehensive mandate by creating an independent Corrections Inspectorate, as per the recommendation of the Independent Advisor on Correctional Reform.**

6.2.1. Set Minimum Standards and Track the Quantity and Quality of Education

There are serious concerns about the quantity and quality of education that youth are receiving while in detention. The concerns are severe enough to warrant immediate investigation and remedial action.

The government should immediately audit the number of daily classroom hours (or hours set aside for education) and teaching hours available to youth at each facility. This endeavour should consider multiple years of data to determine if the hours are trending downwards, upwards, and to put variation in response to events, such as the pandemic or a major incident, in historical context. Attendance records should also be obtained to determine whether youth are utilizing the

⁸² Rules surrounding secure de-escalation, including the need for the Director's approval to use a locked room for de-escalation (s 173(1)), a default one-hour limit on secure de-escalation unless a longer stay can be justified and is recorded in writing (s 174(4)), and limits on the maximum period of secure de-escalation (s 174(8)), can be found in sections 173 – 175 of the *Child, Youth and Family Services Act*, SO 2017, c 14, Sched 1 [CYFS Act]. This Act came into force in 2018.



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educational hours scheduled, whether suspensions are frequent, etc. The audit should also consider the number of credits earned by each student over the same period, to determine whether the number of credits earned are increasing or decreasing relative to the number of hours of class time and teacher time. There should not be major differences in the hours available for school across different facilities or between the hours available at facilities as compared to the broader provincial school system.

Information should be collected on how many young people are taking each program or class. If one program is extremely popular and always has a waitlist, while another is never used, it is a good indicator of where resources need to be allocated and what programs should be improved.

The audit should include qualitative indicators, which consider the efficacy of the educational and other programming. Many interviewees talked about what the educational goals should be and questioned the current focus on obtaining credits and completing programming. While credits are obviously important and necessary to achieve a high school diploma, they questioned

whether it should be considered success if a youth comes into the facility, obtains nine credits quickly but never returns to school in the community. Instead, many interviewees thought there should be more of a focus on long term educational success; perhaps a youth will only earn three credits instead of nine, but they would take the time to address some of their traumas and anxieties that were previously barriers to their education, reconnect with the idea of school and build a strong foundation for their learning, and then return to school within the community and complete their diploma or obtain a GED. The audit should determine how many youths return to school or obtain their diploma after leaving the facility.

The results of the audit should lead to the creation, implementation and evaluation of standards that are informed by

best-practices. Minimum standards should be set, including quantitative standards, such as the minimum number of hours of education that must be provided daily, and qualitative standards that would require a certain level of interactivity or hands-on learning.⁸³

Once standards are set, a system should be implemented to measure and evaluate the efficacy of the programs and to assess whether the provision of programs meets the standards. Facilities would be required to regularly report to the Ministry on whether the standards are being met. These reports or fulsome summaries should be made available to the public.

Recommendations

- **Immediately commission an audit of the educational programs in youth detention centres. The results of this audit should be public.**
- **Establish and publish minimum standards for the quantity and quality of education in youth detention centres.**
- **Establish reporting requirements to the Ministry to ensure these standards are consistently met in every facility province-wide, including a requirement to notify the Ministry when there are significant reductions in educational opportunities.**

83 While the pandemic was sudden and responses were chaotic in the beginning, organizations now have experience working within the restraints it imposes and have tools to keep people safe. A plan should be in place to ensure that youth's access to education continues during a pandemic or other catastrophic event. Standards will need to include provisions for necessary flexibility to respond to unfolding situations but should include basic thresholds which must be met, as was the case in all Ontario schools for the general population.



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6.2.2. Develop Plan to Address Systemic Racism

The allegations of systemic racism we heard in this study are not new to youth detention in Ontario. This racism cannot and must not be allowed to continue. A plan to address systemic racism within detention facilities is urgent. The interviewees suggested there are concerning differences between facilities, including that a facility with predominantly Black youth had a hyper-securitized, corrections culture that viewed the youth as a safety risk, and a facility with white youth that was more therapeutically focused. Reports by the Ontario Child Advocate reflect similar concerns about facilities with a predominantly correctional culture.⁸⁴ Interviewees suggested that the impacts of these differences on youths' education were clear, both in the number of hours set aside for education and in the quality of education and programming youth received.⁸⁵ These differences may impact long term success and the youths' overall wellbeing.

⁸⁴ *It depends who's working, supra*: The Advocate stated that an in-depth examination was needed, after noting issues with the traditional "corrections" approach, which were also raised in the 2010 report.

⁸⁵ Concerns about limits to youths' access to education were raised in the 2010 Youth Advocate report *supra*, page 7.



It is important that the plan to address systemic racism also includes Indigenous youth. As explained in the methodology section, CCLA was unable to interview any youth who identified as Indigenous at facilities. While adult interviewees spoke of the severe racism Indigenous youth faced within the justice system that led to their detention, there was little said on the impacts of detention on Indigenous youths' access to education. Efforts are required to better understand and address these impacts.

Recommendation:

- **Create a focused strategy to collect data and promptly and effectively eliminate differential educational opportunities in facilities where Black or Indigenous youth are the majority of the population. This should be done in consultation with the relevant communities in each region.**

6.2.3. Create and Implement Guiding Principles to Focus on Rehabilitation in Facilities

When expressing concerns about the hyper-securitized corrections culture in some facilities, interviewees noted the lack of guiding principles to dictate the goals of youth justice facilities and to facilitate the kind of culture most conducive to rehabilitation. As a result, some facilities were considered to be therapeutically focused by interviewees, while other facilities were thought to have a culture that prioritized security at the expense of education.

While some academic literature critiques the idea that workplace culture is a concrete phenomenon that can be reformed by specific interventions,⁸⁶ others suggest that it can be shifted by framing the issue of culture within detention facilities' purposes.⁸⁷ Facilities need to clearly set out their goals, such as rehabilitation, youth wellbeing, and service provision. Such goals would then encourage the hiring of youth services officers who are sensitive and flexible—traits that are thought to improve relationships between officers and detainees—rather than officers who may contribute to the culture of hyper-masculinity, suspicion, and hostility that is associated with corrections.⁸⁸ Unsurprisingly, racial bias and racism negatively impact relationships and rehabilitative justice outcomes, making trainings on implicit bias⁸⁹ and efforts to detect and address racial bias and racism in prospective and current youth services officers critical.

Increasing interactions between clinical staff and youth services officers can also help to dismantle correctional cultures.⁹⁰ This could be accomplished by expanding the hours where mental health workers are present, decreasing youth services officers' discretion to respond to mental health care crises (particularly when clinical staff are available), mandating the following of specific procedures that involve clinical staff, and mandating combined training for clinical staff and youth services

86 See for example: Danielle Rudes and Shannon Magnuson, "Scapegoating Culture: Misunderstanding organizational culture as the problem in carceral institutions and beyond" (2019) 13:2 Soc Comp. The authors suggest that workplace culture is actually the product of role conflict, lack of change readiness, hyper-masculinity, and formal procedures.

87 Walker and Soule, *supra*.

88 Danieli Evans Peterman et al, "Procedural just organizational climates improve relations between correction officers and incarcerated individuals (2021) 27:5 Psychology, Crime and Law 456 [Peterman et al]; Leah Jacobs and Sequoia Giordano, "It's Not Like Therapy: Patient-Inmate Perspectives on Jail Psychiatric Services" (2018) 45:2 Adm Policy Ment Health 265 [Jacobs and Giordano].

89 Peterman et al, *supra*.

90 Jacobs and Giordano, *supra*.

officers so that officers can learn from clinical staff's therapeutic approach.⁹¹

To limit opportunities for individual facilities to refuse to offer certain resources and programs (such as computers) based on security concerns, the Ministry should set additional standards for resources and programs that all facilities are required to offer. In addition, processes could be implemented which would prohibit facilities from justifying limiting and cancelling programming and resources due to security concerns without first showing attempts to mitigate such concerns. The Ministry would provide oversight and assess whether mitigation attempts were reasonable.

Efforts could also be taken to prioritize staffing of personnel with lived experiences in youth justice facilities, in addition to pursuing operational goals of equity, diversity, and inclusion. Indeed, there are endless possibilities for reform and improvement.

Recommendations:

- Hire youth services officers who are committed to the goals of rehabilitation, youth well-being and service provision, and train youth services officers to prioritize those goals.
- Consider structural and policy changes to facilitate interaction between clinical staff and youth services officers.

91 Kenneth Applebaum, James Hickey and Ira Packer, "The Role of Correctional Officers in Multidisciplinary Mental Health Care in Prisons" (2001) 52:10 Psych Serv 1343; *Peterman et al, supra*; *Walker and Soule, supra*; *Jacobs and Giordano, supra*.



6.3. Youth Involvement

One interviewee suggested that a youth advisory council within each facility would help to ensure youths' views, needs, and lived experiences are reflected in programming and decisions. This would provide youth who are not comfortable voicing their concerns directly to those in charge with an outlet, which could act as a "safety valve" for tensions.⁹² It may help youth to feel that they are contributing to decision making rather than "snitching". It would also provide youth who make up the youth council with valuable leadership experience.

Councils or advisory committees in prisons have been found to promote interpersonal trust between people who are imprisoned, enhance relationships between officers and people who are imprisoned, and improve the quality of life for people who are imprisoned.⁹³ They are currently successfully used in Canadian prisons for adults.⁹⁴ The Commissioner's Directive on Inmate Committees from Correctional Services Canada identifies two clear principles underlying the creation of such committees in federal facilities for adults: "to assist in the rehabilitation and reintegration of inmates into communities as law abiding citizens," and "to establish a means for inmates to provide input regarding institutional operations, thus contributing to safe and secure institutions."⁹⁵ Such committees make recommendations on decisions affecting the inmate population, with the exception of decisions relating to matters of security.⁹⁶

In 2016, a review panel created by the Ministry of Children and Youth Services noted that the individual and collective voices of those with lived experience in out-of-home care, including detention facilities, at best had a peripheral impact on care experiences, development of programs and services, governance and accountability for services, service design, treatment, and relationships. The panel suggested that the starting point of service design and delivery and system governance should be the lived experience of young people. A Youth Council would be in keeping with this finding.⁹⁷

Recommendation:

- **Mandate the creation of Youth Councils, modeled on the successful adult Inmate Committees, to allow young people's feedback to be conveyed to and considered by those in charge of decision making at facilities, teachers at facilities, and the main government ministries and school boards responsible for the provision of education and care while youth are in detention.**⁹⁸

92 Enver Solomon & Kimmitt Edgar, "Having Their Say: the work of prisoner councils" (2004) Prison Reform Trust, available: http://www.prisonreformtrust.org.uk/uploads/documents/HAVING_THEIR_SAY.pdf [Solomon and Edgar].

93 Beth Weaver, "Co-Production, Governance, and Practice: The dynamics and effects of User Voice Prison Councils" (2018) 53:2 Soc Pol & Adm 249.

94 Solomon and Edgar, *supra*. Correctional Service Canada. Commissioner's Directive Number 083 (2008) "Inmate Committees," Para. 5-6. Available: <https://www.csc-scc.gc.ca/politiques-et-lois/083-cd-eng.shtml>.

95 Correctional Service Canada. Commissioner's Directive Number 083 (2008) "Inmate Committees," Para. 5-6. Available: <https://www.csc-scc.gc.ca/politiques-et-lois/083-cd-eng.shtml>.

96 *Supra*, paragraph 11.

97 See *Because Young People Matter*, *supra*.

98 CYFS Act, *supra*, s 3 recognizes the rights of youth to: express their own views freely and safely about matters that affect them; be engaged through an honest and respectful dialogue about how and why decisions affecting them are made and to have their views given due weight; be consulted on the nature of the services provided and to participate in decisions about the services provided; and to raise concerns or recommend changes with respect to the services without interference or fear of coercion, discrimination or reprisal and to receive a response to their concerns. S 8 explains that these rights apply to decisions regarding the young person's education while in care.

6.4. Formalize and Mandate Relationships Between School Boards and Facilities

The insecure relationship between the facilities and school boards causes facilities to avoid any perceived or actual criticisms of the educational services being provided, out of fear that the school board could end the provision of services. Youth are at risk of having their access to education completely taken away if a school board decides that they no longer want to provide services to the facility, regardless of the reason.

The relationship between facilities and school boards should be formalized and include opportunities for the school and facility to provide feedback to one another, to ensure that the best possible services are provided. In addition, it would be helpful to have standards set out for the teachers at facilities, such as training in special education,⁹⁹ trauma, restorative justice, and cultural competencies. Standards specific to schools within youth detention facilities should be set for the services that are to be provided, such as the number of educational assistants based on student needs and the number of teaching hours to be provided. These standards could be flexible enough to allow facilities to respond to shifting needs but would help to address the differential access to education that youth have depending on the facility they are sent to.

Recommendations:

- **Legislation should be amended to require school boards to ensure there is continuity of educational services for youth who are detained for short periods, and that school boards with detention facilities within their geographic area are legally required to provide services to any students who are not already enrolled in a school or who are detained for longer periods of time. Regulations could help to formalize the relationship between school boards and facilities by setting basic standards, such as requiring teachers to have special education credentials.**
- **Provide supports including resources for continuing education to teachers who are teaching or wish to teach in a detention facility in order to acquire credentials, including special education qualifications, in order to provide better educational support to youth in detention.**

6.5. Expand and Improve Educational Programming

Some youth told us they felt they were being “severely under-educated” and wished they had a longer school day, more teachers, more class options, and more access to resources (like computers) that could facilitate their learning. Many of the youth require one-on-one support from teachers. A higher ratio of teachers to students¹⁰⁰ and longer school days would greatly benefit the youth at facilities.

Youth repeatedly explained that hands-on and interactive teaching better facilitated their learning than filling out booklets. They also found it helpful when they were learning practical skills or could see how the subject matter related to their lives.¹⁰¹

99 The current guidelines explicitly do not require that teachers have Special Education training but do suggest that all efforts should be made to employ teachers with at least Part One of the Special Education Specialist Qualification. See *Guidelines for Approval and Provision of ECPP*, *supra*, Page 7.

100 Academic literature supports the idea that student-teacher ratios should correspond to the needs of the learners, which in the case of detention facilities, are higher than the needs of youth in general community schools. See *Macomber et al, supra*, pg. 228.

101 This finding is reflected in academic literature. See *Macomber et al, supra*, pg 237.

Standards could be set to ensure a certain level of hands-on interactivity, such as requiring a certain number of experiential learning activities for each credit earned.

Educational programming should also be expanded to ensure that youth can earn credits in arts classes, such as music and drama; classes that teach practical skills, such as foods classes; and physical education. Adult interviewees observed that these classes helped youth to engage with school and encouraged their learning, and youth frequently suggested that they would appreciate having more opportunities to take such classes.

Recommendations:

- Ensure the ratio of teaching staff and educational assistants to students reflects student needs for special supports.
- Ensure that curriculum offered in each facility includes opportunities across the full range of subjects in the Ontario secondary curriculum, including in the arts, physical education, and vocational courses.



6.6. Additional supports to facilitate/enable learning

6.6.1. Clinical Resources

Although the youth detention population has declined over time,¹⁰² their needs have become much more complex and serious. Most young people in detention remain untreated for addiction, mental illness and significant trauma,¹⁰³ including abuse, domestic violence, housing insecurity, and neighbourhood trauma. Because of their traumas and negative experiences with authority figures, it is necessary to take the time to build a relationship and trust, which is critical for engagement in programming. To help build that trust and ensure that staff can appropriately serve the youth, all staff should be trained in crisis-intervention and trauma-informed practices. Detained youth are obviously vulnerable and more likely to be unwell than not. Their treatment is urgent, which requires clinical resources.

We were told that after a secure mental health facility was closed, youth were transferred to other facilities that did not receive additional money or resources for mental health support, despite the newly transferred youth having serious mental health care needs. While some larger facilities have clinical staff, the ratio of clinical staff to youth may not be as high as it was at the secure mental health facility. Smaller facilities may not have any clinical staff; one interviewee explained that it would be helpful to have a psychologist or psychiatrist on site, as currently their only option was to refer youth to a psychiatrist at a hospital. They explained that they felt that budget constraints limited referrals. Additional clinical staff are needed, especially at smaller facilities.

Interviewees also explained that clinical programming does not always meet the youths' needs. For example, one interviewee explained that the substance using behaviors program used by their facility consists of a booklet that youth are required to read and then complete a series of questions. No assistance is provided for youth with learning or literacy challenges or other disabilities and no peer-to-peer treatment or counselling is provided. Evidence-based programming should be developed with youth participation, to ensure it reflects a variety of youths' lived experiences. Programming should be developed in a manner that allows for program delivery to be individualized to suit young people's needs and abilities.

6.6.2. Culturally Relevant Curriculum and Extra-curricular Programming

While the focus of this study is primarily on formal, curriculum-based education, interview participants stressed so explicitly and extensively the need for culturally responsive extra-curricular programming that we have included a brief discussion regarding that need. Participants stressed that more efforts are needed to determine the types of programs youth need based on the demographic population of each facility. For example, some expressed that the programming in their facility did not reflect any understanding of what it means to be a racialized young person and the many daily barriers they face. One youth pushed for programs that relate to their culture and identity but explained

¹⁰² See note 73, *supra*.

¹⁰³ *Ryder, supra*.



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that despite their willingness to participate in the creation of a program, not much had happened.

As a potential mitigation for this need, it was noted that better connections between facilities and communities, including community organisations willing to provide extra-curricular programming, should be deliberately fostered. Currently, community organizations contact the facilities directly if they want to provide programming.¹⁰⁴ Although interviewees from community organizations felt they could deliver relevant cultural programming, they noted how difficult it is to be approved to provide their services within some facilities. Having a yearly call for programming from community organizations and a requirement for the facility to provide a certain percentage of community programming could help to bridge the gap.

There were some examples shared of positive cultural programming, which should be encouraged in all facilities. Some programming encouraged Indigenous youths to reconnect with their cultures, while others highlighted the many achievements of Indigenous peoples and shared stories where Indigenous peoples were heroes. There were a few instances where youth asked if they could continue the cultural programming even after they were no longer required to stay at the facility, as they found it so meaningful. Black youth spoke of learning about prominent Black figures, as well as people who had been in the same detention facility who had gone on to live successful and impactful lives in the community, which they found encouraging. Cultural programming can and should look different based on the needs of the population in each facility.

¹⁰⁴ Volunteer or Work in Youth Justice, Government of Ontario, updated 15 September 2021, online: <https://www.ontario.ca/page/volunteer-or-work-youth-justice>.

6.6.3. Continuity of Educational Programming

To help to address young people's reluctance to engage in educational programming when they first arrive at the facility and are unsure of how long they will be required to stay, youth should, as much as possible, continue their existing educational programming. This could be facilitated by requiring teachers to prepare alternate assignments that a youth could complete during shorter stays in detention, with in-person assistance provided by the teachers who come to the detention facilities to provide education to youth who are incarcerated for extended periods.

Recommendations:

- **Assess the provision of clinical support for mental health to ensure the staffing is reflective of the needs of the youth population in each detention facility across Ontario. This is particularly needed given the recent facility closures and the transfer of some youth.**
- **Evidence-based programming should be developed with youth participation, to ensure it reflects a variety of youths' lived experiences. Share successful program concepts/materials across facilities where appropriate.**
- **Require each facility to work with the relevant school board and teacher(s) to support the development of lesson plans for the culturally appropriate delivery of the curriculum for youth in detention.**
- **Actively foster better connections between facilities and communities, including community organisations willing to provide culturally appropriate extra-curricular programming.**

7. Conclusion



*The lack of reintegrative and rehabilitative programming is problematic. The youth... are essentially deposited into the facility and “warehoused,” which does little to promote the long-term protection of the public. ~ Ontario Child Advocate, January 2010*¹⁰⁵

Education has been found to contribute to youth's rehabilitation, and as such, should be emphasized and prioritized within detention facilities. This study qualitatively examined the education of youth in a subset of Ontario's detention facilities, in order to provide a snapshot of the current state of the system, as expressed by those who live or work with it, or in it. Participants in this research helped us identify a number of gaps and deficits, resulting in a series of recommendations to address them.

We acknowledge that our youth interviews took place during the pandemic, when all educational facilities faced additional challenges in keeping students safe and healthy. However, it is notable, and unacceptable, that many of our findings of gaps and inconsistencies in education for youth in detention correspond not only with the well-established findings in the academic literature on the topic, but with reports specific to Ontario's youth detention system dating back at least a decade. In other words, these problems are not new. What must be new is the societal and political will to finally

¹⁰⁵ Legislative Assembly of Ontario, Office of the Provincial Advocate for Children and Youth for Ontario, Review Of Hamilton Wentworth Detention Centre, January 2010.

make a sustained and focused attempt to fix them.

All youth deserve to have their interest in education encouraged and fostered. They deserve to enjoy the benefits that result from having educational opportunities. We owe it to them to make access to education a lived reality. To do otherwise is treat them as undeserving of the most elementary of services provided to Canadians. Detention is already a severe punishment; neglect of the state's duty to provide an education should not exacerbate that punishment, particularly given what we know about the negative impacts of incarceration for young people.¹⁰⁶

Leaving aside the impact upon the youth individually, there is the impact upon their families, neighbours and Canada at large. There is a compelling public interest in the rehabilitative impacts of education for vulnerable youth. We are all diminished by the education deficit in youth detention in Canada. It is time to act. We can and must do better.

106 Nicholas Bala, *Diversion, Conferencing, and Extrajudicial Measures for Adolescent Offenders*, 2003 40-4 *Alberta Law Review* 991, 2003 Can-LII Docs 168



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