

Youth in Secure Custody and Open Custody:

Helpful Information About Your Rights

YOU
HAVE
RIGHTS!

If you are a young person in open or closed custody you have rights and it is important to understand your rights. Rights identify how you should be treated and involve things that allow you to live to your potential.

This booklet provides information about your rights, and also helps you to understand some basics about what to expect in either open or closed custody.

If you have questions or concerns, one of your rights is to contact the Office of the Child and Youth Advocate. We listen because our job is to stand up for the rights of children and youth in Newfoundland and Labrador. Our contact information is on the back cover.

What does it mean to be in Custody?

- If you are 12-18 years old and found guilty of a crime under the **Youth Criminal Justice Act** you can be sentenced to secure or open custody by a Youth Court Judge.
- The length of time you spend in custody depends on several things. For example, the judge may consider the crime you committed and your criminal record.
- Before you are sentenced or appear in court, you may be remanded. Remanded means you are in custody before your first court appearance or temporarily until you return to court to hear the judge's decision.
- If you are sentenced to secure custody you will serve your sentence at the Newfoundland and Labrador Youth Correctional Centre located in Whitbourne. Most remands also occur at the facility.
- If you are sentenced to open custody you will serve your sentence in a group home located at Corner Brook or St. John's.
- Both secure custody and open custody are followed by a period of community supervision, which is monitored by a Youth Corrections Social Worker. If you violate the conditions of this order, then you may be sent to the Newfoundland and Labrador Youth Correctional Centre to complete the remainder of your community supervision order.

What is Secure Custody?

- If the court orders you to secure custody, you will have to stay at the Newfoundland and Labrador Youth Correctional Centre located at Whitbourne. This is the only secure custody centre for youth in this province. It is a locked facility.
- The safety and security of both residents and staff is taken extremely seriously.
- You will be searched during the admission process to make sure you are not bringing anything dangerous into the centre.
- You will see the Centre uses plastic dishes, rubber pencils and rubber toothbrushes. These are safety measures to ensure these items are not turned into weapons.
- You will have access to:
 - Family visits and phone calls
 - School
 - Health Services
 - Counselling Services



- Various Programs (e.g. wood working and art)
- Gym for recreation
- Special leave (when eligible)
- Important information about your rights
- Secure custody aims to provide you with a safe environment where you can work with professionals to help prevent you from future criminal activity.
- While in secure custody you can expect staff will work with you to:
 - Feel safe, cared for, and accepted
 - Build confidence and self awareness
 - Offer opportunities to build trust and healthy relationships
 - Be shown and show respect
 - Continue your education and demonstrate positive role modeling
 - Provide access to supports and services



What is a Lock-up?

- A lock-up is a temporary, secure holding facility operated by police or corrections.
- You may have to stay in a lock-up for a brief period of time while held on remand or awaiting court. This should only occur if absolutely necessary and no other options are available.
- There are Provincial Standards of Care for youth held in a lock-up. These outline what must be done or provided to you in order to protect your basic rights. Some of these standards include:
 - You may be held in a lock-up for a maximum of 96 hours from the time of your first court appearance. After this time, you must be transferred to a youth corrections facility.
 - You must have access to a toilet, washing, and shower facility at all times.
 - Your food should be nutritious for a young person.
 - Visits by your parents and other immediate family members is to be permitted, with as much flexibility as possible.
 - Visits by representatives of helping agencies and other professionals are to be permitted at all reasonable times, subject to the physical environment and other safety and security concerns.
- You can review the full Provincial Standards of Care with your lawyer or social worker or contact us at the Office of the Child and Youth Advocate.

What is Open Custody?

- If the court orders you to open custody you will serve your sentence in an open custody centre in the community. There are two open custody centres in the province: Loretta Bartlett Home located at Corner Brook, and Home for Youth located at St. John's. These are houses in the community and are operated by the John Howard Society.
- If you are in open custody, staff will provide ongoing supervision, unless you have approved leave for special circumstances.
- There are rules that you must follow when serving an open custody sentence, for example, you may be given a curfew. If the rules are not followed some privileges may be removed.
- If you break the rules or breach the conditions of the open custody order, you may be sent back to court. This could result in a closed custody sentence.



- In open custody, you will be assigned a Youth Corrections Social Worker who provides support, can answer your questions, and reports back to court on your progress.
- While in open custody you will have access to counselling and other supportive services.
- Like secure custody, open custody aims to provide you with a safe environment where you can work with professionals to address problems and issues you may be having.



Other Things to Know

When you go into closed or open custody, the facility will provide an orientation and information about what your responsibilities will be.

There are some key things you should know when in custody, including the right to:

- Contact a lawyer and be provided with contact information for a lawyer
- Contact the Office of the Child and Youth Advocate
- Ask your social worker for a review of certain decisions regarding your care
- Know how to make a complaint
- Understand the rules that must be followed during your time in custody
- Know the Standards of Care
- Be informed of the court process, which includes:
 - Attending court proceedings (in person or by videoconference)
 - Have a mandatory review if you are in custody for more than 12 months
- Be told about a transfer and be prepared for it
- Be part of developing a plan for release

Know Your Rights

The **United Nations Convention on the Rights of the Child** (UNCRC) identifies your basic rights as a young person.

It is important to know about your rights. All children and youth have rights. Rights are what you should have (or have access to) or how you should be treated. These rights apply to all children and youth in Canada.

Article 1

Everyone under 18 has these rights.

Article 2

All children have these rights, no matter who they are, where they live, what their parents do, what language they speak, what their religion is, whether they are a boy or girl, what their culture is, whether they have a disability, whether they are rich or poor. No child should be treated unfairly on any basis.

Article 3

All adults should do what is best for you. When adults make decisions, they should think about how their decisions will affect children.

Article 4

The government has a responsibility to make sure your rights are protected. They must help your family to protect your rights and create an environment where you can grow and reach your potential.

Article 5

Your family has the responsibility to help you learn to exercise your rights, and to ensure that your rights are protected.

Article 6

You have the right to be alive.

Article 7

You have the right to a name, and this should be officially recognized by the government. You have the right to a nationality (to belong to a country).

Article 8

You have the right to an identity – an official record of who you are. No one should take this away from you.

Article 9

You have the right to live with your parent(s), unless it is bad for you. You have the right to live with a family who cares for you.

Article 10

If you live in a different country than your parents do, you have the right to be together in the same place.

Article 11

You have the right to be protected from kidnapping.

Article 12

You have the right to give your opinion, and for adults to listen and take it seriously.

Article 13

You have the right to find out things and share what you think with others, by talking, drawing, writing or in any other way unless it harms or offends other people.

Article 14

You have the right to choose your own religion and beliefs. Your parents should help you decide what is right and wrong, and what is best for you.

Article 15

You have the right to choose your own friends and join or set up groups, as long as it isn't harmful to others.

Article 16

You have the right to privacy.

Article 17

You have the right to get information that is important to your well-being, from radio, newspaper, books, computers and other sources. Adults should make sure that the information you are getting is not harmful, and help you find and understand the information you need.

Article 18

You have the right to be raised by your parent(s) if possible.

Article 19

You have the right to be protected from being hurt and mistreated, in body or mind.

Article 20

You have the right to special care and help if you cannot live with your parents.

Article 21

You have the right to care and protection if you are adopted or in foster care.

Article 22

You have the right to special protection and help if you are a refugee (if you have been forced to leave your home and live in another country), as well as all the rights in this Convention.

Article 23

You have the right to special education and care if you have a disability, as well as all the rights in this Convention, so that you can live a full life.

Article 24

You have the right to the best health care possible, safe water to drink, nutritious food, a clean and safe environment, and information to help you stay well.

Article 25

If you live in care or in other situations away from home, you have the right to have these living arrangements looked at regularly to see if they are the most appropriate.

Article 26

You have the right to help from the government if you are poor or in need.

Article 27

You have the right to food, clothing, a safe place to live and to have your basic needs met. You should not be disadvantaged so that you can't do many of the things other kids can do.

Article 28

You have the right to a good quality education. You should be encouraged to go to school to the highest level you can.

Article 29

Your education should help you use and develop your talents and abilities. It should also help you learn to live peacefully, protect the environment and respect other people.

Article 30

You have the right to practice your own culture, language and religion - or any you choose. Minority and Indigenous groups need special protection of this right.

Article 31

You have the right to play and rest.

Article 32

You have the right to protection from work that harms you, and is bad for your health and education. If you work, you have the right to be safe and paid fairly.

Article 33

You have the right to protection from harmful drugs and from the drug trade.

Article 34

You have the right to be free from sexual abuse.

Article 35

No one is allowed to kidnap or sell you.

Article 36

You have the right to protection from any kind of exploitation (being taken advantage of).

Article 37

No one is allowed to punish you in a cruel or harmful way.

Article 38

You have the right to protection and freedom from war. Children under 15 cannot be forced to go into the army or take part in war.

Article 39

You have the right to help if you've been hurt, neglected or badly treated.

Article 40

You have the right to legal help and fair treatment in the justice system that respects your rights.

Article 41

If the laws of your country provide better protection of your rights than the articles in this Convention, those laws should apply.

Article 42

You have the right to know your rights! Adults should know about these rights and help you learn about them, too.

Your Right to Communicate with the Child and Youth Advocate

If you believe your rights are not being protected or if you want to make a complaint, contact us at the Office of the Child and Youth Advocate. We will listen to your concerns.

By law, the youth facility where you live must ensure your request is forwarded to us immediately. If you write us, your letter must be forwarded to us immediately and unopened. (**Child and Youth Advocate Act**, section 17)

Check out our contact information on the back cover.



WE
LISTEN!

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