

Shedding Light on the Forcible Confinement and Restraint of Children

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The Minister of Children, Community and Social Services' [5-Year Review](#) of *the Child, Youth and Family Services Act* ("CYFSA") sheds light on the use of solitary confinement practices and physical, chemical, and mechanical restraint of children in care. The ongoing use of solitary confinement practices and restraints against children may shock Ontarians: It is an issue rarely brought forward for review or discussed, except in reaction to a tragedy. Proactive systemic change is necessary to address the violations of a young person's liberty and security of the person in such cases, contrary to their rights protected under the [Charter](#).

"Secure De-Escalation" and Solitary Confinement

The [5-Year Review](#) addresses the need to minimize the use of "secure de-escalation" to the "greatest extent possible" given the risk of harm and trauma it creates for children in care. Under the [CYFSA](#), secure de-escalation occurs when a service provider or a foster parent places a child alone in a locked room for the safety of the youth or others.

Secure de-escalation, formerly referred to as "secure isolation," is a form of solitary confinement. The 1990 United Nation's [Rules for the Protection of Juveniles Deprived of their Liberty](#) prohibit the closed or solitary confinement of children. The use of secure de-escalation under the [CYFSA](#) deprives youth of their [Charter](#) protected rights to liberty and security of the person. Despite this, it is still common practice in Ontario.

The ongoing concerns of secure de-escalation raises the question of whether this practice is ever appropriate or justified, as highlighted in [JFCY's submissions](#). The [CYFSA](#) guidelines for secure de-escalation such as the criteria for use, time limits, and continuous observation, attend to place parameters to limit the impact on a youth's liberty. However, a 2016 report from the [Residential Services Review Panel](#) identifies continued patterns of high use of secure de-escalation at some facilities and inconsistent application of the standards and protections under the then-CFSA. The [5-Year Review](#) of the [CYFSA](#) evinces the persistence of these concerns in today's child protection system.

The Use of Physical, Chemical, and Mechanical Restraints

The [CYFSA](#) permits, with restrictions and limitations, the physical and mechanical restraint of children in care. Physical restraint is a holding technique to restrict a person's ability to move freely. Mechanical restraint requires the use of a device, material or equipment, such as restraining belts or handcuffs, to restrict a person's ability to move freely.

The [CYFSA](#) generally prohibits the use of restraints except with necessary training in circumstances where the child is an imminent risk to themselves or to another person, the use of restraint is necessary, and there is no less intrusive alternative. However, the subjective determination of what constitutes "imminent risk" or a "less intrusive" alternative relies on personal opinion, and creates the possibility of bias or misuse. The [5-Year Review](#) highlights the need to strengthen and enforce the limits on physical

and mechanical restraints, identifying ongoing concerns about their inconsistent use and application in circumstances where better-suited options are available.

Chemical restraints refers to the administration of psychotropic drugs by a service provider to restrain a child by sedating or changing their cognition. The use of chemical restraints has minimal oversight under the [CYFSA](#). The sole provision in the [CYFSA](#) that relates to psychotropic drugs requires the service provider to have the consent of the young person under the [Health Care Consent Act](#) before administering the chemical restraints. Despite this requirement, the [5-Year Review](#) raises concerns about the lack of free and informed consent, and the over-medication of children as a form of managing behaviour. Steps must be taken to further clarify and restrict the use of this dangerous form of restraint.

These forms of restraint are trauma-inducing for the child being restrained as well as those witnessing the restraint. These practices are outdated and are not consistent with the paramount purpose of the [CYFSA](#): to promote the best interests, protection and well-being of children. By limiting the use of forcible confinement and restraint of children in care, the [CYFSA](#) moves closer towards its intended purpose.

JFCY recommends the prohibition of these intrusive and harmful methods within the [CYFSA](#). Alternatively, meaningful accountability measures are necessary to safeguard a young person's rights. Without sufficient knowledge, it is difficult for the public to advocate for youth rights and seek accountability. Ongoing public discussion following the [5-Year Review](#) would build increased awareness of the use of restraints and secure de-escalation, and create the possibility of systemic change to bolster the rights, safety and well-being of young people in care.