British Columbia's
Office of the Human Rights
Commissioner

Submission to the United Nations Human Rights Committee (CCPR) 145th session

International Covenant on Civil and Political Rights: March 2026

Who we are

British Columbia's Office of the Human Rights Commissioner (BCOHRC) envisions a province free from inequality, discrimination and injustice where we uphold human rights for all and fulfil our responsibilities to one another. We strive to address the root causes of these issues by shifting laws, policies, practices and cultures. We do this work through education, research, advocacy, inquiry and monitoring.

In 2018, changes to British Columbia's (B.C.) Human Rights Code (the Code) established B.C.'s Human Rights Commissioner as an independent officer of the Legislature. Commissioner Kasari Govender was appointed to lead the creation of the new Office of the Human Rights Commissioner and carry out its mandate. She began her first five-year term in September 2019 and was reappointed for a second term starting in September 2024.

Commissioner's Powers

The Commissioner is responsible for promoting and protecting human rights in the province of B.C., on the west coast of Canada. The Commissioner's powers and mandate are outlined in s. 47.12(1) of the Code and include:

- identifying, and promoting the elimination of, discriminatory practices, policies and programs
- publishing reports, making recommendations or using other means the Commissioner considers appropriate to prevent or eliminate discriminatory practices, policies and programs
- examining the human rights implications of any policy, program or legislation, and making recommendations respecting any policy, program or legislation that the Commissioner considers may be inconsistent with the Code
- promoting compliance with international human rights obligations

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- The Commissioner also has the power to inquire into any matter where such an inquiry would promote or protect human rights (s. 47.15).

Thus, the Commissioner has a mandate to promote compliance with both the Human Rights Code and international human rights standards. Canada is a party to several international human rights treaties that protect liberty interests and equality rights, and the Code contains protections against discrimination in the provision of services. The Commissioner relies on both the Code and international human rights laws and standards as frameworks for applying a human rights-based analysis.

Given this mandate, the Commissioner is submitting this report to highlight significant breaches to these international commitments made by the Government of British Columbia, as found during the Commissioner's Inquiry into detentions under the Adult Guardianship Act. This report highlights non-compliance with Article 9 of the International Covenant on Civil and Political Rights (ICCPR), with respect to an absence of protections against arbitrary detention for adults detained under the Adult Guardianship Act (AGA).

The Adult Guardianship Act

B.C.'s Adult Guardianship Act is legislation that exists to protect vulnerable adults[1]. The AGA is part of a suite of laws that are designed to ensure that adults' wishes are heard and respected if they become incapable of making their own decisions. Within the AGA framework, designated agencies are required to investigate reports that adults are experiencing abuse, neglect or self-neglect and where they have an illness, disease, injury or other condition that affects their ability to make decisions. In some cases, designated agencies encounter serious circumstances where they believe that the adult is at imminent risk of harm and the adult has not accepted an offer of support and assistance. This includes situations where an adult is experiencing abuse, neglect or self-neglect in the community, is at a high degree of risk and does not understand the danger they are in because of cognitive impairment. In these circumstances, the AGA provides the

[1] The Commissioner is aware that the use of the term "vulnerable" may be perceived to invoke stereotypes and assumptions about the capabilities of adults whom the law treats as lacking capacity. However, in this report, reference to "vulnerability" is not used as a moral judgment or intended to downplay the role of the state, laws, systems and practices in creating vulnerabilities. Rather, it is a recognition that the state always has a responsibility to ensure it does not abuse its power or allow others to abuse their power in relation to people who may be more vulnerable due to their physical, developmental or mental condition.

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designated agencies with the powers in s. 59(2) to take steps to protect the adult, which have been used to detain adults against their will, for treatment and planning and in some cases for significant periods of time.

The designated agencies can use these powers to act, without the adult's consent, where they believe:

- the adult is apparently abused or neglected (s. 59(1)(a));
- it is necessary to act without delay in order to preserve the adult's life, prevent serious physical or mental harm to the adult, or protect the adult's property from significant damage or loss (s. 59(1)(b); and
- the adult is apparently incapable of giving or refusing consent (s. 59(1)(c)).

In these circumstances, under s. 59(2) designated agencies can:

- enter any premises where the adult may be located, without a court order or a warrant, and use any reasonable force that may be necessary in the circumstances (s. 59(2)(a));
- remove the adult from the premises and convey them to a safe place (s. 59(2)(b));
- provide the adult with emergency health care (s. 59(2)(c));
- inform the Public Guardian and Trustee that the adult's financial affairs need immediate protection (s. 59(2)(d)); and
- take any other emergency measure that is necessary to protect the adult from harm (s. 59(2)(e)).

Part 3 of the AGA creates a framework to provide for support and assistance for abused and neglected adults who are unable to seek support and assistance because of physical restraint, a physical handicap that limits their ability to seek help or an illness, disease, injury or other condition. The AGA defines abuse, neglect and self-neglect:

> "abuse" means the deliberate mistreatment of an adult that causes the adult
>
> (a) physical, mental or emotional harm, or
>
> (b) damage or loss in respect of the adult's financial affairs, and includes intimidation, humiliation, physical assault, sexual assault, overmedication, withholding needed medication, censoring mail, invasion or denial of privacy or denial of access to visitors;

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> "neglect" means any failure to provide necessary care, assistance, guidance or attention to an adult that causes, or is reasonably likely to cause within a short period of time, the adult serious physical, mental or emotional harm or substantial damage or loss in respect of the adult's financial affairs, and includes self-neglect;
>
> "self-neglect" means any failure of an adult to take care of himself or herself that causes, or is reasonably likely to cause within a short period of time, serious physical or mental harm or substantial damage or loss in respect of the adult›s financial affairs and includes
>
> (a) living in grossly unsanitary conditions,
>
> (b) suffering from an untreated illness, disease or injury,
>
> (c) suffering from malnutrition to such an extent that, without intervention, the adult's physical or mental health is likely to be severely impaired,
>
> (d) creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or loss of property, and
>
> (e) suffering from an illness, disease or injury that results in the adult dealing with his or her financial affairs in a manner that is likely to cause substantial damage or loss in respect of those financial affairs.

A comprehensive summary of the AGA's legal framework can be found on pages 29-44 of *We're still here*, the Commissioner's final report of the inquiry into detentions under the AGA.[2]

We're still here: Inquiry into detentions under the AGA

In 2023, the Commissioner decided to undertake the Inquiry into Detentions[3] under the *Adult Guardianship Act* when she became aware that a mechanism designed to provide assistance to abused or neglected adults is potentially resulting in serious violations of their human rights. In particular, BCOHRC heard that the emergency assistance provision (s. 59) of the AGA is used by designated agencies to detain those adults without publicly available information about how long people are being detained or what procedural

[2] https://bchumanrights.ca/wp-content/uploads/BCOHRC_Were-still-here_Apr2025.pdf
[3] The word "detention" is used in this report as it is used in Canadian and international law; that is, detention is when a person is held against their will by the power of the state.

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protections they can access. We spoke to family members who shared their experiences of having their loved ones detained under the AGA — their mothers, sons, partners. Each shared their story in hopes of seeing change and ensuring that the human rights of their loved ones and others in similar situations would be respected and protected.

The Inquiry intended to shine a light on: (1) whether and to what extent vulnerable adults are being detained under the emergency protection provisions of the AGA and (2) whether such detentions are lawfully permitted and in accordance with the Province's human rights obligations. Adults who are detained under the AGA are often in highly vulnerable positions; while protecting them against abuse and neglect is an important goal, respecting their human rights is an important component of treating vulnerable adults with dignity and protecting their well-being.

In 2017, a case of an individual detained under the AGA went to the Supreme Court of British Columbia for decision.

Case Study: A.H. v. Fraser Health Authority

A.H. is a middle-aged Indigenous woman who lived her whole life with her family, friends and community on the lands of her Nation. Until her detention by Fraser Health Authority (FHA) in October 2016, she lived at her mother's house with her mother and other members of her family. She has two children who were not in her care at the time of her detention. A.H. lives with Fetal Alcohol Spectrum Disorder (FASD), cognitive impairments and mental health issues and has a history of experiencing abuse.

FHA received reports that A.H. was being abused and neglected by her mother and others. They prepared an initial support and assistance plan to which both A.H. and her mother consented. Under the plan, A.H. agreed to live with her mother with significant supports. Two years later, FHA again received reports that A.H. was being physically and sexually abused, exploited and neglected. FHA determined that the support and assistance plan was no longer adequate and developed a plan to apprehend A.H. and detain her in the hospital. On October 6, 2016, after formulating a plan with FHA staff, service providers for the Nation took A.H to the mall to go shopping and then took her to the hospital where she was detained under the AGA.

A.H. was detained in hospital as a "social admission" to keep her safe while FHA was seeking an FASD assessment and a determination of eligibility for community-based services for adults with development disabilities (Community Living BC).

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A.H. did not want to be detained. She ran away three times and, each time, was returned to hospital by police against her will. In this time, the police told FHA they did not have authority to apprehend and detain A.H. against her will and advised that certification of A.H. under the Mental Health Act would provide that authority. Certificates under the MHA were issued twice despite a lack of evidence that she was certifiable under that legislation. After she ran away for the third time, FHA detained A.H. in a secure ward for nearly another eight months.

While detained in Fraser Health Authority facilities, A.H. was not permitted to leave, was physically restrained, was offered medications she did not want and sometimes pressured to take them, was not allowed outside and was restricted from using the phone or the internet or having visitors. On at least one occasion, she was physically restrained to the bed and at other times was told she would be restrained if she did not agree to stay in the hospital. A.H was subject to a "Do Not Acknowledge" protocol meaning that if anyone called or attended the hospital, the staff were instructed to say she was not there. She was frequently observed telling staff that she felt like she was in jail.

A.H was not provided with reasons explaining why she had to stay in the hospital other than that staff believed she was being abused. When she told staff she wanted to challenge her detention she was "redirected" or told there was no way to challenge it. FHA staff refused to help her contact a lawyer, despite her many requests.

In October 2016, an assessment determined that A.H was incapable of accepting or declining support, that she didn't understand why services were being offered and could not link the offer of support to concerns about her safety.

In June 2017, A.H. was transferred to an adult acute mental health facility where she was finally provided with the phone number for the Community Legal Assistance Society. On August 2, 2017, counsel for A.H. led a petition for habeas corpus in the Supreme Court of British Columbia. The health authority then led an application seeking a support and assistance order for A.H on August 23, 2017, which was granted on September 22, 2017. By that time, Fraser Health Authority had detained A.H. for 11 months and 13 days as an "emergency measure" under s. 59(2)(e) of the Adult Guardianship Act.

In 2019, the Supreme Court of British Columbia released its judgment on A.H.'s application, finding that Fraser Health's detention of A.H. was unlawful. The Court found FHA's decision to detain A.H. without promptly applying for a support and assistance order, without providing her with clear and written reasons, without giving her the

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opportunity to obtain legal advice and under conditions that violated her residual liberty was "inexplicable." With respect to A.H.'s Charter rights, the Court found that FHA violated A.H.'s rights under sections 7, 9, 10(a), (b) and (c) of the Charter.

Human Rights Frameworks related to the AGA

The Commissioner used Canada's international human rights law commitments as the framework for the inquiry's analysis. Today, Canada, on behalf of its federal, provincial and territorial governments, is a signatory to a number of modern international human rights instruments that prohibit arbitrary detention. These include Article 9 of the Universal Declaration of Human Rights[4], Article 9 of the ICCPR and article XXV of the American Declaration of the Rights and Duties of Man.[5] Under the Vienna Convention, Article 27 on the Observance of Treaties, Canada is obligated to implement these commitments and may not invoke the provisions of its internal law as justification for its failure to perform a treaty.[6] Canada must work in good faith to ensure British Columbia is compliant with treaty obligations.

Canada ratified the ICCPR in 1976, committing to respect, protect and ensure the rights in the ICCPR in good faith. Canada's compliance with the ICCPR is periodically reviewed by the UN Human Rights Committee – this report is being submitted to the Committee's 145th session as part of Canada's 7th periodic review.

Detention is a significant interference with liberty. Indeed, on the international stage, protection against arbitrary detention has become customary law and is non-derogable, meaning it is a fundamental right that cannot be limited in any circumstance, except in times of a proclaimed public emergency.[7] Protection against arbitrary detention by the

[4] United Nations (General Assembly), Universal Declaration of Human Rights, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810, (1948), https://www.un.org/en/about-us/universal-declaration-of-human-rights.

[5] Canada is a member of the Organization of American States (OAS), which means it must respect the American Declaration, monitored by the Inter-American Commission on Human Rights. Canada has not ratified the American Convention on Human Rights, which would subject it to the jurisdiction of the Inter-American Court of Human Rights. The term "man" in the Declaration refers to individuals of all sexes and genders.

[6] https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

[7] United Nations (General Assembly), International Covenant on Civil and Political Rights, 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976), Article 4, https://www.ohchr.org/en/ instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

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state is also enshrined in the Canadian constitution, namely the Charter of Rights and Freedoms, which reflects these international standards.

The ICCPR General Comment No 35: Article 9 (Liberty and Security of the Person) is the UN Human Rights Committee's jurisprudential statement of its interpretation of Article 9 of the ICCPR.[8] Comment 35 describes liberty of the person as concerning "freedom from confinement of the body, not a general freedom of action."[9]

The General Comment describes that while deprivation of liberty is sometimes justified, any deprivation must be carried out with respect for the rule of law and must not be arbitrary. These are two distinct criteria: a detention can be authorized by domestic law while still being arbitrary. The General Comment clarifies that any substantive grounds for arrest or detention must be "prescribed by law" and should be defined "with sufficient precision to avoid overly broad or arbitrary interpretation or application. Deprivation of liberty without such legal authorization is unlawful." However, rather than simply defining arbitrariness as "against the law," the General Comment states that arbitrariness must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law as well as reasonableness, necessity and proportionality.

General Comment 35 concludes that deprivations of liberty must be established by law, must be accompanied by procedures that prevent arbitrary detention and state parties should ensure compliance with their legally prescribed procedures. Procedures that prevent arbitrary detention include the right to notification and reasons and the right to court proceedings to determine the lawfulness of the detentions. The ICCPR requires that notification be provided immediately except in exceptional circumstances, that reasons include the factual and legal basis for the detention and that reasons be provided in a language the adult understands. The General Comments indicates that oral notification is generally sufficient but for people with mental disabilities, notice and reasons should also be provided directly to appropriate family members and designates.

[8] UN Human Rights Committee (HRC), General Comment 35 on Article 9, (Liberty and Security of the Person), CCPR/C/GC/35, 16 December 2014, https://documents.un.org/doc/undoc/gen/g14/244/51/pdf/g1424451.pdf.
[9] UN Human Rights Committee (HRC), General Comment 35 on Article 9, para. 3.

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Inquiry Process, Findings & Recommendations

Process

The Inquiry's process included production orders issued to seven agencies to provide data on involuntary detentions of vulnerable adults, including five regional health authorities, one public body that provides community supports for people with developmental disabilities, and one health care provider that operates seven facilities in Vancouver. The inquiry also reviewed information from the provincial Ministry of Attorney General, the provincial Ministry of Health and B.C.'s Public Guardian and Trustee.

In addition, the Commissioner held two community engagement sessions, conducted interviews with family members of adults who were detained under the AGA and interviewed staff in each designated agency.

Summary of findings

The Inquiry's final report describes five key findings, summarized below. Findings 1-4 suggest significant non-compliance with Article 9 of the ICCPR related to the prohibition of arbitrary detention. Of note, during the inquiry process, Health Authorities expressed confusion about whether actions under the AGA constituted a "detention", despite the Human Rights Committee clarification via Comment 35 that Article 9 applies to detention in hospital.

1. Detentions under s. 59(2) of the AGA impact a significant number of adults. Between 2018 and September 2023, designated agencies detained 300 people a total of 340 times. The median length of detentions was six days, while the maximum was 212 days. Reliance on s. 59 is relatively rare in the context of the total number of abuse, neglect and self-neglect investigations conducted by designated agencies (less than five per cent), and staff efforts to find community-based supports for adults is admirable and important. However, it is still fair to say that designated agencies regularly use s. 59 of the AGA to detain adults given the number of detentions that occurred over the time span researched. See pages 45-56 of the Inquiry report for more details.

2. Transparency and oversight over detention are lacking. The Commissioner found a lack of transparency both at a systemic and individual level. Specifically, the Commissioner found a lack of publicly available information on how this law is administered; a

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tendency to restrict information to representatives, legal counsel and family/friends; with limited ability to seek independent review or oversight.

There is no requirement that the designated agencies publicly report on the number of annual detentions or their circumstances, and that reporting has not been done proactively. During the Commissioner's interviews with representatives from the designated agencies, they confirmed that they do not report publicly on their use of s. 59 of the AGA. The Commissioner has also not otherwise found any publicly available data on the use of s. 59 of AGA. Further, there are no provincial data collection standards for Part 3 of the AGA and there is not one body tasked with overseeing its implementation.

Additionally, while reviewing the Commissioner's draft report during the administrative fairness review process, many designated agencies discovered errors in the data they had already provided to the Commissioner raising additional concerns about the overall reliability of the data collected and pointing to the need for provincial data standards. In sum, given the limitations described above, and considering that every designated agency collects data differently, that there are no provincial standards or requirements on how to collect data and that the government has not created a province-wide data management system for the AGA, the data in the inquiry report, though the most comprehensive data collected on use of s. 59 of the AGA to date, is likely under reported.

3. Adults' rights to fair process have not been adequately respected. Detention is a significant interference with liberty that must be accompanied by adequate safeguards to prevent arbitrariness. Such safeguards include rights notification; clear criteria, reasons or timelines for detention; prompt and full disclosure of the information on which the decision to detain is based; access to counsel; and independent oversight and periodic review procedures. These safeguards are largely lacking for s. 59 AGA detentions both in law and in practice.

   Since the release of the A.H. case in 2019, most of the designated agencies have updated their policies and training materials to provide that following an emergency intervention, an adult must be notified of their rights. Most of the designated agencies do not provide a timeframe for providing rights notification but rather direct staff to do

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so as soon as it is safe and clinically appropriate, immediately or when clinically reasonable or practical.

However, the designated agencies' data show that detained adults received notification of rights in only about two thirds of total detentions (67.6 per cent, 230 detentions). This means that the designated agencies have no record of providing rights notification to adults in about one third of all detentions under the AGA (32.4 per cent, 110 detentions). Of the 230 detentions where rights notification was provided, notification was provided orally in 226 cases (66.5 per cent of 340 detentions) and in writing 173 times (50.9 per cent of 340 detentions). In almost half of all detentions (49.1 per cent), adults never received a copy of a notification of rights form or "certificate" (that is, written documentation of their detention).

It is also unclear whether any of these forms are available in languages other than English or what other forms or means of communication are used.

As described on page 21 of the inquiry report, Article 9(4) of the ICCPR and the UN Body of Principles for the Protection of All Persons Under Any Form of Detention require that all detainees, including those detained in hospital, be afforded prompt and regular access to counsel, that counsel be free for those without means to pay and that private communication with counsel be facilitated in a timely way. Denial of access to counsel may result in procedural violations of this Article.

Access to counsel and advice about rights during a detention is especially important given the imbalance of power and resources between the detainee and the state. It is even more important in the context of the AGA, where the detainee — a person who is considered abused and neglected — is also perceived to be apparently incapable of deciding to accept or refuse support and assistance. Such a detainee may be even less able to defend their rights without legal help. As described above, human rights standards require prompt, if not immediate, access to counsel for detainees. Unfortunately, the designated agencies have limited options to facilitate access to counsel and rights advice in the immediate aftermath of a detention. Unless the detainee has the means to hire their own counsel whom the designated agency can assist a detainee to call, there is no program or organization that has been established or funded to specifically provide legal services to adults impacted by the AGA. There is no existing rights advice service which detainees can connect with immediately if

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detained under s. 59(2) or otherwise, nor is there access to duty counsel. In contrast, for criminal matters, a toll-free telephone service is immediately available to provide advice to people who are arrested, detained or under active investigation

AGA detainees also do not have access to any independent rights information services. It is notable that the government did not include AGA detainees in the non-lawyer Independent Rights Advice Service for *Mental Health Act* detainees that it funded and launched in early 2024, despite requests from community. Given that government has been aware of issues surrounding rights advice for adults who are detained under the AGA since at least 2019, it is unclear why government chose not to extend the rights advice services to AGA detainees.

4. Designated agencies who are detaining adults are doing so without legal authority. The Commissioner found that significant concerns around illegality are raised in some, but not all detentions, including inconsistent and improper reliance on s. 59(2); evidence of detentions beyond the time necessary to address the emergency; failure by designated agencies to seek support and assistance court orders; uncertain police authority; and detentions occurring under "doctor's orders."

   There is no other statute in Canada that authorizes a detention without using language like detain, detention or involuntary admission, without specifying a detention period/length and without providing for some review process or judicial oversight. These protections are necessary to prevent the AGA from creating broad and unpredictable powers to detain adults.

   The Commissioner asked the designated agencies to specify the subsections of s. 59(2) they relied on for every instance when an adult was detained under s. 59(2). The most commonly reported subsection used was s. 59(2)(e) which permits designated agencies to take "other emergency measures" (67.6 per cent, 230 detentions).

   In addition to reliance on subsections of s. 59(2), the Commissioner was concerned to find that the designated agency policies that post-date the A.H. case are instructing staff that a person can be detained for the purposes of care planning, prevention of future risk, or to avoid discharging them to a place with known and unmitigated safety concerns. The designated agency representatives confirmed in interviews that

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individuals are kept for these purposes. None of these circumstances amount to an emergency on their own, and therefore detentions for these purposes are contrary to law.

Between 2018 and September 2023, designated agencies only sought court orders to authorize ongoing detentions in three out of the 340 detentions and only obtained one order in these cases. The adults detained in these cases were detained for 22 days, 147 days and 42 days before a court order was obtained.

5. Disproportionate impact of detention practice on seniors, people who are unhoused and people with disabilities, including people with mental health and substance use issues, results in systemic discrimination. The Commissioner concluded that the current approach to detention under s.59(2) of the AGA is discriminatory because the harms of detention—including the fact that many adults are being detained beyond the scope of the legal authority granted by the AGA and without due regard to their procedural rights—are disproportionately experienced by seniors, people who are unhoused and people with disabilities. The Commissioner did not conclude that any and every detention of vulnerable adults who are apparently abused or neglected is necessarily discriminatory, but that the current system and practices for detention do result in inequality.

   This finding suggests non-compliance with Article 26 of the ICCPR, which prohibits discrimination on the basis of any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Summary of recommendations

Given the inquiry findings, the Commissioner made 10 recommendations to the Ministry of Attorney General, the Ministry of Health and the designated agencies for change, including that they:

1. Immediately stop detaining adults for longer than the duration of an emergency and ensure all detained adults receive written reasons for being detained.
2. Provide legal advice and representation to all adults who are detained.
3. Introduce amendments to the AGA to clarify whether detention is allowed in emergency situations.

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4. Develop provincial regulations, policies or guidelines to support implementation of legislative changes to ensure rights are respected.
5. Make data reporting mandatory, develop provincial data standards and require annual public reporting.
6. Develop mandatory provincial training.
7. Consult on the role of police under Part 3 of the AGA.
8. Assess and report publicly on the community health resources that are required to reduce the number and length of detentions of adults under the AGA.
9. Create an independent mechanism for detained adults to challenge their detentions and their conditions.
10. Create an independent officer of the legislature with oversight of detentions in health care facilities.

Progress on Recommendation Implementation

All the Commissioner's recommendations included timeframes for implementation. Parts of Recommendations 1, 2, and 8 included timeframes for immediate action, or action by September 30, 2025. The Commissioner has since followed up with the designated agencies and the provincial government to assess the implementation status of these recommendations.

As of January 2026, it is apparent that all the designated agencies took some action to address Recommendation 1. Designated agencies have largely updated their training materials and practice directives to ensure that reasons for detention and notification of adults' rights are provided as soon as possible and contain the information set out by Recommendation 1. However, not all adults detained in this timeframe received written reasons, while some adults detained did not receive written reasons until day 4 of being detained. The Commissioner is concerned that since the inquiry report was released, designated agencies are still detaining adults, some for significant periods of time (multiple detentions of 20-25 days), and most without applying for or obtaining a court order. In some cases, the number of people being detained appears to be increasing, although the data is relatively small after only six months.

On Recommendation 2, the Provincial Government reported that to advance work in support of the Commissioner's recommendations they are working with the Adult Guardianship Act Working Group, comprised of representatives from the Ministries and Designated Agencies. The Working Group's mandate is to inform the development of

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provincial guidance materials which will address aspects of the recommendations. Government also noted that the Commissioner's recommendations will be considered in the context of continued justice system investment.

No progress has been made on Recommendation 8. While Government recognizes the intent to ensure gaps in community-based services do not contribute to additional detentions under the AGA, they continue to voice concern about their ability to implement Recommendation 8 given the current fiscal situation.

Furthermore, the Provincial Government has formally rejected Recommendation 10 and does not intend to develop an independent oversight mechanism for detentions under the AGA.

Conclusion

The inquiry into detentions under the AGA — and the Commissioner's findings and recommendations — are not intended to undermine the important goals of protecting vulnerable adults. Rather, the Inquiry is about ensuring that, when the state exercises extraordinary powers that interfere with an adult's liberty, the exercise of power accords with human rights laws and standards. The goal is to both protect people from harm and not cause further harm in the process, by respecting their human rights as required by international human rights law.

The Commissioner intends to track the implementation of the inquiry's recommendations via four progress reports to be published between 2026 and 2029.

The Commissioner draws your attention to this important issue because of the violations of international law – and particularly the ICCPR – that she found during her inquiry. She hopes that you will hold Canada to account for violating the rights of some of the most vulnerable members of our society.

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