

Australian Capital Territory

Children and Young People (Safety and Security) Policy and Procedures 2018 (No.1)

Notifiable instrument NI2018-447

made under the

***Children and Young People Act 2008*, section 143 youth detention policy and operating procedures**

1 Name of instrument

This instrument is the *Children and Young People (Safety and Security) Policy and Procedures 2018 (No.1)*.

2 Commencement

This instrument is to commence the day after notification.

3 Repeal

NI2015-396 is revoked.

4 Policies and operating procedures

Under section 143 of the *Children and Young People Act 2008*, I make the attached Safety and Security Policy and Procedures to facilitate the effective and efficient management of detention services for young people.

Bernadette Mitcherson
Director-General
Community Services Directorate
7 August 2018

Safety and Security Policy and Procedures

1. Introduction and Purpose

Safe and secure custody of young people is the prime operational task of a detention place. This policy and procedures requires the implementation of appropriate safety and security measures to ensure the safe and secure custody of young people and the safety of all persons who work at or visit a detention place.

This policy and procedures also addresses the authority to undertake monitoring activities at a detention place. Monitoring at a detention place is necessary to ensure the safety of all persons at a detention place. Monitoring may take different forms including direct viewing, the use of visual and/or audio surveillance equipment and the use of devices for detecting movement. This includes the monitoring of electronic communications by young people including telephone calls and the monitoring of mail. The Visits, Phone Calls and Correspondence Policy and Procedures address the monitoring of mail.

2. Legal Authority and Obligations

- 2.1 The *Children and Young People Act 2008* (the Act) is the primary source of authority for the operations of a detention place. The provisions of the Act must be complied with at all times by staff exercising functions at a detention place.
- 2.2 The *Children and Young People Act 2008* is the only Act that applies to monitoring at a detention place and other Acts, such as the *Listening Devices Act 1992*, do not apply.
- 2.3 The policies and procedures provide specific directions to implement the provisions of the Act and other relevant legislation, including the *Human Rights Act 2004*.
- 2.4 Human rights that are protected by the *Human Rights Act 2004* and that are relevant to this policy and procedure are:

Section 19 Humane treatment when deprived of liberty

- (1) Anyone deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.
- (2) An accused person must be segregated from convicted people, except in exceptional circumstances.
- (3) An accused person must be treated in a way that is appropriate for a person who has not been convicted.

Section 20 Children in the criminal process

- (1) An accused child must be segregated from accused adults.
- (2) An accused child must be treated in a way that is appropriate for a person of the child's age who has not been convicted.
- (3) A child must be brought to trial as quickly as possible.
- (4) A convicted child must be treated in a way that is appropriate for a person of the child's age who has been convicted.

- 2.5 The following international human rights standards apply in the ACT and are relevant to this policy and procedure:
- (a) United Nations Convention on the Rights of the Child
 - (b) United Nations Standard Minimum Rules for the Administration of Juvenile Justice
 - (c) United Nations Rules for the Protection of Juveniles Deprived of their Liberty Rule 33
 - (d) Standard Minimum Rules for the Treatment of Prisoners
 - (e) Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
 - (f) United Nations Declaration on the Rights of Indigenous People.

3. Authorisations and Delegations

- 3.1 The Manager is responsible for all decision-making about the management of a detention place, including both operational and program matters.
- 3.2 Operations staff are primarily responsible for the maintenance of the safety and security of young people and other people at a detention place and for providing advice on these matters to the Manager.
- 3.3 Programs staff are responsible for the coordination and delivery of a range of services (therapeutic, rehabilitative, case management, educational and health services) to young people and for providing advice on these matters to the Manager.
- 3.4 The chain of authority for operational management of a detention place occurs from the Director, Bimberi through:

<p>For operational matters:</p> <ul style="list-style-type: none"> • Deputy Senior Manager • Operations Manager • Unit Manager • Team Leader • Youth worker 	<p>For program matters:</p> <ul style="list-style-type: none"> • Deputy Senior Manager • Program and Services Manager • Child and Youth Protection Services
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- 3.5 All decisions about the entry, access and movement of people within a detention place including, staff, young people and visitors are made under the authority of the Manager through operations staff. Youth workers are responsible for the safety and security of all persons (young people, visitors, staff) at a detention place.
- 3.6 All youth workers have authority to give directions to a visitor at a detention place under section 231 of the *Children and Young People Act 2008*. A visitor who fails to comply with a lawful direction by a youth worker may be asked to leave the detention place, may be refused future access to a detention place, or may be reported to the police (refer to Visits, Phone Calls and Correspondence Policy and Procedures).
- 3.7 Staff must not provide an unauthorised person with, or allow an unauthorised person access to, operational or security equipment or restricted procedures or information related to the safety and security of

a young person or other people at a detention place, without the approval of the Manager. An unauthorised person means a person who is not a staff member or a person who is not authorised to have access to the equipment, procedures or information.

- 3.8 All staff must comply with this policy and procedure and all policies and procedures as they apply to them. Staff who contravenes or fails to comply with this policy and procedure may be investigated and may be subject to disciplinary procedures under the *Public Sector Management Act 1994* and/ or a criminal investigation.
- 3.9 The Manager must ensure that every person entering the detention place is aware that they may be monitored and their actions and voice recorded.
- 3.10 The Manager is authorised to have any part of the detention place monitored for any activity.
- 3.11 Youth workers may conduct monitoring of young people and/or activities at a detention place only in accordance with this policy and procedures and any other relevant policy and procedure.

4. Definitions

Aboriginal person is defined in the dictionary of the *Children and Young People Act 2008* as a person who is a descendant of the Indigenous inhabitants of Australia; who regards himself or herself as an Aboriginal or if the person is a child, is regarded as an Aboriginal by a parent or family member; and is accepted as an Aboriginal by an Aboriginal community.

Accredited person is defined in section 137 of the *Children and Young People Act 2008* and means the young person's Child and Youth Protection Services worker if the Director-General has parental responsibility for the young person, a representative approved by the Manager of an entity providing a service or program to the young person, a lawyer representing the young person, an Official Visitor, a Commissioner exercising functions under the *Human Rights Commission Act 2005*, the Public Advocate and the Ombudsman.

Admission means the reception of a young person into a detention place in accordance with a Court Order, Warrant or other legal authority for their detention.

All staff refers to youth workers, authorised persons, other Directorate staff providing services at or visiting a detention place in a work-related capacity and staff of ACT Government agencies providing services to young people in a detention place.

Authorised person is a person who has been delegated a power under the *Children and Young People Act 2008* or another Territory law and is exercising a function under the criminal matters chapters of the *Children and Young People Act 2008*. The positions that have delegations as authorised persons are: Executive Director, Senior Director (A), Director, Child and Youth Protection Services Operations (B), Director, Bimberi (B), Deputy Senior

Manager (C), Operations Manager (D), Programs and Services Manager (D), Unit Managers (E), Team Leaders (F), Youth Workers (G), Family Engagement Officer (F), Sport and Recreation Officer.

Child means a person who is under 12 years of age (as defined under section 11 of the *Children and Young People Act*).

Child and Youth Protection Service refers to the branch in the Community Services Directorate that is responsible for the Child Protection and Youth Justice functions of the *Children and Young People Act 2008* and related legislation.

Commissioner refers to one of the appointed Commissioners exercising functions under the *Human Rights Commission Act 2005*. The functions include the resolution of complaints between users and providers of services for children and young people and to promote improvements for service provision.

Detention place means a declared detention place.

Direction means an instruction that may be given by a youth worker under section 146 of the *Children and Young People Act 2008* to a young person about anything related to the criminal matters chapters. A young person must comply with any direction given to the young person by the Director-General or delegate under section 184 of the *Children and Young People Act 2008*. Non-compliance by a young person with a direction is a behaviour breach and may be dealt with through the Behaviour Management Policy and Procedures or Discipline Policy and Procedures.

Director, Child and Youth Protection Services Operations refers to the responsible senior executive in the Community Services Directorate.

Director, Bimberi refers to the Director of a detention place and the responsible senior executive in the Community Services Directorate.

Director-General means the Director-General of the Community Services Directorate with administrative responsibility for the *Children and Young People Act 2008*, unless otherwise specified in this policy and procedure.

Duty of care refers to the obligation by youth workers to take reasonable care to avoid injury or loss to a person whom it could be reasonably foreseen might be injured by an act or omission.

Electronic communication is defined at section 200 of the *Children and Young People Act 2008* and means communication by telephone, email or fax or any other electronic means.

Emergency declaration is made by the Director-General or Executive Director under section 149 of the *Children and Young People Act 2008* if the Director-General or Executive Director believes on reasonable grounds that an emergency exists in relation to a detention place that threatens or is likely

to threaten safety and security of a young person or other person at the detention place. Each emergency declaration may be made for a maximum of three days. Following the declaration of an emergency, the emergency powers at section 150 of the *Children and Young People Act 2008* may be exercised.

Family member is defined in section 13 of the *Children and Young People Act 2008* and means the child's or young person's parent, grandparent or step-parent; or son, daughter, stepson or stepdaughter; or sibling; or uncle or aunt; or nephew, niece or cousin. For an Aboriginal or Torres Strait Islander child or young person, a family member includes a person who has responsibility for the child or young person in accordance with the traditions and customs of the child's or young person's Aboriginal or Torres Strait Islander community.

Lock down refers to the operational response that is an interruption to daily routine. Young people and other people are asked to remain in a particular place for a period of time in order to manage a risk to safety and security of young people or other people at a detention place (e.g to manage a serious or life threatening injury or health complaint, a lock down may be required to prevent the entry to, or exit from, a detention place by any person other than emergency response services). Lock down does not involve segregation.

Manager refers to the Director of a detention place during normal business hours, or in the event this person is unavailable, the Deputy Senior Manager, or in the event this person is unavailable, the Operations Manager, or in the event this person is unavailable, a Unit Manager. Outside normal business hours, this refers to the On-call Manager.

Nominated person is a person nominated by a young person aged 18-21 years at the time of admission to whom the Director-General can give notifications under the *Children and Young People Act 2008*. The details of the nominated person must be entered in the Register of Young Detainees.

Ordinary mail is defined at section 201 of the *Children and Young People Act 2008* and means all mail that is not protected mail.

Parental responsibility is defined at section 15 of the *Children and Young People Act 2008* and means all the duties, powers, responsibilities and authority parents have by law in relation to their children, including daily care and long-term care responsibility for the child or young person. Each parent of a child or young person aged under 18 years has parental responsibility for the child or young person. A person may have or share parental responsibility for a child or young person under a court order under the *Children and Young People Act 2008* or another law or in the circumstances outlined at sections 17 and 18 of the Act.

Police means ACT Policing.

Prohibited area is an area within a detention place declared by the Director-General under section 147 of the *Children and Young People Act 2008* to be a prohibited area to ensure the safety or security of a young person or other person. It is a behaviour breach for a young person to be in a prohibited area without approval of the Manager.

Prohibited thing is a thing declared under section 148 of the *Children and Young People Act 2008* by the Director-General to be prohibited if the Director-General reasonably believes that the declaration is necessary or prudent to ensure safety and security of a young person or other people at a detention place. The declaration of prohibited things is contained in the Search and Seizure Policy and Procedures.

Protected electronic communication is defined at section 200 of the *Children and Young People Act 2008* and means an electronic communication between a young person and any of the following persons:

- (a) a lawyer representing the young person
- (b) an Official Visitor
- (c) a Commissioner
- (d) the Public Advocate
- (e) the Ombudsman.

Protected mail is defined at section 201 of the *Children and Young People Act 2008* and means mail between a young person and any of the following:

- (a) a lawyer representing the young person
- (b) an Official Visitor
- (c) a Commissioner
- (d) the Public Advocate
- (e) the Ombudsman.

Register of Searches and Uses of Force means the register that must be kept by the Director-General under section 195 of the *Children and Young People Act 2008*.

Register of Young Detainees means the register that must be kept by the Director-General under section 185 of the *Children and Young People Act 2008*. The details of every young person who is admitted to a detention place must be recorded on the register at induction. The register comprises of the young person's individual Bimberi Client residential file and information stored electronically on the Youth Justice Information System (YJIS).

Segregation Direction is a specific instruction given by the Manager for the management of a young person in a way that separates the young person from some or all other young people due to safety and security reasons (e.g. health reasons or for the young person's protection).

Significant person for a child or young person is defined in section 14 of the *Children and Young People Act 2008* and means a person (other than a family member) who the child or young person, a family member of the child

or young person or the Manager considers is significant in the child or young person's life.

Special Management Direction is a specific instruction given by the Manager relating to the need to implement or maintain special conditions for the management of a young person.

Staff refers to youth workers and other authorised persons.

Sterile zone refers to the area between the external security perimeter and the internal security perimeter at a detention place.

Torres Strait Islander person is defined in the dictionary of the *Children and Young People Act 2008* as a person who is a descendant of the Indigenous inhabitants of the Torres Strait Islands; who regards himself or herself as a Torres Strait Islander or if the person is a child, is regarded as a Torres Strait Islander by a parent or family member; and is accepted as a Torres Strait Islander by a Torres Strait Islander community.

Unauthorised person means a person who is not a staff member or a person who is not authorised to have access to the equipment, procedures or information.

Visitor is defined at section 137 of the *Children and Young People Act 2008* to include a person wishing to enter a detention place as a visitor.

Young person is defined at section 12 of the *Children and Young People Act 2008* and means a person who is aged 12 years and older, but under 21 years, who is required to be held in the Director-General's custody. A young person who is 21 years or older cannot be detained at a detention place. Young person means the same thing as young detainee, and young person aged 18-21 years means the same things adult young detainee, in the *Children and Young People Act 2008*.

Youth worker is defined at section 96 of the *Children and Young People Act 2008* and means an authorised person to whom the Director-General has delegated functions of a youth worker under the criminal matters chapters. The positions that have delegation as a youth worker for the policies and procedures are: Director, Bimberi (B), Deputy Senior Manager (C), Operations Manager (D), Programs and Services Manager (D), Unit Managers (E), Team Leaders (F), Youth Workers (G), Family Engagement Officer (F), Sports and Recreation Officer (F). Youth worker means the same as youth detention officer in the *Children and Young People Act 2008*.

5. Principles

Legislative Principles

5.1 The Act sets out the principles that must be considered by all decision-makers making decisions under this policy and procedure.

Section 8 Best interests of children and young people paramount consideration

- (1) In making a decision under this Act in relation to a particular child or young person, the decision-maker must regard the best interests of the child or young person as the paramount consideration.
- (2) In making a decision under this Act otherwise than in relation to a particular child or young person, the decision-maker must consider the best interests of children and young people.

Section 9 Principles applying to Act

- (1) In making a decision under this Act in relation to a child or young person, a decision-maker must have regard to the following principles where relevant, except when it is, or would be, contrary to the best interests of a child or young person:
 - (a) the child or young person's sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced
 - (b) the child or young person's education, training or lawful employment should be encouraged and continued without unnecessary interruption
 - (c) the child or young person's age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered
 - (d) delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child or young person's wellbeing.
- (2) A decision-maker exercising a function under this Act must, where practicable and appropriate, have qualifications, experience or skills suitable to apply the principles in subsection (1) in making decisions under the Act in relation to children and young people.

Section 10 Aboriginal and Torres Strait Islander principle

- (1) In making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person, in addition to the matters in section 8 and section 9, the decision-maker must take into account the following:
 - (a) the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child or young person's Aboriginal or Torres Strait Islander community
 - (b) submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the Director-General as providing ongoing support services to the child or young person or the child or young person's family
 - (c) Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.

Section 94 Youth justice principles

- (1) For the criminal matters chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that is relevant:
 - (a) if a child or young person does something that is contrary to law, he or she should be encouraged to accept responsibility for the behaviour and be held accountable
 - (b) a child or young person should be dealt with in a way that acknowledges his or her needs and that will provide the opportunity to develop in socially responsible ways
 - (c) a child or young person should be consulted about, and be given the opportunity to take part in making, decisions that affect the child or young person, to the maximum extent possible taking into consideration their age, maturity and developmental capacity
 - (d) if practicable and appropriate, decisions about an Aboriginal and Torres Strait Islander child or young person should be made in a way that involves their community
 - (e) if a child or young person is charged with an offence, he or she should have prompt access to legal assistance, and any legal proceeding relating to the offence should begin as soon as possible
 - (f) a child or young person may only be detained in custody for an offence (whether on arrest, on remand or under sentence) as a last resort and for the minimum time necessary
 - (g) children and young people should be dealt with in the criminal law system in a way consistent with their age, maturity and developmental capacity and have at least the same rights and protection before the law as would adults in similar circumstances
 - (h) on and after conviction, it is a high priority to give a child or young person the opportunity to re-enter the community
 - (i) it is a high priority that intervention with young people must promote their rehabilitation, and must be balanced with the rights of any victim of the child or young person's offence and the interests of the community.
- (2) The decision-maker may also consider any other relevant matter.
- (3) The youth justice principles are intended to be interpreted consistently with relevant human rights instruments and jurisprudence (e.g. the *Convention on the Rights of the Child*).
- (4) A reference in subsection (1) to a child or young person includes a reference to a person who is at least 18 years old but is being dealt with in relation to an offence committed, or alleged to have been committed, when he or she was under 18 years old.

Operational Principles

- 5.2 The following considerations inform this policy and procedure:
- (a) that the privacy of young people and visitors will be considered in decision-making about monitoring at a detention place
 - (b) that decisions in relation to the level of monitoring of young people should take account of the needs of the young person, their known history and their cultural background
 - (c) that youth workers of the same gender as the young person should be responsible for monitoring as far as practicable

- (d) that the use of electronic monitoring equipment should not be a substitute for personal interaction with young people.

6. Policy and Procedures

Safe and Secure Custody of Young People

- 6.1 At all times youth workers must manage young people in a manner that is consistent with this and all other policies and procedures, including providing appropriate placement and levels of supervision and observation.
- 6.2 A Safety and Security Segregation Direction may be made by the Manager to segregate a young person from other young people if the direction is reasonable and necessary to ensure the safety and security of a young person or other person at a detention place or (refer to Segregation Policy and Procedure).

Safety and Security of Young People or Other People at a Detention Place Perimeter

- 6.3 The Manager must ensure that the perimeter of a detention place is secure at all times. The perimeter of a detention place is all physical structures (e.g. fences or buildings) that form the secure outside boundary.
- 6.4 Youth workers must ensure that no one approaches (from within or outside), touches, climbs, alters or damages the perimeter of a detention place without the authority of the Manager.
- 6.5 All occasions of unauthorised contact with, tampering or breaching of the perimeter must be reported to the Manager immediately.
- 6.6 The Manager must ensure regular checks of the perimeter are conducted. The details regarding the conduct (e.g. who, when and where) and results of these checks are to be recorded in the Register of Searches and Uses of Force.
- 6.7 The Manager must ensure that all required maintenance and repairs to the perimeter are undertaken in the shortest time possible.

Buildings

- 6.8 The Manager must ensure that all buildings within a detention place are safe and secure at all times.
- 6.9 The Manager must ensure that all buildings are in a safe and functional condition and that security requirements are met.
- 6.10 The Manager must ensure regular safety and security checks of all buildings and operational areas surrounding buildings are conducted regularly. The details regarding the conduct (e.g. who, when and where) and results of these checks are to be recorded in the Register of Searches and Uses of Force.

Control of access to and movement of people within a detention place

- 6.11 The Manager has the authority to refuse entry to, and control movement within, a detention place by any person when the Manager reasonably considers it necessary to do so.

- 6.12 The Admission and Classification Policy and Procedure applies to decisions about admission or non-admission of a young person to a detention place.
- 6.13 The Manager may refuse entry to a detention place by staff or visitor/s in the following circumstances:
- (a) for operational reasons (e.g. during a serious incident or emergency)
 - (b) where a person with parental responsibility has requested that a visitor/s not have access to a young person (given appropriate consideration to the views, age and maturity of the young person)
 - (c) where the young person has refused to see the visitor/s
 - (d) a legal reason (e.g. under the *Domestic Violence and Protection Orders Act 2008*)
 - (e) where there are insufficient youth workers to provide the necessary supervision or escort of the visitor/s
 - (f) where there is a reasonable suspicion that the visitor/s poses a threat to the safety and security of the young person or other people at a detention place
 - (g) where the visitor/s has not arranged for a visit.
- 6.14 The Manager must make reasonable attempts to ensure that a visitor/s entering a detention place do so for a legitimate reason (e.g. by asking visitor/s to declare the nature or purpose of the visit).

Prohibited areas

- 6.15 The perimeter zones, staff areas and staff duty points are prohibited areas for all young people at all times.
- 6.16 The entry courtyard, Visits Centre garden, Vehicle and Services Zone and grounds outside the perimeter are prohibited areas that are subject to approval being granted by the Manager for a young person to enter one of these areas. It is a behaviour breach for a young person to be in one of these prohibited areas without approval (refer to Behaviour Management Policy and Procedures).
- 6.17 Staff must ensure that all young people are provided with information about prohibited areas as soon as practicable after admission (refer to Admission and Classification Policy and Procedures).

Prohibited things

- 6.18 The only things that may be brought into a detention place by any person are things that are not prohibited things.
- 6.19 Searches of all persons entering the detention place, including staff, may be authorised under the Search and Seizure Policy and Procedures to detect for prohibited things (refer to Search and Seizure Policy and Procedures).
- 6.20 It is an offence under section 230 of the *Children and Young People Act 2008* for a person to take a prohibited thing into a detention place, give a prohibited thing to a young person or remove a prohibited thing from a detention place, without the approval of the Manager.
- 6.21 If a youth worker reasonably suspects that a person has possession of a prohibited thing at a detention place, the youth worker must report the suspicion to the Manager. The Manager may direct a scanning, frisk or ordinary search of the person; the Manager may direct a body search.

All searches must be conducted in accordance with the Search and Seizure Policy and Procedures. A prohibited thing that is discovered, whether as a result of a search or at any other time, must be seized and the police must be notified.

Staff property

- 6.22 All staff at a detention place may only bring into the operational area of the detention place personal property that is required for the performance of their duties. This personal property must not include a prohibited thing.
- 6.23 Property in the possession of staff within a detention place may be searched according to the Search and Seizure Policy and Procedures.
- 6.24 If a staff member is found to have in their possession in an operational area of a detention place a prohibited thing, this is a reportable incident. The Manager may direct the person to leave the detention place and refuse the person re-entry to a detention place. The staff member may be investigated by the police, which may result in charges being laid. Disciplinary procedures under the *Public Sector Management Act 1994* may also be commenced against a staff member who is a public servant.

Equipment and maintenance

- 6.25 The Manager must ensure that all equipment, buildings and grounds within a detention place are kept in a safe and usable condition.
- 6.26 The Manager must ensure all equipment is routinely maintained and/serviced and where necessary audited to ensure compliance with appropriate standards, requirements or legislation.
- 6.27 The Manager must ensure all youth workers are trained in the use of all equipment required to perform their duties, including:
- (a) keys and passes
 - (b) radios
 - (c) utility belts
 - (d) gloves
 - (e) first-aid equipment
 - (f) breathing apparatus
 - (g) fire extinguishers
 - (h) instruments of restraint (restraint belt, flexicuffs, shields, helmets, and handcuffs)
 - (i) electronic equipment (computers, DVR systems, surveillance and alarms).
- 6.28 If a youth worker becomes aware of a breakage, breakdown, malfunction or damage to equipment it must be reported to the Operations Manager, to ensure all necessary repairs can be carried out.

Monitoring generally

- 6.29 The Manager may authorise the use of monitoring equipment, including video (CCTV) or audio surveillance to ensure the safety and security of a young person, staff and visitors.

- 6.30 Section 197 of the *Children and Young People Act 2008* sets out the considerations that must be balanced by the Manager in exercising monitoring functions under the Act and this policy and procedures. The Manager may make a decision to conduct monitoring if:
- (a) there are reasonable grounds to believe doing so will protect the physical safety, medical or mental health of a young person, staff or another person
 - (b) it is required by another policy and procedures
 - (c) a visitor has, for reasons relating to their own safety, requested monitoring to occur.
- 6.31 All people who enter a detention place may be subject to monitoring by the use of visual and/or audio surveillance equipment. The Manager must ensure that every person entering the detention place is aware that they may be monitored and their actions and voice recorded. Visitors will be advised of this upon entry to a detention place. A notice must also be posted within the entry of a detention place giving notice of monitoring in accordance with section 198 of the *Children and Young People Act 2008*. Youth workers must provide a verbal explanation to a visitor about monitoring if required.
- 6.32 Youth workers must ensure that communication at a visit between a young person and any of the following persons is not subject to audio monitoring or recording:
- (a) a lawyer representing the young person
 - (b) an Official Visitor
 - (c) a Commissioner
 - (d) the ACT Public Advocate
 - (e) the Ombudsman.
- 6.33 Monitoring records must be stored as official records in accordance with the Directorate's Records Management Program (RMP), a program required under the *Territory Records Act 2002* and includes the arrangements for the appropriate capture, creation, identification, storage, security, access to and destruction of, all Directorate records as required by this Act (refer to Records and Reporting Policy and Procedure).

Monitoring electronic communication including telephone calls

- 6.34 The *Children and Young People Act 2008* and the Visits, Phone Calls and Correspondence Policy and Procedures authorise the Manager to give directions to deny or limit a young person's phone calls if the Manager suspects on reasonable grounds that the call may:
- (a) undermine safety and security of the young person or other people at a detention place or
 - (b) revictimise a victim or
 - (c) circumvent any process for investigating complaints or reviewing decisions under this Act or
 - (d) have the purpose of causing community distress or
 - (e) cause harm to the young person or
 - (f) the direction is necessary and reasonable to safeguard the best interests of the young person.

- 6.35 Section 200 of the *Children and Young People Act 2008* and this policy authorise youth workers to monitor and record a young person's electronic communication, other than a protected electronic communication, to detect for the matters outlined in 6.37 or to detect for any other criminal activity.
- 6.36 Youth workers are not authorised to monitor or record a protected electronic communication. A protected electronic communication is defined at section 200 of the *Children and Young People Act 2008* and means an electronic communication between a young person and any of the following persons:
- (a) a lawyer representing the young person
 - (b) an Official Visitor
 - (c) a Commissioner
 - (d) the ACT Public Advocate
 - (e) the Ombudsman
- 6.37 If the Manager has reasonable grounds to suspect or believe that a protected electronic communication may reveal information about the commission of an offence, the Manager must give the information on which the suspicion or belief is based to the police.
- 6.38 Youth workers may do either or both of the following in relation to all other electronic communication occurring within the detention place:
- (a) monitor the communication
 - (b) record the communication
- 6.39 Youth workers must inform the parties to the communication that the communication may be subject to monitoring and recording.
- 6.40 If the communication reveals information about the commission of an offence, the Manager must give the information to the police.

Monitoring ordinary and protected mail

- 6.41 The Visits, Phone Calls and Correspondence Policy and Procedures outlines the circumstances in which ordinary and protected mail may be searched, read and censored or seized.

Key and pass security

- 6.42 The Manager must ensure all keys and passes are to be securely stored within the detention place (e.g. key safe).
- 6.43 The Manager must ensure all staff are issued an official Identification and Security Pass, Personal Identification Number (PIN) for access to the key safe and keys.
- 6.44 Upon the commencement of shift, staff must 'sign out' their pass and use their PIN to access only those keys they are allocated for their shift.
- 6.45 Upon completion of a shift, staff must 'sign in' their passes and use their PIN to return their keys to the key safe.
- 6.46 Staff are not permitted to give their keys or passes to any other person or to access another person's keys or passes without the approval of the Manager.
- 6.47 Staff are responsible for ensuring that keys and passes are not accessed by, or in the possession of, a young person at any time.

- 6.48 Staff may only remove keys from a detention place if given prior approval by the Manager.
- 6.49 In the event of unauthorised removal of keys by staff from a detention place, staff must return the keys to the detention place immediately.
- 6.50 The Manager must ensure regular audit checks of all detention place keys and passes.

Operational equipment

- 6.51 Operational equipment includes radios, safety cutters, hoffman knives, helmets, shields, pads, flexicuffs and handcuffs.
- 6.52 Operational equipment will be issued to a youth worker with the approval of the Manager for the duration of their shift.
- 6.53 A youth worker is responsible for all operational equipment issued to them.
- 6.54 A youth worker is responsible for reporting breakage, breakdown, malfunction or damage to equipment and seeking replacement of operational equipment where necessary.
- 6.55 A youth worker is responsible for ensuring that operational equipment is not accessed by, or in the possession of, a young person at any time.
- 6.56 The Manager must ensure regular audit checks of all operational equipment.

Vehicles

- 6.57 The Manager must ensure that all vehicles at a detention place are maintained and serviced in accordance with the manufacturer's guidelines.
- 6.58 Prior to using any vehicle, a youth worker must check that it is roadworthy in accordance with Directorate vehicle use policy. Any damage or defects should be reported immediately to the Manager.
- 6.59 Prior to using a vehicle for any purpose, youth workers should be aware of the guidelines for use of vehicles by ACT Public Service employees, available on the Directorate's intranet. In general, drivers of detention place vehicles are required to:
 - (a) be appropriately licensed
 - (b) obey all traffic laws and parking restrictions
 - (c) behave in a courteous way at all times
 - (d) ensure the safe and efficient operation of the vehicle, and that any cargo is properly secured
 - (e) record accurate and timely information on business use
 - (f) report vehicle accidents and defects
 - (g) ensure that due care and security is afforded to the vehicle
 - (h) drivers should note that they are liable for any infringements and fines incurred while utilising a ACT Government vehicle
 - (i) complete appropriate paperwork when travelling interstate.

Vehicles on escort

- 6.60 The Manager must ensure that all vehicles to be used for escorts are appropriate and roadworthy in accordance with Directorate vehicle use

- policy and ensure that the vehicle is fitted with an operational fire extinguisher and first aid kit.
- 6.61 Whenever possible, the detention place designated escort vehicle should be used for escorts. If the escort vehicle is unavailable, the Manager may give approval for the use of another vehicle.
- 6.62 Youth workers conducting an escort must ensure they have appropriate authority and paperwork to conduct the escort.
- 6.63 Youth workers conducting an escort will have access to a communication device to ensure that communication with the detention place can be maintained.
- 6.64 Escorts will be conducted by two youth workers unless otherwise authorised by the Manager.
- 6.65 Youth workers conducting an escort are to use the most direct route to the destination and make no unauthorised stops.
- 6.66 The young person should be placed in the rear of the vehicle behind the passenger seat while under escort, and accompanied in the rear by the second youth worker.
- 6.67 When conducting an escort in a vehicle other than the designated escort vehicle, youth workers must ensure that both rear door child locks and all electric windows are in the locked position.
- 6.68 During transit to a destination, youth workers must not remove a young person from an escort vehicle unless the circumstances warrant evacuation.
- 6.69 In the event of a vehicle breakdown during an escort, escorting staff must:
- (a) secure all young people with consideration to their continued custody and safety
 - (b) notify the detention place of the exact location and request a back up vehicle
 - (c) upon arrival of the back-up vehicle, supervise the transfer of young people and their property/documentation to the replacement vehicle
 - (d) take charge of the replacement vehicle and continue with the escort unless otherwise directed
 - (e) ensure a youth worker remains with the broken-down vehicle unless otherwise directed
 - (f) notify the detention place once the escort has resumed.
- 6.70 In the event of an accident in which there are no injuries to escorting youth workers or young people, the escorting youth workers must:
- (a) secure all young people with consideration to their continued security and safety
 - (b) notify the detention place of the exact location, request assistance which may include a back up vehicle and a tow truck if necessary
 - (c) upon arrival of the back-up vehicle, supervise the transfer of young people and their property/documentation to the replacement vehicle
 - (d) take charge of the replacement vehicle and continue with the escort unless otherwise directed
 - (e) a youth worker is to remain with the damaged vehicle unless directed otherwise
 - (f) notify the detention place once the escort has resumed.

- 6.71 In the event of an accident where there is an injury to a young person or youth worker, the escorting youth workers must:
- (a) assess the seriousness of any injury or health complaint
 - (b) if necessary, call an ambulance, police and/or fire brigade and if required remain in communication with the relevant emergency service
 - (c) notify the Control Room, advise of the situation and request assistance
 - (d) as soon as it is safe to do so, one or both escorting youth workers must immediately commence first aid and if required continue until the arrival of a health professional (including ambulance officer or paramedic)
 - (e) the escorting youth workers must, so far as is reasonably possible, maintain the safe and secure custody of all young people on escort
 - (f) as soon as it is appropriate and safe to do so, the escorting youth workers and young person/s should return to the detention place.
- 6.72 Following notification of an accident involving an injury to a young person or youth worker, the Control Room staff should respond in accordance with the Health and Wellbeing Policy and Procedures.
- 6.73 The Manager must, in the event of an injury or hospitalisation of a young person, make arrangement for at least one youth worker to accompany the young person to hospital.

Vehicles entering or leaving a detention place

- 6.74 Vehicles entering or leaving the perimeter of a detention place can be subjected to a search to ensure:
- (a) they do not contain materials that are likely to constitute a threat to the safety and security of young people or other people at a detention place
 - (b) they are not being used, either deliberately or opportunistically, to aid in the escape of a young person
 - (c) that equipment and items brought into the detention place are accounted for prior to exit
 - (d) that they do not contain any prohibited things, or items that are unnecessary to complete the work to be undertaken.
- 6.75 Prior to a vehicle being admitted to a detention place, a youth worker must advise the owner of the above search requirements. Failure to agree to the search requirements will result in the vehicle not being admitted to a detention place. Failure to comply after being admitted may result in the police being notified and requested to attend.
- 6.76 Youth workers must ensure that no young person has access to any vehicle within the perimeter of a detention place without the authority of the Manager.
- 6.77 Any young person who has unauthorised access to a vehicle may be searched according to the Search and Seizure Policy and Procedures before being allowed to have access to other young people or buildings.

Control Room

- 6.78 Access to the Control Room is restricted to authorised youth workers.
- 6.79 Permission to enter the Control Room may be granted by the Manager, having regard to operational requirements at the time.

- 6.80 Youth workers must comply with the following security control measures at all times:
- (a) the entry doors to the Control Room must be kept closed at all times
 - (b) no unauthorised people are to be permitted entry.
- 6.81 The Control Room is to be staffed at all times unless authorised by the Manager.
- 6.82 If the youth worker on duty leaves the Control Room, a request must be made for a temporary replacement prior to this occurring. The youth worker is not to leave the Control Room until replaced.
- 6.83 The Directorate will seek to employ the appropriate numbers of male and female youth workers and ensure wherever possible a mix of male and female staff in rostering practices. Staffing of the Control Room may be altered to allow for the monitoring of young people by officers of the same gender. This may be managed through swapping youth workers or through adding additional youth workers as required. Where there is only one female or male youth worker rostered onto a shift, and an incident involving a female or male young person arises, the night shift team leader or, during the day, the Unit Manager, must ensure that the youth worker of the same gender is utilised most appropriately. The Team Leader or Unit Manager must consult with the Manager, if necessary, in relation to this issue.

Night shifts and lockdowns

- 6.84 The duty points must be staffed during night shifts and lock down periods.
- 6.85 Youth workers in the duty points must conduct observations as required and monitor electronic surveillance equipment, unless otherwise approved by the Manager.

Breaches of Safety and Security

- 6.86 A breach of the safety or security at a detention place is any action that directly contravenes the requirements or directions given under this policy and procedure or other policy, procedure, legislation or instruction that relate to the safety and security of young people or other people at a detention place.

Escapes and attempted escapes

- 6.87 All youth workers and escort officers must make every effort to prevent the escape or attempted escape of a young person, unless an officer believes that to do so would threaten their own safety or the safety of another person (refer to Local and Interstate Leave Policy and Procedures).
- 6.88 If a young person attempts to escape, a youth worker may use such force as is necessary to prevent the escape. Any use of force must be consistent with the Use of Force Policy and Procedures.
- 6.89 If a youth worker becomes aware of a young person attempting to or having escaped from a detention place, the officer must respond in accordance with the appropriate emergency response procedures at 6.93 and 6.99.

Responding to safety or security system failures

- 6.90 For the purposes of this policy and procedure, a safety or security system is any of the following:
- (a) the perimeter fence, part of the fence or the sterile zone
 - (b) a door, including an internal door of a unit or building within the operational area of a detention place or a perimeter door
 - (c) an electronic system that operates a door, door lock, intercom system, camera or surveillance system, communication device (e.g. radio)
 - (d) a personal or fixed duress alarm
 - (e) lock, key, operational equipment or instrument of force (e.g. utility belt, handcuffs, helmet, shield)
 - (f) safety or first aid equipment (e.g. first aid kit, breathing apparatus, fire extinguisher etc)
 - (g) any other thing that may affect the safety and security of young people or other people of a detention place.
- 6.91 If a youth worker suspects or becomes aware that there has been a failure to a safety or security system, the officer must do the following:
- (a) immediately assess the situation with respect to the safety of young people, staff or others and the safety and security of the detention place
 - (b) immediately notify the Unit Manager or if unavailable, the most senior youth worker on duty
 - (c) make all attempts to keep young people, staff or visitors away from the area affected
 - (d) if appropriate or necessary, call the appropriate code and seek assistance, or direct the locking down of all young people and/or the securing of the detention place.
- 6.92 If a Unit Manager or senior youth worker, in the absence of a Unit Manager, receives a notification of a potential safety or system failure, the youth worker/ Unit Manager must assess the level of risk associated with the system failure, and based on that risk do one or more of the following:
- (a) arrange replacement or recovery of the item
 - (b) arrange for the continued appropriate management of young people and ongoing safety and security of the detention place.

Emergency Responses

- 6.93 Preservation of life is the paramount consideration in an emergency situation. Youth workers must take all reasonable and necessary steps to minimise a risk of death or injury to young people, staff and visitors and to ensure that young people remain in safe custody for the duration of an emergency.
- 6.94 The Manager must ensure that a detention place has a current Emergency Response Plan that provides clear directions to all youth workers on how to respond to the following emergency situations:
- (a) escape
 - (b) fire
 - (c) bomb threat
 - (d) hostage situations
 - (e) riots and major disturbances

- (f) chemical spills
- (g) evacuations
- (h) major health issue such as contagious disease potentially requiring quarantining of young people or staff (e.g. measles).

Declaration of emergency and emergency powers

- 6.95 An emergency declaration may be made by the Director-General or Executive Director if it is reasonably believed that an emergency exists in relation to a detention place that threatens or is likely to threaten safety and security of young people or other people at the detention place. The declaration must comply with section 149 of the *Children and Young People Act 2008*.
- 6.96 During the declaration of an emergency, the Manager may implement one or more of the following emergency powers if it is necessary and reasonable in the circumstances:
- (a) restrict any activity at the place
 - (b) restrict access in, to or from, the place or any part of the place
 - (c) restrict communications between a young person and anyone else
 - (d) authorise a police officer or public servant, such as a corrections officer, to exercise any function of a youth worker in accordance with the Manager's directions
 - (e) evacuate some or all young people from the detention place.
- 6.97 Where the emergency declaration requires an evacuation that involves overnight relocation of any or all young people, young people must be evacuated to a temporary detention place. The Director-General may make a declaration under section 34 of the *Corrections Management Act 2007* if circumstances exist in relation to a detention place that make it necessary or prudent for a young person to be accommodated temporarily away from a detention place. While a declaration is in force, the Manager may direct that a young person be detained at a police cell or Court cell. The young person remains in the custody of the Director-General while detained at a police or Court cell.
- 6.98 Youth workers must ensure that the standards set out in the Minimum Living Conditions Policy and Procedures are upheld as far as practicable during the declaration of an emergency. This applies at a detention place or at a temporary detention place to which young people are evacuated. Youth workers must also ensure that existing separation and placement decisions are upheld as far as practicable during an emergency declaration. Additional youth workers may be required to assist during such a situation to minimise any risk to the safety and security of young people and youth workers.
- 6.99 In an emergency situation, all non-operational youth workers must remain in, or return to, a designated secured area until directed otherwise by the Manager.

Training

- 6.100 The Manager must ensure all youth workers receive regular training in all areas covered by this policy and procedures.
- 6.101 The Manager must ensure young people are appropriately trained in the emergency response procedures for the detention place.

6.102 Youth workers must undertake all necessary training to perform their duties as provided for by this policy and procedures.

Media

6.103 Staff must not respond to any media inquiries concerning matters at a detention place unless approved by the Director-General.

6.104 Unless otherwise authorised by the Director General, youth workers must refer all media inquiries to the Manager, Media and Communications, Community Services Directorate.

Provision of Information, Review of Decisions and Complaints

6.105 Staff must ensure young people, people with parental responsibility, nominated persons, family and visitors are provided with information about matters that affect them in a timely manner and in a manner that is likely to be understood.

6.106 A young person, person with parental responsibility, nominated person, family and visitors are able to request a review of a decision or make a complaint about something that happens at a detention place to a youth worker, Manager, the ACT Public Advocate, the Official Visitor, the Children, Youth and Families Complaints Unit, or the Supreme Court under the *Administrative Decisions (Judicial Review) Act 1989*.

6.107 Staff must ensure that the Complaints Management Policy and Procedures is followed.

Records and Reporting

6.108 Any actions taken under this policy and procedure must be recorded according to the requirements set out in the Records and Reporting Policy and Procedures

6.109 All staff are mandated reporters under the *Children and Young People Act 2008*. A report must be made to Child and Youth Protection Services if a staff member reasonably believes that a young person who is aged under 18 years has experienced or is experiencing sexual abuse or non-accidental physical injury by any person.

7. Forms and Templates

Incident report form

Register of Searches and Uses of Force

Register of Young Detainees

8. Related Policies and Procedures

Policies and Procedures under the *Children and Young People Act 2008*

Behaviour Management Policy and Procedures

Complaints Management Policy and Procedures

Health and Wellbeing Policy and Procedures

Local and Interstate Leave Policy and Procedures

Minimum Living Conditions Policy and Procedures

Records and Reporting Policy and Procedures

Search and Seizure Policy and Procedures

Use of Force Policy and Procedures

Policies and Procedures in Child and Youth Protection Services
Single Case Management Policy and Procedures

9. Further References

NA

10. Review

- 10.1 This policy and procedure will be reviewed at least once every two years.