

## **Children and Young People (Escorts) Policy and Procedures 2018 (No. 1)**

### **Notifiable instrument NI2018-439**

made under the

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

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#### **1 Name of instrument**

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

#### **2 Commencement**

This instrument is to commence the day after notification.

#### **3 Repeal**

NI2015-387 is revoked.

#### **4 Policies and operating procedures**

Under section 143 of the *Children and Young People Act 2008*, I make the attached Escorts 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

# Escorts Policy and Procedures

## 1. Introduction and Purpose

A young person may require to be escorted between a detention place and a Court or Tribunal, health facility, correctional centre or another place in the ACT under a warrant, Court Order, transfer direction, leave permit or other lawful authority for the escort. A young person may also require escorting to a place interstate under an interstate leave permit or interstate transfer arrangement or order. Escorting of children and young people is the responsibility of escort officers and transfer escorts.

The functions of an escort officer and transfer escort are to ensure the safe and secure custody of a young person while they are being escorted in accordance with the *Children and Young People Act 2008* and this policy and procedure.

## 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. Div 5.1.1 (Transfers within ACT - general), Div 5.1.2 (Escorting young people etc), section 99 (Transporting young people to and from Court - young people to be kept separate from adult young people), section 100 (Detaining young people at Court - young people to be kept separate from adult young people) apply to escorts within the ACT. Part 5.2 (Interstate Transfers) and Division 6.8.2 (Interstate Leave) apply to escorts outside the ACT.
- 2.2 Section 103 of the Act allows the Director-General to make an arrangement for escorting a child, a young person or a young person with the Director-General responsible for administering the *Corrections Management Act 2007* and the Chief Police Officer. Section 152 of the *Children and Young People Act 2008* allows the Director-General or delegate to ask another Director-General for assistance in relation to the exercise of functions under the criminal matters chapters (chapters 4 to 9) of the Act. The request must be complied with as far as practicable.
- 2.3 The provisions of the *Children and Young People Act 2008* must be complied with at all times by staff exercising functions at a detention place. The powers of transfer escorts and escort officers are provided by section 123 in Part 5.2 and section 244 in Division 6.8.2 of the Act.
- 2.4 The policies and procedures provide specific directions to implement the provisions of the Act and other relevant legislation including the *Corrections Management Act 2007* and the *Human Rights Act 2004*.
- 2.5 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.

2.6 The following international human rights standards apply in the ACT and are relevant to this policy and procedures:

- (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  
Standard Minimum Rules for the Treatment of Prisoners
- (d) Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- (e) United Nations Declaration on the Rights of Indigenous People.

### 3. Authorisations and Delegations

- 3.1 This policy and procedures applies to all people exercising escort functions for young people on behalf of the Director-General, including youth workers, corrections officers, police officers and/or persons acting as transfer escorts with the approval of the Manager.
- 3.2 The Manager is responsible for ensuring that all persons exercising escort functions for young people on behalf of the Director-General are appropriately trained in this policy and procedures and all relevant policies and procedures.
- 3.3 A Corrections Officer providing assistance to the Director-General as an escort officer may exercise any function exercisable by a youth worker under the criminal matters chapters in accordance with any direction by the Manager.
- 3.4 The escort officer or transfer escort must ensure that they are in possession of a fully stocked first aid kit prior to undertaking an escort.
- 3.5 The Manager must ensure that transfer escorts and escort officers who are not youth workers have been trained in the use of approved techniques for the use of force (not including strikes, locks and pressure point holds) and approved instruments of restraint, in accordance with the Use of Force Policy and Procedures.
- 3.6 The Health and Wellbeing Policy and Procedures is to be applied by all persons transporting a young person and/or exercising escort functions under the direction of the Manager.

### 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 (E), Sport and Recreation Officers.

**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.

**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.

**Correctional centre** is defined in the dictionary of the *Corrections Management Act 2007* and means a place declared to be a correctional centre under section 24 of that Act. The Alexander Maconochie Centre is declared as a correctional centre under this definition.

**Corrections officer** is a person appointed under section 19 of the *Corrections Management Act 2007* by the Director-General responsible for that Act.

**Court Transport Unit** is an administrative unit of ACT Corrective Services, Justice and Community Safety Directorate with administrative responsibility for the provision of Court transport functions.

**Escort officer** is defined in the dictionary of the *Children and Young People Act 2008* and means a youth worker, a police officer or a corrections officer.

**Interstate Leave Permit** is a written permit issued by the Director, Bimberi under section 242 of the *Children and Young People Act 2008* and authorises a young person's leave to travel to and from, and remain in, another State.

**Local Leave Direction** is a written direction issued by the Director, Bimberi under section 240 of the *Children and Young People Act 2008* that a young person be taken from a detention place to another place in the ACT for any purpose considered appropriate.

**Local Leave Permit** is a written permit issued by the Manager under section 241 of the *Children and Young People Act 2008* and authorises a young person to be absent from a detention place for the purpose for which the direction was given.

**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.

**Mandated reporter** under the *Children and Young People Act 2008* includes staff at a detention place. The Act requires a staff member to report a reasonable belief that a young person who is under 18 years has experienced or is experiencing non-accidental physical injury or sexual abuse.

**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.

**Observations** occur to ensure the safety and engagement of a young person within a detention place. Further information about observations is in the Admission and Classification Policy and Procedures.

**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** refers to ACT Policing.

**Police cell** means a cell at a police station in the ACT.

**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* as a record of any search, seizure or use of force. All forms recording these activities must be completed and filed in the register.

**Restraint** means body contact or the use of instruments of restraint including restraint belts, flexicuffs, shields, helmets, handcuffs and other approved items.

**Special Management Direction** is a specific instruction given by the Director, Bimberi 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.

**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.

**Transfer escort**, for interstate transfers, is defined at section 114 of the *Children and Young People Act 2008* and means a police officer, a corrections officer, a youth worker or a person acting as a transfer escort with the approval of the Director, Bimberi who is authorised under a transfer agreement, arrangement or order.

**Use of force** means the amount of effort required to reduce an immediate risk and to maintain the safety and security of a young person or other people. Use of force is an option of last resort and must be the minimum necessary to achieve the required outcome. The use of force is not a response to achieve compliance with a direction. Use of force includes body contact and the use of instruments of restraint.

**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), Sport and Recreation Officer. 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 procedures.

#### Section 8 Best interests of children and young people paramount consideration

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

## 6. Policy and Procedures

6.1 Table 6A outlines the arrangements for escorting children and young people by police officers, youth workers, corrections officers, transfer escorts and escort officers.

**Table 6A Arrangements for escorts of children and young people**

In Custody of or at	Escort direction	Where	Agency Responsible	Powers of escort officers
Police custody or police cells	To	Court/Tribunal	Police	Section 31, <i>Corrections Management Act 2007</i> . Scanning, frisk, ordinary, strip searches in accordance with parts 7.1, 7.2, 7.3, 7.4 and 7.9 of the <i>Children and Young People Act 2008</i>
Police custody or police cells	To/From	Detention place	Police/JACS (CTU)	Section 31, <i>Corrections Management Act 2007</i> . Scanning, frisk, ordinary, strip searches in accordance with parts 7.1, 7.2, 7.3, 7.4 and 7.9 of the <i>Children and Young People Act 2008</i>
<b>Escorts within ACT</b>				
CSD at detention place	To/From	Court/Tribunal	JACS (CTU)/CSD as negotiated	Section 103, <i>Children and Young People Act 2008</i> . Any function that could be exercised in relation to admitted young person
CSD at detention place	To/From	Place in ACT under local leave permit with escort direction	CSD	Section 103, <i>Children and Young People Act 2008</i> . Any function that could be exercised in relation to admitted young person
CSD at detention place	To/From	ACT Health Facility under Transfer Direction	CSD	Section 103, <i>Children and Young People Act 2008</i> . Any function that could be exercised on admitted

				young person
CSD at detention place	To	Correctional Centre under Transfer Direction (adult young detainee only)	CSD/JACS (CTU) as negotiated	Section 103, <i>Children and Young People Act 2008</i> . Any function that could be exercised in relation to admitted young person
CSD at detention place	To/From	Temporary detention place during emergency evacuation	CSD and/or JACS (CTU) as negotiated	Section 103, <i>Children and Young People Act 2008</i> . Any function that could be exercised in relation to admitted young person
<b>Escorts by escort officers or transfer escorts outside ACT</b>				
CSD at detention place	To/From	Interstate detention place or other place under interstate transfer order or arrangement	CSD	Section 123, <i>Children and Young People Act 2008</i> to: <ul style="list-style-type: none"> <li>• give directions</li> <li>• use force</li> <li>• scanning, frisk or ordinary search if suspected to be carrying prohibited thing</li> </ul>
CSD at detention place	To/From	Place interstate under interstate leave permit with escort direction	CSD	Section 244, <i>Children and Young People Act 2008</i> to: <ul style="list-style-type: none"> <li>• give directions</li> <li>• use force</li> <li>• scanning, frisk or ordinary if suspected to be carrying prohibited thing</li> </ul>

### Young People in Police Custody at Police Cells

- 6.2 Section 30 of the *Corrections Management Act 2007* requires that a young person is lawfully required to be in police custody must not be detained continuously at a police cell for a period longer than 12 hours. If a young person is lawfully required to remain in police custody for a period longer than 12 hours, the Chief Police Officer may direct that the person be transferred to the custody of the Director-General for the purposes of the police custody.
- 6.3 If a young person is detained at a police cell, the Chief Police Officer must ensure that the young person:
- is kept separate from young people aged over 18 years
  - has prompt access to medical and legal assistance
  - is told, in language and a way he or she can readily understand, about the reason for the detention and the procedures that apply
  - is able to contact and be contacted by each of the following:
    - a Commissioner exercising functions under the *Human Rights Commission Act 2005*
    - the ACT Public Advocate
    - the Ombudsman.
- 6.4 Section 31 of the *Corrections Management Act 2007* allows the Chief Police Officer to direct a police officer to conduct a scanning search, frisk search, ordinary search or strip search of a young person detained at a police cell. Parts 7.1, 7.2, 7.3, 7.4 and 7.9 of the *Children and Young People Act 2008*

apply to the direction as if the direction was made in relation to a young person at a detention place.

- 6.5 Section 105 of the *Children and Young People Act 2008* applies to an arrested child or young person, or young person aged 18 to 21 years arrested for an offence allegedly committed while they were aged under 18 years, who is in police custody and required by law to be brought before a Court or Tribunal. A police officer may require an escort officer to bring the arrested person before the Court or Tribunal. The escort officer must bring the arrested person before the Court or Tribunal and may take the arrested person into custody and arrange for the arrested person to be detained until the person is brought before the Court or tribunal.

#### Admission of Young Person to Detention Place

- 6.6 A young person must not be admitted to a detention place without relevant legal authority (refer to the Admission and Classification Policy and Procedures).
- 6.7 A police officer, corrections officer, escort officer, or transfer escort must ensure that appropriately verified authorising documentation for a young person's admission is provided to a youth worker at the time of escorting a young person to a detention place.

#### Escorts by Escort Officers within the ACT

##### *Legal authority for escort officer functions*

- 6.8 The arrangements for escorts of young people by escort officers are outlined at Table 6A.
- 6.9 The legal authority for an escort officer to escort a young person is provided by section 104 of the *Children and Young People Act 2008*.
- 6.10 The escort officer is authorised to have custody of the young person for the purpose of escorting the young person in accordance with the order, warrant or other legal authority for the escort and the young person is also taken to be in the custody of the Director-General.
- 6.11 An escort officer may exercise functions in relation to the young person in accordance with this policy and procedure, subject to any direction of the Manager.

##### *Directions to escort officers*

- 6.12 The Manager may give directions to an escort officer in relation to a young person under section 101 of the *Children and Young People Act 2008*.
- 6.13 The escort advice form is taken to be a direction to an escort officer to ensure the safe and secure custody of the young person in accordance with any directions on the form. The escort officer must ensure that the directions on the escort advice form are complied with, unless otherwise authorised by the Manager. If the Manager verbally authorises a change to direction/s, the change must be recorded by the escort officer on the form and signed by the escort officer.
- 6.14 Examples of directions include:
- (a) a direction to take the young person to a place stated in the direction
  - (b) a direction in relation to the level of observations for the young person
  - (c) a direction in relation any special management directions that apply for the young person.

- 6.15 An escort officer is authorised to have custody of the young person in accordance with the escort advice form and any other direction or directions on the form.

#### *Escorts to and from a Court or Tribunal*

- 6.16 The Manager must arrange for a young person in the Director-General's custody at a detention place to be brought before a Court or Tribunal in accordance with an order, warrant or other authority of the Court or Tribunal. The arrangements for escorts of young people to and from a Court or Tribunal are outlined at Table 6A. The Court Transport Unit will provide escort services for young people between a detention place and a Court or Tribunal, unless otherwise arranged and agreed between the Manager and the Superintendent of the Court Transport Unit, or their representative/s. This may include, but is not limited to, circumstances in which the young person's needs and risks are more appropriately responded to by a youth worker rather than a corrections officer.
- 6.17 If a young person is being escorted from a detention place to a Court or Tribunal, a youth worker must complete an escort advice form and provide the form to the escort officer. The form must include all relevant information about the young person, including age, cultural identity, health information, security classification and risks and alerts, including risk of self-harm or suicide, level of observations and any special management directions. The form is taken to be a direction to the escort officer to ensure the safe and secure custody of the young person in accordance with any directions on the form. The escort officer must ensure that the directions on the form are complied with, unless otherwise authorised by the Manager. If the Manager verbally authorises a change to direction/s, the change must be recorded by the escort officer on the form and signed by the escort officer.
- 6.18 If a young person who is aged under 18 years is being escorted from a detention place to a Court, or from a Court to a detention place, the young person must not be transported with a detained adult, including an young person aged 18-21 years, and must not be placed in a room with a detained adult, including an young person aged 18-21 years.
- 6.19 An escort officer who is required to bring a young person to a Court must ensure, as far as practicable and subject to any order or direction of the Court, the welfare and safe custody of the young person for the purposes of the proceeding and ensure that the young person does not obstruct or hinder the proceeding.
- 6.20 An escort officer is responsible for ensuring that any information provided by a Court or Tribunal, police officer or other source that is relevant to the young person's risks and alerts is recorded on the escort advice form.

#### *Detention in Court cells*

- 6.21 Section 33 of the *Corrections Management Act 2007* requires that a young person who is in the Director-General's custody must not be detained continuously at a Court cell for a period longer than 12 hours. An escort officer must record on the escort advice form the date and time when the young person was placed in a Court cell. An escort officer is responsible for ensuring that a young person is not held in a Court cell for a period in excess of 12 hours and that the young person is returned to custody at a detention place as soon as practicable.

- 6.22 During the period that a young person is detained at a Court cell, the Deputy Superintendent and Custodial Officer 3 or Deputy Superintendent of the Court Transport Unit are responsible for ensuring that the young person:
- (a) is kept separate from adult detainees including young people aged 18-21 years
  - (b) has prompt access to medical and legal assistance
  - (c) is told, in language and a way he or she can readily understand, about the reason for the detention and the procedures that apply
  - (d) is able to contact and be contacted by each of the following:
    - i. a Commissioner
    - ii. the ACT Public Advocate
    - iii. the Ombudsman.
- 6.23 An escort officer must record on the escort advice form whether medical assistance was provided to the young person while at a Court cell.

#### *Powers of escort officers*

- 6.24 An escort officer may, for the purpose of escorting a young person, give the young person any direction that the officer believes is necessary and reasonable. Examples of directions that an escort officer may give include:
- (a) a direction that the young person not have contact with a particular person
  - (b) a direction that the young person remain within sight of the escort officer
  - (c) a direction that the young person remain at a certain place for a stated period.
- 6.25 An escort officer must record on the escort advice form any non-compliance with a direction by a young person.

#### *Search and seizure*

- 6.26 An escort officer may, for the purpose of escorting a young person, undertake a property or area search, or a scanning, frisk, ordinary or strip search of the young person in accordance with the Search and Seizure Policy and Procedures, subject to any directions recorded on the escort advice form or any other direction of the Manager.
- 6.27 If a young person objects to a search, and the escort officer is a youth worker, the officer must seek authorisation for the search from the Manager. If a young person objects to a search, and the escort officer is a corrections officer, the officer must seek authorisation for the search from the officer in charge of the Court Transport Unit. The escort officer must record on the Register of Searches and Uses of Force any objection to a search by a young person and the Manager or officer in charge's decision to authorise or not authorise the search.
- 6.28 An escort officer may seize a prohibited thing that is discovered in accordance with the Search and Seizure Policy and Procedures. The seizure must be recorded on the Register of Searches and Uses of Force. The escort officer seizing the thing is responsible for giving notice of the seizure in accordance with section 282 of the *Children and Young People Act 2008*. If the escort officer is not a youth worker, the escort officer must give the seized thing to a youth worker who is responsible for dealing with the thing under the Search and Seizure Policy and Procedures.

#### *Use of force*

- 6.29 An escort officer may, for the purpose of escorting the young person, use force in relation to the young person in accordance with the Use of Force Policy and Procedures, subject to any directions recorded on the escort advice form or any other direction of the Manager.
- 6.30 Only instruments of restraint and approved techniques authorised by the Use of Force Policy and Procedures may be used by an escort officer.
- 6.31 Any use of force by an escort officer in relation to a young person must be recorded by the escort officer on the appropriate form, including any use of an instrument of restraint. The form must be provided by the escort officer to a youth worker at the conclusion of the escort. The youth worker must enter a record number on the form and enter the form in the Register of Searches and Uses of Force at the detention place.
- 6.32 If force has been used against a young person that has caused an injury to the young person, an escort officer must ensure the young person is examined by a treating doctor as soon as practicable following the use of force. An injury includes any injury to the young person's body observed by a youth worker, such as bruising or marks, or any injury or potential injury identified by the young person, such as a complaint of pain to a body part.
- 6.33 If force has been used against a young person which has not caused an injury to the young person, the Manager or Team Leader must ensure the young person is offered a medical examination by a treating doctor or nurse as soon as practicable following the use of force. If the young person accepts the offer of a medical examination, the Manager or Team Leader must ensure the medical examination is arranged as soon as practicable and that appropriate health care is available to the young person consistent with the Health and Wellbeing Policy and Procedures.

#### Escorts by Escort Officers or Transfer Escorts outside the ACT

- 6.34 A young person may be escorted to a place interstate under an interstate leave permit with an escort direction in accordance with the Local and Interstate Leave Policy and Procedures or to an interstate facility under the Interstate Transfers Policy and Procedures.
- 6.35 The powers of escort officers escorting a young person under an interstate leave permit are outlined at section 244 of the *Children and Young People Act 2008* and the powers of transfer escorts escorting a young person under the Interstate Transfers Policy and Procedures are outlined at section 123 of the *Children and Young People Act 2008*.
- 6.36 To keep custody of the young person under an interstate leave permit or transfer order or arrangement, an escort officer or transfer escort may:
  - (a) conduct a scanning search, frisk search or ordinary search of the young person if the officer suspects on reasonable grounds that the young person may be carrying a prohibited thing. For a scanning, frisk or ordinary search, the Search and Seizure Policy and Procedures must be applied
  - (b) give the young person any direction that the officer believes is necessary and reasonable
  - (c) use force in accordance with the Use of Force Policy and Procedures.
- 6.37 The escort officer or transfer escort must record the search, any seizure or use of force on the Register of Searches and Uses of Force.

#### Procedures Applying to Escorts Within and Outside the ACT

##### *Application of health and wellbeing policy and procedures*

- 6.38 The Health and Wellbeing Policy and Procedures are to be applied by all persons transporting a young person and/or exercising escort functions under the direction of the Manager.

*Application of safety and security and local and interstate leave policy and procedures*

- 6.39 The Safety and Security Policy and Procedures and Local and Interstate Leave Policy and Procedures must be applied in relation to the security of the escort and any attempted escape, or escape, of a young person under escort.

*Application of property policy and procedures*

- 6.40 The Property Policy and Procedures must be applied in relation to the transfer of a young person's property with them under escort.

*Application of records and reporting policy and procedures*

- 6.41 An escort officer or transfer escort escorting a young person in accordance with this policy must ensure that all relevant information in relation to the young person and the escort is fully and accurately recorded on the escort advice form.
- 6.42 An escort officer or transfer escort escorting a young person must report a Category 1 or Category 2 Reportable Incident to the Manager in accordance with the Records and Reporting Policy and Procedures and incident report form.
- 6.43 An escort officer or transfer escort who is escorting a young person must record any use of force in relation to the young person on the Register of Searches and Uses of Force.
- 6.44 An escort officer or transfer escort escorting a young person must record a property, area or personal search of the young person on the Register of Searches and Uses of Force, including details of anything seized.

*Application of death in custody policy and procedures*

- 6.45 A death in custody means the death of a young person under detention at a detention place, at a health facility, under escort, or on approved leave, whether within or outside the ACT.
- 6.46 The Death in Custody Policy and Procedures must be applied in the event of the death of a young person under escort.

*Application of provision of information, review of decisions and complaints*

- 6.47 If a young person wishes to make a complaint about their treatment or an incident occurring while the young person is under escort by an escort officer or transfer escort, the Complaints Policy and Procedures are to be applied. A complaint may be made to detention place staff, the Children, Youth and Families Complaints Unit, the Public Advocate, the Official Visitor or the Supreme Court under *the Administrative Decisions (Judicial Review) Act 1989*. This applies regardless of whether the complaint is made during the period the young person is under escort or at a later time, and regardless of whether the escort is within or outside the ACT.
- 6.48 If a complaint received relates to an escort officer who is not a youth worker, the Manager must refer the complaint to the Officer in Charge of the relevant agency. The outcome of any internal investigation by another

- agency in relation to an escort officer who is not a youth worker must be provided to the Manager, unless this information is protected by law
- 6.49 An escort officer or transfer escort must assist fully in any complaint or review process.

#### Provision of Information, Review of Decisions and Complaints

- 6.50 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.
- 6.51 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 Public Advocate, the Official Visitor, the Children, Youth and Families Complaints Unit, or the Supreme Court under the *Administrative Decisions (Judicial Review) Act 1989*.
- 6.52 Staff must ensure that the Complaints Management Policy and Procedures is followed.

#### Records and Reporting

- 6.53 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
- 6.54 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 staff reasonably believe that a young person who is under 18 years has experienced or is experiencing sexual abuse or non-accidental physical injury by any person.

### **7. Forms and Templates**

Escort advice form  
Incident report form  
Register of Searches and Uses of Force  
Reportable incident form

### **8. Related Policies and Procedures**

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

Complaints Management Policy and Procedures  
Death in Custody Policy and Procedures  
Health and Wellbeing Policy and Procedures  
Local and Interstate Leave Policy and Procedures  
Property Policy and Procedures  
Records and Reporting Policy and Procedures  
Search and Seizure Policy and Procedures  
Safety and Security Policy and Procedures  
Transfers Policy and Procedures  
Use of Force Policy and Procedures

#### Policies and Procedures in Child and Youth Protection Services



Single Case Management Policy and Procedures  
Service Partnership Agreement between Justice and Community Safety  
Directorate and Community Services Directorate.

## **9. Further References**

NA

## **10. Review**

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