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14 June 2023

Our ref: GIPA22/ [REDACTED]

[REDACTED]

By email only: [REDACTED]

Dear [REDACTED]

SUPPLEMENTARY NOTICE OF DECISION

I refer to your access application under the *Government Information (Public Access) Act 2009* (GIPA Act) received by the Department of Communities and Justice (the Department).

Following scope negotiations, you seek access to the following information:

Youth Justice NSW (YJNSW)

1. *Copies of the Register of Strip Searches at each juvenile justice centre for the period **1 April 2022 to 30 April 2022** showing:*
 - *the reasons why the partially clothed searches were conducted.*
 - *the gender of the young person subjected to the partially clothed searches.*
 - *the Indigenous status of the young person subjected to the partially clothed searches; and*
 - *if any contraband was found as a result of the partially clothed searches and, if so, the nature of those items.*

The juvenile centres include:

- *Cobham Juvenile Justice Centre*
 - *Frank Baxter Juvenile Justice Centre*
 - *Acmena Juvenile Justice Centre*
 - *Orana Juvenile Justice Centre.*
 - *Reiby Juvenile Justice Centre; and*
 - *Riverina Juvenile Justice Centre*
2. *Any other documents that provide guidance on the conduct of partially clothed searches of detainees at the centres including, without limitation, instructions, manuals, guidelines, policies and directives.*

Corrective Services (CSNSW)

1. *Any registers or records of partially clothed searches and strip searches of detainees conducted at the centres for the period 1 October 2021 to 30 April 2022 including (but not limited to):*
 - *Information pertaining to the number of partially clothed searches and strip searches conducted*

- *Information pertaining to the reasons why the partially clothed searches and strip searches were conducted*
 - *The gender and indigenous status of the people subjected to the partially clothed searches and strip searches*
 - *Whether the people subjected to the partially clothed searches and strip searches are young people or adults in detention*
 - *The centre (including the type of centre, being a men's women's or unisex adult correctional centre or Youth Justice Centre) where each partially clothed search and strip search took place*
 - *The number of items of contraband located as a result of partially clothed searches and strip searches*
 - *The nature of those items.*
2. *Any other documents that provide guidance on the conduct of partially clothed searches of detainees at the centres including, without limitation, instructions, manuals, guidelines, policies and directives.*

On 27 April 2023, I decided to:

- to refuse to deal with your application with respect to your request for YJNSW information in point 1 (section 60(1)(a) of the GIPA Act),
- that information is already available to you with respect to your request for YJNSW information in point 2 (section 59(1)(d) of the GIPA Act),
- that information is not held with respect to your request for CSNSW information in point 1 (section 58(1)(b) of the GIPA Act),
- that information is publicly available on a website in respect of your request for CSNSW information in point 2 (section 58(1)(e) of the GIPA Act).

You were advised in the decision that in respect of point 2 of your request for YJNSW information, that this information is already available to you (section 59(1)(d) of the GIPA Act). You were also advised that the Department was waiting on a response on whether there are any updated policies and procedures and will provide a supplementary decision if updated information is held.

I have received updated policies and procedures, accordingly, this a supplementary decision which considers the updated information received from YJNSW. This decision supplements the decision made on 27 April 2023.

Decision

I am authorised by the Principal Officer, for the purposes of section 9(3) of the GIPA Act to decide your access application.

I have decided to provide you with access to the information you have requested in point 2 of your request for YJNSW information.

Reasons for decision

Public interest considerations in favour of disclosure

Under section 12(1) of the GIPA Act, there is a general public interest in favour of disclosing government information. Section 12(2) of the GIPA Act sets out some examples of other public interest considerations in favour of disclosure. However, I am not limited to those considerations in deciding your application.

I find the following considerations in favour of disclosure are relevant to your application:

- There is a general public interest in favour of the disclosure of government information.
- Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.
- Disclosure of the information could reasonably be expected to inform the public about the operations of YJNSW with respect to partially clothed searches of young persons.

Public interest considerations against disclosure

When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the table to section 14 of the GIPA Act.

I have not identified any public interest considerations against disclosure as being relevant to your application.

Balancing the public interest considerations

I have considered the relevant public interest considerations in favour of and against disclosure of the information that you have requested.

Having weighed up the considerations in favour of release, and in the absence of any public interest considerations against disclosure, I have decided to release the information that you seek in full.

Out of scope information

You may notice that some information has been redacted and marked “s74-out of scope”. The following information is not within the scope of your amended access application and has therefore been redacted as out of scope information:

- Signatures of staff members
- Email addresses

Review rights

If you disagree with the decision in this notice, you may seek a review under Part 5 of the GIPA Act. You have three review options:

- Internal review by another officer of this agency, who is no less senior than me;
- External review by the NSW Information Commissioner; or
- External review by the NSW Civil and Administrative Tribunal (NCAT).

You have 20 working days from the date of this Notice to apply for an internal review. If you would prefer to have the decision reviewed externally, you have 40 working days from the date of this notice to apply for a review by the NSW Information Commissioner or the NCAT.

To assist you, I have enclosed a fact sheet published by the NSW Information and Privacy Commission (IPC), entitled Your review rights under the GIPA Act. You can also find some useful information and frequently asked questions on the IPC's website:

www.ipc.nsw.gov.au. You can also contact the IPC on free call 1800 IPC NSW (1800 472 679).

If you have any questions, please contact this office at infoandprivacy@dcj.nsw.gov.au.

Yours sincerely,

Michelle

Michelle Chau Hua
Open Government, Information and Privacy, Legal
Department of Communities and Justice

OPERATIONAL MEMORANDUM

TO: All Youth Justice NSW Employees
FROM: Mike Wheaton, Director Policy and Practice
DATE: July 2022
SUBJECT: Introduction of X-Ray Body Scanners to Youth Justice NSW.

Who is this for?

All YJNSW employees responsible for conducting searches of young people in custody, and employees who hold a licence for the use of a Body Scanner within a YJNSW centre.

What is happening?

To increase transparency, improve child safety and reduce trauma for young people in custodial centres, x-ray body scanners (scanners) are being introduced at Cobham and Reiby Youth Justice Centres; the deployment of X-Ray Body Scanners to other YJNSW centres and some court facilities is also under consideration.

The introduction of the scanners will:

- make searching less intrusive for young people as the scanners are intended to reduce the need for Partial Clothed Body Searches
- provide a simpler and more precise method of contraband detection and thus, safer, and secure environments for young people, employees, and visitors.

The *Searching Young People Policy* (Policy) has been updated to include the use of body scanners in centres, in line with WHS and legislative requirements

A new *Body Scanner Procedure* (Procedure) has been developed to outline the processes for using scanners in centres. The Procedure includes directions for:

- assessing the need for a body scanner search
- conducting a body scanner search
- image analysis
- reporting and recording the search

A *Body Scanner Admissions Acknowledgement Form* has been developed for the purpose of approving and keeping records of young people who have been informed of *why* and *how* YJNSW uses body scanners searching.

The current *Search Register Template* has been updated to include Body Scanner Searches; Fixture/Fitting audits (in line with the updated *Searching Accommodation Rooms, Units and Other Areas Procedure*), and to

reinforce the necessity to conduct and document the risk identified/reason for a search taking place.

What needs to be done next?

All employees must read and understand the responsibilities associated with their roles. Centre management teams at Cobham and Reiby YJC's must action responsibilities outlined in the policy and procedure and monitor compliance.

Need more information?

The *Searching Young People Policy* and the *Body Scanner Procedure*, are located in [The Operations Manual \(TOM\)](#) under the category 'Safety, Security & Risk Management; topic 'Searching'.

Please forward any enquires to section 74 - out of scope [@justice.nsw.gov.au](mailto:section 74 - out of scope@justice.nsw.gov.au)

section 74 - out of scope

Mike Wheaton
Director, Policy and Practice

PARTIALLY CLOTHED BODY SEARCH

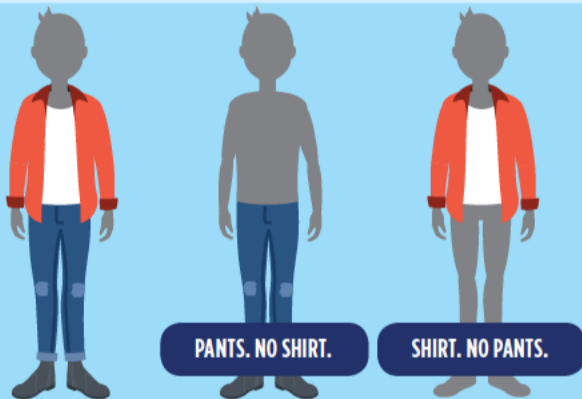
You and your things will be searched when you arrive



Before the search starts.
Hand over any stuff you shouldn't
have. It'll save lots of hassle.



There must be 2 staff present
during the search but only one
officer will be able to see you.



During the search you will
not be asked to remove all
your clothes at once.



You will not be fully naked
at any time.



Remember — staff cannot
touch you during the search.

If drugs or weapons are found on you the Police may be called

Searching Young People Procedure

Essential Summary

Audience

- Youth Officer (Supervising or Transporting)
- Unit Supervisor – as the person in charge of the unit at the time (the Unit Manager, or Shift Supervisor)
- Duty Manager
- Assistant Manager
- Centre Manager - as the person for the time being in charge of the centre

When to use this procedure

Use this procedure to identify the need to conduct or approve a search on young people within a Youth Justice NSW centre or court facility

This procedure must be read in conjunction with the *Searching Young People Policy* and *Clause 11A of the Children (Detention Centres) Regulation 2015*

Printed or saved copies of this document may not be up to date.

Please check in the [Operations Manual \(TOM\)](#) to ensure you have the latest version before using this document.



When using CIMs refer to [CIMs \[CLICK\]](#) for step by step instructions

DOCUMENT DETAILS

Version:	0.3
Policy Reference:	D21/0058/YJ
Maintained by:	Operations Unit
Status:	Final
Document Reference:	D21/

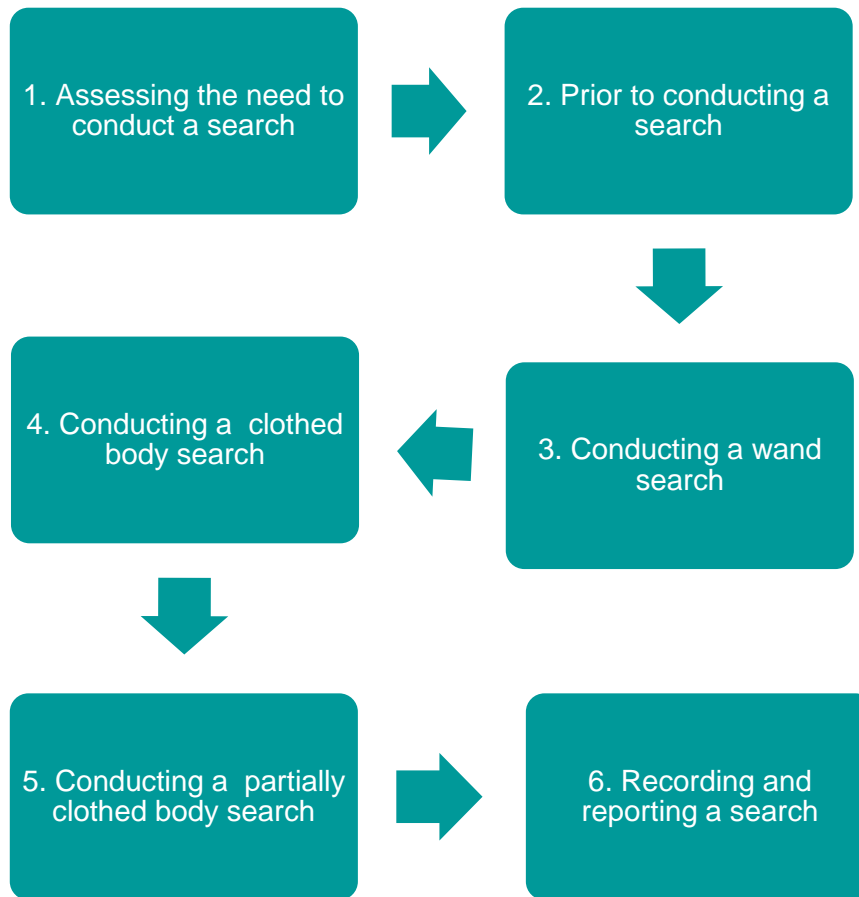
1. Purpose

The purpose of this procedure is to provide employees with directions for:

- risk assessing the need to conduct a search on a Young Person
- special considerations to be taken prior to conducting a search
- conducting wand, clothed body and partially clothed searches in a safe and non-harmful manner.

2. Process Map

Searching a Young Person Procedure



3.Procedural Steps

Step 1 – Assessing the need to conduct a search

Responsibility: Youth Officer (Transporting / Supervising Officer)

Tasks

Consider a Young Person’s current and recent behaviour and /or demeanour and notify your supervisor of any concerns in relation to risk to the Young Person and /or others.

Discuss if you consider a search of the Young Person to be the necessary with your supervisor and follow directions given.

Responsibility: Duty Manager (or responsible supervisor)

Tasks

Discuss and assess any risks as identified by the supervising or transporting officers.

Conduct a risk-based assessment to assess the need for a search and to identify what type of search is required. (*Refer to factors to be taken into account -section 7 of the Searching Young People Policy*)

Determine the type of search to be conducted based on the level of identified risk and inform the supervising / transport officers.

Seek a higher level of approval if required. (*See Approvals Table Section 4*).



Step 2 – Prior to conducting a search

Responsibility: Duty Manager (or responsible Supervising Officer)

Tasks

After a risk assessment has identified the need for a Young Person to be searched take into consideration that searching may be a traumatic or unsettling event for some young people and consider what actions can to be taken to limit the impact on a Young Person. (*section 9.1 of the Searching Young People Policy*).

Consider the age, cultural identity, current psychological state and gender identity of the Young Person when selecting and /or organising searching officers.

Provide young people who are transgender, gender diverse or intersex with an opportunity to give preference to the gender of the employee conducting the search. Give young people an opportunity to have different gendered searching officers for upper and lower partial body searches when requested by a Young Person.

If a searching officer of the preferred gender identity is not comfortable with a direction to search a Young Person assign another searching officer of the preferred gender to the task.

Refer to *section 9.1 of the Searching Young People Policy* if you require further clarification for assigning searching offices.

During a search support the searching officers to ensure that all steps are taken to cause the least amount of harm to a Young Person.

Provide the required number of two employees to conduct and observe a search, ensuring the appropriate personal protective equipment (PPE) is available and used by searching officers.

Responsibility: Youth Officer (Transporting / Supervising Officer)

Tasks

Have a clear understanding of what is defined as contraband and what items are approved for the Young Person to have in their possession.

Approval by the appropriate supervising officer must be gained for the type of search being conducted prior to starting the search (*See Approvals Table Section 4*).

Inform the Young Person that they are about to be searched and explain the reason and process to them, checking their understanding as you go. If the Young Person becomes extremely upset or agitated provide verbal support the young person and inform the supervising officer.

Provide the Young Person with an opportunity to voluntarily surrender or declare any dangerous or contraband items.

Clearly explain that before the Young Person surrenders any dangerous or contraband items, that they may be subject to a consequence as a result of being in possession of these items; however, their cooperation will be considered if a further consequence is required. This consequence is only applicable to searches conducted internally within a centre and does not apply to young people entering a centre for the first time.

Inform a Young Person being newly admitted to the centre, that no action under misbehaviour provisions will be taken against them if they dispose of dangerous or contraband items voluntarily.

Encourage young people returning from court, leave, camps, outings, and in transit from another centre to hand over any dangerous or contraband items on re-entering a centre.

Inform the young people of the level of consequences based on the types of item/s if they do handover the items.

Immediately contact the Duty Manager in the circumstances when the Young Person disposes of illicit objects or substances which constitute or are suspected to be evidence for a serious criminal offence, which warrants the involvement of Police. (refer to the *Exhibits Procedure*)

For instruction on conducting a:

- wand search proceed to step 3
- clothed body search proceed to step 4
- partially clothed body search proceed to step 5



Step 3 – Conducting a Wand Search

Responsibility: Youth Officer

Tasks

Ask the Young Person to stand facing away from you with feet shoulder width apart, raise their arms to the side, away from their torso with palms facing up.

Ensure that the wand at no time during this search comes into contact with the Young Person.

Stand behind or to the side of the Young Person.

Place the wand approximately 5 - 10cm from the outside of the Young Person's right foot and move the wand:

- up the right side of the Young Person's body
- under and over the right arm
- over the head
- over and under the left arm
- down the left side of the Young Person's body stopping at the foot

Move the wand to the inside of the Young Person's right foot and move the wand:

- up along the inside right leg, past crotch area, and down inside left leg to left foot
- holding the wand lengthwise and flat across Young Person's body move it up along back of the Young Person's body, over the head, down along the front of the Young Person's body
- ask the Young Person to raise each of their feet and move wand across the sole of each shoe

Responsibility: Observing Officer

Tasks

Position yourself so that you can observe the employee conducting the search to ensure the correct procedure is followed.



Step 4 – Conducting a Clothed Body Search

Responsibility: Youth Officer

Tasks

Complete a wand search prior to conducting the clothed body search.

Ask the Young Person to remove extra layers of clothing such as jumpers and shoes. At no time during a clothed body search is the Young Person to be partially clothed.

Search all removed clothing in front of the Young Person using protective equipment e.g. gloves or ruler, paying close attention to collars, cuffs, facings, lapels, seams and linings of clothing.

Footwear must not be returned to the Young Person until the entire search is completed. A clothed body search must be conducted from behind or to the side of the Young Person.

Search the Young Person's upper body:

Hands: Ask the Young Person to:

- face you
- move their hands out to side of their body with fingers spread apart while checking Young Person's hands for contraband

Head area: Ask the Young Person to:

- bend their head forward and run hands through their hair – from back to front
- raise their head, open mouth and remove any false teeth look into mouth cavity and ask the Young Person to run a finger around/ between teeth and gums
- turn their head to each side and pull ears forward

Neck and torso: Ask the Young Person to:

- stand facing away from you with their feet shoulder width apart and raise their arms to the side and away from their torso
- carefully pat down the Young Person, starting at back of the neck
- follow a direct course around collar ensuring nothing is hidden inside/under the shirt collar
- place both hands on base of the Young Person's neck covering shoulders with palms open and pressing firmly, pat down back and side to belt line

Arms:

- place one hand under the Young Person's armpit and other hand on top of their shoulder
- carefully pat down entire length of both sleeves to cuff/end of shirt
- repeat procedure with the other arm

Search the Young Person's lower body.

Waist and legs: Ask the Young Person to:

- release belt line and turn it out
- search belt line
- from back of waistline, carefully pat down over buttocks and sides of hips and legs
- if the Young Person is wearing long trousers, starting at either leg, place both hands around leg and carefully pat from top down, including any trouser turn-ups or cuffs
- repeat this on the other leg

Feet: Ask the Young Person to:

- lift one leg at a time to display soles of their feet and wiggle their toes

When the search is completed give the Young Person an opportunity to put their shoes and any other items of clothing back on.

Responsibility: Observing Officer

Tasks

Observe the employee conducting the search to ensure that the JJNSW searching procedure is followed.



Step 5 – Conducting a Partially Clothed Body Search

Responsibility: Youth Officer

Tasks

Complete a wand search prior to conducting a partially clothed body search.

Stand at a safe distance from Young Person and in sight of second officer, the second officer should not be able to see the Young Person.

Do not touch the Young Person at any time during the search.

Ask the Young Person to remove all articles from their pockets and turn pocket linings out, if not already done so during the wand search.

Ask the Young Person to remove extra layers of clothing such as jumpers and shoes leaving one layer of clothing on and to place the items on a table or other flat surface prior to starting the search.

At **no time** during a partially clothed body search is a Young Person to be completely naked.

Search all removed clothing in front of Young Person using protective equipment e.g. gloves or ruler, paying close attention to collars, cuffs, facings, lapels, seams and linings of clothing.

Footwear must not be returned to the Young Person until the entire search is completed.

Search Young Person's upper body

Hands: Ask the Young Person to:

- move their hands out to the front of their body with fingers spread apart and check for contraband

Head area: Ask the Young Person to:

- bend their head forward and run hands through their hair – from back to front
- raise their head, open mouth and remove any false teeth and run a finger around/ between teeth and gums
- turn their head to each side and pull ears forward

Ask the Young Person to:

- remove their upper layer of clothing and place on the search table. Undergarments (e.g. bras, singlets etc.) can be left on until over-garments are searched
- remove undergarments for searching when all upper clothing has been searched

Visually inspect the front and back of the Young Person's upper body. When completed ask the Young Person to put on their upper clothing (one layer only).

Begin lower body clothing search

Ask the Young Person to:

- remove their lower layer of clothing. Undergarments (e.g. underpants) can be left on until over-garments are searched

- remove undergarments for searching when all lower clothing has been searched

Conduct search of clothing in this step as quickly as possible (still ensuring a thorough search) so Young Person can be searched, and clothing returned as soon as possible to reduce embarrassment.

Search Young Person's lower body:

If the Young Person is wearing a long shirt/clothing that comes below waist:

- ask Young Person to lift clothing to waist-line and hold it there while you search lower body
- do this as quickly, but thoroughly, as possible to reduce embarrassment

Visually inspect the front and back of the Young Person's lower body, including:

- between toes (ask Young Person to wiggle toes);
- soles of feet (ask Young Person to lift one leg at a time to display soles)
- inner parts of legs and pubic area

Do **not** ask the Young Person to lift genitalia, squat or part buttocks.

When completed ask the Young Person to redress and leave the room to allow privacy. If searching multiple young people, direct those who have already been searched to sit in an area away from those who have yet to be searched to prevent the passing of contraband.

Responsibility: Observing Officer

Tasks

Observe the employee conducting the search to ensure that correct procedure is followed. When observing the search, position yourself so that you have a clear view of the searching officer, however cannot see the Young Person being searched.



Step 6 – Recording and Reporting a Search

Responsibility: Youth Officer

Tasks

After the search has been completed:

- remove any non-approved, dangerous or contraband items found during the search and report to the unit supervisor
- process any items found in line with the *Contraband and / or Exhibit procedures*
- record the search and all details, including full reasoning for any partial clothed body searches conducted, in the relevant *unit log* and *search register (refer to section 9.7 of the Searching Young People Policy)*
- complete any necessary notifications and CIMS reports as directed (e.g. Incident, Misbehaviour reports, MRG or JHFMHN)

Responsibility: Unit Supervisor

Tasks

Confirm that any dangerous or contraband items found during a search are processed as per the *Contraband and / or Exhibit procedures*.

Notify the Duty Manager if a search results in contraband being located that presents a security risk.

Direct Youth Officer to complete and further reporting or notification requirements.

Responsibility: Duty Manager

Tasks

Confirm that any dangerous or contraband items found during a search are processed as per the *Contraband and Exhibit Procedures*.

Notify the Centre Manager if a search results in contraband being located that presents a security risk.

Notify the NSW Police of any illicit items or substances which constitute or are suspected to be evidence for a serious criminal offence.

4. Search Approvals

All risk-based searches and random partially clothed body searches must obtain the following approvals:

Type of Search	Approval Non-routine (at a minimum)
Wand Search	Shift Supervisors
Clothed Body Search	Shift Supervisors
Partially Clothed Body Search	Unit Manager
Partially Clothed Body Search Where forced is required to be used to eliminate an immediate threat and there is an urgency to do so. (Refer to section 10 of the Searching Young People Policy)	Centre Manager

5. Supporting Documents

Legislation

Children (Detention Centres) Act 1987

Children (Detention Centres) Regulation 2015

- *Clause 11 A Searching of detainees*
- *Clause 65 Use of force*

Work Health and Safety Act 2011

Children and Young People (Care and Protection) Act 1998

Policy

Searching Young People
DCJ Workplace Gender Transition Policy and Guide.
Contraband

Procedure

Contraband Procedure
Exhibits Procedure

Forms

Search Register (Book)

6. Document Information

Title:	Searching Young People Procedure
Business Centre:	Policy & Practice Directorate
Author:	Project Officer, Custody
Approver:	Executive Director; Director, Policy & Practice; Director Custodial Operations
Date of Effect:	21 April 2021
Next Review Date:	March 2023
File Reference:	21/00062
Key Words:	searching, contraband, transgender, partially clothed, wand, gender, clothed body, dangerous, routine, risk, assessment, drugs

7. Document History

Version	Date	Reason for Amendment
0.1	22/08/2018	<i>Reviewed, updated and transferred into new procedural format in line with new CDC Reg Legislation Clause 11A Searching of detainees</i>
0.2	18/02/2019	<i>Review of delegations in line with new CDC Reg Legislation Clause 11A Searching of detainees</i>
0.3	21/04/2021	<p><i>Updated to ensure gender identity is more inclusive within the policy and aligned to the new Department of Communities and Justice wide policy the DCJ Workplace Gender Transition Policy and Guide.</i></p> <p><i>Contraband: has been updated with regard to contraband exhibit processes. All references to the use of 'dump bins' has been removed from both the SYP Policy and SYP Procedure, as per advice from the NSW Crown Solicitor's Office stating the use of dump bins is not recommended due to the risks, including potential exposure of personnel to criminal possession offences</i></p>

Searching Young People Policy

Essential Summary

Youth Justice NSW (YJNSW) has a duty of care to both young people under their supervision and employees under the *NSW Work Health and Safety Act 2011*.

YJNSW also has a responsibility under the *Children (Detention Centres) Act 1987* and the *Children (Detention Centres) Regulation 2015*, to maintain discipline and good order among young people, facilitate proper control and management of YJNSW centres and to protect the centre's safety and security.

Contraband and dangerous items that are illegally brought into a centre or court jeopardise the safety and security of the environment. In order to detect or prevent contraband from entering a centre or court, YJNSW employees may need to search young people, under well-defined circumstances and conditions.

The policy identifies the types of searches as defined in section 11A of the *Children (Detention Centres) Regulation 2015* including:

- full body x-ray scanning
- hand-held metal detectors
- clothed body search (pat-down)
- partially clothed body search

This policy outlines:

- the possible impacts of searching on young people
- assessing the need to conduct a search
- the type of search to be performed
- approval processes to conduct searches
- recording of searches

Printed or saved copies of this document may not be up to date.

Please check in the [Operations Manual \(TOM\)](#) to ensure you have the latest version before using this document.

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1 Scope

This policy applies to all YJNSW employees who are involved with risk assessing the need to search, conduct and/or approve searches on young people.

2 Purpose

The purpose of this policy is to:

- provide employees with information to:
 - recognise the impact of searching on a young person
 - assess the need to conduct a search
 - identify the type of search to be conducted
 - identify the approval level to conduct a search
 - conduct searches of young people in a safe and least intrusive manner, while maintaining the privacy, dignity, and rights of young people.
- set out how officers of YJNSW are to carry out their work in order to assist the Secretary to discharge his or her functions under the *Children (Detention Centres) Act 1987* and *Children (Detention Centres) Regulations 2015 (NSW)*.
- set out how YJNSW meets the *Child Safe Standards*, as set out in the *Children's Guardian Act 2019* and the requirements of the *YJNSW Child Safe and Mandatory Reporting Policy*, to keep young people safe from abuse and neglect, within safe and secure YJNSW environments.

3 Definitions and Acronyms

Centre Manager means the person for the time being in charge of the centre.¹

Contraband means any item that is brought into the secure area of a centre, vehicle dock or custody area of court without written approval from the Centre Manager or Manager, Court Logistics.

Dangerous Item means specific items that are prohibited from or have restricted use in youth justice centres because they pose a potentially dangerous risk to safety and/or security within a centre.

Gender Identity means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of a person. This includes the way that people express or present their gender and recognises that a person's gender identity may be an identity other than male or female. Terms used to describe a person's gender identity include trans, transgender, and gender diverse.

Must indicates a mandatory action to be complied with.

¹ As defined in the *Children (Detention Centres) Act 1987*

Operations Director means an employee of the Division known as Youth Justice NSW who is in the role of either the Director Operations & Metropolitan Custody; Director Community & Regional Custody Northern; Director Community & Regional Custody Southwestern or Director Policy and Practice.

Radiation Coordinator Office² is a locally appointed officer who undertakes the Radiation Safety Officer duties in a YJNSW facility.

Radiation Safety Officer (RSO)³ is an officer appointed by the Department of Communities and Justice who effectively fills the role of inspector/auditor across YJNSW facilities. The function of the RSO is to advise and assist employers or organisations to fulfil their obligations under the ***Radiation Control Act 1990*** and the Regulation to protect employees, members of the public and the environment from the harmful effects of radiation.

Risk-based searches means searches conducted after an assessment has been completed, to identify the need for a search and the type of search to be conducted.

Routine search means searches conducted as part of an approved YJNSW procedure, in response to specific occurrences as defined in this policy.

Scanning Officer means the licensed employee trained in body scanning and image analysis, conducting the body scanner search.

Should indicates a recommended action to be complied with unless there are sound reasons for taking a different course of action

4 Impact of searching on young people

Many young people in YJNSW Centres have experienced abuse, neglect, and trauma in their lives.

The 2015 Young People in Custody Health Survey (YPiCHS) identified that almost half (47.8%) of participants have been exposed to at least one traumatic event in their life. Traumatic events are generally defined as those in which an individual is exposed to or witnesses actual or threatened death, serious injury or sexual violence, whether the threat is real or perceived.

These experiences can have an impact on physiological, emotional, cognitive, and social development and as a result young people may have limited capacity to regulate their emotions, and may perceive certain situations as threats, triggering feelings of anger, shame, and fear.

For these reasons subjecting young people to unnecessary searching, especially partially clothed body searches can be demeaning and humiliating. For young people who have experienced physical and sexual abuse, a partially clothed body search can be highly traumatising or threatening. Searching young people may also involve exposure to very small doses of radiation (see section 5.2.1 Radiation Management Plan).

² Radiation Safety Plan

³ NSW Environment Protection Agency (EPA)

5 Searching standards

When searching young people employees must avoid engaging in behaviour, or using words that may place the mental or physical health and safety of the young person or employees at risk, rather employees must adhere to the following standards:

- Interact in a way that:
 - maintains the privacy, dignity, and rights of young people
 - acknowledges that searches can be intrusive, embarrassing, and uncomfortable for all involved
 - does not harass or intimidate young people or uses searching as a form of punishment
- Where possible, take the time to ensure that they are familiar with the young person's history, so that they are aware of the trauma considerations/risks/responses involved in such a search.
- Inform all young people, prior to the search of the reason for the search and the type of search being conducted.
- Where reasonably possible offer young people from differing cultural and religious backgrounds an opportunity to request an employee of the same culture or background to conduct a search. This request can only be fulfilled if operationally feasible.
- A young person must be given an opportunity to request the preferred gender identity of the searching officers where they identify as transgender or intersex young people.
- Understand that a refusal to be searched may be a trauma related response and not defiance.
- When deciding on the type of search to be conducted, employees must base their decision on the least intrusive method of search to adequately mitigate the identified risk.
- X-ray body scan images must be viewed by the approved licenced searching employees only and for the least amount of time required.
- X-ray body scan images must not be stored, copied, or distributed in any manner.

All of the above standards apply to all types of searches.

6 Types of searches

Section 11A of the *Children (Detention Centres) Regulation 2015* allows the following four means of conducting a search on a young person:

- Wand search
- Fully Clothed Pat-Down
- Scanning with an x-ray scanning device
- Partially clothed body search

Prior to any type of search being conducted a young person is given the opportunity to hand over any items of contraband that they may have on their person.

6.1 Wand Search

A wand search involves the use of an approved handheld metal detector on a fully clothed young person. Wand searches, being the least intrusive form of searching, are included in centre/court logistics or other facility routines, usually relating to movements from one area to another. These searches are conducted for safety and security reasons, a constant checking for dangerous items.

The wand should not come in contact with a young person's body at any time. A wand search is conducted before a pat-down or partially clothed body search.

6.2 Clothed Body Search (Pat-Down)

A clothed body search involves the careful patting down of a young person's clothed body after the removal of outer garments (such as coat, jacket, etc.) and shoes and socks. Step 4 of the *Searching Young People Procedure* sets out the careful non-invasive process for a pat-down search of the:

- upper body – head, hands, neck, torso - to the belt line
- lower body – waist, hips, buttocks, and sides of legs and under feet

At no time is a young person's genital area patted down.

Pat-down searches are conducted from behind and to the side of a young person.

For safety and security purposes a wand search **MUST** be conducted prior to this search.

6.3 Body Scanner Search

A body scanner search involves a low dose x-ray scan of a young person being taken to assess for items that may be hidden on their person, in their clothes or internally within their body. A young person remains fully clothed and stationary while a trained and licenced YJNSW Scanning Officer conducts a 4 second scan. Where possible, a second licenced scanning officer must be present to assist with the scanning and analysis process. However, if only one licenced employee is available, the Scanning Officer may conduct the scan with support from a non-licenced employee. Only the licenced employee may operate the console, instruct the young person, and conduct the image analysis.

Body scanning is the preferred search type as opposed to partially clothed body searches for young people, as it is less intrusive and traumatic. A young person who does not want to undergo a body scanner search may be partially clothed body searched.

Body scanning can only be used routinely for all new admissions and for young people returning from day or overnight leave who were not supervised by a YJNSW employee.

If a young person is regularly going on day or overnight leave, there is a need to assess the type of scan to be conducted, to avoid over exposure to radiation. In this case, partially

clothed body searches may be substituted for body scanning on some occasions, noting that partially clothed body searches cannot be undertaken routinely. (See section 6.3.2 of this policy for radiation dosage information).

For safety of the young person a record of all scans is maintained by the body scanner. A young person's history of scans is accessible across all YJNSW centres. This access is to ensure that a young person transferred to another centre or to CSNSW remains with the legal radiation dosage amount.

Each young person will have an identification image taken of their face for verification purposes. The scanner takes a new image before each subsequent scan, replacing the previous image, so that a young person's profile remains up to date. These images are stored in the records management system Intercept Manager.

Images of a young person's body scan are **not** stored by YJNSW; the Body Scanners have this function disabled.

The Body Scanner console will be located in a discreet area where only the trained scanning officers can view the scanned images.

Signage must be placed in x-ray body scanning areas for the privacy and protection of young people and employees, and to warn visitors and employees that scanning may be taking place.

When searching young people, Scanning Officers must interact with a young person as set out in Section 4 above. While it may be less intrusive, the experience of undergoing a body scan may still have an impact on young people in the same way as other searches.

Body scans may only be used for security screening purposes. They must not be used for medical purposes (i.e., to identify ingested items or eliminate their presence). This is a condition of the IA42 user licence required for employees conducting body scans.

6.3.1 Acknowledgement

As a part of the admissions process, admitting employees must explain the *how* and *why* body scanner searches are to be carried out on the young person. Each young person must be provided with a copy of the *Full Body X-Ray Scanning Fact Sheet (Young People)*. The young person must then be asked to acknowledge they have received an explanation of the body scanning process by signing the *X-Ray Body Scanner Acknowledgement Form*. The signed *X-Ray Body Scanner Acknowledgement Form* must be saved in the young person's D File.

It is the responsibility of the employee processing the admission to check the young person's understanding of how a body scanner search is conducted, and to explain that if they do not want a scanner search, they may be searched using a partially clothed body search, for their protection as well as the safety of others.

It is also an employee's responsibility to notify a young person, at any time they are required to undergo a body scanner search, that they may request not to have the scanner search and instead undergo a partially clothed body search.

6.3.2 Radiation Management Plan

Digital imaging techniques have the potential to improve general security screening processes by reducing the need for partial clothed body searching and providing a more comprehensive means of detecting items ingested or hidden within body cavities. However,

steps must be taken to ensure that any person's health and safety are not adversely affected by exposure to radiation.

Radiation exposure levels of the X-ray scanners are fixed prior to commissioning to allow three choices of radiation dosage, operators are unable to alter exposure levels manually outside these parameters.

Operators must choose the lowest possible dose that produces a clear image, after considering the young person's size.

Taking the time to gain co-operation and proper positioning from a young person will avoid the necessity to conduct repeat scans. Poor image interpretation and poor scanning technique may lead to compromised security management.

Only YJNSW employees trained in the proper use of the scanning apparatus and that hold a current Radiation User Licence IA42 are authorised to operate radiation emitting equipment.

6.3.3 Radiation Safety Officer

One Radiation Safety Officer (RSO) is appointed within the Department of Communities and Justice for YJNSW to:

- monitor radiation safety
- report to the Licensee about radiation safety
- maintain awareness of the radiation safety legislation and keep up to date with trends in radiation safety.

The name of the RSO must be displayed in a prominent location adjacent to the X-ray equipment control panel. Further details of the RSO's duties are detailed in the DCJ Radiation Management Plan.

Each facility must appoint a Radiation Safety Coordinator (RSC) who is responsible for providing the RSO with the information required to fulfil their duties.

6.3.4 Training and Radiation User Licencing

All YJNSW Scanning Officers, operators of the whole-body security screening X-Ray scanners, must hold a Radiation User Licence IA42 issued by the EPA. Qualification for a User Licence is dependent on satisfactory completion of an approved User Licence Training Course covering safe use and administration of radiation, proper use of the scanning apparatus and interpretation of the radiographic images produced. The Radiation User Licences are valid for a period of 3 years.

YJNSW arranges the User Licence Training through a qualified external provider. The radiation safety training program is provided to YJNSW scanning officers who are required to use the X-ray body scanners. This training program addresses the following:

- radiation hazards specific to YJNSW centres
- specific responsibilities of each category of employee
- safe work practices, including minimising radiation dose to users and subjects of scans

- regulatory obligations
- other details of the radiation safety and protection plan

YJNSW Organisational Development and Training (OD&T) unit will maintain a record of all employee's participation, completion of training in the Radiation User Licence training program.

To enable this, the centre must provide OD&T with notification dates of any external radiation training courses (run by the external trainer) 2 weeks prior to the event, an attendance list and after the event confirm which attendees satisfactorily completed the course.

OD&T will then update and maintain the training record of all participants and will provide each centre with a record of licenced scanning officers for approved operating reasons when requested.

Each centre will maintain a Scanning Officers Licence Certification Logbook to ensure rostering of the required number of scanning officers on each shift.

6.3.5 Analysis and discretion

A body scanner search is a non-invasive form of searching that allows the employee viewing the images to identify and objects that may be internal to the body. While the purpose is to identify contraband objects, the examining employee may also view objects such as feminine hygiene products or contraceptive devices. Image analysis training will assist employees in being able to identify these objects. It is the responsibility of Scanning Officers undertaking the image analysis to handle the scan with discretion and not subject the young person to unnecessary questioning.

If the Scanning Officer is unsure of whether the object is contraband or not, the Scanning Officer should confer with the other licenced Scanning Officer assisting with the search (only if the other employee assisting with the search is a licenced Scanning Officer; an unlicenced employee may not conduct image analysis) prior to the image automatically expiring; which occurs after 20 minutes of no console activity.

As soon as the image has been analysed and data entry completed the Scanning Officer will push the *complete* button which will delete the image permanently.

6.3.6 Suspected positive contraband images

If the Scanning Officer identifies potential contraband on the young person via the scanned image, the young person is to be advised of this and encouraged, and given the opportunity, to hand over any items.

If the young person refuses, the Scanning Officers are to consider if a partially clothed body search is required, or if the young person is to be placed in segregation until they handover the contraband.

If the young person is compliant and hands over items of contraband the Scanning Officer should consider conducting another scan to ensure that all contraband items have been confiscated.

If an item of contraband is suspected of being ingested/inserted by a young person during image analysis, the Scanning Officer must immediately escalate the issue to the Centre Manager who must inform the JHNSW clinician on shift, or by contacting the afterhours nurse

manager for medical instruction. (*Contacting the after-hours Nurse Manager Flowchart Resource*).

The Scanning Officer should inform the young person that after viewing the image, it is suspected that they have swallowed/inserted something and ask if they have done so? The Scanning Officer should stress the importance of being honest and explain the risks to the young person. The young person's health is the most important concern at this time.

The Scanning Officer must not question them about the circumstances of ingesting; due to the possible urgency of gaining medical advice, this should be left up to the investigating officers at a later time.

An immediate ambulance must be organised if:

- a young person confirms ingesting/inserting drugs/items, or
- a young person denies ingesting/inserting drugs/items, but the image suggests otherwise and the scanning officers are concerned for the well-being of the young person.

The young person will be placed in segregation for their own safety with one on one supervision while officers are waiting on an urgent medical response/advice. If possible, a JHNSW clinician should monitor the well-being of the young person during this time.

6.4 Partially Clothed Body Search

A partially clothed body search involves examination of the upper body after removal and searching of upper garments, followed by visual examination of the lower body after return of the upper garments and the removal and searching of lower garments. The employee conducting the search must view both sides of the young person's body, including the genitals.

The visual search of the genital area must be thorough but swift, to minimise the young person's discomfort as far as possible.

For safety and security purposes a wand search **MUST** be conducted prior to a partially clothed body search.

During a partially clothed body search, employees are **not** permitted to:

- touch the body of the young person
- direct the young person to raise their legs (unless to check the soles of his or her feet), squat, part his or her buttocks, or handle his or her genitalia

The young person can be directed to remove and hand over any illicit objector substance attached to any part of his or her body.

When searching the lower half of a young person's body during a partially clothed body search, the employee conducting the search must view both sides of the young person's body, including the genitals.

Searching employees must ensure they are following the *Searching Standards* as set out in section 4.1 of this policy at all times.

7 Routine searches

Routine searches are required to be conducted as part of an operational procedure to maintain safety and security within a centre or court environment.

Wand searches can be conducted routinely. Situations where wand searches must be conducted routinely are:

- internal centre movements – before and after
- leaving the centre – all
- returning from an external movement – all
- family visits – before and after
- random room and young person searches
- at any time where a young person may be in possession of dangerous item or contraband

Body scanner searches may be conducted routinely in the following instances:

- new admission to a centre
- returning from day or overnight leave – not supervised by YJ employee

Partially clothed body searches can only be conducted routinely in the following instances:

- new admission to a centre
- returning from day or overnight leave – not supervised by YJ employee

All other situations that require a body scanner or partially clothed body search must be risk-assessed (refer to section 8 below).

The use of body scanner or partially clothed body searching during an initial admission and following day or overnight leave where the young person has not been supervised by YJNSW employees, is justified to protect the safety, security, and good order of the centre, by detecting dangerous or illicit items or substances (including drugs or potential weapons) and preventing their entry into the centre.

8 Risk-based searches

The aim of risk-based searching is, while maintaining the safety and security of a youth justice centre, to reduce the number of unnecessary searches especially partially clothed body searches.

Transporting or supervising employees must assess the need to conduct a search and discuss the most suitable type of search to be conducted, for each unique circumstances, with their supervisor.

The supervisor must then determine the necessity and/or type of search to be conducted. Each circumstance comes with varying levels of risk, and the type of search must be accommodated to mitigate that risk.

Factors to be taken into account for the risk assessment must include:

- whether the young person was always supervised by a YJNSW employee
- the location of the occurrence (e.g., appointment, visit, court, work experience)
- the young person's behaviour during and after the occurrence
- whether the young person came into contact with acquaintances during the occurrence
- the young person is behaving in a similar manner to a previous occurrence where contraband was found
- evidence of something an employee himself or herself detected (first-hand)
- an employee observes a young person taking possession of an unauthorised item or substance during a visit and refuses to surrender or denies the existence of such item or substance
- an employee overhears a conversation between young people in which one states that he or she has a dangerous item or contraband in his or her possession
- after a young person being found in possession of a dangerous, illegal item or substance
- An employee observes physical or other behaviours or mannerisms that could be indicative of drug use e.g., unsteady gait; slurred speech; dilated pupils; 'on the nod' (Note: the JHNSW nurse should be notified to assess the young person in the first instance before searching takes place)
- employees detect the smell of cannabis or cigarettes coming from a young person's room and a room search fails to uncover the substance
- reliable information received by an employee from the young person to be searched, another young person or employee, or another person (second-hand)

Employees must have assessed that the young person has possession of or had an opportunity to obtain a dangerous item or contraband before deciding to conduct a clothed body, body scanner or partially clothed body search.

Pat-Down clothed body searches can be conducted after assessment of the need in the following situations:

- leaving the centre
- returning from an external movement – supervised by YJNSW employees
- family visits – after
- at any time when an assessment has identified that the young person is or may be in possession of an illicit object or substance

A partially clothed body search can be conducted following a clothed body search, after assessment of the need, if a clothed body search has failed to mitigate a specific identified and documented risk, in the following situations:

- returning from an external movement – supervised by YJNSW employee
- after family visits
- at any time when an assessment has identified that the young person is or may be in possession of an illicit object or substance

A Body Scanner search can be conducted to mitigate a specific identified and documented risk in the following situations:

- returning from an external movement – supervised by YJNSW employee
- after family visits
- at any time when an assessment has identified that the young person is or may be in possession of an illicit object or substance

Apart from the circumstances above, a partially clothed body or body scanner search must **not be used routinely** and must be based on a risk assessment that the young person is in the possession of or had an opportunity to obtain a dangerous or illicit item or substance (contraband) during a visit or movement from the centre.

[Body scanner searches must only be used for security screening purposes. They must not be used for medical purposes.](#)

9 Search Approvals

9.1 Approvals for routine searches

All routine searches, as identified in YJNSW Operations Policy and Procedures, do not require approvals. Approval is automatic when operational policy and procedure is endorsed by the Executive Director, YJNSW.

9.2 Approval for risk-based and random searches

All risk-based searches and random partially clothed body searches must obtain the following approvals:

Type of Search	Approval Non-routine (At a minimum)
Wand Search	Shift Supervisors
Body Scanner Search	Unit Manager/Duty Manager
Clothed Body Search	Shift Supervisors
Partially Clothed Body Search	Unit Manager/Duty Manager
Partially Clothed Body Search Where force is required to be used to eliminate an immediate threat and there is an urgency to do so. (Refer to section 11 of this policy)	Centre Manager

10 Rules for Searches

10.1 Before a Search

Before a search begins, the reasons for the search and the applicable type of search process are to be clearly explained to the young person by the employee conducting the search. Checking of the young person's understanding must occur prior to the search commencing. When conducting a body scanner search, the young person may have previously agreed to be body scanned searched however, they can at any time refuse a body scanner search and undertake a partially clothed body search instead.

Employees must also consider the impact the type of search will have on the young person and take steps to mitigate causing unintended trauma, fear, or psychological harm. Employees must consider the following before searching a young person:

- cultural identity
- age
- first time in custody
- psychological state at time of search
- gender identity

There may be times when certain employees are selected to conduct searches to address the needs of the young person and the above considerations.

For transgender or intersex young people, a body scanner search, a partial clothed body search or pat-down (as part of a clothed body search) is to be conducted by an employee of the young person's preferred gender identity. The only exception to this rule (except for body scanner searches) is in cases of emergency following the appropriate approvals.

For a body scanner search, searching officers of the opposite gender identity may conduct the search, but only if there are no licenced same-gender identity employees available. If the two searching officers are of different genders to each other, the licensed officer with the same gender identity as the young person should take the lead in operating the body scanner and conducting the image analysis.

YJNSW must ask all young people, who identify as transgender, gender diverse or intersex their preference regarding the gender identity of the employee conducting the body scanner, partial clothed body or pat-down search and must comply with the preference.

If the young person prefers an employee of one gender identity to conduct the upper part of a partial clothed body search and another employee of another gender identity to complete the lower half, then the request must be followed.

An employee of the preferred gender identity is to conduct the search, however, where an employee is uncomfortable doing so then another employee, of the preferred gender identity can be assigned the task.

This principle also applies for young people that identify as gender fluid or non-binary. Employees must be supported by their supervisor when searching young people to ensure that all steps have been taken to cause the least amount of harm.

If the transgender, gender diverse or intersex young person expresses no preference, the search must be conducted by an employee of the gender identity of the young person.

If the young person who identifies as neither male nor female expresses no preference, the search must be conducted by an:

- employee who identifies as male if the young person is placed in a centre or area that is designated to accommodate male young people
- employee who identifies as female if the young person is placed in a centre or area that is designated to accommodate female young people

Following the initial search of a young person who identifies as gender diverse, a referral is to be made to the centre LGBTQIA+ support person to discuss the search process and to determine whether any additional steps can be taken to ensure the young person is supported.

Refer to the resource '*Inclusive Language Guide: Respecting people of intersex, trans and gender diverse experience*', linked to this policy, for an explanation of the meaning of Intersex, transgender and gender diverse. This guide also provides information on 'inclusive language' and why it should be used.

10.2 Contraband

Employees about to conduct a search must give all young people the opportunity to voluntarily surrender, in private, any dangerous or illicit object or substance in their possession.

A young person being newly admitted to a centre must be informed that no action under the misbehaviour provisions will be taken against them if they dispose of illicit objects or substances voluntarily.

In circumstances where a young person disposes of illicit objects or substances which constitute or are suspected of being evidence for a serious criminal offence, YJNSW must inform the NSW Police of the items.

This does not apply to young people returning from court, leave, camps, outings, and in transit from another centre. These young people would be in conflict with YJNSW legislative leave conditions and centre rules regarding contraband and the matter would be dealt per the *Misbehaviour Contraband and/or Exhibits Procedures*.

Young people should still be encouraged to handover items on re-entering a centre but must be informed of the level of consequences based on the types of item(s) if they do.

Any dangerous, illicit objects or substances that a young person surrenders, or is found, must be placed in the appropriate exhibit bag, and entered in the *Centres Exhibit Book* with all details completed. Where possible the substance should be weighed, with the weight recorded in the Exhibit Book and a picture of the item taken and sent to [section 74 - out of scope@justice.nsw.gov.au](mailto:section74-outofscope@justice.nsw.gov.au).

Each time an alleged illegal substance is found, an *Incident Advice* is to be created in CIMS and the Police notified. The Police will be responsible for removing the item(s) and disposing of it per the *Exhibits Procedure*. Any sharp objects such as needles/syringes, razors etc. should be handled carefully and placed in the provided 'sharps bin' once it is no longer needed for reporting purposes.

10.3 Who can conduct a search?

Whenever a search is performed, two employees must be present, one performing the search, the other acting as observer of the searching employee. For partially clothed body searches the second officer is not present to observe the young person, but to observe the other employee to ensure the correct procedure is followed. For body scanner searches the second officer is there to observe the young person's actions. The officer performing the search may consult with the second officer if the second officer has a current body scanner licence.

Partially clothed body and body scanner searches should be conducted by two officers/licenced body scan searching officers, respectively, of the same gender identity as the young person. The second employee (observer) may be of a different gender identity if two same-gender identity employees are not available. Both licenced body scanner searching officers may be of a different gender identity if no same-gender identity employees are available (Refer to section 9.1 of this policy for information regarding who can conduct a search on transgender, gender diverse, and intersex young people).

If the employee is uncomfortable with the search process for a young person of a particular gender identity, they should raise this with their manager to form an agreement on the appropriate approach.

In circumstances where an employee is undergoing transition to affirm their gender identity, their manager must discuss with the employee any changes required for their involvement in searching young people. The agreement made should then be included in the employee's *Workplace Gender Transition Plan* as outlined in the *DCJ Workplace Gender Transition Policy and Guide*.

Employees involved in a search must be trained in searching procedures and in infection control guidelines. Employees involved in body scanner searching must also have additional training in the use of the body scanner, and in image analysis.

10.4 Where to conduct a search

Partially clothed body searches must be performed in a private room, out of view of other employees or young persons.

The body scanners must be located in an area of the centre that affords the young person privacy and facilitates a space where the scanned images of the young person can only be viewed by the scanning officers.

Signage must be placed around the body scanning areas to warn employees that they need to be aware that young people may be currently undertaking a body scanner search. This signage is to reduce unauthorised employees from viewing the scanned images. Centre management must take every available precaution to protect the privacy of the young people being searched.

The designated or nominated search room or area must afford the young person privacy, preserve their dignity and be free of excess furniture and non-fixed items. If this room is normally under camera surveillance, the employee conducting the search must ensure that the cameras are turned off during the search.

Where possible, a body scanner search should be used over a partially clothed body search as it is a less invasive method of conducting a search. The young person can be escorted to the area of the centre in which the body scanner operates, unless it is deemed unsafe to move the young person, in which case a partially clothed body search should be conducted.

10.5 Searching a young person with medical/surgical dressings or plaster casts

If an employee reasonably believes that a young person is concealing a dangerous or illicit object/substance behind a medical or surgical dressing or plaster cast, a body scanner search should be conducted. If something is identified in the body scanner image analysis, or the young person does not consent to a scan, alternative methods of searching should be discussed with the centre's Justice Health Registered Nurse with a view to determining a procedure for searching and removing such an object or substance in a manner that will not cause any further injury.

If there is any difference of opinion or doubt about medical or safety issues involved in the proposed removal of a medical or surgical dressing or plaster cast for the purpose of searching, further consultation with a medical practitioner must occur before the search is conducted. The young person may have to be segregated or otherwise closely observed and kept separate from other young people for the waiting period.

Medical, surgical dressing or a plaster cast do not have to be removed to facilitate a body scan search.

10.6 Refusal to be searched

There will be occasions when a young person refuses to be searched. In such cases, the young person must be treated sensitively because the reasons for refusal may be of a very personal nature. Not every refusal to be searched will be a 'rebellious' act or an attempt to avoid being caught with a dangerous or contraband item. (Refer to section 4 of this policy regarding the impact of searching on young people).

The reason for the search should be clearly explained or repeated by the employee or by another person thought to share a better working relationship with the young person. Employees should actively seek out the assistance of another employee who may have a different approach or relationship with the young person and refer to CIMS case notes to locate any information that may be relevant in this situation. Seeking assistance of an employee of the same culture may be required.

If refusal continues or the young person is uncooperative, then the search should cease, and the young person should be regarded as a safety and security risk and placed in segregation for his or her own protection or for the protection of employees of other young persons.

Segregation must only continue until such time as the young person consents to a search or other options are considered to reduce the risk identified of not carrying out a search. If the young person becomes distressed and/or aggressive a referral to the centre psychologist should be made.

(Refer to Section 9 of this policy for reference to when it may be necessary to use force to conduct a search).

10.7 Recording searches

Information about each search conducted, including the appropriate reason and approval for a partially clothed body search, is to be recorded in the *Search Register*.

YJNSW employees must provide a documented reason that clearly explains the risk assessment and the need to conduct a non-routine partially clothed body search in the search

register; documented reasons such as 'return from court' or 'after visits', will no longer be accepted.

Examples of reasoning might be:

- young person was held in a cell at court with adult prisoners
- was for a time unsupervised by YJNSW transporting officers in a cell
- had a contact visit with family members who were behaving suspiciously or had an opportunity to obtain contraband
- young person appeared to be under the influence of a substance
- young person had self-inflicted cuts to their arms

A *Search Register*, kept specifically for body scanning searches, must be kept at the scanning site for recording the following information about each full-body scan:

- CIMS number
- subjects name, gender, and date of birth
- reason for body scanner search
- date the full-body scan is performed; and
- the name of the Scanning Officer conducting the X-ray equipment and assessing the image

The body scanners also maintain an electronic record of searches that generates reports on the scans. The only data captured in these reports, however, is the scan date and time, the operator ID of the scan, and the subject ID. Reports can be compiled by subject, operator, or scanner over 12 months.

The electronic register will not store any scanned images of the young person and monitors dosage levels.

If the total annual dose for a subject on file approaches the annual limits outlined in the specific conditions of the IA42 Licence, on the impending scan, then a full-body security screen will not be possible.

The *Search Register* and *Scanner Electronic Reports* are to be made available for perusal by an Operations Director or any other senior officer of the Division, the Official Visitor, Inspector of Custodial Services and/or Ombudsman's representatives.

10.8 Child Protection or Medical Concerns

If a searching employee identifies suspected child protection or medical issues (e.g., Injury, skin irritations, unexplained scaring) whilst conducting a search on a young person, the required notifications must be made to either the Justice Health NSW nurse or the employees must, as mandatory reporters, Under Section 27 of the *Children and Young People (Care and Protection) Act 1998*, complete a Mandatory Report (*Mandatory Reporter Guide(MRG)*).

If an employee notes any anomaly within a young person during image analysis for a body scanner search, they must **not** inform the young person, instead the employee must escalate the issue to their manager who must refer the matter to Justice Health for further investigation.

11 Using force to search a young person

Use of force for the purpose of searching is authorised by legislation through *clause 65(1)(f) & (g) of the Children (Detention Centres) Regulation 2015* – “to search a young person in circumstances in which the young person refuses to submit to being searched” or “to seize any dangerous or harmful article or substance that is in the possession of the young person”.

Using force to facilitate a partially clothed body search is a complicated issue and **extreme caution** should be exercised whenever this is being considered as an option.

The major determinant of the need to use force is urgency. If the young person can be contained and the level of risk kept to a minimum through segregation or other strategies, the use of force to conduct a partially clothed body search on the young person must not occur.

Use of force must never occur for a body scanner search.

11.1 Decision to use force

Use of force by an employee to conduct a partially clothed body search on a young person to retrieve a dangerous or illicit object or substance should only be considered:

- when there is an immediate and urgent risk to a young person’s life
- when all alternatives have been attempted or considered

11.2 Approval to use force

The Centre Manager has the delegation to approve the use of force to conduct a partially clothed body search.

Every alternative option must be exhausted before the approval for use of force is given to conduct a partially clothed body search.

Exception to the above requirement for approval is where the situation is considered an absolute emergency and seeking approval would increase the likelihood of harm to the young person or another person.

11.3 Reporting on the Use of Force search

The use of force to conduct a partially clothed body search must be treated as an incident as per the *Incident Reporting Procedure*. An incident advice must be completed by the incident supervisor and each employee involved in the use of force must complete a detailed use of force report as per the *Use of Force Procedure*.

11.4 Support and counselling

After an incident where force was used to conduct a partially clothed body search on a young person, it is compulsory to refer the young person and all employees involved or present for counselling.

The young person should be referred to a Centre Psychologist, preferably his or her primary psychologist. All referrals should be noted on the *Incident Advice* and any need to follow-up recorded on an *Incident Follow-Up Advice, Incident Reporting Procedure*.

Employees must be given the details of and encouraged to refer to the relevant EAP provider.

12 References

12.1 Legislation

- *Children (Detention Centres) Regulation 2015*
 - *Clause 11 A Searching of detainees*
 - *Clause 65 Use of force*
- *Work Health and Safety Act 2011*
- *Children and Young People (Care and Protection) Act 1998*

12.2 Policies

- *DCJ Workplace Gender Transition Policy and Guide*
- *Incident Management Policy: Recording, Debrief and Review*
- *Use of Force, Protective Equipment and Instruments of Restraint*
- *Contraband*
- *Mandatory Report (Mandatory Reporter Guide (MRG)).*

12.3 Procedures

- *Incident Reporting*
- *Use of Force*
- *Use of Protective Equipment*
- *Misbehaviour*
- *Searching Young People*
- *Exhibit*
- *Contraband*

12.4 Forms

- *Search Register*
- *X-Ray Body Scanner Acknowledgement Form*

12.5 Resources

- *Full body X-Ray Scanning Fact Sheet (Young People)*
- *DCJ Radiation Management Plan*
- *Workplace Gender Transition Plan (DCJ Workplace Gender Transition Policy and Guide)*

Document information

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13 Document history

Version	Date	Reason for Amendment
0.1	30 June 2018	New policy created to provide direction and instruction when searching young people. <i>Clause 11A Searching of detainees</i> added to <i>CDC Regulation 2015</i> .
0.2	December 2020	Policy updated in regard to contraband exhibit processes. Removal of references to 'Dump Bins'.
0.3	21 April 2021	Policy updated to consider the needs of gender diversity in both employees and young people.
0.4	June 2022	Policy updated to include the use of Body Scanner searches.
0.5	November 2022	Updated to clarify body scans must only be used for security and safety screening purposes not for medical reasons.
0.6	March 2023	Updated to allow clarify the policy regarding the ability for young people to request a scanning officer of the same gender (or gender identity) to which they identify. Change Director Custodial Operations to Operations Director to bring it in line with the restructure of regions and Director roles. Change JHFMHN to JHNSW: as preferred by Justice Health