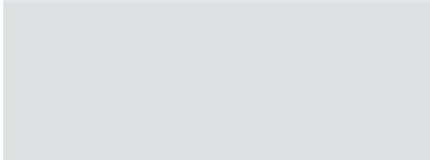




Our Ref: GIPA23/[REDACTED]  
Your Ref: [REDACTED]



14 May 2024

By email only: [REDACTED]

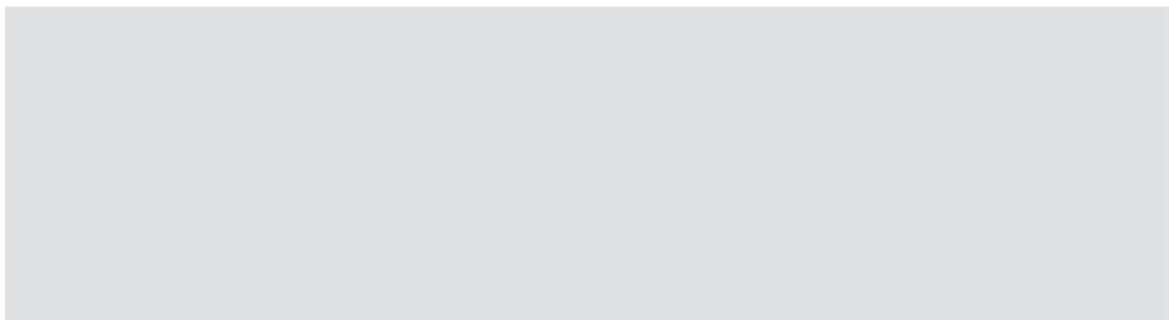
Dear [REDACTED]

**Notice of decision under the *Government Information (Public Access) Act 2009***

I refer to your access application lodged under the *Government Information (Public Access) Act 2009* ('GIPA Act') with the Department of Communities and Justice ('Department') which was accepted as valid on 14 December 2023.

In your application, you requested access to the following Youth Justice information:

1. Any and all policy and procedure documents and suchlike that were in place at Minda and Mt Penang, pertaining to:
  - a. The protection of detainees from sexual assault;
  - b. Interaction between employees and detainees;
  - c. Supervision of detainees and employees; and
  - d. Reporting of sexual abuse, or suspected or alleged sexual abuse



**Decision**

I am authorised by the Department's principal officer, for the purposes of section 9(3) of the GIPA Act, to decide your access application. I have decided:

- under section 58(1)(a) of the GIPA Act to provide access to some of the information; and
- under section 58(1)(b) of the GIPA Act that some of the government information which you seek access is not held by the Department.

These are reviewable decisions pursuant to section 80(e) of the GIPA Act. Further information regarding your review rights is set out below.

## **Searches for information**

Under section 53 of the GIPA Act, the Department must conduct reasonable searches as may be necessary to find any of the government information applied for that was held by the Department when the application was received, using the most efficient means reasonably available to the Department.

I am satisfied that reasonable searches for the information requested in the application have been undertaken in accordance with section 53 of the GIPA Act. Based on the information available to me, I am satisfied that all records that exist relevant to the application have been identified and provided to me for consideration.

## **Reasons for decision**

You have a legally enforceable right to access the information requested, unless there is an overriding public interest against disclosing the information (section 9(1) of the GIPA Act). The public interest balancing test for determining whether there is an overriding public interest against disclosure is set out in section 13 of the GIPA Act.

I have made my decision in accordance with section 13 of the GIPA Act by:

- Identifying relevant public interest considerations in favour of disclosure;
- Identifying relevant public interest considerations against disclosure;
- Attributing weight to each consideration for and against disclosure; and
- Determining whether the balance of the public interest lies in favour of or against disclosure of the government information.

## **Public interest considerations in favour of disclosure**

Section 12(1) of the GIPA Act sets out a general public interest in favour of disclosing government information, which must always be weighed in the application of the public interest test.

In my view, the following public interest considerations in favour of disclosure apply:

- There is a general presumption in favour of the release 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 agencies and, in particular, their policies and practices for dealing with members of the public;
- Disclosure of the information could reasonably be expected to advance the fair treatment of individuals in accordance with the law in their dealings with agencies;
- Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision; and
- Disclosure of the information could reasonably be expected to contribute to the administration of justice generally, including procedural fairness.

## **Public interest considerations against disclosure**

The only public interest considerations against disclosure that can be considered are those set out in Schedule 1 and section 14 of the GIPA Act.

On this occasion, I have not identified any public interest factors against the disclosure of the information that you have requested.

### **Balancing the public interest**

In the absence of any public interest considerations against disclosure, I have decided to grant you full access to some of the information you have requested.

### **Disclosure log**

I have assessed that the information released in response to your formal access application is information that may be of interest to other members of the public. Therefore, the Department may decide to record certain details about your application in its 'disclosure log' under sections 25 and 26 of the GIPA Act, which is available on the Department's website.

### **No records held**

The Youth Justice Information Access Unit conducted searches within the Youth Justice dataset of the Department's records management system, OneTRIM. No information relevant to paragraph 2 of your request was located as a result of these searches.

I have determined as a result of the above searches that the information sought in paragraph 2 of your request is not held by the Department.

### **Processing charges**

Section 71 of the GIPA Act provides that the Department cannot impose any processing charge for an application that was not decided within time. Accordingly, the amount of the advance deposit you paid amounting to \$65.40 will be refunded to you.

### **Review rights**

If you are aggrieved by my decision that the information requested is not held by the Department, you may seek a review of my decision. You may request:

- internal review by another officer of the Department who is no less senior than me, within 20 working days of this decision, together with the prescribed internal review fee of \$40.00,
- external review by the NSW Information Commissioner, within 40 working days of the date of this decision, or
- external administrative review by the NSW Civil and Administrative Tribunal, within 40 working days of the date of this decision.

Further information about your review rights can be located on the Information and Privacy Commission's website at <https://www.ipc.nsw.gov.au/fact-sheet/your-review-rights-under-gipa-act>. You can also contact the IPC on freecall 1800 IPC NSW (1800 472 679).

### **Further information**

If you have any questions about this notice or would like any further information, please email me at [infoandprivacy@dcj.nsw.gov.au](mailto:infoandprivacy@dcj.nsw.gov.au).

Yours sincerely

*Doreen Lin*

**Open Government, Information and Privacy Advisor**

Open Government, Information and Privacy | Legal  
Law Reform and Legal Services

***DEPARTMENT OF JUVENILE JUSTICE***

**Child Protection and Assault Policy**

**February 1996**



## Preamble

The Department of Juvenile Justice has a responsibility to protect young people in custody and under supervision from all forms of abuse; to respond appropriately where an incident of abuse or alleged abuse has occurred; and to take steps to prevent abuse re-occurring.

Juveniles admitted into detention must feel certain that they will be able to serve their custodial sentence in a secure and humane juvenile justice centre. It is acknowledged that detention does not always deter young people from committing further offences, particularly if they are entrenched in the lifestyle of offending, or gain further knowledge about crime whilst living amongst other offenders.

The Department of Juvenile Justice recognises that institutional environments such as juvenile justice centres can have a negative effect on some juveniles and that systems abuse can occur. The department has a responsibility to ensure that the policies and programs it develops are designed to provide care and protection to juveniles whilst minimising the harm associated with these programs and policies.

Community based services must be in a position to provide credible alternatives to custody to ensure that detention is indeed used as a last resort.

### 1. Purpose:

**The purpose of this policy is to provide a framework for the protection of juvenile clients and departmental staff from all forms of abuse and assault and to establish effective child protection management strategies.**

### 2. Definitions

- . For the purpose of this policy "juvenile" refers to a person under the supervision or custody of the Department of Juvenile Justice.
- . The definition of an "assault" for the purposes of this policy is any action by one person against another resulting in injury or an unprovoked attack on a person. For the purposes of this policy "assault" is any illegal action that impacts negatively on the physical, psychological and emotional well being of juveniles.
- . "Fighting" involves the mutual action of detainees who become involved in a quarrel or dispute and use physical force.
- . "Staff" refers to any person employed by DJJ on a permanent, temporary, casual or fee for service basis (including sessional supervisors and mentors).
- . Forms of abuse, in relation to a juvenile, are physical abuse, sexual assault, emotional abuse or neglect.

## Physical Abuse

- . Refers to non-accidental injury to a juvenile.
- . Includes the use of illegal/excessive physical force, including corporal punishment, unauthorised restraining devices or isolation/seclusion, and improper administration of medication or -drugs.

## Neglect

- . Refers to the failure of staff to provide the juvenile with the basic necessities of life.
- . Includes overcrowding, lack of appropriate supervision, poor provision for a juvenile's material needs, and not providing adequate medical, therapeutic and education programs for juveniles in detention, and knowingly failing to provide protection to juveniles at risk of abuse.
- . Includes detached, disinterested, emotionally distanced, and uncaring responses to juveniles.

## Emotional Abuse

- . Is the harming of a juvenile by excessive or unreasonable demands or by failure to provide the psychological nurturing necessary for a juvenile's physical and emotional growth and development.
- . Includes continual scapegoating, active rejection, emotional unavailability of staff to the juvenile, shaming the juvenile, verbal abuse and threats of abuse.
- . Failing to treat suicide threats seriously, punishing a group for individual behaviour and restricting juvenile's access to their family where they wish to have access, and knowingly placing juveniles in situations where they are at risk of abuse.
- . The use of language to ridicule a juvenile (eg about the nature of their offence/alleged offence, or personal appearance, or performance at school); or to humiliate, denigrate or belittle juveniles or their family, or verbal threats of withdrawal of privileges (where staff exceed their authority).
- . Comments referring to juveniles' origins, ethnic background or sexuality are unacceptable.

## Child Sexual Assault

- . The involvement of dependent juveniles in sexual activities where the juvenile is used for the gratification of another person's sexual needs or desires and is unable to give consent due to the unequal power in the relationship.

### 3. Principles

- . At no time is the neglect, physical, sexual or emotional abuse of a juvenile acceptable.
- . The welfare of juveniles and staff is paramount. A safe and secure environment must be provided for juveniles and staff in detention, community based services and the wider community.
- . Assaultive behaviour towards staff or juveniles is not acceptable.
- . The punishment for an offence imposed by a court is the only punishment for that offence.
- . All staff are in a position of power over juveniles under their supervision. Staff must ensure their position of power in relation to juveniles is not misused.
- . Staff have a legal obligation to fulfil their duty of care toward juvenile clients.
- . Staff must act in a professional and ethical manner in all relationships and dealings with juveniles and their families/guardians/significant others.
- . All juveniles must be advised that disclosures of abuse, neglect and assault must be reported by staff to the Manager or his/her delegate for referral to the Department of Community Services and the Police if necessary.
- . All attempts should be made to manage incidents within the resources of the centre or community based service, and should be consistent with case management principles. The alleged perpetrator and victim should be separated immediately and at all times.
- . Confidentiality must be maintained in accordance with the relevant legislation: including the in Children (Criminal Proceedings ) Act 1987, Children (Care and Protection ) Act 1987 and the Children (Detention Centres) Act 1987.
- . To avoid systems abuse and provide appropriate support, management and follow up of allegations of abuse or assault are to be co-ordinated, using a case management approach.
- . Where appropriate the family or significant others of the juvenile will be advised of any incident of abuse or assault.

#### **4. Legislative Bases**

##### **4.1 Definition of Abuse**

Under the Children (Care and Protection) Act 1987 'abuse', in relation to a child, means:

- . assault (including sexually assault) the child; or
- . ill treat the child; or
- . expose the child to behaviour that psychologically harms the child.

whether or not, in any case, with the consent of the child.

For the purposes of that Act, 'child' means a person who is under the age of 18 years.

##### **4.2 Notification of Child Abuse**

Under Section 22 of the Children (Care and Protection) Act 1987, any person who forms the belief upon reasonable grounds that a child under the age of 16 years:

- . has been or is in danger of being abused; or
- . is a child in need of care,

may cause the Director General (of the Department of Community Services) to be notified of that belief and the grounds thereof, either orally or in writing.

While a 'child' is a person under the age of 18 years, most of the child protection provisions under the Children (Care and Protection) Act 1987, apply to a child under 16 years of age.

##### **4.3 Offences**

Under Section 25 of the Children (Care and Protection) Act 1987, a person who abuses a child, or causes or procures a child to be abused, is guilty of an offence.

Under Section 26 of the same Act a person, whether or not the parent of the child, who, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child in his or her care, is guilty of an offence.

##### **4.4 Legislative responsibilities of the Department of Juvenile Justice**

The Department of Juvenile Justice is responsible for the supervision of juvenile offenders who have been sentenced to community based court orders (eg. probation, community service order) and the secure and humane detention of juveniles who have been sentenced or remanded to custody.

The Department's supervision of juvenile offenders, both in the community and in detention, is authorised by several legislative instruments.

#### **4.4.1 Community Based Options**

Under Section 33 of the Children (Criminal Proceedings) Act 1987 a court may impose a range of penalties on juveniles found guilty of an offence. The penalties include a fine, recognisance, probation and community service order.

Where the court places a condition of supervision on a juvenile and nominates the Department of Juvenile Justice as the supervising agency, departmental officers undertake the mandated supervision.

The Department also supervises juvenile offenders who are discharged from detention under Section 24(1)(c) of the Children (Detention Centres) Act 1987. Under this section of the Act, a juvenile may be conditionally discharged from detention where the court has recommended such discharge and the Department determines the juvenile would benefit.

The Department of Juvenile Justice has developed policies and guidelines in order to establish standards for quality service provision by Juvenile Justice Community Services. In particular, the department has established specific requirements for contacts with juveniles on community based court orders.

#### **4.5 Remand**

Juveniles who have been bail refused by the police or a court are deemed to be on remand. These juveniles are also detained in juvenile justice centres in accordance with Section 9 of the Children (Detention Centres) Act 1987.

#### **4.6 Control Order**

Under Section 33 of the Children (Criminal Proceedings) Act 1987 the Children's Court may, subject to the Sentencing Act 1989, make an order committing the person for such period of time (not exceeding 2 year) as it thinks fit to the control of the Minister administering the Children (Detention Centres) Act 1987.

The penalties that can be imposed under the Children (Criminal Proceedings) Act 1987 apply to a person:

- . who has pleaded guilty to an indictable offence in, or has been found guilty of or convicted of an indictable offence by, a court other than the Children's Court;
- . who was a child at the time when the offence was committed; and
- . who was under the age of 21 years when charged before the court with the offence.

#### **4.7 Detention Centre**

Under Section 5 of the Children (Detention Centres) Act 1987 the Minister may, by order published in the Gazette declare any premises specified or described in the order to be a detention centre for the purposes of the Act.

Under Section 6 of the Act, the Director General (of the Department of Juvenile Justice) shall have the control and management of all detention centres.

Under Section 9 of the Act, persons on remand and persons subject to control shall be detained in detention centres (except as otherwise provided by the Act).

#### **4.8 Treatment of Detainees**

Under Section 14 of the Children (Detention Centres) Act 1987 the Director General shall ensure that adequate arrangements exist:

- . to maintain the physical, psychological and emotional well-being of detainees;
- . to promote the social, cultural and educational development of detainees;
- . to maintain discipline and good order among detainees; and
- . to facilitate the proper control and management of detention centres.

The treatment of detainees in relation to the provision of alcohol, tobacco, adult films, work to be performed, segregation, complaints of misbehaviour, prohibited punishments, disclosure of information, health and medical attention, maintenance of physical well-being, property, access to books, newspapers and magazines, visitations, communication with family and legal representatives, education and training, religious observance, leave, use of force, reports on use of force and transfer between centres are prescribed under the Children (Detention Centres) Act 1987 and the Children (Detention Centres) Regulation 1995.

The use of any physical violence, striking, cuffing or shaking of a detainee must not be used, nor shall a detainee, without reasonable excuse be handcuffed or forcibly restrained in accordance with subsections 22 (1) and (2) of the Children (Detention Centres) Act. Illegal treatment of detainees is covered generally by Section 22 and penalties are provided for persons who punish a detainee or cause a detainee to be punished in a manner that is prohibited by the Act.

The Department of Juvenile Justice has also developed policies and guidelines to ensure the provision of a humane and secure environment for detainees (eg policy on the use of force, policy on the use of handcuffs, policy on the use of confinement and segregation).

#### **5.0 Notifications\***

- . The Department of Community Services has the mandate to investigate the needs of the child, refer the matter to Police where appropriate, and coordinate case management where required. The Department of Community Services should be notified regarding concerns about a child's safety in the community (eg by Juvenile Justice Counsellors, Juvenile Justice Officers and Case Managers).
- . While Juvenile Justice staff are not defined as mandatory notifiers of child protection matters under the Children (Care and Protection) Act 1987 it is this department's policy that all staff must make notifications of all related matters and incidents to their manager.



- . It should be noted that when the Department of Community Services (DCS) receives a report of alleged abuse or assault the report only becomes a notification if it is accepted by the DCS. Regardless of the action determined by the DCS, a departmental investigation may still be directed by the Director General of the Department of Juvenile Justice or his/her delegate.
  - . All staff (centre and community based) are required to report all allegations and incidents of abuse (physical, emotional), neglect and assault (including sexual assault) to the manager or his/her delegate. Where the alleged victim is under the age of 16 years the manager (or delegate) is required to notify the manager of the local DCS Community Services Centre of any incident of abuse.
  - . The abuse, neglect or assault may have occurred prior to or during the period of departmental supervision or detention (including when a detainee is absent on leave or on escorted absence).
  - . If the DCS are notified of an incident or allegation of abuse, neglect or assault, and there is a criminal element to the matter the DCS is responsible for notifying the Police. In all other incidents or allegations of assault, that do not relate to child protection legislation or procedures, the manager or his/her delegate must notify the police (refer to 5.3 - assault not involving the DCS).
  - . At the time of notification the DCS should be encouraged to attend as soon as possible, so that effective follow up action and support can be implemented. It should be noted that counselling of juvenile victims in child protection cases cannot be undertaken by departmental or other counselling services without approval of DCS. Therefore, **at the time of notification** the DCS should be informed of this by the manager, as a means of ensuring expeditious management of the case. Without this approval any counselling or support risks contamination of evidence in possible criminal proceedings.
- \* For further information refer to DCS and DJJ Protocol and Procedures document, 1994

### 5.1 Notification - Procedures

- . The purpose of notification is to ensure that juveniles and staff are protected and referred to services where appropriate. When a juvenile was allegedly abused prior to or during detention, supervision or other involvement with the department, other juveniles may be at risk and require protection.
- . It is the responsibility of all staff to immediately notify their manager (or his/her delegate) of any incident of abuse, neglect or assault that has been observed or of which they have been informed (ie prior to or during supervision or detention).
- . In all of the situations outlined in this section, the manager must immediately notify his/her cluster director, verbally in the first instance and then in writing on the relevant incident advice form. Within 48 hours of the notification, the manager must provide

a comprehensive report about the incident/allegation to the cluster director as required by the department's incident reporting procedures.

- . In relation to all incidents and allegations the parent/significant other of the juvenile must be notified, except where the alleged perpetrator is a parent/other family member or a significant other. In the case of abuse or assault by another juvenile, the parent/significant other of the alleged offending juvenile must also be notified.
- . Where departmental nursing staff have attended to a juvenile or staff member for injuries both the Manager and the Coordinator, Nursing/Health Services must be notified in writing by the nursing staff.
- . Where the alleged offender/perpetrator is a Department of School Education(DSE) staff member, the Cluster Director must notify that department's Assistant Director General (Regional). The Manager, JJC, must notify the Principal to ensure separation of the alleged perpetrator and victim. Following investigation, the Assistant Director General(DSE) must notify the Cluster Director, Department of Juvenile Justice, of the outcome of the investigation.
- . Where staff are the alleged victims of assault, or are involved in/witness a serious incident it is compulsory for the manager (or his/her delegate) to notify the nominated independent counselling service, and to refer the staff member for counselling.
- . All notifications must be documented, including the date, time and the name and position of the person notified and where possible photographs should be taken of injuries (refer to Director General's instruction 50/93, regarding preservation of evidence).

## 5.2 Abuse of 16 - 18 year olds

- . Many of the Department of Juvenile Justice clients who may be referred to the DCS are 16 years and older. The DCS is able to receive allegations of abuse/neglect that relate to juveniles 16 to 18 years of age. DCS involvement in these cases is determined by the safety needs of the juvenile. When the abuse may constitute a criminal act the matter will be referred to the police for criminal investigation. If the DCS are not going to pursue the matter, and it has a criminal element, the relevant departmental manager (centre or community) or his/her delegate must make the police notification. If the DCS is going to pursue the matter it is the responsibility of the DCS manager to notify the police.
- . While it is possible for a matter to be presented to the Children's Court, the Court is not able to award custody of 16 and 17 year olds to another party, nor make such juveniles wards of the State, as otherwise provided for under s72(1)(c) of the Children (Care and Protection) Act 1987.



### 5.3 Assaults

(ie with no Department of Community Services involvement)

- . All incidents and allegations of assault (physical and sexual), where the alleged victim or offender is a juvenile or staff member, must be notified immediately to the police. In the case of physical assaults, at the time of this notification photographs should be taken of injuries for evidence.
- . The police should be encouraged to attend as soon as possible, to ensure that follow up action and support can be implemented as quickly and efficiently as possible and to avoid contamination, and ensure preservation, of evidence.
- . If the victim (staff member or juvenile) does not wish to proceed with criminal charges access must be provided to an independent advocate eg. parent/significant other, Chaplain, Official Visitor, JJO, Counsellor, or a legal representative, before a final decision is made.
- . Where the alleged victim is a staff member it is compulsory for the manager or his/her delegate to notify the nominated independent counselling service and make a referral for counselling.

### 5.4 Fighting

- . Juveniles gathered together in various situations such as schools, recreation areas and even in sporting activities, can become involved in fighting with one another. Fighting in detention centres will occur from time to time, but every effort must be made by management and staff to minimise such incidents.
- . There may be occasions where juveniles have been involved in a fight, and one of the juveniles wishes to proceed with criminal charges against one or more of the juveniles.
- . All juveniles have the right to make a complaint to the police against another juvenile and this should be respected by staff. In relation to fights, where the juvenile seeking to lay charges **did not** sustain any injuries, the juvenile should be advised of a 24 hour 'cooling off' period before police are notified. Some serious injuries are not visible and can only be detected by medical staff. Where injuries are sustained, photographic evidence should be obtained where possible. If after the cooling-off period the juvenile still wishes to proceed, the police must be notified. Medical advice **must** be sought to verify injuries.

### 5.5 Allegations of assault by police

- . All allegations of assault of juveniles in police custody, either prior to or during the period of departmental supervision or detention, must be reported to the NSW Police Service Professional Responsibility Branch by the manager responsible for the juvenile at the time of the allegation.

- Notifications to the NSW Police Service Professional Responsibility Branch must be in writing and be made by the manager on the juvenile's behalf (refer to DG's Instruction No 103/95).

#### **5.6 Notifications by individual citizens**

- Although staff must adhere to the procedures outlined in this policy when making notifications to DCS in an official capacity, each staff member has the right under the Children (Care and Protection) Act 1987 to make a notification as a private individual. Such private notifications can be made anonymously if the individual so wishes.

#### **6. Confidentiality**

- When an incident of abuse or assault is disclosed by a juvenile, staff must not attempt to investigate by asking further questions in relation to the allegation but should be supportive of the juvenile. Any information obtained at that time must not be shared with anyone other than the manager or his/her delegate. Such action would risk contamination of evidence for criminal proceedings.
- When a juvenile discloses abuse or assault to a staff member, the information must be referred directly to the manager or his/her delegate, and must not be discussed with other staff or juveniles. Staff should reassure the juvenile that information will be treated confidentially, but never promise that the information will remain secret.
- Where a worker receives and withholds relevant information in relation to incidences of abuse and/or neglect, that worker may expose the juvenile to further abuse, or cause additional and unacceptable risks for the juvenile. Disciplinary action may be taken against a staff member who does not comply with this policy and withholds information relating to the alleged abuse of a juvenile.

#### **7. Prevention**

- Staff must monitor interaction between juveniles, other staff and others (eg visitors) and be alert to possible abuse, neglect and assault.
- Departmental services will provide information to juveniles regarding their rights in relation to protection from all forms of physical, sexual and emotional abuse and neglect. The department will support outside agencies (eg Ombudsman, Official Visitors Scheme) in monitoring complaints about child protection, assault matters and all forms of systems abuse. This will result in continuous improvements in services. The department will ensure that staff training, education and recruitment will include components on providing safe and secure environments, professional relationships, child protection/abuse issues and managing conflict and violent behaviour.

- . Departmental services have a range of options and strategies available to minimise occurrence of abuse, neglect and assault. These include:
  - . case management
  - . assessment and referral
  - . placement of juveniles in appropriate programs and accommodation
  - . adequate supervision and staff/juvenile ratios
  - . gender, age and culturally appropriate programs and services
  - . quality assurance mechanisms
  - . staff training, education and development
  
- . The use of segregation in centres under Section 19 of the Children (Detention Centres) Act 1987 may only be used for the **protection** of the juvenile or others (not for punishment). It should only be used for the period that is necessary for staff to instigate measures to ensure the level of safety is increased.

**8. Responsibility for Policy Implementation**

- . Each manager of a juvenile justice centre and a community services office or unit is responsible for ensuring adherence to this policy.

To be implemented.

## DEPARTMENT OF JUVENILE JUSTICE

### DIRECTOR-GENERAL'S INSTRUCTION NO 141-96

Contact Officer: Ken Buttrum  
 Director General  
 Phone Number: (02)289 3361  
 Date: 10 July 1996

Policy	Juvenile Justice Services	Protective Abuse-Free Environment
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### PROVISION OF A PROTECTIVE ABUSE-FREE ENVIRONMENT IN THE DEPARTMENT OF JUVENILE JUSTICE

#### Background

The Department has previously developed a number of policies for the management of child protection issues including:

- (a) Policy for the Management of Child Protection Issues in Juvenile Justice Centres;
- (b) Assault Policy, Juvenile Justice Centres;
- (c) Assault Policy, Community Based Service: Management of Child Protection Issues.

A working party was convened recently to finalise the above policies and merge them into one document. The group comprised senior representatives from both juvenile justice community services and juvenile justice centres and was chaired by the Director, Operations.

The document produced by this working party was again revised and fully discussed at the recent senior managers' meeting held at McCabe Cottage from 17/19 July 1996.

This integrated policy focuses on the provision of a protective, abuse-free environment ensuring the safety of both the young people in our care and the department's staff members.

Copies of the interim policy are being sent for comment to the Department of Community Services, the Department of School Education, the Department of Ageing and Disabilities and the Police Service.

Until the policy is finalised, managers are to ensure that the procedures outlined in the interim document are to be strictly followed by all staff. Managers should therefore implement strategies to ensure that all staff members have a working knowledge of the document and are aware of their responsibilities to adhere to the policy requirements.

This will ensure that we are meeting our commitment to provide a protective abuse-free environment for the clients and staff of our department.

**KEN BUTTRUM**  
**Director-General**

Distribution

Directors/Managers, Central Support Office	for implementation
Cluster Directors	for "
Managers, Centres	for "
Managers, Juvenile Justice Community Services	for "
Manager, McCabe Cottage	for "
Manager, Transport Services	for "
Clinical Co-ordinators	for "



**DEPARTMENT OF JUVENILE JUSTICE**

**PROVISION OF A PROTECTIVE**

**ABUSE-FREE ENVIRONMENT**

**IN THE**

**DEPARTMENT OF JUVENILE JUSTICE**

**JULY 1996**

## Preamble

The Department of Juvenile Justice has a responsibility to ensure the protection of young people under its supervision from all forms of abuse or neglect. It also has a duty to respond appropriately where an incident of abuse or neglect is alleged, and to take any necessary steps to ensure the future safety of the young person or any other young person likely to be victimised.

Juveniles admitted to detention must feel certain they can serve their custodial sentence in a secure and humane juvenile justice centre, free from any abuse or neglect.

The Department of Juvenile Justice recognises that institutional environments, such as juvenile justice centres, can have a negative effect on some juveniles and that systems abuse can occur. Therefore, the department has a particular responsibility to ensure that its policies and programs are designed to minimise the harm which may arise from incarceration.

The department's community based services must be able to provide credible alternatives to custody to ensure that detention is used as a last resort.

Staff of these services, just as staff in juvenile justice centres, have a duty with other service delivery partners to ensure that young people under community supervision are protected from abuse and neglect.

To ensure the protection of our joint clients, the department expects that contracted community agencies, or agents, will act in accord with the principles outlined in this document.

## 1. PURPOSE

The purpose of this policy is to provide a framework for the protection of juvenile clients and departmental staff from all forms of abuse and to establish effective child protection strategies.

## 2. COMMON TERMS

- 2.1 For the purpose of this policy "juvenile" refers to a person under the supervision or custody of the Department of Juvenile Justice.
- 2.2 For the purposes of this policy "abuse" is any action that impacts negatively on the physical, psychological or emotional well being of another person.
- 2.3 For the purpose of this policy, fighting refers to mutual action by detainees who become involved in a quarrel or dispute and use limited physical force.
- 2.4 For the purpose of this policy, staff refers to people employed by the Department of Juvenile Justice on a permanent, temporary, casual or fee for service basis (including sessional supervisors and mentors).

### 3. DEFINITIONS

#### 3.1 Physical Abuse

- (a) Refers to non-accidental injury to a juvenile.
- (b) Physical abuse can include the use of illegal/excessive physical force, including corporal punishment, unauthorised use of restraining devices, improper use of isolation/seclusion, and improper administration of medication or drugs.

#### 3.2 Neglect

- (a) Refers to the failure of juvenile justice centre staff to provide the juvenile with the necessities of life.
- (b) Neglect can include lack of appropriate supervision, poor provision of a juvenile's material needs, inadequate medical treatment and educational programs for juveniles in detention, or failure to provide protection for juveniles at risk.

#### 3.3 Emotional Abuse

- (a) Refers to harm caused by excessive or unreasonable demands above the capacity of the juvenile's assessed developmental level, or by failure to provide an environment encouraging a juvenile's physical, emotional and social growth.
- (b) Emotional abuse can include scape-goating, rejection, humiliation, emotional unavailability of staff to the juvenile and verbal abuse.
- (c) Emotional abuse can also include failure to treat suicide threats seriously, punishing a group for an individual's misbehaviour, unreasonably restricting a juvenile's access to his/her family against the wishes of the juvenile, and knowingly placing juveniles in situations where they are at risk of abuse.
- (d) Emotional abuse can also include the use of language to ridicule a juvenile (e.g. about the nature of their offence/alleged offence, or personal appearance, or performance at school etc); or to humiliate or denigrate juveniles or their family, or verbal threats of withdrawal of privileges (where staff exceed their authority).
- (e) Negative comments referring to juveniles' origins, gender, ethnic background, religion, sexual preference, disabilities or the nature of their offences, are also regarded as emotional abuse.



### 3.4 Child Sexual Assault

- (a) Refers to the involvement of juvenile clients of the department in sexual activities where the juvenile is exploited for the gratification of another person's sexual needs or desires and cannot give valid consent because of age or the juvenile's lack of power in the situation

## 4. SOME BASIC LEGAL OBLIGATIONS

- 4.1 The Children (Detention Centres Act 1987 states that the welfare and interests of persons on remand or subject to control shall be given paramount consideration.
- 4.2 Under Section 14 of the Children (Detention Centres) Act 1987 the Director General shall ensure that adequate arrangements exist:
- (a) to maintain the physical, psychological and emotional well-being of detainees;
  - (b) to promote the social, cultural and educational development of detainees;
  - (c) to maintain discipline and good order among detainees; and
  - (d) to facilitate the proper control and management of detention centres.
- 4.3 The punishment for an offence imposed by a court is the only punishment for that offence. (The Children (Detention Centres) Act 1987 Section 4 2(c))
- 4.4 The use of any physical violence, striking, cuffing or shaking of a detainee must not be used, nor shall a detainee, without reasonable excuse be handcuffed or forcibly restrained as outlined in section 22 (1) and (2) of the Children (Detention Centres) Act. Illegal treatment of detainees is covered generally by section 22 and penalties are provided for persons who punish a detainee or cause a detainee to be punished in a manner that is prohibited by the Act.
- 4.5 All staff have a legal obligation to fulfil their duty of care to the juvenile clients of the department.
- 4.6 Confidentiality regarding clients must be maintained in accord with relevant legislation particularly the Children-(Criminal Proceedings) Act 1987 and the Children (Detention Centres) Act 1987.
- 4.7 The treatment of detainees in relation to the provision of alcohol, tobacco, adult films, work to be performed, segregation, complaints of misbehaviour, prohibited punishments, disclosure of information, health and medical attention, maintenance of physical well-being, property, access to books, newspapers and magazines, visits, communication with family and legal representatives, education and training, religious observance, leave, use of

force, reports on use of force and transfer between centres are prescribed under the Children (Detention Centres) Act 1987 and the Children (Detention Centres) Regulation 1995.

- 4.8 It is incumbent on all staff members to become aware of and to comply with all legislation governing departmental juvenile justice operations.

## 5. PREVENTION OF ABUSE

- 5.1 Staff must constantly monitor relationships and interaction between juveniles, colleagues and others (e.g. visitors) and be alert to possible abuse or neglect.
- 5.2 Where there is a danger to a particular juvenile in a centre, segregation under Section 19 of the Children (Detention Centres) Act 1987 may only be used for the protection of the juvenile or others (not for punishment). Segregation should only be used for the period that is necessary for staff to initiate measures to ensure the level of safety is enhanced. The use of segregation must be in accord with departmental policies, delegations and protocols.
- 5.3 Departmental staff are to provide information to juveniles regarding their rights to protection from all forms of physical, sexual and emotional abuse and neglect, and managers are to ensure that protective behaviour programs are implemented in all centres.
- 5.4 The department will fully support specialist personnel, such as the Ombudsman's staff and the Official Visitors, in monitoring the protection of our clients from all forms of abuse or neglect.
- 5.5 The department will employ quality staff with appropriate qualifications through:
- (a) competitive selection based on merit;
  - (b) skill testing for senior youth workers;
  - (c) health and criminal record screening;
  - (d) thorough referee, conduct and services and probity checks;
  - (e) induction programs for operational staff;
  - (f) competency based training;
  - (g) ongoing supervision and support.
- 5.6 The department will ensure staff training in the provision of developmental programs, the establishment of supportive professional working relationships with clients, and the maintenance of protective, abuse-free environments.



5.7 Departmental services will incorporate a range of proactive strategies to minimise the occurrence of abuse and neglect in care including:

- (a) thorough initial needs assessment of clients;
- (b) establishment of realistic case plans in co-operation with clients;
- (c) placement of clients in appropriate programs and accommodation within available resources;
- (d) provision of gender, age and culturally appropriate programs and services;
- (e) establishment of quality assurance and continuous improvement mechanisms.

## 6. STAFF RESPONSIBILITIES FOR REPORTING ABUSE OR NEGLECT

- 6.1 All departmental staff are required to immediately report all allegations or incidents of abuse (physical, emotional or sexual), or neglect of clients to their managers or their delegates.
- 6.2 If any such allegation or incident involves the manager, the report is to be made to the next most senior person, such as the Cluster Director.
- 6.3 Such incidents or allegations may have occurred during the period of departmental supervision or detention or when a juvenile is absent on leave or under escort.
- 6.4 Staff members receiving a disclosure of any kind of alleged abuse or neglect of departmental clients, or their siblings, when they were outside departmental care and in the community, must report these matters to their managers.
- 6.5 Similarly, if staff members are made aware by departmental clients, of the alleged abuse or neglect of other young persons, for example the siblings or friends of clients, they are to pass on such information to their manager.
- 6.6 In the case of allegations outlined in paragraphs 6.4 and 6.5, the responsible manager is then required to notify the local office of the Department of Community Services of the disclosure for that department's investigation and action.
- 6.7 If the Department of Community Services concludes that a criminal offence has occurred in such instances, that department will be responsible for referring the case for Police investigation.

**7. DEALING WITH THE ALLEGED ABUSE OF A CLIENT INVOLVING A SUSPECTED CRIMINAL OFFENCE**

- 7.1 If there is some evidence of a criminal offence, such as an assault or sexual assault (and excluding the minor incidents outlined in Section 11), the departmental manager receiving such a report must immediately refer the matter to the Police Service for investigation.
- 7.2 The Crimes Act makes it an offence to conceal a serious offence. Failure to bring information about a serious offence to the attention of the Police is in itself, an offence which attracts a sentence of imprisonment of up to two years.
- 7.3 If the victim of any alleged criminal offence is under the age of sixteen years, the manager is also to notify the local office of the Department of Community Services giving details of the actions taken (referral to Police etc) and the strategies being implemented to support and protect the juvenile.

**8. WORKING WITH CLIENTS RELUCTANT TO PROCEED WITH ABUSE ALLEGATIONS INVOLVING CRIMINAL OFFENCES**

- 8.1 Due to the possibility of Police investigation and subsequent court action, the nature of the alleged offence, or the fear of reprisal by the alleged perpetrator, many young people are reluctant to proceed with allegations of abuse, especially sexual assault.
- 8.2 Departmental staff are unable to promise that they will keep any such allegations secret or that the Police will not be informed.
- 8.3 Departmental staff are to encourage abused juveniles to proceed with allegations and are to ensure, in liaison with their managers, that they are given sensitive personal support, and any necessary legal advice. They are also to be offered appropriate counselling throughout the investigatory (and prosecution) processes, and afterwards if considered necessary.

**9. DEALING WITH THE ALLEGED EMOTIONAL ABUSE OR NEGLECT OF DEPARTMENTAL CLIENTS**

- 9.1 Allegations of the emotional abuse or neglect of departmental clients under the age of sixteen years are to be referred to the local office of the Department of Community Services by our relevant managers.
- 9.2 The relevant managers of both departments will then discuss and ensure the prompt investigation of such allegations by an appropriately qualified person, external to the Department of Juvenile Justice, who will then report to the manager of the local Community Services office.



- 9.3 If after investigation the allegation of such abuse by a departmental staff is confirmed, that departmental staff member should be subject to disciplinary action in accord with the provisions of the Public Sector Management Act.
- 9.4 Allegations of the emotional abuse or neglect of departmental clients over sixteen years are to be referred by the relevant manager to the Cluster Director for the appointment of an appropriately qualified person, external to the department, to complete a prompt investigation.

## 10. PROCEDURES RELATED TO ABUSE - NEGLECT ALLEGATIONS

- 10.1 If abuse or neglect allegations are made by, or involve departmental clients with special needs, manager are to ensure that they are provided with sensitive and appropriate advice and support throughout the whole process.
- 10.2 Whenever abuse or neglect allegations are made, managers are, as soon as practicable and within twenty four hours, to notify the relevant Cluster Director, verbally in the first instance and then writing on the appropriate incident advice form.
- 10.3 Within 48 hours of the receipt of allegations, the relevant manager is to provide a comprehensive report to the Cluster Director, detailing the allegations, the resultant action plan, and the supports placed around the juvenile making the allegations.
- 10.4 In relation to abuse incidents and allegations, the juvenile's parent(s), guardian(s) or significant others must be informed by the relevant manager, except where the alleged perpetrator is one of these people. Abuse victims over the age of sixteen years are to be consulted about the people to be informed of the incident.
- 10.5 In the case of abuse by another detainee (or client), the parent(s), guardian(s) or significant others of the alleged offending juvenile are to be informed by the manager.
- 10.6 In the case of alleged abuse by another detainee (or client), steps must be taken by the manager to ensure the safety and emotional well-being of the abused juvenile, and the separation of the juvenile and the alleged perpetrator.
- 10.7 If movement of a juvenile is considered appropriate, the needs of the victim must be given prime consideration before the movement is finalised.
- 10.8 In the case of alleged abuse by a departmental staff member, the manager is to consider the removal of the staff member to a position where there is no client contact, or when a criminal offence is alleged, the suspension of the staff member following usual departmental disciplinary procedures through the Manager, Professional Conduct at Central Support Office.

- 10.9 If the alleged perpetrator is an employee of the Department of School Education, the manager is to notify the Principal to ensure the separation of the alleged perpetrator and the juvenile.
- 10.10 If the alleged perpetrator is the School Principal, the relevant departmental manager is to refer the matter to the appropriate Superintendent of the Department of School Education for any necessary action.
- 10.11 In cases involving staff of the Department of School Education, the Cluster Director is to notify the relevant Department of School Education's (regional) Assistant Director General of the incident and the actions taken if referral is made to the Police for investigation.
- 10.12 All details of alleged abuse or neglect must be fully documented at the local level by the manager and if physical injuries have been sustained, the young person is to be referred appropriately for medical assessment and reporting.
- 10.13 Where possible, in the case of physical assaults, the relevant manager should seek the victim's approval to have photographs taken of any external injuries.

## 11. PROCEDURES RELATED TO FIGHTS AND MINOR ALTERCATIONS

- 11.1 Wherever young people gather or reside together, some fights or minor altercations are likely. Departmental managers are to ensure that procedures exist to minimise the likelihood of such incidents and to ensure that they are quickly resolved.
- 11.2 There may be occasions when a juvenile wishes to lay a complaint to Police alleging assault by another person. This is their right and the manager is to report the incident to the Police for investigation.
- 11.3 In relation to fights, the juvenile wishing to lay a complaint to Police, should be advised of a 24 hour 'cooling off' period before the manager gives the information to the Police.
- 11.4 If after the 'cooling off' period, the juvenile still wishes to lay a complaint, the manager is to make the referral to the local Police.

## 12. CONFIDENTIALITY

- 12.1 When an incident of abuse or assault is disclosed to a staff member by a juvenile, staff should not attempt to investigate by asking further questions. Police have warned that such action may risk contamination of evidence for criminal proceedings.



- 12.2 Any information gained by a staff member at the time of disclosure must not be shared with anyone apart from the manager, or in circumstances previously outlined in paragraph 6.2, the Cluster Director.
- 12.3 The staff member to whom the disclosure is made should reassure the juvenile that the information will be treated confidentially, but must never promise that the information will remain secret.
- 12.4 Where a staff member receives and withholds information about alleged abuse or neglect, that young person or others may be exposed to unacceptable risks. As stated previously (see paragraph 6.6) it is an offence to conceal a serious criminal act.
- 12.5 Any staff member failing to adhere to this policy may be subject to disciplinary action.

### 13. ALLEGATIONS OF ASSAULT BY POLICE OFFICERS

- 13.1 All allegations of assault of juveniles (by Police), either prior to or during departmental involvement, must be reported promptly to the Commander (Professional Responsibility) in the NSW Police Service by the departmental manager responsible for the juvenile's care when the allegation is made.
- 13.2 These reports must be in writing and are made by the departmental manager on the juvenile's behalf.
- 13.3 This matter is fully covered in the Director General's Instruction 103/95.

### 14. ALLEGATIONS OF ASSAULTS ON STAFF BY JUVENILES

- 14.1 Allegations or disclosures that a staff member has been assaulted by a juvenile must be referred by the relevant departmental manager to the local Police for investigation following appropriate consultation with the involved staff member.
- 14.2 In the case of serious injury resulting from an alleged assault, the staff should be immediately taken to a local medical centre or hospital for treatment.
- 14.3 If a departmental nurse is available, their assistance should be sought to render first aid, initially assess the injury and to arrange further medical treatment.
- 14.4 Within 24 to 48 hours, the relevant manager is to ensure that critical incident debriefing has been offered to the staff victim and any staff witnesses.
- 14.5 Ongoing counselling support is to be offered to the staff victim by the relevant manager through the contracted employee assistance provider.

- 14.6 Within the same period, the relevant manager is to ensure that similar support is offered to the juvenile involved and juvenile witnesses by the department's crisis team of psychologists.

**15. RESPONSIBILITY FOR POLICY IMPLEMENTATION**

- 15.1 Each departmental manager is responsible for implementing and ensuring compliance with this policy.
- 15.2 This policy is to be introduced through management staff meetings and well planned local staff training.
- 15.3 The policy will then be included in all future induction training and in the induction package distributed to newly employed staff members.



Ken Buttrum  
Director General



F A C S I M I L E C O V E R S H E E T  
DEPARTMENT OF JUVENILE JUSTICE

MINDA

JOSEPH STREET, LIDCOMBE 2141  
(PO BOX 43, REGENTS PARK 2143)  
TELEPHONE No. : (02) 646 0777

FAX No: (02) 749 2598 ADMISSIONS FAX : (02) 643 1655

TO: SURELLON LEMBURG

SENDER: STEVEN LUNDI

DATE: 25-7-96

FAX: \_\_\_\_\_

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**DEPARTMENT OF JUVENILE JUSTICE**

**PROVISION OF A PROTECTIVE**

**ABUSE-FREE ENVIRONMENT**

**IN THE**

**DEPARTMENT OF JUVENILE JUSTICE**

**NOVEMBER 1997**

**CLIENT PROTECTION, POLICIES AND**

**PROCEDURES OF THE**

**DEPARTMENT OF JUVENILE JUSTICE**

**(Second Edition)**

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## FROM THE DIRECTOR GENERAL

The Department of Juvenile Justice has a responsibility to ensure the protection of young people under its supervision from all forms of abuse or neglect. It also has a duty to respond appropriately where an incident of abuse or neglect is alleged, and to take any necessary steps to ensure the future safety of the young person or any other young person likely to be victimised.

Young people admitted to detention must be certain they can serve their custodial sentence in a secure and humane juvenile justice centre, free from any abuse or neglect.

The Department of Juvenile Justice recognises that institutional environments, such as juvenile justice centres, can have a negative effect on some young people and that systems abuse can occur. Therefore, the department has a particular responsibility to ensure that its policies and programs are designed to minimise the harm which may arise from incarceration.

The department's community based services must be able to provide credible, accountable alternatives to custody to ensure that detention is used as a last resort.

Staff of our community based services, just as staff in juvenile justice centres, have a duty with our service delivery partners to ensure that young people under community supervision are protected from abuse and neglect.

To ensure the protection of our joint clients, the department expects that contracted community agencies, or agents, will act in accordance with the principles outlined in this document and the NSW Child Protection Council's *Interagency Guidelines for Child Protection Intervention*, 2nd edition, 1997.

This policy concerns all incidents of abuse or neglect which staff actually witness taking place or are told about by clients or other people. The policy covers abuse of clients by staff, abuse of clients by other clients, and abuse perpetrated by other people outside the juvenile justice service environment.

All departmental staff are required to familiarise themselves with the provisions of this policy and to ensure its implementation throughout our services.

Staff are also strongly advised to make themselves familiar with the invaluable information contained in the newly issued Interagency Guidelines, copies of which are available from your managers.

Each current and future employee of the Department of Juvenile Justice is required to sign a statement indicating their commitment to comply with this policy and associated procedures. The signed statement (a copy of which is attached as the final page of this document) must be procured by the relevant manager, and a copy of this signed statement will be placed on each staff member's personnel file.



KEN BUTTRUM  
Director General

## 1. PURPOSE OF POLICY

The purpose of this policy is to provide a framework for the protection of juvenile clients and departmental staff from all forms of abuse and neglect, and to establish effective child protection strategies within the Department of Juvenile Justice.

## 2. PRINCIPLES

The following principles underpin this policy:

- **The best interests, safety and well being of our clients shall be paramount** in the development and implementation of all our policies, programs and procedures, and in all our casework decisions and practices.
- Clients have a right to departmental services **free from all forms of abuse and neglect, and focused on their development.**
- **Staff have a legal duty of care** to the clients of the department.
- Where a client is the victim of abuse or neglect, **measures must be immediately implemented to promote the physical, psychological and emotional well being and recovery of that client.**
- As stated in the legislation, **detention is an option of last resort** and for the minimum necessary period.
- Clients in detention centres require **special attention and protection because of their vulnerability.**
- The department **will seek the involvement of clients, their families and significant others in case management decisions**, and will provide all relevant information about the health and well being of clients to parents, caregivers or guardians.



### 3. COMMON TERMS

- 3.1 For the purpose of this policy "juvenile" refers to a client under the supervision or in the custody of the Department of Juvenile Justice.
- 3.2 For the purpose of this policy "abuse" refers to non-accidental physical injury, neglect, emotional abuse and sexual exploitation of young people.
- 3.3 For the purpose of this policy, "staff" refers to people employed by the Department of Juvenile Justice on a permanent, temporary, casual or fee for service basis (including sessional supervisors and mentors), and those involved in voluntary work for the department.

### 4. LEGAL DEFINITIONS

- 4.1 In section 3 (1) of the *Children (Care and Protection) Act 1987*, 'abuse', in relation to a child is defined as follows:
  - (a) assault (including sexually assault) the child; or
  - (b) ill-treat the child; or
  - (c) expose or subject the child to behaviour that psychologically harms the child,whether or not, in any case, with the consent of the child.
- 4.2 Abuse of a young person is an offence under section 25 of the *Children (Care and Protection) Act 1987*, which states:

a person who abuses a child, or causes or procures a child to be abused, is guilty of an offence.
- 4.3 Child abuse is also a term commonly used to refer to a range of sexual offences under Section 61(A)(1) of the *Crimes Act 1900* which result in harm to a young person and which involve behaviours to which a young person cannot give consent.
- 4.4 The laws concerning offences in sexual assault in the *Crimes Act 1900* are sexual intercourse, indecent assault and acts of indecency.

## 5. CLARIFICATION OF THE CONCEPT OF ABUSE

### 5.1 Physical Abuse

- (a) Refers to the conduct by another person that results in non-accidental injury of a client.
- (b) Physical abuse can include the use of illegal or excessive physical force, including corporal punishment, unauthorised use of restraining devices, improper use of segregation and confinement, and improper administration of medication or drugs.

### 5.2 Neglect

- (a) Refers to the failure of juvenile justice centre staff to provide the client with the basic physical and emotional necessities of life.
- (b) Neglect can include lack of appropriate supervision, poor provision of a client's food or other material needs, inadequate medical treatment and educational programs for clients in custody, or failure to provide protection for clients at risk.

### 5.3 Emotional Abuse

- (a) Refers to harm caused by excessive or unreasonable demands above the capacity of the client's assessed developmental level, or failure to provide a custodial environment encouraging a client's physical, emotional and social growth.
- (b) Emotional abuse can include scape-goating, rejection, humiliation and verbal abuse of the client.
- (c) Emotional abuse can also include failure to treat suicide threats seriously or sensitively, punishing a group for an individual's misbehaviour, unreasonably restricting a client's access to their family against the wishes of that client, misusing the reward/punishment system, and knowingly placing clients in situations where they are at risk of abuse.
- (d) Emotional abuse can also include the use of language to ridicule or intimidate a client (e.g. about the nature of their offence/alleged offence, personal appearance, performance at school etc); or the use of language to humiliate or denigrate clients or their family.
- (e) Derogatory comments about a client's origins, gender, sexual preferences, ethnicity, religion, or disabilities are also regarded as emotional abuse.



#### 5.4 Child Sexual Abuse and Assault

- (a) Sexual abuse refers to the involvement of clients of the department in sexual acts where the client is exploited for the gratification of another's sexual needs or desires, and where they cannot give valid consent because of their age or their lack of power in the situation.
- (b) Sexual abuse can include genital exposure, exposure to prostitution or use of a client for prostitution purposes, exposure to pornography or use of a client for pornographic purposes, the threat of sexual abuse, and the deliberate exposure of a client to the sexual behaviours of others.
- (c) Sexual assault refers to specific offences under the *NSW Crimes Act (1900)*.

#### 6. SOME OF OUR BASIC LEGAL OBLIGATIONS REGARDING THE DEVELOPMENT AND PROTECTION OF DEPARTMENTAL CLIENTS

- 6.1 **The *Children (Detention Centres) Act 1987* states that the welfare and interests of persons on remand or subject to control shall be given paramount consideration.**
- 6.2 Under Section 14 of the *Children (Detention Centres) Act 1987* the Director General shall ensure that adequate arrangements exist:
  - (a) **to maintain the physical, psychological and emotional well-being of detainees;**
  - (b) **to promote the social, cultural and educational development of detainees;**
  - (c) **to maintain discipline and good order among detainees; and**
  - (d) **to facilitate the proper control and management of detention centres.**
- 6.3 **The punishment for an offence imposed by a court is the only punishment for that offence. (The *Children (Detention Centres) Act 1987* Section 4 1(b)).**
- 6.4 **The use of any physical violence, striking, cuffing or shaking of a detainee must not be used, nor shall a detainee, without reasonable excuse be handcuffed or forcibly restrained as outlined in section 22 (1) and (2) of the *Children (Detention Centres) Act*. Illegal treatment of detainees is covered generally by section 22 and penalties are provided for persons who punish a detainee or cause a detainee to be punished in a manner that is prohibited by the Act.**

- 6.5 The treatment of detainees in relation to the provision of alcohol, tobacco, adult films, work to be performed, segregation, complaints of misbehaviour, prohibited punishments, disclosure of information, health and medical attention, maintenance of physical well being, property, access to books, newspapers and magazines, visits, communication with family and legal representatives, education and training, religious observance, leave, use of force, reports on use of force and transfer between centres are prescribed under the *Children (Detention Centres) Act 1987* and the *Children (Detention Centres) Regulation 1995*.
- 6.6 **All staff have a legal obligation under common and statute law to fulfil a duty of care to clients.** Departmental staff, when responsible for clients, are said to be operating *in loco parentis* (ie. in the place of a parent). They thus have similar duties to care for the welfare of clients, where it is foreseeable that the clients may be at risk and where it is within their capabilities to take actions to avert the risk.
- 6.7 **Confidentiality regarding clients must be maintained** in accordance with relevant legislation, particularly the *Children (Criminal Proceedings) Act 1987* and the *Children (Detention Centres) Act 1987*.
- 6.8 **It is incumbent on all staff to make themselves aware of and to comply with all legislation and policies governing departmental juvenile justice operations.**
- 6.9 The department has a duty to provide independent legal advice/representation for a client where there are allegations of abuse or neglect against departmental staff.

## 7. SOME DEPARTMENTAL STRATEGIES AIMED AT THE PREVENTION OF ABUSE

- 7.1 Staff need to constantly **monitor relationships and interaction between clients, colleagues and others** (e.g. visitors) and **be alert to indicators of abuse or neglect**. (Staff are advised to read the chapter on the recognition of abuse and neglect contained in the Interagency Guidelines for Child Protection Intervention; see pg 42 ff).
- 7.2 Departmental staff are to provide information to juveniles regarding their rights to protection from all forms of physical, sexual and emotional abuse and neglect, and **managers are to ensure that protective behaviour programs are implemented in all centres.**
- 7.3 The department will **fully support specialist personnel**, such as the Ombudsman's staff and the Official Visitors, **in monitoring the protection of our clients** from all forms of abuse or neglect.



- 7.4 The department **will employ appropriately qualified and experienced staff** through:
- (a) competitive selection based on merit;
  - (b) skill testing for senior youth workers;
  - (c) health and criminal record screening;
  - (d) thorough referee, conduct and services and probity checks;
  - (e) induction programs for operational staff;
  - (f) competency based training;
  - (g) ongoing supervision and support.
- 7.5 The department **will ensure staff training** in the provision of developmental programs, the establishment of supportive professional working relationships with clients, and the maintenance of protective, abuse-free service environments.
- 7.6 Departmental services will incorporate a range of proactive case management strategies to maximise the level of client care and minimise the occurrence of client abuse and neglect including:
- (a) thorough initial client needs assessment;
  - (b) establishment of realistic case plans with clients (and significant others);
  - (c) placement of clients in appropriate programs, accommodation and custodial settings (within available resources);
  - (d) provision of gender, age and culturally appropriate programs and services;
  - (e) establishment of case monitoring, quality assurance and continuous improvement procedures.
- 7.7 If there is a danger to a client in a centre, segregation (under Section 19 of the *Children (Detention Centres) Act 1987*), should **only be used as a measure of last resort, and then only for the protection of the client or other people**. Segregation should only be used for the period that is necessary for staff to initiate measures to ensure an appropriate level of safety. The use of segregation must be in accordance with departmental policies, delegations and protocols.
8. **STAFF RESPONSIBILITIES FOR REPORTING ABUSE OR NEGLECT OF YOUNG PEOPLE IN DEPARTMENTAL CUSTODY/UNDER SUPERVISION**
- 8.1 All departmental staff are required to immediately report all allegations or incidents of abuse (physical, emotional or sexual), or neglect of clients to their manager or their delegates.
- 8.2 If any such allegation or incident involves the manager, the report is to be made to the next most senior person, such as the Cluster Director.

- 8.3 Such alleged incidents may have occurred during the period of departmental supervision or custody, or when a client is absent on leave or under escort.
  - 8.4 In the case of such allegations, **the responsible manager is required to notify the local office of the Department of Community Services of the disclosure**, for that department's action in accordance with the Interagency Guidelines on Child Protection Intervention.
  - 8.5 **If the disclosure suggests a criminal offence**, such as an assault or sexual assault, the departmental manager receiving such a report must **immediately refer the matter to the Police Service, and inform the local office of the Department of Community Services** of this action.
  - 8.6 The Crimes Act makes it an offence to conceal a serious offence. **Failure to bring information about a serious offence to the attention of the Police is in itself, an offence** which attracts a sentence of imprisonment of up to two years.
  - 8.7 The relevant departmental manager must **arrange for the provision of independent legal advocacy for any client alleged to have been abused.**
  - 8.8 **The manager should seek and record the names of witnesses**, either departmental staff or clients, and **pass this information to the investigating Police officers** who will then determine the people to be interviewed in relation to the incident. Departmental staff members are **not to take statements from witnesses.**
  - 8.9 If departmental staff have any concerns regarding the Police action into the investigation of the reported incident, these concerns should be discussed with the local Patrol Commander of the Police Service, by the manager.
  - 8.10 If departmental staff have any concerns about the Department of Community Services' action regarding the alleged abuse, these concerns should be discussed with the relevant DCS Director of Operations, by the Cluster Director.
9. **STAFF RESPONSIBILITIES FOR REPORTING ABUSE OR NEGLECT OF YOUNG PEOPLE NOT DIRECTLY UNDER DEPARTMENTAL SUPERVISION**
- 9.1 If staff members are made aware of the alleged abuse or neglect of other young persons, for example the siblings or friends of clients, they are to pass on such information to their manager.



- 9.2 In the case of "hearsay" allegations, the responsible manager is required to notify the local office of the Department of Community Services of the disclosure, for that department's action in accordance with the Interagency Guidelines for Child Protection Intervention.
  - 9.3 If the disclosure suggests a criminal offence, such as an assault or sexual assault, the departmental manager receiving such a report must immediately refer the matter to the Police Service, and inform the local office of the Department of Community Services of this action.
10. **WORKING WITH CLIENTS RELUCTANT TO PROCEED WITH ABUSE ALLEGATIONS INVOLVING CRIMINAL OFFENCES**
- 10.1 Due to the possibility of Police investigation and subsequent court action, the nature of the alleged offence, or the fear of reprisal by the alleged perpetrator, many young people are reluctant to proceed with allegations of abuse, especially sexual assault.
  - 10.2 The departmental staff member to whom the disclosure is made should sensitively encourage the allegedly abused client to proceed with their allegations. The relevant manager is to ensure that the client is given sensitive, discreet, personal support, is offered counselling, and is provided with any necessary legal advice. The client is also to be offered appropriate ongoing counselling throughout the investigatory (and prosecution) processes, and afterwards if considered necessary.
  - 10.3 Departmental staff are unable to promise that they will keep any such allegations of criminal offences secret, or that the Police will not be informed. Staff therefore should clearly explain their legal duty to report such criminal allegations to Police.
11. **DEALING WITH THE ALLEGED EMOTIONAL ABUSE OR NEGLECT OF DEPARTMENTAL CLIENTS BY STAFF MEMBERS**
- 11.1 Allegations of the emotional abuse or neglect of departmental clients under the age of sixteen years, by staff members, are to be referred to the local manager of the Department of Community Services, by our relevant manager.
  - 11.2 The relevant managers of both departments will then discuss the matter and ensure the prompt investigation of such allegations by a Community Services staff member or another appropriately qualified person, external to the Department of Juvenile Justice.

- 11.3 The report flowing from the investigation will be handed to the local Community Services manager and discussed with the relevant Juvenile Justice manager with a view to determining any necessary further action.
  - 11.4 **Where the Department of Community Services declines to conduct an investigation into the alleged abuse or neglect, the relevant manager is to appoint an appropriately qualified staff member to complete a prompt investigation** (refer to Director General's Instruction 169/97 on Procedures for Dealing with Allegations of Misconduct/Breaches of Discipline in DJJ).
  - 11.5 When there are allegations of the **emotional abuse or neglect of departmental clients over sixteen years**, the relevant manager is to appoint an appropriately qualified staff member to complete a prompt investigation.
  - 11.6 If after investigation, the allegation of such abuse or neglect by a departmental staff member is confirmed, **that person should be subject to disciplinary proceedings in accordance with the provisions of the Public Sector Management Act.**
  - 11.7 The departmental manager is to ensure that the client allegedly **subjected to abuse or neglect is provided with prompt independent legal representation and any necessary emotional support and counselling.**
12. **GENERAL DEPARTMENTAL PROCEDURES RELATED TO DEALING WITH ABUSE - NEGLECT ALLEGATIONS**
- 12.1 Where staff witness an alleged incident of abuse or neglect or are told of such an incident and the client's health and safety is threatened, **staff must act immediately to secure the client's safety.**
  - 12.2 If abuse or neglect allegations are made by, or involve **departmental clients with special needs** (such as a young person with an intellectual disability), **managers are to ensure that they are provided, throughout the whole process, with appropriate advice and support which is sensitive to their special needs.**
  - 12.3 In the case of alleged abuse by another client, **steps must be taken by the manager to ensure the safety and emotional well being of the abused client, and the separation of the client and the alleged perpetrator.**



- 12.4 If transfer of a client is considered appropriate, **the needs of the client allegedly subject to abuse must be given prime consideration** before the transfer is finalised.
- 12.5 In the case of alleged abuse by a departmental staff member, **the manager is to consider the removal of the staff member to a position where there is no client contact, or if a criminal offence is alleged, the suspension of the staff member** following usual departmental disciplinary procedures after consultation with the Manager, Professional Conduct at Central Support Office.
- 12.6 Whenever abuse or neglect allegations are made, **managers are, as soon as practicable and within twenty four hours, to notify the relevant Cluster Director**, verbally in the first instance and then in writing on the appropriate incident advice form.
- 12.7 **Within 48 hours of the receipt of allegations, the relevant manager is to provide a comprehensive report to the Cluster Director**, detailing the allegations, the resultant action plan, and the supports placed around the client making the allegations.
- 12.8 In relation to abuse incidents and allegations, **the client's parent(s), guardian(s) or significant others must be informed by the relevant manager, except where the alleged perpetrator is one of these people**. When alleged abuse victims are over the age of sixteen years, they are to be consulted about the people to be informed of the incident.
- 12.9 **The manager should discuss the timing of the advice and who is the most appropriate person to inform the parent/s or guardians, with officers from the Department of Community Services or the Police Service.**
- 12.10 In the case of abuse by another detainee (or client), **the parent(s), guardian(s) or significant others of the alleged offending juvenile are to be informed by the manager.**
- 12.11 **If the alleged perpetrator is an employee of the Department of School Education, the manager is to notify the School Principal to ensure the separation of the alleged perpetrator and the client.**
- 12.12 **If the alleged perpetrator is the School Principal, the relevant departmental manager is to refer the matter to the appropriate District Superintendent of the Department of School Education for any necessary action.**



- 12.13 In cases alleging abuse by a staff member of the Department of School Education, the **Cluster Director is to notify the relevant District Superintendent, DSE of the incident and the actions taken if DJJ staff make a referral to Police for investigation.**
- 12.14 All details of alleged abuse or neglect must be **fully documented at the local level by the manager and if physical injuries have been sustained or are suspected, the client is to be referred appropriately for medical assessment and reporting.**
- 12.15 Where possible, in the case of physical assaults, the relevant manager **should seek the victim's approval to have photographs taken of any external injuries.** Two photographs should be taken, and one copy should be placed on the Allied Health File.

### **13. PROCEDURES RELATED TO FIGHTS AND MINOR ALTERCATIONS**

- 13.1 Wherever young people gather or reside together, some fights or minor altercations are likely. **Departmental managers are to ensure that procedures exist to minimise the likelihood of such incidents and to ensure that they are quickly resolved.**
- 13.2 **All alleged physical and sexual assaults, regardless of their nature, are to be reported to the Police.** If the client does not wish to proceed with the matter, Police will determine what course of action should be taken.

### **14. CONFIDENTIALITY**

- 14.1 **When an incident of abuse or assault is disclosed to a staff member by a client, staff should not attempt to investigate by asking further questions.** Police have warned that such action may risk contamination of evidence for criminal proceedings.
- 14.2 **Any information gained by a staff member at the time of disclosure must not be shared with anyone apart from the manager, or in circumstances previously outlined in paragraph 8.2, the Cluster Director.**
- 14.3 The staff member to whom the disclosure is made should reassure the client that the **information will be treated confidentially, but must never promise that the information will remain secret.**

- 14.4 **Where a staff member receives and withholds information about alleged abuse or neglect, that young person or others may be exposed to unacceptable risks.** As stated previously (see paragraph 8.6) it is an offence to conceal a serious criminal act.
- 14.5 Any staff member failing to adhere to these principles of confidentiality may be subject to disciplinary action.

## **15. ALLEGATIONS OF ASSAULT BY POLICE OFFICERS**

- 15.1 **All allegations of assault of clients by Police, either prior to or during departmental involvement, must be reported promptly to the Commander (Internal Affairs) in the NSW Police Service by the departmental manager responsible for the client's care when the allegation is made.**
- 15.2 These reports must be in writing and are to be made by the departmental manager on the client's behalf.
- 15.3 This matter is more fully covered in the Director General's Instruction 103/95.
- 15.4 **Serious complaints about Police treatment of a client should also be reported to the Ombudsman, by the manager.**
- 15.5 **Relevant staff should provide the client with sufficient help, advice and support to enable them to prepare, write and lodge the complaint to the Ombudsman themselves. Access by the client to legal advice should be facilitated, where necessary.**

## **16. ALLEGATIONS OF STAFF ASSAULTS BY CLIENTS**

- 16.1 **Allegations or disclosures that a staff member has been assaulted by a client must be referred by the relevant departmental manager to the local Police, following appropriate consultation with the involved staff member.**
- 16.2 **If a departmental registered nurse is available, their assistance should be sought to render first aid, initially assess the injury and to arrange further medical treatment.**
- 16.3 **In the case of serious injury resulting from an alleged assault, the staff member should be immediately taken to a local medical centre or hospital for treatment.**



- 16.4 Within 24 to 48 hours, the relevant manager is to ensure that critical incident debriefing has been offered to the staff victim and any staff witnesses.
- 16.5 Within the same period, the relevant manager is to ensure that similar support by the department's crisis team of psychologists is offered to the client involved and any client witnesses.
- 16.6 Ongoing counselling support is to be offered to the staff victim by the relevant manager through the contracted employee assistance provider.

## **17. RESPONSIBILITY FOR POLICY IMPLEMENTATION**

- 17.1 Each departmental manager is responsible for implementing and ensuring compliance with this policy.
- 17.2 This policy is to be introduced through management staff meetings and well planned local staff training.
- 17.3 The policy will then be included in all future induction training and in the induction package distributed to newly employed staff members.
- 17.4 Departmental incident reports (refer to Director General's Instruction 153/96) are to clearly specify the type of abuse or neglect so that accurate statistics may be compiled by Central Support Office.

## **18. OPERATIONAL PROCEDURES FOR POLICY IMPLEMENTATION**

- 18.1 **Steps to be taken by STAFF following allegations of abuse or neglect.**
  - (a) When you are being told about an event or behaviours which indicate abuse (whether it is physical, sexual or emotional) or neglect involving a departmental client, the client's brothers/sisters, the client's friends or the brothers/sisters of a client's friend, do the following:
    - Listen to what the young person tells you. Do not attempt to investigate by asking questions. Do not do or say anything that may make the situation worse and cause further harm to the young person; for example, asking probing questions, accusing parents/colleagues, or discussing the allegation with potential witnesses or colleagues.



- Do not promise the young person that you will keep their allegations secret. You can promise that the information will be treated confidentially.
  - After listening to the young person, you are advised to make notes about what you were told.
  - Inform your manager immediately of the allegation.
    - Where the allegation involves your manager, inform the Cluster Director immediately.
    - Where the allegation involves the Cluster Director, inform the Director of Operations immediately.
  - After talking the case over with your manager/Cluster Director, provide sensitive personal support to the young person and offer access to counselling, as believed appropriate by you and the manager.
  - Do not discuss the allegations with any other person.
  - Management will take further action on your information. Like you, they have a duty of care to the young person.
- (b) When you actually see an incident of abuse (whether it is physical, sexual or emotional) or neglect taking place involving a departmental client, the client's brothers/sisters, the client's friends, the brothers/sisters of a client's friend, do the following:
- Intervene to secure the safety of the young person.
  - Inform your manager immediately of the incident
    - Where the incident involves your manager, inform the Cluster Director immediately.
    - Where the incident involves the Cluster Director, inform the Director of Operations immediately.
  - Make notes of what you saw.
  - After talking the case over with your manager/Cluster Director, provide sensitive personal support to the young person and offer access to counselling, as believed appropriate by you and the manager.
  - Do not discuss the incident with any other person.
  - Management will take further action on your information. Like you, they have a duty of care to the young person.

**18.2 Steps to be taken by MANAGEMENT where the allegation concerns abuse or neglect and there is no suggestion of a criminal offence.**

**(a) If the juvenile is under 16 years**

- Secure the victim's safety by:
  - ensuring the safety and well being of the abused juvenile and their separation from the alleged perpetrator
  - referring the victim for medical assessment, if required
  - consider giving the officer duties where there is no contact with clients, where the alleged perpetrator is a DJJ staff member
  - notifying the School Principal to ensure the separation of the staff member and the juvenile, where the alleged perpetrator is a DSE employee.
  
- Contact the relevant people by:
  - notifying the Cluster Director verbally at first and then by incident advice within 24 hours
  - notifying the local office of DCS
  - informing the victim's parents/caregivers, except where one of these is the alleged perpetrator
  - where the alleged perpetrator is a client, informing the parents/caregivers of allegation against the young person
  - notifying the appropriate District Superintendent, DSE in all alleged abuse cases involving DSE staff
  - arranging independent legal advocacy for the young person.
  
- Gather the evidence by:
  - fully documenting the alleged abuse or neglect at the local level
  - providing a comprehensive written report to the Cluster Director within 48 hours.
  
- Initiate the investigation by:
  - discussing prompt investigation of the allegation with the local DCS manager, where the alleged perpetrator is a DJJ employee
  - investigator to be independent of DJJ and to report to DCS manager
  - contacting the DCS manager within 48 hours of DJJ's notification to ascertain that department's intended action/progress



- appointing an appropriately qualified staff member to complete a prompt investigation, where DCS declines to proceed with an investigation.
  - Take follow-up action by:
    - referring the matter to the Cluster Director for disciplinary action in accordance with the Public Sector Management Act, where it appears that such action is warranted
    - maintaining all records relating to the allegation and ensuring their safe keeping.
- (b) **If the juvenile is over 16 years**
- Secure the victim's safety by:
    - ensuring the safety and well being of the abused juvenile and their separation from the alleged perpetrator
    - referring the victim for medical assessment, if required
    - consider giving the officer duties where there is no contact with clients, where the alleged perpetrator is a DJJ staff member
    - notifying the School Principal to ensure the separation of the staff member and the juvenile, where the alleged perpetrator is a DSE employee.
  - Contact the relevant people by:
    - notifying the Cluster Director verbally at first and then by incident advice within 24 hours
    - consulting the young person about the people to be informed of the incident
    - notifying the appropriate District Superintendent, DSE in all alleged abuse cases involving DSE staff
    - where the alleged perpetrator is a client, informing the parents/caregivers of allegation against the young person
    - arranging independent legal advocacy for the young person.
  - Gather the evidence by:
    - fully documenting the alleged abuse or neglect at the local level
    - providing a comprehensive written report to the Cluster Director within 48 hours.



- Initiate the investigation by (to be done by the relevant manager):
  - appointing an appropriately qualified staff member to undertake the investigation, where the alleged perpetrator is a DJJ employee.
- Take follow-up action by:
  - referring the matter to the Cluster Director for disciplinary action in accordance with the Public Sector Management Act, where it appears that such action is warranted.
  - maintaining all records relating to the allegation and ensuring their safe keeping.

**18.3 Steps to be taken by MANAGEMENT where the allegation suggests a criminal offence such as an assault or sexual assault.**

**(a) If the juvenile is under 16 years**

- Secure the victim's safety by:
  - ensuring the safety and well being of the abused juvenile and their separation from the alleged perpetrator
  - referring the victim for medical assessment and reporting
  - consulting the Manager, Professional Conduct and then follow disciplinary procedures, where the alleged perpetrator is a DJJ staff member
  - notifying the School Principal to ensure the separation of the DSE employee and the juvenile, where the alleged perpetrator is a DSE employee.
- Contact the relevant people by:
  - notifying the Cluster Director verbally at first and then by incident advice within 24 hours
  - notifying Police
  - notifying, in writing, the Commander (Internal Affairs), Police Service, where the allegation concerns Police assault
  - notifying the local DCS office and advising it of strategies to support/protect the young person
  - informing the victim's parents/caregivers except where one of these is the alleged perpetrator

- . where the allegation is made against a client, informing the parents/caregivers of the allegation against the young person
  - . notifying the appropriate District Superintendent, DSE in all cases involving DSE staff
  - . arranging independent legal advocacy for the young person.
- Gather the evidence by:
    - . fully documenting the incident, but leave the taking of statements to the investigating Police
    - . seeking the victim's approval to have photographs taken of any external injuries, where physical assault is alleged
    - . providing a comprehensive written report to the Cluster Director within 48 hours.
  - Take follow-up action by:
    - . contacting Police within 48 hours of DJJ's notification to ascertain that service's intended action/progress
    - . appointing an appropriately qualified staff member to complete a prompt investigation, where Police decline to proceed with an investigation regarding an allegation against a staff member
    - . referring the matter to the Cluster Director for disciplinary action in accordance with the Public Sector Management Act, where it appears that such action is warranted
    - . maintaining all records relating to the allegation and ensuring their safe keeping.
- (b) **If the juvenile is over 16 years**
- Secure the victim's safety by:
    - . ensuring the safety and well being of the abused juvenile and their separation from the alleged perpetrator
    - . referring the victim for medical assessment and reporting
    - . consulting the Manager, Professional Conduct and then follow disciplinary procedures, where the alleged perpetrator is a DJJ staff member
    - . notifying the School Principal to ensure the separation of the DSE employee and the juvenile, where the alleged perpetrator is a DSE employee.



- Contact the relevant people by:
  - notifying the Cluster Director verbally at first and then by incident advice within 24 hours
  - notifying Police
  - notifying, in writing, the Commander (Internal Affairs), Police Service, where the allegation concerns Police assault
  - consulting the young person about people to be informed of the incident
  - where the allegation is made against a client, informing the parents/caregivers of the allegation against the young person
  - notifying the appropriate District Superintendent, DSE in all cases involving DSE staff
  - arranging independent legal advocacy for the young person.
  
- Gather the evidence by:
  - fully documenting the incident, but leave the taking of statements to the investigating Police
  - seeking the victim's approval to have photographs taken of any external injuries, where physical assault is alleged
  - providing a comprehensive written report to the Cluster Director within 48 hours.
  
- Take follow-up action by:
  - contacting Police within 48 hours of DJJ's notification to ascertain that service's intended action/progress
  - appointing an appropriately qualified staff member to complete a prompt investigation, where Police decline to proceed with an investigation regarding an allegation against a staff member
  - referring the matter to the Cluster Director for disciplinary action in accordance with the Public Sector Management Act, where it appears that such action is warranted
  - maintaining all records relating to the allegation and ensuring their safe keeping.

Note: Where the allegation of abuse or neglect involves a departmental manager, the Cluster Director is responsible for ensuring that these operational procedures are followed.



**ACKNOWLEDGMENT OF RESPONSIBILITIES UNDER THE DEPARTMENTAL POLICY "PROVISION OF A PROTECTIVE ABUSE-FREE ENVIRONMENT IN THE DEPARTMENT OF JUVENILE JUSTICE"**

I, -----, hereby acknowledge that I have read the departmental policy "Provision of a protective abuse-free environment in the Department of Juvenile Justice". I also acknowledge that I have been encouraged and given the opportunity to put questions about any aspect of the policy to the officer of the department whose signature below attests that he/she has witnessed my signing of this acknowledgment.

I therefore understand my responsibilities under this policy are that:

- (i) I have a duty of care to all juvenile clients of the department and that I must exercise that duty of care in respect of any client with whom I have contact, or about whom I obtain information in the course of my employment;
- (ii) I am required to monitor the relationships and interaction between juvenile clients and other persons (including other staff of the department), and to be alert to any indication of the possibility of abuse or neglect of a juvenile client;
- (iii) I must act to protect juvenile clients from any form of physical, sexual or emotional abuse or neglect by:
  - (a) intervening in any incident in which a juvenile client is being, or is at risk of being abused, or neglected;
  - (b) providing information to juvenile clients about their rights to protection from abuse and neglect, which includes informing them of departmental staff who are in a position to take action for their protection;
  - (c) reporting to an appropriate senior officer (as determined by departmental or local unit policy) all allegations or incidents of abuse or neglect of juvenile clients, irrespective of the date on which the abuse or neglect is alleged to have occurred or the present age of the juvenile client who was the alleged victim of the abuse or neglect;
  - (d) reporting to the manager of the unit in which I am employed any information that I may receive in the course of my duties regarding the alleged abuse or neglect of any child other than a departmental client.

Signed by	-----	Witnessed by	-----
Name (printed)	-----	Name (printed)	-----
Designation	-----	Designation	-----
Date	-----	Date	-----

for filing

**CASE MANAGEMENT**

**IN THE**

**DEPARTMENT OF JUVENILE JUSTICE**

**POLICY**

**August 1996**

## **VISION**

**Striving to break the juvenile crime cycle.**

## **STATEMENT OF PURPOSE**

**Ensuring the provision of quality community and custodial services to maximise the capacity and opportunity of juvenile offenders to choose positive alternatives to offending behaviour.**



## **Preamble**

The Department of Juvenile Justice is a complex organisation providing supervision and custody for juveniles across New South Wales. This complexity is derived from the diversity of our client group in terms of their socio-economic, cultural, demographic and offence characteristics, as well as the differentiation between community based and custodial areas of operation. It is compounded by issues such as the over-representation of Aboriginal and other Ethnic groups in every aspect of the Juvenile Justice system, particularly in custody.

Where such complexity exists in an organisation, there is a need to focus on the client as an **individual** and to ensure that the individual needs of the client are met through a wide range of clearly defined, interconnected and well managed services. The Department of Juvenile Justice recognises the complex nature of its client group and the need to adopt a seamless approach to service delivery.

With ever growing services and programs being established within the Department, with the benefit of funding from White Paper and Burdekin sources, there is a need to ensure that the maximum benefit is derived from these services and that those juveniles who require the services are identified and their needs met.

Equally there is a need to ensure that the maximum benefit is derived from available resources in other Government Departments and non Government agencies.

The adherence of all staff of the Department of Juvenile Justice to the principals set out in this Policy will ensure that our **Statement of Purpose** is achieved. It is expected that all staff work cooperatively toward ensuring that each client of the Department receives those services that will most effectively assist them towards a non-offending lifestyle.

## **1. PURPOSE**

The purpose of this policy is to provide a philosophy and framework for the provision of services to the clients of the Department of Juvenile Justice.

## 2. COMMON TERMS

- 2.1 For the purpose of this policy, "juvenile" refers to a person under the supervision or custody of the Department of Juvenile Justice.
- 2.2 For the purpose of this policy, "staff" refers to people employed by the Department of Juvenile Justice on a permanent, temporary, casual or fee for service basis (including sessional supervisors and mentors).
- 2.3 For the purpose of this policy, "services" refers to casework strategies and programs provided from within the Department and external to the Department.
- 2.4 For the purpose of this policy, "client" primarily refers to the juvenile under the supervision or custody of the Department of Juvenile Justice. In a secondary sense, it refers to the family and / or significant others of the juvenile.
- 2.5 In this policy, "JJO" refers to Juvenile Justice Officer and "JJC" refers to Juvenile Justice Counsellor.

## 3. CASE MANAGEMENT DEFINITION

Case Management in the Department of Juvenile Justice is the central organising process which ensures that each juvenile offender receives the services required to maximise their capacity and opportunity to choose positive alternatives to offending behaviour.

## 4. CASE MANAGEMENT OUTCOMES

As a result of the case management process in the Department of Juvenile Justice, the following outcomes will be achieved :

- 4.1 Participation  
All Juveniles will actively participate in the Department's Case Management process.
- 4.2 Equity  
All juveniles will have equal access to the Case Management process.
- 4.3 Efficiency  
Juveniles will receive required services. Overservicing and duplication of services will be avoided.

- 4.4 Effectiveness  
Juveniles will be provided with services which have proven effectiveness based on research and practice.
- 4.5 Customer Service  
Juveniles will be provided with services which meet their individual needs.
- 4.6 Accountability  
Mechanisms of accountability in service delivery will be clearly demonstrated.

## 5. FUNDAMENTAL PRINCIPLES OF CASE MANAGEMENT

Common principals, as stated in the Children (Criminal Proceeding) Act, 1987 Section 6, which underlie all of our interactions with juvenile offenders, include

- 5.1 "that children have rights and freedoms before the law equal to those enjoyed by adults and, in particular, a right to be heard, and a right to participate in the process that lead to decisions that affect them;
- 5.2 that children who commit offences bear responsibility for their actions but, because of their state of dependency an immaturity, require guidance and assistance;
- 5.3 that it is desirable, wherever possible, to allow the education or employment of a child to proceed without interruption;
- 5.4 that it is desirable, wherever possible, to allow a child to reside in his or her own home."

In addition, the following principles are fundamental to case management practice :

- 5.5 that we strive for the enhancement of the quality of life of each person who is involved with the Department, both juveniles and staff;
- 5.6 that we recognise the inherent dignity, importance and individuality of each young person;
- 5.7 that we engage in the least intrusive appropriate intervention with young people;
- 5.8 that we recognise the responsibilities involved in accepting the duty of care for young people, particularly those in need and/or at risk;
- 5.9 that we recognise the right of each young person to have input at all levels



into their case plan;

- 5.10 that we recognise the rights of the victims of offending behaviour and the interests of the community and encourage young people to take full personal responsibility for their behaviour;
- 5.11 that we understand the right of each young person to choose not to use the services provided or offered by the Department but encourage full participation in all activities which will enhance their rehabilitation;
- 5.12 that we give due recognition to the importance of the family in the life of the young person, and encourage consultation with and involvement of the family or significant others wherever appropriate;
- 5.13 that we recognise the need to work with young people in a culturally appropriate way;
- 5.14 that we stress the need for cooperation and consultation with Government and Non-government agencies which have services to offer young people;
- 5.15 that, while guidance and assistance to the juvenile offender is our first priority, we are required to exercise direction and control when appropriate.
- 5.16 that we recognise the complex and difficult nature of working with juvenile offenders, and stress the need for time and energy to be spent in the support, training and supervision of staff, which in turn will benefit the young people with whom we work.

## **6. THE FOCUS OF CASE MANAGEMENT**

### **6.1 Juvenile Offenders in the Community**

Case Management in Juvenile Justice Community Services has its focus in three main areas :

- 6.1.1 the supervision of juveniles to ensure that they successfully meet the conditions stipulated by the Court,
- 6.1.2 the provision of services to maximise the capacity and opportunity of juvenile offenders to choose positive alternatives to offending behaviour.
- 6.1.3 the involvement of the juvenile's family and / or significant other community individuals or agencies in the juvenile's case plan.
- 6.1.4 the coordination of services within and outside of the Department to

maximise their potential benefit to the juvenile, and their effective and efficient use.

## **6.2 Juvenile Offenders in Custody**

Case Management in Juvenile Justice Centres has its focus in four main areas

- 6.2.1 ensuring that juveniles can serve their custodial sentence in a safe and humane environment which is most appropriate to their individual needs,
- 6.2.2 the provision of a continuum of services so that the case plan established by Juvenile Justice Community Services can be maintained and directed towards maximising the capacity and opportunity of the juvenile to choose positive alternatives to offending behaviour when they return to the community.
- 6.2.3 the involvement of the juvenile's family or significant other community individuals or agencies (where appropriate) in the juvenile offender's case plan.
- 6.2.4 the coordination of services within and outside of the Department to maximise their potential benefit to the juvenile, and their effective and efficient use.

## **7. THE CASE MANAGEMENT PROCESS**

- 7.1 The Case Management Model adopted by the Department is a sequenced process with clearly defined stages. This model is depicted in Appendix 1.
- 7.2 While the process of case management is outlined in the relevant Procedures Manuals, the following principals direct the operation of case management.

## **8. ASSESSMENT**

Assessment of juveniles is conducted for three main purposes :

- the provision of a Background Report requested by the Court, and /or
- to establish a young person's case plan.
- to determine the need for appropriate Specialist Programs.

## 8.1 Principals in relation to Assessment

- 8.1.1 The initial assessment of juveniles occurs in Juvenile Justice Community Services. However, assessment needs to reflect the developmental nature of adolescence and hence is an ongoing process.
- 8.1.2 The process of assessment should be conducted in the least intrusive manner required to obtain the necessary information.
- 8.1.3 The process of assessment should ensure that all of the systems that a juvenile operates within (socio, cultural, educational, familial, psychological, etc) are taken into account. This implies a coordinated and integrated approach to assessment.
- 8.1.4 Juvenile Offenders must be clearly informed of the purpose of the assessment, the scope of the assessment and the staff member's legal responsibilities in relation to such issues as duty of care, confidentiality, etc.
- 8.1.5 Young people should not be expected to provide the same information on numerous occasions. Where a number of assessments take place within the Department, information must be available for subsequent assessments to avoid repetition of information gathering.
- 8.1.6 Where more than one person is involved in the assessment process (eg. assessment for Special Programs, each person must have a clear understanding of their area of responsibility in the assessment process.

## 8.2 Assessment for Background Reports :

- 8.2.1 Background Reports are requested are made under Section 25 (2) (a) of the Children (Criminal Proceedings) Act, 1987.
- 8.2.2 Assessment for the provision of a Background Report requested by the Court is guided by the Children (Criminal Proceedings) Act 1987 - Regulation, Section 7, which states :

"For the purposes of Section 25 (2) (a) of the Act, a background report must be in such form as the Attorney General may from time to time approve and must deal with the following matters as are relevant to the circumstances surrounding the commission of the offence concerned :

- (a) the person's family background;
- (b) the person's employment;
- (c) the person's education;
- (d) the person's friends and associates;



- (e) the nature and extent of the person's participation in the life of the community;
- (f) the person's disabilities;
- (g) the person's antecedents
- (h) such other matters as the Children's Court may require;
- (i) such other matters as the prosecutor considers appropriate to include in the report."

8.2.3 Guidelines for the provision of Background Reports and the designated format for Background Reports is contained in a separate policy document.

## 9 SPECIALIST ASSESSMENT

- 9.1 Specialist Services include : Forensic Psychological Services, Sex Offender Program, Violent Offender Program, Alcohol and Other Drug Program, Intensive Program Unit.
- 9.2 Assessment for Specialist Services is provided where it is specifically requested by the Court or where there are indications of the need for specialist services.
- 9.3 A clear Referral Process will be established for each specialist service

## 10 CASE PLANNING

### Principles in relation to case planning :

- 10.1 The culmination of the assessment process is the development of the juvenile's case plan. It is important to note that it is the juvenile's case plan and not that of the service provider. Hence, there can only be one case plan in existence for a juvenile, despite the existence of a number of concurrent service providers. This will ensure that there is a single agenda for each juvenile.
- 10.2 All juveniles released on all community supervision orders other than Fine Default must have a case plan in the prescribed format.
- 10.3 All juveniles remanded in custody or on control orders must have a case plan in the prescribed format.
- 10.3 The process of case plan development must be through consultation with and participation of the juvenile and their parents, carers and/or significant others where appropriate.
- 10.4 The case plan should be simple, measurable, achievable, realistic and time-

framed.

- 10.5 The case plan must identify the priority areas to be addressed as identified in the juvenile's assessment and reported in the Background Report (where applicable).

The case plan must also state the

- desired outcomes,
- casework strategies and
- programs

that will assist the juvenile in achieving the outcomes.

- 10.6 The case plan must also outline the delineated roles and responsibilities of case plan stakeholders and any contracted service providers, and expected time frames.
- 10.7 In the development and implementation of case plans, there needs to be a recognition of the conflicting roles inherent in the process; viz the supervision / social control role on one hand versus the support / advocacy / program implementation role on the other. Case plans should seek to achieve a balance between these roles. Further, the development and implementation of case plans must acknowledge an intervention continuum from skills development to intensive counselling, and a clear rationale for the depth of intervention.
- 10.8 When a juvenile is admitted to custody and a current case plan exists, the case plan must be forwarded to the relevant Juvenile Justice Centre.
- 10.9 Any additional conditions imposed by the Court, such as attending counselling or Specialist Programs, must be addressed in the case plan.
- 10.10 The case plan must be placed on the juvenile's 'C' and/or 'D' File as appropriate.

## **11. COMMUNITY BASED SUPERVISION**

- 11.1 This policy establishes standards of community supervision for juveniles who have been released on community based Court Orders. The purpose of the standards is to ensure consistent community supervision throughout the State at a level which ensures that community based sentencing options are seen as credible by the Courts.
- 11.2 This policy also establishes the standards against which staff are to be held accountable for the supervision of clients on community based orders.

- 11.3 The standards of community supervision, outlined in the attached schedule, provide the number and type of contacts that must at the very least be made, to ensure that the objectives of community based supervision are addressed. **Supervision must always be at the level appropriate to the individual needs of the juvenile established through assessment and identified in the case plan. The casework requirements of some juveniles will demand a level and duration of contact far in excess of the minimum standards.**

## 12 STANDARDS OF COMMUNITY SUPERVISION

- 12.1 The standards established for the supervision of each juvenile must reflect the level of complexity of the juvenile's case plan. Individual standards should reflect such factors as the nature of the offence, the perceived risk the juvenile poses to the community, the place of residence, need for support, any Court imposed conditions and the offender's entrenchment in the Juvenile Justice system.
- 12.2 The standards for the supervision of each juvenile should be set as a result of consultation and liaison with the juvenile and his / her significant carer. Standards must also be agreed upon by the JJO / JJC and his / her supervisor.
- 12.3 Contact between JJOs and JJC's should be direct personal contact. However, in exceptional circumstances, the Manager / Asst. Manager may approve contacts by telephone in place of direct contacts, eg. long distances to be travelled for such a visit or concerns for the safety of workers. It should be noted that this should not occur repeatedly without any direct personal contact between the supervising JJO / JJC and the juvenile.
- 12.4 Where juveniles are geographically isolated from Juvenile Justice Community Services, it may be appropriate to organise supervision on a fee-for-service or voluntary basis. These arrangements must be approved by the relevant manager / Asst. Manager.
- 12.5 The JJO / JJC / Voluntary / Fee-for-service supervisor must ensure that the juvenile and the juvenile's parents or significant carers fully understand the requirements of the supervision agreement and the juvenile's case plan.
- 12.6 Parents and significant carers should be present during home visits wherever possible. JJOs and JJC's should utilise field flexi time to achieve this.
- 12.7 Record of all contacts with juveniles, direct or otherwise, should be recorded as case notes on the juvenile's file.
- 12.8 Similarly, casework issues raised with juveniles, the juvenile's parents or significant carers or other stakeholders in the juvenile's case plan should be systematically and progressively recorded as case notes on the juvenile's file.



- 12.9 Active supervision of a juvenile can only be suspended with the approval of the Manager / Asst. Manager either when case plan outcomes have been achieved or they are deemed unachievable. Prior to the suspension of active supervision (except for Railway Reparation Scheme and Fine Default Order) a meeting is to be held with the juvenile, and parent or significant carer to determine the date and conditions of the suspension of active supervision. These meetings must be minuted and clearly outline case work outcomes achieved or the reasons for non achievement.
- 12.10 Where active supervision has been suspended, a letter is to be forwarded to the juvenile outlining the period of supervision completed so far, the outcomes achieved and clearly outline the juvenile's legal status and obligations for the remaining period of the Order. A copy of the letter is to be placed on the juvenile's "C" File. If the juvenile is under 16 years of age, a letter must also be sent to the juvenile's parents or significant carers.
- 12.11 The letter should also clearly state that the juvenile, parents or significant carers have the option of further contact with Juvenile Justice Community Services with a view to active casework involvement if the need arises during the remaining period of the supervision order. Supervision can be reactivated at any time during the period of the order.
- 12.12 A Manager / Asst. Manager must **not** approve the suspension of active supervision for a juvenile who is deemed to be at risk or in need of support until appropriate arrangements are in place to provide for the safety or support of the juvenile. These arrangements, together with the consent of the supporting agency, must be clearly documented on the juvenile's file prior to approval to suspend supervision.
- 12.13 Breach action should be seriously considered, in accordance with the Department's Guidelines (see attached), where the order of the Court is not being complied with. All forms of case work intervention should be attempted as far as possible to ensure that the court order is being carried out. All breach action must be referred to the relevant Manager / Asst. Manager.
- 12.14 In order to achieve realistic casework intervention, active supervision must be provided for at least the minimum period specified in the Schedule of Standards for Community Supervision. Where a JJO / JJC wishes to reduce the period of active supervision to under the specified minimum standard, approval must be given by the Manager / Asst. Manager with clearly detailed reasons as to the exceptional circumstances documented on the juvenile's file.

## **13 CUSTODIAL CASE MANAGEMENT**

### **13.0 Key principles :**

- 13.1 The focus of case management in custody is directed towards the juvenile's return to the community. Consequently, strong formal links must exist between community and centre staff to ensure that a juvenile's custodial period is used effectively to maximise their capacity and opportunity to choose positive alternative to offending when they return to the community.
- 13.2 The Department strives to maintain a continuum of service delivery for each juvenile as they move into and out of custody. Hence, there can only be one case plan in existence for a juvenile, despite the existence of a number of concurrent service providers. The juvenile's case plan is reviewed and updated when they are admitted to custody and again prior to release from custody.
- 13.2 Each Juvenile Justice Centres must have formal systems in place to ensure that operational decisions, eg. in relation to transfers, granting of leave, inclusion in particular programs etc., made for each juvenile take into account the juvenile's current case plan.

### **14.0 Practice issues :**

- 14.1 JJOs / JJC's retain the primary casework role for juveniles admitted to custody on remand.
- 14.2 JJOs / JJC's are responsible for managing bail matters to their allocated juveniles. This may involve ensuring Bail Applications are lodged where the juvenile has been remanded in custody. It may also involve locating an appropriate accommodation placement for a juvenile who has been granted bail, with a condition to live as directed by the Department of Juvenile Justice.
- 14.3 Case Management staff in Juvenile Justice Centres should assist with bail matters, through liaising with the relevant JJO and ensuring that he/she is informed of any Centre work being done with the juvenile. Centre Case Management staff may also assist with accommodations placements where the JJO / JJC is less able to do so.
- 14.4 Centre staff usually follow up bail applications and reviews, and should ensure that the JJO / JJC is aware of the current situation.
- 14.5 Juvenile Justice Case Management staff assume the primary case work role for juveniles admitted to custody on control.

- 14.6 Centre Case Management staff are responsible for **appeal** proceedings (including bail applications in relation to the appeal), although they must liaise with JJOs / JJC's regularly. Staff must ensure that the juvenile, family/significant other, JJO and legal representative have been consulted before an appeal is lodged.
- 14.7 Centre staff do not attend court or provide court reports / information for bail or appeal matters.
- 14.8 In order to maintain a community focus on the juvenile's custodial case plan, it is expected that JJOs / JJC's participate in case conferences for their allocated juveniles.
- 14.9 It is expected that Juvenile Justice Counsellors and Centre Case Management staff work together in cases where juveniles are being considered for Conditional Discharge. The early identification of potential conditional discharge in a juvenile's case plan will allow for a planned and collaborative approach to the juvenile achieving early release.

## **15 CASE REVIEWS**

- 15.1 Case Reviews are conducted for the following purposes :
  - for the monitoring and evaluation of standards set for community supervision,
  - for the monitoring and evaluation of the achievement of outcomes established in the juvenile's case plan,
  - to enable changes to be made to a juvenile's case plan where barriers exist to the achievement of outcomes, or circumstances change.
- 15.2 JJCS Managers / Asst. Managers are responsible for monitoring and evaluating the case plans of juveniles on community based orders at monthly case reviews. The review should be based on the Case Plan Review Form prepared by the JJO / JJC.
- 15.3 The initial review should consider the following :
  - the quality of the assessment completed
  - the quality of the case plan developed following initial assessment of the JJO;
  - the appropriate level of contact established for the particular juvenile;



15.3 Subsequent reviews should consider the following :

- compliance with the number and type of contacts established in the supervision agreement and if not, reasons for non-compliance;
- achievement of the outcomes established in the initial case plan, and the barriers encountered where applicable;
- whether casework issues identified in the initial case plan have been addresses;
- whether modifications need to be made to the juvenile's case plan.

15.4 Centre Coordinators Casework are responsible for monitoring and evaluating the case plans of juveniles in custody at the Centre Support Team meeting.

15.5 Juveniles on remand should be reviewed weekly until their adjustment to the custodial environment is established at the Centre Support Team Meeting.

15.6 The review period for juveniles on control orders should be set on an individual case basis depending on the complexity of the case, but in no circumstances should it exceed three months.

## 16 CASE CONFERENCES

The case conference provides the mechanism by which the information obtained from the assessment procedure is coordinated and integrated into a case plan. It brings together the juvenile offender, their family or significant caregiver, Juvenile Justice staff, appropriate professional staff and relevant Government and/or non-Government stakeholders. As such it is a crucial part of the case management process.

16.1 Case Conferences should be used, either in the Community or in Custody, where there is a clear need to ensure that the services required by a juvenile are organised appropriately and that all stakeholders are aware of their respective roles and responsibilities in the juvenile's case plan.

16.2 Approval to conduct a case conferences should be gained from the appropriate Manager / Asst. Manager prior to its organisation.

16.2 The case conference is a participative process and hence the juvenile must be encouraged to be an active participant in the case conference.--

16.3 Case conference arrangements must always take into account the special needs of the juvenile. eg. disability, culture, interpreter, etc.

16.4 The case conference will generally be coordinated by the primary case worker. However, for juveniles in custody it may sometimes be more appropriate for

a JJO /JJC, who is about to assume the primary case work role on the juveniles release, to coordinate a pre discharge case conference.

- 16.5 Following the case conference, the case conference coordinator must complete a case conference summary in the prescribed format. Copies should be forwarded to all participants.

## **17 EXIT CASE PLANS**

When a juvenile is about to leave the formal involvement of the Department, an exit case plan should be established. This will occur :

- when a juvenile completes, or when active supervision is suspended on, a community supervision order;
- when a juvenile is discharged from custody with no post release supervision or concurrent community supervision order;
- when a juvenile completes post release supervision.

17.1 The exit case plan should include a summary of the outcomes achieved by the juvenile and appropriate referrals to support / counselling services.

17.2 Exit case plans should be placed on the "C" or "D" File.

## **18 RESPONSIBILITY FOR POLICY IMPLEMENTATION**

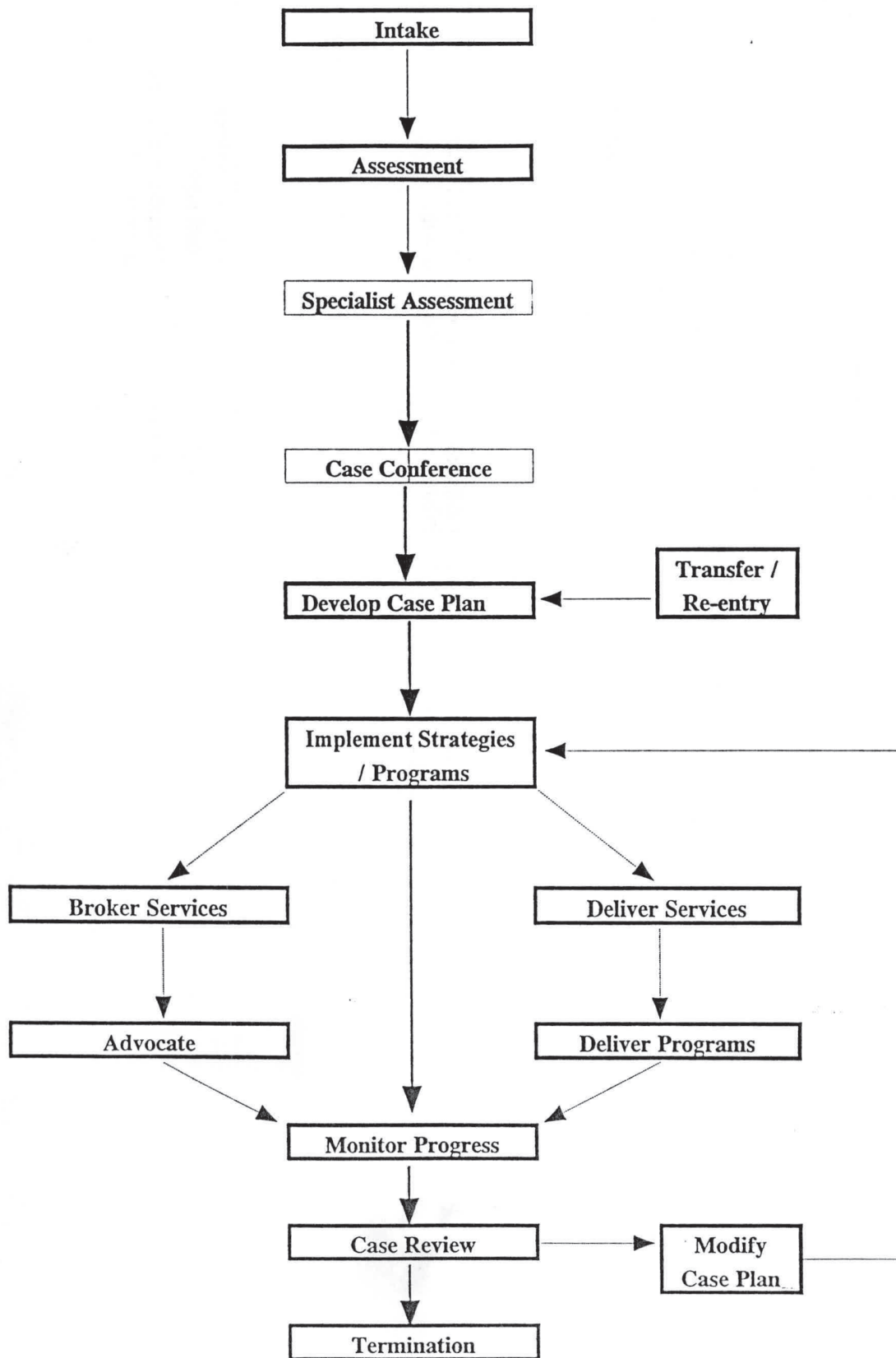
18.1 Each Departmental manager is responsible for implementing and ensuring compliance with this policy.

18.2 The policy is to be introduced through management staff meetings and well planned local staff training.

18.3 Opportunities for staff to experience a broad range of departmental operations should be encouraged.

18.4 The policy will be included in all future induction training for both community and custodial staff.

# CASE MANAGEMENT MODEL





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**DEPARTMENT OF JUVENILE JUSTICE**

**PROVISION OF A PROTECTIVE**

**ABUSE-FREE ENVIRONMENT**

**IN THE**

**DEPARTMENT OF JUVENILE JUSTICE**

**NOVEMBER 1996**

**CLIENT PROTECTION, POLICIES AND**

**PROCEDURES OF THE**

**DEPARTMENT OF JUVENILE JUSTICE**

## 1. PREAMBLE

The Department of Juvenile Justice has a responsibility to ensure the protection of young people under its supervision from all forms of abuse or neglect. It also has a duty to respond appropriately where an incident of abuse or neglect is alleged, and to take any necessary steps to ensure the future safety of the young person or any other young person likely to be victimised.

Juveniles admitted to detention must feel certain they can serve their custodial sentence in a secure and humane juvenile justice centre, free from any abuse or neglect.

The Department of Juvenile Justice recognises that institutional environments, such as juvenile justice centres, can have a negative effect on some juveniles and that systems abuse can occur. Therefore, the department has a particular responsibility to ensure that its policies and programs are designed to minimise the harm which may arise from incarceration.

The department's community based services must be able to provide credible alternatives to custody to ensure that detention is used as a last resort.

Staff of these services, just as staff in juvenile justice centres, have a duty with other service delivery partners to ensure that young people under community supervision are protected from abuse and neglect.

To ensure the protection of our joint clients, the department expects that contracted community agencies, or agents, will act in accord with the principles outlined in this document.

This policy concerns all incidents of abuse or neglect which staff actually witness taking place or are told about by clients. The policy covers abuse of clients by staff, abuse of clients by other clients, and abuse perpetrated outside the juvenile justice environment.

## 2. PRINCIPLES

The following principles underpin this policy:

- The best interests of the juvenile client shall be of primary consideration in the development and implementation of policies, programs and procedures and in all casework decisions and practices.
- Juveniles have a right to departmental services free from all forms of abuse and neglect and focused on their development.
- Staff have a legal duty of care to juveniles under their care and supervision.



- Where a juvenile is the victim of abuse or neglect, measures must be implemented to promote the physical, psychological and emotional recovery of the juvenile.
- Detention is an option of last resort and for the minimum necessary period.
- Juveniles in detention centres require special attention and protection because of their vulnerability.
- Systems and procedures in detention centres should uphold the rights and safety and promote the physical, psychological and emotional well being of juveniles in the department's care.
- Parent/s and caregivers have a right to information about the health and well being of their child.

### 3. PURPOSE OF POLICY

The purpose of this policy is to provide a framework for the protection of juvenile clients and departmental staff from all forms of abuse and to establish effective child protection strategies.

### 4. COMMON TERMS

- 4.1 For the purpose of this policy "juvenile" refers to a person under the supervision or custody of the Department of Juvenile Justice.
- 4.2 For the purposes of this policy "abuse" is any action that impacts negatively on the physical, psychological or emotional well being of another person.
- 4.3 For the purpose of this policy, "fighting" refers to mutual action by detainees who become involved in a quarrel or dispute and use limited physical force.
- 4.4 For the purpose of this policy, "staff" refers to people employed by the Department of Juvenile Justice on a permanent, temporary, casual or fee for service basis (including sessional supervisors and mentors).

### 5. LEGAL DEFINITIONS

In section 3 (1) of the Children (Care and Protection) Act 1987, 'abuse', in relation to a child is defined as follows:

- (a) assault (including sexually assault) the child; or
- (b) ill-treat the child; or
- (c) expose or subject the child to behaviour that psychologically harms the child,

whether or not, in any case, with the consent of the child.



## 6. CLARIFICATION OF THE CONCEPT OF ABUSE

### 6.1 Physical Abuse

- (a) Refers to non-accidental injury to a juvenile.
- (b) Physical abuse can include the use of illegal/excessive physical force, including corporal punishment, unauthorised use of restraining devices, improper use of isolation/seclusion, and improper administration of medication or drugs.

### 6.2 Neglect

- (a) Refers to the failure of juvenile justice centre staff to provide the juvenile with the necessities of life.
- (b) Neglect can include lack of appropriate supervision, poor provision of a juvenile's material needs, inadequate medical treatment and educational programs for juveniles in detention, or failure to provide protection for juveniles at risk.

### 6.3 Emotional Abuse

- (a) Refers to harm caused by excessive or unreasonable demands above the capacity of the juvenile's assessed developmental level, or by failure to provide an environment encouraging a juvenile's physical, emotional and social growth.
- (b) Emotional abuse can include scape-goating, rejection, humiliation, emotional unavailability of staff to the juvenile and verbal abuse.
- (c) Emotional abuse can also include failure to treat suicide threats seriously, punishing a group for an individual's misbehaviour, unreasonably restricting a juvenile's access to their family against the wishes of the juvenile, and knowingly placing juveniles in situations where they are at risk of abuse.
- (d) Emotional abuse can also include the use of language to ridicule a juvenile (e.g. about the nature of their offence/alleged offence, or personal appearance, or performance at school etc); or to humiliate or denigrate juveniles or their family, or verbal threats of withdrawal of privileges (where staff exceed their authority).
- (e) Negative comments referring to juveniles' origins, gender, ethnic background, religion, sexual preference, disabilities or the nature of their offences, are also regarded as emotional abuse.

#### 6.4 Child Sexual Abuse and Assault

- (a) Sexual abuse refers to the involvement of juvenile clients of the department in sexual activities where the juvenile is exploited for the gratification of another person's sexual needs or desires and cannot give valid consent because of age or the juvenile's lack of power in the situation.
- (b) Sexual abuse can include genital exposure, exposure to prostitution or use of a juvenile for prostitution purposes, exposure to pornography or use of a juvenile for pornographic purposes, threat of sexual abuse, and deliberate, intentional exposure of a juvenile to sexual behaviour of others.
- (c) Sexual assault refers to specific offences under the NSW Crimes Act (1900).

### 7. SOME BASIC LEGAL OBLIGATIONS

- 7.1 The Children (Detention Centres) Act 1987 states that the welfare and interests of persons on remand or subject to control shall be given **paramount consideration**.
- 7.2 Under Section 14 of the Children (Detention Centres) Act 1987 the Director General shall ensure that adequate arrangements exist:
  - (a) to maintain the **physical, psychological and emotional well-being** of detainees;
  - (b) to promote the **social, cultural and educational development** of detainees;
  - (c) to maintain **discipline and good order** among detainees; and
  - (d) to facilitate the **proper control and management** of detention centres.
- 7.3 The **punishment for an offence imposed by a court is the only punishment** for that offence. (The Children (Detention Centres) Act 1987 Section 4 2(c)).
- 7.4 The use of any physical violence, striking, cuffing or shaking of a detainee must not be used, nor shall a detainee, without reasonable excuse be handcuffed or forcibly restrained as outlined in section 22 (1) and (2) of the Children (Detention Centres) Act. Illegal treatment of detainees is covered generally by section 22 and penalties are provided for persons who punish a detainee or cause a detainee to be punished in a manner that is prohibited by the Act.



- 7.5 All staff have a legal obligation to **fulfil their duty of care** to the juvenile clients of the department.
- 7.6 **Confidentiality regarding clients must be maintained** in accord with relevant legislation particularly the Children (Criminal Proceedings) Act 1987 and the Children (Detention Centres) Act 1987.
- 7.7 The treatment of detainees in relation to the provision of alcohol, tobacco, adult films, work to be performed, segregation, complaints of misbehaviour, prohibited punishments, disclosure of information, health and medical attention, maintenance of physical well-being, property, access to books, newspapers and magazines, visits, communication with family and legal representatives, education and training, religious observance, leave, use of force, reports on use of force and transfer between centres are prescribed under the Children (Detention Centres) Act 1987 and the Children (Detention Centres) Regulation 1995.
- 7.8 It is **incumbent on all staff members to become aware of and to comply with all legislation** governing departmental juvenile justice operations.
- 7.9 The department has a duty to provide independent legal advice/representation to a detainee where there are allegations against departmental staff.

## 8. PREVENTION OF ABUSE

- 8.1 Staff must constantly **monitor relationships and interaction between juveniles, colleagues and others (e.g. visitors) and be alert to possible abuse or neglect.**
- 8.2 Where there is a danger to a particular juvenile in a centre, segregation under Section 19 of the Children (Detention Centres) Act 1987 may **only be used for the protection of the juvenile or others (not for punishment).** Segregation should only be used for the period that is necessary for staff to initiate measures to ensure the level of safety is enhanced. **The use of segregation must be in accord with departmental policies, delegations and protocols.**
- 8.3 Departmental staff are to provide information to juveniles regarding their rights to protection from all forms of physical, sexual and emotional abuse and neglect, and **managers are to ensure that protective behaviour programs are implemented in all centres.**
- 8.4 The department will fully support specialist personnel, such as the Ombudsman's staff and the Official Visitors, in monitoring the protection of our clients from all forms of abuse or neglect.



- 8.5 The department will employ quality staff with appropriate qualifications through:
- (a) competitive selection based on merit;
  - (b) skill testing for senior youth workers;
  - (c) health and criminal record screening;
  - (d) thorough referee, conduct and services and probity checks;
  - (e) induction programs for operational staff;
  - (f) competency based training;
  - (g) ongoing supervision and support.
- 8.6 The department will ensure staff training in the provision of developmental programs, the establishment of supportive professional working relationships with clients, and the maintenance of protective, abuse-free environments.
- 8.7 Departmental services will incorporate a range of proactive strategies to minimise the occurrence of abuse and neglect in care including:
- (a) thorough initial needs assessment of clients;
  - (b) establishment of realistic case plans in co-operation with clients;
  - (c) placement of clients in appropriate programs and accommodation within available resources;
  - (d) provision of gender, age and culturally appropriate programs and services;
  - (e) establishment of quality assurance and continuous improvement mechanisms.
- 9. STAFF RESPONSIBILITIES FOR REPORTING ABUSE OR NEGLECT**
- 9.1 **All departmental staff are required to immediately report all allegations or incidents of abuse (physical, emotional or sexual), or neglect of clients to their managers or their delegates.**
- 9.2 If any such allegation or incident involves the manager, the report is to be made to the next most senior person, such as the Cluster Director.
- 9.3 Such incidents or allegations may have occurred during the period of departmental supervision or detention or when a juvenile is absent on leave or under escort.
- 9.4 Staff members receiving a disclosure of any kind of alleged abuse or neglect of departmental clients, or their siblings, when they were outside departmental care and in the community, must report these matters to their managers.

- 9.5 Similarly, if staff members are made aware by departmental clients, of the alleged abuse or neglect of other young persons, for example the siblings or friends of clients, they are to pass on such information to their manager.
- 9.6 In the case of allegations outlined in paragraphs 8.4 and 8.5, the responsible manager is then required to notify the local office of the Department of Community Services of the disclosure for that department's investigation and action.
- 9.7 If the Department of Community Services concludes that a criminal offence has occurred in such instances, that department will be responsible for referring the case for Police investigation.
- 10. DEALING WITH THE ALLEGED ABUSE OF A CLIENT INVOLVING A SUSPECTED CRIMINAL OFFENCE**
- 10.1 If there is some evidence of a criminal offence, such as an assault or sexual assault (and excluding the minor incidents outlined in Section 13), the departmental manager receiving such a report must immediately refer the matter to the Police Service for investigation.
- 10.2 The Crimes Act makes it an offence to conceal a serious offence. **Failure to bring information about a serious offence to the attention of the Police is in itself, an offence** which attracts a sentence of imprisonment of up to two years.
- 10.3 **If the victim of any alleged criminal offence is under the age of sixteen years, the manager is also to notify the local office of the Department of Community Services giving details of the actions taken (referral to Police etc) and the strategies being implemented to support and protect the juvenile.**
- 10.4 The relevant departmental manager must arrange for the provision of independent legal advocacy for the client in these circumstances.
- 11. WORKING WITH CLIENTS RELUCTANT TO PROCEED WITH ABUSE ALLEGATIONS INVOLVING CRIMINAL OFFENCES**
- 11.1 Due to the possibility of Police investigation and subsequent court action, the nature of the alleged offence, or the fear of reprisal by the alleged perpetrator, many young people are reluctant to proceed with allegations of abuse, especially sexual assault.



- 11.2 Departmental staff are unable to promise that they will keep any such allegations secret or that the Police will not be informed. Staff should clearly explain their legal duties to report such allegations to Police.
  - 11.3 Departmental staff are to encourage abused juveniles to proceed with allegations and are to ensure, in liaison with their managers, that they are given sensitive personal support, and any necessary legal advice. They are also to be offered appropriate counselling throughout the investigatory (and prosecution) processes, and afterwards if considered necessary.
12. **DEALING WITH THE ALLEGED EMOTIONAL ABUSE OR NEGLECT OF DEPARTMENTAL CLIENTS**
- 12.1 Allegations of the emotional abuse or neglect of departmental clients under the age of sixteen years are to be referred to the local office of the Department of Community Services by our relevant managers.
  - 12.2 The relevant managers of both departments will then discuss and ensure the prompt investigation of such allegations by an appropriately qualified person, external to the Department of Juvenile Justice, who will then report to the manager of the local Community Services office.
  - 12.3 If after investigation the allegation of such abuse by a departmental staff member is confirmed, that departmental staff member should be subject to disciplinary action in accord with the provisions of the Public Sector Management Act.
  - 12.4 Allegations of the emotional abuse or neglect of departmental clients over sixteen years are to be referred by the relevant manager to the Cluster Director for the appointment of an appropriately qualified person, external to the department, to complete a prompt investigation.
  - 12.5 The departmental manager is to ensure that the client is provided with prompt independent legal representation.
13. **PROCEDURES RELATED TO ABUSE - NEGLECT ALLEGATIONS**
- 13.1 If abuse or neglect allegations are made by, or involve departmental clients with special needs such as young persons with an intellectual disability, managers are to ensure that they are provided with appropriate advice and support which is sensitive to these special needs throughout the whole process.



- 13.2 Where staff witness an alleged incident of abuse or neglect or are told of such an incident and the juvenile's health and safety is threatened, staff must act immediately to secure the juvenile's safety.
- 13.3 Whenever abuse or neglect allegations are made, managers are, as soon as practicable and within twenty four hours, to notify the relevant Cluster Director, **verbally in the first instance** and then in writing on the appropriate incident advice form.
- 13.4 Within 48 hours of the receipt of allegations, the relevant manager is to provide a comprehensive report to the Cluster Director, detailing the allegations, the resultant action plan, and the supports placed around the juvenile making the allegations.
- 13.5 In relation to abuse incidents and allegations, the juvenile's parent(s), guardian(s) or significant others **must be informed by the relevant manager**, except where the alleged perpetrator is one of these people. Abuse victims over the age of sixteen years are to be consulted about the people to be informed of the incident.
- 13.6 The manager should discuss the timing of the advice and who is the most appropriate person to inform the parent/s or guardians, with officers from the Department of Community Services or the Police Service.
- 13.7 In the case of abuse by another detainee (or client), the parent(s), guardian(s) or significant others of the alleged offending juvenile are to be informed by the manager.
- 13.8 In the case of alleged abuse by another detainee (or client), steps must be taken by the manager to ensure the safety and emotional well-being of the abused juvenile, and the separation of the juvenile and the alleged perpetrator.
- 13.9 If movement of a juvenile is considered appropriate, the needs of the victim must be given prime consideration before the movement is finalised.
- 13.10 In the case of alleged abuse by a departmental staff member, **the manager is to consider the removal of the staff member** to a position where there is no client contact, or **when a criminal offence is alleged, the suspension of the staff member** following usual departmental disciplinary procedures through the Manager, Professional Conduct at Central Support Office.
- 13.11 If the alleged perpetrator is an employee of the Department of School Education, the manager is to notify the School Principal to ensure the separation of the alleged perpetrator and the juvenile.

- 13.12 If the alleged perpetrator is the School Principal, the relevant departmental manager is to refer the matter to the appropriate District Superintendent of the Department of School Education for any necessary action.
- 13.13 In cases involving staff of the Department of School Education, the Cluster Director is to notify the relevant District Superintendent, DSE of the incident and the actions taken if referral is made to the Police for investigation.
- 13.14 All details of alleged abuse or neglect must be **fully documented at the local level by the manager** and if physical injuries have been sustained, the young person is to be referred appropriately for **medical assessment and reporting**.
- 13.15 Where possible, in the case of physical assaults, the relevant manager should seek the victim's approval to have photographs taken of any external injuries.

#### 14. PROCEDURES RELATED TO FIGHTS AND MINOR ALTERCATIONS

- 14.1 Wherever young people gather or reside together, some fights or minor altercations are likely. Departmental managers are to ensure that procedures exist to **minimise the likelihood of such incidents** and to ensure that they are quickly resolved.
- 14.2 There may be occasions when a juvenile wishes to lay a complaint to Police alleging assault by another person. **This is their right** and the manager is to report the incident to the Police for investigation.
- 14.3 In relation to fights, the juvenile wishing to lay a complaint to Police, should be advised of a 24 hour 'cooling off' period before the manager gives the information to the Police.
- 14.4 If after the 'cooling off' period, the juvenile still wishes to lay a complaint, the manager is to make the referral to the local Police.

#### 15. CONFIDENTIALITY

- 15.1 When an incident of abuse or assault is disclosed to a staff member by a juvenile, staff should not attempt to investigate by asking further questions. Police have warned that such action may risk contamination of evidence for criminal proceedings.
- 15.2 Any information gained by a staff member at the time of disclosure **must not be shared with anyone apart from the manager**, or in circumstances previously outlined in paragraph 8.2, the Cluster Director.



- 15.3 The staff member to whom the disclosure is made should reassure the juvenile that the **information will be treated confidentially, but must never promise that the information will remain secret.**
- 15.4 Where a staff member receives and withholds information about alleged abuse or neglect, that young person or others may be exposed to unacceptable risks. As stated previously (see paragraph 9.2) **it is an offence to conceal a serious criminal act.**
- 15.5 Any staff member failing to adhere to this policy may be subject to disciplinary action.

## 16. ALLEGATIONS OF ASSAULT BY POLICE OFFICERS

- 16.1 All allegations of assault of juveniles (by Police), either prior to or during departmental involvement, must be reported promptly to the Commander (Professional Responsibility) in the NSW Police Service by the departmental manager responsible for the juvenile's care when the allegation is made.
- 16.2 These reports must be in writing and are made by the departmental manager on the juvenile's behalf.
- 16.3 This matter is fully covered in the Director General's Instruction 103/95.
- 16.4 Serious complaints made about Police treatment of a client should be reported to the Ombudsman.
- 16.5 Relevant staff should provide the client with sufficient help, advice and support to enable them to prepare, write and lodge the complaint themselves. Access by the client to legal advice should be facilitated, where necessary.

## 17. ALLEGATIONS OF STAFF ASSAULTS BY JUVENILES

- 17.1 Allegations or disclosures that a staff member has been assaulted by a juvenile must be referred by the relevant departmental manager to the local Police for investigation following appropriate consultation with the involved staff member.
- 17.2 In the case of serious injury resulting from an alleged assault, the staff member should be immediately taken to a local medical centre or hospital for treatment.
- 17.3 If a departmental nurse is available, their assistance should be sought to render first aid, initially assess the injury and to arrange further medical treatment.



- 17.4 Within 24 to 48 hours, the relevant manager is to ensure that critical incident debriefing has been offered to the staff victim and any staff witnesses.
- 17.5 Within the same period, the relevant manager is to ensure that similar support is offered to the juvenile involved and juvenile witnesses by the department's crisis team of psychologists.
- 17.6 Ongoing counselling support is to be offered to the staff victim by the relevant manager through the contracted employee assistance provider.

## **18. RESPONSIBILITY FOR POLICY IMPLEMENTATION**

- 18.1 Each departmental manager is responsible for implementing and ensuring compliance with this policy.
- 18.2 This policy is to be introduced through management staff meetings and well planned local staff training.
- 18.3 The policy will then be included in all future induction training and in the induction package distributed to newly employed staff members.
- 18.4 Departmental incident reports (refer to Director General's Instruction 153/96) are to clearly specify the type of abuse or neglect so that accurate statistics may be compiled by Central Support Office.

## **19. OPERATIONAL PROCEDURES FOR POLICY IMPLEMENTATION**

- 19.1 **Steps to be taken by STAFF following allegations of abuse or neglect.**
  - (a) When you are being told about any abuse (whether it is physical, sexual or emotional) or neglect involving a departmental client, the client's brothers/sisters, the client's friends or the brothers/sisters of a client's friend do the following:
    - Listen to what the young person tells you. Do not attempt to investigate by asking questions. Do not promise the young person that you will keep their allegations secret. You can promise that the information will be treated confidentially.
    - After listening to the young person, you are advised to make notes about what you were told.
    - Inform your manager immediately of the allegation.

- . Where the allegation involves your manager, inform the cluster director immediately.
  - . Where the allegation involves the cluster director, inform the Director of Operations immediately.
  - After talking the case over with your manager/cluster director, provide sensitive personal support to the young person and offer access to counselling, as believed appropriate by you and the manager.
  - Do not discuss the allegations with any other person.
  - Management will take further action on your information. Like you, they have a duty of care to the young person.
- (b) When you actually see an incident of abuse (whether it is physical, sexual or emotional) or neglect taking place involving a departmental client, the client's brothers/sisters, the client's friends, the brothers/sisters of a client's friend do the following:
- Intervene to secure the safety of the young person.
  - Inform your manager immediately of the incident
    - . Where the incident involves your manager, inform the Cluster Director immediately.
    - . Where the incident involves the Cluster Director, inform the Director of Operations immediately.
  - Make notes of what you saw.
  - After talking the case over with your manager/cluster director, provide sensitive personal support to the young person and offer access to counselling, as believed appropriate by you and the manager.
  - Do not discuss the incident with any other person.
  - Management will take further action on your information. Like you, they have a duty of care to the young person.
- 19.2 Steps to be taken by MANAGEMENT where the allegation concerns abuse or neglect and there is no evidence of a criminal offence.
- (a) If the juvenile is under 16 years
- Secure the victim's safety by:



- . ensuring the safety and well being of the abused juvenile and their separation from the alleged perpetrator
  - . referring the victim for medical assessment, if required
  - . consider giving the officer duties where there is no contact with clients, where the alleged perpetrator is a DJJ staff member
  - . notifying the School Principal to ensure the separation of the staff member and the juvenile, where the alleged perpetrator is a DSE employee.
- Contact the relevant people by:
    - . notifying the Cluster Director verbally at first and then by incident advice within 24 hours
    - . notifying the local office of DCS
    - . informing the victim's parents/caregivers except where one of these is the alleged perpetrator
    - . where the alleged perpetrator is a detainee/client, informing the parents/caregiver of allegation against young person
    - . notifying the appropriate District Superintendent, DSE in all alleged abuse cases involving DSE staff
    - . arranging independent legal advocacy for the young person.
  - Gather the evidence by:
    - . fully documenting the alleged abuse or neglect at the local level
    - . providing a comprehensive written report to the Cluster Director within 48 hours.
  - Initiate the investigation by:
    - . discussing prompt investigation of the allegation with the local DCS manager, where the alleged perpetrator is a DJJ employee
    - . investigator to be independent of DJJ and to report to DCS manager.
  - Take follow-up action by:
    - . referring the matter to the Cluster Director for disciplinary action in accordance with the Public Sector Management Act, where the allegation against a DJJ staff member is confirmed.



(b) **If the juvenile is over 16 years**

- Secure the victim's safety by:
  - . ensuring the safety and well being of the abused juvenile and their separation from the alleged perpetrator
  - . referring the victim for medical assessment, if required
  - . consider giving the officer duties where there is no contact with clients, where the alleged perpetrator is a DJJ staff member
  - . notifying the School Principal to ensure the separation of the staff member and the juvenile, where the alleged perpetrator is a DSE employee.
- Contact the relevant people by:
  - . notifying the Cluster Director verbally at first and then by incident advice within 24 hours
  - . consulting the young person about the people to be informed of the incident
  - . notifying the appropriate District Superintendent, DSE in all alleged abuse cases involving DSE staff
  - . where the alleged perpetrator is a detainee/client, informing the parents/caregiver of allegation against young person
  - . arranging independent legal advocacy for the young person.
- Gather the evidence by:
  - . fully documenting the alleged abuse or neglect at the local level
  - . providing a comprehensive written report to the cluster director within 48 hours.
- Initiate the investigation (to be done by the Cluster Director) by:
  - . appointing a person independent of DJJ to undertake the investigation, where the alleged perpetrator is a DJJ employee.
- Take follow-up action by (to be done by the Cluster Director):
  - . referring the matter to the Director of Operations for disciplinary action in accordance with the Public Sector Management Act, where the allegation against a DJJ staff member is confirmed.

### 19.3 Steps to be taken by MANAGEMENT where the allegation concerns an assault or sexual assault and there is evidence of a criminal offence

#### (a) If the juvenile is under 16 years

- Secure the victim's safety by:
  - ensuring the safety and well being of the abused juvenile and their separation from the alleged perpetrator
  - referring the victim for medical assessment and reporting
  - consulting the Manager, Professional Conduct and then following disciplinary procedures and consider suspending the officer, where the alleged perpetrator is a DJJ staff member
  
  - notifying the School Principal to ensure the separation of the DSE employee and the juvenile, where the alleged perpetrator is a DSE employee.
  
- Contact the relevant people by:
  - notifying the Cluster Director verbally at first and then by incident advice within 24 hours
  - informing the juvenile of the 24 hour 'cooling off' period before Police notification, where an injury is the outcome of the fight/altercation
  - notifying Police where the juvenile wishes to lay a complaint of assault
  - notifying, in writing, the Commander (Professional Responsibility), Police Service, where the allegation concerns Police assault
  - notifying the local DCS office and advising it of strategies to support/protect the young person
  - informing the victim's parents/caregiver except where one of these is the alleged perpetrator
  - where the allegation is made against a detainee/client, informing the parents/caregiver of the allegation against the young person
  - notifying the appropriate District Superintendent, DSE in all cases involving DSE staff
  - arranging independent legal advocacy for the young person.
  
- Gather the evidence by:
  - fully documenting the incident
  - seeking the victim's approval to have photographs taken of any external injuries, where physical assault is alleged



- . providing a comprehensive written report to the Cluster Director within 48 hours.
- Take follow-up action by:
  - . referring the matter to the Cluster Director for disciplinary action in accordance with the Public Sector Management Act, where the allegation of assault by a DJJ staff member is confirmed.
- (b) **If the juvenile is over 16 years**
  - Secure the victim's safety by:
    - . ensuring the safety and well being of the abused juvenile and their separation from the alleged perpetrator
    - . referring the victim for medical assessment and reporting
    - . consulting the Manager, Professional Conduct and then following disciplinary procedures and consider suspending the officer, where the alleged perpetrator is a DJJ staff member
    - . notifying the School Principal to ensure the separation of the DSE employee and the juvenile, where the alleged perpetrator is a DSE employee.
  - Contact the relevant people by:
    - . notifying the Cluster Director verbally at first and then by incident advice within 24 hours
    - . informing the juvenile of the 24 hour 'cooling off' period before Police notification, where an injury is the outcome of the fight/altercation
    - . notifying Police where the juvenile wishes to lay a complaint of assault
    - . notifying, in writing, the Commander (Professional Responsibility), Police Service, where the allegation concerns Police assault
    - . consulting the young person about people to be informed of the incident
    - . where the allegation is made against a detainee/client, informing the parents/caregiver of the allegation against the young person
    - . notifying the appropriate District Superintendent, DSE in all cases involving DSE staff
    - . arranging independent legal advocacy for the young person.



- Gather the evidence by:
  - fully documenting the incident
  - seeking the victim's approval to have photographs taken of any external injuries, where physical assault is alleged
  - providing a comprehensive written report to the Cluster Director within 48 hours.
  
- Take follow-up action by (to be done by the Cluster Director):
  - referring the matter to the Director of Operations for disciplinary action in accordance with the Public Sector Management Act, where the allegation of assault by a DJJ staff member is confirmed.

Note: Where the allegation of abuse or neglect involves a departmental manager, the Cluster Director is responsible for ensuring that these operational procedures are followed.



KEN BUTTRUM  
Director General