

Youth Justice Policy Determination 3.4: Confidentiality and Client Information Management

REFERENCE	61:F2019/7502	
POLICY APPROVER	Name	Brent Warren
	Title	General Manager Youth Justice
	Date	31 May 2019
POLICY OWNER	Executive Director Youth Justice	
POLICY RESPONSIBILITY	Senior Director Youth Justice Programs	
IMPLEMENTATION RESPONSIBILITY	Manager Youth Programs - Superintendent	
LEGISLATIVE BASIS AND RELATED DOCUMENTS		
Youth Justice Act Youth Justice Regulations Care and Protection of Children Act Information Act Youth Justice Policy Determination 1.2: Records Management Youth Justice Policy Determination 2.3: Incident Recording and Reporting		

Document Control

VERSION HISTORY	EFFECTIVE DATE	REASON FOR UPDATE
Version 1.03	May 2019	Consultation with Service Providers
Version 1.02	March 2018	Addition of legislation links and typo corrections
Version 1.01	January 2018	Update to position titles and policy determination references
Version 1.0	January 2018	Deputy Chief Executive Officer Operations approval

NEXT REVIEW DATE	January 2021, or as directed prior to the scheduled review date.
------------------	------------------------------------------------------------------

1. Policy Purpose

- 1.1 To provide guidelines around the release of information held by youth detention centres.

2. Authority / Responsibility

- 2.1 The authority for this Policy Determination is Regulation 30 of the Youth Justice Regulations.
- 2.2 This Policy Determination applies to all staff within a detention centre.
- 2.3 The Manager Youth Justice Operations – Superintendent is responsible for implementing this Policy Determination.

3. Policy Statement

- 3.1 Information gathering and sharing is a critical component of making assessments, building relationships, and developing the wellbeing of young people. Maintaining confidentiality is a balance between safeguarding the rights of young people and the need to provide information about a young person to others to support service delivery to them.
- 3.2 Information concerning young people involved with the youth justice system is confidential and may only be shared in accordance with the law, including the *Information Act* and the *Care and Protection of Children Act*.
- 3.3 Section 214(1) of the *Youth Justice Act* specifically prohibits the unauthorised recording, disclosure and publication of any information related to a young person involved with the youth justice system, whether or not in detention. This prohibition includes disclosure of information to another person or body (including a court). Penalties apply for contravening section 214.
- 3.4 Section 214(2) states that this prohibition does not apply to disclosure of information as part of the exercise of a power or function under the Act, providing information to police, or providing information to the person the information is about. Information can also be provided to another person with the consent of the person the information is about.
- 3.5 Requests for information held by Territory Families, including youth detention centres, will usually be directed to the Information Release team to assess and process.
- 3.6 This determination establishes a parallel process for a detainee's legal representative or service provider to request access to specified information relating to that detainee.

4. Confidentiality of detainee information

- 4.1 Confidentiality relates to the treatment of information that has been disclosed or obtained during any interaction with a young person in detention.
- 4.2 The confidentiality of information relating to detainees will be preserved by ensuring:
 - (1) that detainee information is securely stored at all times; and
 - (2) that detainee information is not communicated to any person without proper authorisation or justification.
- 4.3 Young people in detention must be informed about the nature of information kept about them and the limits to which confidentiality will be maintained.
- 4.4 In particular, young people in detention must be advised that if they make a disclosure of harm or exploitation it will be reported in accordance with mandatory reporting obligations.

Related Legislation

- 4.5 The *Information Act* has established Information Privacy Principles which regulate the collection, use, disclosure and security of personal information. In addition, section 76(1) of the *Criminal Code* states that it is a crime to unlawfully disclose confidential information.
- 4.6 Some young people in detention will also be in the care of the Chief Executive Officer of Territory Families under a child protection order. Identifying someone as being a 'child in care' is prohibited under section 301 of the [Care and Protection of Children Act](#). It is not permitted to publish information that may identify that a young person is:
- (3) in the care of the CEO;
 - (4) subject to an application for a temporary protection order, assessment order or protection order;
 - (5) subject to a temporary protection order, assessment order or protection order; or
 - (6) involved or alleged to have been involved in a sexual offence (whether as a victim or otherwise).

5. Access to and use of information in the performance of duties

- 5.1 Detainee information may be accessed or used by staff who require the information in the course of performing their duties. Before sharing information staff must consider what information specific people or programs need in order to do their job or provide services to the young person, and then only share that information.
- 5.2 Unauthorised access to and use of detention centre records is a serious breach which may result in disciplinary action. Any unauthorised access must be reported in accordance with Policy Determination 2.3: Incident Reporting and Recording.
- 5.3 Unauthorised access to or use includes:
- (1) viewing or sharing records with anyone when the information is not required to perform the employee's duties;
 - (2) copying or downloading records (whether hard copy or electronic);
 - (3) removing records from a detention centre or other youth justice workplace; and
 - (4) disclosing detainee information to external third parties, except as outlined below at paragraph 6.1.
- 5.4 Accidental loss of files or records, whether hard copy or electronic, must be reported under the Youth Justice Policy Determination 2.3: Incident Recording and Reporting and Youth Justice Policy Determination 1.2: Records Management.
- 5.5 To ensure continuity of services for young people in detention, staff are permitted to provide information to other Territory Families staff and relevant professionals who are engaged with the young person in the provision of services and support.

6. Requests from legal representatives and service providers to access information

- 6.1 Legal representatives and service providers may request access to the following information in relation to their client as part of their service provision:
- (1) Young Person Support Plans;
 - (2) case management plans;
 - (3) minutes of case conferences;
 - (4) education plans;

- (5) the decision and any reasons for a decision classifying a young person under the Centre Cycle Review; and
 - (6) minutes of any case conference pertaining to a proposed or executed transfer, where they exist and any transfer checklist documents.
- 6.2 Requests for access to the documents set out above must be sent to the Manager Youth Justice Operations at TF.YouthASYDCManagement@nt.gov.au for Alice Springs Youth Detention Centre or TF.YouthDDYDCManagement@nt.gov.au for Don Dale Youth Detention Centre together with a copy of a signed authority from the client. Only the Superintendent may approve the release of information in response to any requests.
- 6.3 All requests must be dealt with in a timely manner, and within 3 business days of receipt.
- 6.4 The Superintendent must ensure that all requests, and responses to requests, are recorded.
- 6.5 If the Superintendent considers that any of the documents listed above contain information that may not be appropriate for release, including records that contain security or intelligence information or information about another detainee, the matter should be referred to Territory Families' Information Release unit for advice.

7. Other requests for information

- 7.1 Any requests for access to detainee information not outlined above must be directed to Territory Families' Information Release unit at TF.Infoprivacy@nt.gov.au. This is so trained staff can assess the information to determine whether disclosure is permitted, and whether any information may need to be redacted prior to release.
- 7.2 Such requests **are not to be responded to directly by youth justice staff.**
- 7.3 Youth justice staff may be asked for information by the Territory Families Information Release team to assist them to assess and respond to requests.

8. Grievance procedures if access is refused under this policy

- 8.1 In cases where the Superintendent refuses a request for the release of information under this policy, the person can lodge an appeal against this decision.
- 8.2 The appeal is lodged with Territory Families Complaints and Investigation Unit via email at TF.Complaints@nt.gov.au or by phone on 1800 750 167.