

Policy

Youth detention - Search of a young person YD-4-2

Policy statement

Any search of a young person must be actioned in strict compliance with the requirements of the *Youth Justice Regulation 2003*.

Accordingly, youth detention centres will ensure:

- search procedures and requirements are explained to young people during the induction process on admission
- searches of young people are undertaken only when reasonable grounds exist for the search
- the safety and wellbeing of young people is paramount and security considerations cannot override or expose the young person to a search type that may be detrimental to their safety or wellbeing
- the reasonable grounds for conducting a search are explained to the young person
- the appropriate search is conducted commensurate to the level of risk assessed
- all searches are approved by a delegated officer authorised to approve that particular search type, prior to the search being conducted
- any search of a young person is conducted as quickly as reasonably possibly, with regard to their dignity and privacy
- records are created of the search that are compliant with the requirements of the *Youth Justice Regulation 2003*.

Principles

1. Search types

Where reasonable grounds exist, a young person may be subject to a:

- 1.1 wand search - a search where a young person remains clothed and is searched with a hand-held metal detector
- 1.2 clothed search – a search where a young person remains clothed but is requested to remove their shoes and empty and turn-out their pockets. Staff then use a ‘pat-down’ technique to search the young person
- 1.3 partially clothed search - a search of a young person that does not involve touching the young person and searches their upper and lower body, permitting the young person to remain partially clothed (i.e. upper body remains clothed while their lower body is searched and vice versa)
- 1.4 cavity search – a search of a young person that involves the visual, manual or instrument inspection of a young person’s body cavities by a medical professional.

2. Mandatory requirements for search process

In seeking to undertake a search of a young person, youth detention operational staff must:

- 2.1 undertake a risk assessment
- 2.2 seek appropriate approval from an authorised officer prior to conducting the search
- 2.3 ensure the staff member searching the young person is of the same gender as the young person

2.4 conduct the search in a manner with legislation, this policy and the procedures outlined in Chapter 4 of the Youth Detention Centre Operations Manual

2.5 record all searches in DCOIS.

3. Risk assessment to inform search decision

3.1 When determining whether a search is required, youth detention operational staff must undertake a risk assessment of the situation and of the individual young person to establish a level of risk.

3.2 This risk level assessed will determine if a search should be conducted; and if one is required, the type of search commensurate to the level of risk assessed.

3.3 To do this, youth detention operational staff should consider the following risks:

- risks associated with the young person such as –
 - previous relevant behaviours including previous incidents in a youth detention centre and offence history
 - current mental health issues which may have an impact on their behaviour
 - history of possession and/or use of restricted, prohibited or illegal articles
 - past or present self-harm or suicide risk
 - SIYP rating and history
 - drug or alcohol history
 - the possible intended outcome/use of the article they are suspected to be hiding
 - any other risk factor that may be relevant
- situational factors such as –
 - whether a potential dangerous item has gone missing from a secure area (e.g. a piece of cutlery, tools, writing implement)
 - their current behaviour
 - intelligence which indicates the young person may be in possession of a restricted, prohibited or illegal article, and
 - movement factors such as –
 - whether the young person is returning from a location within the centre where they may have had access to potentially dangerous items or restricted, prohibited or illegal articles (including visits area, programs and the education precinct)
 - whether the young person is being admitted
 - whether the young person is returning from a leave of absence
 - whether the young person is being transferred from police custody (and whether the young person was searched by the police).
 - any other risk factor that may be relevant.

3.4 As part of the risk assessment, the safety and wellbeing of the young person must also be considered and security considerations cannot override or expose the young person to a search type that may be detrimental to their safety or wellbeing. In practice, this means that the behaviour and the victim history of the young person, as well as the immediate situation, must be considered. While the good order and safety of the centre is an appropriate consideration in the risk assessment, further substantiation based on the specific situation is needed for it to be a valid reason for a search.

3.5 Once all risk factors have been considered, youth detention operational staff should use their professional judgement to assign a risk level, using the diagram below as a guide.

Level of risk assessed

No risk	Low risk	High risk	Extreme risk
No search	Pat and/or wand search	Partially clothed search	Cavity search
<p>Factors that may lead to a no risk assessment:</p> <ul style="list-style-type: none"> no risk factors associated with the young person no risk factors associated with the situation a young person who is leaving the centre and has no recent history of suicidal ideations and no recent history of possession of restricted or prohibited articles. no SIYP related risks. 	<p>Factors that may lead to a low risk assessment:</p> <ul style="list-style-type: none"> a low-risk item (such as a pen lid) going missing from a secure area but with no intel on who might possess it or what happened to it admission with no specific young person risks attendance at tooled or metal work programs low SIYP related risks. 	<p>Factors that may lead to a high risk assessment:</p> <ul style="list-style-type: none"> a dangerous item (such as a pen or a compass) going missing from a secure area highly suspicious behaviour from a young person following their access to an area outside of accommodations and following intel of their intent to harm another young person a number of high risks such as specific risks associated with the young person such as a history to possession and a movement risk. <p>To undertake a partially clothed search there must be a risk associated with the young person.</p>	<p>A cavity search can only be authorised if the centre director considers on reasonable grounds that:</p> <ul style="list-style-type: none"> the young person is in possession of a thing that may: <ul style="list-style-type: none"> threaten the security or good order of the detention centre, or endanger, or be used to endanger, the young person or another person.

3.6 Ultimately, the decision about the risk level is a matter of professional judgement on a case by case basis. Every situation will be different and the above table is a guide only. Any item (for example, a rock, stick from a tree, broken plastic sleeve of a pen) in the possession of a young person with intent to harm (someone else, themselves or property) could be dangerous. However, staff must record all of the risks identified in the circumstances to justify the decision made about the most appropriate search.

4. Health and safety considerations

4.1 When conducting a search, youth detention staff must take due care to protect themselves to minimise exposure to potential risk from infection and concealed articles.

4.2 Accordingly, when conducting a search, youth detention staff must:

- use appropriate personal protective equipment
- maintain an awareness of their position relative to the young person throughout the duration of the search
- monitor the young person closely to detect any potential hostile or non-compliant behaviours, and

- use safe search practices as outlined in Chapter 4 of the Youth Detention Centre Operations Manual and associated training materials to avoid injuries and infection from concealed articles.

5. Reasonable force to conduct a search

- 5.1 The *Youth Justice Regulation 2003* permits the use of reasonable force to conduct all search types in instances where a young person fails to cooperate with the conduct of the search.
- 5.2 In instances where a cavity search has been authorised, reasonable force can only be used to conduct the search if the medical practitioner or centre director believes the search cannot be conducted in any other way.
- 5.3 To remove any doubt, use of reasonable force for any search type must only be enacted as an option of last resort.
- 5.4 If a young person is refusing to cooperate with the search, youth detention staff must make reasonable efforts to:
- communicate to the young person why the search must be conducted
 - negotiate with the young person to encourage them to cooperate
 - communicate to the young person that force may be used if they fail to cooperate
 - have a second staff member approach the young person to offer to search the young person (rather than the first staff member)
- 5.5 Staff can also consider separating¹ the young person in a sterile room and placing them under observation.
- 5.6 If after attempting the above steps and force is still required, the staff member should discuss the proposed use of force with the shift supervisor, centre director or on call manager and obtain their approval for the use of force.
- 5.7 If approved, the youth detention operational staff member who uses force to conduct a search must ensure that the least amount of force necessary is used.
- 5.8 If an immediate decision about the use of reasonable force is required in order to protect a person or property in the centre or to immediately obtain a dangerous item and the staff member is unable to discuss the use of force with a supervisor beforehand, the staff member may use reasonable force in accordance with the Policy YD-3-4: Youth Detention Protective Actions Continuum.
- 5.9 Any suspected use of unreasonable or unnecessary force will be referred to the department's Ethical Standards Unit.

6. Record keeping

- 6.1 All searches, including the risk assessment and justification for the search, must be recorded on DCOIS.
- 6.2 For pat and wand searches conducted as part of daily operations (to ensure the safety and security of the centre during young people's movements from programs to accommodation etc) – these searches are to be recorded on the relevant activity log as an occurrence, rather than against an individual young person. If items are found as part of this process, staff must create an ad-hoc search activity record and record: justification; approving officers; searching officers; items found and the young people searched.
- 6.3 Where a pat and/or wand search of a young person is conducted in a program area because there are reasonable grounds that a young person may be in possession of a

¹ In accordance with Policy YD3-8: Use of separation in response to an incident.

restricted item missing from that area, staff must record the following on DCOIS: search type; justification; approving officers of search conducted; and what item(s), if any, were found.

6.4 For partially clothed searches the shift supervisor must:

- create an ad-hoc young person search record in the relevant log
- detail the risk assessment and justification for the search and any special instructions.

6.5 All cavity searches, including risk assessment and justification, must be recorded in the Cavity Search Register on DCOIS.

6.6 Staff must follow the additional guidance noted in Chapter 4 of the Youth Detention Centre Operations Manual in relation to record keeping for searches of young people.

Objectives

The department has a legislative responsibility to ensure that youth detention centres are safe and secure environments.

Searches are a risk reduction strategy that assist in the elimination and control items in a youth detention environment that have the potential to cause harm to people and/or property. Searches also contribute to the security management of a youth detention centre.

Accordingly, this policy identifies the types of searches that can be conducted of a young person in youth detention and regulates the way that searches are to be conducted.

Scope

This policy applies to young people sentenced or remanded in a youth detention centres.

This policy is part of a suite of policies and processes developed to support the safe and secure operations of youth detention centres and is to be read in conjunction with:

- Policy YD-4-1: Management of restricted and prohibited articles
- Policy YD-4-4: Retention and disposal of evidence relevant to an incident
- Chapter 4: Security Management, Youth Detention Centre Operations Manual.

Roles and responsibilities

- Unit manager and shift supervisor - using their professional judgement to assess the level of risk that exists to determine whether reasonable grounds exist for a young person to be searched, demonstrating a duty of care to any young person who is searched, ensuring the search is recorded on DCOIS.
- Centre director - ensuring practice complies with this policy, determining whether reasonable grounds exist to authorise a cavity search by a medical practitioner, ensuring that any medical practitioner required to do a cavity search on a young person understands their responsibilities under section 27 of the *Youth Justice Regulation 2003*, training new youth detention operational staff during their induction to ensure understanding of their responsibilities in accordance with this policy, and on appropriate wand, clothed and partially clothed search techniques.

- Director, Youth Detention Operations - collecting and analysing data for monitoring purposes about search trends and providing regular advice to the Youth Detention Governance committee about any emerging issues, providing practice support and advice to youth detention operational staff and youth detention management about issues relating to compliance with this policy.
- Director, Youth Justice Capability and Learning - reviewing and updating relevant training materials as required.

Authority

Youth Justice Act 1992

Youth Justice Regulation 2003

Public Records Act 2002

Delegations

- Assistant Director-General, Youth Justice, director, youth detention centre, director, Youth Detention Operations - *Youth Justice Act 1992* Section 263 (2), (5) – Issue directions, codes, standards and guidelines for the security and management of detention centres and the safe custody and wellbeing of children in detention. Comply with youth justice principles.
- Assistant Director-General, Youth Justice, director, youth detention centre, deputy director, youth detention centre, unit manager (accommodation), unit manager (operations), unit manager, youth detention centre, shift supervisor, youth detention centre, court supervisor, youth detention centre, section supervisor, youth detention centre, visits coordinator, youth detention centre - *Youth Justice Regulation 2003* Section 24 (1) – Authorise staff member to search a child.
- Assistant Director-General, Youth Justice, director, youth detention centre, deputy director, youth detention centre, unit manager (accommodation), unit manager (operations), unit manager, youth detention centre, shift supervisor, youth detention centre, court supervisor, youth detention centre, section supervisor, youth detention centre, community assistance project supervisor, youth detention centre, visits coordinator, youth detention centre - *Youth Justice Regulation 2003* Section 24 (2) - Determine when search should take place.
- Assistant Director-General, Youth Justice, director, youth detention centre, deputy director, youth detention centre, unit manager (accommodation), unit manager (operations), unit manager, youth detention centre, shift supervisor, youth detention centre - *Youth Justice Regulation 2003* Section 26 (1) - Determine when search should involve removal of clothes.
- Assistant Director-General, Youth Justice, director, youth detention centre - *Youth Justice Regulation 2003* Section 27(1), (3) – Authorise medical practitioner to conduct a body search. When chief executive may authorise body search.
- Assistant Director-General, Youth Justice, director, youth detention centre, unit manager (operations), unit manager, youth detention centre, shift supervisor, youth detention centre, section supervisor, youth detention centre, community assistance project supervisor, youth detention centre, visits coordinator, youth detention centre, youth worker, youth detention centre - *Youth Justice Regulation 2003* Section 28 (2) – Must keep a register.
- Assistant Director-General, Youth Justice, director, youth detention centre, deputy director, youth detention centre, shift supervisor, section supervisor, visits coordinator, youth worker - *Youth Justice Regulation 2003* Section 29 (4) - Record particulars of property in property register.

Definitions

For the purpose of this policy, the following definitions shall apply:

Term	Definition
Authorised officer	Refers to an officer with the delegated authority to approve the search type. Refer to list of delegations.
Centre director	Means the director of the youth detention centre.
Illegal article	Refers to items which are illegal in the wider community, such as illicit drugs.
Personal protective equipment	Refers to the First Aid Response Pouch carried by all youth detention operational staff. Refer to Chapter 3: Incident Management, Youth Detention Centre Operations Manual for further information.
Prohibited article	Refers to items which are legal in the community but strictly prohibited in a youth detention centre. Prohibited articles must not be brought into or conveyed to a young person in a youth detention centre without the express authorisation of the centre director (for example, weapons carried by a police officer). Refer to Policy YD-4-1: Management of restricted and prohibited articles for further information.
Reasonable force	Reasonable force in the conduct of a search can only occur when all of the following are completed/complied with: <ul style="list-style-type: none"> the young person's age, maturity and the nature of their non-compliance have been considered attempts to negotiate with the young person to comply with the search have failed no more force than is reasonably necessary is used in order to enact the search, and a record is made about the use of force.
Restricted article	Refers to items required for use in centre operations but have the potential to cause harm to people or property or pose a security risk. These items include medical equipment, stationary and gardening tools. Accordingly, restricted

	articles are permitted into a centre only under strict restrictions and conditions. Refer to Policy YD-4-1: Management of restricted and prohibited articles for further information.
SIYP	Means Special Interest Young Person.
Youth Detention Governance committee	Refers to the regular meetings convened between the Centre Directors and the Director, Youth Detention Operations
Youth detention operational staff	Refers to a staff member who has direct care responsibility for young people. For example, a youth worker or section supervisor.

Communication strategy

(mark all that apply)

- ☒ publish on intranet (all Youth Justice policies to be published on intranet)
- ☐ publish on internet
- ☒ advise staff to read
- ☒ supervisors discuss with direct reports

Links

[Search order form](#)

[Australasian Juvenile Justice Administrators \(AJJA\) service standards for juvenile custodial facilities](#)

[United Nations Rules for the Protection of Young People Deprived of Their Liberty 1990](#)

Policy	Search of a young person
Version number	1.0
Date of approval	1 May 2013
Date of operation	1 July 2013
Policy owner	Youth Detention Operations
Review date	12 months from the date of approval

Appendix A. Search types and conditions

Type of search and description	Delegated officer who can authorise search	Special conditions
<p>1. Clothed search</p> <p>A clothed search is where a young person remains clothed, but is requested to empty their pockets and remove their shoes. Staff members will 'pat-down' a young person making sure not to come into contact with the young person's genitalia. The young person will be asked to open their mouth, run their fingers through their hair and be directed to stand with the feet apart and arms raised away from their body.</p>	<ul style="list-style-type: none"> • Assistant Director-General, Youth Justice • Centre Director • Deputy Director • Unit Manager (Accommodation) • Unit Manager (Operations) • Shift Supervisor • Section Supervisor • Visits Coordinator 	<ul style="list-style-type: none"> • Young people cannot be required to remove their clothing • Two staff members must be present • The staff member conducting the search must be the same gender as the young person • The staff member searching the young person must remain in sight of the second officer at all times
<p>2. Wand search</p> <p>A search with a hand-held metal detector</p>	<ul style="list-style-type: none"> • Assistant Director-General, Youth Justice • Centre Director • Deputy Director • Unit Manager (Accommodation) • Unit Manager (Operations) • Shift Supervisor • Section Supervisor • Visits Coordinator 	<ul style="list-style-type: none"> • The wand is not to come into contact with the young person. • The young person is to remain clothed at all times.
<p>3. Partially clothed search</p> <p>A partially clothed search is a search of a young person that does not involve touching the young person and searches their upper and lower body, permitting the young person to remain partially clothed (i.e. upper body remains clothed while their lower body is searched and vice versa).</p>	<ul style="list-style-type: none"> • Shift Supervisor • Unit Manager • Deputy Director • Centre Director 	<ul style="list-style-type: none"> • The search must never be conducted in a manner than involves the removal of all of the young person's clothing at the same time. • Staff are not permitted to touch the young person. • At least two staff members must be present during the search. • The staff member conducting the search must be the same gender as the young person. • The second staff member

Type of search and description	Delegated officer who can authorise search	Special conditions
		must stand where they can directly observe the staff member. If they are the opposite gender of the young person, they must be able to directly observe the staff member but not the young person.
<p>4. Cavity search</p> <p>A cavity search involves the visual, manual or instrument inspection of a young person's body cavities.</p>	<p>The Centre Director or Assistant Director-General can authorise a medical practitioner to conduct a cavity search</p>	<ul style="list-style-type: none"> • Must be conducted by a medical practitioner. • Where possible, the medical practitioner should be of the same gender as the young person • The young person must be given the opportunity to remain partially clothed during the search • If the medical practitioner requires assistance, they may request a detention centre staff member of the same gender as the young person to assist