

## *Youth Justice Policy Determination 4.11: Separation*

### 1. Policy Purpose

- 1.1. The purpose of this policy is to establish guidelines regarding the separation of young people in detention centres.

### 2. Authority / Responsibility

- 2.1. The authority to separate young people in a detention centre is contained in sections 155A, 155B and 156 of the [Youth Justice Act](#) and Regulation 72 of the [Youth Justice Regulations](#).
- 2.2. The Superintendent is responsible for the management of this Policy Determination.

### 3. Policy Statement

- 3.1. Separation is a significant response that should only be employed as a last resort, and for the shortest time necessary.
- 3.2. Separation of a young person must not be used as a form of punishment or discipline.
- 3.3. Except where an emergency situation exists, separation should only be used after all other means of positive management have been attempted.

### 4. Separation

- 4.1. Separation of a young person should be carried out in a trauma-informed and therapeutic way to manage and keep young people and staff safe and secure.
- 4.2. Regular, ongoing and meaningful engagement by staff with the young person is the key to de-escalation and is the overarching staff obligation during any period of separation.
- 4.3. Communication and engagement with the young person allows staff to determine the physical and mental health and wellbeing of the young person, and helps encourage de-escalation.

#### *What does Separation NOT include?*

- 4.4. Separation does not include:
  - (1). When young people are locked in their rooms for periods of time:
    - (a) Overnight;
    - (b) During a reasonable and necessary lockdown period of the detention centre; or
    - (c) During an emergency situation; or
  - (2). When a young person may be separated from other young people having regard to the age or gender of the young person.

### 5. Authorisation of Separation

- 5.1. Only the Manager Youth Justice Operations—Superintendent (or delegate) may authorise separation.
- 5.2. Separation may only be authorised in the following circumstances.

SITUATION	REQUIREMENTS
The young person requests separation	The Manager Youth Justice Operations—Superintendent (or delegate) must be satisfied there is good reason for the separation.
The young person is suffering from an infectious, communicable or contagious disease	The Manager Youth Justice Operations—Superintendent (or delegate) believes on reasonable grounds that the young person is suffering from an infectious disease (refer to <a href="#">Youth Justice Determination 5.0: Health Services</a> ).
The protection of people or property (including for the protection of the young person themselves, another young person, staff member or visitor)	No other course of action is reasonably practicable <b>AND</b> either: <ul style="list-style-type: none"> <li>• An emergency situation exists; <b>OR</b></li> <li>• When all reasonable and therapeutic measures to resolve the situation have been attempted and are unsuccessful, and the young person’s behaviour is unable to be de-escalated.</li> </ul>

#### *Separation for the protection of people or property*

- 5.3. Separation can be used to manage a real risk to people or property when the young person is unable to be de-escalated by any other strategy. Except in an emergency situation, all reasonable behavioural or therapeutic measures must have been attempted as a means to resolve the situation, and must have been unsuccessful.
- 5.4. The attempted resolution strategies and the outcomes must be recorded in the relevant incident report, the Separation Journal and summarised in the email notification - Separation of a young person. This is the evidence that supports the decision to separate the young person.

#### *Young People at Risk*

- 5.5. Youth detention centre staff must always be vigilant in assessing a young person’s risk of self-harm or suicide. A young person may be displaying negative or challenging behaviours in response to a heightened risk of self-harm. Where a young person is identified to be at risk, the response must be in accordance with [Youth Justice Policy Determination 5.1: Young People at Risk](#).

## 6. Requirements when separating Young People

#### *Medical Examination*

- 6.1. A young person must be assessed by a medical practitioner within a reasonable time before or after the separation.
- 6.2. Where a medical practitioner is unable to attend the youth detention centre to conduct an assessment within a reasonable period of time, this must be documented in the separation journal.

#### *Authorisation and time frames for the separation of a Young Person*

- 6.3. Commencement of any period of separation must be approved by the Manager Youth Justice Operations—Superintendent (or delegate).
- 6.4. The young person must only be separated until their behaviour has de-escalated and the imminent risk to their safety, another person’s safety or damage to property has been mitigated.

- 6.5. The Manager Youth Justice Operations—Superintendent (or delegate) may only authorise the separation of a young person for a **total period of 12 hours**. Twelve hours is a maximum period, not a set period.
- 6.6. At a minimum, the Superintendent (or delegate) must review a young person's placement in separation every **two (2) hours**.
- 6.7. If a young person is in separation and approaching evening lock down a review of the separation and young person must be undertaken 30 minutes prior to the scheduled lock down time. If the evaluation is that:
  - (1). Separation is to cease, this is to be recorded in the normal manner; or
  - (2). If separation is to continue, the young person is to be provided 15 minutes of exercise prior to lockdown and normal management of separation is to continue.
- 6.8. If a period of separation exceeding 12 hours is required, the Manager Youth Justice Operations—Superintendent (or delegate) must obtain approval from the Chief Executive Officer for **each successive 12 hour period**.
- 6.9. When the Chief Executive Officer (or delegate) approves successive separation periods, **the total period of separation must not be more than 72 consecutive hours**.

#### *Prohibition of Rotational Separation*

- 6.10. Rotational separation is strictly prohibited.
- 6.11. The term 'rotational separation' describes the act of separating a young person in a locked room for a period of time, releasing the young person and then placing them in separation again over a continuous period of time with the intention of avoiding the required approvals.

#### *If an interpreter is required*

- 6.12. When a young person commences a period of separation, it must be determined if an interpreter is required to assist with the explanation outlined below ('Commencing a Young Person in Separation'), and to ensure that the young person understands. If an interpreter is required, every effort is to be made to have an interpreter attend or provide the service over the phone. If an interpreter is not available staff are to ensure they are to attempt to provide the information in a manner that the young person may understand.

#### *Commencing a Young Person in Separation*

- 6.13. When a young person commences separation staff must explain to the young person:
  - (1). The reasons for the separation;
  - (2). How long they will be separated before a review of the arrangement will occur;
  - (3). The mitigation of risk to person/s or property, any relevant behaviour expectations and how the decision to end the separation placement will be made; and
  - (4). The young person's rights, which are detailed below and on the 'What happens during separation' information sheet.
- 6.14. The Manager Youth Justice Operations—Superintendent (or delegate) must notify the Chief Executive Officer and the Children's Commissioner of the separation as soon as is reasonably practicable after the separation commences, and when it finishes.
- 6.15. The young person must be permitted to see a person or persons who can provide them with support and positive guidance at any time during the separation. This may include a family member, person with parental responsibility, health practitioner, counsellor or psychologist, case worker or legal practitioner.

## 7. 'What Happens During Separation'

- 7.1. Staff of a detention centre must provide the separated young person with sufficient information about 'What happens during Separation' as soon as reasonably practicable after the separation commences. The information should include the young person's rights and the Agency's obligations during the period of separation. This includes that:
- (1). The total period of separation can only be up to 12 hours without approval of the Chief Executive Officer. If a further period of separation is deemed necessary, it can only be for 12 further hours at a time up to a maximum of 72 hours;
  - (2). The Manager Youth Justice Operations—Superintendent (or delegate) will review the reasons for the separation every two (2) hours, and only continue the separation if it is necessary;
  - (3). The Chief Executive Officer and the Children's Commissioner will be formally notified of the separation;
  - (4). A medical practitioner will examine the young person as soon as reasonably practicable if this has not already occurred;
  - (5). The young person will be given access to outdoor recreation or exercise for at least 15 minutes every three (3) hours if their separation is longer than three (3) hours in total;
  - (6). The young person is permitted to see family members, a medical practitioner, a counsellor or psychologist, a case worker, a legal practitioner and a person nominated by them to provide them with support and positive guidance;
  - (7). The young person will be provided with education and education materials, appropriate recreation materials, including reading materials and basic human necessities including toilets, food, clean drinking water, showers and sunlight; and
  - (8). The young person has the right to be heard in relation to the separation, or any use of force or use of restraint devices, and that this right may only be delayed for reasons of practicality or in emergency situations.

### *Engaging and monitoring a Young Person in Separation*

- 7.2. While separation is occurring, staff must have regular, ongoing and meaningful engagement with the young person. This is to monitor the physical and mental health and wellbeing of the young person, and to encourage them to reintegrate with other young people in detention, and to deal with the situation that led to the separation.

### *Notifications and reporting of Separations*

- 7.3. The Manager Youth Justice Operations—Superintendent is responsible for maintaining a Separation Journal.
- 7.4. The Manager Youth Justice Operations—Superintendent (or delegate) must notify the Chief Executive Officer and the Children's Commissioner of the separation of a young person, regardless of the length of time the young person is separated.
- 7.5. Notification will occur as soon as is reasonably practicable after the separation begins.

## Incident Reporting

- 7.6. Incident reporting must comply with [Youth Justice Policy Determination 2.3: Incident Recording and Reporting](#).

## 8. Review of Decisions and Complaints

- 8.1. A young person has a right to request a review of a decision or make a complaint in relation to the imposition of a period of separation, their treatment during any incident

which led to a period of separation, and any decisions made or consequences imposed on the young person whilst they are in separation.

- 8.2. All complaints must be managed in accordance with [Youth Justice Policy Determination 3.3: Complaints](#). A young person has the right to make a complaint to the Office of the Children’s Commissioner at any time, including during a separation period.

## Legislative Basis and Related Documents

[Youth Justice Act](#)

[Youth Justice Regulations](#)

[Youth Justice Policy Determination 2.3: Incident Recording and Reporting](#)

[Youth Justice Policy Determination 3.3: Complaints](#)

[Youth Justice Determination 5.0: Health Services](#)

[Youth Justice Policy Determination 5.1: Young People at Risk](#)

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Version 1.0	October 2018	New Youth Justice Policy Determination approved by General Manager, Youth Justice