COPP 2.2 Cultural and Religious Requirements

Youth Detention Centres

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| Principles In context of the following:  [Australasian Youth Justice Administrators Standards, 2009](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/ops-standards.aspx)  Cultural, linguistic and religious diversity is recognised.  Cultural advice from family and community regarding children and young people  who are Aboriginal or Torres Strait Islander informs service delivery.  Staff are competent to deliver juvenile justice services.  Staff complete induction and mandatory training.  Staff participate in ongoing learning and development.  [Australian Human Rights Commission National Principles for Child Safe Organisations, 2019](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/ops-standards.aspx)  The organisation, including staff and volunteers, understands children and young people’s diverse circumstances, and provides support and responds to those who are vulnerable |

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# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all Youth Detention Centres Custodial Officers and staff.

# Policy

This COPP provides the policy and procedures for organising cultural, spiritual and religious support to detainees.

The [United Nations (UN) Rules for the Protection of Juveniles Deprived of their Liberty](https://www.ohchr.org/en/professionalinterest/pages/juvenilesdeprivedofliberty.aspx), states every detainee should be given opportunity to satisfy their needs for their spiritual or religious life, in particular by attending the services or meetings provided in the facility and having possession of religious items.

The Department acknowledges and respects the cultural, spiritual and religious diversity of all detainees.

A detainee shall not be subject to any form of discrimination by declaring themselves of any faith, culture or religion, or as belonging to none. When performing duties, staff shall behave in a manner which reflects respect and sensitivity towards cultural, spiritual and religious beliefs and religious items.

The Department provides a range of services to support detainees from culturally and linguistically diverse (CaLD) backgrounds. All detainees shall be informed of religious and/or cultural services available at the YDC.

Every detainee shall have the right to receive services from recognised religious or spiritual advisors or another responsible person who acts in a religious or spiritual capacity with similar religious or spiritual beliefs as the detainee. Services are provided subject to the requirements of maintaining the security and good order of the YDC.

# Staff Training and Information

## Staff training

### Cultural awareness is sensitivity to the similarities and differences that exist between two different cultures. Custodial Officers shall apply this sensitivity when communicating with detainees from another cultural group.

### YDC staff are encouraged to complete the [Diverse Western Australia (WA) Cultural Competency Training](https://www.omi.wa.gov.au/events-and-training/diversewa-training) which is an interactive and online training program provided by the Office of Multicultural Interests (OMI).

## Information

### The Superintendent, in conjunction with the YDC chaplain, shall make information available to staff regarding cultural, spiritual and religious requirements.

### The OMI also provides information sheets on the cultural aspects of 7 religions: Baha’i, Buddhism, Christianity, Hinduism, Islam, Judaism and Sikhism. Further information may be found on the [OMI webpage](https://www.omi.wa.gov.au/resources-and-statistics).

# Admission

### The Custodial Officer assigned to the admission area shall note in the detainee’s TOMS record if a translator or interpreter is required.

### Custodial Officers shall record the detainee’s religious information on the Total Offender Management Solution (TOMS).

### Chaplains shall liaise regularly with admission and or unit staff to identify newly admitted detainees and their associated religious/spiritual requirements.

### During the orientation process, detainees shall be made aware of the scope and availability of religious or spiritual activities in accordance with [COPP 5.1– Orientation.](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)

# Foreign Nationals

### Where a detainee is identified on admission as a foreign national the following shall apply:

1. case planning staff shall contact the nearest consulate of the detainee’s country of citizenship and notify the consulate that the detainee is at the YDC
2. visits for official purposes shall be organised from a Consular representative from their country of citizenship
3. the detainee shall not be disadvantaged due to cost or distance in regard to telephone calls and mail services
4. the detainee shall have the right to the services of an interpreter free of charge whenever necessary, in particular during medical examination, disciplinary or legal proceedings.

# Interpreter Services

It may be unsettling or distressing for detainees who have difficulties communicating in English or have difficulties with hearing to understand the routine in the YDC. It is important that detainees are provided with information in a language or a method they understand.

### The OMI has a responsibility for the [Western Australian Language Services Policy and Guidelines](https://www.omi.wa.gov.au/Resources/Publications/Pages/ViewPublication.aspx?DocID=43), which provides information on assistance to Western Australians who may require help to communicate effectively. This includes people who are deaf or hard of hearing, Aboriginal people and people from Culturally and Linguistically Diverse (CaLD) backgrounds.

### Interpreter and translating services are available through a Common Use Agreement (CUAITS2017).

### Interpreters should be certified by the [National Accreditation Authority for Translators and Interpreters (NAATI)](https://www.naati.com.au/), or tertiary qualified (preferably both).

### Service providers include, but are not limited to:

### Translating and Interpreter Services (TIS), TIS may be accessed to request a certified NAATI.

1. Aboriginal Interpreting Western Australian
2. Access Plus WA Deaf
3. On call interpreters and translators.

### Custodial Officers shall seek approval from the Superintendent or Officer in Charge (OIC) to organise a certified translator or interpreter for the detainee.

### Custodial Officers shall document in TOMS the language or services requested and details of who has been contacted.

# Aboriginal Detainees

### Information regarding Indigenous kinship is available on the ‘[Australians Together, Indigenous kinship](https://australianstogether.org.au/discover/indigenous-culture/kinship/)’ website. This information may assist in Custodial Officers understanding certain cultural requirements for Aboriginal detainees under their care.

## Aboriginal Visitors Scheme

### The Aboriginal Visitors Scheme (AVS) is a group of Aboriginal staff who provide support and counselling to Aboriginal detainees when requested.

### All Aboriginal detainees shall be made aware of the AVS and their services and how to request support.

### The AVS can also facilitate access to recognised spiritual or tribal elders for Aboriginal detainees.

### The AVS may contribute to the interaction and provision of support to detainees managed on the At Risk Management System (ARMS) - Youth.

### AVS may have access to TOMS where notifications of new detainees are checked and actioned.

## Aboriginal female detainees

### Aboriginal female detainees have specific needs and cultural requirements which may necessitate access to Aboriginal support groups, AVS, teachers, Aboriginal Youth Support Officers, etc.

### The Unit Manager shall refer to the appropriate support services as required.

# Religious, Spiritual Services, Activities and Dietary Requests

### The Superintendent or the Assistant Superintendent Security shall consider the security and good order of the YDC where religious or spiritual services are requested.

## Religious and spiritual chaplaincy services

### YDC Chaplains(Chaplains) are contracted by the Department and provide a funded service and chaplaincy for religious and spiritual activities.

### Chaplains shall consult with the Superintendent regarding the provision of religious/spiritual activities and offer pastoral care and support to detainees where requested.

### Chaplains shall provide the following service in accordance with the religious and spiritual services contract:

### offer detainees the opportunity to practice the religion of their choice

### provide pastoral care and support to detainees

### conduct religious and spiritual ceremonies and practices.

## Religious and spiritual services requests

### Custodial Officers shall verbally notify the Chaplain as soon as practicable when a detainee wishes to meet with a chaplain and confirm the request via email and document the request in TOMS.

### Chaplains shall record all services provided to detainees in the TOMS Religious and Spiritual Services module.

### Detainees may receive services from recognised religious or spiritual advisors or another responsible person who acts in a religious or spiritual capacity with similar religious or spiritual beliefs as the detainee.

### Chaplains shall maintain a list of established contacts for religious or spiritual advisors who are generally recognised within the community to act in a religious or spiritual capacity for example, religious or spiritual advisors from the:

### Muslim faith

### Jewish faith

### Buddhist faith

### Jehovah faith

### Catholic faith etc.

### Chaplains may refer to established contacts to enable the detainee to receive religious or spiritual services in the YDC.

## Scheduling spiritual and religious activities

### The Chaplain shall provide a list of detainees wishing to attend scheduled services and a copy of the scheduled services to the Senior Officer.

### The Senior Officer shall forward the list to security for approval.

### Security shall inform the Chaplain of the approved detainees.

### Consideration shall be given to significant religious or spiritual days, events and practices relevant to the detainee’s beliefs (e.g. prayer times or religious events such as Ramadan).

## Cultural or religious dietary requests

### A detainee may request a diet related to their cultural or religious affiliation through their Unit Manager.

### The Unit Manager shall complete the [Detainee, Requests, Complaints and Feedback form.](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copp-forms.aspx)

### The Assistant Superintendent shall review the request and when approved, forward the form to the kitchen.

# Religious Headwear and Religious or Spiritual Items

### Detainees shall be entitled to wear religious headwear (refer [Appendix A](#_Appendix_A_)) only if it does not prevent clear identification of the detainee.

### Detainees shall be asked to remove their headwear when:

1. being photographed in accordance with [COPP 2.1 – Admission](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)
2. being searched in accordance with [COPP 9.6 – Searches](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx).

### Custodial Officers shall ensure the removal of a detainee’s religious headwear is conducted in private and a mirror is provided to allow the detainee to redress.

## Religious or spiritual items

### Detainees shall be allowed to possess and have access to spiritual or religious items relevant to their spiritual or religious beliefs and practices.

### The Chaplain is responsible for the provision, where possible and authorised, of religious and spiritual items.

### Any spiritual or religious item provided to a detainee by the Chaplain shall be managed in accordance with [COPP 4.1 – Property](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx).

### The Superintendent has the discretion not to allow access to, or possession of a spiritual or religious item if it is considered a risk to the safety and security of the YDC. In instances where access is not approved the detainee shall be informed to the reasons why.

# Annexures

## Related COPPs and other documents

**Related COPPs**

* [COPP 2.1 – Admission](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 4.1 – Property](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 5.1 Orientation](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 9.6 – Searches](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)

**Other documents**

* [Australasian Youth Justice Administrators Standards, 2009](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/ops-standards.aspx)
* [United Nations (UN) Rules for the Protection of Juveniles Deprived of their Liberty](https://www.ohchr.org/en/professionalinterest/pages/juvenilesdeprivedofliberty.aspx)
* [Western Australian Language Services Policy 2014, and Guidelines](https://www.omi.wa.gov.au/Languages/Pages/WALanguageServicesPolicy.aspx)

## Definitions and acronyms

| Term | Definition |
| --- | --- |
| Australian citizen | As defined under s.4 of the *Australian Citizen Act 2007.* |
| Aboriginal Visitors Scheme (AVS) | The Aboriginal Visitors Scheme (AVS) comprises Aboriginal staff who visit prisons and detention centers around the state, providing support and counselling to Aboriginal people in custody. |
| At Risk Management System (ARMS) | The At-Risk Management System is the Department’s multi-disciplinary suicide prevention strategy for offenders. The tri-level system includes:   * Primary prevention – strategies to create physical and social environments in the detention centre that limits stress on detainees. * Secondary prevention – strategies to support detainees at statistically higher risk of self-harm or suicide. * Tertiary prevention – strategies aimed directly at individuals identified as at risk of self-harm or suicide. |
| Custodial Officer | An officer with custodial functions, appointed under s. 11(1) of the *Young Offenders Act 1994*; or a person who is appointed under s 11(1a)(a) as a custodial officer. This includes but is not limited to Custodial Officers, Unit Managers and Senior Officers |
| Culturally and Linguistically Diverse (CaLD) | Culturally and Linguistically Diverse refers to any person(s) or population, where residents are born overseas and originating from non-English speaking countries. |
| Chaplain | A person who is contracted by the Department to provide a funded service and facilitate pastoral care and religious and spiritual activities within a Detention Centre. |
| Commissioner’s Operating Policy and Procedure (COPP) | COPPs are policy documents that provide instructions to staff as to how the relevant legislative requirements are implemented. |
| Department | The department of the Public Service principally assisting the Minister in the administration of the *Young Offenders Act 1994.* |
| Detainee | Means a person who is detained in a youth detention centre as defined in s.3 of the *Young Offenders Act 1994*. |
| Foreign National | A person who is not an Australian citizen. |
| New Young Offenders | A prisoner aged 20 years or younger who has not previously been in an adult prison or has spent less than 7 days previously in an adult prison. An automatic alert and flag ‘Young Offender’ is raised on TOMS when a new young offender is received into prison. |
| Officers and Employees of Particular Classes | The following descriptions of classes of officers and employees are prescribed for the purpose of s 11(1a)(b) of the *Young Offenders Act 1994*, in r 49(2) of the Young Offenders Regulations 1995:  (a) Medical staff persons who have undergone medical, nursing or health training and hold qualifications indicating successful completion of that training.  (b) Teaching staff persons who provide recreation or sports supervision, teachers, vocational trainers and social trainers.  (c) Program support staff counsellors, program facilitators and librarians.  (d) Centre support staff cleaning staff, laundry staff, gardening staff, vehicle driving staff, maintenance staff and hairdressers. |
| Public Service Officer | An officer employed in the State Government Public Service, subject to Part 3 of the *Public Sector Management Act 1994* and includes such officers and other persons as are necessary to implement or administer this Act. |
| Religious or Spiritual Item | An item (including literature) of special significance that has spiritual, religious or devotional meaning. |
| Senior Officer | A Custodial Officer who is substantive to this rank, or a Unit Manager, or Custodial Officer acting in the capacity of Senior Officer, appointed by the Chief Executive Officer with reference to s. 11 of the *Young Offenders Act 1994.* |
| Staff | Any person or officer of the Department of Justice, Corrective Services, including a Public Service Officer, Youth Custodial Officer or an employee of a particular class: and any contractor who provides services to the Department of Justice. |
| Superintendent | In accordance with s. 3 of the *Young Offenders Act 1994, ‘*The person in charge of a detention centre. |
| Total Offender Management Solution (TOMS) | An electronic database used by the Department of Corrective Services to record and manage comprehensive information relating to detainees. |
| Unit Manager | A Custodial Officer substantive to this rank or Custodial Officer acting in the capacity of Unit Manager, appointed by the Chief Executive Officer. |
| Youth Detention Centre | A gazetted detention centre declared by the Minister to be a detention centre to accommodate male and female, remanded or sentenced detainees. Refer to section 13 of *Young Offenders Act 1994.* |

## Related legislation

* *Australian Citizen Act 2007* (Cth)
* *Equal Opportunity Act 1984*
* *Consular Privileges and Immunities Act 1972*
* *Public Sector Management Act 1994*
* *Young Offenders Act 1994*
* *Young Offenders Regulations 1995*

# Assurance

It is expected that:

* The YDC will undertake local compliance in accordance with [the Compliance Manual.](https://dojwa.sharepoint.com/search/Pages/results.aspx?k=operational%20compliance&ql=3081)
* Women and Young People, Head Office will undertake management oversight as required.
* Operational Compliance will undertake checks in accordance with the [Operational Compliance Framework.](https://dojwa.sharepoint.com/search/Pages/results.aspx?k=operational%20compliance&ql=3081)
* Independent oversight will be undertaken as required.

# Document Version History

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version no | Primary author(s) | Description of version | Date completed | Effective date |
| 1.0 | Operational Policy | Approved by the Director Operational Projects, Policy Compliance and Contracts | 17 August 2020 | 5 October 2020 |
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| Approved by the Deputy Commissioner Operational Support | 15 November 2023 |

Appendix A Head Wear Associated with Religious Practice

The following table provides a guide for the provision of male head wear:

|  |  |  |
| --- | --- | --- |
| Religion | Headwear Type – Male |  |
| Islam (Muslim) | Taqiyah or Araqchin – short and rounded cap | A picture containing indoor  Description automatically generated |
| Judaism | Skullcaps, Kippot or Kippah – brimless cap | A picture containing hat  Description automatically generated |
| Sikhism | Turban, Dastar or Dumalla – Cover for long uncut hair |  |

The following table provides guidance for women head wear:

|  |  |  |
| --- | --- | --- |
| Religion | Headwear Type – Female |  |
| Islam (Muslim) | Hijab - Head wear that covers the hair, neck and upper chest. | Icon  Description automatically generated |
| Judaism | Mitpahat – Head scarf worn by married women. | A picture containing headdress, hat, white, black  Description automatically generated |
| Sikhism | Chunni or Dupatta – Long head scarf. |  |
| Turban – Cover for long uncut hair | A picture containing umbrella, accessory, clipart  Description automatically generated |