COPP 10.3 Absences

Youth Detention Centre

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| Principles In context of the:  [Australian Human Rights Commission National Principles for Child Safe Organisations, 2018](https://childsafe.humanrights.gov.au/sites/default/files/2019-02/National_Principles_for_Child_Safe_Organisations2019.pdf)  Risk management strategies focus on preventing, identifying, and mitigating risks to children and young people.  [Australasian Youth Justice Administrators Standards, 2009](https://www.ayja.org.au/wp-content/uploads/2020/03/2009-AJJA-Juvenile-Justice-Standards-Part-1-and-2.pdf)  Custodial environments are safe and secure |

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# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all Custodial Officers and staff employed to work at a Youth Detention Centre (YDC).

# Policy

The Chief Executive Officer may authorise in writing a detainee’s absence from a YDC for a period not exceeding 72 hours. The written authorisation is to specify the time, the period and purpose of the authorised absence[[1]](#footnote-1).

Individual risk assessments, prior to approving an authorised absence, shall consider the safety, security and interests of the community.

Approval of authorised absences shall take into consideration a detainee’s cultural obligations and need to maintain a connection with family and the community; a detainee’s inability to meet these obligations may impact on their wellbeing.

The YDC shall ensure relevant support and assistance is provided to culturally and linguistically diverse detainees, refer [COPP 2.2 – Cultural and Religious Requirements](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx).

# Authorised Absence for Medical Treatment

## General procedures

### The Superintendent shall order the removal of a detainee for the purpose of receiving medical treatment when advised by a medical officer, or is for any other reason of the opinion, that a detainee at the YDC centre requires medical treatment that cannot, by reason of impracticality or urgency, be administered within the YDC[[2]](#footnote-2).

### The Assistant Superintendent Security shall ensure an External Movement Risk Assessment (EMRA) form and/or an Operational Order is completed, prior to the Superintendent approving an authorised absence.

# Other Authorised Absences

## General procedures

### The Superintendent as delegated by the Chief Executive Officer[[3]](#footnote-3) (CEO) may authorise an absence from YDC, following a request from a detainee to:

1. visit a dangerously ill person (immediate and extended family)
2. attend a funeral/burial service
3. visit their partner in hospital, following the birth of their child
4. complete day release as part of their resocialisation program.

### Detainees shall apply for an authorised absence through their Unit Manager or responsible Custodial Officer.

### The Unit Manager or responsible Custodial Officer shall assist the detainee with completion of the [Detainee Request, Complaints and Feedback](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copp-forms.aspx) form, where required.

### The Unit Manager or responsible Custodial Officer shall enter any additional information required on the [Detainee Request, Complaints and Feedback](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copp-forms.aspx) form, including the relationship between the detainee and the person.

### The Aboriginal Welfare Officer supports all detainees to complete the Funeral Application or Authorised Absence Hospital and ‘Other’ application form on TOMS for an authorised absence.

### The Aboriginal Welfare Officer shall consider the information in [Appendix A: Additional Application Considerations](#_Appendix_A:_Additional_1), when collecting information for the commencement of the Funeral Application or Authorised Absence Hospital and ‘Other’ application form on TOMS, by the relevant Line Manager and consult the following:

1. detainee and case file
2. parent or responsible adult
3. the YDC staff i.e. Senior Case Manager, Unit Manager
4. Aboriginal Visitors Scheme (AVS).

### The Aboriginal Welfare Officer, where applicable, shall send an email to the relevant group email address to inform relevant staff an application is pending.

### The Line Manager shall:

1. commence the Authorised Absence - Funeral Application or Authorised Absence Hospital and ‘Other’ form on TOMS on receipt of the information, check the Funeral Register on TOMS and add information as required
2. notify the relevant group email address for review/processing on completion of the application form.

## Review process

### The Assistant Superintendent Security, in assessing the application, shall confirm that all details available from external parties, as required, have been obtained and documented, including:

1. establishing the validity or importance of the stated relationship, including kinship relationships
2. any victim issues, including whether the victim is known to the detainee and if so, whether they are likely to be attending
3. security considerations, including alerts between other detainees attending and the number of detainees attending.

### The Assistant Superintendent Security shall consider two or more applications from detainees who cannot associate by checking TOMS alerts and determine which detainee(s) should take priority.

### The Deputy Superintendent shall review the application as soon as practicable and may interview the detainee(s) and/or access or request any other information or contacts.

## Superintendent Decision

### A decision whether to approve an authorised absence shall be completed within 3 business days.

### In exceptional circumstances, or where the usual decision-making timeframes are not appropriate in the circumstance, the following process may be completed by telephone, with the on-call Senior Management Team member. The process and decisions shall be documented at the earliest possible time.

### The Superintendent shall review and update the application with their decision.

### An approved application must specify the time, period and purpose of the absence[[4]](#footnote-4).

### The detainee shall be advised of the decision as described in section 4.4 and their ability to appeal the decision.

## Detainee notification

### The Unit Manager or responsible Custodial Officer shall:

1. advise the detainee verbally of the decision
2. record the detainee’s response/reaction if the review upholds the original decision not to approve the absence
3. record the decision in the detainee’s notes on TOMS
4. email information relating to the detainee’s response/reaction when informed of the decision, to the following YDC email groups:

### [Psychology](mailto:YJS-JCS-BanksiaHill-Psychs@justice.wa.gov.au)

### [Aboriginal Welfare Officers](mailto:YJS-JCS-Banksia%20Hill-AWO%20%3cYJS-JCS-BanksiaHill-AWO@justice.wa.gov.au%3e)

### [Security](mailto:YJS-JCS-Banksia%20Hill-Security%20%3cYJS-JCS-BanksiaHill-Security@justice.wa.gov.au%3e)

### [Case Planning](mailto:YJS-JCS-Banksia%20Hill-Case%20Planning%20%3cYJS-JCS-BanksiaHill-CasePlanning@justice.wa.gov.au%3e).

### YDC staff shall be vigilant to the impact of a denial to attend a funeral/visit a dangerously ill person, as some detainees may experience adverse emotional reactions if not approved to attend in person.

### Concerns regarding a detainee’s reaction and/or risk of self-harm or suicide, shall be managed in accordance with [COPP 7.4 Detainee at Risk of Self-Harm or Requiring Additional Support and Monitoring](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx), in conjunction with Aboriginal Welfare Officers, Peer Support and/or Counselling Services, where applicable.

## Appeal

### A detainee, having been informed of the Superintendent’s decision, may request the decision be reviewed by a Deputy Commissioner.

### The Unit Manager shall provide the detainee with an ‘Appeal/Review’ form and provide assistance to the detainee in completing the form, contacting internal support personnel (eg Aboriginal Welfare Officer, Senior Case Manager or Psychologist) where appropriate.

### In exceptional circumstances, or where the usual appeal timeframes are not appropriate in the circumstance, the following process may also be completed by telephone. The process and decisions shall be documented at the earliest possible time.

### The Unit Manager shall provide the Superintendent with the completed ‘Appeal/Review’ form, containing any additional information provided by the detainee.

### The Superintendent shall forward the Appeal/Review form, along with all associated information and documents, to the Deputy Commissioner Women and Young People (DC WYP).

### The DC WYP(or delegate) shall:

1. review the information provided by the Superintendent, including any information provided by the detainee on the ‘Additional Information for Review’ form
2. contact or source any further information to assist their review.

### Following a review, the DC WYP (or delegate), shall inform the Superintendent of their decision.

### The decision of the DC WYP (or delegate) is final and cannot be appealed.

### The detainee shall be advised of the decision as described in section 4.4.

## Alternatives to attendance

### The Unit Manager or responsible Custodial Officer where the application is not approved, shall allow the detainee to telephone their family, unless circumstances prevent this (ie a court order does not permit contact with the family).

### Where approval to attend a funeral has not been granted, alternative activities could be considered and may include:

1. a memorial service conducted within the YDC
2. facilitating flexible visiting arrangements with family during this time
3. assisting the detainee to write something to be read out at the funeral on their behalf
4. facilitating e-visits with family members before, during and/or after the funeral
5. facilitating telephone calls with family members or other significant support persons
6. playing back a recording of the funeral with the approval of the caregiver, where appropriate
7. any other culturally appropriate activity that the Superintendent or responsible Custodial Officer deems suitable.

# Annexures

## Related COPPs

**Related COPPs**

* [COPP 2.2 – Cultural and Religious Requirements](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 7.4 – Detainees at Risk of self-Harm or Requiring Additional Support and Monitoring](https://dojwa.sharepoint.com/sites/intranet/prison-operations/Pages/bhdc-copps.aspx)

## Definitions

| Term | Definition |
| --- | --- |
| Aboriginal Visitors Scheme (AVS) | The Aboriginal Visitors Scheme (AVS) comprises Aboriginal staff who visit prisons and YDC’s around the state, providing support and counselling to Aboriginal people in custody. |
| Chief Executive  Officer (CEO) | Means the Chief Executive Officer of the Department. |
| 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. |
| Detainee | Any young person who is detained in a YDC, or who is in the custody of a YDC. The term detainee also describes a young person, who is alleged to be an offender or who is remanded in custody, prior to being dealt with by the Courts.  Means a person who is detained in a YDC as defined in s. 3 *Young Offenders Act 1994*. |
| Dangerously ill | A person is considered dangerously ill where medical advice indicates that their illness or injury is life threatening and that death may be imminent. |
| Extended Family | Where there is a kinship or extended familial relationship within the culture of the detainee or the deceased. This includes where the deceased was the Primary Care Giver to the detainee or had significant involvement in the detainee’s upbringing, or tribal lore activities. When considering a cultural / kinship relationship the following information should be understood:  Kinship can be best described as the connection of an individual with others, not necessarily by blood, but by a complex relationship within the community, which conveys collective responsibilities and the sharing of resources both financial and material.  Cultural relationships are not limited to Aboriginal culture and are intended to apply equally to all cultures. |
| Funerals | Funerals shall include other like activities in relation to the death of a person, such as memorial services, viewing the deceased and visiting the gravesite. |
| Immediate family | Biological / legal mother, father, sister, brother, son, daughter, grandparent or current husband, wife or de-facto partner of the detainee. |
| Medical Treatment | Medical or surgical treatment, including a life sustaining measure; and palliative care or dental treatment; or other health care. |
| 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) *Young Offenders Act 1994*, in r. 49(2) *Young Offender 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 Public Sector Management Act 1994 and includes such officers and other persons as are necessary to implement or administer this Act. |
| Responsible Adult | In relation to a young person means parent or guardian, or other person having responsibility for the day to day care of the young person but does not include a person who the regulations may provide is not a responsible adult. |
| Senior Officer (SO) | A Youth Custodial Officer who is substantive to this rank, or a Unit Manager, or Youth Custodial Officer acting in the capacity of Senior Officer, appointed by the Chief Executive Officer with reference to s.11 *Young Offenders Act 1994* |
| Staff | Any employee or officer of the Department of Justice, 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 *Young Offenders Act 1994, ‘*The person in charge of a detention centre’. |
| The Department | The department of the Public Service principally assisting the Minister in the administration of the *Young Offenders Act 1994* |
| Total Offender Management Solution (TOMS) | An electronic database used by the Department of Corrective Services to record and manage comprehensive information relating to prisoners and detainees. |
| Unit Manager | A Youth Custodial Officer substantive to this rank or Youth Custodial Officer acting in the capacity of Unit Manager, appointed by the Chief Executive Officer with reference to s. 11 *Young Offenders Act 1994*. |
| Youth Custodial Officer (YCO) | In accordance with s.11(1a)(a) *Young Offenders Act 1994*, a Youth Custodial Officer is a person appointed as a custodial officer for non- administrative functions. |
| 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 s. 13 *Young Offenders Act 1994.* |

## Related legislation

1. *Young Offenders Act 1994*
2. *Young Offenders Regulations 1995*

# Assurance

Compliance with this COPP should align with the Department’s [Assurance Framework](https://dojwa.sharepoint.com/sites/intranet/department/Pages/audit-risk-assurance.aspx). It is expected that:

1. The YDC will undertake local compliance in accordance with the [Compliance Manual](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/monitoring.aspx).
2. Women and Young People, Head Office will undertake management oversight as required.
3. Operational Compliance will undertake checks in accordance with the [Operational Compliance Framework](https://dojwa.sharepoint.com/sites/intranet/department/standards/Pages/monitoring.aspx).
4. Independent oversight will be undertaken as required.

# Document History

## Document version history

| Version no | Primary author(s) | Description of version | Date completed | Effective date |
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| 1.0 | Operational Policy | Approved by the Director Operational Projects, Policy, Compliance and Contracts | 5 May 2021 | 05 October 2020 |
| 2.0 | Operational Policy | Approved by the Commissioner | 28 June 2022 | 29 June 2022 |
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| Approved by the  Deputy Commissioner Operational Support | 15 November 2023 |

Appendix A: Additional application considerations

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| Consultation (as required/appropriate) |
| Does the detainee consider they have/had a close relationship to the individual? |
| What feelings are evident on the part of the detainee in relation to the individual? |
| Has/had the person and the detainee lived together? Was it just a brief visit during holidays, or was it for longer periods, or more often? |
| Over what period of time has/was the person been known to the detainee, and during which periods were relations very close? |
| Is there any evidence that the relationship is/was significant? |
| Are there other reasons why the detainee wants to attend, such as family pressure, desire to see friends and cousins? |
| Are there any members of the family who do not want the detainee to attend? |
| Are there or was there any specific cultural factors that are relevant to the nature of the relationship between the detainee and the person, or other cultural obligations that must be considered? |
| Does the family want the detainee to be present? How do they feel about the detainee attending being handcuffed to an escorting officer? |
| Behaviours and Security |
| How distressed would the detainee likely be if they cannot attend? |
| How will it benefit the detainee if they can attend? |
| The impact on the detainee’s development either by attending or not attending? |
| Can the detainee be encouraged to express their concerns/feelings for the person in other ways, especially where it is unlikely they can attend, eg extra phone call, flowers, a special video/service, visit to other family member(s) for support? |
| Are there any concerns eg, an inability to comply with directions, that may compromise the escort? |
| Hospital visits |
| Medical condition of patient (to be confirmed by Medical staff) |
| Visiting hours |
| Advise the hospital the detainee will be restrained |
| Funeral applications |
| Consultation with Aboriginal Welfare Officers, Case Planning etc. to confirm the significance of the relationship between the deceased and the detainee (eg immediate family, direct relationship of biological mother, father, brother, sister etc.) |
| The level of direct contact maintained between the detainee and deceased |
| The likelihood of conflict with others at the funeral or potential for tribal punishment to the detainee? |

1. s. 188(4) *Young Offenders Act 1994* [↑](#footnote-ref-1)
2. s. 179(2) *Young Offenders Act 1994* [↑](#footnote-ref-2)
3. s. 188(4) *Young Offenders Act 1994* [↑](#footnote-ref-3)
4. s. 188 (4) *Young Offenders Act 1994* [↑](#footnote-ref-4)