Operational Policy Framework

Corrective Services

Youth Detention Centre

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# Introduction

This Operational Policy Framework (**Framework**) aims to simplify and enable a consistent approach to the formulation of Operational Instruments that allows for staff at a Youth Detention Centre (**YDC**)to know what is required of them.

It outlines how Operational Instruments will be developed that are consistent with the *Young Offenders Act 1994* and Young Offender Regulations 1995, ensuring staff know the job they have to do, and how they need to do it. This encourages a safe and positive working culture and maintains the security and good order of the YDC.

The Framework supports and ensures a safer community by focusing on:

* Security of young people in correctional facilities
* Safety of our staff
* Safety of young people
* Rehabilitation.

Establishing a safe, decent and humane detention centre that is conducive to rehabilitation is the best way to reduce reoffending. In the longer term, reduced reoffending means a safer community; increased economic benefits from a reduction in crime and incarceration; and fewer traumatised victims.

The objectives of the Framework are to:

* Ensure the Operational Instruments are integrated, unambiguous and consistent with the *Young Offenders Act 1994* and *Young Offender Regulations 1995*
* Provide clear instructions to staff of the expectations regarding what, why and how they should perform their job
* Support continuous improvement and the dynamic nature of correctional services by enabling Operational Instruments to be updated in response to changes
* Create a single point of accountability for the development and release of Operational Instruments.

# Scope

This Framework applies to YDCs, the transportation of young persons in custody by Corrective Services and Perth Children’s Court.

## Benefits

The Framework assists in:

* Maintaining safe and secure facilities at a YDC
* Ensuring staff will have a clear understanding on the requirements of a YDC
* Reducing the risk of adverse judicial review outcomes arising from legislative non-compliance
* Expanding the capacity to deliver improved young people outcomes through integrated Operational Instruments
* Consistent judgement and application of services at a YDC
* Ensuring compliance activities and checks will be clearly aligned to Operational Instruments.

# Principles

The key principles that underpin the Framework:

## Decency and humanity

The decency and humanity approach emphasises that young people are provided with a reasonable quality of life while in Corrective Services’ custody and are protected from harm. It requires that young people are treated lawfully, equitably and without prejudice.

## Procedural fairness

Procedural fairness is concerned with the process used by a decision making, rather than the actual outcome reached. It requires a fair and proper process be used when making a decision.

## Accountability and transparency

The accountability principle holds people answerable for their actions and decisions by requiring that these are able to be explained, clarified and justified. Transparency is essential to accountability because it ensures that clear and accurate information is made available in a timely fashion.

# Strategic Framework 2021-2023

## The Framework

The Framework aligns to the Department of Justice Strategic Framework 2021-2023 key result areas for:

* Improved service delivery and collaboration
* Improved community safety and security
* Sustainable strategies and outcomes
* Improved community understanding of
* equal opportunity and human rights

# National and international references

When developing Operational Instruments, Corrective Services may consider, where appropriate and relevant to the specific subject matter of the policy, national and international material, including (but not limited to) the following:

* [Australasian Juvenile Justice Administrators Juvenile Justice Standards, 2009](https://www.ayja.org.au/wp-content/uploads/2020/03/2009-AJJA-Juvenile-Justice-Standards-Part-1-and-2.pdf)
* [10 Pillars of Youth Justice, Australia and New Zealand School of Government, 2020](https://www.anzsog.edu.au/preview-documents/research-output/5558-10-pillars-of-youth-justice-by-lisa-ward-pdf/file)
* [National Principles for Child Safe Organisations, 2019](https://childsafe.humanrights.gov.au/sites/default/files/2019-02/National_Principles_for_Child_Safe_Organisations2019.pdf)
* [United Nations Standard Minimum Rules for the Administration of Juvenile Justice (**Beijing Rules**)](https://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf)
* [United Nations Standard Minimum Rules for Non-custodial Measures (**Tokyo Rules**)](http://www.ohchr.org/Documents/ProfessionalInterest/tokyorules.pdf)
* [United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](https://www.ohchr.org/Documents/ProfessionalInterest/bodyprinciples.pdf)
* [United Nations Convention on the Rights of the Child](http://networkofcommunityactivities.org.au/wp-content/uploads/2013/03/un_rights_child.pdf)
* National and international Corrective Services policies and procedures

# Governance

The hierarchy of governance materials for the YDC is set out in Figure 1.

Figure 1: Governance hierarchy – BHDC



## Legislation

The following key legislation provides the legislative authority for the management of detention centres and young people in Western Australia:

* *Young Offenders Act 1994*
* *Young Offenders Regulations 1995*
* Rules (created under the s 181 of the *Young Offenders Act 1994*)
* *Court Security and Custodial Services Act 1999*
* Other legislation that may apply in the context of a detention centre or the management of young people in custody.

## Youth Custodial Rules

### What are Youth Custodial Rules?

Section 181 of the *Young Offenders Act 1994* allows*,* in summary, for rules to be made for the management, control and security of detention centres generally or a specified detention centre and/or of detainees and management of officers of the Department of Justice (the Department). In practice, these rules are titled "Youth Custodial Rules".

Youth Custodial Rules are made by the Chief Executive Officer with the approval of the Minister for Corrective Services.

The Chief Executive Officer has delegated to the Commissioner of Corrective Services the power to make Youth Custodial Rules, pursuant to s 10 of the *Young Offenders Act 1994*[[1]](#footnote-1). The Commissioner of Corrective Services, with the approval of the Minister, therefore, makes the Youth Custodial Rules.

### When are Youth Custodial Rules made?

Youth Custodial Rules are rules made for management, control, and security of detention centres generally or a specified detention centre, or for the management, control, and security of detainees and the management of officers of the Department, including when the Chief Executive Officer wants to confer:

* a discretionary authority on a person or class of persons; or
* on persons who are prison officers under the *Prisons Act 1981*, or such of those persons as are specified in the rules, such as the functions under the *Young Offenders Act 1994* as specified in the rules.

In the event there is an inconsistency between a Youth Custodial Rule and the *Young Offenders Act 1994* and/or the *Young Offenders Regulations 1995,* the rule has effect, to the extent of the inconsistency, subject to the regulation. In simple terms, the *Young Offenders Act 1994* and the *Young Offenders Regulations 1995* takeprecedence over the Youth Custodial Rule.

## Commissioner’s Operating Policy and Procedures

### What are Commissioner’s Operating Policy and Procedures?

The Commissioner of Corrective Services has responsibilities delegated under the *Young Offenders Act 1994* and the *Young Offenders Regulations 1995* for the administration of that legislation[[2]](#footnote-2).

The Commissioner’s Operating Policy and Procedures (**COPPs**) are the primary Operational Instruments in respect of a YDC and detainees. The COPPs are policy documents that provide instructions to staff as to how the relevant legislative requirements are implemented.

The COPPs are the primary operational instruments for the management of YDCs and detainees. The COPPs will standardise the service requirements across the YDCs, taking into account the site specific risks of the YDC and set out specific local responsibilities and reporting requirements, as required.

### When are COPPs made?

COPPs operationalise the *Young Offenders Act 1994, Young Offenders Regulations 1995* and other relevant legislation to enable staff to understand the job they have to do, and how they need to do it.

## Commissioner’s Instructions

### What are Commissioner’s Instructions?

Commissioner’s Instructions are interim Operational Instruments that support COPPs and provide temporary instruction that overrides a current policy process or procedure. The Commissioner's Instructions are policy documents.

### When are Commissioner’s Instructions made?

Commissioner’s Instructions are created when there is an urgent need to amend a COPP, which is not likely to be changed due to circumstances beyond the control of Operational Policy. Reasons and requirements for urgent amendments to COPPs could include but are not limited to:

* Response to a critical incident
* Feedback from operational staff
* Technological change
* Legislative change
* Response to recommendations or relevant Inquiries, Commissions and Inspectorates
* Directives from the Director General or Commissioner.

Commissioner’s Instruction will provide staff with a range of information about the amendment including rationale, scope, any related/impacted COPPs and the commencement date. Commissioner’s Instructions will be issued with an expiry date no greater than six months. Within this time period, the corresponding COPP(s) shall be amended, and the Commissioner’s Instruction revoked upon approval and broadcast of the amended COPP.

Commissioner’s Instructions are the only authorised method of issuing changes to COPPs. No other form of Operational Instruments are to be issued without approval from the Commissioner of Corrective Services and registration through Operational Policy to avoid, so far as possible, inconsistency with legislation or other Operational Instruments.

## Local Operating Procedures (LOPs)

### What are Local Operating Procedures (LOPs)?

LOPs are Operational Instruments that provide procedural guidance to support staff at a YDC. Local Operating Procedures are policy documents.

### When are LOPs made?

LOPs are created to provide procedural guidance for the COPP and should be consistent with the content. LOPs assist staff understand the job they have to do, and how they need to do it at a YDC.

LOPs shall not contradict or override information provided within Youth Custodial Rules or COPPs. In the event there is an inconsistency between a LOP and a Youth Custodial Rule or a COPP*,* the Youth Custodial Rule or COPP takes precedence.

LOPs will be distributed to impacted staff and provide staff with a range of information and the commencement date.

## Superintendent’s Instructions

### What are Superintendent’s Instructions?

Superintendent’s Instructions are interim Operational Instruments that provide guidance to support staff at a YDC. Superintendent’s Instructions are policy documents.

### When are Superintendent’s Instructions made?

Superintendent’s Instructions are created for the following reasons and requirements:

* Provide additional guidance or clarity on the application of a COPP or LOP.
* Urgent need to amend a LOP.
* Directions and orders to YDC staff with regarding to daily operations (eg staff deployment, rostering).

Superintendent’s Instructions shall not contradict or override information provided within a Youth Custodial Rule or COPP. In the event there is an inconsistency between a Superintendent’s Instruction and a Youth Custodial Rule or COPP*,* the Youth Custodial Rule or COPP takes precedence.

Superintendent’s Instructions will be distributed to impacted staff and provide staff with a range of information and the commencement date.

Superintendent’s Instructions created to urgently amend a LOP will be issued with an expiry date no greater than three months. Within this time period, the corresponding LOP will be amended, at which time the Superintendent’s Instruction will be revoked.

If a Superintendent’s Instruction is issued for another reason, it shall be considered on an annual basis to be incorporated into the relevant COPP or LOP.

## Superintendent’s Notice to Staff

### What is a Superintendent’s Notice to Staff?

A Superintendent’s Notice to Staff is a communication tool used to inform YDC staff of important information.

### When are Superintendent’s Notice to Staff made?

The YDC Superintendent will issue a Superintendent’s Notice to staff when there is the need to provide YDC staff with relevant information (eg Reconciliation Day, Corrective Services Awards).

# Other Departmental Frameworks

## Frameworks and policies external to Operational Policy

As the Department of Justice strives to improve service delivery in line with the Strategic Framework, areas outside of Operational Policy may require business area specific policies or frameworks. Current examples include the Security Management Framework, Emergency Management Framework and Youth ARMS Manual.

The owners of such frameworks or policies shall ensure that they do not contradict COPPs or other documents provided for in the Operational Policy Framework.

Where new or amended business area specific policies or frameworks are intended, business areas shall consult with Operational Policy to consider and agree on the most appropriate method for implementing such documents.

Where it is intended that policies or procedures from another Departmental Framework shall supersede or replace a COPP refer to section 7.4.

# Process

## Development

Operational Policy is responsible for the development of Youth Custodial Rules, COPPs and Commissioner’s Instructions. The YDC Superintendent is responsible for the development of LOPs, Superintendent’s Instructions and Superintendent’s Notice to Staff. All the Operational Instruments drafted by Operational Policy will be developed in consultation with internal and external subject matter experts, operational staff and with legal advice as required. COPPs, Commissioner’s Instructions, LOPs, Superintendent’s Instructions and Superintendent’s Notice to Staff must be written in plain English and clearly explain what needs to be done, who will do it and when.

The development or amendment of all Operational Instruments, with the exception of LOPs, Superintendent’s Instructions, Superintendent’s Notice to Staff, are subject to a Diversity Impact Assessment (refer [Section 8](#_Diversity_Impact_Assessment)).

The process to develop or amend Youth Custodial Rules, COPPs and Commissioner’s Instructions is provided in the flow chart in [Appendix 1](#_Appendix_1_–).

## Security status

Youth Detention Centre Rules, COPPs and Local Operating Procedures cover a range of operational procedures, processes and methodologies. These instruments may be marked as ‘Restricted Staff Only’ for the good government, good order, and security of the Youth Detention Centre. This may also apply to a Commissioner’s Instruction where appropriate. Where requests are made to Operational Policy by persons or organisations for a restricted instrument as listed above, the request is to be referred as follows:

* If a Summons or Order to Produce send to ‘InformationRelease@justice.wa.gov.au’
* Any other type of request, send to ‘FOI@justice.wa.gov.au.’
* For both referrals cc in ‘dcoperationalsupport@justice.wa.gov.au’

## Approval

Youth Custodial Rules will be approved by the Commissioner of Corrective Services and the Minister for Corrective Services.

COPPs and Commissioner’s Instructions are to be approved by the Commissioner of Corrective Services.

LOPs are to be approved by the Deputy Commissioner Women and Young People.

Superintendent’s Instructions and Superintendent’s Notice to Staff are approved by the YDC Superintendent.

## Amendment and revocation

An amendment and/or a revocation to an existing Operational Instrument must be raised with Operational Policy. Operational Policy will identify the impact and risks associated with the amendment and/or revocation request.

The Deputy Commissioner Operational Support will, on behalf of Operational Policy, provide to the Commissioner of Corrective Services a submission outlining the rationale and impact of the proposed amendment and/or revocation and a recommendation in relation to the proposed amendment and/or revocation. Revocation of Youth Custodial Rules will require ministerial approval.

## Recording and accessibility

The Department will maintain a central registry of all Operational Instruments on the Department’s internet[[3]](#footnote-3) site and intranet.

The intranet page incorporates Youth Custodial Rules, COPPs, LOPs and Superintendent’s Instructions into a single location with the instruments grouped under headings that are user friendly for staff. The issuing of hard (paper) copies is to be minimised due to the likelihood of out-dated or revoked instruments remaining in circulation.

All relevant Operational Instruments, with the exception of LOPs, Superintendent’s Instructions and Superintendent’s Notice to Staff, are to be published at the YDC in such a manner as to bring them to the attention of young people in detention. The YDC will take reasonable steps to have Operational Instruments made known to every detainee who is illiterate and, for every detainee who does not understand English, in a language that the detainee understands.

## Currency

Significant risks can arise if Youth Custodial Rules and COPPs are not kept up to date. Operational Policy will be the single source accountable for maintaining the currency of these instruments. Existing Operational Instruments will be amended or revoked when there is a catalyst for change.

Urgent changes to COPPs are facilitated by the development of a Commissioner’s Instruction. The process to amend Youth Custodial Rules and COPPs is provided in [Appendix 1](#_Appendix_1_–).

## Version control

Every published Youth Custodial Rule, COPP and LOP must have a document history. A document history is a historical record of when that document was published, amended, revoked and who was consulted. Each entry must provide a brief statement to explain the change.

# Diversity Impact Assessment

Corrective Services has a legal responsibility to ensure non-discrimination in a range of areas including the way services are delivered. An impact assessment of an Operational Instrument that is new or being revised is a practical way for Corrective Services to promote equality and awareness of the rights of diverse service users, in particular Aboriginal and Torres Strait Islanders and ethnic and other social minority groups and ensure compliance with Federal and State discrimination and equal opportunity legislation.

The development or amendment of all Youth Custodial Rules and COPPs therefore includes an assessment of the impact of the instrument on diversity and substantive equality, with particular attention to non-discrimination on the grounds of race, gender, and impairment.

Assessments are coordinated and carried out by Operational Policy and the use of the Diversity Impact Assessment template (available from [Operational Policy](mailto:DCSOSP@justice.wa.gov.au)) developed in accordance with the Equal Opportunity Commission guidelines[[4]](#footnote-4). To provide diverse perspectives, where possible the group conducting the Diversity Impact Assessment will include a mix of female and male representatives from internal and external stakeholders.

# Assurance

Controls and compliance with the Operational Instruments created in accordance with this Framework. will be monitored in accordance with the Department’s Assurance Framework.

# Glossary and acronyms

| Term | Definition |
| --- | --- |
| Chief Executive Officer | Director General of the Department of Justice. |
| Commissioner’s Instruction | Interim Operational Instruments that support COPPs and provide the parameters for how legislation will be applied for the management of BHDC and young people. |
| Commissioner of Corrective Services | The position designated by the Director General as responsible for the management of the Corrective Services Division of the Department of Justice. The Commissioner also holds the title of Deputy Director General. |
| Commissioner’s Operating Policy and Procedure (COPP) | Operational Instruments that provide instructions to staff how the relevant legislative requirements are implemented. |
| Corrective Services | A division of the Department of Justice that provides support to the justice system and the community of Western Australia by ensuring the security and safety of detainees and prisoners as well as offenders on community-based orders, with a focus on rehabilitation. |
| Local Operating Procedure (LOP) | Operational Instruments that provide procedural guidance to staff how the relevant COPP are applied. |
| Operational Instruments | Inclusive of Youth Custodial Rules, Commissioner’s Operating Policies and Procedures and Commissioner’s Instructions. |
| Operational Policy | An administrative branch of Corrective Services responsible for the development of Operational Instruments for the adult and youth custodial operational areas. |
| Staff | All persons employed by the Department of Justice. Also includes all contract workers authorised by the Commissioner of Corrective Services. |
| Superintendent | As defined in s 3 *Young Offenders Act 1994.* |
| Superintendent’s Instruction | Interim Operational Instruments that support COPPs and LOPs and provide the parameters for how legislation will be applied for the management of BHDC and young people. |
| Superintendent’s Notice to Staff | Communication tool used to inform staff BHDC of important information. |
| Young Persons | As defined in s 3 *Young Offenders Act 1994.* |
| Youth Custodial Rules | Legislated Operational Instruments providing the required authority to perform a function for the management, control, and security of detention centres and/or of a detainee. |

# Document information

## Document version history

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Version no** | **Primary author(s)** | **Description of version** | **Date completed** | **Effective Date** |
| 1.0 | Operational Policy | Approved by Corrective Services Executive Team | 22 November 2018 | N/A |
| 2.0 | Operational Policy | Approved by Director Operational Policy, Compliance and Contracts | 9 April 2020 | N/A |
| 3.0 | Operational Policy | Approved by the Commissioner Corrective Services | 22 June 2021 | 22 June 2021 |
| 4.0 | Operational Policy | Updated and  approved by the Director Operational Policy, Compliance and Contracts | 23 August 2023 | 24 August 2023 |

# Appendix 1 – Creating or amending Youth Custodial Rules, COPPs and Commissioner’s Instructions



# Appendix 2 – Creating or amending Local Operating Procedures



1. http://justus/intranet/youth-justice/Pages/delegations.aspx [↑](#footnote-ref-1)
2. http://justus/intranet/youth-justice/Pages/delegations.aspx [↑](#footnote-ref-2)
3. Staff only / restricted COPPs will not be published on the Department’s internet. [↑](#footnote-ref-3)
4. <http://www.eoc.wa.gov.au/substantive-equality/resources> [↑](#footnote-ref-4)