

Searching Employees Policy

Essential Summary

Juvenile Justice NSW (JJNSW) has a duty of care to both young people under their supervision and employees under the *NSW Work Health and Safety Act 2011*.

JJNSW also has responsibility under the *Children (Detention Centres) Act, 1987* and the *Children (Detention Centres) Regulation 2015*, to maintain discipline and good order among young people, facilitate proper control and management of JJNSW centres and to protect the centre's safety and security.

[REDACTED]

[REDACTED]

This policy applies to all juvenile justice employees who work within or visit juvenile justice centres. This policy outlines:

- the types of searches to be conducted
- how a search is to be conducted
- the authority to conduct a search
- the recording and storing of search information
- complaints relating the use and execution of searches

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1 Scope

This policy applies to all employees at Juvenile Justice who work within or visit juvenile justice centres.

Employees, who may be subject to searches under this policy includes, but is not limited to:

- Centre Managers
- Assistant Managers
- Unit Managers
- Assistant Unit Managers / Shift Supervisors
- Psychologists
- Counsellors
- Youth Officers
- Juvenile Justice Caseworkers
- Juvenile Justice Assistant Managers (JJCO)
- Non-operational Employees
- Kitchen staff
- Programming employees
- Vocational instructors

People excluded from the requirement of being searched include:

- Chaplains
- Official Visitors
- Inspector of Custodial Services
- NSW Ombudsman
- Justice Health & Forensic Mental Health Network employees
- Department of Education and Communities employees

2 Purpose

The purpose of this policy is to:

- inform employees of the expectations regarding the use of lawful search powers to combat trafficking in contraband or removing property from juvenile justice workplaces without authorisation
- increase employees' awareness of the statutory powers to search employees under the *Children (Detention Centres) Regulation 2015*
- specify the responsibilities, accountabilities, standards and methods for a consistent approach to the searching for both the search officers and employees being searched
- provide a framework to understand and control any identified risk(s) that may be associated with employees trafficking contraband or removing property without authorisation
- set out how officers of JJNSW are to carry out their work in order to assist the Secretary to discharge his or her functions under the *Children (Detention Centres) Act 1987* and *Children (Detention Centres) Regulations 2015* (NSW)

3 Definitions

Act refers to the *Children (Detention Centre) Act 1987*.

Centre Manager means the person for the time being in charge of the centre and /or as directed by and in the absence of the Centre Manager.

Contraband means any item that is brought into the secure area of a centre, vehicle dock or custody area of court without written approval from the Centre Manager.

[REDACTED]

[REDACTED]

[REDACTED]

Juvenile Justice Officer refers to any Juvenile Justice employee who is on the premises of the centre.

Juvenile Justice Property is property owned by Juvenile Justice or the property of any other government department on juvenile justice premises.

Entry and exit points refer to any designated area around the perimeter of a centre through which pedestrian or vehicular traffic may enter or exit.

Juvenile Justice Centre refers to a place of detention of young people pursuant to the definition in the *Children (Detention Centres) Act 1987*.

Offensive Weapons or Instruments means:

- A dangerous weapon, or
- Anything that is made or adapted for offensive purposes, or
- Anything that, in the circumstances, is intended for use or threatened to be used for offensive purposes, whether or not it is ordinarily used for offensive purposes or is capable of causing harm.

The above definitions have been taken from the *Crimes Act 1900*.

Premises of a centre refers to a place of detention of young people pursuant to the definition in the *Children (Detention Centres) Act 1987*, including an area of land under the control of Juvenile Justice where vehicles of staff entering or attempting to enter the centre are usually parked.

Prohibited Weapon refers to anything described in Schedule (1) of the *Weapons Prohibition Act 1988*.

Prohibited drug has the same meaning as it has in the definition of prohibited drug in section 3 of the *Drug Misuse and Trafficking Act 1985* No 226, namely "...any substance, other than a prohibited plant, specified in Schedule 1."

Non-operational Employee refers to any juvenile justice employee, employed in administrative, clerical or non-operational role that is not included in the exception list.

Routine Search means a search of any juvenile justice employee that may occur on entry and exit to a centre or in any location of the centre at no less than bi-monthly intervals, as determined by the Centre Manager.

Employee refers to people employed by Juvenile Justice on a permanent, temporary, casual or fee for service basis (including sessional supervisors and mentors).

Secure area of a centre refers to all areas within a Juvenile Justice Centre where there is potential access to detainees. This also includes the vehicle dock and custody area of a court; as defined by local signage.

Trafficking means to take or attempt to take any item or substance into or out of a correctional facility or place of detention without lawful authority

Target Search refers to a search of a particular person that is conducted on the basis of proficient intelligence and/or compelling circumstantial evidence that an employee may be involved in trafficking contraband in or out of a centre or removing property from a centre without authorisation.

4 Principles

- searches must not be used to harass, intimidate, bully or discriminate against any employee/s
- an employee proven to have used searches to harass, intimidate, bully or discriminate against any other employee may be subject to disciplinary action
- allegations of contravention of policy may be referred to the police
- employees may be subject to routine and targeted searches
- employees must be treated with respect and shown dignity while they are subject to searches
- search officers must be allocated with respect to the gender of the employee being searched, where practicable
- searches must be conducted in accordance with international human rights conventions
- searches must be conducted tactfully and in a professional manner in a discrete, non-traffic area away from public view with due regard to decency and self-respect
- search officers must not make physical contact with employees before, during or after a search is conducted
- employee searches must be monitored through reports and collated into periodic reports for transparency of the process
- unauthorised items brought into the secure area of the centre by employees will be treated as contraband, unless established otherwise

5 Signage

Clear signage must be placed at the entrance of a centre warning against contraband and its consequences, for the information of all visitors, detainees and employees.

Clear signage must be placed at all entrances into secure areas of the centre to remind employees they are entering a secure area and must have only authorised items only in their possession.

6 Types of searches

6.1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

Consideration for the approval for items to enter a secure area of the centre must include:

- Necessity
- Relevance
- Risk (likelihood and severity)
- Ability to enforce and monitor the conditions of use
- Setting close-ended and tight timeframes when appropriate

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7 Authority to search

Authority to search under this policy is governed by Clause 153 of the Children (Detention Centres) Regulation 2015 and the *Children (Detention Centres) Act 1987*:

Clause 153: Juvenile justice officers may be searched

The Centre Manager of a JJNSW centre may require a juvenile justice officer who is on the premises of the centre:

- (a) to submit to any of the following:
 - (i) an inspection and search of the officer's personal possessions
 - (ii) scanning by an electronic scanning device
 - (iii) being sniffed by a dog
- (b) to empty the pockets of the officer's clothing, and
- (c) to make available for inspection and search any room, locker or vehicle* under the officer's control at the centre

[Redacted]

8 Contravention of the policy

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9 Reporting and Monitoring

9.1 [Redacted]

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9.2 Periodic Reporting

[REDACTED]

10 Training

Training must be provided to all employees who have been authorised to approve and conduct employee random routine or targeted searches. The training must include information on:

- conducting a search
- reporting a search
- confidentiality
- complaint responsibilities
- all related procedures

11 Complaints

[REDACTED]

The search officer will advise the employee of their entitlement to lodge a complaint.

[REDACTED]

12 References

Policy

Child Protection and Wellbeing Policy
Language and Communication Policy
Code of Conduct
Closed Circuit Television and Radio Surveillance Policy

Procedure

Searching Employee Procedure
Managing Client Complaints Policy and Procedure
Closed Circuit Television and Radio Surveillance Procedure
Contraband Procedure
Exhibit Procedure
Restriction and Banning of Visitors Procedure
K9 Searching Procedure
Searching Accommodation Rooms, Units and Other Areas Procedure

Legislation

Children Detention Centres Act 1987
Children (Detention Centres) Regulation 2015
Anti-Discrimination Act 1977
Work Health and Safety Act 2011
Privacy and Personal Information Protection Act 1998
Government Sector Employment Act 2013

Forms

[Redacted]
[Redacted]
[Redacted]

13 Document information

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14 Document history

Version	Date	Reason for Amendment
1	<i>May 2016</i>	<i>Regulation / Clause references updated</i>
2	<i>February 2019</i>	<i>Transferred into new procedural format. No roles or responsibility changes made. Checked for correct delegation levels</i>