

SECURITY CONDITIONS PROTOCOL
(section 76D of the *Mental Health (Forensic Provisions) Act 1990*)

BETWEEN

DIRECTOR-GENERAL, NSW DEPARTMENT OF HEALTH

AND

DIRECTOR-GENERAL, NSW DEPARTMENT OF HUMAN SERVICES

IN RELATION TO

JUVENILE FORENSIC PATIENTS AND JUVENILE CORRECTIONAL PATIENTS

Date: 2009

1. PARTIES

- 1.1 Director-General, NSW Department of Health
- 1.2 Director-General, NSW Department of Human Services

2. REFERENCES TO DIRECTOR-GENERAL

- 2.1 The references to the Director-General of the Department of Juvenile Justice in the *Mental Health (Forensic Provisions) Act 1990* are to be construed as references to the Director-General of the Department of Human Services in accordance with the *Public Sector Employment & Management (Departmental Amalgamation) Order 2009*.

3. APPLICATION OF THE PROTOCOL

- 3.1 This Protocol affects the operations of agencies other than DOH and DHS, including Justice Health, the Royal Alexandra Hospital for Children and Area Health Services, when they provide health care to juvenile correctional patients and juvenile forensic patients. These affected agencies are listed in Schedule A to this Protocol.
- 3.2 This Protocol does not apply to an inmate detained in a correctional centre or a juvenile correctional centre (for example, Kariong Juvenile Correctional Centre) or to an inmate transferred from a correctional centre or a juvenile correctional centre to the Forensic Hospital or to another mental health facility.

4. DEFINITIONS

- 4.1 **Area health service** means an area health service constituted under section 17 of the *Health Services Act 1997* and specified from time to time in Schedule 1 to that Act.
- 4.2 **Department of Health ("DOH")** means the NSW Government Department specified as such in Schedule 1 of the *Public Sector Employment and Management Act 2002*.
- 4.3 **Department of Human Services ("DHS")** means the NSW Government Department specified as such in Schedule 1 of the *Public Sector Employment and Management Act 2002*.
- 4.4 **Detainee** has the same meaning as in s. 3 of the *Children (Detention Centres) Act 1987*.
- 4.5 **Forensic Hospital** means a declared mental health facility under s. 109 of the *Mental Health Act 2007* located outside the Long Bay Prison Complex.
- 4.6 **Justice Health** means the statutory health corporation constituted by section 41 of the *Health Services Act 1997*.
- 4.7 **Juvenile correctional patient** means a correctional patient as defined in section 41 of the *Mental Health (Forensic Provisions) Act 1990* who is a detainee.
- 4.8 **Juvenile forensic patient** means a forensic patient as defined in section 42 of the *Mental Health (Forensic Provisions) Act 1990* who is a detainee.
- 4.9 **Juvenile Justice ("JJ")** means the persons employed by DHS to carry out functions with respect to detainees.

- 4.10 ***The Royal Alexandra Hospital for Children*** means the statutory health corporation constituted by section 41 of the *Health Services Act 1997*.

5. SECURITY CONDITIONS

5.1 Security conditions that apply to a juvenile forensic patient detained in a Juvenile Justice Centre

- 5.1.1 JJ is responsible for the security conditions that apply to a juvenile forensic patient detained in a Juvenile Justice Centre.

- 5.1.2 JJ recognises that a juvenile forensic patient has a right to health care and will allow all forensic patients timely access to health services. Should a matter of security prevent one or more juvenile forensic patients from receiving healthcare, JJ staff will inform the senior Justice Health nurse on duty and discuss the matter with that nurse.

5.2 Security conditions that apply to a juvenile correctional patient detained in the Forensic Hospital or other mental health facility or other place

- 5.2.1 A juvenile correctional patient who is detained in the Forensic Hospital remains in the custody of JJ subject to the provisions of the *Mental Health (Forensic Provisions) Act 1990* and the *Children (Detention Centres) Act 1987*. While JJ is ultimately responsible for the security and safety of juvenile correctional patients, JJ acknowledges that juvenile correctional patients admitted to the Forensic Hospital are subject to security controls and policies set down by Justice Health for the security of the Forensic Hospital.

- 5.2.2 In most cases, JJ officers will not be required to supervise a juvenile correctional patient once he or she has been admitted to the Forensic Hospital. In some cases, where JJ considers more security is appropriate, JJ officers may supervise a juvenile correctional patient in the Forensic Hospital in accordance with an agreement between JJ and Justice Health specific to that patient.

- 5.2.3 JJ will provide a 24 hour supervision and security service for a juvenile correctional patient admitted to a mental health facility other than the Forensic Hospital unless JJ and the relevant Area Health Service (or the Royal Alexandra Hospital for Children) agree to other arrangements.

- 5.2.4 JJ is responsible for the following security procedures in respect of juvenile correctional patients detained in the Forensic Hospital or other mental health facility:

- (a) Approving all visitors to a juvenile correctional patient. Any refused visitors are to be reported to the Chief Executive of Justice Health (where the patient is detained in the Forensic Hospital) or to the Chief Executive of the Royal Alexandra Hospital for Children or to the Chief Executive of the relevant Area Health Service (where the patient is detained in a mental health facility administered by that Chief Executive).
- (b) Approving all incoming mail received and outgoing mail sent by a juvenile correctional patient. All mail will be redirected through Juvenile Justice Centres to ensure that appropriate safety and security procedures are followed.
- (c) Approving all telephone requests made by a juvenile correctional patient.

5.3 Security conditions that apply to detainees and juvenile correctional patients while they are being transferred

5.3.1 JJ will arrange the following transfers of detainees and juvenile correctional patients and provide appropriate supervision and transport:

- (a) from a Juvenile Justice Centre to a hospital or some other place for medical treatment in accordance with an order made by the Director-General of DHS;
- (b) from a Juvenile Justice Centre to the Forensic Hospital or other mental health facility in accordance with an order made by the Director-General of DOH or the Mental Health Review Tribunal or a court;
- (c) from the Forensic Hospital or other mental health facility to a Juvenile Justice Centre in accordance with an order made by the Director-General of DOH or the Mental Health Review Tribunal or a court;
- (d) from the Forensic Hospital or other mental health facility to court in accordance with an order made by a court;
- (e) from court to the Forensic Hospital or other mental health facility in accordance with an order made by a court;
- (f) between mental health facilities, including between the Forensic Hospital and other mental health facilities, in accordance with an order made by the Director-General of DOH or the Mental Health Review Tribunal or a court.

5.3.2 Following an order made by the Director-General of DOH or the Director-General of DHS, Justice Health will arrange the transfer of a juvenile correctional patient from the Forensic Hospital to a hospital or other place for the purposes of medical appointments or medical treatment, unless a combined risk assessment undertaken by Justice Health and JJ indicates that the patient is a security risk, in which case JJ will arrange the transfer and provide appropriate supervision and transport.

5.3.3 Following an order made by the Director-General of DOH or the Director-General of DHS, JJ will arrange the transfer of a juvenile correctional patient from a mental health facility other than the Forensic Hospital to a hospital or other place for the purposes of medical appointments or medical treatment and provide appropriate supervision and transport.

5.3.4 Prior to JJ transferring a juvenile correctional patient to the Forensic Hospital or another mental health facility, JJ will consult with the staff of that mental health facility to ascertain whether any health issues may affect the transport of the patient and whether a nurse escort is necessary.

5.4 Security conditions that apply to a juvenile correctional patient who is granted leave of absence from detention in a mental health facility

5.4.1 Despite any clause in this Part, the security conditions that apply to a juvenile correctional patient will be those specified in the leave order made by the Director-General of DOH or the Director-General of DHS as the case may be.

5.4.2 If a juvenile correctional patient is granted leave of absence from a mental health facility because of a medical emergency, in accordance with s. 63 of the *Mental Health (Forensic Provisions) Act 1990*, the medical superintendent who granted the leave of absence will notify the Juvenile Justice Centre from which the patient was originally transferred as soon as possible after making the order granting leave of absence.

6. REVIEWS

- 6.1 DOH and JJ will review this Protocol from time to time as necessary.

7. VARIATIONS

- 7.1 Any variations to this Protocol must be agreed, recorded in writing and signed by both the Director-General of DOH and the Director-General of DHS. Any variations that are not so documented and signed will have no effect.

8. REPORTING REQUIREMENTS AND CO-OPERATION BETWEEN PARTIES

- 8.1 DOH and JJ will each nominate a liaison officer who will have responsibility for facilitating effective management of this Protocol and the resolution of issues which may arise from this Protocol.

9. JOINT OBLIGATIONS


- 9.1 Subject to this Protocol, DOH and JJ agree to do all things reasonably necessary and execute all documents required to obtain, facilitate and to give effect to each Department's obligations pursuant to this Protocol.

10. COUNTERPARTS


- 10.1 This Protocol may be signed in any number of counterparts which, when taken together, will constitute the one instrument.

11. SIGNATURE

Signed by: Professor Debora Picone, Director-General, NSW Department of Health

Signature:  Date: 22/10/09

Signed by: Jennifer Mason, Director-General, NSW Department of Human Services

Signature:  Date: 14.10.09

SCHEDULE A – AFFECTED AGENCIES

1. Justice Health
2. Greater Southern Area Health Service
3. Greater Western Area Health Service
4. Hunter and New England Area Health Service
5. North Coast Area Health Service
6. Northern Sydney and Central Coast Area Health Service
7. South Eastern Sydney and Illawarra Area Health Service
8. Sydney South West Area Health Service
9. Sydney West Area Health Service
10. The Royal Alexandra Hospital for Children