

Health Privacy Code of Practice for the exchange of information by participating agencies in the Youth on Track scheme

1. Overview

Objectives of Youth on Track

- 1.1 Youth on Track is a strategy for reducing juvenile re-offending through early intervention. It aims to do this by:
- (a) identifying young people at risk of re-offending;
 - (b) identifying needs that contribute to the risk of those young people offending; and
 - (c) addressing those needs at an early stage before offending becomes entrenched, through case management and the provision of appropriate evidence-based interventions for the young person.

Process

- 1.2 Under the Youth on Track scheme, Juvenile Justice, Department of Justice uses a validated screening tool to identify suitable potential participants for referral into the scheme. Contracted service providers (YoT Providers) provide case management to referred potential participants.
- 1.3 Young people assessed for this scheme are 10 to 17 years of age.
- 1.4 The scheme involves the collection, use and disclosure/exchange of personal information about a potential participant, his or her family and home environment based on known risk factors and protective factors that can be used to predict the risk that a young person will re-offend and to contact potential participants and their carers. The risk factors are interrelated and cumulative. Most of the personal information handled will not constitute health information, but some of it may.
- 1.5 In many instances, dealings with health information can occur on the basis of s. 66(2)(g) of the *Young Offenders Act 1997* and/or Ch. 16A of the *Children and Young Persons (Care and Protection) Act 1998*. This Code modifies the application of the Health Privacy Principles to enable the handling of information for the purposes of Youth on Track, in circumstances where s. 66(2)(g) of the *Young Offenders Act* and Ch. 16A of the *Children and Young Persons (Care and Protection) Act* do not apply.
- 1.6 The Youth on Track process is outlined below.

Identification and referral

1.7 There are three types of referrals:

- (a) Automatic referrals, where the YoT Screening Officer identifies potential participants from information held on the COPS database.
- (b) Discretionary referrals, where referral agencies identify young people at risk of reoffending and refer suitable potential participants to the YoT Screening Officer. Discretionary referrals are usually made by Police or the Department of Education, but may be made by other participating agencies. When making a discretionary referral, the referral agency provides the YoT Screening Officer with information including the contact details, address and known aliases of the young person and his or her parents/guardians and known safety warnings in relation to the young person and/or his or her home environment. The referral agency also provides information about the potential participant's other known risk factors.
- (c) Unsolicited referrals, where an organisation other than a participating agency or an individual, such as a young person's solicitor or medical practitioner, refers a young person to Youth on Track.

Screening

- 1.8 The YoT Screening Officer identifies whether the young person meets the eligibility criteria¹ by using information held on the COPS database, the result of the GRAM screening² and the Client Information Management System (CIMS). In the case of discretionary referrals, the YoT Screening Officer informs the referral agency whether the young person is eligible.
- 1.9 At this stage, young people who do not meet eligibility are screened out. In the case of discretionary referrals, the referral agency is advised. The referral agency is provided with a general explanation to why the young person was not suitable. This information is used to improve the referral agency's future assessment as to whether possible candidates for the Youth on Track scheme are likely to be accepted for referral and to maintain a collaborative relationship.

¹ Young person has had at least one caution, conference and/or charge and they have not previously been under the supervision of Juvenile Justice. For automatic referrals they must also have a GRAM (likelihood of further formal contact with police) of 60% or higher.

² Name, age, gender, prior cautions, prior charges, and Aboriginality. Note the Aboriginality of a young person is entered into the GRAM screening tool but is not stored once the GRAM is calculated.

- 1.10 Where a young person meets the eligibility criteria, the Youth on Track Unit then seeks information about any existing case management from Department of Family and Communities and other key service providers.

Engagement and Consent

- 1.11 The YoT Screening Officer refers the young person to a YoT Provider, providing information accumulated through the earlier stages. Where the young person is already case managed by another agency, the YoT Provider contacts the existing case management agency and negotiates support to be provided by the Youth on Track scheme to the young person.
- 1.12 The provision of any support by the Youth on Track scheme to the young person by the YoT Provider can only be provided when consent is obtained from both:
- (a) the existing case management agency, if any; and
 - (b) the young person and his or her parents/guardians
- in that order.
- 1.13 If the existing case management agency does not provide consent, the young person has no further involvement with Youth on Track.
- 1.14 If the existing case management agency consents, the YoT Provider contacts the young person and parents/guardians to inform them that the young person has been referred to Youth on Track and seeks consent for the young person to participate in the scheme. The initial consent to participate in Youth on Track includes consent to health information being stored securely after exit or disengagement from Youth on Track. Records of consent are kept by the YoT Provider and reported to the Youth on Track Unit.
- 1.15 All subsequent steps in Youth on Track are conditional on the young person and his or her parents/guardians consenting. Without consent, the involvement of the young person in Youth on Track will end and they will not be further involved unless consent is given.
- 1.16 If the young person disengages from Youth on Track at any time, the YoT Provider reports this to the Youth on Track Unit and any other agency that has been involved in the provision of services to the young person during his or her involvement with the Youth on Track scheme. The Youth on Track Unit reports back to Police the refusal of consent and monitors the COPS database for any further offending by the young person.

Assessment

- 1.17 If consent is given by the young person and his or her parents/guardians, the YoT Provider assesses the young person's risk and protective factors. This may involve collection and use by the YoT Provider of health information from multiple sources, in accordance with the consent of the young person and his or her parents/guardians. Any health information collected mainly relates to the young person, but may include health information about family, peers and other third parties.
- 1.18 The Youth on Track Unit reports back to Police with an update about the young person's progress through the scheme, again, in accordance with the consent of the young person and his or her parents/guardians.

Case management

- 1.19 The YoT Provider identifies key areas of need, relevant services and suggested level of service provision for the young person, and works with the young person and his or her parents/guardians to develop a Case Plan. The YoT Provider may also use the information to provide services directly to the young person and/or parents/guardian.
- 1.20 The YoT Provider reports back to the Youth on Track Unit about the young person's progress. This enables the Youth on Track Unit to support and monitor the provision of Youth on Track services.

Intervention

- 1.21 Services are delivered by the YoT Provider directly or by other government and non-government service providers brokered by the YoT Provider. Brokering of services may require disclosure by the YoT Provider of health information to other service providers; and collection by the YoT Provider of health information from the other service providers about the young person's progress.
- 1.22 The YoT Provider prepares a weekly client progress report which it provides to Juvenile Justice and Police.

Exit

- 1.23 The YoT Provider will determine if a young person moves from one stage of case management to the next and when a case may be closed and a young person exited from the scheme.
- 1.24 The YoT Provider monitors implementation of the Exit Plan and prepares an Exit Report. The Plan and Report are provided to the Youth on Track Unit.

Evaluation

- 1.25 The YoT Provider asks participants and their parents/guardians to complete a participant feedback survey at the time of exit. The participant can choose not to complete the survey. Youth on Track records will be used by BOCSAR to evaluate the effectiveness of the Youth on Track scheme.

End of Youth on Track

- 1.26 Within 21 days of the termination of the contract any health information collected by the YoT Provider about participants must be returned to Juvenile Justice to be managed under Health Privacy Principle 5 in Schedule 1 of the *HRIP Act* and any other relevant legal obligations Juvenile Justice has in respect of this health information when returned. This Code does not modify the application of Health Privacy Principle 5 to the participating agencies.

2. Information covered by the Code

- 2.1 This Code is made under Part 5 of the *Health Records and Information Privacy Act 2002* (the HRIP Act) to provide for the operation of the Youth on Track scheme in conjunction with other participating agencies, including non-government service providers (YoT Providers).
- 2.2 The Code applies to health information collected used or disclosed for the purposes of referring at risk young people to YoT Providers; and for quality review purposes of the referral process. Health information is collected, used and disclosed by participating agencies only as is reasonably necessary for the purposes set out below.
- 2.3 A corresponding code applies to Youth on Track in respect of the *Privacy and Personal Information Act 1998*.
- 2.4 Juvenile Justice will collect and use health information already held by participating agencies that is relevant to a person's potential eligibility for Youth on Track to refer potential participants. Only information regarding potentially eligible participants is shared with the YoT Provider. The YoT Provider is required to manage any information obtained for the purposes of Youth on Track in accordance with any directions provided by Juvenile Justice.
- 2.5 This Code applies to the following types of health information:
- (a) risk alerts from Police or other agencies relating to a potential participant; to the extent this constitutes health information, including any alerts as to self-harm risk, mental illness or alcohol or other drug use;

- (b) other risk factors and safety warning in relation to a potential participant, to the extent this constitutes health information; and
- (c) any other health information relevant to referring a potential participant to a YoT Provider.

2.6 The intention of this code is to permit the collection, use and disclosure of such information for the following purposes:

- (a) to enable potential participants to be identified and referred to Youth on Track;
- (b) to assess a young person's eligibility for participation in Youth on Track;
- (c) to identify and assess risk factors including any relevant safety warnings and any risk factors associated with a potential participant's home environment;
- (d) to locate an eligible potential participant, and that person's parents or guardians, in order to offer the young person a place in Youth on Track;
- (e) to determine whether an eligible potential participant is already receiving case management services and, if so, to exchange information with the young person's existing case management agency to facilitate the young person's participation in Youth on Track, including to negotiate support to be provided to the young person by a YoT Provider;
- (f) where a participating agency has referred a young person to Youth on Track, to advise the participating agency as to whether the young person is eligible to participate in Youth on Track or has accepted an offer to participate in Youth on Track; and
- (h) to promote community and victim safety by facilitating the sharing of information regarding a participant, and/or a third party who engages with the participant, where reasonably necessary to prevent or lessen a serious threat to the life, health or safety of any person or to public health or public safety.

3. Interpretation

3.1 In this Code:

"CNI" means the unique identifier given to a person whose details are recorded on the COPS database.

"the COPS database" means the Computerised Operational Policing System, the database used by Police.

“direction” means any directions and any Schedules prepared by Juvenile Justice in relation to the operation and management of Youth on Track.

“existing case management agency” means an agency that, at the time a young person is referred to the Youth on Track Unit, is already providing case management services to the young person.

“GRAM assessment score” means a numerical assessment of the likely risk of someone having further formal contact with Police according to a certain criteria.

“GRAM screening assessment” means a screening process and following assessment that uses the Group Risk Assessment Model actuarial tool, to assess a person’s likelihood of further formal contact with Police according to particular criteria and obtain a GRAM assessment score.

“Health Information” has the same meaning as in s. 6 of the *HRIP Act*.

“HRIP Act” means the *Health Records and Information Privacy Act 2002*.

“participating agency” means the Department of Justice, Police, Department of Education, Department of Family and Community Services or any other public sector agency (as defined by the *HRIP Act*) that is directly involved in the delivery of Youth on Track, a YoT Provider or an existing case management agency.

“personal information” has the same meaning as in s. 5 of the *HRIP Act*.

“Police” means the NSW Police Force.

“potential participant” means a young person who may be suitable for referral to Youth on Track.

“third party” means a person or agency other than the young person, participating agency, or participating service provider.

“YoT Provider” means a non-government organisation or other entity contracted by the Department of Justice for the purpose of providing case management and other services in connection with Youth on Track.

“YoT Screening Officer” means a Police or Department of Justice employee in the Youth on Track Unit responsible for screening potential participants.

“Youth on Track Unit” means the Youth on Track Unit established within the Juvenile Justice to conduct and oversee the Youth on Track scheme.

4. Provisions

HPP 1

- 4.1 There is no intention to depart from the requirements of HPP1. For certainty, the collection of health information by a participating agency for the purposes of Youth on Track is a lawful purpose that is related to a function or activity of the agency.

HPP 3

- 4.2 Despite HPP 3, a participating agency may collect health information from another participating agency, without the person's consent, where reasonably necessary for one or more of the purposes specified in Part 2.

HPP 4

- 4.3 A participating agency is taken to have complied with the requirements of HPP 4 in respect of the collection of health information when a participating agency informs the young person that he or she has been referred to Youth on Track, to seek their informed consent to participate in Youth on Track.
- 4.4 A participating agency need not comply with HPP 4 when collecting a third party's health information where the collection is reasonably necessary for one or more of the purposes specified in Part 2.

HPP 7

- 4.5 This Code authorises a participating agency to refuse to provide an individual with access to health information collected or used for the purpose of Youth on Track if:
- (a) giving access would pose a threat to the life, health or safety of any person, or to public health or public safety; or
 - (b) giving access would have an unreasonable impact on the privacy of other individuals; or
 - (c) the information relates to existing or anticipated legal proceedings between the entity and the individual, and would not be accessible by the process of discovery in those proceedings; or
 - (d) giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, a law enforcement agency; or
 - (e) giving access would reveal evaluative information generated within the entity in connection with a commercially sensitive decision-making process.

HPP 9

4.6 For the purposes of HPP 9:

- (a) health information about a young person and his or her parents or guardians, and any third party that engages with the participant, used by a participating agency in connection with Youth on Track, is, having regard to the purposes for which the information is proposed to be used, taken to be relevant, accurate, up to date, complete and not misleading; and
- (b) the taking of "such steps as are reasonable in the circumstances" in relation to health information about a third party does not require a participating agency to consult with or make inquiries of the third party.

HPP 10

4.7 Despite HPP 10, a participating agency that holds health information may use it in connection with Youth on Track if the use is reasonably necessary for one or more of the purposes specified in Part 2.

HPP 11

4.8 Despite HPP 11, a participating agency may disclose health information to another participating agency if the disclosure is reasonably necessary for one or more of the purposes specified in Part 2.

4.9 Despite HPP 11, a participating agency may disclose health information about a participant or third party that engages with the participant, that it holds in connection with a person's referral to Youth on Track where the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious threat to the life, health or safety of any person or to public health or public safety.

5. Application of the Code

5.1 This Code does not affect the operation of any exemption or exception to the HPPs set out in the HRIP Act. This is consistent with s. 38(5) of the *HRIP Act*.

6. Review of the Code

6.1 The Youth on Track Health Privacy Code of Practice will be reviewed three years following the commencement of the Code.