



Youth Criminal Justice Protocol

Alberta Justice and Solicitor General
and Human Services
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Alberta 



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1. INTENT

The intent of the Youth Criminal Justice Protocol is to outline procedures for ongoing interactions between Alberta Human Services Child Intervention staff, including Child and Family Services Authorities and Delegated First Nation Agencies (hereby referred to as Child Intervention), and Alberta Justice and Solicitor General, and their agents, in dealing with joint clients. The protocol describes how staff should work together collaboratively for the benefit of youth who have joint status, or for those who need the services of Child Intervention but do not have child intervention status. The protocol creates a process for collaborative case planning as well as resolution of day-to-day issues, thereby laying the foundation for good working relationships and for a more effective coordinated provision of services for youth.

2. PARENTAL RESPONSIBILITY

Parents are expected to actively participate in performing the tasks and duties of a parent and are responsible for:

- providing children and youth with care and supervision;
- attending Court hearings when required; and
- participating in service planning and assisting in the funding of required services whenever possible.

Notwithstanding the above responsibilities and expectations, it is also recognized that some young persons, particularly those who are 16 and 17, may have withdrawn from parental authority. Youth will not routinely be denied access to service or early release planning if the parent is unwilling or unable to participate.

3. GUIDING PRINCIPLES FOR PROGRAM DELIVERY BY ALBERTA JUSTICE AND SOLICITOR GENERAL

3.1 Guiding Principles

The *Youth Criminal Justice Act* (YCJA) the “Act” provides protection of the public against crimes committed by youth, but also requires that persons be treated in a manner distinct from adult criminals. The declaration of principle contained in Section 3 of the Act guides the implementation and operation of programs and services offered by the young offender program. It reads:

- a) The youth criminal justice system is intended to protect the public by
 - (i) holding young persons accountable through measures that are proportionate to the seriousness of the offence and the degree of responsibility of the young person,
 - (ii) promoting the rehabilitation and reintegration of young persons who have committed offences, and
 - (iii) supporting the prevention of crime by referring young persons to programs or agencies in the community to address the circumstances underlying their offending behavior;

- b) the criminal justice system for young persons must be separate from that of adults, must be based on the principle of diminished moral blameworthiness or culpability and must emphasize the following:
 - (i) rehabilitation and reintegration,
 - (ii) fair and proportionate accountability which is consistent with the greater dependency and reduced level of maturity of young persons,
 - (iii) enhanced procedural protection to ensure fair treatment and protect young persons' rights,
 - (iv) timely intervention that reinforces the link between offending and consequences, and
 - (v) promptness and speed by persons responsible for enforcing the Act given young persons' perception of time;

- c) within the limits of fair and proportionate accountability, the measures taken against a young person should
 - (i) reinforce respect for societal values,
 - (ii) encourage the repair of harm done to victims and the community,
 - (iii) be meaningful to the young person given their needs and level of development and, where appropriate, involve the parents, the extended family, the community, and social or other agencies in the young persons rehabilitation and reintegration, and
 - (iv) respect gender, ethnic, cultural, and linguistic differences and respond to the needs of aboriginal young persons and of young persons with special requirements.

- d) special considerations apply in respect of proceedings against young persons and, in particular,
 - (i) young persons have rights and freedoms which are specially guaranteed, including the right to be heard and to participate in the process of making decisions which affect them,
 - (ii) victims should be treated with courtesy, compassion, and respect, and should suffer the minimum degree of inconvenience,
 - (iii) victims should be provided with information and given an opportunity to participate and be heard. and
 - (iv) parents should be informed of measures or proceedings and encouraged to support their children as they address their offending behaviour.

4. GUIDING PRINCIPLES FOR PROGRAM DELIVERY BY ALBERTA HUMAN SERVICES CHILD INTERVENTION INCLUDING CHILD AND FAMILY SERVICES AUTHORITIES (CFSA) AND DELEGATED FIRST NATION AGENCIES (DFNA) (HEREBY REFERRED TO AS “CHILD INTERVENTION”)

4.1 Guiding Principles

The *Child, Youth and Family Enhancement Act* was built on fundamental beliefs about the interrelationship among children, families and communities, including the following:

- The role of Child Intervention is to encourage and support individual, family and community responsibility towards the survival, security and development of children.
- The family, in its various forms, is the fundamental setting for the nurturing and caring of youth through to adulthood.
- Families interact and receive support within the context of their community; a positive community can have significant impact on families and their children.

4.2 Matters to be Considered

When a child’s survival, security or development may be endangered, Child Intervention has a responsibility to intervene. The child’s status as a young offender will not be a consideration as to whether or not to intervene. Intervention must be done in a manner that focuses on the best interests of the child while supporting enhanced functioning of the family.

In Section 2, the *Child, Youth and Family Enhancement Act* sets out “matters to be considered” when taking any action regarding a child. The *Enhancement Act* reads as follows:

If a child is in need of intervention, a Court, an Appeal Panel and all persons who exercise any authority or make any decision under this Act relating to the child must do so in the best interests of the child and must consider the following as well as any other relevant matter:

- a) the family is the basic unit of society and its well-being should be supported and preserved;
- b) the importance of stable, permanent and nurturing relationships for the child;
- c) the intervention services needed by the child should be provided in a manner that ensures the least disruption to the child;
- d) a child who is capable of forming an opinion is entitled to an opportunity to express that opinion on matters affecting the child, and the child’s opinion should be considered by those making decisions that affect the child;
- e) the family is responsible for the care, supervision and maintenance of its children and every child should have an opportunity to be a wanted and valued member of a family, and to that end:
 - if intervention services are necessary to assist the child’s family in providing for the care of a child, those services should be provided to the family, insofar as it is reasonably practicable, in a manner that supports the family unit and prevents the need to remove the child from the family; and
 - a child should be removed from the child’s family only when other less disruptive measures are not sufficient to protect the survival, security or development of the child.
- f) subject to clauses (e) and (g), if a child has been exposed to domestic violence within the child’s family, intervention services should be provided to the family in a manner that supports the abused family

- members and prevents the need to remove the child from the custody of an abused family member;
- g) any decision concerning the removal of a child from the child's family should take into account the risk to the child if the child remains with the family, is removed from the family or is returned to the family;
- h) if it is not inconsistent with protecting the survival, security or development of a child who is in need of intervention, and appropriate community services are available, the child or the child's family should be referred to the community for services to support and preserve the family and to prevent the need for any other intervention under this Act;
- i) any decision concerning the placement of a child outside the child's family should take into account;
- the benefits to the child of a placement within the child's extended family;
 - the benefits to the child of a placement within or as close as possible to the child's home community;
 - the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage;
 - the benefits to the child of stability and continuity of care and relationships;
 - the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development; and
- j) whether the proposed placement is suitable for the child the provision of intervention services is intended to remedy or alleviate the condition that caused the child to be in need of intervention;
- k) intervention services are most effective when they are provided through a collaborative and multi-disciplinary approach;
- l) if a child is being provided with care under this Act, the child should be provided with a level of care that is adequate to meet the needs of the child and consistent with community standards and available resources;
- m) if a child is being provided with care under this Act, a plan for the care of that child should be developed that:
- addresses the child's need for stability, permanence and continuity of care and relationships; and
 - in the case of a youth, addresses the youth's need for preparation for the transition to independence and adulthood.
- n) if a person who assumes responsibility for the care of a child under this Act should endeavor to make the child aware of the child's familial, cultural, and social and religious heritage;
- o) there should be no unreasonable delay in making or implementing a decision affecting a child; and
- p) if the child is an aboriginal child, the uniqueness of aboriginal culture, spirituality and traditions should be respected and consideration should be given to the importance of preserving the child's cultural identity.

5. CASE MANAGEMENT

Youth workers, as defined by the YCJA and Child Intervention caseworkers (hereby referred to as “caseworkers”) share the responsibility of providing service to the child or youth and family according to their respective mandated roles. Young offender status does not terminate child intervention status.

5.1 Case Procedure for Child Intervention Services

- a) Case management planning, coordination and service approval decisions require the continued involvement of the caseworker.
- b) The caseworker has child intervention case management responsibility for the youth and must work with the child or youth, parents, caregivers and community to ensure the child’s intervention needs are met.
- c) The caseworker, as guardian, is required to attend Court with the child or youth who is under Temporary or Permanent Guardianship Order status.
- d) The caseworker should attend Court hearings with the child or youth under Apprehension, Initial Custody, Interim Custody and Custody Agreements and will encourage and support parents to attend.
- e) The caseworker is not required to, but may attend court with children or youth under Enhancement Agreements or Supervision Orders, and will encourage and support parents to attend or help identify extended family members or responsible community members who may attend.
- f) If the youth is under a Permanent Guardianship Order, the caseworker will carry out all the parental responsibilities as outlined in the “Parental Responsibility” section on page 1 of this protocol.

5.2. Children or Youth Charged/Child Intervention Status

Caseworkers will respond to Alberta Justice and Solicitor General regarding the status of a youth by conducting an information systems check and giving the name and contact for the child or youth’s caseworker. See Section 6, Release of Information.

In some cases a Youth Justice Court judge or justice of the peace will grant a judicial interim release of a youth under Apprehension, Interim Custody, Initial Custody, Temporary Guardianship, or Permanent Guardianship status by having:

- a caseworker sign an Undertaking by a Responsible Person to ensure Court attendance of the child or youth; or
- the child or youth sign an Undertaking/Recognizance that may involve posting bail, which is forfeited if the youth fails to appear in Court.

In these circumstances, the caseworker will do the following:

- find a placement for the child or youth and plan with the child or youth, parents, and caregivers for the hearing;
- notify the probation officer in the event the child or youth fails to comply with the conditions of the order if there is a condition to report to a probation officer; or the prosecutor if there is no such condition; and

- attend court to withdraw as a Responsible Person if the caseworker cannot ensure compliance.

If a Youth Justice Court judge or justice of the peace is prepared to grant a judicial interim release of a child or youth with Custody Agreement status, who has been charged with an offence the caseworker will:

- assist the Court in identifying a parent or other person to sign an undertaking as a responsible adult and plan with the child or youth, parent, and care giver for the hearing.
- assist the parent to return the child or youth to a child intervention placement, another appropriate placement, or home.

5.3 Children and Youth in Detention/Child Intervention Status

- i. Caseworkers have a case management responsibility to ensure that children or youth with child intervention status are detained only when charges warrant detention and not because the caseworker has difficulty finding a placement. The court cannot detain a youth in custody as a substitute for placement.
- ii. Police must provide the parent/guardian with a notice of arrest, reason for arrest and place of detention. However, if a child or youth with child intervention status is detained, a youth worker will make immediate contact with the caseworker to provide details of the arrest and to confirm a release placement. The caseworker will immediately advise the youth worker if the child or youth is considered a suicide risk or is dealing with other serious issues. Reciprocally, the youth worker will advise the caseworker under such circumstances.

Caseworkers will receive notice of a child or youth's hearing dates.

Hearings occur for the purpose of:

- judicial interim release
- a hearing of charges in Youth Court
- trial
- sentencing

Upon receiving notice of the hearing date, the caseworker will:

- contact the child or youth and parent or caregiver to discuss the impact of the hearing on the service plan; and
- plan with the child or youth and parent or caregiver to respond to the options presented.

- iii. Youth in detention are often released upon their first Court appearance. Release planning is the joint responsibility of the youth worker and the caseworker, and is to be discussed collaboratively upon admission.

The youth worker is responsible for:

- ensuring that the caseworker is aware of the child or youth's need for transportation upon release.

- ensuring the child or youth is released to a responsible adult.
- advising the caseworker about all release plans, when joint release planning has not occurred.

The caseworker is responsible for making placement and transportation arrangements for children or youth under the following statuses:

- Enhancement Agreement with Youth;
- Custody Agreement with Youth or Guardian;
- Interim Custody;
- Initial Custody;
- Temporary Guardianship Order;
- Permanent Guardianship Order; or
- Apprehension Order

Where appropriate the caseworker may assist the parents of the child or youth to make these arrangements. Working with parents of children or youth to make placement and transport arrangements for release for children or youth under the following statuses:

- Family Enhancement Agreements; and
- Supervision Orders.

Ensuring that planning is not delayed, as the child or youth must be released immediately as ordered by the Court.

5.4 Children or Youth Remanded in Custody/Child Intervention Status

- a) If a child or youth under any child intervention status is remanded in custody, a youth worker will advise the caseworker or Crisis Unit/ Social Services Response Team if after hours, within twenty-four hours. The caseworker/crisis worker will immediately advise the youth worker if the child or youth is considered a suicide risk or has other serious problems.
- b) When the caseworker receives notice of the child or youth's hearing dates, the caseworker will:
 - contact the child or youth and parent or caregiver to discuss the impact of the hearing on the case plan.
 - plan with the child or youth and parent or caregiver to respond to the options presented.
- c) Release planning is the joint responsibility of the youth worker and the caseworker and must be discussed as soon as possible. Children and youth in remand may be released with little or no notice if a successful bail application is made to the Court of Queen's Bench.

The youth worker is responsible for:

- ensuring that the caseworker is aware of the child or youth's need for transportation upon release.
- ensuring the child or youth is released to a responsible adult.

- advising the caseworker about all release plans, when joint release planning has not occurred.

The caseworker is responsible for:

- making placement and transportation arrangements for the child or youth under the following statuses:
- Enhancement Agreement with Youth
- Custody Agreement
- Interim Custody
- Initial Custody
- Temporary Guardianship Order
- Permanent Guardianship Order

Where appropriate the caseworker may assist the parents of the child or youth to make these arrangements:

- working with parents of children or youth to make placement and transport arrangements for release for children or youths under the following statuses :
- Enhancement Agreements; and
- Supervision Orders.
- Ensuring that planning is not delayed, as the child or youth must be released immediately as ordered by the Court.

- d) The youth worker and caseworker will decide on a case conference format. The frequency of conferences will depend on such factors as the length of the remand, type of child intervention status and whether the child or youth is in need of intervention services. The case conference will include release planning and other case planning.

5.5 Youth with Probation, Community/Conditional Supervision, Deferred Custody and Supervision, Non-Residential, Intensive Support and Supervision Orders, and Child Intervention Status

If a probation officer is completing a presentence report and the child or youth is under any child intervention status, the probation officer will advise the caseworker within five working days of becoming aware of the child intervention status.

The probation officer will make contact with the caseworker within 30 days of the commencement of a probation order, community/conditional supervision, deferred custody and supervision, non-residential, intensive support and supervision orders. The initial and any subsequent contacts will address:

- length of sentence;
- education needs;
- duration of guardianship or other child intervention status;
- involvement of parents;
- assessment or diagnosis information;

- treatment issues;
- obligations arising from the Court sentence; and
- coordination of the young offender case plan with the child intervention case plan.

Contact may have been initiated during the custody portion of a custody and community/supervision order, in which case the subsequent contact would be to confirm/amend a previous plan.

5.6 Children or Youth in Custody/Child Intervention Status

The need for child intervention services does not usually cease because the youth receives a sentence of open or secure custody. Child intervention status generally extends beyond the full custody expiry date to ensure planned reunification with the family.

When a child or youth under any child intervention status receives a custody sentence, the youth worker will immediately advise the child or youth's caseworker. The caseworker will immediately advise the youth worker if the child or youth is considered a suicide risk or is dealing with other serious issues.

An intake conference, which will include the caseworker, and may include the probation officer, will be convened by the youth worker at the young offender facility or by teleconference as soon as possible after sentencing. Factors to be considered at the intake conference include:

- length of sentence
- educational needs
- medical needs
- psychological or behavioural needs
- duration of guardianship
- involvement of parents
- Child Intervention history
- young offender case plan
- release plan, including community investigations of likely sponsors, to be completed by the youth worker or probation officer in collaboration with the caseworker early in the custody sentence
- the need for subsequent case conferences

Release planning is the joint responsibility of the youth worker and the caseworker, and is discussed at the initial case conference and every subsequent case conference to address the following possibilities collaboratively:

- a court review application to release the child or youth on conditional supervision can occur as soon as the investigation provides reasonable options.
- conditions to be included on the community portion of custody/conditional supervision orders under the Youth Criminal Justice Act.
- reintegration leaves.

The youth worker is responsible for:

- ensuring that the caseworker is aware of the child or youth's need for transportation upon release.
- ensuring the child or youth is released to a responsible adult.
- advising the caseworker about all release plans, when joint release planning has not occurred.

The caseworker is responsible for:

- making placement and transportation arrangements for children or youth under the following statuses:
- Enhancement Agreement with Youth
- Custody Agreement
- Interim Custody
- Initial Custody
- Temporary Guardianship Order
- Permanent Guardianship Order

Where appropriate the caseworker may assist the parents of the youth to make these arrangements:

- working with parents of youth under
- Enhancement Agreements; and
- Supervision Orders
- to make placement and transport arrangements for release.
- ensuring that planning is not delayed, as the child or youth must be released immediately as ordered by the court.

The young offender case plan developed by the youth worker in collaboration with Child Intervention and the family will be communicated to all participants. The young offender case plan will define commitments and tasks agreed to by Justice and Solicitor General and Child Intervention, parents and other collaterals. The caseworker will adjust the case plan to incorporate collaborative planning and commitments made at the young offender case conference. The case plan will specifically note the warrant expiry date and early release, if applicable.

Any caseworker's decision to terminate custody agreements or enhancement agreements will include prior notification to the youth worker. The caseworker will not terminate status to avoid the accumulation of time in care. Any decision to terminate status will include discussion with the parents to ensure intervention issues are addressed.

When child intervention status is ending because the child intervention concerns are resolved, Justice and Solicitor General and Child Intervention will collaborate for a smooth transition.

Either the youth worker or caseworker may call additional case conferences or other meetings to discuss unplanned significant issues such as Court appearances, youth who are unlawfully at large, transfers or release planning.

The child or youth, parents, guardians and caregivers will be involved in the case conference process, when appropriate.

5.7. Funding of Services for Joint Status Clients

The recommendation to continue or initiate contracted services for a child or youth with joint status will be made at intake or subsequent case conferences. Justice and Solicitor General and Child Intervention must agree the service is of value and appropriate to the child or youth's case plan.

Services that were initiated by Child Intervention before the child or youth's involvement in the young offender system continue to be the responsibility of Child Intervention and will continue if appropriate. These can include, but are not exclusive of counseling and family support.

Children or youth with child intervention status who may benefit from programs, such as family support, counseling or other supportive services related to integration to a stable placement will have access to these programs at the expense of Child Intervention where parents are unable to bear these costs and as per the case plan.

Services provided routinely to young offenders in open or secure custody, as a means of ensuring a successful transition to community placements will be provided to joint status children or youth at the expense of Justice and Solicitor General.

Psychological/psychiatric services for joint status children and youth in custody, initiated after a child or youth comes into custody are the responsibility of Justice and Solicitor General.

Costs and arrangements of young offender court ordered assessments are the responsibility of Justice and Solicitor General. Transportation and other related costs for young persons residing in the community will not be borne by Justice and Solicitor General as they are deemed the responsibility of the parent, guardian or caregiver.

Costs of a specific court ordered treatment condition are the responsibility of Justice and Solicitor General. Transportation and other related costs will not be borne by Solicitor General and Public Security as they are deemed the responsibility of the guardian or caregiver.

If it is mutually recommended by the youth worker and the caseworker that a joint status child or youth requires a service which is not specifically court ordered and which has not been previously accessed by the child or youth at the expense of either department, the cost will be shared equally by Child Intervention and Justice and Solicitor General.

Justice and Solicitor General does not have the ability to extend youth sentences, therefore, at the end of a youth sentence, Justice and Solicitor General cannot continue services. In these cases, for joint status children and youth, if a joint decision is made to continue services, all expenses will be the responsibility of Child Intervention.

6. RELEASE OF INFORMATION BY THE CHILD INTERVENTION SERVICES TO JUSTICE AND SOLICITOR GENERAL

Section 126 of the *Child, Youth and Family Enhancement Act* (the “Enhancement Act”) requires all information collected through the administration of the Enhancement Act regarding children, youth and their families who are current or former clients to remain confidential. Confidentiality is governed by Section 126(1) of the Enhancement Act.

6.1 Youth Worker Requests for Information

To carry out their mandate, youth workers need to request the disclosure of information regarding youth who are receiving or have received child intervention services. Such information is required for a variety of reasons:

- youth in community program – planning for extrajudicial sanctions, fine option, community service, probation, community/conditional supervision, deferred custody and supervision, non-residential, and intensive support and supervision orders, or other programs
- youth remanded in custody – providing appropriate care to youth in areas such as medical, physical or mental health needs (routines, prescriptions, treatments, alerts, suicide history); behaviour management precautions or strategies; significant individuals who would provide informal support to the youth
- preparation for hearing: information that facilitates the Court’s decision on the best option for the youth
- presentence report – information that might assist the Court in sentencing
- case planning - information that will help in the development of a young offender case plan

When a youth worker makes a request to Child Intervention to clarify the joint status of youth, the youth worker will provide the following information:

- young offender’s surname and given names
- alias names used by the young offender
- gender of the young offender
- young offender’s birth date
- name of the young offender’s parents or guardians
- address of the parents or guardians

6.2 Confirmation of Child Intervention Status

Child Intervention will confirm the following information:

- existence of a child intervention file
- caseworker and the office responsible for the file

6.3 Essential Care Information

Caseworkers give information to assist in the care and treatment of children under the *Child, Youth and Family Enhancement Act (Enhancement Act)* Section 126(1)(a) to any person assisting the Minister in the administration of the *Act*.

Essential care information includes information needed to prevent suicide and meet a child or youth's immediate needs. **However, information identifying a person whom made a report to the director under the Enhancement Act should never be released as per Section 126.1 of Enhancement Act.**

If a child or youth under any child intervention status is detained, the caseworker will immediately advise the youth worker of information that relates directly to the care and treatment of the child or youth. The information will include:

- Child and Youth Information Module (CYIM)/Intervention Services Information System (ISIS) report of suicidal risk;
- family history of suicide or severe mental health needs;
- current medical or mental health needs;
- known behaviour management concerns;
- behaviour management strategies used; and
- other information that will prevent harm to the child or youth or warn of risk to them or others.

If a caseworker knows that a youth with child intervention status is HIV infected or has AIDS, the caseworker must advise the facility director or physician of the youth's medical condition as soon as possible.

6.4 Information for Young Offender Case Plan

Section 126(1)(a) of the *Enhancement Act* allows for disclosure of information to Justice and Solicitor General if the information is necessary for planning or providing services or providing day to day care or education to a child or youth.

However, pursuant to section 126.1, any third party reporter information cannot be disclosed by anyone other than the Director of the Enhancement Act.

If the child or youth is under Permanent or Temporary Guardianship Order status, the caseworker will disclose any information that is needed to provide care and treatment to the child or youth. Essential care information may include:

- identifying information (name, age, sex, address, child intervention status)
- identifying information of guardians (name, address)
- placement history specific to the child or youth
- assessment, counselling, and community services specific to the child or youth
- information necessary to provide adequate attention to current medical, physical, or mental health needs (prescriptions, medical treatments or precautions, infection control alerts)
- current reasons for child intervention and the case plan for the child or youth
- details of current support services provided for the child or youth
- behaviour management strategies used with the child or youth
- specifications and details of any known behavior management concerns (abusive to staff or peers, explosive temper, history of AWOL, child management critical incident reports)
- strengths and weaknesses, including social problems such as behavioural deviations and abusive experiences as well as details of a child or youth's sexual history (abuse, exploitation, sexual deviation, and sexual orientation)

- relevant social, financial, medical information of guardian or significant persons (as they impact the young person)
- details of the child or youth's medical conditions or history (sexually transmitted diseases, communicable diseases, life threatening conditions, mental health diagnosis)

6.5 Information for Court

The youth worker or probation officer will contact the child or youth, guardians, caseworker and others for information for inclusion in court reports.

Information listed in 6.4 is also relevant for inclusion in a presentence report.

6.6 Sensitive Information

The caseworker may consider some relevant information as harmful or sensitive to the child or youth or others if included in a court report or a young offender case plan.

Such information will be shared with the youth worker, along with instructions to limit distribution to specified persons.

Information identifying a person whom made the report to the director under the Enhancement Act cannot be released as per Section 126.1 of the Enhancement Act.

6.7 Closed Child Intervention Files

If the child or youth has a closed child intervention file and it has been closed for less than two years, the Child Intervention supervisor should be consulted to consider and approve for disclosure information relevant to last known placement and rehabilitative needs of the child or youth. If the child or youth's child intervention file has been closed for more than two years, the Information and Privacy Office will be consulted prior to the disclosure of this information.

6.8 Procedures for Release of Information

Youth workers will approach the guardians of a child or youth directly for information and will discuss with the youth and guardians their intent to obtain additional information from the caseworker. Essential care information may be obtained directly from the caseworker.

The caseworker obtains consent for release of information, other than essential care information, from the Child Intervention supervisor. The consent specifies the information required, purpose of disclosure, recipient of information, period of time the consent is effective and any restrictions.

In disclosing information for case management purposes, do not provide the file to a staff member of Justice and Solicitor for review. Only copies, not originals, will be provided. Child Intervention must screen and vet the information for reporter information, solicitor-client privilege, and third party information that has no relevance to the child or youth's matter. This would also include vetting

information that is potentially sensitive or harmful to the child or youth or poses a safety risk to a third party or caseworker.

Caseworkers will make a note on the child or youth's file to indicate what information was disclosed. The information will be disclosed through verbal reports or written summary reports.

Prior to disclosing the contents of contracted reports provided by a psychologist/psychiatrist, the caseworker will attempt to inform the author of the report that relevant contents of the report are being shared. Interview notes or case notes and any test results that form part of the psychologist/psychiatrist's file belong to the psychologist/psychiatrist and they would have to consent for that information to be shared.

Service providers involved in the direct care of the child or youth will only disclose information to a person or organization if the disclosure is necessary to provide for the day to day care or education of the child or youth, as per section 126(1)(a) of the *Child Youth and Family Enhancement Act*. The service provider should only disclose information after obtaining the consent of a caseworker to do so.

In the case of sharing information with another person employed in the administration of child protection legislation in another province or territory of Canada, the disclosure must come from Child Intervention and not the service provider.

Disclosure of information to lawyers for either the parent/guardian or the child or youth should be handled through counsel for the Director whenever possible, or through the caseworker.

The child or youth and parent/guardian in attendance at court will be provided with a copy of the presentence report.

If a file contains information about a person who is not the subject of the record being disclosed, information about the third party will not be released without this party's consent.

Prior to releasing information, caseworkers should consult section 126(1) of the *Child, Youth and Family Enhancement Act* for information regarding confidentiality, privileged information and ban on publication.

7. RELEASE OF YOUTH JUSTICE INFORMATION BY JUSTICE AND SOLICITOR GENERAL TO ALBERTA HUMAN SERVICES

The YCJA specifically sets out who has access to YCJA information, the time period that information may be accessed and kept, how information may be kept, and how it must be disposed.

7.1. Creating Records

Records, under the YCJA, include anything containing information, regardless of its physical form or characteristics (including electronic), that is created or kept for the purpose of the YCJA or for investigation of an offence that could be prosecuted under the YCJA.

The YCJA permits Justice and Solicitor General to keep records :

- for use in an investigation of an offence allegedly committed by a young person,
- for use in proceedings against a young person,
- for administrating a youth sentence or court order,
- for consideration of whether to use extrajudicial measures or sanctions; or
- as a result of the use of extrajudicial measures.

7.2. Access to Child or Youth Records

Access to child or youth records, including file information, is prohibited unless authorized by the YCJA.

Unless otherwise ordered by the court, Child Intervention shall, upon request, have access to records, relating to youth court or review board proceedings.

Caseworkers shall have access to these records when Child Intervention:

- has guardianship of the child or youth during the course of the proceedings and/or sentence;
- is engaged in the supervision or care of the child or youth; or
- is conducting an assessment, an investigation, or is providing services under the *Child, Youth and Family Enhancement Act* to the child or youth.

Unless otherwise ordered by the court, Child Intervention may, upon request, have access to Alberta Justice and Solicitor General records, relating to the administration of a child or youth sentence or extrajudicial measures when Child Intervention:

- has guardianship of the child or youth during the course of proceedings and/or sentence;
- is engaged in the supervision or care of the child or youth; or
- is conducting an assessment, an investigation, or is providing services under the *Child, Youth and Family Enhancement Act* to the youth.

When Child Intervention has the authority to access a child or youth record under the *Child, Youth and Family Enhancement Act*, Alberta Justice and Solicitor General may provide any information contained in the record including a copy of any part of the record.

Child Intervention will have access to records of assessment ordered by the court for medical or psychological purposes when Child Intervention is conducting an assessment, an investigation, or is providing services under the *Child, Youth and Family Enhancement Act* and the court allows for the release of the record. Please note that there may be cases when the court chooses to withhold these reports.

7.3 Disclosure of Information in a Record

Child Intervention, or its agent, must hold YCJA records in strict confidence and shall not disclose that information to any other person unless disclosure is authorized under the YCJA.

The YCJA also provides for disclosure of information by any professional or other person engaged in the provision of services to a young person or engaged in the supervision or care of a young person, including school, if disclosure is necessary:

- to ensure compliance of Court Orders or terms in conditional Supervision Orders;
- to ensure safety of staff, students, or other persons; or
- to facilitate rehabilitation of the young person.

If Child Intervention deems disclosure is necessary, as it meets the conditions above, it must ensure that the person to whom information is disclosed will:

- not disclose that information to any other person unless it is necessary to ensure compliance with a Youth Court Order or reintegration leave or to ensure the safety of staff, students or other person;
- keep the information separate from any other record of the young person;
- ensure that no other person has access to the information; and
- destroy the information when it is no longer required for the purpose for which it was disclosed.

Notwithstanding, the above sections, Child Intervention, or its agents, may release YCJA records in their file if there is a Court Order requiring disclosure.

7.4 Process for Disclosure of Youth Criminal Justice Act Information

Request for information or records concerning a child or youth who is also receiving services under the *Child, Youth and Family Enhancement Act* should be made directly to the youth's probation officer or youth worker.

Subject to the disclosure rules described in 7.1 and 7.2 the youth worker or probation officer will ensure the Child Intervention staff have access to the pertinent information or receive relevant records from the child or youth's file.

In addition to the rules set out in this part of the protocol, Child Intervention, and its agents, must treat all records and information in accordance with all other rules and laws governing treatment of personal information.

7.5 Management of Youth Justice Information and Records by Child Intervention

With respect to the maintenance of child intervention files which contain youth justice information or records, the caseworker must ensure that a youth justice label is affixed to the front of the appropriate file. The label should read as follows:

“THIS FILE CONTAINS YOUTH CRIMINAL JUSTICE ACT INFORMATION WHICH MAY NOT BE DISCLOSED EXCEPT IN ACCORDANCE WITH THE YOUTH CRIMINAL JUSTICE ACT”

When a child or youth receiving child intervention services is registered on the Child Youth Information Module (CYIM)/ or the Intervention Services Information System (ISIS) with a secondary legal authority Code 147. The YCJA, the Person Information Programs tab folder will be automatically “ticked” to indicate yes. This will cause the following statement to appear when the person is selected from a list of matches:

“THIS FILE CONTAINS YCJA INFORMATION WHICH MAY NOT BE DISCLOSED EXCEPT IN ACCORDANCE WITH THE YOUTH CRIMINAL JUSTICE ACT.”

When a child or youth receiving child intervention services is registered on the Intervention Services Information System (ISIS), ensure that the field for YCJA Involvement on the Person Home screen is checked. Then enter a special alert type under “Information” “YCJ Information”. The special alert should read as follows:

“THIS FILE CONTAINS YCJA INFORMATION WHICH MAY NOT BE DISCLOSED EXCEPT IN ACCORDANCE WITH THE YOUTH CRIMINAL JUSTICE ACT.”

8. REPORTS TO CHILD INTERVENTION SERVICES

Section 4(1) of the *Child, Youth and Family Enhancement Act* clearly outlines the obligation and responsibility of any person who has reasonable and probable grounds to believe that a child or youth is in need of intervention to report the matter to a director.

8.1 Child or Youth in Need of Intervention

The *Child, Youth and Family Enhancement Act*, Section 1(2), defines a child in need of intervention: “For the purposes of this Act, a child is in need of intervention if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered because of any of the following:

- the child has been abandoned or lost.
- the guardian of the child is dead and the child has no other guardian.
- the child is neglected by the guardian.
- the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child.
- the guardian of the child is unable to or unwilling to protect the child from physical injury of sexual abuse.
- the child has been emotionally injured by the guardian of the child.
- the guardian of the child is unable or unwilling to protect the child from emotional injury.
- the guardian of the child has subjected the child or is unable or unwilling to protect the child from cruel and unusual treatment or punishment.

The *Drug Endangered Children Act*, Section 1(2) (a-f) also outlines criteria which cause a child to be in need of intervention services as a result of the guardians' involvement in serious drug activity, most notably manufacturing and trafficking.

The *Protection Against Sexually Exploited Children Act*, Section 1(2) defines a child in need of protective services if the child is sexually exploited because the child is engaging in prostitution or attempting to engage in prostitution. Decision to Report

Any staff member of Justice and Solicitor General may receive information regarding allegations of abuse or neglect. The victim, a family member, or other informants such as neighbors or agency staff may make these reports. Reports may arise during the course of an authorized investigation (e.g. pre-trial inquiry, presentence reports, and progress reports) or in the course of supervising a child or youth (e.g. the extrajudicial sanctions program, community sentence, or reintegration leave).

While a Justice and Solicitor General staff member receiving reports of abuse or neglect shall not conduct an investigation and risk contaminating a child intervention or police investigation, it is important to obtain enough information from the reporter. Collect the following details:

- name, age, sex and address of any youth concerned
- full names and addresses of the parents or guardians
- name, address and other identifying information about the alleged offender
- general information of the incident or situation which precipitated the report

If the person providing the information is the alleged victim or is a child or youth, the staff member receiving the information should be sensitive to the child or youth's feelings. It is important to be encouraging and supportive but neutral. When possible, the information should be obtained in an environment which is private and non-threatening. Do not use leading questions.

8.2 Reporting

The youth worker or probation officer will report a child or youth thought to be in need of intervention to a child intervention services caseworker. The youth worker or probation officer will advise their supervisor of the report.

8.3 Investigating of Reports

Child Intervention will examine the report and determine the need to investigate. The caseworker will determine whether the youth has active status under the YCJA. If status exists, consultation will occur with the youth worker or probation officer.

If there are indications the child or youth may be in imminent danger, the investigative/assessment process will begin immediately.

The caseworker will consult with the youth worker or probation officer regarding the need to investigate and, in those cases where the investigation proceeds, the caseworker will inform the probation officer or youth worker of the outcome of the investigation.

The caseworker, in consultation with the probation officer or youth worker, will determine what information of the investigative process to release to the informant and who is to release the information. Section 126(1) of the Enhancement Act allows for this type of disclosure. However, information identifying the referral source cannot be disclosed.

Where a decision is made to investigate, the process will be concluded with one of the following actions by child intervention:

- involvement is terminated and the matter closed;
- further assessment is required;
- a family enhancement agreement or custody agreement is established;
- the child or youth is apprehended;
- an application is filed for a Court Order; or
- a referral to a community service.

The caseworker should not consider the child or youth's status as a young offender when considering the need for intervention.

9. OFFICE OF THE CHILD AND YOUTH ADVOCATE

The Office of the Child and Youth Advocate (OCYA) may be a resource for child or youth with joint status. The OCYA has a specific mandate to represent the rights, interests and viewpoints of youth who receive services under the *Child, Youth and Family Enhancement Act*, the *Protection of Sexually Exploited Children Act*, or the YCJA. The OCYA does not act on behalf of a child or youth unless the young person or another concerned individual requests involvement and the Advocate determines a need to become involved.

9.1 Child or Youth in Need of the Child and Youth Advocate

Referral of a child or youth under any child intervention status or a child or youth between the ages of 12 to 17 receiving a service (as defined in the *Child and Youth Advocate Act*) under the YCJA should occur when a youth or any other person believes the following:

- The child or youth's needs are not being met.
- A child or youth's rights are not being protected.
- A case plan or decision affecting a child or youth has been made without taking the young person's viewpoint or interests into account, or without consideration of all the information relevant to the situation or a child or youth disagrees with the decision.

In the case of serious injury or death while the child or youth is:

- receiving a service under the *Enhancement Act*, other than adoption services under Part 2 of the *Enhancement Act*,
- receiving a service under the *Protection of Sexually Exploited Children Act*, or
- in open or secure custody under the YCJA.

Note: The OCYA cannot assist in appealing or reviewing a decision relating to a designated service under the YCJA which includes custody and community sentences, or conditions of court orders and related program referrals.

9.2 Referral Procedure

The child or youth or other person will contact the OCYA.

9.3 Provision of Services

- The OCYA review referrals to determine the need for advocacy and advise the person making the referral.
- The OCYA will investigate any case opened by communicating with the child or youth and other involved parties.
- The OCYA will maintain a child/youth centered focus representing the rights, interests, and viewpoints of young people receiving services under the *Child, Youth and Family Enhancement Act* and the *Protection of Sexually Exploited Children Act*.

Note: In addition to having access to the Child and Youth Advocate for children or youth with joint status, all youth in custody, regardless of whether they have Child Intervention status or not, will be advised of the role of the Provincial Ombudsman (see glossary of terms) and will be provided opportunity to contact the Ombudsman as required.

10. **CHILD INTERVENTION INVESTIGATION OF YOUNG OFFENDER COMPLAINTS**

Where a young person reports an allegation of abuse perpetrated by a person employed by, contracted by, or providing volunteer services directly for Justice and Solicitor General. Child Intervention and Justice and Solicitor General will work collaboratively to have the investigation proceed.

On the receipt of a report, the caseworker will ensure immediate notification of regional senior managers of Child Intervention and Justice and Solicitor General.

The senior managers will consult and determine whether it is necessary to involve the caseworker in the investigation conducted by the officials of Justice and Solicitor General. If the child is in the care of the Director, the caseworker will remain/become involved.

11. LIAISON FOR ONGOING ISSUES

A structured and formalized communication network involving the Alberta Human Services and Justice and Solicitor General at the regional level is required to resolve areas of mutual concern arising from the implementation of this protocol. The following is a chart outlining the general line of authority. This structure may vary slightly based on the size and structure of various Child and Family Services Authorities (CFSAs) and Delegated First Nation Agencies (DFNAs).

The Authority	Alberta Justice and Solicitor General		
	Young Offender Centre	Young Offender Group Home	Community Corrections
Caseworker	Youth Worker	Youth Worker	Probation Officer
Casework Supervisor	Unit Supervisor	Director, Group Home	Senior Probation Officer
Manager	Deputy Director, Programs	Same as Above	Assistant Chief Probation Officer, Chief Probation Officer, Community Corrections Manager
Senior Manager/DFNA Director	Centre Director	Member Protocol Committee	Member Protocol Committee
CFSA CEO (or designate) DFNA Director	Executive Director, Young Offender Branch (or designate)		

A representative of Alberta Human Services Child Intervention Program Child and Family Services Division and Executive Director and their respective counterparts at Alberta Justice and Solicitor General Young Offender Branch will meet as required to discuss the protocol.

Glossary of Terms

<p>Child</p>	<p>➤ A person under the age of 18 years.</p>
<p>Child Intervention Caseworker</p>	<p>➤ Refers to Alberta Human Services, Child and Family Services Authority (CFSA) or Delegated First Nations Agency (DFNA) staff person appointed and delegated to provide child intervention services under the <i>Child, Youth and Family Enhancement Act</i>.</p>
<p>Child Intervention Status</p>	<p>➤ <u>Agreements:</u></p> <ul style="list-style-type: none"> • Family Enhancement Agreement – an agreement between a parent/guardian or a child of 16 or 17 years of age and the Director of the Child, Youth and Family Enhancement Act in order to provide support services. • Custody Agreement with guardian– an agreement between a parent/guardian and the Director of the Child, Youth and Family Enhancement Act whereby a child comes into the care of the Director. Parents/guardian retain guardianship. Custody agreements allow for temporary placement of the child. • Custody Agreement with youth– an agreement between a youth and the Director of the <i>Child, Youth and Family Enhancement Act</i> whereby a youth comes into the care of the Director. Custody agreements allow for temporary placement of the youth. • Permanent Guardianship Agreement – an agreement between a parent/guardian and the Director of the <i>Child, Youth and Family Enhancement Act</i> for the purpose of relinquishing parental rights. <p>➤ <u>Court Orders</u></p> <ul style="list-style-type: none"> • Apprehension Order – a judge or justice of the peace has authorized the apprehension of a child. • Supervision Order – a Court has ordered mandatory supervision of a child and the person residing with the child and the compliance by that person with the terms of the Order that are necessary to adequately protect the survival/security or development of a child. • Temporary Guardianship Order – a Court has made an Order appointing the Director, <i>Child, Youth and Family Enhancement Act</i>, as a temporary guardian of a child. Temporary guardianship is in effect for a specified period of time, and can be renewed, or if the child can be safely returned to their guardian, be withdrawn or allowed to terminate.

Glossary of Terms

	<ul style="list-style-type: none"> ➤ Permanent Guardianship Order – a Court has made an Order appointing the Director, <i>Child, Youth and Family Enhancement Act</i>, as a guardian of a child. Permanent guardianship is in effect until the child turns 18 years of age
<p>Office of the Child and Youth Advocate</p>	<ul style="list-style-type: none"> ➤ The person appointed by the Lieutenant Governor in Council under s.2(1) of the <i>Child and Youth Advocate Act</i>, or their designate, for purpose of representing the rights, interests, and view points of a child who receives services under the <i>Child, Youth and Family Enhancement Act</i> and youth between 12 and 17 receiving services under the <i>YCJA</i>. The Advocate is an officer of the Legislature.
<p>Custody – Open and Secure</p>	<ul style="list-style-type: none"> ➤ Young persons may be committed to custody under the <i>Youth Criminal Justice Act</i>. A youth custody facility is designated under Section 85(2) and if so designated, includes a place for the secure restraint of young persons, such as a young offender centre, group home and a forest or wilderness camp. ➤ The <i>Youth Criminal Justice Act</i> requires the province to have at least two levels of custody, in Alberta the two levels are called “open” and “secure”. Open custody facilities have a lesser degree of restraint for the young person than secure custody facilities.
<p>Guardian</p>	<ul style="list-style-type: none"> ➤ A person who is appointed under the <i>Family Law Act</i> as a guardian or a person who is a guardian of a child under an agreement or order made under the <i>Child, Youth and Family Enhancement Act</i>.

Glossary of Terms

<p>Ombudsman</p>	<p>➤ The Ombudsman is an officer of the Legislative Assembly of Alberta and reports directly to the Legislative Assembly. The Ombudsman operates independently from any part of the Alberta government and individual elected officials. The authority for the Ombudsman to investigate complaints is found in the Alberta <i>Ombudsman Act</i>. The Alberta Ombudsman investigates written complaints from individuals who feel they have been treated unfairly by an administrative decision, act, omission or recommendation of an Alberta government department, board, agency or commission and some professional organizations. Any youth in custody, regardless of Alberta Children and Youth Services status, are notified of their right to contact the Ombudsman.</p>
<p>Offence</p>	<p>➤ An offence as defined by an Act of Parliament or by any regulation, rule, by-law or ordinance made there under. This includes the <i>Criminal Code</i>, <i>Controlled substances Act</i> as well as provincial legislation.</p>
<p>Parent</p>	<p>➤ Includes in respect to another person, any person who is under the legal duty to provide for that other person, or any person who has, in law or in fact, the custody or control of that other person.</p>
<p>Presentence Report</p>	<p>➤ A report on the personal and family history and present environment of a young person. A Youth Justice Court judge requests this report after a finding of guilt to assist with sentencing.</p>
<p>Support Services</p>	<p>➤ Intervention services provided under an agreement or order that may include counselling and family support services.</p>

Glossary of Terms

Undertaking	➤ A written agreement, whereby a young person is released to a responsible person who will take care and be responsible for the attendance in court of the young person. The young person undertakes to comply with the arrangements and such conditions as the youth justice or justice may specify.
Young Person	➤ A young person who is or, in the absence of evidence to the contrary, appears to be 12 years of age or more, but under 18 years of age.
Youth	➤ The <i>Child, Youth and Family Enhancement Act</i> defines a youth as a child who is 16 years of age or older.
Youth Worker/Probation Officer	➤ A person appointed or designated, whether by title of youth worker or probation officer, to perform the duties or functions of a youth worker under the <i>Youth Criminal Justice Act</i> . A youth worker performs casework duties for youth in an open or secure custody setting; a probation officer performs casework duties in the community and enforces court orders for youth bound by court orders.