



Communities
& Justice



Factsheet: Post-Incident Consultation under the Joint Protocol

What is the Purpose of the Joint Protocol?

The [Joint Protocol to Reduce the Contact of Young People in Residential Out of Home Care with the Criminal Justice System](#) encourages information sharing, collaboration and relationships between the Department of Communities and Justice (DCJ), NSW Police Force (NSWPF) and out-of-home care (OOHC) service providers of residential and Intensive Therapeutic Care (ITC) at the local level to reduce the involvement of children and young people in the criminal justice system and promote their safety, welfare and wellbeing.

The Joint Protocol recognises the over-representation of children in residential care and ITC in the criminal justice system and the impacts of complex trauma and developmental and health conditions on their everyday functioning. The Joint Protocol emphasises the importance of flexibility and proportionality in determining the most appropriate response to a child or young person's behaviour on a case-by-case basis.

Which Legislation Supports Information Sharing?

Chapter 16A of the *Children and Young Persons (Care and Protection Act) NSW 1998* facilitates the sharing of information between prescribed bodies for a specific purpose that relates to the safety, welfare or wellbeing of children and young people. This permits relevant information being shared between parties to the Joint Protocol.

How do Providers and Police Consult after Police attend an Incident?

Annexures A and B of the Joint Protocol require consultation between the residential or ITC service provider and NSW Police following an incident where police were called within a maximum time period of two weeks. The provider and police may agree on a different and shorter time period as appropriate.

Arrangements may vary across local areas, however, it is advised the communication occur between the:

- Residential or ITC Liaison Officer or other equivalent staff
- Crime Coordinator or nominated equivalent.

The purpose is for police and the provider to consider any measures put in place by the provider to manage the child or young person's behaviour and any additional information the provider may share to inform whether the police respond formally to an incident by way of criminal charge or diversion.

For example:

- amendments to the Behaviour Support Plan for the child or young person
- what could be done differently in future if a similar incident were to occur
- supports and protective factors being sought for the young person
- information about the child or young person which was not known to police during the incident.

Where appropriate, Police will use the information provided in exercising their discretion to determine whether to proceed with a criminal charge, diversion or non-criminal justice system response.

If there is a view that the Joint Protocol has not been applied sufficiently, refer to the [Escalation Pathway](#).