

### YOUNG OFFENDER RECORDS

#### Background

1. The Youth Criminal Justice Act provides for the sharing of information between police and designated school personnel when a *provincial director*, *youth worker*, Crown, peace officer, or any other person engaged in providing services to Young Persons, may disclose to any professional or other person engaged in the supervision or care of a Young Person, including a representative of a school, school board, or any other educational or training institution, any information contained in court, police, or government *records* if it is necessary
  - 1.1 To ensure the young person's compliance with an order *by youth justice court* or reintegration leave
  - 1.2 To ensure safety of staff, students, or other persons
  - 1.3 To facilitate rehabilitation of the young person

#### Records

1. The person to whom information is disclosed
  - 1.1 Keep the information separate from any other record of the young person to whom the information relates
  - 1.2 Ensure that no person has access to the information unless authorized by the Youth Criminal Justice Act. The person may disclose the information to another person if this is necessary
  - 1.3 Destroy their copy of the record when the information is no longer required for the purpose for which it was disclosed
2. Divisions were charged with the responsibility of selecting a designated staff member to receive the information and ensure disclosure was limited on a "need to know" basis as breach of confidentiality carries legal and professional consequences.
3. The Superintendent or designate has the authority to communicate with Justice personnel about students who have been dealt with under the Youth Criminal Justice Act in accordance with the provisions outlined in the Young Offender's Information Sharing Protocol.

#### Procedures

1. The Superintendent or designate may receive or provide relevant information regarding a specific student to:
  - 1.1 Protect the safety of students and staff

- 1.2 Assist Justice with the preparation of disposition or other reports
- 1.3 Ensure compliance with court orders
2. Information requested may include:
  - 2.1 Any offences or a prior record of offences that result in concerns about the safety of staff and students in jeopardy
  - 2.2 Recommendations for reducing the risk of violence and increasing the level of safety
  - 2.3 Patterns of behaviour that may signal the onset of activity that could affect safety.
  - 2.4 Individuals or groups of persons who may be at risk from the student
  - 2.5 The identity of other youths who were convicted along with the youth as a result of gang activity
3. The Superintendent or designate will disclose information only on a "need to know basis" to those staff and others who may have to provide for the safety of students and staff.
4. In determining the persons to whom to release information the Superintendent or designate will bear in mind that:
  - 4.1 Inappropriate disclosure could result in a fine or imprisonment
  - 4.2 The right of the young offender to confidentiality must be maintained
5. The Superintendent or designate may advise school personnel who are involved with the students with young offenders status about circumstances which uphold the spirit and mandate of the Young Offenders Protocol such as:
  - 5.1 Impressing upon the student the requirement to attend school in order to comply with a probation order or conditional supervision or bail
  - 5.2 Establishing appropriate monitoring procedures
  - 5.3 Developing an education program to assist the student in areas such as socialization and anger management
  - 5.4 Providing an environment in which the student could participate in an education program while ensuring the safety of other students and staff members
  - 5.5 Training for staff in dealing with violent persons
6. The Superintendent or designate will arrange for management of records about students and any such management procedure will properly address the following:
  - 6.1 Storage
    - 6.1.1 Files may be kept at the school and at the Division Office but must be kept separate from other student records and will be kept in a secure location
  - 6.2 Access will be:
    - 6.2.1 Restricted to those who require access in order to meet the needs of the student

- 6.2.2 Limited to those staff or others within the school system placed on a list affixed to the file
- 6.3 Destruction will occur when the information is no longer required for the purpose for which it was disclosed and youth justice personnel:
  - 6.3.1 Notifies the Superintendent or designate in writing that no further safety risk exists
  - 6.3.2 Advises the Superintendent or designate of the expiry of the court order relating to bail, probation, conditional supervision or temporary absence, which led to creation of the record
- 6.4 Notification will be made to youth justice personnel, in writing, when the school system's record has been destroyed.
- 6.5 Transfer of a Student
  - 6.5.1 Within the Division
    - 6.5.1.1 It is the responsibility of youth justice personnel to advise the Principal of the receiving school of the safety concerns, or the Court Order relative to that student, not the former Principal
    - 6.5.1.2 The Principal of the sending school will destroy the record
  - 6.5.2 Outside the jurisdiction
    - 6.5.2.1 It is the responsibility of youth justice personnel to inform the Superintendent of the receiving jurisdiction of safety concerns or the relevant Court Order
    - 6.5.2.2 The Superintendent or designate of the sending jurisdiction will arrange for destruction of that jurisdiction's record
- 7. The Superintendent or designate, upon request from youth justice personnel to provide information for a report ordered by a youth court judge, will arrange for the release of information from the student record after first receiving the following information from youth justice personnel:
  - 7.1 Name
  - 7.2 Age
  - 7.3 The nature of the report to be provided and the section of the Youth Criminal Justice Act under which such a report is authorized
  - 7.4 Timelines with respect to providing information
  - 7.5 Specific description of the Information required such as:
    - 7.5.1 Attendance of the student
    - 7.5.2 Program or courses in which the student is enrolled
    - 7.5.3 Performance of the student
    - 7.5.4 Nature of incidents resulting in any disciplinary action and type of discipline imposed

- 7.5.5 Number of years for which the information is required (for the current school year or the student's entire career in the school)
- 7.6 Before any information is released, the Superintendent or designate must obtain the written consent of the parent. If the student is sixteen (16) years of age or older, student or parental written consent must be obtained.
- 8. The Superintendent or designate is authorized to request from youth justice personnel additional information such as:
  - 8.1 Disclosure of pertinent psychological assessments
  - 8.2 Additional information that will assist school personnel in providing an education program for the student and creating an appropriate environment for that program
- 9. The Superintendent or designate is the delegated authority to act on behalf of the Division with youth justice supervisory personnel whenever a resolution cannot be reached between a school employee and youth court justice personnel.

Reference: Section 3, 6, 8, 9, 10, 12, 13, 14, 15, 18, 20, 23, 29, 44, 45, 47, 60, 61, 113 School Act  
Student Records Regulation 225/2006  
Youth Justice Act  
Section 125, Youth Criminal Justice Act  
Youth Offender Information Sharing Protocol, December 1996  
The Need to Know, A Guide for Timely and Ongoing Information Sharing Between School Officials and Justice System Personnel (The Canadian School Boards Association, 2003)