



ROYAL PAPUA NEW GUINEA  
CONSTABULARY

**DIVERSION & ALTERNATIVES  
TO DETENTION**

February 2006

## Option 1: Warning

### Name not recorded



- Purpose**
- This type of *warning* is issued for trivial and minor offences and where there is no 'obvious' victim.
- Procedures**
- The warning is given on the spot;
  - The young person is not taken to the police station.
  - The young person is advised/counselled to change his/her behaviour.
- Records**
- The name of the young person is not recorded in the Police Officer's Note Book.
  - The issuing of the warning is recorded in the Occurrence Book.
  - In the Occurrence Book, write the date, and time the warning was issued, and the reason why the warning was issued. The young person's name is not recorded in the Occurrence Book.

#### **Practice Tip 1**

*Young people do not respond positively to threats and intimidation by Police. Let the young person know that you are giving them a second chance. Use the opportunity to try and build a more positive relationship with young person.*

#### **Guideline 1**

A warning will only be issued when a young person has broken the law or is about to break the law. A warning will not be issued as a means of resolving anti-social behaviour or other behaviour that may be 'irritating' rather than criminal.

## Option 2: Warning

### Name recorded in Note Book



- Purpose**
- This type of warning is issued for trivial and minor offences, where there is a victim.
- Procedures**
- The warning is given on the spot.
  - If appropriate, ask the young person to apologise to the victim for his/her behaviour.
  - The young person is not brought to the police station.
  - The young person is advised/counselled to change his/her behaviour.
  - The young person is warned that if he/she persists in breaking the law, he/she may be charged next time.
- Records**
- The name of the young person and his or her address is recorded in the Police Officer's Note Book.
  - The issuing of the warning is recorded in the Occurrence Book.

- In the Occurrence Book, write the date, and time the warning was issued, the reason why the warning was issued, and the young person's name and address.

#### **Practice Tip 2**

*In Melanesian culture, the purpose of an apology is to allow for forgiveness and reconciliation. An apology will have no meaning if it is forced and given under threat of intimidation. For an apology to have meaning for the young person and the victim, the young person must acknowledge that his or her behaviour was wrong.*

#### **Guideline 2**

The Shift OIC will ensure that all warnings are recorded in the Juvenile Occurrence Book.

#### **Guideline 3**

Warnings will be issued for trivial and minor offences, where violence is not involved.

## Option 3: Counselling

Young person is brought to police station or taken home to their parents



- Purpose**
- Counselling is provided for less serious offences, where there may or may not be a victim. The young person has clearly broken the law and the Arresting Officer is fully within his or her rights to formally arrest and charge the young person. By providing Counselling rather than arrest you are giving the young person 'a second chance.'
- Procedure**
- The young person is not arrested.
  - The young person is advised that his or her behaviour is sufficiently serious to warrant arrest.
  - The young person is advised that he or she has the choice of coming with the Arresting Officer voluntarily or being arrested. The young person is taken to the police station or taken home to his or her parents.
  - The young person's parents should be informed of the young person's behaviour and the consequences if the young person does not address his or her behaviour.
  - If there is a victim, the young person should apologise to the victim for their behaviour.
- Records**
- The name of the young person and his or her address is recorded in the police officer's Note Book.
  - The young person is advised/counselled to change his behaviour.
  - The provision of counselling is recorded in the Juvenile Occurrence Book.
  - In the Juvenile Occurrence Book, write the date, and time of the counselling, the reasons for the counselling, and the young person's name and address.

### Practice Tip 3

*Counselling by Police should always be positive and never negative. The purpose of Counselling is to allow for the young person to acknowledge and 'own' the fact that he or she has done something illegal. Counselling that involves threats, intimidation, or illegal detention in a Police cell, is counter-productive and in a breach of these Principles & Guidelines.*

*Use the opportunity to get the young person to talk with you about why he or she has broken the law and the factors that led him or her to act in this way.*

## Option 4: Mediation



**Purpose** • Mediation is used when the victim, or young person's parents want the police to deal with the matter seriously. Mediation is provided for less serious offences, where there may or may not be a victim. The young person has clearly broken the law and the Arresting Officer is fully within their rights to formally arrest and charge the young person.

**Procedures** • Victim agrees to deal with the matter through mediation.

• The young person is not arrested.

- The young person is advised that his or her behaviour is sufficiently grave to warrant arrest.
- The young person is advised that mediation will be tried rather than formal arrest.
- The young person is advised that he or she has the choice of coming with the Arresting Officer voluntarily or being arrested.
- The young person is taken to the police station.
- The young person's parents are brought to the police station.
- The victim is invited to participate in the mediation.

**The Mediation** • The mediation is conducted by the JCO and the Duty Member.

- Before the mediation can proceed, the young person must admit guilt and be willing to apologise to the victim.
- Mediation can still proceed if there is no victim or if the victim is not willing to participate in the mediation.
- The mediation will follow the principles of restorative justice.

**Records** • The mediation will be recorded in the Mediation Action Plan.

- The mediation is recorded in the Occurrence Book.

In the Occurrence Book, write the date, and time of the mediation, the reason why the mediation was held, the young person's name and address, and the action agreed.

### Practice Tip 4

*A good mediation achieves its goal by delivering restorative justice. Restorative justice holds the offender directly accountable to the individual victim and the particular community affected by the offence.*

*Mediation requires the offender to take responsibility to make things whole again to the degree that it is possible. It provides the victim purposeful access to the justice system and correctional processes.*

*Mediation allows the victims to assist in shaping offender obligations, and encourages the community to become directly involved in supporting victims, holding offenders accountable, and providing opportunities for offenders to reintegrate into the community.*

### Guideline 6

Physical force will not be used on a young person, except when the danger of risk of harm or escape is unacceptably high. Such force can only be used to prevent escape, to protect the young person from his or her own actions or from the actions of others, or to protect others from the actions of the young person.

## Option 5: Community work



Community work can only be used as part of mediation. Often parents and communities want a young person 'punished'. Detaining a young person in a cell was one way of meeting these demands in the past.

- Purpose**
- Provide a practical alternative to detaining a young person in a cell.
  - Provide the young person with an opportunity to make amends for his or her actions. Community work is particularly useful when a young person or his/her family cannot meet the costs of damages incurred by the young person.

- Process**
- During the mediation, explore options for community work.
  - The maximum of 20 hours is allowed for community work.
  - Community work is to be supervised by a parent or community agency or community leader.

- Records**
- Record the type of community work included in the Mediation Action Plan.

### Guideline 7

Community Policing Officers will identify a number of community organizations and Community Leaders within the community to volunteer as Community Work Supervisors.

### Guideline 8

These volunteers will be accredited by the Police Station Commander. The Police Station Commander will present the volunteers with certificates acknowledging their role in the community.

## Option 6: Arrest, charge and bail

### Conditional release by police



- Process**
- The young person is formally arrested and charged.
  - The arrest procedures strictly follow these *Principles & Guidelines*.
  - The young person is only remanded in exceptional circumstances.

## Option 7: Arrest, charge and bail

### Conditional release by juvenile court



#### *Program description*

- The Juvenile Court will, wherever possible, release a young person into the care of his or her families or other responsible adult to await trial. The Juvenile Court says it will not use remand for young people other than in exceptional circumstances.
- Under 14s should never be detained in a police cell or other institution, except for the most serious of crimes.
- young people should, wherever possible, be released into the care of their families or other responsible

adults to await trial in their own communities. 'Conditional Release' should be accompanied by measures to support and supervise the child and support the family.

#### **Guideline 9**

Pre-trial detention will not be used for young people other than in exceptional circumstances. The Police Juvenile Prosecutors (PJPs) will support the release of a young person.

## Option 8: Juvenile court restorative justice program



The Magisterial Service has established a *Juvenile Court Restorative Justice Program*. The purpose of the Program is to divert, where appropriate, young offenders away from the formal justice system and back to their communities for mediation.

#### *Program description*

- Mediations will be performed by Community Panels. The Panels will include the Mediator(s), the young person who has committed the offence, members of his or her family, the victim, a support person for the victim, community leaders and representatives from police and welfare.

The goal of the mediation is to write a plan about how best to deal with the offending. Its purpose is to restore the young offender back to their community and to make things as right as possible for the victim.

#### **Guideline 10**

Police Juvenile Prosecutors (PJPs) will support the Juvenile Court Mediation Program.

#### **Guideline 11**

Where a young person is referred to the Mediation Program, the Arresting Officer will participate in the Mediation Panel. The Arresting Officer will follow the directions of the Juvenile Court Magistrate.

The role of the Arresting Officer in mediation is to read the charges against the young person. The Arresting Officer will not wear his/her uniform or cross-examine the young person during mediation.

## Guideline 12

The participation of Police Officers on Mediation Panels will be supported by the PSC.

## Guideline 13

Where it is not possible for the arresting officer to participate in the mediation, the Shift OIC may choose to send another officer to the mediation. The Shift OIC will support the mediation program in practical ways where time and resources allow.

Examples of this support could include:-

- The provision of transport to and from the mediation, for some or all of the Mediation Panel, including the young person and his or her family.
- Assisting the Mediator to contact the young person and his or her family, in the lead up to the mediation.
- Allowing the Mediator to use the Police Station phone to make phone calls directly related to the mediation.
- Assisting with locating a suitable venue to hold the mediation.

### **Practice Tip 5**

*Juvenile crime is often most evident in particular 'hot spots'. It makes good policing sense to involve respected leaders from these 'hot spots' in the Juvenile Restorative Justice Program, either as mediators or as community leaders.*

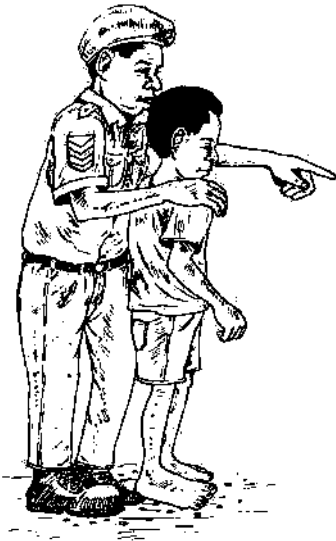
*Police Station Commanders (PSCs) should have their Community Police Officers identify potential Mediators and ask them to volunteer for the Program. The JCOs are also to do the same.*

*Community leaders can become Mediators by visiting the Juvenile Court in town and seeing the Clerk of the Court or the JCO (i.e. those in Port Moresby, and similar steps to take by those in other centres as well).*



## 4 GOLDEN RULES FOR POLICE

### DIVERT YOUNG PEOPLE RATHER THAN ARREST



In keeping with *The Law and Justice Sector Policy and Plan of Action (2000)*, a young offender of trivial, minor and less serious offences will be diverted away from the formal justice sector, applying the principles of restorative justice.

### DO NOT USE FORCE



Physical force will not be used on a young person, except when the danger of risk of harm or escape is unacceptably high. Such force can only be used:-

- to prevent escape, where there is strong evidence that the young person may try to escape;
- to protect the young person from his or her own actions or from the actions of others; or
- to protect others from the actions of the young person.

### DO NOT DETAIN



A young person will not be detained in a police cell - at any station, other than the designated cell, except when the danger of risk of harm or escape is unacceptably high.

A young person may only be detained in a police cell:-

- to prevent escape, where there is strong evidence that the young person may try to escape;
- to protect the young person from his or her own actions or from the actions of others; or
- to protect others from the actions of the young person.

### REMAND IS A LAST RESORT



Remand pending trial will be used only as a measure of last resort and for the shortest possible period of time.

Under 14s will never be detained in a police cell or other institution, except for the most serious of crimes. A young person will, where possible, be released into the care of their families or other responsible adults (such as Juvenile Court Officers) to await trial in their own communities.