



## **POLICY GUIDELINES FOR AFTER-HOURS SERVICES AT ASSESSMENT CENTRES FOR CHILDREN IN CONFLICT WITH THE LAW**

### **1. LEGAL FRAMEWORK**

2. Child Justice Act, 2008 (Act 75 of 2008) Chapter 5 sections 34 to 40
3. Probation Services Act, 1991 (Act 116 of 1991) section 1 and section 4B
4. Criminal Procedure Act, 1977 (Act 51 of 1977) section 50(1)(c)
5. The Constitution, 1996 (Act 108 of 1996) section 28 and section 35
6. Interim National Protocol for the management of children awaiting trial
7. Public Services Act, 1994 (as amended)
8. Public Services Regulations
9. PSCBC Resolutions 1 of 1999 and 2007
10. Financial Manual

❖ **Definition of Assessment:**

Assessment: “Means the process of developmental assessment or evaluation of a person, the family circumstances of the person, the nature and circumstances surrounding the alleged commission of an offence, its impact on the victim, the attitude of the alleged offender in relation to the offence and any other relevant factor” (in terms of section 1 of Act 116 of 1991).

❖ **Legal proceedings:**

- “Every child who is alleged to have committed an offence must be assessed by a probation officer ... “in terms of section 34 of the Child Justice Act, 75 (Act 75 of 2008).
- Every child must be assessed before the preliminary inquiry starts (in terms of section 43 (2) of the Child Justice Act, 2008 (Act 75 of 2008).
- “Any arrested child who has not been released shall be assessed by a probation officer as soon as reasonably possible, but before his or her first appearance in court...” (as stated in section 4B Act 116 of 1991).
- The Constitution, 1996 (Act 108 of 1996) in terms of section 28 (i) (g) that states: “Children (should) not to be detained except as a measure of last resort, in which case, in addition to the rights of a child enjoys under section 12 and section 35, the child may be detained only for the shortest appropriate period of time and has the rights to ...”. In terms of section 28 (2). It’s stated: “A child’s best interests are of paramount importance in every matter concerning the child”.
- Section 37 states that an assessment of a child may take place at any suitable venue identified by the probation officer that may include a room at a police

station, a magistrate's court, an office of the Department of Social Development or a One Stop Justice Centre. This identified place must be conducive to privacy (in terms of section 37 (1)).

- The probation officer must make every effort to locate a parent or an appropriate adult or guardian to conclude the assessment of the child. They may request a police official to assist in the location of these people (as mentioned in section 38 (6) (a)). If the probation officer has requested the SA Police Services to assist then all reasonable steps must be taken including phoning, visiting the last known address of parent(s) within a reasonable distance (Regulation 18). The probation officer may conclude the assessment of a child in the absence of a parent or appropriate adult or guardian if all reasonable efforts to locate them have failed or has been notified but failed to attend (according to section 38 (6) (b)).

## **2. BACKGROUND**

- The Department of Social Development had started the assessment of arrested children as well as after-hours duties of probation officers during 1994 in Wynberg and Cape Town magistrate's courts. The other district offices followed suit.
- The after-hours assessments were done after the promulgation of section 29 of the Correctional Services Act, 1959 (Act 8 of 1959) as amended that states arrested children should be assessed within 24 hours and 48 hours. Section 29 was later taken up in the Criminal Procedure Act, 1977 (Act 51 of 1977) as amended.
- Policy guidelines were only drawn up later by the Department of Social Development to stream line service delivery.

**Policy guidelines are needed as assessment of arrested child is a statutory function to be conducted by a probation officer or social worker. The after-hour assessment of children has financial implications for the Department of Social Development and therefore risk factors come into play. Thus these policy guidelines are to ensure that most of these risk factors are covered and to prevent fraud with the execution of the overtime claims submit by officials of the Department.**

### **3. PURPOSE OF THESE POLICY GUIDELINES**

- These guidelines are for governing operations of after-hours assessment centres for children in conflict with the law conducted by probation officers in order to have uniformity in service delivery.
- It will ensure that overtime claims by officials conducting the service and payment by the Department of Social Development is in line with the PFMA, treasury regulations, Public Services Act of 1994 and Public Services Regulations together with Public Service Central Bargaining Council (PSCBC) Resolutions of 1999 and 2007 as well as any other policies.
- It will ensure that after-hours service and payment therefore is risk free or that any risk factors that might occur during delivery are limited.
- These policy guidelines are in line with the relevant acts, regulations, protocols and previous policies.

#### 4. AIMS AND OBJECTIVES

- a. To provide for service that is available after normal working hours (after 16:00 or before 07:30 in the morning) as well as over weekends and on public holidays.
- b. This service must be rendered at all times in the best interest of the child (The Constitution, 1996 (Act 108 of 1996) section 28 and section 35 and be in line with the Department of Social Development's strategies and objectives.
- c. After-hour assessment service should be cost-effective, efficient and based on sound financial principles in terms of the PFMA.
- d. This after-hours assessment should be at a venue accessible to the child, parents and other role-players such as magistrates, prosecutors and police, social worker of NGO's. The venue should be safe with all the necessary aids, equipment and appliances to render an adequate service.
- e. No alterations to these guidelines should be made by any office, official or person that might have financial implications for the Department of Social Development, without the approval of the Head of the Department (HOD) or Chief Financial Officer (CFO) or Chief Director who oversees service delivery in the regions. This approval must only be granted with the signature of aforementioned official or delegated official.
- f. Family finding may be conducted by an assistant probation officer in exceptional cases especially for after-hour assessment by probation officers. This duty is the responsibility of SA Police Services, as far as reasonable possible, to locate the parents or appropriate adult or guardian (Regulation 18 of CJA). This coincide with

the transportation of the child together with adult (Regulation 15 of the CJA) by completing the necessary documentation in this regard.

## **5. TIME WHEN THE SERVICE SHOULD BE RENDERED**

- a. An assessment centre (mostly at a police station) will start at 16:00 (four o'clock) after normal working hours until 19:00 (seven o'clock) during weekdays – Mondays till Fridays. Only in cases where alternative arrangements have been made with other role-players and Head Office of the Department of Social Development, Cape Town it could start at 16:00 (four o'clock) until 20:00 (eight o'clock).
- b. Four (4) hours should be the maximum time spent at an assessment centre however this will depend on the number of children and assessments to be done.
- c. After-hours and standby services at assessment centres will also be available over week-ends (Saturdays and Sundays) as well as holidays as arranged with the other role-players. Officials need not to spend more than two (2) hours at the centre depending on the number of children arrested that are in police custody.
- d. Prior permission must be obtained from Head Office to change any of these times to ensure a unified system of operation in terms of the after-hours assessment centres.
- e. The times of the after-hour assessment centres must coincide with those times of the night courts as set out by the Department of Justice for their officials and SA Police Services (SAPS).

## 6. PROCEDURES, PERSONNEL AND MANAGEMENT

- a. An assessment officer is any social worker or probation officer in the employment at the different service delivery areas (offices) or at facilities of the Department of Social Development.
  
- b. Probation officers need not physically be on duty if there are no arrested children in police cells to be assessed. Therefore officials should first call the different police stations before 16:00 (four o'clock) to ascertain if there are any children to be assessed.

### ❖ Duties of the assessment officer:

- i. Liaise with the police (by making a telephone call) regarding children detained
  - ii. Verify the number of children in detention to be assessed
  - iii. Locate the parent(s) or guardian to attend the assessment with SAPS assistance
  - iv. Communicate with the prosecutor and magistrate regarding the assessment and the assessment report
  - v. Establish the child's age, in terms of section 35 (b) of Act 75 of 2008 and where possible the criminal capacity of the child in terms of section 11 of the same act.
  - vi. Make an informed recommendation to the magistrate in terms of the placement of the child regarding section 35 (d) of the Child Justice Act.
  - vii. Ensure the correct persons are attending the assessment process as mentioned in section 38 of the Child Justice Act.

viii. Submitting the assessment report to the prosecutor / magistrate in terms of section 40 of the Child Justice Act.

❖ **Coordinator:** Preferably a supervisor at the service delivery area (SDA) or a senior member of the staff at the regional office should be appointed as the coordinator. This person or official must ensure the smooth daily running and a holistic service at the assessment centre.

➤ The coordinator must compile a duty roster with names of officials and coordinator, telephone numbers, dates on duty and alternative contact numbers of persons to call when needed.

➤ The roster must be made available to South African Police Services (SAPS) and Department of Justice or any other role-player involved in this process as requested.

❖ **Duty roster:**

The duty roster must cover at least a two (2) months period and be available at all times at the assessment centre to SAPS, the prosecutor a magistrate.

➤ No official overtime payment should exceed 30% of his or her normal monthly salary.

➤ The coordinator must liaise with other role-player regarding an effective operation of the after-hour assessment centre. He or she should also attend (monitoring or case flow) meetings between the different departments and role-players involved in the process on local level and when required on Provincial level.

➤ The coordinator is directly and indirectly responsible for the monitoring of the after-hours assessment centre - his or her name and contact details should



also be on the duty roster to be called when needed.

- Nobody should be booked on the duty roster at different centres on the same day (date) and time – as nobody should claim for service delivery at more than one assessment centre at a time.
- No assessment officer should be on duty for more than five (5) consecutive days at a time.
- Officials on salary level 9 and above will be remunerated in terms of the maximum overtime limit the filed resolutions in this regard.

**The Regional Director should approve the overall cost of the after-hour assessment centre and budget for it on an annual basis.**

The claims for the after-hour services should be compiled and signed by the coordinator. The duty roster must be attached to the after-hour assessment's claim.

- ❖ **Monitoring:** The coordinator should conduct monitoring visits to assessment centre ensuring that service delivery is in line with policies and prescribes of the Department of Social Development, Western Cape Province.
- ❖ **Training:** The coordinator has to ensure that newly appointed assessment officers receive the necessary training and inform Head Office accordingly.

- ❖ **Supervision and support:** Coordinators should ensure that efficient supervision and support is given to in-experienced assessment officers. This will ensure that the relevant documentation, acts and policies are brought to the attention of new comers (newly appointed social workers) to the service. This will ensure that the standard of service delivery is on a high standard.
  
- ❖ **Report and statistics:** **Coordinators** must ensure that the necessary registers, reports, statistics and none financial data (NFD) are kept and submitted reports to Head Office timeously.
  
- Information should be available at all times whenever requested by Head Office.
  
- Coordinators should inform Regional Director, Chief Directorate, or Risk Management of any irregularities in the service and claims submitted.

## **7. BUDGET, APPROVAL AND PAYMENTS:**

- a. Multi-year projections for the services to be rendered need to be budgeted for.
  
- b. Treasury gives the final approval regarding the hourly rate of payment for after-hours services and standby allowance and this is not be done by officials at Head Office or Department of the Premier (D o t P).
  
- c. Regional Directors must submit annual overtime submissions to

Head Office, Chief Financial Officer (CFO) before 1 March each year, to approve the commitment of funding for the specific financial year in question.

- d. Coordinators must compile verified claims before submitting it for payment by ensuring the correctness of claims, the different authority numbers and relevant signatures are on the forms, in line with prescribes guiding overtime remuneration and standby allowances.
- e. The average time per assessment, under normal circumstance, should be a half an hour to three quarters of an hour (1/2 to ¾ hour) per child. If this time is exceeded to at least one hour (1 hour) a short motivation should be given. This is to have a unified standard for an assessment and to limit expenditure.

**8. THIS POLICY IS APPLICABLE ON ALL OFFICIALS IN THE DEPARTMENT OF SOCIAL DEVELOPMENT OF THE WESTERN CAPE PROVINCIAL GOVERNMENT INVOLVED IN THE ASSESSMENT OF ARRESTED CHILDREN AT ASSESSMENT CENTRES AND THOSE DEALING WITH THE CLAIMS OF OFFICIALS RENDERING THIS SERVICE.**

**9. THIS POLICY COMES INTO EFFECT ON:**

DATE: 2nd APRIL 2014

**10. THIS POLICY SHOULD BE REVIEWED ON:**

DATE: 2nd APRIL 2019



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**SIGNED BY THE ACTING HEAD OF DEPARTMENT**

**DEPARTMENT OF SOCIAL DEVELOPMENT**

**14 QUEEN VICTORIA STREET**

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DATE: 2nd APRIL 2014