

Standing Orders

Children
5.4

informant's station for recording and filing in accordance with the Manual, paragraph 3.15.

Fifth copy of Form No. 276 (Community Policing Squad copy)—to the community policing squad in whose area the child resides.

CARE APPLICATIONS

5.4 (1) Section 31 of the *Community Welfare Services Act 1970*, sets out the circumstances in which a child may be deemed to be in need of care or protection. Where Police find a child or young person in any of the circumstances described in the Section, they may apprehend without warrant with the authority of an Officer and make a "Care Application" to a Children's Court. (See Standing Orders 5.3 (2) (d) (i) and 5.4 (8)).

(2) Any child found without means of support shall be dealt with under Section 31 of the *Community Welfare Services Act 1970*.

(3) For instructions regarding the fingerprinting of children who are the subject of a Care Application, see Standing Order 11.1 (5).

(4) When preparing the Care Application, the circumstances under which the child was found should be described briefly in terms consistent with the wording of the appropriate paragraph of Section 31 of the Act. An endorsement should be made on the Application indicating whether or not the parents have been notified.

(5) The "Order for Safe Custody" must be signed by a Justice of the Peace, and handed over with the child at the appropriate reception centre or remand centre. Reception and remand centres have been established in the metropolitan area as follows:

"ALLAMBIE", 70 Elgar Road, Burwood, Boys aged 0–10 years (generally), Girls aged 0–13 years.

"BALTARA", 930 Park Street, Parkville. Boys aged 10–13 years.

"TURANA", 900 Park Street, Parkville. Boys aged 14–17 years.

"WINLATON/WINBIRRA", 186 Springvale Road, Nunawading. Girls aged 14–17 years.

If the child or young person is not placed at a reception or remand centre but is placed with some suitable person or as otherwise provided in section 22 of the *Children's Court Act 1973*, the Order for Safe Custody should be retained by the officer in charge of the local police station.

(6) The Care Application should be forwarded to the Clerk of the Children's Court in time for hearing by the first available Children's Court. The brief of evidence shall be sent to the Prosecutor or Children's Court Assistant prior to the date of hearing.

(7) Section 32 of the *Community Welfare Services Act 1970* provides for the issue of a warrant to enter (by force if need be) any house,
(Reprinted to incorporate Amendment No. 13.)

**Children
5.5**

Standing Orders

building or other place where it is believed on reasonable grounds that there is any child who is in need of care or protection, for the purpose of apprehending such child. Such a warrant must be executed by a member of the Force of or above the rank of Sergeant.

(8) In lieu of apprehending a child, a Notice (Form No. 737), in writing, setting out the grounds of the intended Care Application may be served on the parent or guardian or any other person having the care and custody of the child and also upon the child if he is of or above the age of fifteen years, commanding him to appear and his parent or guardian or such other person to produce him before the Children's Court at the time and place specified for the hearing of the Care Application.

(9) The Notice (Form No. 737) shall be prepared in duplicate (except in the case of a child of or above the age of fifteen years when it shall be in triplicate) and may be served either by pre-paid post so as to reach the address of the child five days before the date of the hearing or in any manner in which service of a summons may be effected under the *Magistrates (Summary Proceedings) Act 1975*. After the affidavit on the original Notice has been sworn, the Notice, together with a Care Application, shall be forwarded to the Clerk of the Children's Court prior to the date of hearing. The instructions contained in sub-paragraph (6) of this Standing Order in relation to briefs must be complied with.

(10) If after such service the child does not appear before the Children's Court for the hearing of the Application at the time and place mentioned therein, the Court may issue a warrant for his apprehension, and upon execution of the warrant, the child may be dealt with as hereinbefore provided.

ILL-TREATMENT OF CHILDREN

5.5 (1) Where a child is not provided with adequate and proper food, nursing, clothing, medical aid or lodging, or is ill-treated or exposed by any person having the care and custody of the child, proceedings may be taken under Section 81 of the *Community Welfare Services Act 1970*, which sets out the offence with which such a person may be charged. Proceedings shall not be taken without prior consultation by the informant with the Director-General or his lawful delegate. After hours consultation may be arranged through the D.24 Communications Controller.

(2) A Justice may issue a warrant to enter, by force if necessary, any place named in the warrant to search for and take any child found under these circumstances.

(3) The Justice, at the same time or later, may issue another warrant for the arrest of any person found to be neglecting, ill-treating or exposing any such child.

Standing Orders**Children
5.6**

(4) The wife or husband of a person so charged is both competent and compellable as a witness for the prosecution (see Section 400 of the *Crimes Act 1958*).

(5) Any warrant issued under Section 81 of the *Community Welfare Services Act 1970* must be addressed to and executed by a member of the Force of or above the rank of Sergeant.

(6) (a) Section 82 of the *Community Welfare Services Act 1970* creates the offence of leaving a child for an unreasonable time without making reasonable provision for its supervision and care.

(b) No prosecution can be brought under this section without the consent of the Minister for Community Services.

(7) The Community Policing Squad Co-ordinator, Operations Department, is to ensure that records are maintained of all complaints received and investigated by police throughout the State in cases of child maltreatment. Maltreatment is defined as a situation where a child's care givers endanger the child's physical and emotional health or development. This may come about through physical injury, sexual exploitation, emotional abuse or a failure to effectively nurture and protect the child from harm.

(8) Upon completion of every such investigation, the officer in charge of the police station at which the complaint was received or referred for enquiry shall ensure that the member who investigated the complaint forwards a report on Form No. 282 (Child Maltreatment Report) to the Community Policing Squad Co-ordinator, Operations Department, setting out the origin of the complaint, nature of complaint, date received, action taken (and by whom), and the results of investigations made, including any charges or applications made or proposed.

PROCEEDINGS AND DETENTION

5.6 (1) (a) When a child is arrested, the arresting member shall comply with the provisions of Section 21 of the *Children's Court Act 1973*, that is, he shall—

- (i) bring such child before the appropriate Children's Court within 24 hours, where practicable; or
- (ii) in cases where this is not practicable, take such child before a Justice or Magistrate (even on a Sunday if necessary); and have the case adjourned to the next sitting of the Children's Court.

(b) Every case involving a child who is apprehended or summoned should be brought before a Court as speedily as possible to be finally determined. Undue delay in such cases makes it more difficult for the child or young person to relate the seriousness of the offence charged with any fine, probation or other punishment the Court may impose.

(Reprinted to incorporate Amendment No. 7.)

Children
5.6

Standing Orders

(2) Whilst Police are responsible for the safe custody of every person apprehended, it is not desirable that children apprehended should be kept in a Watch-house when other satisfactory accommodation can be arranged. Pending hearing of the charge or Care Application, Police must make every effort to deal promptly with children by having them bailed or sent to "Baltara", "Turana", "Allambie", "Winbirra", or other appropriate Reception or Remand Centres, or placed with some suitable person or otherwise dealt with as provided in Section 22 of the *Children's Court Act 1973*. Any necessary expenditure for the temporary upkeep of such children or young persons will be met from Police funds.

(3) When proceedings are being taken against children for offences such as theft, &c., and it is not practicable to proceed by summons, an "Order for the Safe Custody of a Defendant Child During an Adjournment of the Hearing of the Charge" (Form No. 720) should be used for the detention of the child at the appropriate Reception or Remand Centre pending the hearing of the charge.

Procedure as to reception or remand centres and bail

(4) Where a child is apprehended and placed at any Reception or Remand Centre on an Order for Safe Custody, an application must be made to the remanding Justice to fix or refuse bail and enter his decision upon the order. Reception and Remand Centres are open for the purposes of bail from 8 a.m. to 8 p.m.

(5) Where a child is placed at any Remand or Reception Centre on an Order for Safe Custody, the escorting member must hand such Order to the Admitting Officer together with a report setting out the undermentioned particulars in respect of the child:

- (a) Full names and correct address of both the father and mother;
- (b) Date of birth of the child;
- (c) Religion;
- (d) Amount of bail fixed; and
- (e) Whether or not the parents have been notified.

It is essential that this report accompany the child as it is required by the Department of Community Services in case of illness and for the purpose of claiming Child Endowment.

(6) Railway requisitions or ticket orders issued in connection with new admissions to the Department of Community Services being escorted to Reception, Remand or Youth Training Centres, or with wards of the Department apprehended after absconding, should be plainly marked in red "Ward of the Department of Community Services" and should show the name of the child and whether he is a new admission or an absconder.

Standing Orders**Children
5.7-5.9***Restriction on placing in gaol or watch-house*

(7) Where a child has been brought before a Justice, Magistrate or Children's Court, and the hearing has been adjourned and an order made placing the child in the custody of some person or persons or in a place of detention or whilst in custody during or pending trial, such child shall not be placed in a gaol or Watch-house unless he has escaped from the custody of such person or persons, or custody and has been apprehended as an "absconder", when he may be held in a gaol or Watch-house until the charge or application has been dealt with in the Children's or other Court by which he is being or is to be tried. (See Section 22 of the *Children's Court Act 1973*).

5.7 Members of the Force, on receiving Notice of Appeal against an order or conviction made by a Children's Court, shall follow the procedure as is laid down in the Manual, paragraph 3.59, and the following paragraphs under the heading "Appeals".

5.8. (1) Police shall endeavour to trace absconding State wards. Where an absconder is found well and respectably employed, or accommodated, the Director-General should be asked for instructions before apprehension.

(2) In all cases where police receive notification of the escape or unlawful withdrawal of any ward of the Department of Community Services, the Missing Persons Bureau must be immediately informed in accordance with the instructions contained in Standing Order 9.111, and crime reports circulated. In addition to normal circulation, one copy shall be forwarded to the Department of Community Services, and one copy to the Officer in Charge, Community Policing Squad or officer in charge, women police, in the appropriate District.

(3) Particulars of any complaint made to Police by absconders should not be communicated to the public communications media, but should be communicated to the Director-General of Community Services.

Escapes from remand or youth training centres, &c.

5.9 (1) Any person who is lawfully detained in any remand or Youth Training Centre and who escapes or attempts to escape therefrom or from the custody of any member of the Force or other officer in whose custody he may be, may be arrested and placed in a gaol or Watch-house until he is removed to a Remand or Youth Training Centre. (See Section 98, *Community Welfare Services Act 1970*).

(2) Under the provisions of Section 200 of the *Community Welfare Services Act 1970*, the Director-General, or, if authorised by the Director-General, the Officer in Charge of a place of custody, is empowered to grant temporary leave (by a written permit, which must be carried at all times) to any person in his legal custody. Failure to return to the place of custody or to obey any conditions or restrictions included in the permit shall be deemed an escape from legal custody.

**Children
5.10**

Standing Orders

(3) Where any child or young person lawfully detained in a remand centre or youth training centre escapes from such remand or youth training centre, or from the custody of a member of the Force or other officer in whose custody they may be, the charge may be laid under Section 98 of the Community Welfare Services Act. This procedure also applies to any child or young person who fails to comply with any conditions of temporary leave granted under Section 200 of the Community Welfare Services Act. Prior to returning the child or young person to a remand or youth training centre, the relevant institution is to be advised by telephone.

(4) Where such child or young person is a ward of the state, proceedings shall not be commenced without prior consultation with the Department of Community Services (Victoria). For this purpose the relevant institution from which the ward of the state escaped shall be contacted by telephone, for instructions and advice as to initiating proceedings, prior to return to the care of the Department of Community Services (Victoria). (See Standing Orders Chapter 9, under the heading, "Escape".)

(5) The provisions of Section 98 of the *Community Welfare Services Act* 1970, apply only to escapees from Institutions or parts thereof which have been proclaimed as Remand or Youth Training Centres.

(6) The following have been proclaimed as Remand Centres:

- (a) For Boys: The whole of "Turana", 900 Park Street, Parkville;
- (b) For Girls: "Winbirra", 186 Springvale Road, Nunawading.

(7) The following have been proclaimed as Youth Training Centres:

- (a) For Males:
 - (i) The whole of "Turana", 900 Park Street, Parkville.
 - (ii) The Salvation Army, Bayswater Youth Training Centre, Mountain Highway, The Basin.
 - (iii) Langi Kal Kal.
 - (iv) Malmsbury.
 - (v) Acheron (Buxton).
- (b) For Females:
 - "Winlato", 186 Springvale Road, Nunawading.

**INTERVIEWING INMATES OF YOUTH TRAINING OR
REMAND CENTRES**

5.10 (1) Inmates of Youth Training or Remand Centres are referred to as "trainees" whether or not they are wards of the Department of Community Services, young persons undergoing sentence, on remand or awaiting trial.

(2) Where it is necessary to interview a youth trainee in any Youth Training Centre or Remand Centre, a written application setting out