



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 543

Pretoria, 2 September 2010

No. 33508

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS**INHOUD**

No.		Page No.	Gazette No.	No.		Bladsy No.	Koerant No.
Police, Department of				Polisie, Departement van			
<i>Government Notice</i>				<i>Goewermentskennisgewing</i>			
759	Child Justice Act (75/2008): National Instruction 2 of 2010: Children in conflict with the law: For general information.....	3	33508	759	Wet op Strafrepleging ten Opsigte van Kinders (75/2008): Nasionale Instruksie 2/2010: Kinders wat met die gereg bots: Vir algemene inligting.....	62	33508

GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING

DEPARTMENT OF POLICE
DEPARTEMENT VAN POLISIE

No. 759

2 September 2010

The National Instruction on children in conflict with the law issued in terms of section 97(5) of the Child Justice Act, 2008 (Act No. 75 of 2008), is hereby published for general information.



MINISTER OF POLICE
EN MTHETHWA

NATIONAL INSTRUCTION 2 OF 2010

CHILDREN IN CONFLICT WITH THE LAW

1. Background

The Child Justice Act, 2008 (Act No. 75 of 2008) creates a new separate criminal justice system for *children in conflict with the law*.

The Act requires that *children* be treated differently from adults, but provide for them to be held responsible and accountable for their actions. The Act provides that children be treated in a manner that will encourage them to turn away from crime.

The purpose of this National Instruction is to ensure that *members* treat *children in conflict with the law* in a child justice system designed to break the cycle of crime, which will contribute to safer communities, and encourage them to become law-abiding and productive adults.

2. Definitions

In this instruction, unless the context otherwise indicates, —

- (a) **“appropriate adult”** means any member of a child’s family, including a sibling who is 16 years or older, or a care-giver of the child, which includes any person other than a parent or *guardian* who factually cares for a child including —
 - (i) a foster parent;
 - (ii) a person who cares for a child with the implied or express consent of a parent or *guardian* of the child;
 - (iii) a person who cares for a child whilst the child is in *temporary safe care*;
 - (iv) the person at the head of a *child and youth care centre* where a child has been placed;
 - (v) the person at the head of a shelter;
 - (vi) a child and youth care worker who cares for a child who is without appropriate family care in the community; and
 - (vii) the child at the head of a child headed household, if such a child is 16 years or older;
- (b) **“arrest”** means the taking into custody of a *child* for an alleged offence in order to secure the presence of that *child* at his or her first appearance at a preliminary inquiry;
- (c) **“assessment”** means an *assessment* of a *child*, who is alleged to have committed an offence, by a *probation officer* to prepare an *assessment* report to recommend steps to be taken in respect of the *child*;
- (d) **“child”** means any person under the age of 18 years;

- (e) **“child and youth care centre”** means a facility established to provide residential care, outside the family environment, to more than 6 *children* at a time;
- (f) **“child in conflict with the law”** means a *child* suspected of having committed an offence;
- (g) **“child justice court”** means any court in which a criminal trial, in which a *child* is the accused, is conducted, or before which any bail application, plea, sentencing or proposal for diversion relating to such a case, is heard;
- (h) **“Children’s Act”** means the Children’s Act, 2005 (Act No. 38 of 2005);
- (i) **“Criminal Procedure Act”** means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (j) **“designated probation officer”** means the *probation officer* designated by the Director-General: Social Development for a specific police station;
- (k) **“detention”** includes confinement of a *child* prior to sentence in a *police cell or lock-up*, prison or a *child and youth care centre*;
- (l) **“guardian”** means a parent or other person who has guardianship of a *child*;
- (m) **“member”** means a member of the South African Police Service appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (n) **“police cell or lock-up”** means any place which is used for the reception, *detention* or confinement of a person who is being detained by the Police, and includes all land, buildings and premises adjacent to any such place and used in connection therewith;
- (o) **“preliminary inquiry”** means an informal inquiry held by the inquiry magistrate to consider the *assessment* report of the *probation officer* and either determine the release or the placement of the *child*;
- (p) **“probation officer”** means any person who has been appointed as a *probation officer* under section 2 of the Probation Services Act, 1991 (Act No. 116 of 1991);
- (q) **“temporary safe care”**, means the care of a *child* in any place where the *child* is accommodated pending a decision or court order concerning the placement of that *child*;
- (r) **“the Act”** means the Child Justice Act, 2008 (Act No. 75 of 2008); and

- (s) “*working days*” excludes Saturdays, Sundays and public holidays.

3. Treatment of children

(1) Background

- (a) *Children* are different from adults and do not have the same knowledge, experience and insight normally expected from an adult. A *child* should therefore be treated differently from an adult. Accordingly, a *child*, who is suspected of having committed an offence, should be treated differently from an adult suspected of having committed the same offence.
- (b) *Children* are impressionable and prone to be influenced by the conduct of adults. *Children* are more likely to follow the example set by adults rather than to do what adults tell them to do. *Children* exposed to criminal activity by adults are, accordingly, themselves likely to get involved in criminal activity. This is because, generally speaking, *children* yearn to be adults and would like to be treated like adults. Accordingly, if they see adults committing offences, they want to prove to the world that they are adults by also committing offences.
- (c) If a *child* is suspected of having committed an offence, the first contact between the *child* and an official from the Criminal Justice System (normally a *member*) is critical. The manner in which that official (*member*) treats the *child*, may play a decisive role in persuading the *child* to change his or her ways and refrain from further involvement in criminal activities or push him or her to become further and deeper involved in criminal activities. This applies even though a *child* may have committed a heinous crime and may have been acutely aware at the time that what he or she was doing was wrong and that it constitutes a crime.
- (d) A *member* who confronts a *child* who is suspected of having committed an offence, must bear the foregoing in mind when he or she considers how to deal with the *child*.
- (e) A *member* must always treat a *child* in a manner which is in the best interest of the *child* as set out in paragraph 2(3) of the National Instruction on the Care and Protection of Children in terms of the Children’s Act.

(2) Treatment of a child suspected of having committed an offence

- (a) During the first contact with a *child* suspected of having committed an offence, the *member* must, if circumstances permit, introduce himself or herself to the *child* and, if a parent, *guardian* or an *appropriate adult* is present, to such person.
- (b) The *member* must explain to the *child* that he or she is being suspected of having committed the offence. The *member* must

explain this to the *child* in a language that he or she understands, preferably in the mother tongue of the *child*, using plain and simple vocabulary to assist the *child* to have a better understanding of the child justice system and the procedure that will be followed in his or her case. The *child* must understand that this is a very serious matter.

- (c) The *member* must realise that the *child* may be overwhelmed and scared in the presence of the Police and must therefore patiently explain the nature of the offence and the procedure that will be followed in his or her case. The *member* must give enough detail about the matters and allow sufficient time so that the *child* can absorb the information. The *member* must encourage the *child* to ask questions and respond to the questions and satisfy himself or herself that the *child* understands the information and explanation given. The *member* may elicit responses from the *child* by asking questions in order to ensure that he or she understands the information.
- (d) A *member* must not humiliate or intimidate a *child* and must at all times treat and communicate with the *child* in a manner which is appropriate to the age, maturity and stage of development of the *child*. The younger the *child*, the more patient and understanding the *member* must be while communicating with the *child*. The level of schooling of the *child* and the *child's* ability to read and write are also relevant when considering what would be an appropriate manner in which to treat and communicate with the *child*.
- (e) The *member* must take steps to protect the privacy and dignity of the *child* and must ensure that discussions with the *child* and his or her parent or *guardian* or an *appropriate adult* (whether at the police station or at the crime scene) take place in private, out of sight and hearing of other persons.
- (f) A *member* who explains to a *child* and his or her parent, *guardian* or an *appropriate adult*, the contents of a notice or procedure must take into account the background of the *child*, the parent, *guardian* or *appropriate adult* and the fact that they may not be conversant with the functioning of the courts and court procedures. The *member* must explain the contents of the notice or procedure in simple, understandable language and give sufficient details to the *child* and parent, *guardian* or *appropriate adult*. The *member* must also encourage the *child*, parent, *guardian* or *appropriate adult* to ask questions without interrupting him or her.

(3) Language of communication

- (a) A *child*, parent, *guardian* or *appropriate adult* must be addressed in a language that they understand, preferably the language of their choice, using plain and simple vocabulary.
- (b) If a *member* —
 - (i) is unable to establish what language the *child* and parent, *guardian* or *appropriate adult* understands; or
 - (ii) cannot speak the language that the *child* and parent, *guardian* or *appropriate adult* understands,the *member* must explain the information in English.
- (c) In the event that the *child* and parent, *guardian* or *appropriate adult* do not understand English, the *member* must inform the Community Service Centre Commander accordingly. The Community Service Centre Commander must determine what language the *child* and parent, *guardian* or *appropriate adult* understands and ensure that the information is conveyed in that language.
- (d) In the event that the *child* and parent, *guardian* or *appropriate adult* do not understand English, the Community Service Centre Commander must make an entry in the Occurrence Book (OB) setting out the steps taken to ensure that the information is conveyed in a language that is understood by the *child* and parent, *guardian* or *appropriate adult*.

(4) Arrest and detention of children

- (a) A *child* should only be arrested as a last resort and, if arrested, should only be detained for the shortest possible time.
- (b) A *member*, who is authorised to *arrest* a *child* in terms of the Act and this Instruction, may decide not to *arrest* the *child*, but rather to have the investigation completed and the docket referred to the prosecutor to decide whether the *child* should be prosecuted or not, and if so, to have a summons issued to secure the attendance of the *child* at a *preliminary inquiry*.
- (c) In considering whether the *child* should be *arrested* or whether the investigation should be completed and the docket referred to the prosecutor to decide whether the *child* should be prosecuted and to have a summons issued, a *member* may consider any information that may be contained in the Diversion Register. The Diversion Register is maintained by the Department of Social Development and contains information of children's criminal cases that have been diverted. This information may assist the *member* to decide whether it would be appropriate in the circumstances, bearing in mind the information obtained from the Diversion Register, to *arrest* the *child* or to rather follow the summons route.

- (d) A *member* must ensure that —
 - (i) a *child* is detained separately from adults and boys separately from girls;
 - (ii) a *child* is detained in conditions which take into account his or her particular vulnerability and which will reduce the risk of harm to the *child*, including the risk of harm emanating from other *children*;
 - (iii) the *child* may be visited by parents, *appropriate adults*, *guardians*, legal representatives, registered social workers, *probation officers*, assistant probation officers, health workers, religious counsellors and any other person who, in terms of any law, is entitled to visit the *child*; and
 - (iv) the *child* is cared for in a manner consistent with the special needs of *children*, including the provision of —
 - (aa) immediate and appropriate health care in the event of any illness, injury or severe psychological trauma in accordance with the procedure set out in Standing Order (General) 349;
 - (bb) adequate food, water, blankets, bedding; and
 - (cc) sanitary towels (if required by girl *children*).

4. Responsibility of Divisional Commissioner: Visible Policing, Provincial Commissioners and Station Commanders

- (1) The Divisional Commissioner: Visible Policing must obtain from the Department of Social Development the —
 - (a) contact particulars of every *designated probation officer* in every province and any changes thereto; and
 - (b) information concerning the location, amenities, features and level of security offered by every *child and youth care centre* in every province.
- (2) The Divisional Commissioner: Visible Policing must compile a list containing the information referred to in subparagraph (1) in respect of each province and provide every Provincial Commissioner with a copy of the list relating to his or her province.
- (3) A Provincial Commissioner must provide a copy of the list to every station commander in his or her province.
- (4) Every station commander must ensure that the information received from the Provincial Commissioner referred to in subparagraph (3), is at all times available in the community service centre of his or her station and is updated as new information is received from the Provincial Commissioner.

- (5) Every station commander must liaise with the *designated probation officer*, and, if another *probation officer* is designated, the newly *designated probation officer*, to reach agreement on —
- (a) how he or she should be notified of the *arrest* of a *child* or be provided with a copy of an Information Notice or Written Notice issued to or in respect of a *child* (ie by handing over a copy of the Notice, or by faxing it to a particular number and telephonically notifying the *designated probation officer* of the fax); and
 - (b) the procedure to be followed in the event of a *member* being unable to establish contact with the *designated probation officer* to notify him or her or provide a copy of a Notice as set out in subparagraph (a) to him or her.
- (6) The station commander must set out the information agreed upon with the *designated probation officer* as contemplated in subparagraph (5) in writing.
- (7) The station commander must ensure that a copy of —
- (a) *the Act*;
 - (b) the Regulations promulgated in terms thereof;
 - (c) this National Instruction;
 - (d) the station orders issued by him or her in terms of subparagraph (8); and
 - (e) a document containing the information referred to in subparagraph (6);
- are at all times available in the Community Service Centre.
- (8) The station commander must, taking into account the unique circumstances prevailing in his or her specific station area, the agreement reached with the *designated probation officer*, the available resources, etc., issue station orders —
- (a) requiring a *member* under his or her command to follow the approach agreed upon as contemplated in subparagraph (6); and
 - (b) in general, instructing *members* under his or her command on any other matter relating to the treatment of *children in conflict with the law* which he or she deems necessary to determine in respect of his or her specific station area.
- (9) Where a police station area forms part of a larger area consisting of more than one police station area and a radio control unit has been established to patrol and attend to complaints in such larger area, every station commander of a station in such larger area must, for information purposes, provide the commander of such radio control unit with a copy of the station orders issued in accordance with subparagraph (8) and, if he or she amends the orders, a copy of the updated version thereof.
- (10) The station commander must see to it that all functional *members* at his or her station receive in-service training (also at station meetings) on *the*

Act, the Regulations, this Instruction and the station orders issued by him or her.

5. Criminal offences reported to the Police

- (1) If a member of the public reports the alleged commission of an offence to a police official, the member of the public will normally not know who had allegedly committed the offence. In such a case, the police official must take an affidavit, open a docket and have it registered on the CAS. The same applies if the member of the public suspects that the offence was committed by a particular person whose age is unknown to the member of the public, but he or she believes that person to be an adult or at least older than 10 years.
- (2) The detective designated as the investigating officer must, if he or she establishes, during the course of the investigation of the offence, that the person who had allegedly committed the offence, is a *child*, deal with the *child* in accordance with this Instruction.
- (3) If a member of the public reports the alleged commission of an offence to a police official and the member of the public knows that the person who had allegedly committed the offence, is younger than 10 years and acted alone (ie was not used by an adult to commit the offence), the member of the public must be informed that a *child* below the age of 10 years lacks criminal capacity and cannot be arrested, prosecuted or convicted of an offence. In such a case, the *member* must —
 - (a) take the particulars of the person reporting the alleged commission of the offence as well as the particulars of the alleged offence;
 - (b) determine from the member of the public how he or she knows that the *child* who had allegedly committed the offence is younger than 10 years and acted alone (was not used by an adult to commit the alleged offence);
 - (c) determine from the member of the public, the particulars of the *child* (name and residential address), as well as any information that the member of the public may have that will assist in determining whether the *child* is a child in need of care and protection and in need of immediate emergency protection as set out in the National Instruction on the Care and Protection of Children;
 - (d) make a comprehensive entry in the Occurrence Book (OB) setting out the particulars of the alleged offence, the person who reported it and the information (referred to in subparagraph (c)) that was provided by the member of the public; and
 - (e) provide the member of the public with the reference number of the OB entry.
- (4) The Community Service Centre Commander must satisfy himself or herself that the incident that was reported by the member of the public did in fact occur, that the *child* is likely to have been responsible for the

incident and is below the age of 10 years and, if so, act in accordance with paragraph 7(4) of this Instruction.

6. Conduct of a member at a crime scene

- (1) If a *member* —
 - (a) is present while an offence is being committed; or
 - (b) arrives at the scene after the commission of the offence and while the perpetrator is still at the crime scene,the *member* must do whatever may be reasonably necessary to ensure the safety of any person at the crime scene, to stop the alleged perpetrator of the offence and to secure the crime scene, irrespective of the age of the person who has allegedly committed the offence.
- (2) If the person who is alleged to have committed the offence is, according to the knowledge of the *member*, a *child* of a particular age, the *member* must deal with the *child* in accordance with this Instruction insofar as it relates to a *child* of that age that has allegedly committed such an offence.
- (3) If the *member* is uncertain whether the person who allegedly committed the offence, is an adult or a *child* and, if a *child*, what the age of the *child* is, the *member* must gather any information which may be available at the crime scene which will satisfy him or her that the person is a *child* or an adult and, if a *child*, what the age of the *child* is. Such information may include information that may be available from witnesses or other persons (such as a parent or friend of the *child*) that may be present at the crime scene or any documentation (such as a birth certificate, an identity document or driver's licence).
- (4) If the *member* is satisfied that the person who allegedly committed the offence, is an adult, this Instruction will not be applicable.
- (5) If the *member* is satisfied that the person who allegedly committed the offence, is a *child* of a certain age, the *member* must deal with the *child* in accordance with this Instruction insofar as it relates to a *child* of that age.
- (6) If the *member* is satisfied that the person who allegedly committed the offence, is a *child*, but he or she remains uncertain about how old the *child* really is, the *member* must consider the youngest age that the *child* may possibly be and deal with the *child* in accordance with this Instruction insofar as it relates to a *child* of that age.

7. Dealing with a child younger than 10 years who is alleged to have committed any offence

- (1) If a *member* suspects that a *child* has committed an offence but that the *child* is younger than 10 years, the *member* **MUST NOT** arrest the *child*.
- (2) If the parent or *guardian* of the *child* is present, the *member* must —
 - (a) if a SAPS 583(a) (Information Notice to person to whom a child younger than 10 years is handed) is available at the scene, —
 - (i) complete the information notice and explain to the parent or *guardian* the contents of the notice;
 - (ii) hand the original Information Notice to the parent or *guardian* and request the parent or *guardian* to sign on the first duplicate original Information Notice to acknowledge receipt of the Notice;
 - (iii) hand over the *child* to the parent or *guardian*; and
 - (iv) provide the first duplicate original Information Notice to the *designated probation officer* and retain proof that the Information Notice was received by the *designated probation officer*;
 - (b) if a SAPS 583(a) (Information Notice to person to whom a child younger than 10 years is handed) is not available at the scene, but the parent or *guardian* of the *child* is willing and able to bring the *child* to the police station, arrange with the parent or *guardian* of the *child* to bring the *child* to the police station and act in accordance with subparagraph (a)(i)-(iv);
 - (c) if a SAPS 583(a) (Information Notice to person to whom a child younger than 10 years is handed) is not available at the scene and the parent or *guardian* of the *child* is not willing or able to bring the *child* to the police station, but arrangements can be made for an information notice to be brought to the scene, arrange for the information notice to be brought to the scene and keep the *child* and the parent or *guardian* until the information notice arrives at the scene, where after the *member* must act in accordance with subparagraph (a)(i)-(iv);
 - (d) if a SAPS 583(a) (Information Notice to person to whom a child younger than 10 years is handed) is not available at the scene and —
 - (aa) the parent or *guardian* of the *child* is not willing or able to bring the *child* to the police station; and
 - (bb) arrangements cannot be made for an Information Notice to be brought to the scene within a reasonable time, take the *child* and the parent or *guardian* to the police station and act in accordance with subparagraph (a)(i)-(iv).
- (3) If the parent or *guardian* of the *child* is not present, the *member* must establish whether an *appropriate adult* is present and, if so, apply the provisions of paragraph (2) (replacing “parent or *guardian*” with “*appropriate adult*”).

- (4) If neither the parent or *guardian* of the *child* nor an *appropriate adult* is present, the *member* must take such steps as may be reasonable in the circumstances to contact the parent or *guardian* of the *child* or an *appropriate adult* and, —
- (a) if successful, request the parent or *guardian* of the *child* or the *appropriate adult* to collect the *child* from the police station. When the parent or *guardian* of the *child* or the *appropriate adult* collects the *child*, the *member* must act in accordance with subparagraph (2)(a)(i)-(iv); or
 - (b) if unsuccessful, take the *child* to a *child and youth care centre* and —
 - (i) complete a SAPS 583(a) (Information Notice to a person to whom child younger than 10 years is handed) and explain to the person receiving the *child*, the contents of the notice;
 - (ii) hand the original Information Notice to the person receiving the *child* and request that person to sign on the first duplicate original Information Notice to acknowledge receipt of the notice;
 - (iii) hand over the *child* to that person; and
 - (iv) provide the first duplicate original Information Notice to the *designated probation officer* and retain proof that the Information Notice was received by the *designated probation officer*.
- (5) If, in exceptional circumstances, the parent or *guardian* of the *child* or the *appropriate adult* is present or comes to collect the *child*, but the *member* is satisfied that it will not be in the best interest of the *child*, as set out in paragraph 2(3) of the National Instruction on the Care and Protection of Children in terms of the Children's Act, to hand over the *child* to such a person, the *member* must act in accordance with subparagraph (4)(b).

8. Dealing with a child who is 10 years or older and who is alleged to have committed an offence referred to in Schedule 1 of the Act

- (1) If a *member* suspects that a *child*, who is 10 years or older, has committed an offence, the *member* must satisfy himself or herself whether the offence is an offence referred to in Schedule 1 of the Act (attached hereto as Annexure A).
- (2) If the offence concerned is an offence referred to in Schedule 1 of the Act, the *member* **MUST NOT** arrest the *child* **UNLESS** there are **COMPELLING REASONS JUSTIFYING THE ARREST OF THE CHILD** as outlined in paragraph (3).
- (3) Compelling reasons that will justify the *arrest* of a *child* who is 10 years or older in respect of an offence referred to in Schedule 1 are —
- (a) where the *member* has reason to believe that the *child* —
 - (i) does not have a fixed residential address;

- (ii) has absconded from foster care, a *child and youth care centre* or *temporary safe care*;
- (iii) is likely to continue to commit offences, unless he or she is *arrested*;
- (iv) will pose a danger to any person (including himself or herself) unless *arrested*;
- (v) is likely to destroy or tamper with evidential material relating to the offence;
- (vi) is likely to interfere with the investigation into the offence unless *arrested*; or
- (b) where the offence is in progress and is not yet completed.

9. Dealing with a child who is 10 years or older and who is alleged to have committed an offence referred to in Schedule 1 of the Act if there are no compelling reason to arrest the child

- (1) If there are no compelling reason to *arrest* the *child* who is 10 years or older and who is alleged to have committed an offence referred to in Schedule 1 of the Act, the *member* may not *arrest* the *child*.
- (2) If the parent or *guardian* of the *child* is present, the *member* must —
 - (a) if a SAPS 583(b) (Written Notice to Appear at a Preliminary Inquiry) is available at the scene, —
 - (i) complete the Written Notice and set the date of the *preliminary inquiry* to be the fifth (5th) working day after the date of the issuing of the Written Notice;
 - (ii) explain to the *child* and the parent or *guardian* the contents of the Written Notice;
 - (iii) hand the original Written Notice to the *child* and request the *child* and the parent or *guardian* to sign on the first duplicate original Written Notice to acknowledge receipt of the notice;
 - (iv) hand over the *child* to the parent or *guardian*;
 - (v) provide the first duplicate original Written Notice to the *designated probation officer* within 24 hours after the Written Notice was handed to the *child* and retain proof that it was received by the *designated probation officer*; and
 - (vi) make a copy of the Written Notice and file the copy under “B” in the docket opened in respect of the offence which the *child* is alleged to have committed;
 - (b) if a SAPS 583(b) (Written Notice to Appear at a Preliminary Inquiry) is not available at the scene, but the parent or *guardian* of the *child* is willing and able to bring the *child* to the police station, arrange with the parent or *guardian* of the *child* to bring the *child* to the police station and act in accordance with subparagraph (a)(i)-(vi);
 - (c) if a SAPS 583(b) (Written Notice to Appear at a Preliminary Inquiry) is not available at the scene and the parent or *guardian* of

- the *child* is not willing or able to bring the *child* to the police station, but arrangements can be made for a Written Notice to be brought to the scene, arrange for the Written Notice to be brought to the scene and keep the *child* and the parent or *guardian* until the Written Notice arrives at the scene and, upon its arrival, act in accordance with subparagraph (a)(i)-(vi);
- (d) if a SAPS 583(b) (Written Notice to Appear at a Preliminary Inquiry) is not available at the scene and —
- (aa) the parent or *guardian* of the *child* is not willing or able to bring the *child* to the police station; and
- (bb) arrangements cannot be made for a Written Notice to be brought to the scene within a reasonable time, take the *child* and the parent or *guardian* to the police station and act in accordance with subparagraph (a)(i)-(vi).
- (3) If the parent or *guardian* of the *child* is not present, the *member* must establish whether an *appropriate adult* is present and, if so, apply the provisions of paragraph (2) (replacing “parent or *guardian*” with “*appropriate adult*”).
- (4) If the parent or *guardian* of the *child* or an *appropriate adult* is not present, the *member* must take such steps as may be reasonable in the circumstances to contact the parent or *guardian* of the *child* or an *appropriate adult* and, —
- (a) if successful, request the parent or *guardian* of the *child* or the *appropriate adult* to collect the *child* from the police station. When the parent or *guardian* of the *child* or the *appropriate adult* collects the *child*, the *member* must act in accordance with subparagraph (2)(a)(i)-(vi); or
- (b) if unsuccessful, the *child* must be regarded as a *child* in need of care and protection and in need of immediate emergency protection and must be dealt with in accordance with paragraphs 10 and 11 of the National Instruction on the Care and Protection of Children in terms of the Children’s Act. In such a case, the person with whom the *child* is placed in *temporary safe care*, (such as the person in charge of a *child and youth care centre*, if the *child* is placed in a *child and youth care centre*) becomes an *appropriate adult* in whose presence the Written Notice must be handed to the *child* in accordance with subparagraph (3) (read with subparagraph (2)). A copy of the Written Notice must be handed to the person in whose *temporary safe care* the *child* is placed.

10. Dealing with a child who is 10 years or older and who is alleged to have committed an offence referred to in Schedule 1 of the Act if there are compelling reasons to arrest the child

- (1) If there are compelling reasons to *arrest* a *child* who is 10 years or older and who is alleged to have committed an offence referred to in Schedule 1 of *the Act*, the *member* may *arrest* the *child*.
- (2) Upon the *arrest* of such a *child*, the *member* must inform the *child* —
 - (a) of his or her constitutional rights as provided for in paragraph 7(4) of Standing Order (General) 341 (Arrest and the treatment of an arrested person until such person is handed over to the Community Service Centre Commander); and
 - (b) that he or she will be assessed by a *probation officer* who will explain to him or her the procedure that will be followed thereafter.
- (3) Once a *child* of 10 years or older has been *arrested*, the *child* must be taken to a police station. The *member* who effected the *arrest* must record in the Arrest Statement the compelling reason (set out in paragraph 8(3)) that persuaded him or her to effect the *arrest*. The *member* must also state whether there is any reason (stating the reason) to believe that the *child* will pose a danger to any person (including himself or herself) if released.
- (4) The Community Service Centre Commander must consider the Arrest Statement and any other information at his or her disposal to satisfy himself or herself whether the *child* will pose a danger to any person (including himself or herself) if released.
- (5) If the Community Service Centre Commander is satisfied that the *child* will pose a danger to any person (including himself or herself) if released and that the *child* can therefore not be released, the Community Service Centre Commander must ensure that the *child* remains in *detention* and —
 - (a) inform the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*;
 - (b) complete a SAPS 583(j) (Information Notice upon the arrest of a child) and explain to the parent or *guardian* the contents of the notice and set the date of the *preliminary inquiry* as a date that will ensure that the *child* appears at the *preliminary inquiry* within 48 hours (as extended by the Criminal Procedure Act) from the time of the arrest of the *child*;
 - (c) provide the Information Notice to the parent, *guardian* or *appropriate adult* and retain proof that the parent, *guardian* or *appropriate adult* received the Information Notice (if it is possible to hand the Information Notice to the parent, *guardian* or *appropriate adult*, the parent, *guardian* or *appropriate adult* must be requested to sign on the first duplicate original of the

- Information Notice to acknowledge receipt of the Information Notice);
- (d) provide the first duplicate original Information Notice to the *designated probation officer* and retain proof that it was received by the *designated probation officer*; and
 - (e) make two copies of the Information Notice if the *child* will be detained at a *child and youth care centre* (or one copy if the *child* will be detained in a *police cell* (in which case the copy must be filed under “B” in the docket opened in respect of the case for which the *child* was *arrested*)).
- (6) The Community Service Centre Commander must —
- (a) if a *child and youth care centre* is available within a reasonable distance from the police station and there is a vacancy in the centre, —
 - (i) ensure that the *child* is transported to the *child and youth care centre* and is handed over to the person in charge of the centre;
 - (ii) instruct the *member*, who will be transporting the *child* to the *child and youth care centre*, to hand the two copies of the SAPS 583(j) (Information Notice upon the arrest of a child) (referred to in subparagraph (5)(e) above) to the person receiving the *child* at the *child and youth care centre* and request that person to sign one copy as proof of having received the *child*;
 - (iii) file the copy of the SAPS 583(j) (Information Notice upon the arrest of a child) (referred to in subparagraph (ii)) signed by the person receiving the *child* at the *child and youth care centre* under “B” in the docket opened in respect of the case for which the *child* was *arrested*;
 - (iv) complete a SAPS 583(c) (Written Report on detention of child arrested for Schedule 1 Offence before appearing at Preliminary Inquiry form) and file the report under “B” in the docket opened in respect of the case for which the *child* was *arrested*; and
 - (v) provide the first duplicate original SAPS 583(j) (Information Notice upon the arrest of a child) to the *designated probation officer* and retain proof that it was received by the *designated probation officer*;
 - (b) if a *child and youth care centre* is not available within a reasonable distance from the police station or there is no vacancy in the centre, the *child* must be detained in police custody and —
 - (i) if the police station where the *child* has been detained, has the necessary facilities available, the *child* must be detained separate from adults and separate from *children* of the opposite sex;
 - (ii) if the police station where the *child* has been detained, does not have the necessary facilities available to detain

- the *child* separate from adults and separate from *children* of the opposite sex, the *child* must be transported to and be detained at another police station where such facilities are available;
- (iii) the Community Service Centre Commander of the police station where the *child* was originally detained, must complete the SAPS 583(c) (Written Report on detention of child arrested for Schedule 1 Offence before appearing at Preliminary Inquiry form) and file the report under "B" in the docket opened in respect of the case for which the *child* was *arrested*;
 - (iv) the Community Service Centre Commander must, if he or she was unable to provide the SAPS 583(j) (Information Notice upon the arrest of a child), to the parent, *guardian* or *appropriate adult*, —
 - (aa) complete the SAPS 583(j) (Information Notice upon the arrest of a child);
 - (bb) provide the Information Notice to the *designated probation officer* within 24 hours after the *arrest*;
 - (cc) file proof that the Information Notice was received by the *designated probation officer* under "B" in the docket opened in respect of the case for which the *child* was *arrested*; and
 - (dd) file the first duplicate original Information Notice under "B" in the docket opened in respect of the case for which the *child* was *arrested*.
- (7) If the Community Service Centre Commander of the police station, where the *child* was originally detained, is unable to —
- (a) inform the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*, he or she must complete a SAPS 583(d) (Written Report on failure to notify the parent, guardian or appropriate adult of arrest of child) setting out the steps taken to notify the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child* and the reason why he or she was unable to notify the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*; or
 - (b) notify the *designated probation officer* of the *arrest* of the *child*, he or she must complete a SAPS 583(e) (Written Report on failure to notify the Probation Officer of the arrest of a child) setting out the steps taken to notify the *probation officer* and the reason why he or she was unable to notify the *probation officer*, and file it under "B" in the docket, which must be submitted to the prosecutor, who will be present at the *preliminary inquiry*, and who must be requested to hand the report to the presiding officer at the *preliminary inquiry*.

11. Releasing a child who is 10 years or older and who has been arrested for an offence referred to in Schedule 1 of the Act

- (1) If the Community Service Centre Commander is satisfied that the *child* will not pose a danger to any person (including himself or herself) if released, the Community Service Centre Commander may instruct a *member* to approach the Department of Social Development to establish whether a previous criminal case, in which the *child* was an accused, has been diverted (as recorded in the Diversion Register). If the Department of Social Development is approached and the information is obtained, this fact must be recorded in the Investigation Diary (SAPS 5) of the docket. This information must be taken into account to decide whether, bearing in mind the information obtained from the Diversion Register, it would be appropriate in the circumstances, to release the *child* on a Written Notice.
- (2) If the Community Service Centre Commander is satisfied that the *child* may be released, he or she must —
 - (a) if the parent or *guardian* of the *child* or an *appropriate adult* is present, —
 - (i) complete the SAPS 583(b) (Written Notice to Appear at a Preliminary Inquiry and set the date of the *preliminary inquiry* to be the fifth (5th) working day after the date of the issuing of the Written Notice;
 - (ii) explain to the *child* and the parent, *guardian* or *appropriate adult* the contents of the Written Notice;
 - (iii) hand the original Written Notice to the *child* and request the *child* and parent, *guardian* or *appropriate adult* to sign on the first duplicate original Written Notice to acknowledge receipt of the Written Notice;
 - (iv) hand over the *child* to the parent, *guardian* or *appropriate adult*; and
 - (v) provide the first duplicate original Written Notice to the *designated probation officer* and retain proof that it was received by the *designated probation officer*.
 - (b) if the parent or *guardian* of the *child* or an *appropriate adult* is not present, take such steps as may be reasonable in the circumstances to contact the parent or *guardian* of the *child* or an *appropriate adult* and, —
 - (i) if successful, request the parent or *guardian* of the *child* or the *appropriate adult* to collect the *child* from the police station. When the parent or *guardian* of the *child* or the *appropriate adult* collects the *child*, the *member* must act in accordance with subparagraph (1)(a)-(e); or
 - (ii) if unsuccessful, —
 - (aa) the *child* must be regarded as a *child* in need of care and protection and in need of immediate emergency protection and must be dealt with in accordance with paragraphs 10 and 11 of the National Instruction on

- the Care and Protection of Children in terms of the Children's Act. In such a case, the person with whom the *child* is placed in *temporary safe care*, becomes an *appropriate adult* in whose presence the Written Notice must be handed to the *child* in accordance with subparagraph (3) (read with subparagraph (2)); and
- (bb) the Community Service Centre Commander must complete the SAPS 583(d) (Written Report on failure to notify the parent, guardian or appropriate adult of the arrest of the child) which must be filed under "B" in the docket opened in respect of the case for which the *child* was *arrested* and which must be submitted to the prosecutor, who will be present at the *preliminary inquiry*, and who must be requested to hand the report to the presiding officer at the *preliminary inquiry*.
- (3) The *member* designated as the investigating officer of the case, must ensure that, at least one (1) day before the *preliminary inquiry*, the docket, opened in respect of the case for which the *child* was *arrested*, is presented to the prosecutor that will be present during the *preliminary inquiry*.

12. Dealing with a child who is 10 years or older and who is alleged to have committed an offence referred to in Schedule 2 of the Act

- (1) A *member* may *arrest* a *child* who is 10 years or older and who he or she has reasonable grounds to believe that the *child* has committed an offence referred to in Schedule 2 of the Act (attached hereto as Annexure B).
- (2) In considering whether or not to *arrest* the *child*, the *member* must take into account whether the *child* —
- (a) has a fixed residential address;
 - (b) has absconded from foster care, a *child and youth care centre* or *temporary safe care*;
 - (c) is likely to continue to commit offences, unless he or she is *arrested*;
 - (d) will pose a danger to any person (including himself or herself) unless *arrested*;
 - (e) is likely to destroy or tamper with evidential material relating to the offence;
 - (f) is likely to interfere with the investigation into the offence unless *arrested*; or
 - (g) is busy committing the offence (the offence is in progress) or whether it has been completed.

- (3) If the *member* decides not to *arrest* the *child*, the *member* must —
- (a) record the full particulars of the *child* (including his or her name, occupation (if any), work address (if he or she is a learner, the name and address of the school he or she attends) and his or her fixed residential address, contact particulars, etc) in his or her pocketbook; and
 - (b) upon arrival at the police station and after the docket in respect of the offence allegedly committed by the *child*, has been opened, make an affidavit containing the particulars referred to in subparagraph (a) and file the affidavit under “A” in the said docket.
- (4) If the *member* decides to *arrest* the *child*, the *member* must, upon the *arrest* of the *child*, inform the *child* —
- (a) of his or her constitutional rights as provided for in paragraph 7(4) of Standing Order (General) 341 (Arrest and the treatment of an arrested person until such person is handed over to the Community Service Centre Commander); and
 - (b) that he or she will be assessed by a *probation officer* who will explain to him or her the procedure that will be followed thereafter.
- (5) If the *child* or a parent or *guardian* of the *child* or a legal representative on behalf of the *child* requests that the *child* be released on bail, the Community Service Centre Commander must contact the prosecutor on standby, who is authorised to consider a bail application, and request him or her to come to the police station to consider the bail application in terms of section 21(2)(b) of *the Act*.
- (6) If the prosecutor authorises the release of the *child* on bail, the normal processes applicable to the release of a suspect on bail by an authorised prosecutor, must be followed: Provided that the *child* may only be released into the care of a parent, *guardian* or an *appropriate adult*.
- (7) If the *child* will remain in custody and the parent or *guardian* of the *child* or an *appropriate adult* is present, the Community Service Centre Commander must —
- (a) complete the SAPS 583(j) (Information Notice upon the arrest of a child) and explain to the parent, *guardian* or *appropriate adult* the contents of the notice;
 - (b) hand the original notice to the parent, *guardian* or *appropriate adult* and request the parent, *guardian* or *appropriate adult* to sign on the first duplicate original Information Notice to acknowledge receipt of the notice; and
 - (c) provide the first duplicate original Information Notice to the *designated probation officer* and retain proof that the Information Notice was received by the *designated probation officer*.
- (8) If the *child* will remain in custody and neither the parent nor *guardian* of the *child* is present, the Community Service Centre Commander must take such steps as may be reasonable in the circumstances to contact

the parent or *guardian* of the *child* or an *appropriate adult* and, if successful, request the parent or *guardian* of the *child* or the *appropriate adult* to come to the police station. When the parent or *guardian* of the *child* or *appropriate adult* arrives at the police station, the Community Service Centre Commander must act in accordance with subparagraph (7)(a)-(c).

- (9) If the *child* will remain in custody and neither the parent nor *guardian* of the *child* is present and cannot be contacted, the *child* or a parent or *guardian* of the *child* or a legal representative on behalf of the *child* does not request that the *child* be released on bail or the prosecutor refuses to grant bail to the *child*, the Community Service Centre Commander must —
- (a) if a *child and youth care centre* is available within a reasonable distance from the police station and there is a vacancy in the centre, —
- (i) complete a SAPS 583(j) (Information Notice upon the arrest of a child) and explain to the person receiving the *child*, the contents of the notice;
 - (ii) hand the original notice to the person receiving the *child* and request that person to sign on the first duplicate original information notice to acknowledge receipt of the notice;
 - (iii) hand over the *child* to that person;
 - (iv) provide the first duplicate original information notice to the *designated probation officer* and retain proof that the information notice was received by the *designated probation officer*; and
 - (v) make a copy of the information notice and file it under “B” in the docket opened in respect of the case for which the *child* was *arrested*;
- (b) if a *child and youth care centre* is not available within a reasonable distance from the police station or there is no vacancy in the centre, the *child* must be detained in police custody and —
- (i) if the police station where the *child* has been detained, has the necessary facilities available, the *child* must be detained separate from adults and separate from *children* of the opposite sex;
 - (ii) if the police station where the *child* has been detained, does not have the necessary facilities available to detain the *child* separate from adults and separate from *children* of the opposite sex, the *child* must be transported to and be detained at another police station where such facilities are available;
 - (iii) complete a SAPS 583(j) (Information Notice upon the arrest of a child), provide the notice to the *designated probation officer* and file proof that it was received by the *designated*

- probation officer* under "B" in the docket opened in respect of the case for which the *child* was *arrested*; and
- (iv) file the first duplicate original SAPS 583(j) (Information Notice upon the arrest of a child) under "B" in the docket opened in respect of the case for which the *child* was *arrested*.
- (10) If the Community Service Centre Commander of the police station, where the *child* was originally detained, is unable to —
- (a) inform the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*, he or she must complete a SAPS 583(d) (Written Report on failure to notify the parent, guardian or appropriate adult of arrest of child) setting out the steps taken to notify the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child* and the reason why he or she was unable to notify the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*; or
- (b) notify the *designated probation officer* of the *arrest* of the *child*, he or she must complete a SAPS 583(e) (Written Report on failure to notify the Probation Officer of the arrest of a child) setting out the steps taken to notify the *probation officer* and the reason why he or she was unable to notify the *probation officer*, and file it under "B" in the docket, which must be submitted to the prosecutor, who will be present at the *preliminary inquiry*, and who must be requested to hand the report to the presiding officer at the *preliminary inquiry*.

13. Dealing with a child who is 10 years or older but younger than 14 years and who is alleged to have committed an offence referred to in Schedule 3 of the Act

- (1) A *member* may *arrest* a *child* who is 10 years or older but younger than 14 years and who he or she has reasonable grounds to believe that the *child* has committed an offence referred to in Schedule 3 of the *Act* (attached hereto as Annexure C).
- (2) In considering whether or not to *arrest* the *child*, the *member* must take into account whether the *child* —
- (a) has a fixed residential address;
- (b) has absconded from foster care, a *child and youth care centre* or *temporary safe care*;
- (c) is likely to continue to commit offences, unless he or she is *arrested*;
- (d) will pose a danger to any person (including himself or herself) unless *arrested*;
- (e) is likely to destroy or tamper with evidential material relating to the offence;
- (f) is likely to interfere with the investigation into the offence unless *arrested*; or

- (g) is busy committing the offence (the offence is in progress) or whether it has been completed.
- (3) If the *member* decides not to *arrest* the *child*, the *member* must —
 - (a) record the full particulars of the *child* (including his or her name, occupation (if any), work address (if he or she is a learner, the name and address of the school he or she attends) and his or her fixed residential address, contact particulars, etc) in his or her pocketbook; and
 - (b) upon arrival at the police station and after the docket in respect of the offence allegedly committed by the *child*, has been opened, make an affidavit containing the particulars referred to in subparagraph (a) and file the affidavit under “A” in the said docket.
- (4) If the *member* decides to *arrest* the *child*, the *member* must, upon the *arrest* of the *child*, inform the *child* —
 - (a) of his or her constitutional rights as provided for in paragraph 7(4) of Standing Order (General) 341 (Arrest and the treatment of an arrested person until such person is handed over to the Community Service Centre Commander); and
 - (b) that he or she will be assessed by a *probation officer* who will explain to him or her the procedure that will be followed thereafter.
- (5) If the parent or *guardian* of the *child* or an *appropriate adult* is present, the Community Service Centre Commander must —
 - (a) complete the SAPS 583(j) (Information Notice upon the arrest of a child) and explain to the parent, *guardian* or *appropriate adult* the contents of the notice;
 - (b) hand the original notice to the parent, *guardian* or *appropriate adult* and request the parent, *guardian* or *appropriate adult* to sign on the first duplicate original Information Notice to acknowledge receipt of the notice; and
 - (c) provide the first duplicate original Information Notice to the *designated probation officer* and retain proof that the Information Notice was received by the *designated probation officer*.
- (6) If the *child* will remain in custody and neither the parent nor *guardian* of the *child* is present, the Community Service Centre Commander must take such steps as may be reasonable in the circumstances to contact the parent or *guardian* of the *child* or an *appropriate adult* and, if successful, request the parent or *guardian* of the *child* or the *appropriate adult* to come to the police station. When the parent or *guardian* of the *child* or *appropriate adult* arrives at the police station, the Community Service Centre Commander must act in accordance with subparagraph (5)(a)-(c).

- (7) The Community Service Centre Commander must —
- (a) if a *child and youth care centre* is available within a reasonable distance from the police station and there is a vacancy in the centre, —
 - (i) complete a SAPS 583(j) (Information Notice upon the arrest of a child) and explain to the person receiving the *child*, the contents of the Information Notice;
 - (ii) hand the original Information Notice to the person receiving the *child* and request that person to sign on the first duplicate original Information Notice to acknowledge receipt of the Information Notice;
 - (iii) hand over the *child* to that person;
 - (iv) provide the first duplicate original Information Notice to the *designated probation officer* and retain proof that the Information Notice was received by the *designated probation officer*; and
 - (v) make a copy of the Information Notice and file it under “B” in the docket opened in respect of the case for which the *child* was *arrested*;
 - (b) if a *child and youth care centre* is not available within a reasonable distance from the police station or there is no vacancy in the centre, detain the *child* in police custody and —
 - (i) if the police station where the *child* has been detained, has the necessary facilities available, the *child* must be detained separate from adults and separate from *children* of the opposite sex;
 - (ii) if the police station where the *child* has been detained, does not have the necessary facilities available to detain the *child* separate from adults and separate from *children* of the opposite sex, the *child* must be transported to and be detained at another police station where such facilities are available;
 - (iii) complete a SAPS 583(j) (Information Notice upon the arrest of a child), provide the Information Notice to the *designated probation officer* and file proof that it was received by the *designated probation officer* under “B” in the docket opened in respect of the case for which the *child* was *arrested*; and
 - (iv) file the first duplicate original SAPS 583(j) (Information Notice upon the arrest of a child) under “B” in the docket opened in respect of the case for which the *child* was *arrested*.
- (8) If the Community Service Centre Commander of the police station, where the *child* was originally detained, is unable to —
- (a) inform the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*, he or she must complete a SAPS 583(d) (Written Report on failure to notify the parent, guardian or appropriate adult of arrest of child) setting out the steps taken to notify the parent,

- guardian* or an *appropriate adult* of the *arrest* of the *child* and the reason why he or she was unable to notify the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*; or
- (b) notify the *designated probation officer* of the *arrest* of the *child*, he or she must complete a SAPS 583(e) (Written Report on failure to notify the Probation Officer of the arrest of a child) setting out the steps taken to notify the *probation officer* and the reason why he or she was unable to notify the *probation officer*, and file it under "B" in the docket, which must be submitted to the prosecutor, who will be present at the *preliminary inquiry*, and who must be requested to hand the report to the presiding officer at the *preliminary inquiry*.

14. Dealing with a child who is 14 years or older and who is alleged to have committed an offence referred to in Schedule 3 of the Act

- (1) A *member* may *arrest* a *child* who is 14 years or older and who he or she has reasonable grounds to believe that the *child* has committed an offence referred to in Schedule 3 of *the Act* (attached hereto as Annexure C).
- (2) In considering whether or not to *arrest* the *child*, the *member* must take into account whether the *child* —
- (a) has a fixed residential address;
 - (b) has absconded from foster care, a *child and youth care centre* or *temporary safe care*;
 - (c) is likely to continue to commit offences, unless he or she is *arrested*;
 - (d) will pose a danger to any person (including himself or herself) unless *arrested*;
 - (e) is likely to destroy or tamper with evidential material relating to the offence;
 - (f) is likely to interfere with the investigation into the offence unless *arrested*; or
 - (g) is busy committing the offence (the offence is in progress) or whether it has been completed.
- (3) If the *member* decides not to *arrest* the *child*, the *member* must —
- (a) record the full particulars of the *child* (including his or her name, occupation (if any), work address (if he or she is a learner, the name and address of the school he or she attends) and his or her fixed residential address, contact particulars, etc) in his or her pocketbook; and
 - (b) upon arrival at the police station and after the docket in respect of the offence allegedly committed by the *child*, has been opened, make an affidavit containing the particulars referred to in subparagraph (a) and file the affidavit under "A" in the said docket.

- (4) If the *member* decides to *arrest* the *child*, the *member* must, upon the *arrest* of the *child*, inform the *child* —
- (a) of his or her constitutional rights as provided for in paragraph 7(4) of Standing Order (General) 341 (Arrest and the treatment of an arrested person until such person is handed over to the Community Service Centre Commander); and
 - (b) that he or she will be assessed by a *probation officer* who will explain to him or her the procedure that will be followed thereafter.
- (5) If the parent or *guardian* of the *child* or an *appropriate adult* is present, the Community Service Centre Commander must —
- (a) complete the SAPS 583(j) (Information Notice upon the arrest of a child) and explain to the parent, *guardian* or *appropriate adult* the contents of the Information Notice;
 - (b) hand the original notice to the parent, *guardian* or *appropriate adult* and request the parent, *guardian* or *appropriate adult* to sign on the first duplicate original Information Notice to acknowledge receipt of the notice; and
 - (c) provide the first duplicate original Information Notice to the *designated probation officer* and retain proof that the Information Notice was received by the *designated probation officer*.
- (6) If the *child* will remain in custody and neither the parent nor *guardian* of the *child* is present, the Community Service Centre Commander must take such steps as may be reasonable in the circumstances to contact the parent or *guardian* of the *child* or an *appropriate adult* and, if successful, request the parent or *guardian* of the *child* or the *appropriate adult* to come to the police station. When the parent or *guardian* of the *child* or *appropriate adult* arrives at the police station, the Community Service Centre Commander must act in accordance with subparagraph (5)(a)-(c).
- (7) If the parent or *guardian* of the *child* or the *appropriate adult* is not present and cannot be contacted, the Community Service Centre Commander must —
- (a) if the police station where the *child* has been detained, has the necessary facilities available, the *child* must be detained separate from adults and separate from *children* of the opposite sex;
 - (b) if the police station where the *child* has been detained, does not have the necessary facilities available to detain the *child* separate from adults and separate from *children* of the opposite sex, the *child* must be transported to and be detained at another police station where such facilities are available;
 - (c) complete a SAPS 583(j) (Information Notice upon the arrest of a child), provide the Information Notice to the *designated probation officer* and file proof that it was received by the *designated probation officer* under “B” in the docket opened in respect of the case for which the *child* was *arrested*; and

- (d) file the first duplicate original SAPS 583(j) (Information Notice upon the arrest of a child) under "B" in the docket opened in respect of the case for which the *child* was *arrested*.
- (8) If the Community Service Centre Commander of the police station, where the *child* was originally detained, is unable to —
 - (a) inform the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*, he or she must complete a SAPS 583(d) (Written Report on failure to notify the parent, guardian or appropriate adult of arrest of child) setting out the steps taken to notify the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child* and the reason why he or she was unable to notify the parent, *guardian* or an *appropriate adult* of the *arrest* of the *child*; or
 - (b) notify the *designated probation officer* of the *arrest* of the *child*, he or she must complete a SAPS 583(e) (Written Report on failure to notify the Probation Officer of the arrest of a child) setting out the steps taken to notify the *probation officer* and the reason why he or she was unable to notify the *probation officer*,
and file it under "B" in the docket, which must be submitted to the prosecutor, who will be present at the *preliminary inquiry*, and who must be requested to hand the report to the presiding officer at the *preliminary inquiry*.

15. Transportation of a child

- (1) If it is necessary for a *child*, who is alleged to have committed an offence, to be transported in a police vehicle, the *child* must, as far as reasonably possible, be transported —
 - (a) in an unmarked police vehicle. If this is not possible, and the *child* has to be transported in a marked police vehicle, the *child* must —
 - (i) preferably be transported in a sedan police vehicle; and
 - (ii) if the *child* has to be transported in a marked police van, the *child* must be transported in the cabin of the van and not in the back of the van; and
 - (b) separately from adults.
- (2) Restraining measures, as provided for in Standing Order (General) 350, may be applied to a *child* during the transportation of the *child*, where this is necessary and appropriate, in order to ensure the safety of the *child*, other *children* and *members* accompanying him or her and to prevent the escape of the *child*.
- (3) If it is not possible to transport a *child* separately from adults to or from a *preliminary inquiry* or other hearing before a *child justice court*, the *member* who is the driver of the police vehicle, or other *member* who authorised the transport of the *child* together with the adult, must —
 - (a) complete a SAPS 583(g) (Written Report on transportation of child with adults);

- (b) within 48 hours after the transport has been undertaken, hand the original SAPS 583(g) (Written Report on transportation of child with adults) to the clerk of the court where the *preliminary inquiry* or hearing before a *child justice court* will be or has been held and request that the Written Report be handed to the judicial officer who presided or will preside over the *preliminary inquiry* or other hearing;
 - (c) request the clerk of the court to sign on the first duplicate original copy of the Written Report to acknowledge receipt; and
 - (d) file the first duplicate original copy of the Written Report under "B" in the docket opened in respect of the offence allegedly committed by the *child*.
- (4) If, for whatever reason, it was not possible to hand the SAPS 583(g) (Written Report on transportation of child with adults) to the clerk of the court within 48 hours after the transport had been undertaken, the responsible *member* must —
- (a) make an affidavit setting out the reasons why it was not possible to do so;
 - (b) make a copy of the affidavit;
 - (c) attach the original affidavit to the original Written Report, which is handed to the clerk of the court;
 - (d) request the clerk of the court to sign on the copy of the affidavit to acknowledge receipt; and
 - (e) file the copy of the affidavit, signed by the clerk of the court, together with the first duplicate original copy of the Written Report under "B" in the docket opened in respect of the offence allegedly committed by the *child*.

16. Access to Custody Register

- (1) An entry in the Custody Register relating to a *child* in police custody, must be made in red ink and any aliases of the *child* must be recorded in the remarks column of the entry in the register.
- (2) The register may be examined by —
 - (a) a *member* in the performance of his or her functions;
 - (b) a social worker, health care practitioner or *probation officer* in the performance of his or her functions;
 - (c) the prosecutor in the performance of his or her functions;
 - (d) a *member* of the Intersectoral Committee for Child Justice established in terms of *the Act*;
 - (e) an independent observer appointed in terms of *the Act*;
 - (f) a person who is by law empowered or mandated to take care of the interests of a *child*;
 - (g) a parent of the *child* or the *appropriate adult* or *guardian*;
 - (h) a staff *member* of the *child and youth care centre* where the *child* is placed;
 - (i) the presiding officer involved in the case; and
 - (j) the legal representative of the *child*.