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CONTENTS**INHOUD**

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>	<i>No.</i>	<i>Bladsy No.</i>	<i>Koerant No.</i>
Police, Department of			Polisie, Departement van		
<i>Government Notice</i>			<i>Goewermentskennisgewing</i>		
759			759		
Child Justice Act (75/2008): National Instruction 2 of 2010: Children in conflict with the law: For general information.....	3	33508	Wet op Strafgereguleering ten Op sigte 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*.

- (3) A person, other than a person referred to in subparagraph (2), who wishes to examine the register must —
 - (a) submit a SAPS 583(h) (Application for Access to Custody Register) to the station commander or the person designated in writing by the station commander; and
 - (b) identify himself or herself and provide documentary proof of his or her capacity, if requested to do so by the station commander or designated person.
- (4) The station commander or designated person must consider the application and, if he or she —
 - (a) is satisfied that the applicant has a *bona fide* reason for examining the register and has no reason to believe that allowing him or her to examine the register will detrimentally affect any *child* or other detainee whose name and particulars appear in the register, he or she may authorise the applicant to examine the register; or
 - (b) is not so satisfied, he or she must decline the application, record his or her reasons for declining the application on the application and provide the applicant with a copy of the declined application.
- (5) A *member* must remain present while a person examines the register to protect the privacy of persons in police custody who are not the subject of an investigation involving the *child*.

17. Summons

- (1) If a summons is received which is to be served on a *child* who allegedly committed an offence, the investigating officer must contact a parent or *guardian* of the *child* or an *appropriate adult* and make arrangements that will enable him or her to serve the summons in the presence of a parent or *guardian* of the *child* or an *appropriate adult* at least 10 (ten) *working days* before the date of the *preliminary inquiry* or other hearing in respect of which the *child* is summoned.
- (2) When the summons is served, the *member* serving the summons must —
 - (a) explain the contents of the summons to the *child* and the parent, *guardian* or *appropriate adult*;
 - (b) hand the original summons to the *child* in the presence of the parent, *guardian* or *appropriate adult* and request the *child* and parent, *guardian* or *appropriate adult* to sign the Return of Service to acknowledge receipt of the summons; and
 - (c) make two copies of the summons and the Return of Service and —
 - (i) provide the first copy of the summons and the Return of Service to the *designated probation officer* within 24 hours after the summons was handed to the *child*; and
 - (ii) file proof that it was received by the *designated probation officer* together with the second copy of the summons and

the Return of Service under "B" in the docket opened in respect of the case for which the *child* was summoned.

- (3) If the investigating officer is unable to make arrangements that will enable him or her to serve the summons at least 10 (ten) *working days* before the date of the *preliminary inquiry* or other hearing in respect of which the *child* is summoned, the investigating officer must make an appropriate entry in the investigation diary of the docket and submit the docket to the prosecutor with a request to have a new summons issued.

18. Assessment of a child

- (1) The station commander and Community Service Centre Commander must render full support to a *probation officer* to enable the *probation officer* to conduct an *assessment* of a *child* in police custody.
- (2) A station commander and Community Service Centre Commander must, if requested thereto by a *probation officer*, take all reasonable steps (including phoning the parent or *guardian* of the *child* or an *appropriate adult* or visiting the last known address of the parent or *guardian* of the *child* or an *appropriate adult* (if within a reasonable distance)) in order to assist the *probation officer* to locate a parent or *guardian* of the *child* or an *appropriate adult*.
- (3) The station commander must make a room, other than a *police cell*, available for the *probation officer* in which to conduct the *assessment*. Such a room must enable the *probation officer* to conduct the *assessment* in private.
- (4)
 - (a) If the station commander, Community Service Centre Commander or any other *member* is of the opinion that —
 - (i) the *child* poses a danger to the *probation officer* or any other person; or
 - (ii) there is a risk that the *child* may escape during the *assessment*,the *member* must inform the *probation officer* of the basis for his or her opinion.
 - (b) If the *probation officer* requests that a *member* be present during the *assessment*, the station commander or Community Service Centre Commander must make a *member*, other than the investigating officer, available for this purpose.
- (5) If a *member* is present while an *assessment* is conducted, such *member* may not disclose any information that came to his or her knowledge during the *assessment*, except if requested thereto by the presiding officer at a *preliminary inquiry* or other court proceeding.

19. Error regarding placement

- (1) In terms of *the Act*, no presiding officer (whether at a preliminary enquiry or at a *child justice court*) may remand a *child* to police custody pending the *child's* next appearance in court. Accordingly, if a court issues a warrant for the further *detention* of a *child* and the warrant states that the *child* must be detained in police custody until the date, stated in the warrant, when he or she must again appear in court, this amounts to an error on the part of the presiding officer and the matter must be dealt with as set out in subparagraph (2).
- (2) The Community Service Centre Commander must —
 - (a) accept the *child* into police custody and perform the normal duties relating to the *detention* of a *child* in police custody;
 - (b) make an entry in the Occurrence Book (OB) recording the fact that the warrant for the *detention* of the *child* in police custody was erroneously issued by the presiding officer;
 - (c) complete the SAPS 583(i) (Notification of Error regarding Placement form);
 - (d) make a copy of the warrant for the *detention* of the *child* at the police station and attach the copy to the SAPS 583(i) (Notification of Error regarding Placement form); and
 - (e) ensure that —
 - (i) if the *child* is received at the police station at a time when it is still possible for the *child* to be returned to the presiding officer before the end of the court session for that day, the *child* is returned to the presiding officer immediately together with the SAPS 583(i) (Notification of Error regarding Placement form) to which the copy of the warrant for the *detention* of the *child* is attached; or
 - (ii) if the *child* is received at the police station at a time when it is no longer possible for the *child* to be returned to the presiding officer before the end of the court session for that day, the *child* must be detained in police custody until the next court day and, at the beginning of the next court day, be returned to the presiding officer together with the SAPS 583(i) (Notification of Error regarding Placement form) to which the copy of the warrant for the *detention* of the *child* is attached.
- (3) If a *child* is erroneously placed in a *child and youth care centre* and a request is received from the *child and youth care centre* to return the *child* to the presiding officer for the error to be corrected, the station commander must instruct the investigating officer of the case in respect of which the *child* is in *detention*, if he or she is available, and, if not, another *member*, to, —
 - (a) if the request is received by the station commander at a time when it is still possible for the *child* to be returned to the presiding officer before the end of the court session for that day, collect the *child* and return the *child* to the presiding officer immediately together

- with the Written Referral by the *child and youth care centre* to which the copy of the court order for the *detention* of the *child* at the *child and youth care centre* is attached; or
- (b) if the request is received by the station commander at a time when it is no longer possible for the *child* to be returned to the presiding officer before the end of the court session for that day, collect the *child* at the beginning of the next court date and return the *child* to the presiding officer, together with the Written Referral by the *child and youth care centre* to which the copy of the court order for the *detention* of the *child* at the *child and youth care centre* is attached.

20. Confession by a child in conflict with the law

- (1) If a *child* indicates to a *member* that he or she is willing to make a confession, the *member* must inform the *child* that he or she —
- (a) will be taken to a magistrate or a police officer (whoever is applicable), that the confession will be written down and may be used as evidence against him or her in court;
- (b) is entitled to have a legal representative present while making the confession; and
- (c) is entitled to be assisted by his or her parent, *guardian* or an *appropriate adult* while making the confession.
- (2) If the *child* indicates that he or she wishes to have his or her legal representative present while the confession is taken, the *member* must —
- (a) establish who the legal representative is;
- (b) contact the legal representative and inform him or her that the *child* wishes to have him or her present while he or she makes the confession and of the time when and place where the confession will be taken to enable him or her to attend while the confession is taken; and
- (c) inform the magistrate or the police officer (whoever is applicable) of the steps that he or she has taken to inform the legal representative when the *child* is taken to the magistrate or the police officer for the taking of the confession.
- (3) If the *child* indicates that he or she wishes to have his or her parent, *guardian* or an *appropriate adult* present to assist him or her while the confession is taken, the *member* must —
- (a) establish the whereabouts of the parent, *guardian* or the *appropriate adult*;
- (b) contact the parent, *guardian* or the *appropriate adult* and inform him or her that the *child* wishes to have him or her present while he or she makes the confession and of the time when and place where the confession will be taken to enable him or her to attend and assist the *child* during the taking of the confession; and
- (c) inform the magistrate or the police officer (whoever is applicable) of the steps that he or she has taken to inform the parent,

guardian or the *appropriate adult* when the *child* is taken to the magistrate or the police officer for the taking of the confession.

- (4) If the *child* indicates that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her while the confession is taken, the *member* must —
- (a) if the *member* and the *child* is present at the police station, —
 - (i) make an entry in the Occurrence Book (OB) stating that the *child* was informed as set out in subparagraph (1) but that the *child* has indicated that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her while the confession is taken;
 - (ii) request the *child* to sign the entry to confirm the correctness of the entry; and
 - (iii) inform the magistrate or the police officer (whoever is applicable) of the choice of the *child* when the *child* is taken to the magistrate or the police officer for the taking of the confession; or
 - (b) if the *member* and the *child* is not present at the police station, —
 - (i) make an entry in his or her Pocketbook stating that the *child* was informed as set out in subparagraph (1) but that the *child* has indicated that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her while the confession is taken;
 - (ii) request the *child* to sign the entry to confirm the correctness of the entry; and
 - (iii) inform the magistrate or the police officer (whoever is applicable) of the choice of the *child* when the *child* is taken to the magistrate or the police officer for the taking of the confession; and
 - (c) if requested thereto by the said magistrate or police officer, provide him or her with the contact particulars of the legal representative, parent, *guardian* or *appropriate adult*.

21. Pointing-out by a child in conflict with the law

- (1) If a *child* indicates to a *member* that he or she is willing to make a pointing-out, the *member* must inform the *child* that he or she —
- (a) will be taken to a magistrate or a police officer (whoever is applicable), that the pointing-out will be recorded and may be used as evidence against him or her in court;
 - (b) is entitled to have a legal representative present while making the pointing-out; and
 - (c) is entitled to be assisted by his or her parent, *guardian* or an *appropriate adult* while making the pointing-out.

- (2) If the *child* indicates that he or she wishes to have his or her legal representative present while the pointing-out is made, the *member* must —
- (a) establish who the legal representative is;
 - (b) contact the legal representative and inform him or her that the *child* wishes to have him or her present while he or she makes the pointing-out and of the time when and place where the pointing-out will be made to enable him or her to attend while the pointing-out is made; and
 - (c) inform the magistrate or the police officer (whoever is applicable) of the steps that he or she has taken to inform the legal representative when the *child* will be taken to the magistrate or the police officer for the pointing-out.
- (3) If the *child* indicates that he or she wishes to have his or her parent, *guardian* or an *appropriate adult* present to assist him or her while the pointing-out is made, the *member* must —
- (a) establish the whereabouts of the parent, *guardian* or the *appropriate adult*;
 - (b) contact the parent, *guardian* or the *appropriate adult* and inform him or her that the *child* wishes to have him or her present while he or she makes the pointing-out and of the time when and place where the pointing-out will be made to enable him or her to attend and assist the *child* during the pointing-out; and
 - (c) inform the magistrate or the police officer (whoever is applicable) of the steps that he or she has taken to inform the parent, *guardian* or the *appropriate adult* when the *child* will be taken to the magistrate or the police officer for the pointing-out.
- (4) If the *child* indicates that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her while the pointing-out is made, the *member* must —
- (a) if the *member* and the *child* is present at the police station, —
 - (i) make an entry in the Occurrence Book (OB) stating that the *child* was informed as set out in subparagraph (1) but that the *child* has indicated that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her while the pointing-out is made;
 - (ii) request the *child* to sign the entry to confirm the correctness of the entry; and
 - (iii) inform the magistrate or the police officer (whoever is applicable) of the choice of the *child* when the *child* is taken to the magistrate or the police officer for the making of the pointing-out; or
 - (b) if the *member* and the *child* is not present at the police station, —
 - (i) make an entry in his or her Pocketbook stating that the *child* was informed as set out in subparagraph (1) but that

- the *child* has indicated that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her while the pointing-out is made;
- (ii) request the *child* to sign the entry to confirm the correctness of the entry; and
 - (iii) inform the magistrate or the police officer (whoever is applicable) of the choice of the *child* when the *child* is taken to the magistrate or the police officer for the making of the pointing-out; and
- (c) if requested whereto by the said magistrate or police officer, provide him or her with the contact particulars of the legal representative, parent, *guardian* or *appropriate adult*.

22. Admission by a child in conflict with the law

- (1) If a *child* makes an admission, the *member* must inform the *child* that he or she is entitled to —
- (a) remain silent and does not have to make any statement or answer any question and that anything that he or she says may be written down and may be used as evidence against him or her in court;
 - (b) consult with a legal representative before making any statement or answering any question; and
 - (c) be assisted by his or her parent, *guardian* or an *appropriate adult* before making any statement or answering any question.
- (2) If the *child* indicates that he or she wishes to consult with his or her legal representative before making any statement or answering any question, the *member* must —
- (a) establish who the legal representative is;
 - (b) contact the legal representative and inform him or her that the *child* wishes to consult with him or her before making any statement or answering any question and when and where he or she may consult with the *child*; and
 - (c) record in the Occurrence Book (OB), if the *member* is at the police station or, if the *member* is not at the police station, in his or her Pocketbook, the steps that he or she has taken to inform the legal representative as set out in subparagraph (b).
- (3) If the *child* indicates that he or she wishes to have his or her parent, *guardian* or an *appropriate adult* present before making any statement or answering any question, the *member* must —
- (a) establish the whereabouts of the parent, *guardian* or the *appropriate adult*;
 - (b) contact the parent, *guardian* or the *appropriate adult* and inform him or her that the *child* wishes to have him or her present when making any statement or answering any question and when and where the statement will be taken or the questions will be asked to enable him or her to assist the *child* while the statement is being taken or the questions are being asked; and

- (c) record in the Occurrence Book (OB), if the *member* is at the police station or, if the *member* is not at the police station, in his or her Pocketbook, the steps that he or she has taken to inform the parent, *guardian* or the *appropriate adult* as set out in subparagraph (2)(b).
- (4) If the *child* indicates that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her before making any statement or answering any question, the *member* must —
- (a) if the *member* and the *child* is present at the police station, —
 - (i) make an entry in the Occurrence Book (OB) stating that the *child* was informed as set out in subparagraph (1) but that the *child* has indicated that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her before making any statement or answering any question;
 - (ii) request the *child* to sign the entry to confirm the correctness of the entry; and
 - (iii) take any statement made by the *child* by properly completing Form SAPS 3M(m); or
 - (b) if the *member* and the *child* is not present at the police station, —
 - (i) make an entry in his or her Pocketbook stating that the *child* was informed as set out in subparagraph (1) but that the *child* has indicated that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present before making any statement or answering any question;
 - (ii) request the *child* to sign the entry to confirm the correctness of the entry; and
 - (iii) take any statement made by the *child* by properly completing Form SAPS 3M(m).

23. Identity parade in which a child in conflict with the law appears as a suspect

- (1) An investigating officer in a case in which a *child* is a suspect, who decides that it is necessary for the purposes of the successful conclusion of the investigation of the case, for the *child* to appear as a suspect on an identification parade, must, well in advance before the identification parade is to be held so as to allow the *child* a reasonable opportunity to secure the presence of his or her legal representative and his or her parent, *guardian* or *appropriate adult* at the parade, inform the *child* —
- (a) of the intention to hold the identification parade and the purpose of the identification parade;
 - (b) that he or she is legally obliged to participate in the identification parade; and
 - (c) that he or she is entitled to have his or her legal representative and his or her parent, *guardian* or *appropriate adult* present at the parade.

- (2) If the *child* indicates that he or she wishes to have his or her legal representative present while the identification parade is held, the investigating officer must —
- (a) establish who the legal representative is;
 - (b) contact the legal representative and inform him or her that the *child* wishes to have him or her present while the identification parade is held and of the time when and place where the identification parade will be held to enable him or her to attend the identification parade; and
 - (c) record in the Occurrence Book (OB) the steps that he or she has taken to inform the legal representative as set out in subparagraph (b).
- (3) If the *child* indicates that he or she wishes to have his or her parent, *guardian* or an *appropriate adult* present to assist him or her during the identification parade, the *member* must —
- (a) establish the whereabouts of the parent, *guardian* or the *appropriate adult*;
 - (b) contact the parent, *guardian* or the *appropriate adult* and inform him or her —
 - (i) that the *child* wishes to have him or her present during the identification parade and of the time when and place where the identification parade will be held to enable him or her to attend and assist the *child* during the identification parade; and
 - (ii) that he or she is entitled to attend the identification parade and may assist the *child* during the identification parade; and
 - (c) record in the Occurrence Book (OB) the steps that he or she has taken to inform the parent, *guardian* or the *appropriate adult* as set out in subparagraph (b).
- (4) If the *child* indicates that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her during the identification parade, the *member* must —
- (a) make an entry in the Occurrence Book (OB) stating that the *child* was informed as set out in subparagraph (1) but that the *child* has indicated that he or she does not wish to have his or her legal representative or his or her parent, *guardian* or an *appropriate adult* present to assist him or her during the identification parade;
 - (b) request the *child* to sign the entry to confirm the correctness of the entry; and
 - (c) if requested thereto by the *member* in charge of the identification parade, provide him or her with the contact particulars of the legal representative, parent, *guardian* or *appropriate adult*.

- (5) The *member* in charge of an identification parade must, before the commencement of the parade, inform every *child* who will be required to appear as a suspect on the parade of the following:
- (a) the nature of the allegations against him or her;
 - (b) the purpose of the identification parade;
 - (c) his or her right to legal representation and afford him or her a reasonable opportunity and assist him or her to contact his or her legal representative or to secure legal representation;
 - (d) his or her right to be assisted by his or her parent, *guardian* or an *appropriate adult* during the parade and assist him or her to contact his or her parent, *guardian* or an *appropriate adult* to secure the presence of his or her parent, *guardian* or an *appropriate adult* at the parade;
 - (e) his or her right to remain silent; and
 - (f) that he or she is legally obliged to participate in the identification parade.
- (6) If the *child* refuses to participate in the parade, he or she must not be physically taken to the parade. The *child* must, however, be informed that his or her refusal will be adduced as evidence against him or her during his or her trial and that the court may draw an adverse inference from the refusal.
- (7) The legal representative of the *child* or his or her parent, *guardian* or an *appropriate adult* may not participate or interfere with the proceedings and is merely an observer. The parent, *guardian* or an *appropriate adult* who attends the parade must be informed accordingly and must be allowed to support the *child* between the appearances of witnesses. The legal representative of the *child* may elicit facts with regard to the identification parade during cross-examination in court and even give evidence thereon.
- (8) The *child* must participate in the parade in such condition, position or clothing as the *member* in charge of the parade may determine. The *child* or his or her legal representative, parent, *guardian* or the *appropriate adult* may make reasonable requests regarding the appearance of the *child* on the parade. However, the *member* in charge of the parade may refuse to comply with such a request if it will be in the interest of justice to refuse - such as where the change of appearance will actually result in the *child* being disguised.
- (9) National Instruction 1 of 2007 on Identification Parades (as amended by subparagraphs (1)-(8)) applies to an identification parade in which a *child* appears as a suspect.

24. Receiving a report that a child was used by an adult to commit a crime

- (1) In terms of section 141(1)(d) read with section 305(1)(c) of the *Children's Act*, any adult person who uses, procures or offers a *child* for the commission of any offence listed in Schedules 1 or 2 of the *Criminal Procedure Act*, or attempts to do so, is guilty of an offence.
- (2) In terms of section 92 of *the Act*, a court official or *probation officer* must, if it comes to his or her attention that a *child* has been used by an adult to commit an offence referred to in Schedule 1 or 2 of the *Criminal Procedure Act*, report the information at his or her disposal in this regard, to a police official.
- (3) The person reporting the alleged commission of the offence, normally does so voluntarily (except in the circumstances referred to in subparagraph (2)) and is accordingly normally willing to provide all the information at his or her disposal to the police.
- (4) Any person reporting such information as a result of the legal duty to do so in terms of section 92 of *the Act*, may sometimes do so because of the legal duty on him or her to do so.
- (5) If a person (referred to in subparagraph (4)) reports such knowledge or his or her belief or suspicion to a police official, the *member* receiving the report may under no circumstances turn such a person away. Such a *member* must consider the information and —
 - (a) if the *member* is satisfied that there are reasonable grounds to believe that the offence established in section 141(1)(d) of the *Children's Act* was indeed committed, take an affidavit from the person setting out the information provided by that person, open a docket for the investigation of the offence that was allegedly committed and register the docket on the CAS system; or
 - (b) if the *member* is not satisfied that there are reasonable grounds to believe that such an offence was indeed committed, consult with the Community Service Centre Commander who must make a comprehensive OB entry of the report and the reasons why the Commander is not satisfied that there are reasonable grounds to believe that such an offence was indeed committed and provide the number of the OB entry to the person who made the report. The entry must include sufficient particulars of the person that made the report to enable him or her to be located and be interviewed if this turns out to be necessary.
- (6) Any person who reports the alleged commission of the offence established in section 141(1)(d) of the *Children's Act* to a *member* must be treated in a professional manner and must be reassured that the report is viewed in a serious light and will be thoroughly investigated.

25. Expungement of previous conviction and criminal record of a child

- (1) The Head: Criminal Record Centre may, in writing, authorise any *member* attached to the Criminal Record Centre of or above the rank of Brigadier, to expunge the criminal record of a person who was convicted of an offence while that person was a *child*, upon the receipt of a certificate of expungement issued by —
 - (a) the Director General of the Department of Justice and Constitutional Development; or
 - (b) the Minister of Justice and Constitutional Development.
- (2) The Head: Criminal Record Centre must file every certificate referred to in subparagraph (1) and keep record of the date of the receipt of the certificate, the date upon which the record of the conviction and sentence was removed and the official who removed it.
- (3) The Head: Criminal Record Centre must, upon receipt of a written request from any person whose criminal record has been expunged in accordance with this paragraph, in writing confirm that the criminal record of the *child* has been expunged.

ANNEXURE A**SCHEDULE 1**

1. Theft, whether under the common law or a statutory provision, receiving stolen property knowing it to have been stolen or theft by false pretences, where the amount involved does not exceed R 2 500.
2. Fraud, extortion, forgery and uttering or an offence referred to in the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), where the amount involved does not exceed R 1 500.
3. Malicious injury to property, where the amount involved does not exceed R 1 500.
4. Common assault where grievous bodily harm has not been inflicted.
5. Perjury.
6. Contempt of court.
7. Blasphemy.
8. Compounding.
9. Crimen iniuria.
10. Defamation.
11. Trespass.
12. Public Indecency.
13. Engaging sexual services of persons 18 years or older, referred to in section 11 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).
14. Bestiality, referred to in section 13 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.
15. Acts of consensual sexual penetration with certain children (statutory rape) and acts of consensual sexual violation with certain children (statutory sexual assault), referred to in and subject to sections 15 and 16 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively.
16. Any offence under any law relating to the illicit possession of dependence-producing drugs, other than any offence referred to in Item 17 of this Schedule, where the quantity involved does not exceed R 500 in value.
17. Any other statutory offence where the maximum penalty determined by that statute is imprisonment for a period of no longer than three months or a fine for that period, calculated in accordance with the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).
18. Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.

ANNEXURE B**SCHEDULE 2**

1. Theft, whether under the common law or a statutory provision, receiving stolen property knowing it to have been stolen, or theft by false pretences, where the amount involved exceeds R 2 500.
2. Fraud, extortion, forgery and uttering or an offence referred to in the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), where the amount involved exceeds R 1 500.
3. Robbery, other than robbery with aggravating circumstances.
4. Malicious injury to property, where the amount involved exceeds R 1 500.
5. Assault, involving the infliction of grievous bodily harm.
6. Public violence.
7. Culpable homicide.
8. Arson.
9. Housebreaking, whether under the common law or a statutory provision, with the intent to commit an offence.
10. Administering poisonous or noxious substance.
11. Crimen expositionis infantis.
12. Abduction.
13. Sexual assault, compelled sexual assault or compelled self-sexual assault referred to in sections 5, 6 and 7 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), respectively, where grievous bodily harm has not been inflicted.
14. Compelling or causing persons 18 years or older to witness sexual offences, sexual acts or self-masturbation, referred to in section 8 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.
15. Exposure or display of or causing exposure or display of child pornography or pornography as referred to in sections 10 or 19 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively.
16. Incest and sexual acts with a corpse, referred to in sections 12 and 14 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively.
17. Exposure or display of or causing exposure or display of genital organs, anus or female breasts to any person ("flashing"), referred to in sections 9 or 22 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.
18. Violating a dead body or grave.
19. Defeating or obstructing the course of justice.
20. Any offence referred to in section 1 or 1A of the Intimidation Act, 1982 (Act No. 72 of 1982).
21. Any offence relating to criminal gang activities referred to in Chapter 4 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998).
22. Any contravention of section 2 of the Animals Protection Act, 1962 (Act No. 71 of 1962).
23. Any offence under any law relating to the illicit possession of dependence-producing drugs, other than any offence referred to in Item 24 of this Schedule, where the quantity involved exceeds R 500 but does not exceed R 5 000 in value.

24. Any other statutory offence where the maximum penalty determined by that statute is imprisonment for a period exceeding three months but less than five years or a fine for that period, calculated in accordance with the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).
25. Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.

ANNEXURE C**SCHEDULE 3**

1. Treason.
2. Sedition.
3. Murder.
4. Extortion, where there are aggravating circumstances present.
5. Kidnapping.
6. Robbery—
 - (a) where there are aggravating circumstances; or
 - (b) involving the taking of a motor vehicle.
7. Rape or compelled rape referred to in sections 3 and 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), respectively.
8. Sexual assault, compelled sexual assault or compelled self-sexual assault referred to in sections 5, 6 and 7 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively, involving the infliction of grievous bodily harm.
9. Sexual exploitation of children, sexual grooming of children and using children for or benefiting from child pornography, referred to in sections 17, 18 and 20 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively.
10. Exposure or display of or causing exposure or display of child pornography or pornography to children referred to in section 19 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, if that exposure or display is intended to facilitate or promote—
 - (a) the sexual exploitation or sexual grooming of a child referred to in section 17 or 18 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively; or
 - (b) the use of a child for purposes of child pornography or in order to benefit in any manner from child pornography, as provided for in section 20 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.
11. Compelling or causing children to witness sexual offences, sexual acts or self-masturbation referred to in section 21 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.
12. Sexual exploitation of persons who are mentally disabled, sexual grooming of persons who are mentally disabled, exposure or display of or causing exposure or display of child pornography or pornography to persons who are mentally disabled or using persons who are mentally disabled for pornographic purposes or benefiting therefrom, referred to in sections 23, 24, 25, and 26 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively.
13. Trafficking in persons for sexual purposes referred to in section 71(1) and involvement in trafficking in persons for sexual purposes referred to in section 71(2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.

14. Any offence referred to in Parts 1, 2 and 3 of Chapter 2 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004).
15. Any offence relating to—
 - (a) racketeering activities referred to in Chapter 2; or
 - (b) the proceeds of unlawful activities referred to in Chapter 3, of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998).
16. The crimes of genocide, crimes against humanity and war crimes referred to in the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002).
17. Any offence under any law relating to—
 - (a) the dealing in or smuggling of ammunition, firearms, explosives or armament;
 - (b) the possession of firearms, explosives or armament.
18. Any offence referred to in section 13(f) of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992).
19. Any offence of a serious nature if it is alleged that the offence was committed by a person, group of persons, syndicate or any enterprise, acting in the execution or furtherance of a common purpose or conspiracy.
20. Any offence under any law relating to the illicit possession of dependence producing drugs, other than an offence referred to in Item 21 of this Schedule, where the quantity involved exceeds R 5 000 in value.
21. Any other statutory offence where the maximum penalty determined by that statute is imprisonment for a period exceeding five years or a fine for that period, calculated in accordance with the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).
22. Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.

**INJURIES REGISTER (CHILDREN)
BESERINGSREGISTER (KINDERS)**

Serial no Volgno	Date Datum	Nature of injury / trauma and circumstances surrounding the injury / trauma Aard van besering/trauma en omstandighede rondom die besering/trauma	Signature and particulars of complainant / member reporting the incident Handtekening en besonderhede van klaer / lid wat voorval aanmeld	Nature of medical treatment Aard van mediese behandeling	Initial of Station Commander and date Paraaf van Stasiebevelvoerder en datum

Date report referred to Cluster Commander Datum waarop verslag verwys is na Groepsbevelvoerder	Instructions by Cluster Commander / Provincial Commissioner Instruksies van Groepsbevelvoerder / Provinsiale Kommissaris	Steps taken as result of the instructions of Cluster Commander / Provincial Commissioner Stappe gedoen na aanleiding van instruksies van Groepsbevelvoerder / Provinsiale Kommissaris

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

**INFORMATION NOTICE TO PERSON TO WHOM A CHILD YOUNGER THAN 10 YEARS IS
HANDED**

(Section 9(1) of the Child Justice Act, 2008 (Act No. 75 of 2008))

Particulars of child:

Full names and surname: _____

Age: _____ Alleged offence committed: _____

The above child, who is younger than 10 years, is alleged to have committed the above-mentioned offence and is hereby handed over to:

Particulars of parent, guardian or appropriate adult to whom the child is handed:

Name and surname: _____

Residential address: _____

Contact number: _____

Relationship with child: _____

OR

If the parent or guardian of the child or an appropriate adult is not available, or it is not in the best interest of the child to be handed over to such a person, the child is hereby handed to the following child and youth care centre:

Name and address of Child and Youth Care Centre: _____

Contact particulars of Child and youth Care Centre: _____

Name and surname of person to whom child is handed: _____

Particulars of designated Probation Officer:

Name and surname: _____

Contact particulars: _____

The child was handed over on (date) _____ 20 _____ at (time) _____ : _____ by (Persal
number) _____ (rank) _____ (name and surname) _____

_____ stationed at (name of police station)

_____ contact number: _____

Signature: Member

Signature of person to whom child was handed

VERY IMPORTANT: PLEASE NOTE THE INFORMATION ON THE BACK OF THIS NOTICE

PLEASE NOTE:

1. The child is below the age of 10 years and can therefore not be prosecuted in a court of law for the commission of the alleged offence.
2. The child must, as soon as possible, but within 7 days after the issuing of this Information Notice, be assessed by the probation officer (see particulars on the reverse side). The probation officer will contact you to make arrangements to assess the child. You must cooperate with the probation officer to ensure that the child is assessed.
3. After the assessment, the probation officer will decide on how to proceed with the case and will inform you of the next step in the case.
4. The child **MUST** comply with the decision taken by the probation officer. If the child fails to comply with the decision of the probation officer, the matter will be referred to a Children's Court and the child will be dealt with as a child in need of care and protection in accordance with the Children's Act, 2005 (Act No. 38 of 2005).
5. You must cooperate and ensure that the child complies with the decision of the probation officer after the assessment.

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

WRITTEN NOTICE TO APPEAR AT A PRELIMINARY INQUIRY

(Section 18 of the Child Justice Act, 2008 (Act No. 75 of 2008))

Police station:	CAS/CR No:	Investigating officer of SAPS	
Place of Preliminary Inquiry		Room No:	Date of preliminary inquiry

TO:

Full name and surname of child:			
Residential address:			
Work address /School attended:			
Sex	M	F	Nationality: Age:
ID No:			

You are, in terms of section 18 of the Child Justice Act, 2008 (Act 75 of 2008), called upon to appear at a preliminary inquiry on the date and at the place stated above at 08:30 to consider allegations against you in that on or about _____

_____ and at or near _____

_____ in the district of _____ you unlawfully _____

The original notice was handed today to the aforementioned child personally and in the presence of (name and surname) _____

_____ OR a copy was handed to

(name and surname) _____ with ID no. _____

(residential address) _____

_____ being the child's _____ (state relationship with the child).

The child was warned to appear at the preliminary inquiry on the date, time and place indicated above and the parent, guardian or appropriate adult was warned to bring or cause the child to be brought to the preliminary inquiry on the date, time and place as indicated above.

Place _____

Name and surname of member _____

Signature: Member _____

Official Stamp

ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN NOTICE

Signature: Child _____

Signature: Parent, Guardian or Appropriate adult _____

Date _____

Date _____

SAPS 583(c)

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

WRITTEN REPORT ON DETENTION OF CHILD ARRESTED FOR SCHEDULE 1 OFFENCE BEFORE APPEARING AT PRELIMINARY INQUIRY

(Section 22(2) of the Child Justice Act, 2008 (Act No. 75 of 2008))

CAS/CR No: _____

Particulars of child

Full names and surname: _____

Age: _____ Date of birth: _____ Sex: _____

Date of arrest: _____ Time of arrest: _____

Station where the child is detained: _____

Alleged offence(s): _____

Reasons for detention of child

Motivate why the child could not be released from custody:

The parents of the child, an appropriate adult or the guardian of the child could not be located or is not available and all reasonable efforts have been made to locate the parents, appropriate adult or guardian. Explain the steps taken:

OR

There is a substantial risk that the child may be a danger to any other person or to himself or herself. Explain the risks if the child is released: (Attach documentation, if relevant to the risk)

Rank: _____

Persal No: _____

Name and surname: _____

Signature: Member _____

Official Stamp

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

WRITTEN REPORT ON FAILURE TO NOTIFY A PARENT, GUARDIAN OR APPROPRIATE ADULT OF ARREST OF CHILD

(Section 20(3)(d) of the Child Justice Act, 2008 (Act No. 75 of 2008))

CAS/CR No: _____

Particulars of child

Full names and surname: _____

Age: _____ Date of birth: _____ Sex: _____

Date of arrest: _____ Time of arrest: _____

Place where the child is detained: _____

Alleged offence(s): _____

Particulars of parent appropriate adult or guardian (If known)

Full names and surname: _____

Residential address: _____

Contact details: _____

Steps taken to notify parent, guardian or appropriate adult of arrest of the child (including why these were unsuccessful): *(Provide details of steps taken, including the manner and time of each attempt)* _____

Signature: Member _____

Official Stamp

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

WRITTEN REPORT ON FAILURE TO NOTIFY THE PROBATION OFFICER OF THE ARREST OF A CHILD

(Section 20(4)(b) of the Child Justice Act, 2008 (Act No. 75 of 2008))

CAS/CR No: _____

Particulars of child:

Full names and surname: _____

Age: _____ Date of birth: _____ Sex: _____

Date of arrest: _____ Time of arrest: _____

Place where the child is detained: _____

Alleged offence(s): _____

Particulars of probation officer:

Name and surname: _____

Stationed at: _____

Contact Details: _____

Steps taken to notify the probation officer of arrest of the child (including why these were unsuccessful): (Provide details of attempts made, including the manner and time of each attempt) _____

Rank: _____ Persal No: _____

Name and surname: _____

Signature: Member _____

Official Stamp

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

WRITTEN REPORT ON INJURY SUSTAINED OR SEVERE TRAUMA SUFFERED BY A CHILD

(Section 28 of the Child Justice Act, 2008 (Act No. 75 of 2008))

Police station _____ CAS/CR _____

Injury Register (SAPS 583) no _____

PART A

(TO BE COMPLETED BY THE MEMBER TO WHOM IT WAS REPORTED OR WHO OBSERVED IT)

Particulars of child

Full names and surname: _____

Age: _____ Date of birth/ID no: _____

Date and time of arrest: _____

Alleged offence/s committed: _____

Nature of injury / severe psychological trauma

Describe nature of injury / severe psychological trauma: _____

Describe the steps taken to obtain medical treatment and the outcome thereof: _____

State the nature of medical treatment received by the child: _____

(Attach a copy of the medical report to this Report)

OR

If it is impossible in the circumstances to obtain medical treatment for the child, state the reasons why this was impossible:

State future medical treatment required, if any: _____

If the complaint of injury or trauma was reported by someone other than the child, the particulars of that person:

Full names and surname: _____
Residential address: _____
_____ Contact number: _____
Relationship to child: _____

Signature: Member **Date**

**PART B
(TO BE COMPLETED BY THE STATION COMMANDER)**

Remarks / Instructions

Signature: Station Commander **Official Stamp**

**PART C
(TO BE COMPLETED BY THE CLUSTER COMMANDER)**

Remarks / Instructions

Signature: Cluster Commander **Official Stamp**

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

WRITTEN REPORT ON TRANSPORTATION OF CHILD WITH ADULTS

(Sections 33(2)(c) of the Child Justice Act, 2008 (Act No. 75 of 2008))

CAS/CR No: _____

Particulars of the child:

Full names and surname: _____

Age: _____ Date of birth: _____ Sex: _____

Date of arrest: _____ Place of detention: _____

Alleged offence/s: _____

Particulars of the transportation:

Date of transportation: _____ Time of transportation: _____

Child was transported from (place) _____ to _____ (place)

Particulars of adults transported with the child: _____

State attempts that were made to transport the child separately from adults and the reason why the child was not transported separately from adults: _____

State measures taken to protect the child during the transportation: _____

Signature: Member

Official Stamp

Persal no: _____ Rank: _____

Initials and surname of member: _____

SAPS 583(h)

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

APPLICATION FOR ACCESS TO CUSTODY REGISTER

(Section 28(4) of the Child Justice Act, 2008 (Act No. 75 of 2008))

CAS/CR No: _____

To: The Station Commander:

_____ Police station

Particulars of applicant

Full names and surname: _____

Identity Number: _____

Capacity: _____

Occupation: _____

Name of employer/ business: _____

Residential address: _____

Contact particulars: _____

Reasons for examining the Custody Register

Explain why you are requesting to have access to the Custody Register:

Signature: Applicant _____

Date _____

DECISION OF THE STATION COMMANDER OR THE PERSON DESIGNATED BY THE STATION COMMANDER

Tick the appropriate box. If access to the Custody Register is refused, state the reasons for your decision below.

Access Granted		Access Refused	
----------------	--	----------------	--

Reasons for refusing access to the Custody Register:

Signature: Station Commander / Designated Person _____

Official Stamp

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

NOTIFICATION OF ERROR REGARDING PLACEMENT

(Section 31 of the Child Justice Act, 2008 (Act No. 75 of 2008))

Case No: _____

To: **The Clerk of the Child Justice Court:**

Particulars of the child:

Full names and surname: _____

Age: _____ Date of birth: _____

Alleged offence(s): _____

Particulars of the placement order:

Terms of order: _____

Date on which order was issued: _____

Particulars of presiding officer who issued the order: _____

Particulars of the Community Service Centre Commander who received the child at the police station in terms of the placement order and who refers the child back

Name and surname: _____

Reasons for referring the child back to the presiding officer: _____

Attach a copy of the warrant authorising the detention of the child

Signature: Community Service Centre Commander

Official stamp

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

INFORMATION NOTICE UPON THE ARREST OF A CHILD*(Sections 20(3)(d) and (if applicable) 27(a) of the Child Justice Act, 2008 (Act No. 75 of 2008))***Particulars of child:**

Full names and surname: _____

Age: _____ Date of birth: _____ Sex: _____

Date of arrest: _____ Time of arrest: _____

Place where the child is detained: _____

Alleged offence(s): _____

_____ (Schedule no: _____)

Date of preliminary inquiry: _____

Place of preliminary inquiry: _____

The above child is alleged to have committed the above-mentioned offence and has been arrested by:

Initial and surname of arresting official: _____

Stationed at: _____

***Child and youth care centre (if the child is detained in a child and youth care centre):** (*delete if not applicable)

To: _____ (Person receiving the child at the child and youth care centre)

The above child has been placed in the centre and you are hereby authorised to detain the child until the preliminary inquiry referred to above. Signature of person receiving the child: _____

Signature: Member**Particulars of designated Probation Officer:**

Name and surname: _____

Contact particulars: _____

VERY IMPORTANT: PLEASE NOTE THE FOLLOWING INFORMATION:

1. In respect of offences referred to in Schedules 1 or 2 of the Act, the child may be released on bail by a prosecutor. If the child is accused of the commission of an offence referred to in Schedule 3 of the Act, the child may not be released on bail and will remain in custody until his or her appearance at the preliminary inquiry.
2. The child will be assessed by the probation officer (see particulars above). Please contact the probation officer to make arrangements to have the child assessed by the probation officer. You must cooperate with the probation officer to ensure that the child is assessed.
3. After the assessment, the probation officer will decide on how to proceed with the case and will inform you of the next step in the case.
4. The child **MUST** comply with the decision taken by the probation officer. If the child fails to comply with the decision of the probation officer, the matter will be referred to a Children's Court and the child will be dealt with as a child in need of care and protection in accordance with the Children's Act, 2005 (Act No. 38 of 2005).
5. You must cooperate and ensure that the child complies with the decision of the probation officer after the assessment.

No. 759**2 September 2010**

Die Nasionale Instruksie oor kinders wat met die gereg bots wat ingevolge artikel 97(5) van die Wet op Strafgereguleering ten opsigte van Kinders, 2008 (Wet No. 75 van 2008) uitgevaardig is, word hiermee vir algemene inligting gepubliseer.

**MINISTER VAN POLISIE
EN MTHETHWA**

NASIONALE INSTRUKSIE 2/2010

KINDERS WAT MET DIE GEREGBOTS

1. Agtergrond

Die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008) skep 'n nuwe aparte strafregstelsel vir *kinders wat met die geregbots*.

Die Wet vereis dat *kinders* anders as volwassenes hanteer word, maar maak daarvoor voorsiening dat hulle verantwoordelik neem vir hulle dade en daarvoor aanspreeklik gehou word. *Die Wet* voorsien dat *kinders* op 'n wyse hanteer word wat hulle sal ontmoedig om verder by misdaad betrokke te raak.

Die doel van hierdie Nasionale Instruksie is om te verseker dat *lede kinders wat met die geregbots* hanteer in ooreenstemming met die kinderstrafregstelsel wat daarop gerig is om die kringloop van misdaad te breek en by te dra om gemeenskappe veiliger te maak en *kinders* aan te spoor om wetsgehoorsame en produktiewe volwassenes te word.

2. Woordomsrywings

In hierdie Instruksie, tensy uit die konteks anders blyk, beteken —

- (a) **“aangewese proefbeampte”** die *proefbeampte* wat deur die Direkteur-Generaal: Maatskaplike Ontwikkeling aan 'n bepaalde polisiestasie toegewys is;
- (b) **“aanhouding”** die opsluiting van 'n *kind* voor vonnisoplegging in 'n *polisiesel of opsluitplek, gevangenis of 'n kinder- en jeugsorgsentrum*;
- (c) **“arrestasie”**, die inhegtenisneming van 'n *kind* op grond van 'n beweerde misdryf ten einde die teenwoordigheid van daardie *kind* by sy of haar eerste verskyning by die *voorlopige ondersoek* te verseker;
- (d) **“assessering”** die *assessering* deur 'n *proefbeampte* van 'n *kind* wat na bewering 'n misdryf gepleeg het, om 'n assesseringsverslag voor te berei en stappe aan te beveel wat ten opsigte van die *kind* gedoen behoort te word;
- (e) **“geskikte volwassene”** enige lid van 'n *kind* se familie, insluitende 'n broer of suster wat 16 jaar of ouer is, of 'n versorger van die *kind* (wat nie die *kind* se ouer of voog is nie) wat werklik vir die *kind* sorg en sluit in —
 - (i) 'n pleegouer;
 - (ii) 'n persoon wat vir 'n *kind* sorg met die stilswyende of uitdruklike toestemming van die *kind* se ouer of voog;
 - (iii) 'n persoon wat vir 'n *kind* sorg terwyl die *kind* in *tydelike veilige sorg* is;
 - (iv) die persoon wat aan die hoof is van 'n *kinder- en jeugsorgsentrum* waar die *kind* geplaas is;
 - (v) die persoon wat aan die hoof is van 'n skooling;

- (vi) 'n kinder- en jeugsorgwerker wat vir 'n *kind* sorg waar daar nie geskikte familiesorg in die gemeenskap is nie; en
- (vii) 'n *kind* wat aan die hoof staan van 'n huishouding, indien so 'n kind 16 jaar of ouer is;
- (f) **“die Wet”** die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 of 2008);
- (g) **“hof vir kinderstrafregpleging”** enige hof wat 'n strafszaak, waarin 'n *kind* die beskuldigde is, verhoor, of wat enige borgaansoek, pleit, vonnis of voorstel vir afwenteling in verband met so 'n saak, aanhoor;
- (h) **“kind”** enige persoon onder die ouderdom van 18 jaar;
- (i) **“kinder- en jeugsorgsentrum”** 'n fasiliteit wat opgerig is om op 'n gegewe tyd aan nie meer as 6 *kinders* residensiële sorg, buite die familie-omgewing, te bied;
- (j) **“kind wat met die gereg bots”** 'n *kind* wat daarvan verdink word dat hy of sy 'n misdryf gepleeg het;
- (k) **“Kinderwet”**, die Kinderwet, 2005 (Wet No. 38 van 2005);
- (l) **“lid”** 'n lid van die Suid-Afrikaanse Polisie, aangestel ingevolge die Wet op die Suid-Afrikaanse Polisie, 1995 (Wet No. 68 van 1995);
- (m) **“polisiesel of opsluitplek”** enige plek wat gebruik word vir die ontvangs, *aanhouding* of opsluiting van 'n persoon wat deur die Polisie aangehou word en sluit in alle grond, geboue en persele aangrensend tot enige sodanige plek en wat in verband daarmee gebruik word;
- (n) **“proefbeampte”** enige persoon wat ingevolge artikel 2 van die Wet op Proefdienste, 1991 (Wet No. 116 van 1991) as 'n *proefbeampte* aangestel is;
- (o) **“Strafproseswet”**, die Strafproseswet, 1977 (Wet No. 51 van 1977);
- (p) **“tydelike veilige sorg”**, die versorging van 'n *kind* in enige plek waar die *kind* gehuisves word terwyl 'n besluit of hofbevel rakende die plasing van daardie *kind*, afgewag word;
- (q) **“voog”** 'n ouer of ander persoon wat voogdskap oor 'n *kind* het;
- (r) **“voorlopige ondersoek”** 'n informele ondersoek wat deur die ondersoeklanddros gehou word om die assesseringsverslag van die *proefbeampte* te oorweeg en oor die vrylating of plasing van die *kind* te besluit; en
- (s) **“werksdag”** sluit Saterdag, Sondag en openbare vakansiedae uit.

3. Behandeling van kinders

(1) Agtergrond

- (a) *Kinders* is anders as volwassenes en het nie dieselfde kennis, ervaring en insig wat normaalweg van 'n volwassene verwag word nie. 'n *Kind* moet derhalwe anders as 'n volwassene hanteer word. 'n *Kind*, wat vermoedelik 'n misdryf gepleeg het, moet gevolglik anders hanteer word as 'n volwassene wat vermoedelik dieselfde misdryf gepleeg het.
- (b) *Kinders* is beïnvloedbaar en geneig om deur die gedrag van volwassenes beïnvloed te word. *Kinders* sal eerder die voorbeeld volg wat volwassenes stel, as om te doen wat volwassenes aan hulle sê om te doen. *Kinders* wat deur volwassenes aan misdaad blootgestel word, sal gevolglik waarskynlik by misdadige gedrag betrokke raak. Dit is omdat *kinders* in die algemeen daarna smag om volwassenes te wees en soos volwassenes behandel te word. Gevolglik, as hulle volwassenes misdrywe sien pleeg, wil hulle aan die wêreld wys dat hulle volwasse is deur ook misdrywe te pleeg.
- (c) Indien 'n *kind* vermoedelik 'n misdryf gepleeg het, is die eerste kontak tussen die *kind* en 'n beampte van die Strafstelsel (gewoonlik 'n *lid*) deurslaggewend. Die wyse waarop daardie beampte (*lid*) die *kind* behandel, kan 'n deurslaggewende rol speel om die *kind* te oortuig om sy of haar houding te verander en hom of haar daarvan te weerhou om verder by misdadige aktiwiteite betrokke te wees of hom of haar beweeg om verder en dieper by misdadige aktiwiteite betrokke te raak. Dit geld selfs waar 'n *kind* 'n weersinwekkende misdryf gepleeg het en ten tye van die pleging daarvan deeglik bewus was dat wat hy of sy gedoen het, verkeerd was en 'n misdryf daarstel.
- (d) 'n *Lid* wat 'n *kind*, wat vermoedelik 'n misdryf gepleeg het, konfronteer, moet bogenoemde in gedagte hou wanneer hy of sy oorweeg hoe om die *kind* te behandel.
- (e) 'n *Lid* moet 'n *kind* altyd op 'n wyse behandel wat in die beste belang van die *kind* is, soos uiteengesit in paragraaf 2(3) van die Nasionale Instruksie oor die Sorg en Beskerming van Kinders ingevolge die Kinderwet.

(2) Behandeling van 'n kind wat vermoedelik 'n misdryf gepleeg het

- (a) Tydens die eerste kontak met 'n *kind* wat vermoedelik 'n misdryf gepleeg het, moet die *lid*, indien die omstandighede dit toelaat, homself of haarself voorstel aan die *kind* en, indien 'n ouer, voog of 'n *geskikte volwassene* teenwoordig is, ook aan sodanige persoon.
- (b) Die *lid* moet aan die *kind* verduidelik dat daar vermoed word dat hy of sy die misdryf gepleeg het. Die *lid* moet dit aan die *kind*

verduidelik in 'n taal wat hy of sy verstaan, verkieslik in die moedertaal van die *kind*, deur eenvoudige woorde te gebruik om die *kind* te help om 'n beter begrip te hê van die strafregpleging ten opsigte van *kinders* en die prosedure wat in sy of haar saak gevolg sal word. Die *kind* moet verstaan dat hierdie 'n baie ernstige saak is.

- (c) Die *lid* moet beseftig dat die *kind* in die teenwoordigheid van die Polisie oorweldig en bang mag wees en moet derhalwe die aard van die misdryf en die prosedure wat in sy of haar geval gevolg sal word, geduldig verduidelik. Die *lid* moet genoegsame besonderhede oor die aangeleentheid verskaf en voldoende tyd toelaat dat die *kind* die inligting kan verwerk. Die *lid* moet die *kind* aanmoedig om vrae te vra, daarop antwoord en homself of haarself tevrede stel dat die *kind* die inligting en verduideliking wat gegee is, verstaan. Die *lid* kan antwoorde van die *kind* ontlok deur vrae te vra om seker te maak dat hy of sy die inligting verstaan.
- (d) 'n *Lid* moet nie 'n *kind* verneder of intimideer nie en moet te alle tye die *kind* op 'n wyse behandel en met hom of haar kommunikeer op 'n toepaslike wyse, inaggenome die ouderdom, volwassenheid en ontwikkelings stadium van die *kind*. Hoe jonger die *kind*, hoe meer geduldig moet die *lid* wees en hoe meer begrip moet hy of sy aan die dag lê. Die vlak van skoling van die *kind* en die *kind* se vermoë om te lees en skryf is ook relevant wanneer oorweeg word wat die gepaste wyse sal wees om die *kind* te behandel en met hom of haar te kommunikeer.
- (e) Die *lid* moet stappe doen om die privaatheid en menswaardigheid van die *kind* te beskerm en moet verseker dat gesprekke met die *kind* en sy of haar ouer of voog of 'n *geskikte volwassene* (hetsy by die polisiestasie of op die misdaadtoneel) privaat plaasvind, uit die sig en gehoor van ander persone.
- (f) 'n *Lid* wat aan 'n *kind* en sy of haar ouer, voog of 'n *geskikte volwassene* die inhoud van 'n kennisgewing of prosedure verduidelik, moet die agtergrond van die *kind*, die ouer, voog of *geskikte volwassene* en die feit dat hulle nie vertrouwd mag wees met die werking van die howe en hofprosedure nie, in ag neem. Die *lid* moet die inhoud van 'n kennisgewing of prosedure in eenvoudige, verstaanbare taal verduidelik en voldoende besonderhede aan die *kind* en ouer, voog of *geskikte volwassene* oordra. Die *lid* moet ook die *kind*, ouer, voog of *geskikte volwassene* aanmoedig om vrae te vra sonder om hom of haar te onderbreek.

(3) Taal van kommunikasie

- (a) 'n *Lid* moet met die *kind*, ouer, voog of *geskikte volwassene* praat in 'n taal wat hulle verstaan, verkieslik die taal van hulle keuse, en eenvoudige woorde gebruik.
- (b) Indien 'n *lid* —
- (i) nie in staat is om te bepaal watter taal die *kind* en ouer, voog of *geskikte volwassene* verstaan nie; of
 - (ii) nie 'n taal kan praat wat die *kind* en ouer, voog of *geskikte volwassene* verstaan nie;
- moet die *lid* die inligting in Engels verduidelik.
- (c) In die geval waar die *kind* en ouer, voog of *geskikte volwassene* nie Engels verstaan nie, moet die *lid* die Gemeenskapdienssentrumbevelvoerder dienooreenkomstig inlig. Die Gemeenskapdienssentrumbevelvoerder moet bepaal watter taal die *kind* en ouer, voog of *geskikte volwassene* verstaan en verseker dat die inligting in daardie taal oorgedra word.
- (d) In die geval waar die *kind* en ouer, voog of *geskikte volwassene* nie Engels verstaan nie, moet die Gemeenskapdienssentrumbevelvoerder 'n inskrywing in die Voorvalleboek (VB) maak waarin die stappe uiteengesit word wat gedoen is om te verseker dat die inligting aan die *kind* en ouer, voog of *geskikte volwassene* oorgedra word in 'n taal wat hulle verstaan.

(4) Arrestasie en aanhouding van kinders

- (a) 'n *Kind* mag slegs as 'n laaste uitweg gearresteer word en, indien die *kind* gearresteer is, moet hy of sy vir die kortste moontlike tyd aangehou word.
- (b) 'n *Lid* wat, ingevolge *die Wet* en hierdie Instruksie, gemagtig is om 'n *kind* te arresteer, mag besluit om die *kind* eerder nie te arresteer nie, maar om die ondersoek eers af te handel en die dossier daarna na die aanklaer te verwys om te oorweeg of die *kind* vervolg moet word of nie, en, indien wel, om 'n dagvaarding te laat uitreik om die teenwoordigheid van die *kind* by die *voorlopige ondersoek* te verseker.
- (c) By oorweging of die *kind* gearresteer moet word en of die ondersoek eers afgehandel moet word en die dossier daarna na die aanklaer verwys moet word sodat die aanklaer kan oorweeg of die *kind* vervolg moet word en of 'n dagvaarding uitgereik moet word, kan 'n *lid* enige inligting oorweeg wat in die Afwentelingsregister vervat is. Die Afwentelingsregister word deur die Departement van Maatskaplike Ontwikkeling in stand gehou en bevat besonderhede van *kinders* wie se strafsake afgewentel is. Hierdie inligting kan die *lid* help om te besluit of dit in die omstandighede gepas sal wees, inaggenome die inligting wat

verkry is van die Afwentelingsregister, om die *kind* te arresteer of om eerder die roete van 'n dagvaarding te volg.

- (d) 'n *Lid* moet verseker dat —
- (i) 'n *kind* apart van volwassenes en seuns apart van meisies aangehou word;
 - (ii) 'n *kind* aangehou word in omstandighede wat sy of haar bepaalde kwesbaarheid in ag neem en wat die risiko van benadeling aan daardie *kind* sal verminder, insluitende die risiko van benadeling deur ander *kinders*;
 - (iii) die *kind* besoeke kan ontvang van ouers, *geskikte volwassenes*, *voogde*, regsverteenwoordigers, geregistreerde maatskaplike werkers, *proefbeampes*, assistent-proefbeampes, gesondheidswerkers, godsdiensraadgewers en enige ander persoon wat, ingevolge enige wet, geregtig is om die *kind* te besoek; en
 - (iv) die *kind* versorg word op 'n wyse wat rekening hou met die bepaalde behoeftes van *kinders*, insluitende die voorsiening van —
 - (aa) onmiddellike en gepaste gesondheidsorg in die geval van enige siekte, besering of ernstige sielkundige trauma ooreenkomstig die prosedure soos uiteengesit in Staande Order (Algemeen) 349;
 - (bb) voldoende voeding, water, komberse en linne; en
 - (cc) sanitêre doekies (indien benodig deur meisies).

4. **Verantwoordelikheid van die Afdelingskommissaris: Sigbare Polisiëring, Provinsiale Kommissarisse en Stasiebevelvoerders**

- (1) Die Afdelingskommissaris: Sigbare Polisiëring moet vanaf die Departement van Maatskaplike Ontwikkeling die —
- (a) kontakbesonderhede van elke *aangewese proefbeampte* in elke provinsie en enige veranderinge daaraan, bekom; en
 - (b) inligting bekom van die ligging, geriewe, kenmerke en vlak van sekuriteit wat deur elke *kinder- en jeugsorgsentrum* gebied word.
- (2) Die Afdelingskommissaris: Sigbare Polisiëring moet 'n lys opstel wat die inligting, waarna in subparagraaf (1) verwys word, ten opsigte van elke provinsie bevat en elke Provinsiale Kommissaris voorsien van 'n afskrif van die lys ten opsigte van sy of haar provinsie.
- (3) 'n Provinsiale Kommissaris moet 'n afskrif van die lys aan elke stasiebevelvoerder in sy of haar provinsie verskaf.
- (4) Elke stasiebevelvoerder moet verseker dat die inligting waarna in subparagraaf (3) verwys word, wat van die Provinsiale Kommissaris ontvang is, te alle tye in die gemeenskapdiensentrum van sy of haar stasie beskikbaar is en opgedateer word wanneer nuwe inligting van die Provinsiale Kommissaris ontvang word.

- (5) Elke stasiebevelvoerder moet met die *aangewese proefbeampte* skakel en, indien 'n ander *proefbeampte* aangewys word, die nuut *aangewese proefbeampte*, om ooreenkoms te bereik oor —
- (a) die wyse waarop hy of sy in kennis gestel moet word van die *arrestasie* van 'n *kind* of voorsien moet word van 'n afskrif van 'n inligtingskennisgewing of Skriftelike Kennisgewing wat aan of ten opsigte van 'n *kind* uitgereik word (byvoorbeeld deur die oorhandiging van 'n afskrif van die Kennisgewing, of deur dit na 'n bepaalde nommer te faks en die *aangewese proefbeampte* telefonies van die faks in kennis te stel); en
 - (b) die prosedure wat gevolg moet word in die geval waar 'n *lid* nie in staat is om kontak te maak met die *aangewese proefbeampte* om hom of haar in kennis te stel of, soos uiteengesit in subparagraaf (a), 'n afskrif van 'n Kennisgewing, aan hom of haar te oorhandig nie.
- (6) Die stasiebevelvoerder moet die inligting soos ooreengekom met die *aangewese proefbeampte* waarna in subparagraaf (5) verwys word, skriftelik uiteensit.
- (7) Die stasiebevelvoerder moet verseker dat 'n afskrif van —
- (a) *die Wet*;
 - (b) die Regulasies ingevolge *die Wet* uitgevaardig;
 - (c) hierdie Nasionale Instruksie;
 - (d) die stasie orders wat ingevolge subparagraaf (8) deur hom of haar uitgereik is; en
 - (e) 'n dokument wat die inligting bevat waarna in subparagraaf (6) verwys word;
- te alle tye in die Gemeenskapsdiensentrum beskikbaar is.
- (8) Die stasiebevelvoerder moet stasie orders uitvaardig wat, inaggenome die unieke omstandighede wat in sy of haar bepaalde stasiewyk heers, die ooreenkoms wat bereik is met die *aangewese proefbeampte* en die beskikbare hulpbronne, ens., —
- (a) van 'n *lid* onder sy of haar bevel vereis om die benadering te volg waarop ooreengekom is, waarna in subparagraaf (6) verwys word; en
 - (b) in die algemeen, *lede* onder sy of haar bevel, opdrag gee oor enige ander onderwerp rakende die behandeling van *kinders wat met die gereg bots* wat hy of sy, ten opsigte van sy of haar bepaalde stasiewyk, nodig ag.
- (9) Waar die polisiestasiewyk deel vorm van 'n groter area wat uit meer as een polisiestasiewyk bestaan en 'n radiobeheereenheid is gestig om sodanige groter area te patroleer en klagtes by te woon, moet elke stasiebevelvoerder van 'n stasie in sodanige groter area, vir inligtingsdoeleindes, die bevelvoerder van so 'n radiobeheereenheid voorsien van 'n afskrif van die stasie orders wat ooreenkomstig

subparagraaf (8) uitgevaardig is, en, indien hy of sy die orders wysig, 'n afskrif van die opgedateerde weergawe daarvan.

- (10) Die stasiebevelvoerder moet toesien dat alle funksionele *lede* by sy of haar stasie indiensopleiding (ook by stasiebyeenkomste) ondergaan oor *die Wet*, die Regulasies, hierdie Instruksie en die stasie orders wat deur hom of haar uitgereik is.

5. Misdrywe wat by die Polisie aangemeld word

- (1) Indien 'n lid van die publiek by 'n polisiebeampte aanmeld dat 'n misdryf gepleeg is, sal die lid van die publiek normaalweg nie weet wie die misdryf gepleeg het nie. In so 'n geval moet die polisiebeampte 'n beëdigde verklaring neem, 'n dossier open en dit op MAS registreer. Dieselfde geld die geval waar 'n lid van die publiek vermoed dat die misdryf gepleeg is deur 'n bepaalde persoon wie se ouderdom aan die lid van die publiek onbekend is, maar wie hy of sy glo 'n volwasse persoon, of ten minste ouer as 10 jaar is.
- (2) Die speurder wat as die ondersoekbeampte aangewys is, moet, indien hy of sy gedurende die loop van die ondersoek van die misdryf, vasstel dat die persoon wat na bewering die misdryf gepleeg het 'n *kind* is, die *kind* ooreenkomstig hierdie Instruksie hanteer.
- (3) Indien 'n lid van die publiek die beweerde pleging van 'n misdryf by 'n polisiebeampte aanmeld en die lid van die publiek weet dat die persoon wat die beweerde misdryf gepleeg het, jonger as 10 jaar is en alleen opgetree het (met ander woorde, nie deur 'n volwassene gebruik is om die misdryf te pleeg nie), moet die lid van die publiek ingelig word dat 'n *kind* onder die ouderdom van 10 jaar nie toerekeningsvatbaar is nie en nie vir die pleging van 'n misdryf gearresteer, vervolg of skuldig bevind kan word nie. In so 'n geval, moet die *lid* —
- (a) die besonderhede van die persoon wat die pleging van die beweerde misdryf aanmeld, tesame met die besonderhede van die beweerde misdryf, neem;
 - (b) by die lid van die publiek vasstel hoe hy of sy weet dat die *kind* wat na bewering die misdryf gepleeg het, jonger is as 10 jaar en alleen opgetree het (nie deur 'n volwassene gebruik is om die beweerde misdryf te pleeg nie);
 - (c) by die lid van die publiek vasstel wat die besonderhede van die *kind* (naam en woonadres) is, asook enige inligting wat die lid van die publiek mag hê wat behulpsaam kan wees om te bepaal of die *kind* 'n *kind* is wat sorg en beskerming en onmiddellike dringende beskerming nodig het, soos wat in die Nasionale Instruksie oor die Sorg en Beskerming van Kinders ingevolge die Kinderwet uiteengesit word;
 - (d) 'n volledige inskrywing in die Voorvalleboek (VB) maak waarin die besonderhede van die beweerde misdryf, die persoon wat dit aangemeld het en die inligting wat deur die lid van die publiek

- verskaf is, (waarna verwys word in subparagraaf (c)) aangeteken word; en
- (e) aan die lid van die publiek 'n verwysingsnommer van die VB-inskrywing verskaf.
- (4) Die Gemeenskapdienssentrumbevelvoerder moet homself of haarself tevrede stel dat die voorval wat deur die lid van die publiek aangemeld het, wel plaasgevind het, dat die *kind* wat waarskynlik verantwoordelik is vir die voorval, jonger as 10 jaar is en, indien wel, ooreenkomstig paragraaf 7(4) van hierdie Instruksie optree.

6. Optrede van 'n lid by 'n misdadaadtoneel

- (1) Indien 'n *lid* —
- (a) teenwoordig is terwyl 'n misdryf gepleeg word; of
- (b) opdaag op die toneel na die pleging van die misdryf en terwyl die oortreder steeds op die misdadaadtoneel is,
- moet die *lid* alles doen wat rederlikerwys nodig is om die veiligheid van enige persoon op die misdadaadtoneel te verseker, die beweerde oortreder van die misdryf te stop en om die misdadaadtoneel te beveilig, ongeag die ouderdom van die persoon wat na bewering die misdryf gepleeg het.
- (2) Indien die persoon wat na bewering die misdryf gepleeg het, volgens die kennis van die *lid*, 'n *kind* van 'n bepaalde ouderdom is, moet die *lid* die *kind* ooreenkomstig hierdie Instruksie hanteer in sover dit handel oor 'n *kind* van daardie ouderdom wat na bewering sodanige misdryf gepleeg het.
- (3) Indien die *lid* onseker is of die persoon wat na bewering die misdryf gepleeg het, 'n volwassene of 'n *kind* is en, indien 'n *kind*, wat die ouderdom van die *kind* is, moet die *lid* enige inligting versamel wat op die misdadaadtoneel beskikbaar kan wees en wat hom of haar tevrede sal stel dat die persoon 'n *kind* of 'n volwassene is en, indien 'n *kind*, wat die ouderdom van die *kind* is. Sodanige inligting kan inligting insluit wat beskikbaar is van getuies of ander persone (soos 'n ouer of vriend van die *kind*) wat op die misdadaadtoneel teenwoordig kan wees of enige dokumentasie (soos 'n geboortesertifikaat, identiteitsdokument of bestuurslisensie).
- (4) Indien die *lid* tevrede is dat die persoon wat na bewering die misdryf gepleeg het, 'n volwassene is, sal hierdie Instruksie nie geld nie.
- (5) Indien die *lid* tevrede is dat die persoon wat na bewering die misdryf gepleeg het, 'n *kind* van 'n sekere ouderdom is, moet die *lid* die *kind* hanteer in ooreenstemming met hierdie Instruksie sover dit verband hou met 'n *kind* van daardie ouderdom.
- (6) Indien die *lid* tevrede is dat die persoon wat na bewering die misdryf gepleeg het, 'n *kind* is, maar hy of sy is steeds onseker oor die presiese ouderdom van die *kind*, moet die *lid* die jongste ouderdom oorweeg wat

die *kind* moontlik kan wees en die *kind* ooreenkomstig hierdie Instruksie hanteer sover dit verband hou met 'n *kind* van daardie ouderdom.

7. Hantering van 'n kind jonger as 10 jaar wat na bewering enige misdryf gepleeg het

- (1) Indien 'n *lid* vermoed dat 'n *kind* 'n misdryf gepleeg het, maar dat die *kind* jonger is as 10 jaar, **MOET** die *lid* die *kind* **NIE** arresteer **NIE**.
- (2) Indien die ouer of *voog* van die *kind* teenwoordig is, moet die *lid* —
 - (a) indien 'n SAPD 583(a) (Inligtingskennisgewing aan persoon aan wie 'n kind jonger as 10 jaar oorhandig word) op die toneel beskikbaar is, —
 - (i) die inligtingskennisgewing voltooi en die inhoud van die kennisgewing aan die ouer of *voog* verduidelik;
 - (ii) die oorspronklike inligtingskennisgewing aan die ouer of *voog* oorhandig en die ouer of *voog* versoek om op die eerste duplikaat oorspronklike inligtingskennisgewing te teken om ontvangs van die kennisgewing te erken;
 - (iii) die *kind* aan die ouer of *voog* oorhandig; en
 - (iv) die eerste duplikaat oorspronklike inligtingskennisgewing aan die *aangewese proefbeampte* oorhandig en bewys hou dat die inligtingskennisgewing deur die *aangewese proefbeampte* ontvang is;
 - (b) indien 'n SAPD 583(a) (Inligtingskennisgewing aan persoon aan wie 'n kind jonger as 10 jaar oorhandig word) is nie op die toneel beskikbaar nie, maar die ouer of *voog* van die *kind* is gewillig en in staat om die *kind* na die polisiestase te neem, reëlings tref met die ouer of *voog* van die *kind* om die *kind* na die polisiestase te neem en ooreenkomstig subparagraaf (a)(i)-(iv) op te tree;
 - (c) indien 'n SAPD 583(a) (Inligtingskennisgewing aan persoon aan wie 'n kind jonger as 10 jaar oorhandig word) nie op die toneel beskikbaar is nie en die ouer of *voog* van die *kind* is nie gewillig of in staat om die *kind* na die polisiestase te neem nie, maar reëlings kan getref word dat 'n inligtingskennisgewing na die toneel gebring word, reël dat die inligtingskennisgewing na die toneel gebring word en die *kind* en die ouer of *voog* daar hou totdat die inligtingskennisgewing op die toneel is, waarna die *lid* ooreenkomstig subparagraaf (a)(i)-(iv) moet optree;
 - (d) indien 'n SAPD 583(a) (Inligtingskennisgewing aan persoon aan wie 'n kind jonger as 10 jaar oorhandig word) nie op die toneel beskikbaar is nie en —
 - (aa) die ouer of *voog* van die *kind* is nie gewillig of in staat om die *kind* na die polisiestase te bring nie; en
 - (bb) reëlings kan nie getref word dat 'n inligtingskennisgewing binne 'n redelike tyd na die toneel gebring kan word nie, die *kind* en die ouer of *voog* na die polisiestase neem en ooreenkomstig subparagraaf (a)(i)-(iv) optree.

- (3) Indien die ouer of *voog* van die *kind* nie teenwoordig is nie, moet die *lid* vasstel of 'n *geskikte volwassene* teenwoordig is en, indien wel, die bepalings van paragraaf (2) toepas (vervang "ouer of *voog*" met "*geskikte volwassene*").
- (4) Indien nóg die ouer of *voog* van die *kind*, nóg 'n *geskikte volwassene* teenwoordig is, moet die *lid* sodanige stappe doen as wat in die omstandighede redelik is om die ouer of *voog* van die *kind* of 'n *geskikte volwassene* te kontak en, —
- (a) indien suksesvol, die ouer of *voog* van die *kind* of die *geskikte volwassene* versoek om die *kind* by die polisiestatie af te haal. Wanneer die ouer of *voog* van die *kind* of die *geskikte volwassene* die *kind* afhaal, moet die *lid* ooreenkomstig subparagraaf (2)(a)(i)-(iv) optree; of
- (b) indien onsuksesvol, die *kind* na 'n *kinder- en jeugsorgsentrum* neem en —
- (i) 'n SAPD 583(a) (Inligtingskennisgewing aan persoon aan wie 'n kind jonger as 10 jaar oorhandig word) voltooi en aan die persoon wat die *kind* ontvang, die inhoud van die kennisgewing verduidelik;
- (ii) die oorspronklike inligtingskennisgewing oorhandig aan die persoon wat die *kind* ontvang en sodanige persoon versoek om op die eerste duplikaat oorspronklike Inligtingskennisgewing te teken om ontvangs van die kennisgewing te erken;
- (iii) die *kind* aan daardie persoon oorhandig; en
- (iv) die eerste duplikaat oorspronklike Inligtingskennisgewing aan die *aangewese proefbeampte* voorsien en bewys hou dat die inligtingskennisgewing deur die *aangewese proefbeampte* ontvang is.
- (5) Indien die ouer of *voog* van die *kind* of die *geskikte volwassene* teenwoordig is of die *kind* kom afhaal, maar daar uitsonderlike omstandighede is wat die *lid* tevrede stel dat dit nie in die beste belang van die *kind* sal wees, soos uiteengesit in paragraaf 2(3) van die Nasionale Instruksie oor die Sorg en Beskerming van Kinders ingevolge die Kinderwet, om die *kind* aan sodanige persoon te oorhandig nie, moet die *lid* ooreenkomstig subparagraaf (4)(b) optree.

8. Hantering van 'n kind wat 10 jaar of ouer is en wat na bewering 'n misdryf, waarna in Bylae 1 van die Wet verwys word, gepleeg het

- (1) Indien 'n *lid* vermoed dat 'n *kind*, wat 10 jaar of ouer is, 'n misdryf gepleeg het, moet die *lid* homself of haarself tevrede stel of die misdryf 'n misdryf is waarna in Bylae 1 van die Wet verwys word (hierby aangeheg as Bylae A).

- (2) Indien die betrokke misdryf 'n misdryf is waarna in Bylae 1 van *die Wet* verwys word, **MAG** die *lid* die *kind* **NIE** arresteer **NIE TENSY** daar **DWINGENDE REDES BESTAAN WAT DIE ARRESTASIE VAN DIE KIND REGVERDIG** soos wat in paragraaf (3) uiteengesit word.
- (3) Dwingende redes wat die *arrestasie* van 'n *kind* wat 10 jaar of ouer is, regverdig ten opsigte van 'n misdryf waarna in Bylae 1 verwys word, is:
- (a) Indien die *lid* rede het om te glo dat die *kind* —
- (i) nie 'n vaste woonadres het nie;
 - (ii) weggeloop het van pleegsorg, 'n *kinder- en jeugsorgsentrum* of *tydelike veilige sorg*;
 - (iii) waarskynlik sal voortgaan om misdrywe te pleeg, tensy hy of sy gearresteer word;
 - (iv) 'n gevaar inhou vir enige persoon tensy hy of sy gearresteer word;
 - (v) bewysmateriaal in verband met die misdryf sal vernietig of daarmee sal peuter;
 - (vi) met die ondersoek rakende die misdryf sal inmeng tensy hy of sy gearresteer word; of
- (b) dat die misdryf 'n aanvang geneem het maar nog nie voltooi is nie.

9. Hantering van 'n kind wat 10 jaar of ouer is en wat na bewering 'n misdryf, waarna in Bylae 1 van die Wet verwys word, gepleeg het, indien daar geen dwingende rede bestaan om die kind te arresteer nie

- (1) Indien daar geen dwingende rede bestaan om die *kind* wat 10 jaar of ouer is en wat na bewering 'n misdryf, waarna in Bylae 1 van *die Wet* verwys word, te arresteer nie, mag die *lid* die *kind* nie arresteer nie.
- (2) Indien die ouer of voog van die *kind* teenwoordig is, moet die *lid* —
- (a) indien 'n SAPD 583(b) (Skriftelike Kennisgewing om by die Voorlopige Onderzoek te verskyn), op die toneel beskikbaar is, —
- (i) die Skriftelike Kennisgewing voltooi en die datum van die *voorlopige ondersoek* aanteken as die vyfde (5^{de}) *werksdag* na die datum van die uitreiking van die Skriftelike Kennisgewing;
 - (ii) aan die *kind* en die ouer of voog die inhoud van die Skriftelike Kennisgewing verduidelik;
 - (iii) die oorspronklike Skriftelike Kennisgewing aan die *kind* oorhandig en die *kind* en ouer of voog versoek om op die eerste duplikaat oorspronklike Skriftelike Kennisgewing te teken om ontvangs van die kennisgewing te erken;
 - (iv) die *kind* aan die ouer of voog oorhandig;
 - (v) die eerste duplikaat oorspronklike Skriftelike Kennisgewing aan die *aangewese proefbeampte* verskaf binne 24 uur nadat die Skriftelike Kennisgewing aan die *kind* oorhandig is en bewys hou dat dit deur die *aangewese proefbeampte* ontvang is; en

- (vi) 'n afskrif van die Skriftelike Kennisgewing maak en die afskrif liasseer onder "B" in die dossier wat geopen is ten opsigte van die saak waarvoor die *kind* arresteer is;
- (b) indien 'n SAPD 583(b) (Skriftelike Kennisgewing om by die Voorlopige Onderzoek te verskyn) nie op die toneel beskikbaar is nie, maar die ouer of voog van die *kind* is bereid en in staat om die *kind* na die polisiestasie te neem, reël met die ouer of voog van die *kind* om die *kind* na die polisiestasie te neem en ooreenkomstig subparagraaf (a)(i)-(vi) optree;
- (c) indien 'n SAPD 583(b) (Skriftelike Kennisgewing om by die Voorlopige Onderzoek te verskyn) nie op die toneel beskikbaar is nie en die ouer of voog van die *kind* is nie bereid of in staat om die *kind* na die polisiestasie te neem nie, maar reëlings kan getref word vir 'n Skriftelike Kennisgewing om na die toneel gebring te word, reël vir die Skriftelike Kennisgewing om na die toneel gebring te word en die *kind* en die ouer of voog hou totdat die Skriftelike Kennisgewing op die toneel aankom en, by die aankoms daarvan, ooreenkomstig subparagraaf (a)(i)-(vi) optree;
- (d) indien 'n SAPD 583(b) (Skriftelike Kennisgewing om by die Voorlopige Onderzoek te verskyn) nie op die toneel beskikbaar is nie en —
- (aa) die ouer of voog van die *kind* is nie bereid of in staat om die *kind* na die polisiestasie te bring nie; en
- (bb) reëlings kan nie getref word dat 'n Skriftelike Kennisgewing binne 'n redelike tyd na die toneel gebring kan word nie, die *kind* en die ouer of voog na die polisiestasie neem en ooreenkomstig subparagraaf (a)(i)-(vi) optree.
- (3) Indien die ouer of voog van die *kind* nie teenwoordig is nie, moet die *lid* vasstel of 'n *geskikte volwassene* teenwoordig is en, indien wel, die bepaling van paragraaf (2) nakom (vervang "ouer of voog" met "*geskikte volwassene*").
- (4) Indien die ouer of voog van die *kind* of 'n *geskikte volwassene* nie teenwoordig is nie, moet die *lid* sodanige stappe doen as wat in die omstandighede redelik mag wees om die ouer of voog van die *kind* of 'n *geskikte volwassene* te kontak en, —
- (a) indien suksesvol, die ouer of voog van die *kind* of die *geskikte volwassene* versoek om die *kind* by die polisiestasie af te haal. Wanneer die ouer of voog van die *kind* of die *geskikte volwassene* die *kind* afhaal, moet die *lid* ooreenkomstig subparagraaf (2)(a)(i)-(vi) optree; of
- (b) indien onsuksesvol, die *kind* beskou as 'n *kind* wat sorg en beskerming en onmiddellike dringende beskerming nodig het en, ooreenkomstig paragrawe 10 en 11 van die Nasionale Instruksie oor die Sorg en Beskerming van Kinders ingevolge die Kinderwet, optree. In so 'n geval, is die persoon in wie se sorg die *kind* in *tydelike veilige sorg* geplaas word (soos die persoon in beheer van 'n *kinder- en jeugsorgsentrum*, indien die *kind* in 'n *kinder- en*

jeugsorgsentrum geplaas word), 'n *geskikte volwassene* in wie se teenwoordigheid die Skriftelike Kennisgewing aan die *kind* ooreenkomstig subparagraaf (3) (saamgelees met subparagraaf (2)) oorhandig moet word. 'n Afskrif van die Skriftelike Kennisgewing moet aan die persoon in wie se *tydelike veilige sorg* die *kind* geplaas word, oorhandig moet word.

10. Hantering van 'n kind wat 10 jaar of ouer is en wat na bewering 'n misdryf gepleeg het waarna in Bylae 1 van die Wet verwys word indien daar dwingende redes bestaan om die kind te arresteer

- (1) Indien daar dwingende redes bestaan om 'n *kind* te arresteer wat 10 jaar of ouer is en wat na bewering 'n misdryf gepleeg het waarna in Bylae 1 van die *Wet* verwys word, mag die *lid* die *kind* arresteer.
- (2) Na die *arrestasie* van sodanige *kind*, moet die *lid* die *kind* inlig —
 - (a) van sy of haar grondwetlike regte waarna verwys word in paragraaf 7(4) van Staande Order (Algemeen) 341 (Arrestasie en die behandeling van 'n gearreesteerde persoon tot sodanige persoon aan die Gemeenskapdienssentrumbevelvoerder oorhandig word); en
 - (b) dat hy of sy deur 'n *proefbeampte* geassesseer sal word wat aan hom of haar sal verduidelik wat die prosedure is wat daarna gevolg sal word.
- (3) Indien 'n *kind* van 10 jaar of ouer gearreesteer is, moet die *kind* na 'n polisiestasie geneem word. Die *lid* wat die *arrestasie* uitgevoer het, moet die dwingende rede (waarna in paragraaf 8(3) verwys word) wat hom of haar oortuig het om die *arrestasie* uit te voer, in die Arrestasieverklaring uiteensit. Die *lid* moet ook vermeld of daar enige rede bestaan (met vermelding van die rede) om te vermoed dat die *kind* 'n gevaar sal inhou vir enige persoon (insluitende homself of haarself) indien hy of sy vrygelaat sou word.
- (4) Die Gemeenskapdienssentrumbevelvoerder moet die arrestasieverklaring en enige ander inligting, wat tot sy of haar beskikking is, oorweeg om homself of haarself tevrede te stel of die *kind* 'n gevaar sal inhou vir enige persoon (insluitende homself of haarself) indien hy of sy vrygelaat sou word.
- (5) Indien die Gemeenskapdienssentrumbevelvoerder tevrede is dat die *kind* 'n gevaar sal inhou vir enige persoon (insluitende homself of haarself) indien hy of sy vrygelaat sou word en dat die *kind* derhalwe nie vrygelaat kan word nie, moet die Gemeenskapdienssentrumbevelvoerder verseker dat die *kind* in *aanhouding* bly en —
 - (a) die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* inlig;

- (b) 'n SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) voltooi en die inhoud van die Inligtingskennisgewing aan die ouer of voog verduidelik en die datum van die *voorlopige ondersoek* aandui as 'n datum wat sal verseker dat die *kind* by die *voorlopige ondersoek* verskyn binne 48 uur (soos verleng deur die Strafproseswet) vanaf die tyd waarop die *kind* gearresteer is;
 - (c) die Inligtingskennisgewing aan die ouer, voog of *geskikte persoon* oorhandig en bewys hou dat die ouer, voog of *geskikte volwassene* die Inligtingskennisgewing ontvang het (indien dit moontlik is om die Inligtingskennisgewing aan die ouer, voog of *geskikte volwassene* te oorhandig, moet die ouer, voog of *geskikte volwassene* versoek word om op die eerste duplikaat oorspronklike van die Inligtingskennisgewing te teken om ontvangs van die Inligtingskennisgewing te erken);
 - (d) die eerste duplikaat oorspronklike Inligtingskennisgewing aan die *aangewese proefbeampte* voorsien en bewys hou dat dit deur die *aangewese proefbeampte* ontvang is; en
 - (e) twee afskrifte van die Inligtingskennisgewing maak indien die *kind* by 'n *kinder- en jeugsorgsentrum* aangehou sal word (of een afskrif indien die *kind* in 'n *polisiesel* aangehou sal word (in welke geval die afskrif onder "B" liasseer moet word in die dossier wat geopen is in verband met die saak waarvoor die *kind* gearresteer is)).
- (6) Die Gemeenskapdienssentrumbevelvoerder moet —
- (a) indien 'n *kinder- en jeugsorgsentrum* binne 'n redelike afstand vanaf die polisiestasie beskikbaar is en daar 'n oop plek in die sentrum is, —
 - (i) verseker dat die *kind* na die *kinder- en jeugsorgsentrum* vervoer word en oorhandig word aan die persoon in beheer van die sentrum;
 - (ii) die *lid*, wat die *kind* na die *kinder- en jeugsorgsentrum* sal vervoer, opdrag gee om die twee afskrifte van die SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) (waarna hierbo in subparagraaf (5)(e) verwys word) aan die persoon by die *kinder- en jeugsorgsentrum* wat die *kind* ontvang, te oorhandig en die persoon te versoek om een afskrif te teken as bewys dat hy of sy die *kind* ontvang het;
 - (iii) die afskrif van die Inligtingskennisgewing (waarna in subparagraaf (ii) verwys word) wat geteken is deur die persoon wat die *kind* by die *kinder- en jeugsorgsentrum* ontvang het, liasseer onder "B" in die dossier wat geopen is in verband met die saak waarvoor die *kind* gearresteer is;
 - (iv) 'n SAPD 583(c) (Skriftelike Verslag oor die aanhouding van 'n kind wat vir 'n Bylae 1 misdryf gearresteer is voor verskyning by die Voorlopige Onderzoek vorm) voltooi en die verslag onder "B" in die dossier liasseer wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is; en

- (v) die eerste duplikaat oorspronklike SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) aan die *aangewese proefbeampte* verskaf en bewys hou dat dit deur die *aangewese proefbeampte* ontvang is;
- (b) indien 'n *kinder- en jeugsorgsentrum* nie binne 'n redelike afstand vanaf die polisiestasie beskikbaar is nie of daar geen oop plek in die sentrum is nie, moet die *kind* in polisieaanhouding aangehou word en —
- (i) indien die polisiestasie waar die *kind* aangehou word, oor die nodige fasiliteite beskik, moet die *kind* apart van volwassenes en apart van *kinders* van die teenoorgestelde geslag aangehou word;
- (ii) indien die polisiestasie waar die *kind* aangehou word, nie oor die nodige fasiliteite beskik om die *kind* apart van volwassenes en apart van *kinders* van die teenoorgestelde geslag aan te hou nie, moet die *kind* vervoer word om by 'n ander polisiestasie aangehou te word waar sodanige fasiliteite beskikbaar is;
- (iii) die Gemeenskapdienssentrumbevelvoerder van die polisiestasie waar die *kind* oorspronklik aangehou is, die SAPD 583(c) (Skriftelike Verslag oor die aanhouding van 'n kind wat vir 'n Bylae 1 misdryf gearresteer is voor verskyning by die Voorlopige Onderzoek vorm) voltooi en die verslag onder "B" in die dossier liasseer wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is;
- (iv) die Gemeenskapdienssentrumbevelvoerder moet, indien hy of sy nie in staat was om 'n SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind), aan die ouer, *voog* of *geskikte volwassene* te oorhandig nie, —
- (aa) die Inligtingskennisgewing voltooi;
- (bb) die Inligtingskennisgewing binne 24 uur na die *arrestasie* aan die *aangewese proefbeampte* verskaf;
- (cc) bewys dat die Inligtingskennisgewing deur die *aangewese proefbeampte* ontvang is, onder "B" liasseer in die dossier wat geopen is in verband met die saak waarvoor die *kind* gearresteer is; en
- (dd) die eerste duplikaat oorspronklike Inligtingskennisgewing onder "B" liasseer in die dossier wat geopen is in verband met die saak waarvoor die *kind* gearresteer is.
- (7) Indien die Gemeenskapdienssentrumbevelvoerder van die polisiestasie, waar die *kind* oorspronklik aangehou is, nie in staat is om —
- (a) die ouer, *voog* of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in te lig nie, moet hy of sy 'n SAPD 583(d) (Skriftelike Verslag oor versuim om die ouer, *voog* of *geskikte volwassene* in te lig van die *arrestasie* van 'n kind), voltooi, waarin die stappe

uiteengesit word wat gedoen is om die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in kennis te stel en die rede waarom hy of sy nie in staat was om die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in kennis te stel nie; of

- (b) die *aangewese proefbeampte* van die *arrestasie* van die *kind* in kennis te stel nie, moet hy of sy 'n SAPD 583(e) (Skriftelike Verslag oor versuim om die Proefbeampte in te lig van die arrestasie van 'n kind), voltooi, waarin die stappe uiteengesit word wat gedoen is om die *proefbeampte* van die *arrestasie* van die *kind* in kennis te stel en die rede waarom hy of sy nie in staat was om die *proefbeampte* van die *arrestasie* van die *kind* in kennis te stel nie;

en dit liasseer onder "B" in die dossier, wat aan die aanklaer, wat by die *voorlopige ondersoek* teenwoordig sal wees, verskaf moet word met die versoek om dit by die *voorlopige ondersoek* aan die voorsittende beampte te oorhandig.

11. Vrylating van 'n kind wat 10 jaar of ouer is en wat gearrester is vir 'n misdryf waarna in Bylae 1 van die Wet verwys word

- (1) Indien die Gemeenskapdienssentrumbevelvoerder tevrede is dat die *kind* nie 'n gevaar inhou vir enige persoon (insluitende homself of haarself) indien hy of sy vrygelaat word nie, kan die Gemeenskapdienssentrumbevelvoerder 'n *lid* opdrag gee om die Departement van Maatskaplike Ontwikkeling te nader om vas te stel om 'n vorige strafsak, waarin die *kind* 'n beskuldigde was, afgewentel is (soos aangeteken in die Afwentelingsregister). Indien die Departement van Maatskaplike Ontwikkeling genader, en die inligting bekom is, moet hierdie feit in die ondersoekdagboek (SAPD 5) van die dossier aangeteken word. Hierdie inligting moet inaggeneem word om te besluit of, inaggenome die inligting wat verkry is van die Afwentelingsregister, dit in die omstandighede geskik sal wees om die *kind* op 'n SAPD 583(b) (Skriftelike Kennisgewing om by die Voorlopige Onderzoek te verskyn) vry te laat.
- (2) Indien die Gemeenskapdienssentrumbevelvoerder tevrede is dat die *kind* vrygelaat mag word, moet hy of sy —
- (a) indien die ouer of voog van die *kind* of 'n *geskikte volwassene* teenwoordig is, —
- (i) die SAPD 583(b) (Skriftelike Kennisgewing om by die Voorlopige Onderzoek te verskyn), voltooi en die datum van die *voorlopige ondersoek* aandui as die vyfde (5de) *werksdag* na die datum van die uitreiking van die Skriftelike Kennisgewing;
- (ii) aan die *kind* en die ouer, voog of *geskikte volwassene* die inhoud van die Skriftelike Kennisgewing verduidelik;
- (iii) die oorspronklike kennisgewing aan die *kind* oorhandig en die *kind* en ouer, voog of *geskikte volwassene* versoek om

- op die eerste duplikaat oorspronklike Skriftelike Kennisgewing te teken om ontvangs van die kennisgewing te erken;
- (iv) die *kind* aan die ouer, voog of *geskikte volwassene* oorhandig; en
- (v) die eerste duplikaat oorspronklike Skriftelike Kennisgewing aan die *aangewese proefbeampte* oorhandig en bewys hou dat dit deur die *aangewese proefbeampte* ontvang is.
- (b) indien die ouer of voog van die *kind* of 'n *geskikte volwassene* nie teenwoordig is nie, sodanige stappe doen as wat in die omstandighede redelik mag wees om die ouer of voog van die *kind* of 'n *geskikte volwassene* te kontak en, —
- (i) indien suksesvol, die ouer of voog van die *kind* of die *geskikte volwassene* versoek om die *kind* by die polisiestase af te haal. Wanneer die ouer of voog van die *kind* of die *geskikte volwassene* die *kind* afhaal, moet die *lid* ooreenkomstig subparagraaf (1)(a)-(e) optree; of
- (ii) indien onsuksesvol, —
- (aa) moet die *kind* beskou word as 'n *kind* wat sorg en beskerming, en onmiddellike dringende beskerming nodig het en die *kind* ooreenkomstig paragrawe 10 en 11 van die Nasionale Instruksie oor die Sorg en Beskerming van Kinders ingevolge die Kinderwet hanteer. In so 'n geval, word die persoon in wie se sorg die *kind* in *tydelike veilige sorg* geplaas word, 'n *geskikte volwassene* in wie se teenwoordigheid die Skriftelike Kennisgewing aan die *kind* oorhandig moet word ooreenkomstig subparagraaf (3) (saamgelees met subparagraaf (2)); en
- (bb) moet die Gemeenskapdienssentrumbevelvoerder van die polisiestase waar die *kind* oorspronklik aangehou is, die SAPD 583(d) (Skriftelike Verslag oor versuim om die ouer, voog of *geskikte volwassene* in te lig van die arrestasie van 'n *kind*) voltooi en die verslag onder "B" liasseer in die dossier wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is en wat aan die aanklaer, wat by die *voorlopige ondersoek* teenwoordig sal wees, voorsien moet word en wat versoek moet word om die verslag aan die voorsittende beampte by die *voorlopige ondersoek* te oorhandig.
- (3) Die *lid* wat as die ondersoekbeampte van die saak aangewys is, moet verseker dat die dossier wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is, dit ten minste een (1) dag voor die *voorlopige ondersoek* aan die aanklaer wat teenwoordig sal wees tydens die *voorlopige ondersoek*, oorhandig.

12. Hantering van 'n kind wat 10 jaar of ouer is en wat na bewering 'n misdryf gepleeg het waarna in Bylae 2 van die Wet verwys word

- (1) 'n *Lid* mag 'n *kind* arresteer wat 10 jaar of ouer is, en wat hy of sy op redelike gronde glo 'n misdryf gepleeg het waarna in Bylae 2 van die *Wet* (hierby aangeheg as Bylae B) verwys word.
- (2) By oorweging of die *kind* gearresteer moet word of nie, moet die *lid* in ag neem of die *kind* —
 - (a) 'n vaste woonadres het;
 - (b) van pleegsorg, 'n *kinder- en jeugsorgsentrum* of *tydelike veilige sorg* weggeloop het;
 - (c) waarskynlik sal voortgaan om misdrywe te pleeg, tensy hy of sy gearresteer word;
 - (d) 'n gevaar inhou vir enige persoon (insluitende homself of haarself);
 - (e) waarskynlik bewysmateriaal in verband met die misdryf sal vernietig of daarmee sal peuter;
 - (f) waarskynlik met die ondersoek rakende die misdryf sal inmeng tensy hy of sy gearresteer word; of
 - (g) nog besig is om die misdryf te pleeg en of die misdryf reeds voltooi is.
- (3) Indien die *lid* besluit om nie die *kind* te arresteer nie, moet die *lid* —
 - (a) die volledige besonderhede van die *kind* (insluitende sy of haar naam, beroep (indien enige), werksadres (indien hy of sy 'n skolier is, die naam en adres van die skool wat hy of sy bywoon) en sy of haar vaste woonadres, kontakbesonderhede, ens) in sy of haar sakboek aanteken; en
 - (b) by aankoms by die polisiestase en nadat die dossier, ten opsigte van die misdryf wat na bewering deur die *kind* gepleeg is, geopen is, 'n beëdigde verklaring maak wat die besonderhede vermeld, waarna in subparagraaf (a) verwys word en die beëdigde verklaring onder "A" in die vermelde dossier liasseer.
- (4) Indien die *lid* besluit om die *kind* te arresteer, moet die *lid*, by die arrestasie van die *kind*, die *kind* inlig —
 - (a) van sy of haar grondwetlike regte soos vervat in paragraaf 7(4) van Staande Order (Algemeen) 341 (Arrestasie en die behandeling van 'n gearresteerde persoon tot sodanige persoon aan die Gemeenskapsdienssentrumbevelvoerder oorhandig word); en
 - (b) dat hy of sy deur 'n *proefbeampte* geassesseer sal word wat aan hom of haar die prosedure, wat daarna gevolg sal word, sal verduidelik.
- (5) Indien die *kind* of 'n ouer of voog van die *kind* of 'n regsverteenwoordiger namens die *kind* versoek dat die *kind* op borg vrygelaat word, moet die Gemeenskapdienssentrumbevelvoerder die aanklaer op bystand, wat

gemagtig is om 'n borgaansoek te oorweeg, kontak en hom of haar versoek om na die polisiestatie te kom ten einde die borgaansoek ingevolge artikel 21(2)(b) van *die Wet* te oorweeg.

- (6) Indien die aanklaer die vrylating van die *kind* op borg magtig, moet die normale prosesse wat van toepassing is op die vrylating van 'n verdagte op borg deur 'n gemagtigde aanklaer, gevolg word: Met dien verstande dat die *kind* slegs vrygelaat mag word in die sorg van 'n ouer, voog of 'n *geskikte volwassene*.
- (7) Indien die *kind* in *aanhouding* bly en die ouer of voog van die *kind* of 'n *geskikte volwassene* is teenwoordig, moet die Gemeenskapdienssentrumbevelvoerder —
- (a) die SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) voltooi en die inhoud van die kennisgewing aan die ouer, voog of die *geskikte volwassene* verduidelik;
 - (b) die oorspronklike Inligtingskennisgewing aan die ouer, voog of die *geskikte volwassene* oorhandig en die ouer, voog of die *geskikte volwassene* versoek om op die eerste duplikaat oorspronklike Inligtingskennisgewing te teken om ontvangs van die Inligtingskennisgewing te erken; en
 - (c) die eerste duplikaat oorspronklike Inligtingskennisgewing aan die *aangewese proefbeampte* verskaf en bewys hou dat die Inligtingskennisgewing deur die *aangewese proefbeampte* ontvang is.
- (8) Indien die *kind* in *aanhouding* bly en nóg die ouer, nóg voog van die *kind* is teenwoordig, moet die Gemeenskapdienssentrumbevelvoerder sodanige stappe doen as wat in die omstandighede redelik mag wees om die ouer of voog van die *kind* of 'n *geskikte volwassene* te kontak en, indien suksesvol, die ouer of voog van die *kind* of die *geskikte volwassene* versoek om na die polisiestatie te kom. Wanneer die ouer of voog van die *kind* of 'n *geskikte volwassene* by die polisiestatie aankom, moet die Gemeenskapdienssentrumbevelvoerder ooreenkomstig subparagraaf (7)(a)-(c) optree.
- (9) Indien die *kind* in *aanhouding* bly en —
- die ouer of voog van die *kind* is nie teenwoordig nie en kan nie gekontak word nie;
 - die *kind* of 'n ouer of voog van die *kind* of 'n regsverteenvoerder namens die *kind* versoek nie dat die *kind* op borg vrygelaat word nie; of
 - die aanklaer weier om borg aan die *kind* toe te staan,
- moet die Gemeenskapdienssentrumbevelvoerder —
- (a) indien 'n *kinder- en jeugsorgsentrum* binne 'n redelike afstand vanaf die polisiestatie beskikbaar is en daar oop plek in die sentrum is, —

- (i) 'n SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) voltooi en aan die persoon wat die *kind* ontvang, die inhoud van die kennisgewing verduidelik;
 - (ii) die oorspronklike Inligtingskennisgewing aan die persoon wat die *kind* ontvang, oorhandig en daardie persoon versoek om op die eerste duplikaat oorspronklike Inligtingskennisgewing te teken om ontvangs van die Inligtingskennisgewing te erken;
 - (iii) die *kind* aan daardie persoon oorhandig;
 - (iv) die eerste duplikaat oorspronklike Inligtingskennisgewing aan die *aangewese proefbeampte* verskaf en bewys hou dat die Inligtingskennisgewing deur die *aangewese proefbeampte* ontvang is; en
 - (v) 'n afskrif van die Inligtingskennisgewing maak en dit onder "B" in die dossier liasseer wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is;
- (b) indien 'n *kinder- en jeugsorgsentrum* nie binne 'n redelike afstand vanaf die polisiestasie beskikbaar is nie of daar geen oop plek in die sentrum is nie, moet die *kind* in polisieaanhouding aangehou word en —
- (i) indien die polisiestasie waar die *kind* aangehou word, oor die nodige fasiliteite beskik, moet die *kind* apart van volwassenes en apart van *kinders* van die teenoorgestelde geslag aangehou word;
 - (ii) indien die polisiestasie waar die *kind* aangehou word, nie oor die nodige fasiliteite beskik om die *kind* apart van volwassenes en apart van *kinders* van die teenoorgestelde geslag aan te hou nie, moet die *kind* vervoer word en by 'n ander polisiestasie aangehou word waar sodanige fasiliteite beskikbaar is;
 - (iii) 'n SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) voltooi, die kennisgewing aan die *aangewese proefbeampte* verskaf en onder "B" in die dossier, wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is, bewys liasseer dat dit deur die *aangewese proefbeampte* ontvang is; en
 - (iv) die eerste duplikaat oorspronklike Inligtingskennisgewing onder "B" in die dossier liasseer wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is.
- (10) Indien die Gemeenskapdienssentrumbevelvoerder van die polisiestasie, waar die *kind* oorspronklik aangehou is, nie in staat is om —
- (a) die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in te lig nie, moet hy of sy 'n SAPD 583(d) (Skriftelike Verslag oor versuim om die ouer, voog of geskikte volwassene in te lig van die arrestasie van 'n kind) voltooi, waarin die stappe uiteengesit word wat gedoen is om die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in kennis te stel en die

rede waarom hy of sy nie in staat was om die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in kennis te stel nie; of

- (b) die *aangewese proefbeampte* van die *arrestasie* van die *kind* in kennis te stel nie, moet hy of sy 'n SAPD 583(e) (Skriftelike Verslag oor versuim om die Proefbeampte in te lig van die arrestasie van 'n kind), voltooi, waarin die stappe uiteengesit word wat gedoen is om die *proefbeampte* van die *arrestasie* van die *kind* in kennis te stel en die rede waarom hy of sy nie in staat was om die *proefbeampte* van die *arrestasie* van die *kind* in kennis te stel nie,

en dit liasseer onder "B" in die dossier, wat aan die aanklaer verskaf moet word wat by die *voorlopige ondersoek* teenwoordig sal wees en wat versoek moet word om die verslag by die *voorlopige ondersoek* aan die voorsittende beampte te oorhandig.

13. Hantering van 'n kind wat 10 jaar of ouer maar jonger as 14 jaar is en wat na bewering 'n misdryf gepleeg het waarna in Bylae 3 van die Wet verwys word

- (1) 'n *Lid* mag 'n *kind* arresteer wat 10 jaar of ouer, maar jonger is as 14 jaar, en wat hy of sy op redelike gronde glo 'n misdryf gepleeg het waarna in Bylae 3 van die *Wet* (hierby aangeheg as Bylae C) verwys word.
- (2) By oorweging of die *kind* gearresteer moet word of nie, moet die *lid* in ag neem of die *kind* —
- (a) 'n vaste woonadres het;
 - (b) van pleegsorg, 'n *kinder- en jeugsorgsentrum* of *tydelike veilige sorg* weggeloop het;
 - (c) waarskynlik sal voortgaan om misdrywe te pleeg, tensy hy of sy gearresteer word;
 - (d) 'n gevaar inhou vir enige persoon (insluitende homself of haarself);
 - (e) waarskynlik bewysmateriaal in verband met die misdryf sal vernietig of daarmee sal peuter;
 - (f) waarskynlik met die ondersoek rakende die misdryf sal inmeng tensy hy of sy gearresteer word; of
 - (g) nog besig is om die misdryf te pleeg en of die misdryf reeds voltooi is.
- (3) Indien die *lid* besluit om die *kind* nie te arresteer nie, moet die *lid* —
- (a) die volledige besonderhede van die *kind* (insluitende sy of haar naam, beroep (indien enige), werksadres (indien hy of sy 'n skolier is, die naam en adres van die skool wat hy of sy bywoon) en sy of haar vaste woonadres, kontakbesonderhede, ens) in sy of haar sakboek aanteken; en
 - (b) by aankoms by die polisiestasie en nadat die dossier, ten opsigte van die misdryf wat na bewering deur die *kind* gepleeg is, geopen is, 'n beëdigde verklaring maak wat die besonderhede vervat

waarna in subparagraaf (a) verwys word en die beëdigde verklaring onder "A" in die vermelde dossier liasseer.

- (4) Indien die *lid* besluit om die *kind* te *arresteer*, moet die *lid*, by die *arrestasie* van die *kind*, die *kind* inlig —
- (a) van sy of haar grondwetlike regte soos uiteengesit in paragraaf 7(4) van Staande Order (Algemeen) 341 (Arrestasie en die behandeling van 'n gearresteerde persoon tot sodanige persoon aan die Gemeenskapsdienssentrumbevelvoerder oorhandig word); en
 - (b) dat hy of sy deur 'n *proefbeampte* geassesseer sal word wat aan hom of haar die prosedure, wat daarna gevolg sal word, sal verduidelik.
- (5) Indien die ouer of *voog* van die *kind* of 'n *geskikte volwassene* teenwoordig is, moet die Gemeenskapdienssentrumbevelvoerder —
- (a) die SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) voltooi en die inhoud van die kennisgewing aan die ouer, *voog* of die *geskikte volwassene* verduidelik;
 - (b) die oorspronklike Inligtingskennisgewing aan die ouer, *voog* of die *geskikte volwassene* oorhandig en die ouer, *voog* of die *geskikte volwassene* versoek om op die eerste duplikaat oorspronklike Inligtingskennisgewing te teken om ontvangs van die Inligtingskennisgewing te erken; en
 - (c) die eerste duplikaat oorspronklike Inligtingskennisgewing aan die *aangewese proefbeampte* verskaf en bewys hou dat die Inligtingskennisgewing deur die *aangewese proefbeampte* ontvang is.
- (6) Indien nóg die ouer, nóg *voog* van die *kind* teenwoordig is, moet die Gemeenskapdienssentrumbevelvoerder sodanige stappe doen as wat in die omstandighede redelik mag wees om die ouer of *voog* van die *kind* of 'n *geskikte volwassene* te kontak en, indien suksesvol, die ouer of *voog* van die *kind* of die *geskikte volwassene* versoek om na die polisiestasie te kom. Wanneer die ouer of *voog* van die *kind* of 'n *geskikte volwassene* by die polisiestasie aankom, moet die Gemeenskapdienssentrumbevelvoerder ooreenkomstig subparagraaf (5)(a)-(c) optree.
- (7) Die Gemeenskapdienssentrumbevelvoerder moet —
- (a) indien 'n *kinder- en jeugsorgsentrum* binne 'n redelike afstand vanaf die polisiestasie beskikbaar is en daar 'n oop plek in die sentrum is, —
 - (i) 'n SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) voltooi en aan die persoon wat die *kind* ontvang, die inhoud van die kennisgewing verduidelik;
 - (ii) die oorspronklike Inligtingskennisgewing aan die persoon wat die *kind* ontvang, oorhandig en daardie persoon versoek om op die eerste duplikaat oorspronklike

- Inligtingskennisgewing te teken om ontvangs van die Inligtingskennisgewing te erken;
- (iii) die *kind* aan daardie persoon oorhandig;
 - (iv) die eerste duplikaat oorspronklike Inligtingskennisgewing aan die *aangewese proefbeampte* verskaf en bewys hou dat die Inligtingskennisgewing deur die *aangewese proefbeampte* ontvang is; en
 - (v) 'n afskrif van die Inligtingskennisgewing maak en dit onder "B" in die dossier, wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is, liasseer;
- (b) indien 'n *kinder- en jeugsorgsentrum* nie binne 'n redelike afstand vanaf die polisiestasie beskikbaar is nie of daar geen oop plek in die sentrum is nie, die *kind* in polisieaanhouding aanhou en —
- (i) indien die polisiestasie waar die *kind* aangehou word, oor die nodige fasiliteite beskik, die *kind* apart van volwassenes en apart van *kinders* van die teenoorgestelde geslag aanhou;
 - (ii) indien die polisiestasie waar die *kind* aangehou word, nie oor die nodige fasiliteite beskik om die *kind* apart van volwassenes en apart van *kinders* van die teenoorgestelde geslag aan te hou nie, die *kind* laat vervoer om by 'n ander polisiestasie, waar sodanige fasiliteite beskikbaar is, aangehou te word;
 - (iii) 'n SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n *kind*) voltooi, die kennisgewing aan die *aangewese proefbeampte* verskaf en onder "B" in die dossier, wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is, bewys liasseer dat dit deur die *aangewese proefbeampte* ontvang is; en
 - (iv) die eerste duplikaat oorspronklike Inligtingskennisgewing onder "B" in die dossier liasseer wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is.
- (8) Indien die Gemeenskapdienssentrumbevelvoerder van die polisiestasie, waar die *kind* oorspronklik aangehou is, nie in staat is om —
- (a) die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in te lig nie, moet hy of sy 'n SAPD 583(d) (Skriftelike Verslag oor versuim om die ouer, voog of *geskikte volwassene* in te lig van die *arrestasie* van 'n *kind*) voltooi, waarin die stappe uiteengesit word wat gedoen is om die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in kennis te stel en die rede waarom hy of sy nie in staat was om die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in kennis te stel nie; of
 - (b) die *aangewese proefbeampte* van die *arrestasie* van die *kind* in kennis te stel nie, moet hy of sy 'n SAPD 583(e) (Skriftelike Verslag oor versuim om die Proefbeampte in te lig van die *arrestasie* van 'n *kind*), voltooi, waarin die stappe uiteengesit word

wat gedoen is om die *proefbeampte* van die *arrestasie* van die *kind* in kennis te stel en die rede waarom hy of sy nie in staat was om die *proefbeampte* van die *arrestasie* van die *kind* in kennis te stel nie,

en dit liasseer onder "B" in die dossier, wat aan die aanklaer verskaf moet word wat by die *voorlopige ondersoek* teenwoordig sal wees en wat versoek moet word om die verslag by die *voorlopige ondersoek* aan die voorsittende beampte te oorhandig.

14. Hantering van 'n kind wat 14 jaar of ouer is en wat na bewering 'n misdryf gepleeg het waarna in Bylae 3 van die Wet verwys word

- (1) 'n *Lid* mag 'n *kind* arresteer wat 14 jaar of ouer is, en wat hy of sy op redelike gronde glo 'n misdryf gepleeg het waarna in Bylae 3 van die *Wet* (hierby aangeheg as Bylae C) verwys word.
- (2) By oorweging of die *kind* gearresteer moet word of nie, moet die *lid* in ag neem of die *kind* —
 - (a) 'n vaste woonadres het;
 - (b) van pleegsorg, 'n *kinder- en jeugsorgsentrum* of *tydelike veilige sorg* weggeloop het;
 - (c) waarskynlik sal voortgaan om misdrywe te pleeg, tensy hy of sy gearresteer word;
 - (d) 'n gevaar inhou vir enige persoon (insluitende homself of haarself);
 - (e) waarskynlik bewysmateriaal in verband met die misdryf sal vernietig of daarmee sal peuter;
 - (f) waarskynlik met die ondersoek rakende die misdryf sal inmeng tensy hy of sy gearresteer word; of
 - (g) nog besig is om die misdryf te pleeg en of die misdryf reeds voltooi is.
- (3) Indien die *lid* besluit om die *kind* nie te *arresteer* nie, moet die *lid* —
 - (a) die volledige besonderhede van die *kind* (insluitende sy of haar naam, beroep (indien enige), werksadres (indien hy of sy 'n skolier is, die naam en adres van die skool wat hy of sy bywoon) en sy of haar vaste woonadres, kontakbesonderhede, ens) in sy of haar sakboek aanteken; en
 - (b) by aankoms by die polisiestasie en nadat die dossier, ten opsigte van die misdryf wat na bewering deur die *kind* gepleeg is, geopen is, 'n beëdigde verklaring maak wat die besonderhede vervat waarna in subparagraaf (a) verwys word en die beëdigde verklaring onder "A" in die vermelde dossier liasseer.
- (4) Indien die *lid* besluit om die *kind* te *arresteer*, moet die *lid*, by die *arrestasie* van die *kind*, die *kind* inlig —
 - (a) van sy of haar grondwetlike regte soos uiteengesit in paragraaf 7(4) van Staande Order (Algemeen) 341 (Arrestasie en die behandeling van 'n gearresteerde persoon tot sodanige persoon

- aan die Gemeenskapdienssentrumbevelvoerder oorhandig word);
en
- (b) dat hy of sy deur 'n *proefbeampte* geassesseer sal word wat aan hom of haar die prosedure, wat daarna gevolg sal word, sal verduidelik.
- (5) Indien die ouer of *voog* van die *kind* of 'n *geskikte volwassene* teenwoordig is, moet die Gemeenskapdienssentrumbevelvoerder —
- (a) die SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) voltooi en die inhoud van die kennisgewing aan die ouer, *voog* of die *geskikte volwassene* verduidelik;
- (b) die oorspronklike Inligtingskennisgewing aan die ouer, *voog* of die *geskikte volwassene* oorhandig en die ouer, *voog* of die *geskikte volwassene* versoek om op die eerste duplikaat oorspronklike Inligtingskennisgewing te teken om ontvangs van die Inligtingskennisgewing te erken; en
- (c) die eerste duplikaat oorspronklike Inligtingskennisgewing aan die *aangewese proefbeampte* verskaf en bewys hou dat die Inligtingskennisgewing deur die *aangewese proefbeampte* ontvang is.
- (6) Indien nóg die ouer, nóg *voog* van die *kind* teenwoordig is, moet die Gemeenskapdienssentrumbevelvoerder sodanige stappe doen as wat in die omstandighede redelik mag wees om die ouer of *voog* van die *kind* of 'n *geskikte volwassene* te kontak en, indien suksesvol, die ouer of *voog* van die *kind* of die *geskikte volwassene* versoek om na die polisiestase te kom. Wanneer die ouer of *voog* van die *kind* of 'n *geskikte volwassene* by die polisiestase aankom, moet die Gemeenskapdienssentrumbevelvoerder ooreenkomstig subparagraaf (5)(a)-(c) optree.
- (7) Indien die ouer of *voog* van die *kind* of 'n *geskikte volwassene* nie teenwoordig is nie of nie gekontak kan word nie, moet die Gemeenskapdienssentrumbevelvoerder —
- (a) indien die polisiestase waar die *kind* aangehou word, oor die nodige fasiliteite beskik, die *kind* apart van volwassenes en apart van *kinders* van die teenoorgestelde geslag aanhou;
- (b) indien die polisiestase waar die *kind* aangehou word, nie oor die nodige fasiliteite beskik om die *kind* apart van volwassenes en apart van *kinders* van die teenoorgestelde geslag aan te hou nie, die *kind* laat vervoer om by 'n ander polisiestase, waar sodanige fasiliteite beskikbaar is, aangehou te word;
- (c) 'n SAPD 583(j) (Inligtingskennisgewing by die arrestasie van 'n kind) voltooi, die Inligtingskennisgewing aan die *aangewese proefbeampte* verskaf en bewys, dat dit deur die *aangewese proefbeampte* ontvang is, liasseer onder "B" in die dossier, wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is; en

- (d) die eerste duplikaat oorspronklike Inligtingskennisgewing onder "B" in die dossier liasseer wat geopen is ten opsigte van die saak waarvoor die *kind* gearresteer is.
- (8) Indien die Gemeenskapdienssentrumbevelvoerder van die polisiestasie, waar die *kind* oorspronklik aangehou is, nie in staat is om —
- (a) die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in te lig nie, moet hy of sy 'n SAPD 583(d) (Skriftelike Verslag oor versuim om die ouer, voog of geskikte volwassene in te lig van die *arrestasie* van 'n *kind*) voltooi, waarin die stappe uiteengesit word wat gedoen is om die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in kennis te stel en die rede waarom hy of sy nie in staat was om die ouer, voog of 'n *geskikte volwassene* van die *arrestasie* van die *kind* in kennis te stel nie; of
- (b) die *aangewese proefbeampte* van die *arrestasie* van die *kind* in kennis te stel nie, moet hy of sy 'n SAPD 583(e) (Skriftelike Verslag oor versuim om die Proefbeampte in te lig van die *arrestasie* van 'n *kind*), voltooi, waarin die stappe uiteengesit word wat gedoen is om die *proefbeampte* van die *arrestasie* van die *kind* in kennis te stel en die rede waarom hy of sy nie in staat was om die *proefbeampte* van die *arrestasie* van die *kind* in kennis te stel nie,

en dit liasseer onder "B" in die dossier, wat aan die aanklaer verskaf moet word wat by die *voorlopige ondersoek* teenwoordig sal wees en wat versoek moet word om die verslag by die *voorlopige ondersoek* aan die voorsittende beampte te oorhandig.

15. Vervoer van 'n kind

- (1) Indien dit nodig is om 'n *kind*, wat na bewering 'n misdryf gepleeg het, in 'n polisievoertuig te vervoer, moet die *kind*, sover as wat redelikerwys moontlik is, vervoer word —
- (a) in 'n ongemerkte polisievoertuig. Indien dit nie moontlik is nie en die *kind* moet in 'n gemerkte polisievoertuig vervoer word, moet die *kind* —
- (i) verkieslik in 'n sedan polisievoertuig vervoer word; en
- (ii) indien die *kind* in 'n gemerkte polisie vangwa vervoer word, moet die *kind* in die kajuit van die vangwa vervoer word en nie in die agterkant van die vangwa nie; en
- (b) apart van volwassenes.
- (2) Die dwangmiddels, waarvoor in Staande Order (Algemeen) 350 voorsiening gemaak word, kan waar dit nodig en gepas is, tydens die vervoer van die *kind* gebruik word, om die veiligheid van die *kind*, ander *kinders* en *lede*, wat hom of haar vervoer, te verseker, asook om die ontsnapping van die *kind* te voorkom.
- (3) Indien dit nie moontlik is om 'n *kind* apart van volwassenes na en van 'n *voorlopige ondersoek* of ander verhoor voor 'n *hof vir*

kinderstrafregpleging te vervoer nie, moet die *lid* wat die polisievoertuig bestuur, of ander *lid* wat die vervoer van die *kind* saam met die volwassene gemagtig het, —

- (a) 'n SAPD 583(g) (Skriftelike Verslag in verband met die vervoer van 'n kind saam met volwassenes) voltooi;
 - (b) binne 48 uur nadat die vervoer onderneem is, die oorspronklike Skriftelike Verslag aan die klerk van die hof oorhandig waar die *voorlopige ondersoek* of ander verhoor voor 'n *hof vir kinderstrafregpleging* sal plaasvind of plaasgevind het en versoek dat die Skriftelike Verslag aan die regterlike beamppte wat voorgesit het of voor sal sit by die *voorlopige ondersoek* of ander verhoor oorhandig word;
 - (c) die klerk van die hof versoek om op die eerste duplikaat oorspronklike afskrif van die Skriftelike Verslag te teken om ontvangs te erken; en
 - (d) die eerste duplikaat oorspronklike afskrif van die Skriftelike Verslag liasseer onder "B" in die dossier wat geopen is ten opsigte van die misdryf wat na bewering deur die *kind* gepleeg is.
- (4) Indien dit, vir watter rede ookal, nie moontlik is om die SAPD 583(g) (Skriftelike Verslag in verband met die vervoer van 'n kind saam met volwassenes) binne 48 uur na die vervoer onderneem is, aan die klerk van die hof te oorhandig nie, moet die verantwoordelike *lid* —
- (a) 'n beëdigde verklaring aflê waarin die redes uiteengesit word waarom dit nie moontlik was nie;
 - (b) 'n afskrif van die beëdigde verklaring maak;
 - (c) die oorspronklike beëdigde verklaring aan die oorspronklike Skriftelike Verslag, wat aan die klerk van die hof oorhandig word, heg;
 - (d) die klerk van die hof versoek om op die afskrif van die beëdigde verklaring te teken om ontvangs te erken; en
 - (e) die afskrif van die beëdigde verklaring, geteken deur die klerk van die hof, tesame met die eerste duplikaat oorspronklike afskrif van die Skriftelike Verslag liasseer onder "B" in die dossier, wat geopen is ten opsigte van die misdryf wat na bewering deur die *kind* gepleeg is.

16. Toegang tot die Aanhoudingsregister

- (1) 'n Inskrywing in die Aanhoudingsregister in verband met 'n *kind* in polisieaanhouding, moet in rooi ink gemaak word en enige skuilname van die *kind* moet in die opmerkingskolom van die inskrywing in die register aangeteken word.
- (2) Die register kan nagegaan word deur —
 - (a) 'n *lid* in die uitvoering van sy of haar funksies;
 - (b) 'n maatskaplike werker, gesondheidsorgpraktisyn of *proefbeampte* in die uitvoering van sy of haar funksies;
 - (c) die aanklaer in die uitvoering van sy of haar funksies;

- (d) 'n *lid* van die Inter-sektorale Komitee vir Strafrepleging ten opsigte van Kinders wat ingevolge *die Wet* gevestig is;
 - (e) 'n onafhanklike waarnemer wat ingevolge *die Wet* aangestel is;
 - (f) 'n persoon wat regtens gemagtig is om na die belange van 'n *kind* om te sien;
 - (g) 'n ouer van die *kind* of die *geskikte volwassene* of *voog*;
 - (h) 'n personeellid van die *kinder- en jeugsorgsentrum* waar die *kind* geplaas is;
 - (i) die voorsittende beampte betrokke in die saak; en
 - (j) die regsverteenvoerder van die *kind*.
- (3) 'n Persoon, anders as 'n persoon waarna in subparagraaf (2) verwys word, wat die register wil nagaan, moet —
- (a) 'n SAPD 583(h) (Aansoek om toegang tot die Aanhoudingsregister) aan die stasiebevelvoerder, of die persoon wat skriftelik deur die stasiebevelvoerder aangewys is, rig; en
 - (b) homself of haarself identifiseer en dokumentêre bewys verskaf van sy of haar hoedanigheid, indien hy of sy deur die stasiebevelvoerder of aangewese persoon daartoe versoek word.
- (4) Die stasiebevelvoerder of aangewese persoon moet die aansoek oorweeg en, indien hy of sy —
- (a) tevrede is dat die aansoeker 'n *bona fide* rede het om die register na te gaan en geen rede het om te glo dat, deur hom of haar toe te laat om die register na te gaan, enige *kind* of ander aangehoudene wie se naam en besonderhede in die register verskyn, nadelig geraak sal word nie, kan hy of sy die aansoeker magtig om die register na te gaan; of
 - (b) nie so tevrede is nie, moet hy of sy die aansoek weier, sy of haar redes vir die weiering van die aansoek op die SAPD 583(h) (Aansoek om toegang tot die Aanhoudingsregister) aanteken en die aansoeker voorsien van 'n afskrif van die geweierde aansoek.
- (5) 'n *Lid* moet teenwoordig bly terwyl die register nagegaan word ten einde die privaatheid van persone in polisieaanhouding te beskerm en nie die onderwerp is van 'n ondersoek waarby die *kind* betrokke is nie.

17. Dagvaarding

- (1) Indien 'n dagvaarding ontvang word wat op 'n *kind*, wat na bewering 'n misdryf gepleeg het, beteken moet word, moet die ondersoekbeampte 'n ouer of *voog* van die *kind* of 'n *geskikte volwassene* kontak en reëlings tref wat hom of haar in staat sal stel om die dagvaarding in die teenwoordigheid van 'n ouer of *voog* van die *kind* of 'n *geskikte volwassene* te beteken ten minste 10 (tien) *werksdae* voor die datum van die *voorlopige ondersoek* of ander verhoor ten opsigte waarvan die *kind* gedagvaar is.
- (2) Wanneer die dagvaarding beteken word, moet die *lid* wat die dagvaarding beteken —

- (a) die inhoud van die dagvaarding aan die *kind* en die ouer, voog of *geskikte volwassene* verduidelik;
 - (b) die oorspronklike dagvaarding aan die *kind* in die teenwoordigheid van die ouer, voog of *geskikte volwassene* oorhandig en die *kind* en ouer, voog of *geskikte volwassene* versoek om die relaas te teken om ontvangs van die dagvaarding te erken; en
 - (c) twee afskrifte van die dagvaarding en die relaas maak en —
 - (i) die eerste afskrif van die dagvaarding en die relaas binne 24 uur nadat die dagvaarding aan die *kind* oorhandig is, aan die *aangewese proefbeampte* verskaf; en
 - (ii) bewys dat dit deur die *aangewese proefbeampte* ontvang is, tesame met die tweede afskrif van die dagvaarding en die relaas, liasseer onder "B" in die dossier wat geopen is ten opsigte van die saak waarvoor die *kind* gedagvaar is.
- (3) Indien die ondersoekbeampte nie reëlings kan tref wat hom of haar in staat sal stel om die dagvaarding ten minste 10 (tien) werksdae voor die datum van die *voorlopige ondersoek* of ander verhoor ten opsigte waarvan die *kind* gedagvaar is, te beteken nie, moet die ondersoekbeampte 'n toepaslike inskrywing in die ondersoekdagboek maak en die dossier voorlê aan die aanklaer met 'n versoek dat 'n nuwe dagvaarding uitgereik word.

18. Assessering van 'n kind

- (1) Die stasiebevelvoerder en Gemeenskapdienssentrumbevelvoerder moet volledige ondersteuning verleen aan 'n *proefbeampte* om die *proefbeampte* in staat te stel om die *assessering* van 'n *kind* in polisieaanhouding te doen.
- (2) 'n Stasiebevelvoerder en Gemeenskapdienssentrumbevelvoerder moet, indien daartoe versoek deur 'n *proefbeampte*, alle redelike stappe doen (insluitende om die ouer of voog van die *kind* of 'n *geskikte volwassene* telefonies te kontak of die laaste bekende adres van die ouer of voog van die *kind* of die *geskikte volwassene* te besoek (mits dit binne 'n redelike afstand is)) ten einde die *proefbeampte* behulpsaam te wees om 'n ouer of voog van die *kind* of 'n *geskikte volwassene* op te spoor.
- (3) Die stasiebevelvoerder moet 'n vertrek, anders as 'n *polisiesel*, aan die *proefbeampte* beskikbaar stel waarin die *assessering* gedoen kan word. Sodanige vertrek moet die *proefbeampte* in staat stel om die *assessering* in privaatheid te doen.
- (4) (a) Indien die stasiebevelvoerder, Gemeenskapdienssentrumbevelvoerder of enige ander *lid* van mening is dat —
 - (i) die *kind* 'n gevaar inhou vir die *proefbeampte* of enige ander persoon; of
 - (ii) daar 'n risiko is dat die *kind* tydens die *assessering* sal ontsnap,

moet die *lid* die *proefbeampte* inlig waarop sy of haar mening gebaseer is.

- (b) Indien die *proefbeampte* versoek dat 'n *lid* teenwoordig moet wees tydens die *assessering*, moet die stasiebevelvoerder of Gemeenskapdienssentrumbevelvoerder 'n *lid*, anders as die ondersoekbeampte, vir hierdie doel beskikbaar stel.
- (5) Indien 'n *lid* teenwoordig is terwyl 'n *assessering* gedoen word, mag so 'n *lid* nie enige inligting wat tot sy of haar kennis gekom het tydens die *assessering*, openbaar nie, tensy hy of sy deur die voorsittende beampte by 'n *voorlopige ondersoek* of ander hofverrigtinge daartoe versoek word.

19. Fout in verband met plasing

- (1) Ingevolge die *Wet*, mag geen voorsittende beampte (ongeach of dit by 'n *voorlopige ondersoek* is of by ander verrigtinge in 'n *hof vir kinderstrafregpleging*) 'n *kind* na polisieaanhouding terugverwys in afwagting van die *kind* se volgende verskyning in die hof nie. Indien 'n hof derhalwe 'n lasbrief uitreik vir die verdere *aanhouding* van 'n *kind* en die lasbrief bepaal dat die *kind* in polisieaanhouding aangehou moet word tot 'n datum, wat in die lasbrief vermeld word, wanneer hy of sy weer in die hof moet verskyn, kom dit neer op 'n fout aan die kant van die voorsittende beampte en moet die aangeleentheid hanteer word soos in subparagraaf (2) uiteengesit.
- (2) Die Gemeenskapdienssentrumbevelvoerder moet —
- (a) die *kind* in polisieaanhouding opneem en die normale pligte verrig betreffende die *aanhouding* van 'n *kind* in polisieaanhouding;
 - (b) 'n inskrywing in die Voorvalleboek (VB) maak waarin die feit vermeld word dat die lasbrief vir die *aanhouding* van die *kind* in polisieaanhouding verkeerdelik deur die voorsittende beampte uitgereik is;
 - (c) die SAPD 583(i) (Kennisgewing van Fout in verband met die Plasing vorm) voltooi;
 - (d) 'n afskrif van die lasbrief vir die *aanhouding* van die *kind* by die polisiestasie maak en die afskrif aanheg by die Kennisgewing; en
 - (e) verseker dat —
 - (i) indien die *kind* by die polisiestasie ontvang word terwyl dit steeds moontlik is vir die *kind* om, voor die einde van die hofsitting vir daardie dag, na die voorsittende beampte teruggeneem kan word, die *kind* onmiddellik na die voorsittende beampte teruggeneem word, tesame met die Kennisgewing waaraan die afskrif van die lasbrief vir die *aanhouding* van die *kind* geheg is; of
 - (ii) indien die *kind* by die polisiestasie ontvang word wanneer dit nie meer moontlik is vir die *kind* om voor die einde van die hofsitting van daardie dag, na die voorsittende beampte teruggeneem kan word nie, die *kind* in polisieaanhouding bly tot die volgende hofdag en, aan die begin van die

volgende hofdag, na die voorsittende beampte teruggeneem word, tesame met die Kennisgewing waaraan die afskrif van die lasbrief vir die *aanhouding* van die *kind* geheg is.

- (3) Indien 'n *kind* verkeerdelik in 'n *kinder- en jeugsorgsentrum* geplaas is en 'n versoek word ontvang van die *kinder- en jeugsorgsentrum* om die *kind* terug te neem na die voorsittende beampte vir die fout om reggestel te word, moet die stasiebevelvoerder die ondersoekbeampte in die saak ten opsigte waarvan die *kind* in *aanhouding* is, indien hy of sy beskikbaar is, en, indien nie, 'n ander *lid*, opdrag gee om —
- (a) indien die versoek deur die stasiebevelvoerder ontvang is terwyl dit steeds moontlik is om die *kind*, voor die einde van die hofsitting vir daardie dag na die voorsittende beampte terug te neem, die *kind* onmiddellik na die voorsittende beampte terug te neem, tesame met die Skriftelike Verwysing deur die *kinder- en jeugsorgsentrum* waaraan die afskrif van die hofbevel, wat die *aanhouding* van die *kind* by die *kinder- en jeugsorgsentrum* magtig, geheg is; of
- (b) indien die versoek deur die stasiebevelvoerder ontvang is wanneer dit nie meer moontlik is vir die *kind* om, voor die einde van die hofsitting van daardie dag, na die voorsittende beampte teruggeneem te word nie, die *kind* aan die begin van die volgende hofdag op te laai en na die voorsittende beampte terug te neem, tesame met die Skriftelike Verwysing deur die *kinder- en jeugsorgsentrum* waaraan die afskrif van die hofbevel wat die *aanhouding* van die *kind* by die *kinder- en jeugsorgsentrum* magtig, geheg is.

20. Bekentenis deur 'n kind wat met die gereg bots

- (1) Indien 'n *kind* aan 'n *lid* aandui dat hy of sy bereid is om 'n bekentenis af te lê, moet die *lid* die *kind* inlig dat hy of sy —
- (a) na 'n landdros of 'n polisie-offisier (wat ookal die geval is) geneem sal word, dat die bekentenis neergeskryf sal word en as getuienis teen hom of haar in die hof gebruik kan word;
- (b) daarop geregtig is om 'n regsverteenvoerder teenwoordig te hê terwyl die bekentenis afgelê word; en
- (c) geregtig is om deur sy of haar ouer, voog of 'n *geskikte volwassene* bygestaan te word terwyl die bekentenis afgeneem word.
- (2) Indien die *kind* aandui dat hy of sy verkies dat sy of haar regsverteenvoerder teenwoordig is terwyl die bekentenis afgeneem word, moet die *lid* —
- (a) vasstel wie die regsverteenvoerder is;
- (b) die regsverteenvoerder kontak en hom of haar inlig dat die *kind* verkies dat hy of sy teenwoordig is terwyl die bekentenis afgeneem word en van die tyd wanneer en plek waar die bekentenis

- afgeneem sal word om hom of haar in staat te stel om teenwoordig te wees terwyl die bekentenis afgelê word; en
- (c) die landdros of 'n polisie-offisier (wat ookal die geval is) inlig van die stappe wat hy of sy gedoen het om die regsverteenvoorder in te lig wanneer die *kind* vir die afneem van die bekentenis na die landdros of die polisie-offisier geneem sal word.
- (3) Indien die *kind* aandui dat hy of sy verkies dat sy of haar ouer, *voog* of 'n *geskikte volwassene* teenwoordig is om hom of haar by te staan terwyl die bekentenis afgelê word, moet die *lid* —
- (a) vasstel wat die bewegings van die ouer, *voog* of die *geskikte volwassene* is;
- (b) die ouer, *voog* of die *geskikte volwassene* kontak en hom of haar inlig dat die *kind* verkies dat hy of sy teenwoordig is terwyl die bekentenis afgelê word en van die tyd wanneer en plek waar die bekentenis afgeneem sal word om hom of haar in staat te stel om die *kind* by te staan terwyl die bekentenis afgeneem word; en
- (c) die landdros of 'n polisie-offisier (wat ookal die geval is) inlig van die stappe wat hy of sy gedoen het om die ouer, *voog* of die *geskikte volwassene* in te lig wanneer die *kind* na die landdros of die polisie-offisier geneem sal word vir die afneem van die bekentenis.
- (4) Indien die *kind* aandui dat hy of sy verkies dat sy of haar regsverteenvoorder of sy of haar ouer, *voog* of 'n *geskikte volwassene* nie teenwoordig is terwyl die bekentenis afgelê word nie, moet die *lid* —
- (a) indien die *lid* en die *kind* by die polisiestasie teenwoordig is, —
- (i) 'n inskrywing in die Voorvalleboek (VB) maak waarin vermeld word dat die *kind* ingelig is, soos wat in subparagraaf (1) uiteengesit is, maar dat die *kind* aangedui het dat hy of sy verkies om nie sy of haar regsverteenvoorder of sy of haar ouer, *voog* of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan terwyl die bekentenis afgeneem word nie;
- (ii) die *kind* versoek om die inskrywing te teken om die korrektheid van die inskrywing te bevestig; en
- (iii) die landdros of die polisie-offisier (wat ookal die geval is) inlig van die keuse van die *kind* wanneer die *kind* na die landdros of die polisie-offisier geneem word vir die afneem van die bekentenis; of
- (b) indien die *lid* en die *kind* nie by die polisiestasie teenwoordig is nie, —
- (i) 'n inskrywing in sy of haar sakboek maak wat meld dat die *kind* ingelig is soos wat in subparagraaf (1) uiteengesit is, maar dat die *kind* aangedui het dat hy of sy verkies om nie sy of haar regsverteenvoorder of sy of haar ouer, *voog* of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan terwyl die bekentenis afgeneem word nie;

- (ii) die *kind* versoek om die inskrywing te teken om die korrektheid van die inskrywing te bevestig; en
- (iii) die landdros of die polisie-offisier (wat ookal die geval is) van die keuse van die *kind* inlig wanneer die *kind* na die landdros of die polisie-offisier geneem word vir die afneem van die bekentenis; en
- (c) indien deur die vermelde landdros of polisie-offisier daartoe versoek, hom of haar van die kontakbesonderhede van die regsverteenvoerder, ouer, *voog* of *geskikte volwassene* voorsien.

21. Uitwysing deur 'n kind wat met die gereg bots

- (1) Indien 'n *kind* aan 'n *lid* aandui dat hy of sy bereid is om 'n uitwysing te maak, moet die *lid* die *kind* inlig dat hy of sy —
 - (a) na 'n landdros of 'n polisie-offisier (wat ookal die geval is) geneem sal word, dat die uitwysing aangeteken sal word en as getuie teen hom of haar in die hof gebruik kan word;
 - (b) daarop geregtig is om 'n regsverteenvoerder teenwoordig te hê terwyl die uitwysing gedoen word; en
 - (c) geregtig is om deur sy of haar ouer, *voog* of 'n *geskikte volwassene* bygestaan te word terwyl die uitwysing gedoen word.
- (2) Indien die *kind* aandui dat hy of sy verkies dat sy of haar regsverteenvoerder teenwoordig is terwyl die uitwysing gedoen word, moet die *lid* —
 - (a) vasstel wie die regsverteenvoerder is;
 - (b) die regsverteenvoerder kontak en hom of haar inlig dat die *kind* verkies dat hy of sy teenwoordig is terwyl die uitwysing gedoen word en van die tyd wanneer en plek waar die uitwysing gedoen sal word om hom of haar in staat te stel om teenwoordig te wees terwyl die uitwysing gedoen word; en
 - (c) die landdros of 'n polisie-offisier (wat ookal die geval is) inlig van die stappe wat hy of sy gedoen het om die regsverteenvoerder in te lig wanneer die *kind* na die landdros of die polisie-offisier geneem sal word vir die uitwysing.
- (3) Indien die *kind* aandui dat hy of sy verkies dat sy of haar ouer, *voog* of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan terwyl die uitwysing gedoen word, moet die *lid* —
 - (a) die bewegings van die ouer, *voog* of die *geskikte volwassene* vasstel;
 - (b) die ouer, *voog* of die *geskikte volwassene* kontak en hom of haar inlig dat die *kind* verkies dat hy of sy teenwoordig is terwyl die uitwysing gedoen word en van die tyd wanneer en plek waar die uitwysing gedoen sal word om hom of haar in staat te stel om teenwoordig te wees en die *kind* by te staan terwyl die uitwysing gedoen word; en
 - (c) die landdros of 'n polisie-offisier (wat ookal die geval is) inlig van die stappe wat hy of sy gedoen het om die ouer, *voog* of die

geskikte volwassene in te lig wanneer die *kind* na die landdros of die polisie-offisier geneem sal word om die uitwysing te doen.

- (4) Indien die *kind* aandui dat hy of sy verkies dat sy of haar regsverteenvoerder of sy of haar ouer, *voog* of 'n *geskikte volwassene* nie teenwoordig is terwyl die uitwysing gedoen word nie, moet die *lid* —
- (a) indien die *lid* en die *kind* by die polisiestasie teenwoordig is, —
- (i) 'n inskrywing in die Voorvalleboek (VB) maak waarin vermeld word dat die *kind* ingelig is, soos wat in subparagraaf (1) uiteengesit is, maar dat die *kind* aangedui het dat hy of sy verkies om nie sy of haar regsverteenvoerder of sy of haar ouer, *voog* of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan terwyl die uitwysing gedoen word nie;
- (ii) die *kind* versoek om die inskrywing te teken om die korrektheid van die inskrywing te bevestig; en
- (iii) die landdros of die polisie-offisier (wat ookal die geval is) inlig van die keuse van die *kind* wanneer die *kind* na die landdros of die polisie-offisier geneem word om die uitwysing te doen; of
- (b) indien die *lid* en die *kind* nie by die polisiestasie teenwoordig is nie, —
- (i) 'n inskrywing in sy of haar sakboek maak wat meld dat die *kind* ingelig is soos wat in subparagraaf (1) uiteengesit word, maar dat die *kind* aangedui het hy of sy verkies om nie sy of haar regsverteenvoerder of sy of haar ouer, *voog* of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan terwyl die uitwysing gedoen word nie;
- (ii) die *kind* versoek om die inskrywing te teken om die korrektheid van die inskrywing te bevestig; en
- (iii) die landdros of die polisie-offisier (wat ookal die geval is) inlig van die keuse van die *kind* wanneer die *kind* na die landdros of die polisie-offisier geneem word om die uitwysing te doen; en
- (c) indien deur die vermelde landdros of polisie-offisier daartoe versoek, hom of haar van die kontakbesonderhede van die regsverteenvoerder, ouer, *voog* of *geskikte volwassene* voorsien.

22. Erkenning deur 'n kind wat met die gereg bots

- (1) Indien 'n *kind* 'n erkenning maak, moet die *lid* die *kind* inlig dat hy of sy gereg is om —
- (a) te swyg en nie enige verklaring te hoef maak of enige vrae te hoef antwoord nie en dat enigiets wat hy of sy sê neergeskryf kan word en as getuieis teen hom of haar in die hof gebruik kan word;
- (b) met 'n regsverteenvoerder te konsulteer voordat enige verklaring gemaak, of enige vraag beantwoord word; en

- (c) deur sy of haar ouer, voog of 'n *geskikte volwassene* bygestaan te word voordat enige verklaring gemaak, of enige vraag beantwoord word.
- (2) Indien die *kind* aandui dat hy of sy verkies om met sy of haar regsverteenvoerder te konsulteer voordat hy of sy enige verklaring maak of enige vraag beantwoord, moet die *lid* —
- (a) vasstel wie die regsverteenvoerder is;
- (b) die regsverteenvoerder kontak en hom of haar inlig dat die *kind* verkies om met hom of haar te konsulteer en van die tyd wanneer en plek waar hy of sy met die *kind* kan konsulteer voordat die verklaring afgeneem of vrae gevra word; en
- (c) in die Voorvalleboek (VB), indien die *lid* by die polisiestasie is of, indien die *lid* nie by die polisiestasie is nie, in sy of haar sakboek, die stappe aanteken wat hy of sy gedoen het om die regsverteenvoerder, soos wat in subparagraaf (b) uiteengesit is, in te lig.
- (3) Indien die *kind* aandui dat hy of sy verkies dat sy of haar ouer, voog of 'n *geskikte volwassene* teenwoordig is om hom of haar by te staan voordat hy of sy enige verklaring maak of enige vraag beantwoord, moet die *lid* —
- (a) die bewegings van die ouer, voog of die *geskikte volwassene* vasstel;
- (b) die ouer, voog of die *geskikte volwassene* kontak en hom of haar inlig dat die *kind* verkies dat hy of sy teenwoordig is wanneer hy of sy enige verklaring maak of enige vraag beantwoord, en van die tyd wanneer en plek waar die verklaring geneem of vrae gevra sal word om hom of haar in staat te stel om die *kind* by te staan terwyl die verklaring geneem of vrae gevra word; en
- (c) in die Voorvalleboek (VB), indien die *lid* by die polisiestasie is of, indien die *lid* nie by die polisiestasie is nie, in sy of haar sakboek, die stappe aanteken wat hy of sy gedoen het om die ouer, voog of die *geskikte volwassene* in te lig, soos wat in subparagraaf (2)(b) uiteengesit word.
- (4) Indien die *kind* aandui dat hy of sy verkies dat sy of haar regsverteenvoerder of sy of haar ouer, voog of 'n *geskikte volwassene* nie teenwoordig is om hom of haar by te staan voordat enige verklaring gemaak, of enige vraag beantwoord word nie, moet die *lid* —
- (a) indien die *lid* en die *kind* by die polisiestasie teenwoordig is, —
- (i) 'n inskrywing in die Voorvalleboek (VB) maak waarin vermeld word dat die *kind* ingelig is, soos wat in subparagraaf (1) uiteengesit is, maar dat die *kind* aangedui het dat hy of sy verkies om nie sy of haar regsverteenvoerder of sy of haar ouer, voog of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan voordat enige verklaring gemaak, of enige vraag beantwoord word nie;

- (ii) die *kind* versoek om die inskrywing te teken om die korrektheid van die inskrywing te bevestig; en
- (iii) enige verklaring deur die *kind* afneem deur Vorm SAPD 3M(l) behoorlik te voltooi; of
- (b) indien die *lid* en die *kind* nie by die polisiestasie teenwoordig is nie, —
 - (i) 'n inskrywing in sy of haar sakboek maak wat meld dat die *kind* ingelig is soos wat in subparagraaf (1) uiteengesit word, maar dat die *kind* aangedui het hy of sy verkies om nie sy of haar regsverteenvoerder of sy of haar ouer, voog of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan voordat enige verklaring gemaak, of enige vraag beantwoord word nie;
 - (ii) die *kind* versoek om die inskrywing te teken om die korrektheid van die inskrywing te bevestig; en
 - (iii) enige verklaring deur die *kind* afneem deur Vorm SAPD 3M(l) behoorlik te voltooi.

23. Uitkenningsparade waarin 'n kind wat met die geregtelike bots, as 'n verdagte verskyn

- (1) 'n Onderzoekbeampte in 'n saak waarin 'n *kind* 'n verdagte is, wat besluit dat dit, vir doeleindes van die suksesvolle afhandeling van die ondersoek van die saak, nodig is vir die *kind* om as 'n verdagte op 'n uitkenningsparade te verskyn, moet, vroegtydig, ten einde die *kind* 'n redelike geleentheid te gun om die teenwoordigheid van sy of haar regsverteenvoerder en sy of haar ouer, voog of *geskikte volwassene* by die parade te verseker, voor die uitkenningsparade gehou moet word die *kind* inlig —
 - (a) van die voorneme om die uitkenningsparade te hou en die doel van die uitkenningsparade;
 - (b) dat hy of sy regtens verplig is om aan die uitkenningsparade deel te neem; en
 - (c) dat hy of sy geregtig is om sy of haar regsverteenvoerder en sy of haar ouer, voog of *geskikte volwassene* by die parade teenwoordig te hê.
- (2) Indien die *kind* aandui dat hy of sy verkies dat sy of haar regsverteenvoerder teenwoordig is terwyl die uitkenningsparade gehou word, moet die onderzoekbeampte —
 - (a) vasstel wie die regsverteenvoerder is;
 - (b) die regsverteenvoerder kontak en hom of haar inlig dat die *kind* verkies dat hy of sy teenwoordig is wanneer die uitkenningsparade gehou word en van die tyd wanneer en plek waar die uitkenningsparade gehou sal word om hom of haar in staat te stel om teenwoordig te wees terwyl die uitkenningsparade gehou word; en
 - (c) in die Voorvalleboek (VB) die stappe aanteken wat hy of sy gedoen het om die regsverteenvoerder, soos wat in subparagraaf (b) uiteengesit is, in te lig.

- (3) Indien die *kind* aandui dat hy of sy verkies om sy of haar ouer, *voog* of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan terwyl die uitkenningssparade gehou word, moet die *lid* —
- (a) die bewegings van die ouer, *voog* of die *geskikte volwassene* vasstel;
 - (b) die ouer, *voog* of die *geskikte volwassene* kontak en hom of haar inlig dat die *kind* verkies dat hy of sy teenwoordig is terwyl die uitkenningssparade gehou word, en —
 - (i) van die tyd wanneer en plek waar die uitkenningssparade gehou sal word om hom of haar in staat te stel om dit by te woon en die *kind* by te staan terwyl die uitkenningssparade gehou word; en
 - (ii) dat hy of sy geregtig is om die uitkenningssparade by te woon en die *kind* tydens die uitkenningssparade mag bystaan; en
 - (c) in die Voorvalleboek (VB), die stappe aanteken wat hy of sy gedoen het om die ouer, *voog* of die *geskikte volwassene* in te lig, soos wat in subparagraaf (b) uiteengesit word.
- (4) Indien die *kind* aandui dat hy of sy verkies dat sy of haar regsverteenvoerwoordiger of sy of haar ouer, *voog* of 'n *geskikte volwassene* nie teenwoordig is om hom of haar by te staan terwyl die uitkenningssparade gehou word nie, moet die *lid* —
- (a) 'n inskrywing in die Voorvalleboek (VB) maak waarin vermeld word dat die *kind* ingelig is, soos wat in subparagraaf (1) uiteengesit is, maar dat die *kind* aangedui het dat hy of sy verkies om nie sy of haar regsverteenvoerwoordiger of sy of haar ouer, *voog* of 'n *geskikte volwassene* teenwoordig te hê om hom of haar by te staan terwyl die uitkenningssparade gehou word nie;
 - (b) die *kind* versoek om die inskrywing te teken om die korrektheid van die inskrywing te bevestig; en
 - (c) indien deur die *lid* in beheer van die uitkenningssparade, daartoe versoek, hom of haar van die kontakbesonderhede van die regsverteenvoerwoordiger, ouer, *voog* of *geskikte volwassene* voorsien.
- (5) Die *lid* in beheer van 'n uitkenningssparade moet, voor die aanvang van die parade, elke *kind* wat as 'n verdagte op die parade moet verskyn, van die volgende inlig:
- (a) die aard van die beweringe teen hom of haar;
 - (b) die doel van die uitkenningssparade;
 - (c) sy of haar reg tot regsverteenvoerwoordiging en hom of haar 'n redelike geleentheid gun en bystaan om sy of haar regsverteenvoerwoordiger te kontak of regsverteenvoerwoordiging te bekom;
 - (d) sy of haar reg om deur sy of haar ouer, *voog* of 'n *geskikte volwassene* bygestaan te word tydens die parade en hom of haar bystaan om sy of haar ouer, *voog* of 'n *geskikte volwassene* te

- kontak om die teenwoordigheid of sy of haar ouer, voog of 'n *geskikte volwassene* by die parade te verseker;
- (e) sy of haar swygreg; en
 - (f) dat hy of sy regtens verplig is om aan die uitkenningssparade deel te neem.
- (6) Indien die *kind* weier om aan die uitkenningssparade deel te neem, moet hy of sy nie fisies na die parade geneem word nie. Die *kind* moet egter ingelig word dat sy of haar weiering as getuienis tydens sy of haar verhoor teen hom of haar aangebied sal word en dat die hof 'n negatiewe afleiding uit die weiering kan maak.
- (7) Die regsverteenvoerder van die *kind* of sy of haar ouer, voog of 'n *geskikte volwassene* mag nie deelneem of inmeng in die verrigtinge nie en is bloot 'n waarnemer. Die ouer, voog of 'n *geskikte volwassene* wat die parade bywoon, moet dienooreenkomstig ingelig word en moet toegelaat word om die *kind* te ondersteun tussen die verskyning van getuies. Die regsverteenvoerder van die *kind* kan feite ten opsigte van die uitkenningssparade ontlok tydens kruisondervraging in die hof en selfs daarvoor getuig.
- (8) Die *kind* moet in so 'n toestand, posisie of klere aan die parade deelneem soos die *lid* in beheer van die parade mag bepaal. Die *kind* of sy of haar regsverteenvoerder, ouer, voog of die *geskikte volwassene* kan redelike versoeke in verband met die voorkoms van die *kind* op die parade rig. Die *lid* in beheer van die parade mag egter weier om so 'n versoek na te kom indien dit in die belang van geregtigheid sal wees om te weier - soos wanneer die verandering van voorkoms inderwaarheid daartoe kan lei dat die *kind* vermom sal wees.
- (9) Nasionale Instruksie 1 van 2007 oor Uitkenningssparades (soos gewysig deur subparagrafe (1)-(8)) geld vir 'n uitkenningssparades waarin 'n *kind* as 'n verdagte verskyn.

24. Ontvangs van inligting dat 'n kind deur 'n volwassene gebruik is om 'n misdryf te pleeg

- (1) Ingevolge artikel 141(1)(d) saamgelees met artikel 305(1)(c) van die *Kinderwet*, is enige volwasse persoon wat 'n *kind* gebruik, bekom of aanbied vir die pleging van enige misdryf wat in Bylae 1 of 2 van die *Strafproseswet* vermeld word, of poog om dit te doen, skuldig aan 'n misdryf.
- (2) Ingevolge artikel 92 van die *Wet*, moet 'n beampte van die hof of *proefbeampte*, indien dit tot sy of haar aandag kom dat 'n *kind* deur 'n volwassene gebruik is om 'n misdryf te pleeg waarna in Bylae 1 of 2 van die *Strafproseswet* verwys word, die inligting tot sy of haar beskikking by 'n polisiebeampte aanmeld.

- (3) Die persoon wat die beweerde pleging van die misdryf aanmeld, doen dit gewoonlik vrywillig (behalwe in omstandighede waarna in subparagraaf (2)) verwys word en is dienooreenkomstig gewoonlik bereid om al die inligting tot sy of haar beskikking aan die polisie te verskaf.
- (4) Enige persoon wat sodanige inligting aanmeld as gevolg van die regsplig ingevolge artikel 92 van *die Wet* om dit te doen, mag dit soms doen weens die regsplig wat op hom of haar rus om dit te doen.
- (5) Indien 'n persoon (waarna in subparagraaf (4)) verwys word), sodanige kennis of sy of haar geloof of vermoede by 'n polisiebeampte aanmeld, mag die *lid* wat die inligting ontvang, onder geen omstandighede sodanige persoon weg wys nie. Sodanige *lid* moet die inligting oorweeg en —
- (a) indien die *lid* tevrede is dat daar redelike gronde bestaan om te glo dat die misdryf vervat in artikel 141(1)(d) van die *Kinderwet*, inderdaad gepleeg is, 'n beëdigde verklaring van die persoon neem, waarin die inligting wat deur daardie persoon verskaf is, uiteengesit word, 'n dossier open vir die ondersoek van die misdryf wat na bewering gepleeg is en die dossier op die MAS stelsel registreer; of
- (b) indien die *lid* nie tevrede is dat daar redelike gronde is om te glo dat so 'n misdryf wel gepleeg is nie, met die Gemeenskapdienssentrumbevelvoerder konsulteer wat 'n omvattende VB-inskrywing van die aanmelding moet maak en die redes waarom die Bevelvoerder nie tevrede is dat daar redelike gronde is om te glo dat so 'n misdryf wel gepleeg is nie en die nommer van die VB-inskrywing aan die persoon wat dit aangemeld het, verskaf. Die inskrywing moet voldoende besonderhede van die persoon, wat die aanmelding gedoen het, bevat om hom of haar op te spoor en te ondervra indien dit nodig sou word.
- (6) Enige persoon wat die beweerde pleging van die misdryf vervat in artikel 141(1)(d) van die *Kinderwet* by 'n *lid* aanmeld, moet op 'n professionele wyse hanteer word en moet gerusgestel word dat die aanmelding in 'n ernstige lig beskou word en deeglik ondersoek sal word.

25. Uitwissing van vorige veroordelings en die kriminele rekord van 'n kind

- (1) Die Hoof: Kriminele Rekord Sentrum mag enige *lid* verbonde aan die Kriminele Rekord Sentrum met die rang van Brigadier of hoër skriftelik magtig om die kriminele rekord van 'n persoon uit te wis wat skuldig bevind is aan 'n misdryf terwyl daardie persoon 'n *kind* was, by ontvangs van 'n sertifikaat van uitwissing wat uitgereik is deur —
- (a) die Direkteur-Generaal van die Departement of Justisie en Grondwetlike Ontwikkeling; of
- (b) die Minister van Justisie en Grondwetlike Ontwikkeling.

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- (2) Die Hoof: Kriminele Rekord Sentrum moet elke sertifikaat waarna in subparagraaf (1) verwys word, liasseer en rekord hou van die datum van ontvangs van die sertifikaat, die datum waarop die rekord van die skuldigbevinding en vonnis verwyder is en die beampte wat dit verwyder het.
- (3) Die Hoof: Kriminele Rekord Sentrum moet, by ontvangs van 'n skriftelike versoek van enige persoon wie se kriminele rekord in ooreenstemming met hierdie paragraaf uitgewis is, skriftelik bevestig dat die kriminele rekord van die *kind* uitgewis is.

AANHANGSEL A**BYLAE 1**

1. Diefstal, hetsy ingevolge die gemene reg of 'n statutêre bepaling, ontvangs van gesteelde goed wetende dat dit gesteel is of diefstal onder valse voorwendsels, waar die bedrag betrokke nie R 2 500 te bowe gaan nie.
2. Bedrog, afpersing, vervalsing of uitgifte van 'n vervalste stuk of 'n misdryf waarna in die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), verwys word, waar die bedrag betrokke nie R1 500 te bowe gaan nie.
3. Opsetlike saakbeskadiging, waar die bedrag betrokke nie R1 500 te bowe gaan nie.
4. Aanranding gewoon, wanneer 'n gevaarlike wond nie toegedien is nie.
5. Meineed.
6. Minagting van die hof.
7. Godslastering.
8. Afkoop van 'n misdryf.
9. Crimen iniuria.
10. Laster.
11. Betreding.
12. Openbare onsedelikheid.
13. Verkryging van seksuele dienste van persone 18 jaar of ouer, waarna in artikel 11 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007) verwys word.
14. Bestialiteit, waarna in artikel 13 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 verwys word.
15. Handeling van instemmende seksuele penetrasie met sekere kinders (statutêre verkragting) en handeling van instemmende seksuele skending met sekere kinders (statutêre seksuele aanranding), waarna onderskeidelik in artikels 15 en 16 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 verwys word, en onderhewig aan daardie artikels.
16. Enige misdryf ingevolge enige wet betreffende die onwettige besit van afhanklikheidsvormende medisyne, anders as enige misdryf waarna in Item 17 van hierdie Bylae verwys word, waar die hoeveelheid nie R 500 in waarde oorskry nie.
17. Enige ander statutêre misdryf waarvan die maksimum straf bepaal deur daardie wet gevangenisstraf is vir 'n tydperk van nie langer nie as drie maande of 'n boete vir daardie tydperk, bepaal ooreenkomstig die Wet op die Aanpassing van Boetes, 1991 (Wet No. 101 van 1991).
18. Enige sameswering, uitlokking of poging om 'n in hierdie Bylae bedoelde misdryf te pleeg.

AANHANGSEL A**BYLAE 2**

1. Diefstal, hetsy ingevolge die gemene reg of 'n statutêre bepaling, ontvangs van gesteelde goed wetende dat dit gesteel is of diefstal onder valse voorwendsels, waar die bedrag betrokke R 2 500 te bowe gaan.
2. Bedrog, afpersing, vervalsing of uitgifte van 'n vervalste stuk of 'n misdryf waarna in die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), verwys word, waar die bedrag betrokke R 1 500 te bowe gaan.
3. Roof, anders as roof met verswarende omstandighede.
4. Opsetlike saakbeskadiging, waar die bedrag betrokke R 1 500 te bowe gaan.
5. Aanranding, waar ernstige liggaamlike leed toegedien is.
6. Openbare geweld.
7. Strafbare manslag.
8. Brandstigting.
9. Huisbraak, hetsy ingevolge die gemene reg of 'n statutêre bepaling, met die opset om 'n misdryf te pleeg.
10. Toediening van gif of ander skadelike stowwe.
11. Blootstelling van 'n jong kind.
12. Abduksie.
13. Seksuele aanranding, gedwonge seksuele aanranding of gedwonge self-seksuele aanranding waarna onderskeidelik in artikels 5, 6 en 7 van die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007), verwys word waar die toediening van ernstige liggaamlike leed nie betrokke is nie.
14. Dwang of veroorsaking van persone 18 jaar of ouer om seksuele misdrywe, seksuele handeling of self-masturbasie waar te neem, waarna in artikel 8 van die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, verwys word.
15. Blootstelling of vertoon van of veroorsaking van blootstelling of vertoon van kinderpornografie of pornografie soos waarna onderskeidelik in artikels 10 of 19 van die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, verwys word.
16. Bloedskande en seksuele handeling met lyk, waarna onderskeidelik in artikels 12 en 14 van die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, verwys word.
17. Blootstelling of vertoon van of veroorsaking van blootstelling of vertoon van geslagsorgane, anus of vroulike borste aan enige persone waarna in artikels 9 of 22 van die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, verwys word.
18. Lyk- of grafskending.
19. Verydeling of belemmering van die regspleging.
20. Enige misdryf waarna in artikel 1 of 1A van die Wet op Intimidasie, 1982 (Wet No. 72 van 1982) verwys word.
21. Enige misdryf wat verband hou met kriminele bende-aktiwiteite waarna in Hoofstuk 4 van die Wet op die Voorkoming van Georganiseerde Misdaad, 1998 (Wet No. 121 van 1998) verwys word.

22. Enige oortreding van artikel 2 van die Dierebeskermingswet, 1962 (Wet No. 71 van 1962).
23. Enige misdryf ingevolge enige wet met betrekking tot die onwettige besit van afhanklikheidsvormende medisyne, anders as enige misdryf waarna in Item 24 van hierdie Bylae verwys word, waar die hoeveelheid betrokke R 500, maar nie R 5 000 in waarde oorskry nie.
24. Enige ander statutêre misdryf waarvan die maksimum straf wat deur daardie wet bepaal word, gevangenisstraf is vir 'n tydperk wat drie maande oorskry, maar minder as vyf jaar is of 'n boete vir daardie tydperk, bepaal ooreenkomstig die Wet op die Aanpassing van Boetes, 1991 (Wet No. 101 van 1991).
25. Enige sameswering, uitlokking of poging om 'n in hierdie Bylae bedoelde misdryf te pleeg.

AANHANGSEL A**BYLAE 3**

1. Hoogverraad.
2. Sedisie.
3. Moord.
4. Afpersing, waar daar verswarende omstandighede teenwoordig is.
5. Menseroof.
6. Roof —
 - (a) waar verswarende omstandighede teenwoordig is; of
 - (b) in verband met die neem van 'n motorvoertuig.
7. Verkragting of gedwonge verkragting waarna onderskeidelik in artikels 3 en 4 van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007), verwys word.
8. Seksuele aanranding, gedwonge seksuele aanranding of gedwonge self-seksuele aanranding waarna onderskeidelik in artikels 5, 6 en 7 van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, verwys word, waarby ernstige liggaamlike leed die toegedien is.
9. Seksuele uitbuiting van kinders, seksuele aanvoring van kinders en gebruikmaking van kinders vir of voordeel trek uit kinderpornografie, waarna onderskeidelik in artikels 17, 18 en 20 van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 verwys word.
10. Blootstelling of vertoon of veroorsaking van blootstelling of vertoon van kinderpornografie of pornografie aan kinders waarna in artikel 19 van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, verwys word, indien daardie blootstelling of vertoon die fasilitering of bevordering beoog van —
 - (a) die seksuele uitbuiting of seksuele aanvoring van 'n kind waarna onderskeidelik in artikels 17 of 18 van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 verwys word; of
 - (b) die gebruik van 'n kind vir, of op enige wyse voordeel trek uit kinderpornografie, soos uiteengesit in artikel 20 van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007.
11. Dwang of om kinders daartoe te bring om seksuele misdrywe, seksuele dade of self-masturbasie waar te neem, waarna in artikel 21 van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 verwys word.
12. Seksuele uitbuiting van persone wat verstandelik gestremd is, seksuele aanvoring van persone wat verstandelik gestremd is, blootstelling of vertoon van of veroorsaking van blootstelling of vertoon van kinderpornografie of pornografie of skadelike materiaal aan persone wat verstandelik gestremd is of die gebruik van persone wat verstandelik gestremd is vir pornografiese doeleindes of om voordeel daaruit te trek, waarna onderskeidelik in artikels 23, 24, 25, en 26 van die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 verwys word.
13. Handeldryf in mense vir seksuele doeleindes waarna in artikel 71(1) verwys word en betrokkeheid by mensehandel vir seksuele doeleindes waarna in artikel

- 71(2) van die Wysigingswet op die Strafwet (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 verwys word.
14. Enige misdryf waarna in Dele 1, 2 en 3 van Hoofstuk 2 van die Wet op Beskerming van Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004) verwys word.
 15. Enige misdryf in verband met —
 - (a) rampokkery waarna in Hoofstuk 2 verwys word; of
 - (b) die opbrengs van onregmatige aktiwiteite waarna in Hoofstuk 3, van die Wet op die Voorkoming van Georganiseerde Misdaad, 1998 (Wet No. 121 van 1998) verwys word.
 16. Die misdade van volksmoord, misdade teen die mensdom en oorlogsmisdade waarna in die Wet op die Implementering van die Statuut van Rome oor die Internasionale Strafhof, 2002 (Wet No. 27 van 2002) verwys word.
 17. Enige misdryf ingevolge enige wet in verband met —
 - (a) die handel in of smokkel van ammunisie, vuurwapens, plofstowwe of wapentuig;
 - (b) die besit van ammunisie, vuurwapens of wapentuig.
 18. Enige misdryf waarna in artikel 13(f) van die Wet op Dwelmmiddels en Dwelmsmokkelary, 1992 (Wet No. 140 van 1992) verwys word.
 19. Enige misdryf van 'n ernstige aard indien daar beweer word dat die misdryf gepleeg is deur 'n persoon, groep persone, sindikaat of enige onderneming, wat optree in die uitvoering of bevordering van 'n gemeenskaplike doel of sameswering.
 20. Enige misdryf ingevolge enige wet in verband met die onwettige besit van afhanklikheidsvormende stowwe, anders as 'n misdryf waarna in Item 21 van hierdie Bylae verwys word, waar die hoeveelheid betrokke R 5 000 in waarde oorskry.
 21. Enige ander statutêre misdryf waarvan die maksimum straf bepaal deur daardie wet gevangenisstraf is vir 'n tydperk wat vyf jaar oorskry of 'n boete vir daardie tydperk, bepaal ooreenkomstig die Wet op die Aanpassing van Boetes, 1991 (Wet No. 101 van 1991).
 22. Enige sameswering, uitlokking of poging om 'n in hierdie Bylae bedoelde misdryf te pleeg.

INJURIES REGISTER (CHILDREN)
BESERINGSREGISTER (KINDERS)

Serial no Volgno	Date Datum	Nature of injury / trauma and circumstances surrounding the injury / trauma Aard van besering/trauma en omstandighede rondom die besering/trauma	Signature and particulars of complainant / member reporting the incident Handtekening en besonderhede van klaer / lid wat voorval aanmeld	Nature of medical treatment Aard van mediese behandeling	Initial of Station Commander and date Paraaf van Stasiebevelvoerder en datum

Date report referred to Cluster Commander Datum waarop verslag verwys is na Groepsbevelvoerder	Instructions by Cluster Commander / Provincial Commissioner Instruksies van Groepsbevelvoerder / Provinsiale Kommissaris	Steps taken as result of the instructions of Cluster Commander / Provincial Commissioner Stappe gedoen na aanleiding van instruksies van Groepsbevelvoerder / Provinsiale Kommissaris

SAPD 583(a)

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

**INLIGTINGSKENNISGEWING AAN PERSOON AAN WIE 'N KIND JONGER AS 10 JAAR
OORHANDIG IS**

(Artikel 9(1) van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

Besonderhede van kind:

Volle name en van: _____

Ouderdom: _____ Beweerde misdryf gepleeg: _____

Bovermelde kind wat jonger as 10 jaar is, het na bewering bovermelde misdryf gepleeg en word hiermee oorhandig aan:

Besonderhede van ouer, voog of geskikte volwassene aan wie die kind oorhandig is:

Naam en van: _____

Woonadres: _____

Kontaknommer: _____

Verwantskap met kind: _____

OF

Indien die ouer of voog van die kind of 'n geskikte volwassene nie beskikbaar is nie, of dit is nie in die beste belang van die kind om aan sodanige persoon oorhandig te word nie, word die kind hiermee aan die volgende kinder- en jeugsorgsentrum oorhandig:

Naam en adres van Kinder- en jeugsorgsentrum: _____

Kontakbesonderhede van Kinder- en jeugsorgsentrum: _____

Naam en van van persoon aan wie kind oorhandig is: _____

Besonderhede van aangewese Proefbeampte:

Naam en van: _____

Kontakbesonderhede: _____

Die kind is oorhandig op (datum) _____ 20 _____ om (tyd) _____ : _____ deur

(Persalnommer) _____ (rang) _____ (naam en van) _____

_____ gestationeer by (naam van polisiestasie)

_____ kontaknommer: _____

Handtekening: Lid _____

Handtekening van persoon aan wie kind oorhandig is _____

**BAIE BELANGRIK: LET ASSEBLIEF OP NA DIE INLIGTING WAT OP DIE AGTERKANT VAN
HIERDIE KENNISGEWING VERSKYN**

LET ASSEBLIEF DAAROP:

1. Die kind is onder die ouderdom van 10 jaar en kan derhalwe nie in 'n hof vervolgt word vir die pleging van die beweerde misdryf nie.
2. Die kind moet, so gou as moontlik, maar binne 7 dae na die uitreiking van hierdie Inligtingskennisgewing, deur die proefbeampte geassesseer word (sien besonderhede op die voorkant). Die proefbeampte sal u kontak om reëlins te tref om die kind te assesser. U moet met die proefbeampte saamwerk om te verseker dat die kind geassesseer word.
3. Na die assessering, sal die proefbeampte besluit hoe daar met die saak voortgegaan moet word en u van die volgende stap in die saak inlig.
4. Die kind **MOET** die besluit van die proefbeampte nakom. Indien die kind versuim om die besluit van die proefbeampte na te kom, sal die aangeleentheid na 'n Kinderhof verwys word en die kind sal hanteer word as 'n kind wat, ooreenkomstig die Kinderwet, 2005 (Wet No. 38 van 2005), sorg en beskerming nodig het.
5. U moet saamwerk en verseker dat die kind na die assessering die besluit van die proefbeampte nakom.

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

SKRIFTELIKE KENNISGEWING OM BY DIE VOORLOPIGE ONDERSOEK TE VERSKYN

(Artikel 18 van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

Polisiestasie:	MAS/MR No:	Ondersoekbeampte van SAPD																				
Plek van Voorlopige Onderzoek		Kamerno:																				
		Datum van voorlopige ondersoek																				
		<table border="1"> <tr> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </table>																				

AAN:

Volle name en van van kind:																			
Woonadres:																			
Werkadres /Skool bygewoon:																			
Geslag		M	V	Nasionaliteit:				Ouderdom:											
ID No:																			

U word, ingevolge artikel 18 van die Wet op die Strafregpleging ten opsigte van Kinders, 2008 (Wet 75 van 2008), hierby aangesê om op die datum en plek hierbo vermeld om 08:30 by die voorlopige ondersoek te verskyn waar die bewerings teen u oorweeg sal word dat u op of ongeveer _____ en by of naby _____ in die distrik van _____ wederregtelik

Die oorspronklike kennisgewing is vandag oorhandig aan die voormelde kind persoonlik en in die teenwoordigheid van (naam en van) _____ OF 'n afskrif is oorhandig aan (naam en van) _____ met ID no. _____ (woonadres) _____ wat die kind se _____ is (meld verwantskap met die kind).

Die kind is gewaarsku om op die datum, tyd en plek hierbo aangedui by die voorlopige ondersoek te verskyn en die ouer, voog of geskikte volwassene is gewaarsku om die kind te bring of toe te sien dat die kind op die datum, tyd en plek soos hierby aangedui na die voorlopige ondersoek gebring word.

Plek

Naam en van van lid

Handtekening: Lid

Amptelike Stempel

ONTVANGSERKENNING VAN SKRIFTELIKE KENNISGEWING

Handtekening: Kind

Handtekening: Ouer, Voog of Geskikte Volwassene

Datum

Datum

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

SKRIFTELIKE VERSLAG OOR DIE AANHOUDING VAN 'N KIND WAT VIR 'N BYLAE 1 MISDRYF GEARRESTEER IS VOOR VERSKYNING BY DIE VOORLOPIGE ONDERSOEK
(Artikel 22(2) van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

MAS/MR No: _____

Besonderhede van kind

Volle name en van: _____

Ouderdom: _____ Geboortedatum: _____ Geslag: _____

Datum van arrestasie: _____ Tyd van arrestasie: _____

Stasie waar kind aangehou word: _____

Beweerde misdryf(we): _____

Redes vir die aanhouding van die kind

Motiveer waarom die kind nie uit aanhouding vrygelaat kon word nie:

Die ouers van die kind, 'n geskikte volwassene of die voog van die kind kon nie opgespoor word nie of is nie beskikbaar nie en alle redelike pogings is aangewend om die ouers, 'n geskikte volwassene of voog op te spoor. Verduidelik die stappe wat gedoen is:

OF

Daar is 'n wesenlike risiko dat die kind 'n gevaar sal wees vir enige ander persoon of vir homself of haarself. Verduidelik die risikos indien die kind vrygelaat sou word: (Heg dokumentasie aan indien dit relevant is tot die risiko)

Rang: _____

Persalno: _____

Naam en van: _____

Handtekening: Lid _____

Amptelike Stempel

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

SKRIFTELIKE VERSLAG OOR VERSUIM OM DIE OUER, VOOG OF GESKIKTE VOLWASSENE IN TE LIG VAN DIE ARRESTASIE VAN 'N KIND

(Artikel 20(3)(d) van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

MAS/MR No: _____

Besonderhede van kind

Volle name en van: _____

Ouderdom: _____ Geboortedatum: _____ Geslag: _____

Datum van arrestasie: _____ Tyd van arrestasie: _____

Stasie waar kind aangehou word: _____

Beweerde misdryf(we): _____

Besonderhede van ouer, geskikte volwassene of voog (Indien bekend)

Volle name en van: _____

Woonadres: _____

Kontakbesonderhede: _____

Stappe gedoen om die ouer, voog of geskikte volwassene in te lig van die arrestasie van die kind (insluitende waarom dit onsuksesvol was): (Verskaf besonderhede van stappe gedoen, insluitende die wyse waarop en tyd van

elke poging) _____

Rang: _____ Persalno: _____

Naam en van: _____

Handtekening: Lid _____

Amptelike Stempel

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

**SKRIFTELIKE VERSLAG OOR VERSUIM OM DIE PROEFBEAMPTTE IN TE LIG VAN DIE
ARRESTASIE VAN 'N KIND**

(Artikel 20(4)(b) van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

MAS/MR No: _____

Besonderhede van kind:

Volle name en van: _____

Ouderdom: _____ Geboortedatum: _____ Geslag: _____

Datum van arrestasie: _____ Tyd van arrestasie: _____

Stasie waar kind aangehou word: _____

Beweerde misdryf(we): _____

Besonderhede van proefbeampte:

Naam en van: _____

Gestasioneer te: _____

Kontakbesonderhede: _____

Stappe gedoen om die proefbeampte in te lig van die arrestasie van die kind (insluitende die rede waarom dit onsuksesvol was): (Verskaf besonderhede van stappe gedoen, insluitende die wyse waarop en tyd van elke poging)

Rang: _____ Persalno: _____

Naam en van: _____

Handtekening: Lid _____

Amptelike Stempel

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

SKRIFTELIKE VERSLAG OOR BESERING OPGEDOEN OF ERNSTIGE SELKUNDIGE TRAUMA GELY DEUR 'N KIND

(Artikel 28 van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

Polisiestasie _____ MAS/MR _____
 Beseringsregister (SAPD 583) no _____

**DEEL A
 (MOET DEUR LID VOLTOOI WORD)**

Besonderhede van kind

Volle name en van: _____
 Ouderdom: _____ Geboortedatum /ID no: _____
 Datum en tyd van arrestasie: _____
 Beweerde misdryf(we) gepleeg: _____

Aard van besering / ernstige sielkundige trauma

Beskryf die aard van besering / ernstige sielkundige trauma: _____

Beskryf die stappe gedoen om mediese behandeling te bekom en die uitslag daarvan: _____

Meld die aard van mediese behandeling ontvang deur die kind: _____

(Heg 'n afskrif van die mediese verslag aan hierdie Kennisgewing)

OF

Indien dit onmoontlik is in die omstandighede om mediese behandeling te bekom vir die kind, meld die redes waarom dit onmoontlik is: _____

Meld toekomstige mediese behandeling wat vereis word, indien enige: _____

Indien die klagte van besering of trauma deur iemand anders as die kind aangemeld is, meld die besonderhede van daardie persoon:

Volle name en van: _____

Woonadres: _____

_____ Kontaknommer: _____

Verhouding met kind: _____

 Handtekening: Lid

 Datum

**DEEL B
 (MOET DEUR DIE STASIEBEVELVOERDER VOLTOOI WORD)**

Kommentaar / Instruksies

 Handtekening: Stasiebevelvoerder

Amptelike stempel

**DEEL C
 (MOET DEUR DIE GROEPSBEVELVOERDER VOLTOOI WORD)**

Opmerkings / Instruksies

 Handtekening: Groepsbevelvoerder

Amptelike stempel

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

SKRIFTELIKE VERSLAG IN VERBAND MET DIE VERVOER VAN 'N KIND SAAM MET 'N VOLWASSENE

(Artikel 33(2)(c) van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

MAS/MR No: _____

Besonderhede van kind:

Volle name en van: _____

Ouderdom: _____ Geboortedatum: _____ Geslag: _____

Datum van arrestasie: _____ Tyd van arrestasie: _____

Beweerde misdryf(we): _____

Besonderhede van die vervoer:

Datum van vervoer: _____ Tyd van vervoer: _____

Kind is vervoer vanaf (plek) _____ na _____ (plek)

Besonderhede van volwassene(s) vervoer saam met die kind: _____

Meld watter pogings aangewend is om die kind apart van volwassenes te vervoer en die rede waarom die kind nie apart van volwassenes vervoer is nie: _____

Meld die maatreëls wat geneem is om die kind tydens die vervoer te beskerm: _____

Handtekening: Lid

Amptelike stempel

Persalno: _____ Rang: _____

Lid se voorletters en van: _____

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

AANSOEK OM TOEGANG TOT DIE AANHOUDINGSREGISTER
 (Artikel 28(4) van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

MAS/MR No: _____

Aan: Die Stasiebevelvoerder:

_____ Polisiestasie

Besonderhede van aansoeker

Volle name en van: _____

Identiteitsnommer: _____

Hoedanigheid: _____

Beroep: _____

Naam van werkgever / besigheid: _____

Woonadres: _____

Kontakbesonderhede: _____

Redes vir insae tot die Aanhoudingsregister

Verduidelik waarom u versoek om insae in die Aanhoudingsregister te verkry:

Handtekening: Aansoeker _____

Datum _____

**BESLUIT VAN DIE STASIEBEVELVOERDER OF DIE PERSOON WAT DEUR DIE
 STASIEBEVELVOERDER AANGEWYS IS**

Merk die gepaste blok. Indien 'n aansoek afgekeur word, vermeld die redes vir die besluit hieronder.

Aansoek Goedgekeur		Aansoek Geweier	
--------------------	--	-----------------	--

Redes vir die weiering van toegang tot die Aanhoudingsregister:

Handtekening: Stasiebevelvoerder / Aangewese persoon _____

Amptelike Stempel

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

KENNISGEWING VAN FOUT IN VERBAND MET PLASING

(Artikel 30 van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))

Saakno: _____

Aan: Die Klerk van die Hof vir Kinderstrafregpleging:

Besonderhede van die kind:

Volle name en van: _____

Ouderdom: _____ Geboortedatum: _____

Beweerde misdryf(we): _____

Besonderhede van plasingbevel:

Bepalings van bevel: _____

Datum waarop bevel uitgereik is: _____

Besonderhede van voorsittende beampte wat bevel uitgereik het: _____

Besonderhede van Gemeenskapsdienssentrumbevelvoerder wat kind ingevolge die plasingbevel by die polisiestatie ontvang het en wat die kind terugverwys

Naam en van: _____

Redes waarom die kind terugverwys word na die voorsittende beampte: _____

Heg 'n afkrif van die lasbrief aan wat die aanhouding van die kind magtig

Handtekening: Gemeenskapsdienssentrumbevelvoerder

Amptelike stempel

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

INLIGTINGSKENNISGEWING BY ARRESTASIE VAN 'N KIND*(Artikels 20(3)(d) en (indien toepaslik) 27(a) van die Wet op Strafregpleging ten opsigte van Kinders, 2008 (Wet No. 75 van 2008))***Besonderhede van kind:**

Volle name en van: _____

Ouderdom: _____ Geboortedatum: _____ Geslag: _____

Datum van arrestasie: _____ Tyd van arrestasie: _____

Plek waar die kind aangehou word: _____

Beweerde misdryf(we): _____

_____ (Bylae no _____)

Datum van voorlopige ondersoek: _____

Plek van voorlopige ondersoek: _____

Bovermelde kind het na bewering bo-vermelde misdryf gepleeg en is gearresteer deur:

Voorletter en van arresterende beampte: _____

Gestasioneer by: _____

***Kinder- en jeugsorgsentrum (indien die kind by 'n kinder- en jeugsorgsentrum aangehou word):** (*skrap indien dit nie van toepassing is nie)

Aan: _____ (Persoon wat die kind by die kinder- en jeugsorgsentrum ontvang)

Bovermelde kind is in die sentrum geplaas en u word hiermee gemagtig om die kind aan te hou tot die voorlopige ondersoek waarna hierbo verwys word. Handtekening van persoon wat die kind ontvang:

Handtekening: Lid

Besonderhede van aangewese proefbeampte:

Naam en van: _____

Kontakbesonderhede: _____

BAIE BELANGRIK: LET ASSEBLIEF OP DIE VOLGENDE INLIGTING:

1. 'n Aanklaer kan die kind op borg vrygelaat ten opsigte van misdrywe waarna in Bylae 1 of 2 van die Wet verwys word. Indien die kind beskuldig word van die pleging van 'n misdryf waarna in Bylae 3 van die Wet verwys word, mag die kind nie op borg vrygelaat word nie en sal hy of sy in aanhouding bly tot sy of haar verskyning by die voorlopige ondersoek.
2. Die kind sal deur die proefbeampte (sien hierbo vir besonderhede) geassesseer word. Kontak asseblief die proefbeampte om reëlings te tref sodat die kind deur die proefbeampte geassesseer kan word. U moet met die proefbeampte saamwerk om te verseker dat die kind geassesseer word.
3. Na die assessering, sal die proefbeampte besluit hoe daar met die saak voortgegaan moet word en sal u inlig van die volgende stap in die saak.
4. Die kind **MOET** die besluit van die proefbeampte nakom. Indien die kind versuim om die besluit van die proefbeampte na te kom, sal die aangeleentheid na 'n Kinderhof verwys word en die kind sal, ooreenkomstig die Kinderwet, 2005 (Wet No. 38 van 2005), as 'n kind wat sorg en beskerming nodig het, hanteer word.
5. U moet saamwerk om te verseker dat die kind na die assessering die besluit van die proefbeampte nakom.