



CHILDREN COURT OF WESTERN AUSTRALIA

PRACTICE DIRECTION NO. 3 OF 2006

Procedure and forms applicable to Arrest Warrants

Date: 19/05/2006

Children's Court of Western Australia

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Commencement

This Practice Direction will replace Procedural Guideline No 1 of 2006 and is effective immediately.

Scope of this Practice Direction

This Practice Direction only operates in relation to children who voluntarily appear at the Children's Court of Western Australia at 160 Pier Street, Perth, Western Australia.

Principles and considerations

The following considerations underpin these directions. In no particular order they are:

- (a) The purpose of arresting a child on an Arrest Warrant is to put the child before the Court. If the child voluntarily appears before the Court to be dealt with then that removes the need for arrest.
- (b) It is undesirable for children who have voluntarily attended a court to be arrested and held in a lock-up. To do so should be the last resort.
- (c)
 - (i) Police Prosecutors located at Courthouses are also Officers of the Court and for them to arrest a child who has voluntarily attended the court is inconsistent with their role as Officers of the Court;
 - (ii) The arrest process is time consuming and police officers located in or about a Court building would most likely be getting ready for or be involved in court proceedings.
- (d) It is desirable for the Court to finalise every charge that is outstanding before the Court for a child at the same time.
- (e) A certified copy of a Prosecution Notice which is attached to an Arrest Warrant under the current procedure is outdated by the time the child eventually appears before the Court. Therefore it does not necessarily show the up to date record of the proceedings concerning the Prosecution Notice. Sometimes a court may have dealt with a child for the charge(s) on a Prosecution Notice after the Arrest Warrant was issued. Accordingly it is necessary to check the electronic records of the court to obtain a full and accurate record of the proceedings in relation to the relevant Prosecution Notice. It is essential for the court to be informed of the full and accurate record of the proceedings in relation to a Prosecution Notice to ensure that a child is not sentenced twice for the same offence(s) and in particular is not detained for an offence(s) on which he or she has already been sentenced.
- (f) When a child voluntarily appears before the Court for a charge or charges the subject of an Arrest Warrant it is important that the Arrest Warrant be cancelled, pursuant to section 21 of the *Magistrates Court Act 2004*, and that notification of such cancellation be given promptly to the Office of Information Management ("OIM") of the Western Australian Police Service to ensure that the cancelled Arrest Warrant is not subsequently acted upon.

- (g) There may be some occasions when as at the time that the child voluntarily attends the court the OIM does not hold the original Arrest Warrant issued by the Court. The original Arrest Warrant may be in transit between the Court and the OIM. If the Court cancels the Arrest Warrant before the original Arrest Warrant is received by the OIM then it is essential that the police including in particular the OIM has a procedure in place to ensure that the Arrest Warrant is noted as cancelled and that it is not acted upon.

DIRECTIONS: for when the child voluntarily appears before the Court when he or she is subject to an outstanding Arrest Warrant the following Directions apply:

1. A reference to the Listings Coordinator in these Directions is a reference to the person who usually carries out the duties of Listings Coordinator at the Children's Court of Western Australia at 160 Pier Street, Perth or the person temporarily carrying out such duties at the direction of the Registrar of the Children's Court of Western Australia at Perth and also extends to include any person when doing something at the request of the Listings Coordinator to comply with this Practice Direction.
2. As soon as a member of the court staff including a Judicial Support Officer ("JSO") learns that the child subject to an outstanding Arrest Warrant has voluntarily presented himself or herself at the Courthouse to appear before the Court then as a matter of urgency the member of staff is to bring it to the attention of the Listings Coordinator of the Court.
3. Thereafter the Listings Coordinator is to promptly inform an Officer of the Police Prosecution section attached to the Court of the presence of the child and the child's full name and date of birth.
4.
 - (1) Where the Arrest Warrant(s) were issued by the Children's Court of Western Australia at Perth then the Listing Coordinator is to gather the Prosecution Notice(s) for the charge(s) for which the Arrest Warrant(s) were issued.
 - (2) Where the Arrest Warrant(s) was not issued by the Children's Court of Western Australia at Perth then:
 - (i) If the Listings Coordinator has possession of the Arrest Warrant(s) and the certified copy or copies of the

Prosecution Notice(s) for which the Arrest Warrant(s) were issued then the Listings Coordinator is to print out screen(s) from the CHIPS system which show the full and accurate record of proceedings for the Prosecution Notice(s) since the certified copy or copies of the Prosecution Notice(s) were made.

- (ii) If the Listings Coordinator does not have possession of the Arrest Warrant(s) and the certified copy or copies of the Prosecution Notice(s) for which the Arrest Warrant(s) were issued then the Listing Coordinator is to contact the Court Registry(ies) where the Prosecution Notice(s) were filed for which the Arrest Warrant(s) were issued and request an Officer in that other Registry(ies) to fax a copy or copies of the original Prosecution Notice(s) to the Listings Coordinator.
- (3) In every case the listings Coordinator is to check the CHIPS system to see whether the child has any outstanding matter(s) before any Court in addition to those for which the Arrest Warrant(s) were issued. If there is any other outstanding matter(s) then the Listings Coordinator is to create a note briefly setting out for the information of the Court the nature of the outstanding matter(s) and the place and date of the next appearance.
 - (4) The Listings Coordinator is to give to the JSO for the Magistrate presiding in the Court before whom the child is listed to appear all of the documentation and information referred to in paragraphs (4)(1) to (4)(3) inclusive as the particular case requires.
- 5. The Listings Coordinator, the JSO or some other court officer instructed by one of them is to tell the child which courtroom to go and wait in or outside of for his or her charge or charges to be called.
 - 6. The JSO in consultation with the Magistrate and on the direction of the Magistrate is to call or cause a court orderly to call the child to appear before the Court as a matter of priority.
 - 7. Upon the child being called:

- (1) if the Magistrate has all of the documentation and information as mentioned in paragraph 4 of these directions then the Magistrate can proceed to deal with the child as he or she considers thinks fit; or
 - (2) if the Magistrate does not have all of such documentation and information then the Magistrate should stand the child down to give sufficient time for such documentation and information to be obtained by the Listings Coordinator and in turn given to the JSO. Upon receipt of the documentation and information the Magistrate can proceed as he or she thinks fit.
 - (3) if either or both of the prosecution and defence are not ready to proceed on the charge or any of the charges the subject of the Arrest Warrant or Arrest Warrants then that is a matter which should be brought to the attention of the Magistrate.
- 8.
- (1) Upon the Court proceeding to deal with the child and cancelling the Arrest Warrant(s) the JSO is to forthwith present to the Magistrate for signature a Notice of Cancellation of Arrest Warrant ("the Notice") in the form as attached.
 - (2) Upon the Magistrate signing the Notice the JSO is to arrange for the Notice to be taken to an officer in the Court Registry who shall cause:
 - (i) the Notice to be copied and the copy kept for the Court's record;
 - (ii) notify an Officer of the Police Prosecutions section located in the Children's Court building ("the Prosecution Officer") that the original of the Notice is available for collection from the Court Registry; and
 - (iii) obtain an acknowledgement of receipt of the Notice from Police Prosecutions.
 - (3) The Prosecution Officer is to cause the original of the Notice to be collected from the Court Registry and notify the OIM of the cancellation of the Arrest Warrant(s) forthwith.

DIRECTIONS: when the child attends on bail or in custody for a charge or charges when a Arrest Warrant exists for another charge or charges:

9. The directions in cases where the child voluntarily attends apply with necessary modification and adaptation to cases where the child is appearing before the Court on remand on bail or in custody for a charge or charges and it becomes known that the child has another charge or charges outstanding subject to an Arrest Warrant(s).

Points to be observed from these Directions

1. The child is not arrested on the Arrest Warrant or Arrest Warrants thereby avoiding children being unnecessarily detained and lots of time wasting and inconvenience. At the Court in Perth that means that Police Officers in Police Prosecutions and Police Officers from Curtin House are freed up to do other duties. Further, Police Prosecutors at the Children's Court of Western Australia at Perth are not required to act in a way that is inconsistent with them being Officers of the Court.
2. Where the child attends Court voluntarily his or her charges are called on as a matter of priority. This puts the child before the Court promptly and it also makes way for the matter to be stood down relatively early in the list and thereby avoiding additional delay if further documentation and information needs to be obtained.
3. The Directions seek to ensure that the child is dealt with for as many charges as possible and as appropriate at the same time.
4. The Directions seek to entirely eliminate the risk of the child being wrongfully arrested on an Arrest Warrant when the charge or all of the charges for which it was issued have been dealt with.

**His Honour Judge D J Reynolds
PRESIDENT**

Dated this 19th day of May 2006

