

The Victoria Police Manual is issued under the authority of the Chief Commissioner of Police in s.60, Victoria Police Act 2013. Non-compliance with or a departure from the Victoria Police Manual may be subject to management or disciplinary action. Employees must use the VPM Professional and ethical Standards to inform the decisions they make to support compliance.

Escapees and absconders

Context

Victoria Police has responsibilities to apprehend persons who have escaped from prison or absconded from the involuntary care of other institutions. These can include:

- police custody
- the custody of DHHS or Corrections Victoria
- the involuntary care of mental health or disability services institutions; in the case of compulsory patients.

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Responsibilities and procedures

1. Recording and apprehension

1.1 Recording and reporting

- Report the following escapees and missing persons according to **VPM Missing persons investigations** and record them in the Custody module as escapees (where relevant):
 - persons who escape from police custody
 - prisoners who escape from a prison or from the custody of the DHHS, Corrections Victoria or the Sheriff
 - persons who escape from a Youth Justice Centre (YJC)/Youth Residential Centre (YRC) who are not held in custody for a criminal offence
 - compulsory mental health patients or disability clients who abscond from their treatment facility.

- Any escape from lawful custody must be reported to Professional Standards Command in accordance with **VPM Complaints** and **VPM Discipline**.

1.2 Apprehension

- Members must only apprehend escapees or absconders if they have the legal authority. See the relevant section below for details of powers.
- On arrest of the escapee, the arresting member must:
 - make arrangements to return the person into custody
 - where necessary arrange an interpreter for non-English language speakers
 - where appropriate charge the person and any persons involved in assisting the escapee
 - notify Warrants and Criminal Records Unit, Police Enquiry and Data Sharing Department (PEDSD) and submit supplementary LEAP reports in the normal manner.

2. Prisoners

2.1 Apprehension powers

Sections 458 and 459, *Crimes Act 1958* enable the apprehension without warrant of a person who has committed an indictable offence or escaped from legal custody.

A prisoner in a prison, police gaol or in the custody of a police member, supervising police custody officer, police custody officer or employee of Corrections Victoria who escapes or attempts to escape is guilty of an indictable offence under s.479C, *Crimes Act*.

2.2 Arrest Warrant

When police are notified that a prisoner has escaped from a prison or from the custody of a gaoler, the work unit manager must:

- ensure the immediate circulation of the appropriate LEAP Reports
- arrange for a Charge and Warrant to Arrest [Form 403] to be issued
- ensure that the appropriate reports, together with the warrant are forwarded to the Warrants and Criminal Records Unit for recording and filing pending the apprehension of the offender.

3. Children and young persons in custody

3.1 Powers

Section 498, *Children Youth and Families Act 2005* enables the apprehension without warrant of a person who escapes or is absent without authority from a remand centre, YJC/YRC or the custody of a police member or other person.

3.2 Apprehension

- On apprehension, place the young person in a remand centre, YRC, YJC or, if this is not possible, in a prison or detention facility.

- Upon apprehension of YJC/YRC absconders, the arresting police member is to advise the admitting office at the Melbourne Juvenile Justice Centre who will notify the appropriate facility.
- A child or young person may be charged under s. 498, *Children Youth and Families Act 2005* if they:
 - have escaped or attempted to escape from a remand centre or YJC/YRC
 - have escaped or attempted to escape from police custody or from another person in whose custody they may be
 - are absent without lawful authority.

4. Guardianships

4.1 Notification

Under the *Children Youth and Families Act* a person under the guardianship of the state who is not undergoing a sentence cannot be charged with escape where they abscond from the care of DHHS. Instead, contact DHHS or the institution to determine their legal status.

4.2 Apprehension of persons under the Guardianship and Administration Act 1986

The *Guardian and Administration Act* has provision for issuing orders that, in some circumstances, particularly when the health and welfare of the person might be at immediate risk, or the person is being detained unlawfully, may require police assistance to enact them. These include the following situations:

- to enforce a decision made by a guardian on behalf of a person with a disability, i.e. to move the person from their place of residence to another place or to transport a person to hospital (s.26)
- to accompany the Public Advocate, or another specified person, in order to visit the person with a disability for the purpose of preparing a report for the Victorian Civil and Administrative Tribunal (VCAT), where application for a guardianship order is being considered (s.27(1))
- to enable the person with a disability to be taken to a place specified in an order for assessment and placement until the guardianship order is heard (s.27(2)).

VCAT must make a specific order under s.26 or s.27 authorising the guardian to seek assistance of police or other persons, e.g. ambulance staff. The guardian should provide members with a copy of this authority.

Section 27(3) authorises police to use such force as is reasonably necessary to enter the premises.

5. Mental health patients or disability clients

5.1 Reporting missing persons

- Services should report the disappearance of a mental health patient or a disability client who leaves without notice if they hold genuine fears for the welfare of the patient and of others. Police officers are to seek the usual information for a missing person, as well as the following:
 - the person's legal status; voluntary or compulsory patient. If compulsory, the expiry time and date of the compulsory assessment or treatment order

- any triggers, behaviours or communication strategies that police can use to assist in approaching the person
- whether the person poses a risk to themselves or others
- the name and contact details of the service.
- Record on Missing Person and Risk Assessment form [Form L18] if an apprehension power exists for the missing person.
- Members should remind the service to:
 - notify police if they locate the person or if the person returns to the service without police involvement
 - retain relevant medical records, dentals and DNA samples (for example hair brush, toothbrush) in case police require them because the person is not located within 60 days or it is otherwise believed necessary.

5.2 *Voluntary mental health patients or disability clients*

If the person is receiving treatment voluntarily, police have no apprehension power and members should treat the person as they would any other general missing person. This means that when members locate the person and have no concerns about their current welfare and the person does not wish to return to their treatment service, police can only notify the service that the person has been located but cannot divulge their whereabouts without the person's consent.

5.3 *Taking care and control of compulsory patients and security patients under the Mental Health and Wellbeing Act 2022*

- Section 221, *Mental Health and Wellbeing Act* provides a power to take people into care and control if they are a compulsory or security patient absent from a mental health facility without being granted leave.
 - Security patients are prisoners with serious medical needs who are transferred to hospital for treatment before being returned to prison
- The *Mental Health and Wellbeing Act* provides that in certain circumstances people may be compelled to receive treatment for their mental illness. This may be as an inpatient of an Area Mental Health Service or while living in the community. An authorised psychiatrist may authorise the apprehension and return of a patient receiving compulsory treatment to an Area Mental Health Service if the patient:
 - is absent without leave from an inpatient facility; or
 - fails to comply with their assessment or treatment order and it is revoked; or
 - requires treatment that can only be provided by admission to an Area Mental Health Service.

Step 1	In the first instance, clinicians will seek to arrange return of the compulsory patient without police involvement. Clinicians should only request police assistance in apprehending and returning the compulsory patient where a current risk assessment and knowledge of the patient indicate probable safety issues.
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Step 2	Members are to confirm the compulsory status remains current when they locate the person. Section 246, <i>Mental Health and Wellbeing Act</i> provides entry powers for the purpose of returning a person to a designated mental health service. Any decision about whether reasonable grounds exist to enter premises is ultimately a police decision. The usual procedures for the reporting of any property damage and the reimbursement of costs also apply.
Step 3	Members should complete a Mental Health Disorder Transfer Form [Form L42] and notify the relevant service that they have taken the person into care and control.
Step 4	Where possible, members should return the person to their treatment Area Mental Health Service, provided it does not prolong the time that the person is in police custody (e.g. police locate the person a considerable distance from home). Otherwise, members should take the person to the nearest Area Mental Health Service.
Step 5	Mental health staff will arrange for the transfer of care upon police arrival at the Health Service (i.e. the person does not need to remain in police custody pending assessment) and, if applicable, the subsequent return to the appropriate Area Mental Health Service. The service is responsible for locating an available inpatient bed.

5.4 *Care and control of interstate compulsory patients*

- Sections 221 and 608, *Mental Health and Wellbeing Act* authorise a person who is absent without leave or other lawful authority from an interstate mental health facilitate to be taken into care and control. The interstate service will issue an Interstate Transfer Order (ITO) to authorise their apprehension and return to the nearest Victorian approved mental health service.
- In most cases, the interstate mental health service will negotiate directly with the Victorian mental health service regarding the return of an interstate compulsory patient, without police involvement. Where the interstate service's risk assessment indicates the need for police involvement or the patient is a forensic or security patient, the interstate service will email the ITO to the PEDSD. A Person Whereabouts request is to be submitted electronically in the Whereabouts Application (refer to **VPMG Tagging of records to locate suspects or offenders** for further details) and Person Physical Description [Form L10] report on LEAP for each ITO will be created by the PEDSD. There is no requirement for police to lodge the executed ITO at court.
- When executing the ITO, members are to:
 - confirm the person's identity
 - confirm with the PEDSD that the ITO remains current
 - notify the nearest Mental Health Triage that the person has been taken into care and control and estimated time of arrival
 - complete the ITO Execution Details form and give it to the receiving Area Mental Health Service. Members must also provide a copy to the PEDSD, in order to update LEAP.

- Members should transport the person to the Area Mental Health Service (or Emergency Department) that is the nearest geographically to where the person was taken into care and control.
- The person subject to the ITO remains in police custody until there is a transfer of responsibility to the Victorian mental health service. The Victorian service is responsible for transferring the person to their home state.
- If an interstate absconder is not subject to an ITO only the powers in the *Mental Health and Wellbeing Act* apply.

5.5 *Apprehension of involuntary clients under the Disability Act 2006*

- The *Disability Act* provides an apprehension power for the following categories of disability client who are absent without leave:
 - a resident detained in a residential treatment facility (s.160). the Disability Forensic Assessment and Treatment Service in Fairfield is the only residential treatment facility
 - a forensic resident detained in a residential treatment facility or residential institution (s.160)
 - a security resident detained in a residential institution (s.174). The only three residential institutions are in Colac, Bendigo and Bundoora
 - a person subject to a civil supervised treatment order (s.201).
- In the first instance, Disability Services will seek to arrange the return of the person without police involvement.
- Members are to confirm the involuntary status remains current when they locate the person. Any decision about whether reasonable grounds exist to enter premises is ultimately a police decision. The usual procedures for the reporting of any property damage and the reimbursement of costs also apply.
- Members should complete a Mental Health Transfer Form [Form L42] and notify the relevant service that they have apprehended the person and likely time of their return.

6. Forensic mental health patients or disability clients

6.1 *Powers*

- A person found not guilty by reason of mental impairment in either the County or Supreme Court will be placed on a custodial or non-custodial supervision order under the *Crimes (Mental Impairment and Unfitness to be tried) Act 1997*.
- Thomas Embling Hospital provides the forensic mental health treatment services. The Disability Forensic Assessment and Treatment Service provides the forensic disability treatment services. Both services are located in Fairfield.

6.2 *Apprehension*

Sections 30, 30A and 30B of the *Crimes (Mental Impairment and Unfitness to be tried) Act* provide police with the power to apprehend a person on a custodial supervision order who absconds or a person on a non-custodial supervision order who has failed to comply with their order and to take them to the appropriate facility. The same procedures apply as for apprehending other categories of compulsory mental health patient or involuntary disability client.

7. Escape from Sheriff's Officer

- Make reports in line with section 1.1 as per the process for any other escape.
- It is an offence under s.49, Sheriff Act 2009, to escape from the custody of the sheriff, deputy sheriff, sheriff's officer or an appropriately trained justice employee.
- If police later apprehend the escapee, the arresting member is to contact the Sheriff's Office. The Sheriff's Office will arrange for their warrant to be conveyed to the police station where the escapee is in custody to ensure completion of the gaol term in accordance with the warrant.

8. Offences of assisting or harbouring escapees

8.1 *Assisting prisoners to escape*

Sections 479A and 479B, *Crimes Act*, contain the indictable offences related to assisting a prisoner to escape or attempting to escape from lawful custody.

8.2 *Accessory to escape*

A person who impedes the apprehension, prosecution, conviction or punishment of the principle offender is guilty of an indictable offence under s.325, *Crimes Act*.

8.3 *Harbouring, concealing or assisting a child*

Under s.499, *Children Youth and Families Act*, it is an offence to harbour, conceal or assist in harbouring or concealing a person who has escaped from:

- a remand centre, youth residential centre or youth justice centre
- police custody or other legal custody.

A person who assists another to escape from a remand centre, youth residential centre or youth justice centre is guilty of an offence under section 500, *Children Youth and Families Act*.

9. Exercising apprehension powers where escape from custody of another agency

Members should ensure that they have an arrest warrant from the agency or, if exercising an apprehension power without warrant, appropriate documentation from the agency supporting exercise of the power.

Related documents

- VPM Missing persons investigations
- VPM Complaints and VPM Discipline
- VPM Care and control under the *Mental Health and Wellbeing Act 2022*
- VPM Management of people in police care or custody

Further advice and information

For further advice and assistance regarding these Policy Rules, contact your supervisor, local Mental

Health Liaison Officer or the Victoria Police Mental Health portfolio holder.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
14/03/2017	VPMP Escapees and absconders and VPMG Escapees and absconders consolidated into VPM Escapees and absconders.	FF – 110640
02/10/2019	Amended to include SPCOs.	FF-098454
01/09/23	Update to reflect new terminology and legislative references under the VPM Care and control , which implements the <i>Mental Health and Wellbeing Act 2022</i> .	FF-232451 1
22/05/2025	Updated instrument names to reflect VPM Management of people in police care or custody.	FF-240370
20/01/2026	Updated guidance reflecting the introduction of the Whereabouts Application replacing VP Form L12	FF-277111