

Victoria Police Manual

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 VPM Professional and ethical standards to inform the decisions they make to support compliance.

Arrests and warrants to arrest

Context

Victoria Police has a responsibility to detect and prevent crime. The timely execution of a warrant to arrest an accused person assists Victoria Police to meet this responsibility.

At law members have broad discretion in relation to the arrest of people who have committed an offence.

The exercise of this discretion involves balancing the rights of individuals to liberty against the need to take action to ensure the safety of people or to take action against those who break the law.

The purpose of this policy is to provide direction to members as to when it is appropriate to exercise discretion in order to ensure:

- compliance with legal requirements
- an appropriate level of accountability
- recognition of the human rights of individuals (see also **VPM Human rights standards** and **Human Rights Practitioner Guide**).

Policy at a glance

This policy includes:

- statutory powers of arrest and considerations when exercising powers or discretion
- the process for obtaining and executing a warrant to arrest
- informants' responsibilities after arrest and where warrants are outstanding, including LEAP Warrant Management Records
- Police Enquiry and Data Sharing Department (PEDSD) responsibilities post execution of a warrant to arrest
- the process for cancelling a warrant.

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Definitions

There are no specific definitions for this policy. Refer to the general VPM Dictionary for definitions and acronyms.

Scope and application

This policy applies to:

- All members and protective services officers (PSOs)
- Police Enquiry and Data Sharing Department

Responsibilities and procedures

1. Arrests

1.1 *Legal basis of arrest powers*

- All arrest powers, with or without a warrant, are statutory and are contained in ss.458-459, *Crimes Act 1958* or specific legislation.
- Where specific legislation provides an arrest power it must be used in preference to the *Crimes Act* powers.

1.2 *Need to exercise arrest power*

When to exercise arrest power – arrest is only to be used to prevent the harm, or support the purpose for which the arrest power has been conferred, considering the need to:

- investigate offences and enforce appropriate legislation
- ensure a person's appearance before a court
- preserve public order
- prevent the continuation or repetition of an offence or the commission of a further offence
- ensure the safety or welfare of members of the public or an offender
- apprehend a person who has escaped from lawful custody.

Arresting children – generally only arrest where it is a serious offence and the child is likely to repeat the offence or commit other offences at the time. Refer to **VPM Disposition** which details factors to consider when determining appropriate action for a child.

1.3 *Making the arrest*

- Members in plain clothes should produce their photo identification card.
- Inform the person arrested of the reasons for their arrest unless the circumstances are such that the reason is obvious or it is not practical at the time. Where the person is not fluent in English, is deaf or hearing impaired, obtain an interpreter. See **VPM Interviews and statements** for further information.
- If the arrest is by warrant:
 - establish the offender's identity
 - read/explain the warrant to the arrested person at the time of arrest or as soon as possible.
- Give people arrested or to be arrested an opportunity to establish their innocence or to explain their actions that form the basis of the arrest.
- Use only sufficient force as reasonably necessary (s.462A, *Crimes Act*).
- Comply with the requirements of **VPM Management of people in police care or custody** when a person is taken into custody.

1.4 *Arrest of persons with carer responsibilities*

- Members should enquire if the person arrested is a carer of a dependent and, if so, whether suitable arrangements for their care are in place.
- Where practicable, members should attempt to facilitate the making of suitable arrangements with the person in police custody's family or friends, or other agencies or organisations that may have involvement with the dependent person.
- Where other suitable arrangements are not available, consider:
 - For a child, notify Child Protection, Department of Families, Fairness and Housing (DFFH), using the applicable number on the 'Child protection contacts' website.
 - For a person with a disability, supported by the National Disability Insurance Scheme (NDIS), contact a Local Area Coordinator through NDIS on 1800 800 110 or through the Local Area Coordinator search function on the NDIS website. Refer to **Practice Guide Managing people with a disability in custody** for information on after-hours support.
 - For a dependent who may require immediate medical care, contact Ambulance Victoria.

1.5 *Notification of arrest*

- See **VPM Notification of offences** for requirements for notifying other organisations in relation to the arrest of certain categories of people.
- The informant is responsible for informing the victim in accordance with s.8(1), *Victims' Charter Act 2006* if the victim wishes to be contacted in accordance with s.7B(a).

1.6 *Mental illness or disability*

Having a mental illness or a disability does not limit the exercise of an arrest power. Contact the nearest mental health triage service or Disability Intake and Response service for advice, if necessary.

1.7 *Doubtful or mistaken arrests*

Arresting member:

- notify an immediate supervisor as soon as possible
- send a report of the circumstances to their work unit manager and the local area commander where the 'arrest' took place.

Supervisor – assess the circumstances of the 'arrest' and if necessary:

- attend, apologise and explain the situation to the 'arrested' person
- take all necessary steps to appease and offer reasonable assistance to the 'arrested' person
- treat any complaints as required, see **VPM Complaints and VPM Discipline**.

1.8 *Arresting foreign nationals*

- The detainee has the right to consular services from a relevant foreign consular official.
- Members must inform the detained person without delay of their right to have a relevant local consular post informed of the detention. Contact the Department of Foreign Affairs and Trade (DFAT) for details of consular offices.
- There is no obligation to advise a relevant consular post of a foreign national's detention if the detainee expressly states that they do not want access to these services. Members should make a note of this in accordance with **VPM Operational duties and responsibilities**.
- If the detained person is Indonesian, Chinese or Vietnamese; special additional rights and privileges apply to them. See the DFAT guide on 'Detention or Death of a Foreign National in Australia' for more information.
- Members must notify consular officials within three calendar days of detaining a Chinese national and three working days if the detainee is Vietnamese or Indonesian.

1.9 *Arresting foreign representatives*

- Foreign representatives are issued with colour-coded identification cards from DFAT. The cards indicate the person's status and briefly state immunities granted to them, for instance in relation to arrest.
- If unsure of a person's status, ask to see the identification card and if necessary, seek further advice from DFAT. Members may ask the person to accompany them to a police station while further inquiries are made regarding their status. This does not constitute arrest or detention but they are still in police custody.
- While foreign representatives are granted some immunity this does not stop members from taking action to prevent the continuation of an offence that may endanger public safety.

1.10 *Arrests on court premises*

- Arresting a person on a court premises may interfere with the ability of the court to administer justice and its orders to compel people to attend a specific venue, which may constitute contempt of court.

- A planned arrest should not occur on court premises. This includes arresting a person subject to a warrant to arrest, or where there is a power to arrest the person in relation to an offence as part of an ongoing investigation (e.g., s.459 *Crimes Act*).
- An unplanned arrest on court premises may be necessary in response to an unfolding incident in order to preserve public order, prevent the continuation or repetition of an offence on court premises, or offences against the *Court Security Act 1980*.
- A court premises includes the Supreme Court, County Court, Magistrates' Court and Children's Court of Victoria. The County Court and Magistrates' Court Drug Court Division also have legislative powers to gazette any place or venue of the court. Members should make reasonable enquiries to ensure the location of a planned arrest is not a venue of the court.

2. Issue of a warrant to arrest - overview

2.1 *Legislation*

A warrant to arrest for an accused or witness may be issued for any of the reasons detailed in the *Magistrates' Court Act 1989*, *Children, Youth and Families Act 2005* and other associated Acts.

2.2 *Requirements*

- Any member or PSO may execute a warrant to arrest.
- It is not necessary to be in possession of the warrant to make an arrest.

2.3 *Urgent after-hours issue*

If a warrant to arrest is required for an urgent matter after-hours:

- seek authority from a Sub-officer
- complete all necessary documents
- contact the after-hours court registrar.

2.4 *Application and warrant for an intervention order*

See **VPM Family violence** for the process to obtain an Application and Warrant.

3. Court issued warrant to arrest

3.1 *Initial action*

Warrant issue date	Status + Actions
Pre 16 August 2016 and Charge and Warrants to Arrest (Police Warrants) issued post 16 August 2016	• Warrants will be stored at PEDSD in hard copy • The accompanying hardcopy brief of evidence will be filed at either PEDSD (if the warrant was issued pre 1 April 2014) or the originating work unit (for warrants issued post 1 April 2014)

16 August 2016 onwards Electronic bench warrants	• Bench warrants will be forwarded to LEAP in electronic format by the Magistrates' and Children's Courts and accessed by members in the Electronic Warrant Online Knowledgebank (EWOK) • Prosecutions staff must update the Brief Management System (BMS) and forward the brief to the originating work unit for filing. • The brief/s will be filed at the originating work unit and managed in accordance with VPMP Information review, retention and disposal • A disclosable copy of the brief will be available in the Central Brief Storage System (CBSS) • PEDSD will be responsible for processing electronic warrants
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3.2 *Immediate execution of court issued warrant to arrest – members' responsibilities*

Members may obtain the hardcopy warrant directly from court staff on the day of issue to effect its immediate execution. Where a member intends on doing this the following applies:

- The member must obtain the approval of their work unit manager and the work unit manager is then responsible for ensuring the below process is complied with.
- The member must advise the local prosecutions office, prior to attending at the court to obtain the warrant.
- A prosecutor must endorse the prosecution brief that a warrant was issued and the warrant and brief was collected by the member from court.
- The prosecutions member will update BMS of the status of the warrant.
- If the member executes the warrant prior to the completion of their shift, the executing member must ensure the brief is returned to the prosecutions office for the hearing and the warrant is sent to the relevant court.
- If the member does not execute the warrant prior to the completion of their shift, the warrant must be immediately forwarded to PEDSD for recording on LEAP and EWOK. The brief must be returned to the prosecutions office for forwarding to the originating work unit.
- No copies of the warrant to arrest must exist other than the original warrant filed at PEDSD for uploading on EWOK.

3.3 *Locating an accused*

Members should refer to the Warrant Avenue of Inquiry Checklist (available from PEDSD Intranet page) for guidance in locating an accused to execute a warrant.

3.4 *Disposition*

- Warrant in possession of the executing member - within a reasonable time of being arrested, the arrested person is required to be:
 - brought before a bail justice or court
 - released in accordance with any bail conditions endorsed on the warrant, or
 - discharged from custody in accordance with s.10, *Bail Act 1977* (s.64, *Magistrates' Court Act*).

- Warrant not in possession of the executing member – within a reasonable time of being arrested, the arrested person is required to be brought before a bail justice or court.
- If the arrested person is brought before either a bail justice or court, the executing member takes on the responsibilities of the informant in relation to the procedure for remanding a person in custody. See **VPM Bail and remand**.
- Filing of executed warrant:
 - the arresting member must endorse the execution copy of the warrant with the time and date of the arrest and their signature and details
 - return the execution copy to the court.
- If it is later discovered the warrant has not been endorsed by the arresting member, the custody supervisor must have the arresting member complete the execution details, ensuring they record the actual time and date they made the arrest and executed the warrant, their signature and details. Where this is not possible the custody supervisor must endorse the warrant with the date and time the warrant was executed, the arresting member's details and the supervisor's signature and details. In all cases, the actual time and date of original execution of the warrant must be accurately recorded in the endorsement.
- EWOK must be updated with execution details where applicable.

3.5 *Filing of a brief of evidence related to an unexecuted court issued Warrant to Arrest*

- Prosecutions staff must update BMS and forward the hardcopy brief to the originating work unit.
- Warrants will be accessible by EWOK until executed.
- Where the originating work unit responsible for the warrant and brief of evidence no longer exists, the closest work unit to that location will be responsible for executing the warrant and filing the brief.
- Warrants and briefs currently filed at PEDSD will be retained until the relevant warrants are executed.

3.6 *Drug Court Warrants*

- A Drug and Alcohol Treatment Order is a sentencing option available to offenders appearing before the Drug and Alcohol Division of the County Court or of the Magistrates' Court.
- Offenders sentenced to such an order must attend the Drug Court for judicial monitoring regularly. If they do not attend, a Drug Court Warrant to Arrest will be issued. This warrant is endorsed with a direction that the offender not be bailed.
- Whenever a person is arrested in accordance with a Drug Court Warrant, they must be presented as soon as practicable to the Drug and Alcohol Division of the Court that issued the warrant (either Magistrates' or County). The executed warrant must be filed at the relevant Court. They must not be released on bail.
- Members are not required to compile a VP Form 1372 Preliminary Brief – Bail/Remand application unless the person is charged with criminal offences not related to the Drug Court Warrant. Refer to **VPM Bail and remand** for further information.

- For warrants issued by the Drug and Alcohol Division of the Magistrates' Court, offenders must be brought before the Magistrates' Court. If the warrant is executed during the operational hours of the Bail and Remand Court, the offender may be brought before that Court. If the warrant is executed outside of these hours, the offender must be held in custody until they can be brought before the Magistrates' Court.
- For warrants issued by the Drug and Alcohol Division of the County Court, offenders must be brought before the County Court. If the warrant is executed outside of hours, the offender must be held in custody until they can be brought before the County Court.

3.7 *Execution of a warrant to arrest a person in prison*

The following table details the process where an accused is in custody and is likely to remain in custody for the foreseeable future.

Warrant issue date	Process
Pre 16 August 2016 and Charge and Warrants to Arrest (Police Warrants) issued post 16 August 2016	• Obtain the original warrant from PEDSD and return it to the court endorsed "unexecuted" with: - a covering letter stating why the warrant has been returned unexecuted - a served Notice to the Accused [Form 416] - a request to the court to arrange Audio Visual Link (AVL) on the same date as noted on the Form 416 - a completed Order to Bring a Person Before a Court or Coroner [Form 476] with the same date as noted on Form 416 only if AVL is not an option. • The court will list the warrant charges and if applicable have the Form 476 issued and returned. • Fax the Form 416 and issued Form 476 (if applicable) to Central Prisoner Records by fax number (03) 8684 6683. • Forward the brief of evidence to the prosecutor. • If AVL is not an option the prison van will deliver the prisoner on the date specified in the Form 476.
16 August 2016 onwards Electronic bench warrants	• Print the electronic bench warrant from EWOK for cancellation and follow the above procedure. For these warrants the member must attend the court in person. • LEAP will be automatically updated by the court.

3.8 *Execution by Electronic Warrants Online Knowledgebank printed copy*

Process overview

- A user can only access EWOK by an outstanding LEAP warrant record screen.
- Unexecuted warrants recorded on LEAP must be executed by printing an executable copy of the warrant by EWOK. EWOK prints copies of all unexecuted warrants recorded in LEAP.
- Where LEAP indicates that there is an active warrant movement for an outstanding warrant that cannot be printed, view the LEAP movement record and contact the responsible member.
- Once a warrant has been printed for execution by EWOK, no other execution copy of the warrant can be printed.

- Only one printed copy of a warrant can be in existence at a time.
- Members must not print a warrant from EWOK unless they intend to execute it.
- DNA warrants can only be executed when the member has the original warrant in their possession. Copies of DNA warrants cannot be executed. Members must obtain the original warrant form PEDSD for execution.

Warrant execution – member responsibilities

- The following actions must be undertaken by the member printing the warrant by EWOK:

Task No.	Action
1	Ensure the warrant is executed within the shift
2	Enter the execution details in EWOK within eight hours of execution. EWOK will automatically update LEAP with these execution details
3	Identify if additional charges are required (i.e. fail to answer bail). If additional charges are required, the executing member must type out the charge and serve a copy on the accused
4	• Send a copy of the brief printed from EWOK or CBSS to the relevant prosecutions office, and note the court date on the brief. • Ensure that there is sufficient time for the brief to be received by the prosecutor prior to the hearing
5	If the warrant cannot be executed within the shift, contact PEDSD who is responsible for updating the status of EWOK to enable the warrant to be available for execution. The printed copy of the unexecuted warrant must be destroyed
6	Serve an accused copy of the brief on the accused. Where the accompanying brief is not listed in CBSS or EWOK, contact the originating work unit to request a disclosable copy is uploaded into CBSS. The originating work unit must meet this request as soon as practicable

- EWOK will generate an email to the informant, corroborator and work unit's PBEA where the brief is filed with the new court/date and request that the brief be forwarded to the relevant prosecutions office for the hearing.

Post execution – PEDSD responsibilities

- For warrants issued pre 16 August 2016 and Charge Sheet and Warrant to Arrest [Form 403] (police issued warrants) issued post 16 August 2016, PEDSD must:
 - forward the original warrant to arrest to the issuing court
 - where briefs are held at PEDSD, forward the brief to the nominated prosecutions office.
- For electronic bench warrants issued post 16 August 2016, PEDSD must ensure EWOK and LEAP records accurately reflect the warrant details.
- In either case PEDSD will continue to contact the member who printed the warrant to update EWOK with the execution details if it has not been completed within eight hours of printing the warrant.

EWOK unavailable

- If EWOK cannot be accessed and the warrant must be executed, contact PEDSD who will provide faxed execution copies of outstanding warrants (applies to warrants issued prior to 16 August 2016 or police issued warrants only). Once the warrant is

executed, the execution details must be faxed to PEDSD on Warrant Action Request Form [Form 1099].

3.9 *Unable to serve charge and summons – Form 402*

Where members are unable to serve a Charge Sheet and Summons [Form 402] and subsequently have a Form 403 issued, the Form 403 must be forwarded to PEDSD on the date of issue. PEDSD will record the details on LEAP and retain the Charge Sheet. Members must ensure the disclosable copy of the brief is uploaded into CBSS prior to forwarding the Form 403 to PEDSD.

4. Life of a filed warrant

A warrant to arrest remains active until executed or cancelled and will be retained at PEDSD in accordance with PEDSD policy.

5. LEAP Warrant Management Record

- A Warrant Management Record (WMR) will be created in LEAP for each person that has unexecuted warrants. It is assigned to the originating work unit in the first instance.
- Work unit managers must assign one or more supervisors to manage the LEAP WMR Module.
- Supervisors should assign an investigating member within their work unit to each WMR, allocate review dates and advise investigating members of their obligations regarding investigations.
- Investigating members are responsible for conducting ongoing investigations in relation to the whereabouts of the accused and recording this in the WMR.
- Where investigations reveal that the accused resides in another PSA, the WMR should be transferred to that area to assist in the investigation. The brief should remain filed at the originating work unit.
- Overall responsibility for the investigation remains with the originating work unit regardless of when the warrant was issued.
- Refer to the Warrant Management section on the Digital Services Security Department LEAP Help and Training Intranet page for further guidance.

6. Warrants to Imprison/Commitment

6.1 *Execution by payment*

To satisfy Warrants to Imprison/Commitment, members must only accept payment of the full amount.

Payment by cheque –

- Cheques must be made payable to the relevant court.
- When processing payments by cheque:
 - issue an interim receipt and record the receipt number in Station Books
 - endorse the rear of the cheque
 - endorse the facing page of the interim receipt, with the date forwarded, court date and cheque details
 - forward the cheque and warrant/s to the court.

Cash payments –

- Issue an interim receipt and record the details in Station Books.
- Purchase a money order made payable to the relevant court. Retain the 'customer receipt' portion of the money order and the electronic receipt issued by the post office:
 - paste the 'customer receipt' in the Work Unit Petty Cash Book
 - paste the electronic receipt to the facing page of the interim receipt.
- Forward to the relevant court:
 - 'backed-up' warrant and money order
 - letter, signed by the work unit manager requesting a receipt.

6.2 Execution by imprisonment

- Warrants to accompany prisoner – executed warrant/s must accompany the prisoner at all times.
- Early release – unless early release is authorised by Corrections Victoria or the full amount owing is paid, prisoners serving terms of imprisonment in police gaols are required to serve their full sentences. No remissions can be granted.

Interpretation of a day – when serving a sentence of imprisonment, a day should be taken to start at midnight on one day and finish at midnight the next. As it is not practical to release all prisoners at midnight, time of release must be determined as follows:

Arrest time	Release time
Sentence of more than one day (arrest time n/a)	Between 6am and 8am on the last day of sentence
Between midnight and before 8am (one day sentence)	8am on the day of arrest
Between 8am and before 6pm (one day sentence)	6pm on the day of arrest
Arrested after 6pm (one day sentence)	Midnight on the day of arrest

Payment made after execution –

- Where a person is imprisoned on a Warrant to Imprison, they may offer to pay an amount equivalent to the remainder of the sentence rather than serving the remaining time. Payment must be accepted and the person released, provided they are not in custody for another matter.
- In calculating the period to be served, a 'day' finishes at midnight. Calculate payment by deducting the number of full days served, i.e., the number of midnights passed. Do not deduct part days.

Cumulative sentence – terms of imprisonment imposed in default of payment of a fine are, unless otherwise directed by the court, to be served cumulatively with other terms of imprisonment for payment of a fine but concurrently with any other sentence.

6.3 *Endorsement of execution*

- The arresting member must endorse the warrant with the time and date of the arrest and their signature and details. The warrant copy must remain with the prisoner.
- Where it is later discovered the warrant was not endorsed by the arresting member, the custody supervisor must have the arresting member complete the execution details, ensuring they record the actual time and date they made the arrest and executed the warrant, their signature and details. Where this is not possible, the custody supervisor must endorse the warrant with the date and time the warrant was executed, the arresting member's details and the supervisor's signature and details. The actual time and date of original execution of the warrant must be accurately recorded in the endorsement.

6.4 *Life of a warrant*

A Warrant to Imprison or detain in a Youth Training Centre for non-payment of a fine has a life of three years. The warrant can be re-issued after three years.

7. Breach of adult parole warrant

7.1 *Arrest and holding in police gaols*

- Under s.77(6), *Corrections Act 1986*, the Adult Parole Board may cancel a prisoner's parole and issue a warrant to authorise police to arrest and return the prisoner to prison.
- The terms of these warrants clearly require that the prisoner be returned to a prison and not be held in a police gaol. However, police may temporarily lodge the prisoner in a police gaol.

7.2 *Lodgement and transportation process*

Following execution of a Parole Warrant, the arresting member must:

- during office hours, contact Custody Operations and Logistics to facilitate transport to a prison
- outside of office hours, where the prisoner is temporarily lodged in police cells, Custody Operations and Logistics will be notified by the Custody Module, that the prisoner is in custody for breach of parole and requires transportation to prison.

Refer also to **VPM Parole** for other parole breaches.

8. Execution by a Sheriff's officer

8.1 *Sheriff's officer's responsibilities*

Sheriff's officers are authorised to arrest people in order to comply with a warrant. These prisoners may be lodged in police gaols and police must provide assistance. See **VPM Management of people in police care or custody** for more information.

8.2 *Custody supervisor's responsibilities*

- The custody supervisor must ensure that the warrant has been correctly 'backed up' by the arresting sheriff's officer.

- The custody supervisor must complete the 'warrant section' of the Sheriff's Office Arrest/Gaoling Report as provided by the arresting officer.

9. Cancelling a warrant

9.1 Process

- Section 58, *Magistrates' Court Act*, enables the court to cancel a warrant on application from any member. The person who issued the warrant does not have to be the person making the application to cancel the warrant.
- The warrant/s to be cancelled need to be returned to the court of issue. If the court of issue no longer exists, then forward the warrant/s to the closest court.

9.2 Warrant to arrest (bench warrant)

- Provide the brief of evidence, supporting report, Application to Cancel a Warrant [Form 1377] and completed Affidavit for Cancellation of a Warrant [Form 1378] to the prosecutions office closest to the court of issue requesting that the warrant be cancelled.
- For bench warrants issued prior to 16 August 2016, the member must obtain the original bench warrant from PEDSD prior to forwarding the file to the prosecutions office.
- For electronic bench warrants issued post 16 August 2016, the responsible prosecutor will access EWOK and print the bench warrant for cancellation. LEAP will be automatically updated by the court.
- The responsible prosecutor will then endorse the Form 1377, return the warrant to the court marked unexecuted and have the matter listed (a bench warrant will need to be dealt with in open court).
- A prosecutor will then make an application to have the matter cancelled by providing the court with the Form 1378. If requested by the prosecutor, the member seeking cancellation of the warrant will need to attend court for the application.
- For warrants issued prior to 16 August 2016, the prosecutor will then notify PEDSD as soon as possible after the warrant is cancelled by faxing the Form 1377, with the cancellation notification section completed, to PEDSD. Members must not contact PEDSD if there is no corresponding LEAP warrant record. The same process applies for electronic bench warrants issued post 16 August 2016 and printed at the issuing court.
- The brief and associated documentation will then be returned to the informant's work unit for filing and retention, in accordance with **VPMP Information review, retention and disposal**.

9.3 Charge Sheet and Warrant to Arrest –Form 403

- Provide the brief of evidence, supporting report, Form 1377 and completed Form 1378 to the work unit manager requesting that the warrant be cancelled.
- The work unit manager must authorise the Form 1377.
- Once the Form 1377 is authorised, the member must obtain the original Form 403 from PEDSD and attach it to the file.

- If the Form 403 is for the offence of Fail to Appear only, it will need to accompany the Warrant to Arrest. Follow the process in section 9.2 of this policy.
- Court Services Victoria has an electronic lodgement portal that enables members to upload documents for submission to the Magistrates' Court of Victoria and Children's Court of Victoria.
- All of the following copies of the Form 403 must be lodged online for the application to be accepted by the court registrar:
 - CDEB/Police Brief
 - Execution Copy
 - Accused Copy
 - Informant Copy (if issued).

Note: if any of copies cannot be attached, the member must lodge a Form 1378 along with the available copies.

- Upon confirmation that the application has been accepted by the court registrar, duplicate hard copies and triplicate digital copies of the Form 403 in police possession must be destroyed in accordance with **VPMP Information review, retention and disposal** and **VPMPG Information and information equipment disposal**.
- For a Form 403 recorded on LEAP, the member notify PEDSD as soon as possible after the warrant is cancelled by faxing the Application to Cancel a Warrant, with the Cancellation Notification section completed, to PEDSD. Do not contact PEDSD if there is no corresponding LEAP warrant record.
- Station Books must be updated to finalise the brief book entry and a notation made that the Form 403 has been cancelled with the online lodgement reference number included.
- The brief of evidence should be filed at the work unit where the brief book entry was originally created (if applicable).

9.4 *Warrant to Imprison/Commitment*

- Where a warrant has been issued as a result of an imprisonment order that is not in default of payment of fine, there is no power to recall or cancel these warrants. Only the court can do so. Follow the process for Warrant to Arrest in section 9.2 of this policy.
- This process is in line with the expectations of the registrars at the Melbourne Magistrates' Court. Other Magistrates' courts may have variations to this process and the respective court should be consulted prior to any action being taken.

10. Obtaining a duplicate warrant

10.1 *Overview*

Three situations arise where a warrant may be lost/misplaced:

- before execution (s.59(1), *Magistrates' Court Act*)
- after execution where the warrant subject is in prison, police gaol or youth justice centre (s.59(4), *Magistrates' Court Act*)
- after execution where the warrant subject is at large.

10.2 *Warrant lost before execution*

This applies for bench warrants issued pre 16 August 2016 and all Charge and Warrants to Arrest. In these instances:

- the member must attend court and provide the court with a completed Affidavit of Lost Warrant [Form 1379]
- the police prosecutor will assist where required
- subject to content of the Form 1379, the court will issue a duplicate warrant.

For electronic warrants issued post 16 August 2016, contact PEDSD to unlock the EWOK record. PEDSD staff will make a notation that EWOK has been unlocked to allow the warrant to be reprinted.

10.3 *Warrant lost after execution and the warrant subject is in prison, a police gaol or youth justice centre*

If a warrant is lost/misplaced and the warrant subject is in prison, a police gaol or youth justice centre, then the following needs to occur to have the matter relisted:

- the member must complete Form 416 and Form 476 endorsed with the required nominated date (the police prosecutor will assist where required)
- the member must send Form 416 and Form 476 to the prison, police gaol or youth justice centre for service and actioning.

10.4 *Warrant lost after execution where the warrant subject is at large*

- The accused must be served with a Form 416.
- After service, the member completing the Form 416 must file this at the court with a copy of the charges and a Form 1379 to have the matter relisted.

This process is in line with the expectations of the registrars' at the Melbourne Magistrates' Court. Other Magistrates' courts may have variations to this process and the respective court should be consulted prior to any action being taken.

11. Management of warrants

11.1 *Work unit managers' responsibilities*

- Work unit managers are responsible for the management practices in regard to warrants allocated to their unit. This includes maintaining a centralised brief filing system that will allow for ready access to the briefs.
- Work unit managers must:
 - ensure all briefs related to unexecuted warrants are stored in a local brief filing system
 - conduct a monthly reconciliation of unexecuted warrants and briefs allocated as their responsibility
 - assign one or more supervisors to manage the LEAP WMR
 - ensure supervisors assign an investigating member from their work unit to each WMR, allocate review dates and advise investigating members of their obligations regarding investigations
 - ensure active warrant files are not allocated to members on leave or extended absence that will impact on any investigation or the execution of the warrant

- ensure briefs are not transferred to other work units unless exceptional circumstances exist, such as when the originating work unit is permanently closed. The only transfer should be from the work unit to the prosecutions office where the matter will be heard, or to the Victoria Police Archive Services Centre when the matter is complete
Note: where a brief is transferred to another work unit, notify PEDSD to ensure the LEAP field 'Brief filed at' is updated.
- When a warrant is executed, EWOK will forward a notification email to the work unit's PBEA where the brief is filed. Work unit managers must ensure that a copy of the notification email is attached to the brief prior to it being forwarded to the prosecutions office pending the hearing.
- On receipt of the brief for filing from PEDSD or prosecutions, the work unit manager must identify if any additional charges (i.e., fail to answer bail) are required and ensure the responsibilities of the assigned investigating member are complied with.
- When a warrant notification is received, the work unit manager receiving the notification must ensure details are entered in Station Books and include:
 - date of receipt
 - accused defendant's name
 - warrant details
 - post execution action.
- When a prisoner is arrested on a warrant and entered in the Custody Module, this must be cross referenced in Station Books.

11.2 *Members' responsibilities*

- Members are responsible for conducting ongoing investigations in relation to warrants assigned to them. Investigating members must ensure the LEAP Warrant Management Module is updated with their enquiries.
- If the warrant is not executed within 28 days of the date of issue, then where applicable, a Form 403 for Fail to Answer Bail must be applied for by the assigned investigating member, or delegate, and forwarded to PEDSD for filing on the date of issue.
- Where applicable the additional Form 403 must be forwarded to PEDSD with a report requesting it is attached to the original warrant. The brief relevant to the Fail to Appear Warrant is not required to be returned to PEDSD.
- Members must not attend prosecution offices and remove briefs other than as detailed in section 3.2 of this policy.
- Do not store briefs in personal correspondence lockers, on desks or in callers' boxes.

12. Specific warrant types

For further guidance on specific warrant types, refer to relevant policy as follows:

Warrants to arrest;

- Arrest warrant/Bench Warrant /Warrant of apprehension - **VPM Management of people in police care or custody; VPM Court processes**

- Fail to Appear Warrant - **VPM Management of people in police care or custody**
- DNA Warrant/forensic procedure – **VPM Forensic procedures**
- Safe Custody Warrants – **VPMP Protecting children**

Other;

- Search Warrant - **VPM Searches of property; VPM Management of people in police care or custody**
- Remand warrant - **VPM Disposition**
- Warrant of Possession or Commitment - **VPM Management of people in police care or custody VPM Court processes**
- Application and warrant for intervention order – **VPM Family violence**
- Extradition Warrant – **VPM Court processes**
- Surveillance device warrant – **VPMP Investigation support**
- Telephone intercept warrant – **VPMP Investigation support**

Related documents

- Warrant Avenue of Inquiry Checklist – available from PEDSD Intranet page
- Crime Command Archive Checklist – Completed Briefs and Investigations
- VPM Human rights standards
- Human Rights Practitioner Guide
- VPM Disposition

Further advice and information

For further advice and assistance regarding this policy, contact your local prosecutions office or your supervisor.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
16/08/16	This document combines and consolidates VPMP Arrest and preventative action, VPMG Arrest powers and warrants to arrest, VPMG Warrants and Chief Commissioners Instruction 2/16 – Warrant to Arrest – Recording, filing and execution	FF-098327
19/12/16	Original copies of DNA warrants must all be obtained from RSD, not EWOK	FF-098327/2
03/10/17	Update to policy reference regarding VPM Parole	FF-101806/1
26/03/18	Changes to the responsibilities of members executing warrants	FF-117125
01/07/19	Instrument names amended to reflect updated DNA/forensic policies	FF-143085

21/10/19	Updated instrument names to reflect amended court processes policy.	FF-139297
19/02/21	Updated instrument names to reflect reviewed family violence policies	FF-189857
24/01/22	Updated instrument names to reflect searches of property, disposition and bail and remand policies	FF-187958 3
23/01/24	Updated with instructions around arrests on court premises and to allow for applications to cancel police issued warrants via the Court Services Victoria online portal and to reflect the change of name of Record Services Division to PEDSD and other minor amendments	FF – 234992 1 FF – 190798 FF – 201302
11/11/2025	Updated with instructions regarding the arrest of persons with carer responsibilities.	FF – 264511-1
02/12/2025	Clarification to processes regarding the execution of Drug Court warrants.	FF-264423