

STANDING ORDER (GENERAL) 271

COURT AND COURT ORDERLY DUTIES

1. Background

The purpose of this Order is to regulate the duties of *court orderlies* and duties of *members* performing duties at a court.

2. Definitions

In this Order, unless the context otherwise indicates —

- (a) “*court orderly*” means any *member* appointed by the *station commander* to perform duties as a court orderly, whether permanently or temporarily;
- (b) “*member*” means —
 - (i) a member of the South African Police Service appointed in terms of the South African Police Service Act, 1995 (Act No 68 of 1995), and
 - (ii) includes a member of the South African Reserve Police Service, while such member is on duty in the *Service*;
- (c) “*person in custody*” means a person who has been arrested and who is in the custody of the *Service* and who has not yet been handed over or handed back to the Department of Correctional Services or any other institution for detention, or any other person in the custody of the *Service*; and
- (d) “*station commander*” means any *member* appointed in command of a police station, whether permanently or temporarily.

3. Responsibilities of a court orderly

- (1) The primary and most important function of a *court orderly* is to prevent a *person(s) in custody* from escaping. However, in order to fulfill his or her roles and responsibilities as a *court orderly* efficient and effectively, all the following matters demand particular attention and the *Court Orderly* must —
 - (a) ensure the safe guarding of *persons in custody* and witnesses in custody while the court is in session, during breaks, during inspection in loco and when the court adjourns to another venue;
 - (b) ensure the safety of the presiding officer(s) (eg judge(s) or magistrate) and other court personnel, accused, witnesses, as well as members of the public attending court;

- (c) ensure the maintenance of order, silence and decency in and around the court, including the arrest of persons for contempt of court when necessary in accordance with legislation;
- (d) arrest persons for contempt of court *in facie curiae* on instruction of the presiding officer (eg judge, magistrate or judicial official);
- (e) ensure that any person ordered to leave the court, complies with the order;
- (f) ensure that the passages and entrances of the court are kept free from obstruction;
- (g) call the names of witnesses and accused who are not in custody, when the cases in which they are involved come before the court, and give direction to such persons, eg to the witness or accused box or dock;
- (h) escort *persons in custody*, whether accused or witnesses, from the court cells to the court room and place such persons in the witness or accused box or dock;
- (i) escort sentenced offenders to the clerk of the court or accounting clerk for payment of fines, to the prisoner's friend, or to the cells;
- (j) escort *persons in custody* who have been granted bail, to the clerk of the court or accounting clerk for payment of such bail, or to the prisoners' friend and back to the cells;
- (k) fetch exhibits from the registrar or clerk of the court, and keep it safe while the court is in session and during breaks, as well as to hand over exhibits in conjunction with a court order to a specific person or where the mentioned person is not present, take it back to the clerk of the court;
- (l) present exhibits to the witnesses or accused and court officials when requested;
- (m) transfer exhibits from one court to another when needed in such a court during the same seating;
- (n) search accused for money if ordered to do so by the court in conjunction with the provisions of section 289(a) of the Criminal Procedure Act, 1977 (Act No 51 of 1977);

- (o) execute lawful orders with regard to court functions issued by the presiding officer;
 - (p) execute any other duty for which there is a need and which has been agreed to by the head magistrate and *station commander*;
 - (q) complete and organize the signing of warrants regarding the release of *persons in custody* [J6-forms] and Receipts of Release [SAPS 14(b)], which are required for police purposes; and
 - (r) take the fingerprints of an accused on the Fingerprint Record Sheet [form SAPS 69] in cases where an accused has been found guilty.
- (2) When performing duties as a *court orderly*, a *member* must be properly dressed in uniform, have a clean and smart appearance and conduct himself or herself in such a manner that the respect of the court and the public will be compelled [Dress Order Nr. 10].
- (3) A male *member* performing court duties must, except when he escorts a prisoner, remove his headdress while the presiding officer is present in the court room.

4. Responsibilities of member in command of court cell complex

The *member* in command of the court cell complex must —

- (1) physically check all the cells and the *persons in custody* each morning;
- (2) keep a proper record of all *persons in custody* received at the court cells;
- (3) ensure that children (persons below the age of 18 years) are never placed in the same cell as adult *persons in custody*;
- (4) ensure that males and females are never detained in the same cell;
- (5) ensure that *court orderlies* or prisoner guards sign a receipt for each and every *person in custody* who are fetched by them before leaving the court cells complex;
- (6) ensure that when *persons in custody* are brought back to the court cell complex by a *court orderly* or prisoner guard, receipt of such *persons in custody* are acknowledged and recorded;
- (7) ensure that all *persons in custody* in the court cell complex have appeared in the designated courts in which they had to appear (Should it be discovered that a *person in custody* has not appeared in court, it

must be brought to the attention of the clerk of the court, who in turn must make arrangements so that such prisoner appears in court.);

- (8) ensure that arrangements are made for food for the *persons in custody* and that all *persons in custody* are fed in accordance with the provisions of SO(G) 361;
- (9) ensure that arrangements to transport *persons in custody*, after appearance in court, are made in time; and
- (10) inspect all the cells in the cell complex before going off duty to ensure there are no *persons in custody* left behind.

5. Procedures with regard to Custody Register [SAPS 14 or SAPS 14(d)]

- (1) A Custody Register [SAPS 14] or Custody Register: Courts [SAPS14(d)] must be kept at all bigger courts and courts which are not adjacent to a police station, in order to ensure proper control of *persons in custody* taken to court.
- (2) The particulars of all *persons in custody* brought to court from the various police stations and correctional facilities, must be recorded in the Custody Register [SAPS 14] or Custody Register: Courts [SAPS14(d)], as well as the Occurrence Book [SAPS 10] at the court. The number of the entry in the Occurrence Book at the court, as well as the SAPS 14-numbers of the register at the court must be endorsed on the original Body Receipt [SAPS 216] which will be taken back and filed at the station of origin.
- (3) When a *court orderly* or prisoner guard is instructed by the court to release a *person in custody*, he or she must ensure that the instruction is adhered to and that a corresponding entry is made in the SAPS 14 or 14(d) next to the name of the *person in custody*, and in the Occurrence Book. However, such *member* must ensure that the *person in custody* is not a suspect or an accused in another case(s), in which situation he or she must be kept in custody, the investigation official informed and ensured that the necessary documentation is obtained.
- (4) It must be ensured that Body Receipts [SAPS 216] of all *persons in custody* transported to police stations or correctional facilities are received back, checked and compared with the SAPS 14 or 14(d) for control purposes and correctness. Should it be discovered that the name of a *person in custody* which appears on the Body Receipt is not recorded in the SAPS14 or 14(d), it must be reported to the commander immediately in order to determine if a *person in custody* has escaped.

- (5) All meals provided to *persons in custody* in the court cells must be recorded in the SAPS14 or 14(d) and in the Occurrence Book on a daily basis.

6. Guarding of court cell complex

- (1) The door guard at a court cell complex must ensure proper control with regard to the entrance and exiting of persons at such a complex. Before permitting any person —
 - (a) to enter the court cell complex, the door guard must satisfy himself or herself that such person may indeed enter the cell complex.
 - (b) from leaving the cell complex, the door guard must satisfy himself or herself that such person may indeed leave the complex.
- (2) A door guard at a court cell complex may not leave his or her post, unless he or she is relieved by another *member*.
- (3) No parcels must be accepted at the court cell complex. All parcels must be referred to either the police station or correctional facility where the *person in custody* will be detained after appearing in court.

7. Circuit court

- (1) The Provincial Commissioner, or a *member* designated by him or her,] must —
 - (a) in conjunction with the magistrate, make the necessary arrangements when a circuit court sitting is to take place in his area;
 - (b) assign a *member* with the rank of sergeant or higher to act as *court orderly* and to take charge of police duties regarding each sitting of the circuit court; and
 - (c) advise the registrar that this has been done.
- (2) On the arrival of the public prosecutor at the town where the court is to sit, the *member* referred to in paragraph 7(1)(b) above must report to him or her and ascertain whether he or she wishes to see any of the State witnesses before the court sits or whether he or she requires any other assistance.

8. General

- (1) Except with the approval of the National Commissioner [or his delegate], a *member* may not be assigned to serve as *court orderly* in any civil court.
- (2) Except in his capacity as clerk of the court, a *member* may not receive any fines or other moneys offered during or immediately after the court

sitting. Any person offering such money must be referred to or taken to the clerk of the court.

- (3) A member in charge of a criminal investigation must ensure that —
 - (a) all State witnesses are in attendance and that they do not leave without permission;
 - (b) exhibits are available and ready to be produced; and
 - (c) the prisoners are present at court and that the correct prisoner enters the dock when his case is called.

- (4) A station commander may utilize any member, including a court orderly, to transport persons in custody to and from a court if necessary.