



TRANSIT POLICE

YOUNG PERSONS

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POLICY

Definitions

Charter – Canadian Charter of Rights and Freedoms, Constitutional Act, 1982, c. 11(U.K.), Schedule B.

Criminal Code (CCC) – Criminal Code of Canada [RSC 1985, c. C-46].

Chief Officer – The Transit Police Chief Officer or delegate.

Designated Constables – The Transit Police police officers appointed by the Police Board.

JPD – The Jurisdictional Police Department.

Member – Designated Constable, the Chief Officer or a Deputy Chief Officer of the Transit Police.

Police Act – The BC Police Act, RSBC 1996, c. 367, and the regulations thereto, including the Transit Police Operations Regulation, all as amended from time to time

Transit Police – The South Coast British Columbia Transportation Authority Police Service.

Youth Criminal Justice Act (YCJA) – The Canadian Youth Criminal Justice Act (S.C. 2002, c. 1), as amended from time to time.

General

1. The Transit Police will address and treat young persons in a manner that complies fully with legal requirements.

PROCEDURES

[See also: OD210 – Fare Enforcement]

2. The Transit Police will review at least biennially its policy and procedures in relation to Young Persons and the *YCJA*. This review is to ensure that Transit Police policies and practices are consistent with current federal and provincial legislation.

Statutory Provisions

3. The *YCJA* covers only offences against the **CCC** and other federal statutes, the BC Youth Justice Act, provincial statutes, and regulations.
4. The Principles of the *YCJA* as in Section 3 of the Act should be carefully noted and their intent and spirit applied in dealing with young persons.
5. A young person who commits a federal statute offence, and is under 12 years of age, will be dealt with under the provisions of the ***Child, Family and Community Service Act of BC***.
 1. This requires proper notification of the Ministry of Children and Family Development or their representative.
6. When a young person is found committing an offence against a BC enactment or municipal bylaw, other than street and traffic bylaws, summons action may be taken by completion of a Report to Crown Counsel (RTCC).

Extrajudicial Measures

7. If a Member has reasonable and probable grounds to believe a young person has committed an offence, before starting judicial proceedings or taking any other measures under the *YCJA* (including pursuing a charge or referring the matter to extrajudicial sanctions), the Member will consider whether it would be sufficient to:
 1. Take no further action,
 2. Warn the young person,
 3. Administer a caution (only if a program is already established), or
 4. Refer the young person to a program (extrajudicial measures).

Referral to Extrajudicial Measures Program (Police Based)

8. A Member may refer a young person to an extrajudicial measures program if the matter cannot be adequately dealt with by a warning and/or caution.
 1. Extrajudicial measures can provide a good option for the young person to be held accountable and to make up for the harm caused by their offense, and is viable alternative to the Court process.
 2. Police based extrajudicial measures are distinct from “Extrajudicial Sanctions”, as that term appears in the *YCJA*.

9. Extrajudicial measures can be the most appropriate, timely and effective way to address youth crime. Extrajudicial measures should be considered in light of the seriousness of the offense, the nature and number of previous offenses committed and any other aggravating circumstances.
10. Before considering a referral to extrajudicial measures there must be sufficient evidence to proceed with a prosecution. As such, should the extrajudicial measures not be completed there should be no barriers to charges being forwarded to Crown Counsel.
11. The young person must take accountability for the offence committed and agree to participate in the extrajudicial measures program. The parent/guardian of the young person will be informed of the young person's participation in the extrajudicial program by the investigating Member.
12. The victim of the offense must also be willing to participate in the extrajudicial program, before a referral can be made.
 1. If a young person participates in an extrajudicial program, the victim shall, on request, be informed of the identity of the young person and how the offense was dealt with.
13. Referral to an extrajudicial measures program may be made to a designated community agency.
14. Once a referral has been made to an extrajudicial measures program, the investigating Member will forward the referral to the designated agency, along with the file number and written summary detailing the circumstances of the event.
 - a. A copy of the referral will remain on the master file.
 - b. A copy of the referral will also be forwarded to the designated Member responsible for monitoring the extrajudicial measures program.
15. The designated agency will notify the suspect and the victim to facilitate their participation in extrajudicial measures.
16. The designated agency will notify the SCBCTAPS and the investigating Member of the disposition of the extrajudicial measures.
17. Should the extrajudicial measures referral fail, the designated agency will notify the SCBCTAPS and the investigating Member.
 1. The investigating Member will forward charges to Crown Counsel for consideration if appropriate.

Arrest

18. When a young person is the subject of an investigation and there is evidence of an offence, the decision whether the young person should be arrested, and if so, the process to be used to compel appearance in Court, must be made by the

investigating Member who will consider all applicable legislation, including the **YCJA** and **CCC**.

19. If the circumstances justify, it is preferable to proceed by way of summons, appearance notice, promise to appear (PTA), undertaking and/or recognizance when a young person is involved in an incident.
20. Upon the arrest of a young person, the young person is entitled to all rights under the **Charter of Rights and Freedoms**, and in addition, to the additional rights set out in the **YCJA**.
21. Upon the arrest of a young person, the investigating Member will notify the parent/guardian as soon as is practicable as to the nature of and reason for the arrest and the status, and location of the young person.
22. When a Member arrests a young person, the young person must be brought before a justice in accordance with legislation applicable to all persons arrested, including the **CCC**. If appropriate, the Member may use the Justice of the Peace Centre.
23. When a young person has been arrested and detained overnight pending a Court appearance, a copy of the report must be clearly marked "Young Person in Custody".
 1. The report will then be sent to the attention of Court Liaison so that an escort to Court may be arranged.
24. The arrest of young persons will be conducted in the same manner as adults.
25. If a young person is detained in custody, the **YCJA** expressly states that a young person shall not be detained in custody before sentencing as a substitute for appropriate child protection, mental health or other social measures.

[See also: OD080 – Arrests]

26. The **YCJA** allows for the suspension of a young person's Conditional Supervision Order, Custody and Community Supervision Orders, Deferred Custody and Supervision Orders, and Custody and Conditional Supervision Orders if:
 1. The young person has breached a condition of the order.
 2. The young person is about to breach a condition of the order.
27. The Provincial Director has delegated to the Youth Probation Officer/Youth Worker the authority to:
 1. Suspend a Conditional Supervision Order.
 2. Order that the young person be remanded in custody until a review is conducted.
28. A Member will notify the Youth Probation Officer if the young person has breached or is about to breach a condition of any Conditional Supervision Order, during the hours of Monday to Friday, 0830 hrs-1630 hrs.

29. The Provincial Director or his designate, upon being informed and satisfied there are reasonable grounds of a breach or that there is a breach about to occur, may issue a Warrant authorizing the apprehension of the young person. The Warrant will be faxed to the:
1. Nearest police service where the breach has occurred or was about to occur.
 2. Police service closest to the young person's last known residence.
 3. Probation Officer holding case responsibilities.
30. The arresting police service will notify the Provincial Director or the designated Youth Custody Facility (YCF) that the young person has been apprehended.
31. The designated YCF will then notify the local Director of the Probation Office nearest to where the young person is being detained and the releasing youth or adult custody centre.

Detention

32. Authority for a Member to place a young offender in cells is implied in Part 5 of the **YCJA**. A Judge of the Provincial Court may also grant such authority.
33. A young person who has been apprehended on a Warrant of Apprehension may be placed in detention when the authority to do so has been received from a Judge or when there is written authority placed as additional instructions from a Judge on that order.
34. All travel arrangements to outside areas are the responsibility of the Ministry of Children and Family Development.

Temporary Restraint

35. The **YCJA** provides for temporary restraint of a young person, upon arrest, to give a Member an opportunity to:
1. Take the young person to the police station.
 2. Decide whether to lay a charge.
 3. Decide on appropriateness of extrajudicial measures.

Temporary Detention

36. A young person under the supervision and control of a Member after arrest, with or without a Warrant, will be transferred to a designated place of temporary detention:
1. Young persons transported to the police station will be held in cells.
 2. If the young person is to be detained for a Court appearance, the young person will be transferred to the YCF and the YCF will be advised that the young person is enroute.
 3. If YCF is full, the young person will be lodged in cells, subject to restrictions on placement of young persons in cells.

Not Confined With Adults

37. A young person must be held separately and apart from any adult in custody or detention, unless determined otherwise by a Youth Court Judge or Justice of the Peace.

Forms of Release

38. If a young person is found committing, or is suspected of committing a criminal offence, the young person may in appropriate circumstances be released on process to compel their appearance in Court and impose conditions (e.g., Appearance Notice, PTA Undertaking and/or Recognizance). It may also be appropriate to release the young person with the intention of compelling appearance by summons to be issued at a later date.
39. The same forms used for the release of adults will be used for Young Offenders.
40. The area signified for the Court will be changed to read "Youth Justice Court".
41. All forms issued to a young offender will have a Youth Court designation and **YCJA** caution stamped on the face with the warning, "*You have the right to be represented by counsel*".

Notifying Parent/Guardian

42. Immediately after a young person is arrested or detained in custody, the parent/guardian will be notified by the investigating Member, either orally or in writing, of the place of detention and the reason for the arrest.
43. If no parent/guardian is available, a notice may be given to an adult relative or other adult known to the young person who is likely to provide assistance.
44. If no responsible parent/guardian can be located, the young person must be turned over to the Ministry of Children and Family Development - Emergency Services Section, or may be held temporarily within police cells.
45. If the Member decides that hospitalization of the young person is necessary for any reason, immediate steps must be taken to notify the parent/guardian of the young person or the duty worker at the Ministry of Children and Family Development as to the location and condition of the young person.
46. If the young person is married, the spouse of the young person may be notified instead of the parent/guardian.
47. The young person will be released to the care of a parent/guardian or an appropriate designate. If no parent/guardian can be located the young person will be released to the care of the Ministry of Children and Family Development or their designate.

48. The parent/guardian will be immediately notified by the investigating Member, after a young person has been released, and will be provided with a copy of any process issued.

Unendorsed Warrant

49. The Warrant will be confirmed prior to transporting the youth.

Endorsed Warrant

50. The Watch Commander will release youth on a PTA.

Absence from Detention Centre

51. When a Member locates a young person who has escaped or is absent without leave from custody, the young person must be arrested and transported to an YCF. The young person may be temporarily lodged in police cells to await escort (in accordance with s. 37 of this policy).

52. In most cases, information concerning the unauthorized absence or escape of a young person will be subject of an entry on the CPIC system, but in the case of a more recent absence/escape, the circumstances can be quickly verified by a telephone call to the YCF.

INTOXICATED YOUNG PERSONS

Response

53. When a young person is found to be consuming or in possession of liquor, the liquor must be seized and processed in accordance with procedures outlined for handling such property.

54. The ***Liquor Control and Licensing Act*** allows for the arrest and charge of any person intoxicated by alcohol or a drug in a public place.

55. Only those young persons unable to care for themselves will be arrested.

56. Normally, young persons will be released to their parent/guardian.

Temporary Restraint of Intoxicated Young Person

57. Police agencies have experienced problems in the processing of intoxicated young persons where there are no responsible adults to assume custody of the youths.

58. The Youth Detention Centre will not accept youths who are detained only because of their state of intoxication.

59. Youths aged 12 – 17 years inclusive may be taken into police custody:

1. Who are found to be in a state of intoxication in a public place.

2. Who require temporary restraining pursuant to the ***Liquor Control and Licensing Act*** or the ***Offence Act***.
 3. Where there are no responsible adult persons, either friends or family, who are willing to assume responsibility for the conduct of the youth.
60. If no responsible parent/guardian can be located, the investigating Member will notify the Ministry of Children and Family Development.
61. A Member must not hesitate to hospitalize a young person found to be intoxicated by liquor or under the influence of inhaled solvent or drugs if the extent of the effect upon the young person is in doubt.
62. If the Member decides that hospitalization of the young person is necessary, immediate steps must be taken to notify the parent/guardian of the young person or the duty worker at the Ministry of Children and Family Development as to the location and condition of the young person.

STATEMENTS

Admissibility

63. To ensure the admissibility of any oral or written statement made by a young person, all the measures taken with respect to statements from adults must be taken, as well as measures prescribed by the **YCJA**, including:
1. The statement must be voluntary.
 2. The young person must be informed of their rights under the **YCJA**.

Young Person's Rights

64. The Member taking a statement will:
1. Comply with the specific rules with respect to taking statements as outlined in the **YCJA**.
 2. Clearly explain to the young person, in language appropriate to their age and understanding, that:
 - a. There is no obligation to give a statement, either oral or written.
 - b. Any statement made may be used as evidence in proceedings against them.
 - c. The young person has a right to consult counsel, or a parent, or an adult relative, or any other appropriate adult of their choice.
 - d. The young person has a right to have the consulted person present during the making of any statement.
 3. Give the young person a reasonable opportunity to consult counsel, or a parent, or an adult relative, or any other appropriate adult of their choice.
 4. Allow a reasonable period of time for the consulted to be present.
 5. Where a young person waives their rights, as described above, obtain the waiver on audiotape or videotape, and obtain signed acknowledgement to that effect [use SCBCTAPS Form OZ140], all in keeping with the **YCJA**.

[See also: OD140 – Statements]

IDENTIFICATION

Identification of Criminals Act

65. The *Identification of Criminals Act* applies to young persons.

1. Members may fingerprint and photograph all young persons aged 12 – 17 years inclusive, charged under the *YCJA*, with an offence which may be proceeded with by indictment under the *CCC* or other Federal enactment.
2. A young person who is going to be held in custody will be fingerprinted prior to being transported to the YCF:
 - a. If the young person resists, no force will be used.
 - b. The young person will be transported to the YCF and returned for prints and photos after the charge has been laid.

[See also: OE010 – Fingerprinting]

Persons Under the Age of 12

66. There are no provisions for the taking of fingerprints of a young person who is less than 12 years of age.

Fingerprinting

67. Members must consult their immediate supervisor for advice regarding the taking of fingerprints of young persons.

Provisions for Young Persons

68. The Provincial Court of British Columbia is the Youth Court for the purposes of the *YCJA*.

69. All Probation Officers appointed pursuant to the *Corrections Act* are designated as youth workers.

70. There are three youth custody service centers in British Columbia: Burnaby, Victoria and Prince George.

TAKING CHARGE OF A CHILD FOR THEIR OWN PROTECTION

[See also: OD160 – Vulnerable Groups/Violence in Relationships]

Authority

71. The *Child, Family and Community Service Act* has delegated powers, duties, functions, and capacities relating to all provincial and municipal police officers in British Columbia and those persons designated powers of provincial and municipal police officers (this applies to SCBCTAPS Members).

72. These powers, duties, functions, and capacities authorize a police officer to apprehend a child who is in need of protection including, in relation to the child:
1. Abuse or neglect so that their safety or well being is endangered.
 2. Abandonment.
 3. Physical harm or the likelihood of physical harm.
 4. Emotional harm.
 5. Deprived of necessary care through the death, absence or disability of their parent.
 6. Deprived of necessary medical attention.
 7. Absent from home in circumstances that endanger their safety or well-being.
73. Under the ***Child, Family and Community Service Act*** a child is a person under 19 years of age.

Emergency Situation

74. Where a Member has reasonable grounds to believe that a child is in need of protection, as defined in the ***Child, Family and Community Service Act***, and in immediate physical danger, the Member:
1. May, without Warrant, enter any premises and apprehend the child and return the child to a place of safety.
 2. Will, upon apprehending a child, immediately report the matter to a Director as designated by the Ministry of Children and Family Development, who will assume custody of the child.
75. Given the authority to apprehend in the ***Child, Family and Community Service Act***, whenever practicable, a Member should consult with the Ministry of Children and Family Development before taking any action and should be accompanied by a person from the Ministry when affecting an apprehension.

Young Child Breaks the Law

76. Under sections 77-80, a child is a person under the age of 12 years.
77. A Member may take charge of a child and deliver the child to a parent/guardian if the Member considers that the child:
1. Is less than 12 year of age.
 2. Has acted in manner prohibited by law or has failed or refused to act in a manner required by law.
78. The action by a Member of taking charge of a child who is acting contrary to law is not an apprehension for any purpose under the ***Child, Family and Community Service Act***.
1. Such a child can be held under the care of a member who is legally authorized to deliver the child either to their parent/guardian or to the Ministry of Children and Family Development.
 2. Such a child is “not in custody” under this policy and procedure.

79. The child will be referred to the Ministry of Children and Family Development, as follows:

1. When involved in a crime of violence, extreme vandalism, or destruction; e.g. arson.
2. When parent/guardian show disregard and/or lack of concern for such a child and such actions.
3. When parent/guardian is not available and the child is too young to be left alone.
4. When parent/guardian indicates that the child may be subjected to unusually harsh discipline or abuse as a result of such actions.
5. When it is not practicable to return such a child because of the distance to their home.
6. When a child alleges abuse, either physical or sexual, or substantial neglect by parent/guardian.

80. If the child has killed, assaulted, or endangered another person, the Member must report the circumstances to a Director of Child, Family and Community Services, and, in any other case, may report the circumstances to a Director of Child, Family and Community Services.

Records

81. All records and documents concerning the actions of a young person will be handled in a manner that complies fully with the provisions of the **YCJA**, including origination of the records, security and confidentiality, access and disposal.

82. The Court Clerk position will be designated responsibility for proper handling and disposition of young offender records, unless another position is so designated (in writing) by the Manager Informatics and Risk.

Dispositions

83. A young offender's record will be held by SCBCTAPS for the non-disclosure period that conforms to the Court disposition.

84. When a young offender's record may no longer be disclosed, all copies of photographs and fingerprints taken in regards to the matter in question will be sent to the Records Services Section file.