



# TRANSIT POLICE

## FINGERPRINTING – POLICE INVESTIGATIONS

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### POLICY

The Transit Police will collect fingerprints and photographs in a lawful manner, and maintain procedures for the processing and consideration of requests to destroy fingerprint and photographic records collected for the purpose of identifying suspect and offenders.

[Refer also to policy: [OD080 – Arrests](#)]

### Definitions

CCRTIS – Canadian Criminal Real Time Identification Services. CCRTIS operated by the RCMP).

CPIC – Canadian Police Information Center.

Criminal Code – *Criminal Code of Canada* [RSC 1985, c. C-46].

FPS – Fingerprint Serial Number.

ICA – *Identification of Criminals Act* [RSC 1985, c. I-1].

IntelliBook – An application designed to establish a Criminal Record to represent one subject (subject may then have one or more SID or Booking Records); provides province-wide access to fingerprints and photographs on a single server to police agencies; and enables police agencies to capture electronic fingerprints to submit their Form C-216 to RTID.

JPD – Jurisdictional Police Department.

KO – Known Offender.

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

PRIME – Police Records Information Management Environment.

RTID – Real Time Identification System, which is a criminal records and fingerprint repository operated by the RCMP as part of CCRTIS.

SID – Serial Identification Number, a Booking Record created by IntelliBook.

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

YCJA – *Youth Criminal Justice Act* [SC 2002, c. 1]

Young Person – As defined in the *Youth Criminal Justice Act* (YCJA), a person who is or, in the absence of evidence to the contrary, appears to be twelve years old or older, but less than eighteen years old and, if the context requires, includes any person who is charged under this *Act* with having committed an offence while he or she was a young person or who is found guilty of an offence under this *Act*.

### **Authority**

1. The *Identification of Criminals Act (ICA)* grants authority to obtain fingerprints and photographs of all persons arrested and charged with an offence, which may be proceeded by way of indictment (this includes all indictable and dual procedure offences). Fingerprints are necessary in order to register a conviction for an offence on a person's criminal record.
2. Transit Police use of the PRIME-BC Records Management System and the IntelliBook application is governed by PRIME operational policies and procedures, and any applicable statutory requirements or restrictions.

### **General**

3. There are a number of reasons or circumstances that allow for the taking of fingerprints and photographs; however, in the circumstance of a person charged with an indictable or dual procedure offence, the Transit Police will ensure that the person is properly fingerprinted and photographed, and that these records are processed and retained in a manner consistent with legal procedures and associated systems' protocols.
4. Fingerprints may be obtained from an adult prior to an Information being sworn if the arrested person has provided informed consent to having their fingerprints taken.
5. The Transit Police will maintain procedures for the processing of requests to destroy fingerprints and photographic records collected pursuant to the provisions of the ICA.
6. The Transit Police procedures will be guided by the *ICA*, *Criminal Code of Canada (Criminal Code)* and *Youth Criminal Justice Act (YCJA)* but must additionally consider the policy and procedures of the Jurisdictional Police Department (JPD).
7. Fingerprints and palm prints being taken by Transit Police staff will only be taken by qualified staff.
8. Members will not use force to obtain fingerprints prior to an Information being sworn.

## PROCEDURES

### General

9. When a person is charged (an Information sworn before a Justice) with an indictable or dual procedure offence, whether an adult or young person, they will be fingerprinted and photographed in the first instance, whenever possible.
10. As set out in s. 4, fingerprints may be obtained from an adult prior to an Information being sworn if the arrested person has provided informed consent to have their fingerprints taken. In such cases, Members will utilize the Transit Police consent form (Form OZ290), or in absence of a Transit Police form, the consent form provided by the JPD in the jurisdiction the Members are conducting the investigation.
11. Under ss. 501(3) and 509(5) of the *Criminal Code*, a person who is alleged to have committed an indictable offence, but not yet charged, may be directed to appear at a specific time and place for fingerprints and photographs to be taken.
  - (1) S. 2(1)(c) of the *ICA* permits fingerprints and photographs to be taken if a person has been directed to appear for the purposes of the *ICA* by an Appearance Notice, Promise to Appear (PTA), Recognizance of Bail (Recognizance) or Summons to Appear (Summons).
  - (2) The processes issued by a peace officer, named in s. 11(1) above, must be confirmed by a Justice before:
    - a. charges under s. 145 of the *Criminal Code* can be laid; or
    - b. requesting a warrant to arrest should the accused Fail to Appear as directed for fingerprinting and photographing.
12. Prior to taking fingerprints or photographs under the *ICA*, the Member will ensure that:
  - (1) an Information has been laid charging an indictable (dual procedure) offence; or
  - (2) the person is in custody and has been convicted of the indictable offence for which they are being fingerprinted/photographed; or
  - (3) the person has been directed to appear for fingerprinting/photographing by an Appearance Notice, PTA, Recognizance or Summons, where an Information has been sworn prior to the date returnable; or
  - (4) the allegations against the person support a charge for an indictable (dual procedure) offence:
    - a. and the person has provided informed consent; or
    - b. if the fingerprints form part of the Crown's case against the person for the offence currently under investigation, obtain written consent; or
    - c. if the person explicitly refuses to provide their fingerprints and the Information has not been formally laid, direct the person by way of an

Undertaking to Appear, PTA, Recognizance or Summons at a later date and /or time subsequent to the swearing of an Information.

13. When a person objects to being fingerprinted and an Information has been sworn, the Member will discuss with their Supervisor the appropriate action to be taken, such as use of any force, pursuant to s. 14 of this policy chapter.
14. A peace officer is authorized by the *ICA* to use as much force as is necessary to obtain fingerprints from a person who has been directed to appear for the purposes of the *ICA* in accordance with the *Criminal Code*.

### **Release - Appearance Notice, Promise to Appear (PTA), Recognizance or Summons**

15. Unless otherwise required by law, a Release Appearance Notice should be used as a last resort; the arrested person should be fingerprinted in the first instance.
16. When a Member is releasing a subject from custody, having issued an Appearance Notice, PTA, Recognizance or Summons and directed that person to attend a specific location for the purposes of having their fingerprints and photograph obtained, the Member will consult with their issued reference card to ensure that the subject appears at the JPD at the appropriate location and required time (to be prior to the first appearance in court).
  - (1) The Member is to ensure that:
    - a. the release document provides the JPD address, and date and time to attend;
    - b. the release document is reviewed for accuracy by a Supervisor, where practicable; and
    - c. a copy of the release document is provided to the JPD.
17. When an arrested person is released to appear in New Westminster, and is to be fingerprinted and photographed at a later date, the Member will attempt to have the person come back at a later date on the Member's own shift or make arrangements for someone on another shift to fingerprint the person. The Member is to ensure that a copy of the release document is forwarded to New Westminster Police.
18. When an arrested person is released to appear in jurisdictions other than New Westminster, and is to be fingerprinted and photographed at a later date, the usual practice is that JPD personnel will do the fingerprinting and photographing, unless otherwise notified by the JPD.
19. It is an offence under s. 145(5) of the *Criminal Code*, to fail to attend (without lawful excuse) for the purpose of fingerprinting and photographs if required by the *ICA*. In such cases, the Member will investigate, including taking the following actions:
  - (1) ensure that Crown has not already elected to proceed summarily;
  - (2) confirm with the Support Services Section and the JPD that the accused did not attend for processing when required to do so;

- (3) conduct database queries (i.e., CORNET, JUSTIN, PRIME, CPIC) to ensure that the accused wasn't in custody or deceased, which would have precluded them from complying with the direction to have their prints obtained [seek assistance from Court Liaison in querying those databases in respect of which the Member does not have permission];
  - (4) physically match the General Occurrence (GO) with the PTA or Appearance Notice issued;
  - (5) document the time and location of the Failure To Appear offence; and
  - (6) print out a copy of the accused's 10-29, CNI and Level II.
20. If a determination is made to obtain a warrant for Failing to Comply with Fingerprints and Photographs under s. 145 of the *Criminal Code*, the Member will complete Transit Police Form OZ0750 – Fail to Appear for Fingerprints and a supplemental Report to Crown Counsel (RTCC) and forward through their Supervisor to Court Liaison in the regular manner.
21. Upon arrest of a person for failure to attend for fingerprinting, a Member will immediately, or as soon as practicable, collect the fingerprints and photograph of the person and release the person forthwith (unless detention is required for some other purpose).

### **Consent to Take Fingerprints/Palmprints**

22. Members may obtain fingerprints and palmprints from any person as an investigative aid, providing the person clearly consents in writing to providing the fingerprints, using Transit Police Form OZ280 (or in absence of Form OZ280, the JPD form in which the investigation is being conducted.)
23. Members will advise the person that the fingerprints/palmprints can only be used for the purposes for which consent was given.

### **Obstructing a Police Officer**

24. When a person is arrested for obstructing a police officer under s. 129 of the *Criminal Code*, the Member will:
- (1) transport the person to the nearest available detention facility;
  - (2) obtain prints and forward to the RTID to locate the identity of the person;
  - (3) remand the person in custody until identification is confirmed;
  - (4) consult with the Supervisor on the circumstances and facts on whether to proceed with a charge of obstruction and whether there is a need for the person to be detained, and if not, proceed with the bail process; and

- (5) when proceeding with a charge, complete the Report to Crown Counsel for obstructing a police officer.

### Young Persons – Fingerprints and Photographs

25. Members will follow procedures in Policy Chapter [OD180 – Young Persons](#) regarding arrest of young persons, identification and legal parameters (including the YCJA and ICA).
26. Members may fingerprint, palmprint and photograph all young persons aged twelve to seventeen years inclusive, charged under the YCJA with an offence which may be proceeded with by way of indictment or dual procedure under the *Criminal Code*.

*NOTE: If Members fail to have a young person fingerprinted, a conviction for that offence will not form part of their criminal records.*

27. Members will fingerprint a young person subsequent to an arrest, once an Information has been sworn.

*NOTE: A young person cannot consent to having their prints taken.*

28. Members must obtain the permission of a young person's parent or guardian (or adult of the young person's choice) prior to fingerprinting when the prints are being obtained solely for investigative purposes, and both must also sign the consent form.
29. Members will attempt to fingerprint a young person held in custody, prior to the young person being transported to a Youth Custody Facility. If the young person refuses to provide fingerprints and photograph, Members are not permitted to use force. The young person will be transported to a Youth Custody Facility and returned for fingerprints and photographs after the charge has been laid.

### IntelliBook

30. Members will follow the processing requirements of the IntelliBook application and comply with the policies and procedures of PRIME, CCRTIS and RTID (as well as any specific Transit Police protocols) associated with processing of fingerprinting and photographing of arrested persons.
  - (1) Pursuant to CCRTIS policy, criminal fingerprints must not be submitted by Members to RTID until the Information has been sworn and charges have been formally laid.
  - (2) Once completing fingerprinting of an accused in IntelliBook, the Member will make a notation of the SID in their notebook.
  - (3) When using the IntelliBook application, the records must be reviewed by the designated supervisor (supervisor function assigned to Court Liaison or as otherwise so determined by the Inspector Support Services), who will then approve or reject. Approved records are then submitted to RTID.

**Destruction of Fingerprint and Photographic Records**

31. A person with no criminal history may request the return of their fingerprints and photographs in certain cases. A police department is not required by law to return or destroy lawfully obtained fingerprints or photographs, but may do so at their discretion based on pre-determined conditions.
32. Taking into account all surrounding circumstances, consideration by the Transit Police of requests for destruction will focus on the public interest and the needs of effective law enforcement. Destruction may be considered in the following circumstances:
  - (1) the charge was dismissed, withdrawn, or a stay of proceedings entered by the court, and one year has lapsed since the stay has been entered, and the person is not presently, or reasonably likely to be, subject to other criminal charges;
  - (2) the fingerprints and photographs were taken with consent as an investigative aid and the purpose for which they were taken is fulfilled;
  - (3) there was a decision to utilize alternative measures and the person has successfully fulfilled the requirements, and one year has lapsed since the completion thereof, and the person is not presently, or reasonably likely to be, subject to other criminal charges; or
  - (4) Crown Counsel did not approve the charges and one year has lapsed since the offence date, and the person is not presently, or reasonably likely to be, subject to other criminal charges.
33. Upon an application in writing, the Deputy Chief Officer Operations or designate (designated in writing) may consider destruction of the applicant's fingerprints and photographs taken by the Transit Police or at another JPD for a Transit Police file.
  - (1) If another police department as a result of a joint investigation took the fingerprints and photographs, the applicant will be referred to the police department that obtained the fingerprints and photographs, and Court Liaison will notify that department accordingly.
34. Written requests for destruction received by the Transit Police will be directed to the attention of the Deputy Chief Officer Operations or their designate, who will then forward the request to the person designated to conduct an investigation, which will include, but is not limited to:
  - (1) interview with the original investigating Member(s);
  - (2) determination as to whether the circumstances fall under s. 32 of this policy chapter; and
  - (3) confirmation that the fingerprints were lawfully obtained.

35. Upon completion of the investigation, the designated investigator will submit a report with supporting documentation and recommendations to the Deputy Chief Officer Operations or their designate.
36. Upon review of the investigation report and consultation with legal counsel (if appropriate), the Deputy Chief Officer Operations or their designate will grant or deny the request for destruction.
37. The Deputy Chief Officer Operations or their designate will inform the applicant in writing of the decision (and the reasons for the decision) regarding the request for destruction.
  - (1) A record of the written decision will be retained in the records management system for review and audit purposes.
38. If the request for destruction is granted, the designated records/information person will do the following:
  - (1) obtain the fingerprint records, original photo negatives and any photographic prints or reproductions;
    - a. If the photograph was taken at the JPD for the Transit Police file, contact the JPD to request destruction of any hard copies of the photograph, and confirmation of the action;
  - (2) remove any fingerprint or photographic records from the Support Services Section;
  - (3) follow the procedures through IntelliBook and CPIC to notify CCRTIS of the destruction request and arrange for the records to be electronically purged from the file. [The RCMP will purge the FPS and SID];
  - (4) once any hard copy documents have been received and, where circumstances are contentious, the Deputy Chief Officer Operations or their designate, will contact the applicant and give them the opportunity to be present during the destruction of the hard copy documents (if any exist);
  - (5) have the documents shredded;
  - (6) document on PRIME to reflect the destruction of the records;
  - (7) send a confirmation letter, via registered mail, to the applicant that the fingerprint and photographic records have been destroyed; and
  - (8) all correspondence pertaining to the request for destruction will form part of the Master File, but no copies of the fingerprints/photographs will be retained.



## Fingerprint Records Management

39. The Inspector Support Services will provide oversight of the Transit Police handling of fingerprints and photographic images, including establishing of internal protocols and training on the procedures and requirements for use of the IntelliBook application and associated systems.
40. The Support Services Section will be responsible for the maintenance of fingerprints and photographic images placed into records.

### **Key References**

*Criminal Code of Canada* [RSC 1985, c. C-46]

*Identification of Criminals Act* [RSC 1985, c. I-1]

*Youth Criminal Justice Act* [SC 2002, c. 1]

PRIME - Operational Policy and Procedures, Part 4 Investigative Functionalities, Chapter 4.5 IntelliBook [2016-11-03]

RCMP - Canadian Criminal Real Time Identification Services (CCRTIS) – Policies and Best Practices on Submitting Criminal Record Information to the RCMP (December 2014, page 5)