



TRANSIT POLICE

POLICE WARNINGS

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Reviewed by:
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POLICY

Definitions

Chief Officer – The Transit Police Chief Officer or delegate.

Criminal Code – *Criminal Code of Canada* [RSC 1985, c. C-46], as amended from time to time.

Member – Designated Constable (all ranks), the Chief Officer or a Deputy Chief Officer of the Transit Police.

Metro Vancouver Transit Police (“Transit Police”) – The operating name for the South Coast British Columbia Transportation Authority Police Service.

Transit Police Personnel – The Designated Constables and civilian staff who work for the Transit Police and are employed by TransLink Security Management Ltd.

General

1. All persons must be advised of their Charter rights promptly upon arrest or detention.
2. All arrested or detained persons must be cautioned by means of the appropriate police warning.

PROCEDURES

3. When a Member is investigating a crime, it is appropriate to question any person (suspected or not) from whom the Member thinks useful information may be obtained.
4. If the person questioned is not under arrest or detention, then a voluntary statement obtained during the investigative stage, if the voluntary circumstances are proved, may be admissible, although no warning preceded the statement.

5. In circumstances other than these, Members must use the required Police Warnings.

Charter of Rights

[See also Transit Police Law Letters: [2017 Issue 1 – Right to Counsel](#) and [2018 Issue 1 – Right to Counsel Update](#)]

6. A person must be advised according to Section 10(a) and 10(b) of the Canadian Charter of Rights and Freedoms promptly upon arrest or detention.

Section 10(a)

"I am arresting/detaining you for _____. (*State reason for arrest/detention, including the offence and provide known information about the offence, including date and place.*)"

Section 10(b)

"It is my duty to inform you that you have the right to retain and instruct Counsel in private, without delay. You may call any lawyer you want.

There is a 24 hour telephone service available which provides a legal aid duty lawyer who can give you legal advice in private. This advice is given without charge and the lawyer can explain the Legal Aid Plan to you.

If you wish to contact a legal aid duty lawyer, I can provide you with the telephone number.

Do you understand? Do you want to call a lawyer?"

Supplementary Charter Warning

7. If an arrested or detained person initially indicated that he or she wished to contact legal counsel and then subsequently indicates that he or she no longer wishes to exercise the right to counsel, read the following additional charter warning:

"You have the right to a reasonable opportunity to contact counsel. I am obliged not to take a statement from you or ask you to participate in any process which could provide incriminating evidence until you are certain about whether or not you want to exercise this right.

Do you understand? What do you wish to do?"

Official Warning

8. The purpose of giving official warning is to help establish that a statement was given voluntarily. The following must be used as the official warning:

"You are not obliged to say anything, but anything you do say may be given in evidence."

Secondary Warning

9. The purpose of giving a secondary warning is to remove any prior inducement that may have been made by a police officer. This warning should be used anytime an accused has contact with a police officer from arrest to interview.

"(Name), you are detained with respect to: (reason for detainment). If you have spoken to any police officer (including myself) with respect to this matter, who has offered you any hope of advantage or suggested any fear of prejudice should you speak or refuse to speak with me (us) at this time, it is my duty to warn you that no such offer or suggestion can be of any effect and must not influence you or make you feel compelled to say anything to me (us) for any reason, but anything you do say may be used in evidence."

Written Statement Caution

10. The written statement caution should be included in the conversation leading up to the accused making a written statement. The following written statement caution is be used:

"I have been told by: (investigating officer) that I am not obliged to say anything, but anything I do say may be given in evidence. I understand what this means and I choose to make the following statement."

NOTE: The accused and the investigating Members should sign at the bottom of each page of the statement and at the end of the statement.

[See also Transit Police policies: [OD140 – Statements](#) and [OD240 – Suspect Interviewing – Patrol Based Investigations](#)]

Member's Notes

11. For completeness and to assist accurate recollection, Members should include the following information in their notes and in all Reports To Crown Counsel on the matter:

- (1) Which Member read the rights to the person under arrest or detention;
- (2) Where the rights were read to the person under arrest or detention;
- (3) At what time the rights were read to the person under arrest or detention;

- (4) Identification of all Members present when the rights were read to the person under arrest or detention; and
 - (5) All responses verbal or non-verbal of the person under arrest or detention.
12. Precise and detailed notes must be taken in the Member's notes, as they may be crucial at a later date to justifying the actions of the Member. [Reference Transit Police Policy: [OD040 Notebooks.](#)]
13. A statement, electronically recorded, may be admissible in the initially recorded form.

Obstruction

14. The following warning should be given and, if the person continues to obstruct, they should be arrested and charged with obstructing a peace officer:

"I am a police officer. I am (*explain duty*). If you continue to obstruct me, I will arrest you and charge you with obstructing a police officer."

Controlled Substances

15. The investigating Member should show all controlled substance exhibits to all the accused involved in the case, remembering to keep them at a discrete distance, and then give this warning:

"I suspect this article contains (*type of drug*) and it will be held for analysis. You are going to be charged with (*offence*). You are not obliged to say anything, but anything you do say may be given in evidence."

Compulsory Samples or Tests

16. There must be a clear request to the driver when demanding breath, blood or urine samples, or physical coordination tests. The investigating Member will use the appropriate demand, as follows:

**(1) Approved Screening Device (ASD) Demand
(Suspicion of Alcohol in Body) 320.27 (1) (b)**

"I have reasonable grounds to suspect that you have, within the preceding three hours, operated a conveyance [*namely (pick one) a motor vehicle, a vessel, an aircraft or railway equipment*] with alcohol in your body. In accordance with the provisions of the *Criminal Code*, I hereby demand that you provide a sample of your breath, immediately, suitable for analysis using an approved screening device and to accompany me for the purpose of enabling such samples to be taken.

Do you understand?"

**(2) Approved Screening Device (ASD) Demand
(Mandatory Alcohol Screening) 320.27 (2)**

“In accordance with the provisions of the *Criminal Code* and in the lawful execution of my duty, you are required to provide a sample of your breath into an approved screening device when operating a motor vehicle. I hereby demand that you provide a sample of your breath, immediately, suitable for analysis using an approved screening device and to accompany me for the purpose of enabling such samples to be taken.

(3) Standardized Field Sobriety Test (SFST) Demand 320.27 (1) (a)

“I have reasonable grounds to suspect that you have, within the preceding three hours, operated a conveyance [*namely (pick one) a motor vehicle, a vessel, an aircraft or railway equipment*] with alcohol or a drug in your body. In accordance with the provisions of the *Criminal Code*, I hereby demand that you perform, immediately, physical coordination tests and to accompany me for the purpose of performing such tests.

Do you understand?”

(4) Oral Fluid Demand (Drugs) 320.27 (1) (c)

“I have reasonable grounds to suspect that you have, within the preceding three hours, operated a conveyance [*namely (pick one) a motor vehicle, a vessel, an aircraft or railway equipment*] with a drug in your body. In accordance with the provisions of the *Criminal Code*, I hereby demand that you provide a sample of your bodily substance, immediately, suitable for analysis using approved drug screening equipment and to accompany me for that purpose.

Do you understand?”

(5) Motor Vehicle Act/12 Hour Licence Suspension – s. 90.3 MVA

“I have reasonable grounds to believe:

1. You have alcohol or a prescribed drug in your body

OR

2. You have failed or refused to comply with the demand to provide a sample of your breath or bodily substance that is necessary to enable a proper analysis of your breath or bodily substance to be made by means of an approved screening device or approved drug screening equipment, as applicable.

I therefore direct you to surrender your driver’s license. Your license to drive is now suspended for a period of 12 hours from this time and date.”

(6) Motor Vehicle Act/ 24 Hour Prohibition - s. 215 MVA

"I have reasonable grounds to believe that your ability to drive a motor vehicle is affected by alcohol (or by drug), and I therefore direct you to surrender your driver's license.

You are now prohibited from driving a motor vehicle for a period of 24 hours from this time and date.

(For alcohol, if an ASD test not already administered) You have a right to forthwith request an ASD breath test to determine your blood alcohol level. In the event the test indicates that your blood alcohol level does not exceed 50mg% (50mg% or less), this prohibition from driving is terminated.

(For drug, if a SFST not already administered) You have a right to forthwith request a prescribed physical coordination test. In the event that the test indicates that your ability to drive a motor vehicle is not affected by a drug other than alcohol, and if the peace officer is so satisfied, this prohibition from driving is terminated (no provision for DRE)."

(7) Breath Demand (Alcohol) 320.28 (1) (a) (i)

"I have reasonable grounds to believe that you committed, as a result of the consumption of alcohol, an offence under Section 320 of the *Criminal Code*, and I hereby demand that you provide as soon as is practicable, such samples of your breath that, in the opinion of a qualified technician, are necessary to enable a proper analysis to be made by means of an approved instrument to determine the concentration, if any, of alcohol in your blood and to accompany me for the purpose of enabling such samples to be taken.

Do you understand?"

(8) Blood Demand (Alcohol) 320.28(1) (a) (ii)

"I have reasonable grounds to believe that you committed, as a result of the consumption of alcohol, an offence under Section 320 of the *Criminal Code*, and I hereby demand that you provide as soon as is practicable, such samples of your blood as are necessary to enable a proper analysis to be made to determine the concentration, if any, of alcohol in your blood. Samples of your blood will be taken by a qualified medical practitioner or a qualified technician who is satisfied that the taking of those samples will not endanger your life or health.

Do you understand?"

(9) **Drug Recognition Expert (DRE) Demand 320.28 (2) (a)**

“I have reasonable grounds to believe that you are committing, as a result of the consumption of a drug or a combination of a drug and alcohol, committed an offence under Section 320 of the *Criminal Code*, and I hereby demand that you submit as soon as practicable, to an evaluation conducted by an Evaluating Officer to determine whether your ability to operate a conveyance is impaired by a drug or by a combination of a drug and alcohol, and that you accompany me for this purpose.

Do you understand?”

(10) **Blood Demand (Drugs) 320.28 (2) (b)**

“In accordance with the provisions of the *Criminal Code*, I hereby demand that you provide as soon as practicable, such samples of your blood that will enable a proper analysis to be made to determine your blood drug concentration or your blood alcohol concentration, or both, and to accompany me for the purpose of enabling such samples to be taken. Samples of your blood will be taken by a qualified medical practitioner or a qualified technician who is satisfied that the taking of the samples will not endanger your life or health.

Do you understand?”

(11) **Evaluator Demands (DRE only)**

Bodily Substance

(1) Urine or oral fluid – Section 320.28 (4) (a)

“I demand that you provide as soon as practicable, a sample of your urine (OR oral fluid) that will enable a proper analysis to be made to determine whether you have a drug in your body.

Do you understand?”

OR

(2) Blood – Section 320.28 (4) (b)

“I demand that you provide as soon as practicable, such samples of your blood that will enable a proper analysis to be made to determine whether you have a drug in your body. Blood samples will only be taken by a qualified medical practitioner or a qualified technician who is satisfied that the taking of the samples will not endanger your life or health.

Do you understand?”

Breath - Approved Instrument Demand 320.28 (3)

“As an evaluating officer, I demand that you provide as soon as practicable, a sample of your breath that, in a qualified technician’s opinion, will enable a proper analysis to be made by means of an approved instrument.

Do you understand?”

References:

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

Ministry of Public Safety and Solicitor General – Charter of Rights and Warnings Card – December 18, 2018

R. v. G.T.D., 2018 SCC 7

Transit Police Law Letter – 2017 Issue 1/Right to Counsel

Transit Police Law Letter – 2018 Issue 1/Right to Counsel Update