



TRANSIT POLICE

ARRESTS BY COMMUNITY SAFETY OFFICERS

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POLICY

Definitions

Arrest – “Arrest consists of the actual seizure or touching of a person’s body with a view towards his detention. The mere pronouncing of words of arrest is not an arrest, unless the person sought to be arrested submits to the arresting officer.”²

Note to Reader: The term ‘his’ is used above as it is direct quotation; however, it is recognized that they/them/theirs, she/her/hers, he/him/his will be applicable (in consideration of Equity, Diversity and Inclusion).

BCAS – British Columbia Ambulance Service.

Breach of the Peace – Under the *Criminal Code*, as it relates to s. 30 of the *Criminal Code* for CSOs.

¹ Use **CTRL + HOME** to return to the Table of Contents from anywhere in this document.

² [R. v. Whitfield, \[1970\] S.C.R. 46.](#)

Charter – *Canadian Charter of Rights and Freedom [1982]*.

CSO – Community Safety Officer, a Designated Law Enforcement Officer (“DLEO”) of the South Coast British Columbia Transportation Authority Police Service Designated Law Enforcement Unit (“SCBCTAPS-DLEU”).

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

GO – General Occurrence report in PRIME.

JPD – Jurisdictional Police Department.

Medically Unfit – Ill or injured, with some level of impairment or risk to self and deterioration, this includes questionable consciousness, psychiatric illness and acute alcohol poisoning or drug overdose.

Member – For the purpose of this policy, 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 of the South Coast British Columbia Transportation Authority Police Service (Designated Policing Unit and Designated Law Enforcement Unit).

MHA – The *BC Mental Health Act* [RSBC 1996], c. 288, as amended from time to time.

OCC – The Transit Police Operations Communication Centre.

Offence Act – The *BC Offence Act* [RSBC 1996], c. 338, and the regulations thereto, all as amended from time to time.

Police Act – The *BC Police Act* [RSBC 1996], c. 367, and the regulations thereto, all as amended from time to time.

Restraint – Pursuant to BC Provincial Policing Standards 1.2.3, “any mechanical device or system that when used in its ordinary and intended manner restricts the normal physical activity of range of motion of an individual in part or in whole”.

Supervisor – For the purpose of this policy, any Member assigned the responsibility and authority to supervise CSOs, and Transit Police Members and civilian professionals.

Transit Police Personnel – The sworn members and civilian professionals at the Transit Police.

Authority

1. CSOs will undertake arrests in compliance with the provisions of the *Criminal Code*, *Canadian Charter of Rights and Freedoms* (“*Charter*”), BC Provincial Policing Standards (“BCPPS”), other legislation³, case law and Transit Police policy.

General

2. CSOs have a duty to enforce the *Greater Vancouver Transit Conduct and Safety Regulation* (“GVTCTCR”) and the *Fare Collection Regulation*, and to take action under s. 494 of the *Criminal Code*. Discretion is an essential feature of the criminal justice system and CSOs necessarily exercise discretion, on the basis of law and the public interest.
3. Detaining, arresting and processing persons will be performed in accordance with the law and Transit Police policies, and CSOs are responsible for understanding applicable statutes and the scope of the law in relation to their legislative authority.
 - (1) It is the duty of all Transit Police Personnel to deliver services impartially and equitably, in a manner that upholds human rights, and without discrimination based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, gender identity and expression, political beliefs, types of employment, economic or social standing. Further, it is the Transit Police’s commitment and expectation that all Transit Police staff will provide services in a culturally safe, responsive and trauma-informed manner [BCPPS 6.1.1(1) and (2)].
4. CSOs may not temporarily detain persons (“investigative detention”) based upon reasonable cause to suspect. This does not apply to temporarily detaining a person for the purpose of enforcing the GVTCTCR or conducting fare enforcement, which are not considered ‘detention’.
5. All persons must be advised of their Charter rights promptly upon arrest under s. 494 of the *Criminal Code*. Sections 10(a) and 10(b) of the Charter are legal requirements when arresting a person. All arrested persons must be cautioned by means of the Official Warning. (Refer to [Transit Police policy chapter OD170 – Police Warnings.](#))
 - (1) CSOs will advise the arrested person as per the Charter of Rights card ([TP Form OZ1330](#)) provided for CSO use only.
 - (2) CSOs will provide the Official Warning (Statement Caution) but will not attempt to obtain any information from the arrested person.
 - (3) Any spontaneous utterance implying guilt, made to a CSO by a person before being cautioned, is required to be recorded in the CSO’s notebook at the earliest

³ This includes Order of the Lieutenant Governor in Council No. 586 - 2022 which approves the application for the establishment of the SCBCTAPS-DLEU (includes mandate and authorities of a DLEO).

opportunity, to the best of the CSO's recollection, and "in quotations" if able to be accurately recalled.

NOTE: The Charter guarantees the protection of every person against arbitrary detention. If effecting an arrest, the CSO should consider that an arresting officer is protected in an arrest only as long as the grounds for arrest remain valid.

6. Prisoners in police custody are vulnerable and entirely dependent on the police to obtain medical assistance for them. CSOs are responsible for the well-being and protection of persons in their direct custody, and must ensure that a person in custody receives appropriate medical assistance. Arrests of an Medically Unfit or injured person will be handled as set forth in this policy chapter.
7. The arrest of young persons will be conducted in the same manner as adults. (Refer also to Transit Police policy chapters [OD180 – Young Persons](#) and [OH080 – Restraints](#) for additional guidance.)

PROCEDURES

Conducting an Arrest

8. A CSO who arrests a person will:
 - (1) Identify themselves as a Transit Enforcement Officer⁴;
 - (2) Inform the person they are being arrested;
 - (3) Inform the person the reason for the arrest;
 - (4) Advise the arrested person of their right to retain and instruct counsel pursuant to s. 10(a)(b) of the *Charter*. CSOs are to refer to the [CSO Charter Card](#) and also provide any additional advisements that may be legally required in the circumstances; and
 - (5) Take physical custody of the person (this will include physical search of the person, and handcuffing where the circumstances warrant it, taking into account safety of the CSOs, police officers, the public or the person (refer to Transit Police policy chapters [OI010 – Prisoner Care, Control and Transportation](#) and [OH080 - Restraints](#))).
 - a. In any case where there is a danger of train contact, the CSO should contact a Supervisor to possibly request a train hold.
9. CSOs will request the attendance of a Member, via the Operations Communication Centre ("OCC"), and then turn custody of the arrested person over to a Member (or

⁴ Transit Police Executive determined that this identification would be used for simplicity with the public. A Transit Enforcement Officer is formally a Designated Law Enforcement Officer pursuant to Part 3.1: Division 2 of the Police Act.

JPD police officer as applicable), as soon as practicable as per s. 494(3) of the *Criminal Code*.

10. CSOs will follow provisions of Transit Police policy chapters OD120 – Search and OI010 – Prisoner Care, Control and Transportation for conducting of searches incidental to arrest.

- (1) Transit Police recognizes the many diverse cultures and religions that co-exist in the Transportation Service Region, each with unique customs, beliefs and traditions. This may include wearing special garments, carrying cultural or religious artifacts, or observing traditional ceremonies or practices. In the course of their duties, CSOs may be required to search arrested persons in possession of cultural, religious or spiritual items. These items may pose unique considerations for CSOs when balancing the need to ensure safety and enforce the law, with preserving the person's dignity and respecting the sanctity of their culture. CSOs should be cognizant that the manner of handling certain significant items may cause offense or compromise the sanctity of the item and steps can be taken to observe cultural sensitivities.

As with any search of a person, officer and public safety is paramount during a search of a person, the CSO is to conduct the search in the least intrusive means required to fulfil their CSO duties. When CSOs are required to search clothing or items of religious significance, they are to refer to Appendix "A" of policy chapter OD120 – Search for guidance on Cultural Considerations in Searches of a Person. [BCPPS 6.1.1(6)]

11. CSOs will only conduct searches of a person incidental to lawful arrest. The valid objectives of the search incidental to a lawful arrest include:
 - (1) Ensuring the safety of the CSO, attending police officers and the public;
 - (2) Discovery of items to aid in escape; and
 - (3) The discovery of evidence related to the arrest, which can be used at the arrested person's trial.
12. While a search incidental to lawful arrest may include anything within the person's control and that is incidental to the offence, the searching of such items will be conducted by the attending police officer.
13. CSOs will not transport arrested persons or assist in the booking process of in-custodies unless authorized by a Supervisor and the CSO is accompanied by a Member (e.g., due to operational necessity).
14. Whenever a CSOs is involved with an arrest or breach of a person, the CSO will submit a detailed General Occurrence Report ("GO") in PRIME, prior to the completion of their shift.

Charter Warnings

15. When arresting a person, CSOs will refer to policy chapter Transit Police policy chapter OD170 – Police Warnings and information that is to be contained in the CSOs notes. CSOs will use the CSO Charter Card (Form OZ1330) to provide the Charter Rights and Official Warning to the arrested person.
16. If there are indicators that the arrested person does not understand their rights to counsel (e.g., language barrier, cognitive capabilities, intoxication or other circumstance that may impact a person's understanding), the CSO must take steps to facilitate that understanding. This may include utilizing a translation service, canvassing for another CSO or police officer who is proficient in the language, or having the person explain to the CSO their understanding of their rights to counsel. CSOs will document in their notebook all reasonable steps taken to reasonably ensure that the person understands their rights.
17. CSOs will advise the arrested person that they will be turned over to the custody of a police officer as soon as practicable and that the police officer will facilitate the contact with counsel. The CSOs will not provide access to counsel roadside and will not engage in any offence-related questioning of the person.

Warrant

18. CSOs will not arrest persons solely for an outstanding warrant.
19. If, during the course of issuing a Violation Ticket under the GVTTCR or conducting fare enforcement, it is discovered that a warrant exists for the person being queried, the OCC will dispatch Members to attend. The person may only be detained for a reasonable amount of time to complete the legal process of issuing a Violation Ticket or Fare Infraction Notice and may not be detained for the purposes of effecting an arrest.

Breach of Peace

20. CSOs may take action pursuant to s. 30 of the *Criminal Code* when there is a Breach of the Peace. For the purpose of s. 30 of the *Criminal Code*, a Breach of the Peace has been defined by the courts as an act or actions which result in actual or threatened harm to someone (also known as having a "tenor of violence"), or where a threat of harm against a person's property occurs when the person who owns the property is present.
 - (1) CSOs are not considered to be peace officers for the purpose of s. 31 of the *Criminal Code* – Arrest for Breach of the Peace. Accordingly, CSOs cannot arrest, or receive into their custody any person having been a party to a Breach of the Peace as set out in s. 31(2) of the *Criminal Code*.
21. Prior to detaining for Breach of Peace, CSOs will contact their Supervisor, or request the attendance of Members, if practicable.

22. Rather than detaining for Breach of the Peace, CSOs will also consider an arrest for a substantive criminal offence if the necessary elements are present, such as 'Cause a Disturbance'.
23. CSOs have a duty of care to the person they have detained. CSOs will consider the person's safety and well-being with respect to that person's removal from a scene while they await police arrival. If a CSO detains a person for Breach of the Peace, all decisions regarding the incarceration or release of the person will be made by their Supervisor.

Breach of Conditions (Undertaking, Release Order, Probation)

24. If, during the course of issuing a Violation Ticket or conducting fare enforcement, it is discovered that enforceable conditions exist for the person being queried, CSOs may arrest for Breach of Conditions (under s. 494(1) of the *Criminal Code*), so long as the condition does not require further investigation to confirm the breach.
25. In events where CSOs make arrests for Breach of Conditions, they will follow procedures for Conducting Arrests, as described in this policy chapter.

Hold Intoxication in a Public Place ("H/SIPP")

26. When responding to a report of an intoxicated person (or on view), CSOs will assess whether that person is intoxicated by liquor, or by drugs, or is being affected by a medical condition, and whether the person is able to care for themselves.
 - (1) CSOs will be mindful that, as a society, persons who have consumed liquor or drugs are encouraged to not drive and to utilize other modes of transportation, including public transit. Accordingly, Transit Police adopts a reasonable approach to intoxicated persons on the transit system and only takes enforcement action on those persons who are causing problems or are unable to care for themselves. When CSOs or Members take custody of intoxicated persons, the CSOs and Members are charged with their care.⁵ CSOs and Members must not only assess a person's general state of intoxication but also their state of intoxication relative to the transit environment (i.e., escalators, elevators and platforms within a light rail station, and moving train).
27. CSOs are not defined as peace officers for the purpose of enforcing the *Liquor Control and Licensing Act*, or the *Offence Act*, to deal with intoxicated persons, and should request the attendance of Members, where practicable.
28. In situations where immediate intervention is warranted, CSOs may look to using the TransLink rule "No conduct contrary to public order" as a means to engage; or common law duty to protect life if the person's behaviour is putting them at risk.

⁵ Police officers have a duty to the public to take reasonable efforts to protect those they come into contact with, and regardless of whether individuals are suspects or simply members of the public, a duty of care exists ([McLellan v. Canada](#), [2022] B.C.J. No. 2716)
South Coast British Columbia Transportation Authority Police Service Policies and Procedures Manual

Additionally, CSOs may consider an arrest for Cause Disturbance by being intoxicated if the requisite elements are present.

Violent Behaviour - Intoxicated Person

29. CSOs will consider other more appropriate charges when dealing with intoxicated persons displaying violent behavior. This may result in the arrest for a substantive criminal charge if requisite elements are present.

Arrest of Injured Person

30. CSOs will ensure that they notify a Supervisor and the OCC if any persons they arrest have questionable medical risks, or who are suffering from any of the following conditions. The OCC, in coordination with the Supervisor, will arrange for transport of the person directly to a hospital by BCAS for examination by a Qualified Medical Practitioner:

- (1) Unconsciousness or Questionable Consciousness;
- (2) Intoxication by drug or alcohol to the degree that the individual is incapable of making a rational decision with respect to medical treatment;
- (3) Possible fractures, dislocations, head injury or head trauma;
- (4) Cuts or lacerations requiring stitches;
- (5) Dog bites; and
- (6) Suspected of ingesting anything that could cause them harm.

31. Where any of the aforementioned conditions exist, the attending Member will not release the person from custody until such time the person has received appropriate medical attention. The Member will ensure that the person is cleared for incarceration by a Qualified Medical Practitioner.

[NOTE: Members will follow Transit Police policy chapter OD080 – Arrests regarding situations of a Medically Unfit or injured person and Member responsibilities.]

Reportable Matters

32. CSOs will comply with notification requirements for reportable matters (e.g., injuries) to the Office of the Police Complaint Commissioner and Independent Investigations Office, as set forth in the Transit Police policy chapters OH070 - Independent Investigations Office and AC140 – Complaints.

Release Post-Arrest

33. CSOs have no ability to release an arrested person but must deliver that person forthwith to a peace (police) officer.

Mental Health Act (“MHA”)

34. CSOs are not defined as peace officers for the purposes of apprehending people under the *MHA*.
- (1) It is recognized that, in their duties, CSOs will encounter persons and/or whose behavior results in a call for service, who are primarily in need of community support and not enforcement. Ever mindful of a duty to protect life and property, the safety of the individual, the public, our CSOs and Members remains the police service’s first priority in every situation. Accordingly, CSOs will utilize de-escalation/crisis intervention tactics and direct their efforts to understand and assess the unique circumstances presented to them and, where appropriate to the situation, seek the assistance of the Mental Health Liaison and/or Members to help connect individuals with the appropriate community/social services and/or address a situation. (Refer also to SOP02 – Persons in Crisis.)
35. A CSO may engage (or continue to engage on behalf of Members if rapport has been established) with a person who meets the criteria for an s. 28 of the *MHA* apprehension and assist in providing information to Members who may make the determination that an apprehension would be appropriate in the circumstances.
36. CSOs may not guard or take responsibility of an apprehended person under s. 28 (or Forms 4, 10 and 21) of the *MHA* while waiting for a medical assessment or certification.

Arrest of Gender Diverse Person

37. CSOs will address and treat gender diverse adults and youth in a manner that complies fully with legal requirements and addresses the specific needs of gender diverse persons (including the risk of harassment or harm).⁶ The detention or arrest of gender diverse persons will be conducted in accordance with this policy, Transit Police policy chapter OI010 – Prisoner Care, Control and Transportation and SOP88 – Interactions with Gender Diverse Persons.

References:

BC Provincial Policing Standards

CSO Charter of Rights Card

Order of the Lieutenant Governor in Council No. 586 – 2022 approved application for the establishment of the Designated Law Enforcement Unit

Transit Police Policy AC140 – Complaints

Transit Police Policy OD120 – Search

Transit Police Policy OD170 – Police Warnings

Transit Police Policy OH070 - Independent Investigations Office

Transit Police Policy OH080 - Restraints

Transit Police Policy OI010 – Prisoner Care, Control and Transportation

⁶ See [Dawson v. Vancouver Police Board \(No. 2\) 2015 BCHRT 54 \(CanLII\)](#).

Transit Police SOP02 – Persons in Crisis

Transit Police SOP88 – Interactions with Gender Diverse Persons