



<b>Policy Name:</b>	<b>ARREST AND DETENTION</b>		
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**RELATED POLICIES**

*OP 2.1 Use of Force*

*OP 2.4 IIO Notification*

*OP 3.1.1 Handcuffing a Person*

*OP 3.2 Searches of a Person*

*OP 4.45 Street Checks – Bias Free Policing*

**1. PURPOSE**

- 1.1. To ensure that when Surrey Police Service (SPS) Members arrest or detain a person, they do so in accordance with the law, and Members understand applicable statutes and the scope of the law.
- 1.2. To promote a policing model absent of any practice, or the perception of a practice, of detaining persons unless Members have reasonable cause to suspect the person is implicated in the commission of a specific criminal offence under investigation.
- 1.3. To promote bias-free policing, and reliance on discernable reasonable suspicion with respect to any investigative engagement with persons or any detention or prospective detention.
- 1.4. To provide Members with an appreciation that Indigenous persons are affected by unique and discriminatory circumstances that have resulted in their overrepresentation in the criminal justice system. The SPS seeks to contribute to changing that overrepresentation.
- 1.5. To provide instructive information for Members when encountering uncommon situations involving arrest and detention.

## 2. SCOPE

2.1. This policy applies to all SPS Members

## 3. POLICY

3.1. Police have a common law and statutory duty to investigate crimes and enforce the law, particularly the criminal law; however, discretion is an essential feature of the criminal justice system, and police necessarily exercise discretion, on the basis of the law, the severity of the alleged offence, and the public interest, in deciding whether to arrest and recommend a charge or swear an Information.

3.2. Detaining and arresting individuals shall be performed in accordance with the law, and Members are responsible for understanding applicable federal and provincial statutes and the scope of the law.

3.3. Members may temporarily detain persons as an “Investigative Detention” only if objectively discernible facts give the Member reasonable cause to suspect the person is implicated in the commission of a specific criminal offence under investigation. Members must ensure that decisions about arrest and detention are evidence-based and free of bias.

3.4. Specific to incidents involving Indigenous persons, Members must consider the following public interest factors when exercising discretion to arrest and recommend prosecution:

- i. the overrepresentation of Indigenous females as victims of violent offences, as weighing in favour of arrest and seeking prosecution of the alleged offender; and
- ii. weighing against arrest and seeking prosecution of the alleged offender:
  - a. SPS support for reducing the overrepresentation of Indigenous persons in the criminal justice system;
  - b. bias, racism, or systemic discrimination that may have played a part in a person coming into police contact; and
  - c. whether the public interest has been or can be served without detention or arrest, including through restorative justice methods, alternative measures, Indigenous community justice practices, or administrative or civil processes.

## 4. PROCEDURE

4.1. If a Reportable Injury occurs as a result of an arrest or detention, Members must comply with reporting requirements in SPS Policy OP 2.4 – *IIO Notification*.

### **Arrest – Without Warrant**

4.2. Under s. 495(1) *Criminal Code*, a Member may arrest without warrant:

- i. a person who has committed an indictable offence or who, on reasonable grounds, the Member believes has committed or is about to commit an indictable offence;
- ii. a person whom the Member finds committing a criminal offence; or
- iii. a person whom the Member has reasonable grounds to believe that a warrant of arrest or committal, is in force within the territorial jurisdiction in which the person is found.

4.3. Under the *Motor Vehicle Act* (MVA), a Member may arrest without warrant a person found committing these offences:

- i. “No Insurance” s. 24(3)(b) MVA;
- ii. “Hit and Run” s. 68 MVA; and
- iii. “Drive While Prohibited” s. 95 and s. 102 MVA.

4.4. Under the *Liquor Control and Licensing Act* (LCLA), a Member may arrest without warrant a person found committing an offence under the following:

- i. “Remain in a Licensed Premises After Being Requested to Leave” s. 61(4)(a) LCLA;
- ii. “Enter a Licensed Premises Within 24 hours After Being Requested to Leave” s. 61(4)(b) LCLA;
- iii. “Possess a Knife or Weapon in a Licensed Premises” s. 61(4)(C) LCLA; and
- iv. “State of Intoxication in a Public Place” s. 74(2) LCLA (See s. 4.25 below)

4.5. Despite the powers of arrest described in 4.2, 4.3, and 4.4, a Member shall not arrest a person without warrant for:

- i. an indictable offence mentioned in s. 553 *Criminal Code*;
- ii. an offence for which the person may be prosecuted by indictment or for which they are punishable on summary conviction;
- iii. an offence punishable on summary conviction;

in any case where

- iv. the Member believes on reasonable grounds that public interest is met having regard to all the circumstances including the need to:
  - a. establish the identity of the person;
  - b. secure or preserve evidence of or relating to the offence; or
  - c. prevent the continuation or repetition of the offence or the commission of another offence;

may be satisfied without so arresting the person; and

- v. the Member has no reasonable grounds to believe that, if the Member does not arrest the person, the person will fail to attend court in order to be dealt with according to law.

4.6. Under s. 495.1 *Criminal Code*, a Member may also arrest a person without warrant if the Member has reasonable grounds to believe that an accused has contravened or is about to contravene a

summons, appearance notice, undertaking or release order that was issued or given to the accused or entered into by the accused.

#### **Arrest – With Warrant**

4.7. A Member making an arrest pursuant to a warrant is required by s. 29 *Criminal Code* to:

- i. have the warrant in their possession, if feasible to do so, and produce the warrant when requested; and
- ii. serve notice of the warrant on person being arrested, where feasible to do so, and advise the person of the reason for the arrest.

4.8. A Member who arrests a person on an unendorsed warrant does not have the discretion for a Member to subsequently release the person on police-issued processes. The person must be transported to the Surrey Cell Block and appear before a Justice before release.

4.9. A Member who arrests a person based on a warrant referenced on CPIC must confirm that the person arrested is the person named on CPIC and seek confirmation that the warrant on CPIC is valid by contacting the agency that entered the warrant and requesting confirmation. If it is an SPS warrant, confirm the warrant through the Operational Communications Centre (OCC).

4.10. A person arrested by a Member on the basis of a warrant endorsed by a Justice, may be released by the Member's Supervisor under the conditions also available for the release of persons arrested without a warrant, if the release conditions in section 498 *Criminal Code* are satisfied.

4.11. A Member requiring an arrested person to remain in custody must transport the person to the Surrey Cell Block.

4.12. A Member who detains or arrests a person shall:

- i. clearly identify themselves as a police officer;
- ii. tell the person that they are being detained or arrested;
- iii. tell the person of the reason for being detained or arrested, and their right to retain and instruct counsel without delay, as required by the *Canadian Charter of Rights and Freedoms* ("Charter");
- iv. provide any additional notifications from the Charter Card or as may legally be required (e.g., "Breath Demand"), and
- v. take physical custody of the person.

4.13. Where there is an indication that the person does not understand their right to legal counsel (e.g., due to a language barrier, intoxication, level of development or other circumstances that may limit a person's understanding), a Member must take reasonable steps to ensure the necessary understanding.

4.14. A Member arresting a person shall:

- i. notify OCC that the Member has a person in custody, their location, and the offence involved;
- ii. notify their Supervisor whether the person is to be released or remain in custody;
- iii. if the person is to remain in custody, have the person transported to the Surrey Cell Block; and
- iv. ensure access to legal counsel in private is provided.

#### **Arrest in Another Jurisdiction**

4.15. Members who are planning an arrest in another jurisdiction must ensure that the OCC or E-Comm responsible for that jurisdiction is notified in advance and shall provide the date, approximate time and location of the planned arrest.

4.16. A Member who arrests a person in another jurisdiction shall:

- i. notify the police of jurisdiction via that jurisdiction's OCC or E-Comm as soon as practicable; and
- ii. notify their Supervisor as soon as practicable

#### **Arrest – Off Duty**

4.17. A Member who arrests a person while off-duty, shall:

- i. tell the person that they are a police officer when it is safe for the Member and as soon as reasonably practicable to do so;
- ii. notify the police of jurisdiction via that jurisdiction's OCC or E-Comm as soon as practicable that an SPS Member has made an off-duty arrest and to have the police of jurisdiction attend; and
- iii. notify their Supervisor as soon as reasonably practicable.

#### **Arrest – Obstruct Peace Officer**

4.18. A Member intending to arrest a person for obstructing a peace officer, in accordance with s.129 *Criminal Code*, must, unless circumstances exist to make such action unsafe, first:

- i. tell the person that, if they continue to obstruct, they may be arrested and charged with obstructing a peace officer; and
- ii. explain to the person the Member's specific duty that the person is obstructing.

#### **Arrest – Breach of Peace**

4.19. A Member may arrest a person for breaching the peace under s. 31 *Criminal Code* if the Member observes the person in public causing, or reasonably believes the person will cause:

- i. violence or other imminent harm to another person;
- ii. harm to another person's property, in that person's presence; or

- iii. another person to be in fear of being imminently harmed through an assault, unlawful assembly, riot or other disturbance.

4.20. Members shall not arrest a person for breaching the peace under s. 31 *Criminal Code* where the person is inside their personal residence and the public is not being disturbed. Other offences may have occurred, which may authorize the Member to arrest the person.

4.21. A Member arresting a person for Breach of the Peace must tell the person of their actions substantiating the breach and tell them about their right to retain and instruct legal counsel, as required by the *Charter*.

4.22. Members arresting a person for Breach of the Peace are not required to transport the person to Surrey Cell Block if the person's removal from the scene, or the departure of others from the scene, is sufficient to re-establish the peace, but in all instances of a Breach of Peace arrest, the Member must inform their Supervisor. The Supervisor:

- i. has the final decision whether transport to Surrey Cell Block is necessary; and
- ii. if the person is to be released, must approve the place of release, such that the release location does not place the person at risk, nor create any undue hardship or inconvenience for the person.

4.23. When a Supervisor authorizes the Breach of Peace arrest and it is determined that continued detention is necessary, that person shall be transported to the Surrey Cell Block, where they will be reassessed by the Surrey Cell Block Supervisor upon arrival.

4.24. When a person is arrested for an apprehended or witnessed Breach of the Peace, the arresting Member shall submit a detailed General Occurrence (GO) report prior to the completion of their shift. The GO report shall include the following:

- i. Narrative of event (detailed synopsis will suffice);
- ii. Reasons and authority (*Criminal Code* or Common Law) for arrest;
- iii. Name of the authorizing Supervisor;
- iv. Disposition of the arrested party;
- v. UCR code 8350-0 (Breach of Peace); and
- vi. The GO will be routed to the arresting Member's Supervisor.

#### **Arrest – State of Intoxication Public Place (SIPP)**

4.25. Under s. 74(2) LCLA, a Member may only arrest a person for SIPP, if the Member has reasonable grounds to believe:

- i. the person is in a public place and intoxicated by alcohol and / or drugs such that the person is a danger to themselves, others or is causing a disturbance; and

- ii. has inquired as to, and given consideration to, any medical condition the person may be experiencing as a result of trauma or medication and consulted with their Supervisor with respect to medical examination of the person.

4.26. A Member arresting a person for SIPP must tell the person of the reason for being arrested, and their *Charter* right to retain and instruct legal counsel.

4.27. A Member must grant a person arrested for SIPP access to legal counsel, unless there are reasonable grounds to deny the request (e.g., the person is unable to move safely, there is a potential for violence or there exists an inability to understand), and any denial of access to legal counsel and the reasons must be documented.

4.28. Persons apprehended for SIPP and taken to the Surrey Cell Block are to be released by the Surrey Cell Block Supervisor:

- i. into their own care, when their sobriety is at a level that the Supervisor reasonably believes they are no longer a danger to themselves and able to care for themselves; or
- ii. into the care of another adult, if the Supervisor has reasonable grounds to believe the other adult is willing and capable of taking care and charge of the person.

#### **SIPP Arrest - Young Persons**

4.29. Young persons (i.e., persons 12 years of age but not yet 18 years of age) arrested for SIPP may only be transported to Surrey Cell Block as a last resort and only if:

- i. all efforts to contact a parent or guardian, and to transfer the young person into their custody are unsuccessful and have been documented; and
- ii. no other adult in the immediate vicinity is able and willing to take custody of the young person.

4.30. A Member arresting a young person must provide the same *Charter* rights as for an adult, and the young person shall be released as soon as they are no longer a danger to themselves and able to care for themselves, or an adult is willing and capable of taking care and charge of the young person.

4.31. Where a young person is to be released after arrest, and previous efforts to contact a parent or guardian were unsuccessful, all reasonable efforts to contact a parent or guardian must again be made prior to release.

4.32. If contact with a parent or guardian cannot be made prior to the release of a young person, the release shall not be delayed unless there is a concern for the safety of the young person.

4.33. If there is a concern for the safety of the young person and a parent or guardian cannot be contacted, the Ministry of Children and Family Development must be contacted to arrange a safe

location for the young person and the young person is not to be released until such arrangements have been made.

- 4.34. The arrest of young persons will be conducted in the same manner as adults while complying with the additional obligations imposed by the *Youth Criminal Justice Act* specific to statements, detention, release, records, notification and discharge. Refer to related Policy OP 4.52 - Young Persons. See also the *Youth Justice Act* (BC) for violation tickets to young persons for offences under provincial statutes.

#### **Mass or Group Arrests**

- 4.35. The Superintendent, Community Policing Bureau, shall direct that an Operational Plan be prepared specific to any event that could result in the simultaneous arrest of numerous persons.
- 4.36. The Supervising NCO shall inform the Duty Officer of any situations arising that may require the simultaneous arrest of numerous persons.
- 4.37. The Duty Officer shall authorize call-outs and/or request policing assistance from other jurisdictions, as determined by the Duty Officer to be required to assist in the possible need to simultaneously arrest numerous persons.
- 4.38. The Duty Officer may authorize and direct that events that could result in the multiple arrest situations, be video or photo recorded for public safety or investigative purposes, including the use of body-worn cameras.

#### **Arrest on behalf of other Agencies**

- 4.39. A Member may arrest a person on behalf of another police agency if reasonable grounds for the arrest exist. The Member must immediately escort the person to the police agency requesting the arrest or hold the person in custody at the Surrey Cell Block while awaiting immediate escort by the other police agency unless the person is to be processed at the Surrey Cell Block for remand or release.

#### **Arrest – Armed Forces Personnel**

- 4.40. The Duty Officer may, where appropriate, notify the Military Police Supervisor at the Canadian Armed Forces Area Support Unit when a person employed by the Canadian Armed Forces or by a foreign military is arrested and charged with an offence. If required, notify the Surrey Cell Block Duty Sergeant of the person coming into the cell block.
- 4.41. If an employee of the Canadian Armed Forces or a foreign military is arrested, but not charged, the Duty Supervisor shall consider the public interest in determining whether to notify the Military Police Supervisor at the Canadian Armed Forces Area Support Unit of the arrest.
- 4.42. A Member who arrests a person employed by a foreign military and recommends charges must advise Crown Counsel of the person's country of citizenship, military status, serial number, unit



and station, to allow Crown to determine the applicable criminal process, in light of international prosecution agreements.

**Arrest – Immigration and Refugee Protection Act**

4.43. A Member who arrests a person on the basis of an immigration warrant shall ensure that the federal Immigration Division is contacted as soon as practicable (if the Immigration Duty Officer cannot be contacted, immediate assistance can be obtained through Canada Border Services Agency Integrated Support Unit (telephone: 604-666-8355), and the person arrested is not required, during their confinement, to be brought before a Justice in criminal courts, unless also charged with a criminal offence.

4.44. The *Immigration and Refugee Protection Act* does not give Members the authority to require a person to submit to fingerprints, but SPS Members and staff may fingerprint persons for purposes authorized by the Act, with the person's informed consent. Members cannot use force in obtaining fingerprints for this purpose.

4.45. Where a permanent resident or foreign national is arrested for an offence, other than an offence under the *Immigration and Refugee Protection Act*, the arresting Member shall process the person in accordance with normal criminal procedures and also notify the Immigration Division.

**Arrest – Merchant Sailors**

4.46. When a foreign national who is a crew member of a ship in harbour is arrested, the Duty Officer shall notify the ship's captain of the arrest, if the crew member:

- i. is being charged and not to be released by police; or
- ii. is charged and released, and the Duty Officer, deems it in the interests of the safety of the captain and crew, in light of the nature of the alleged offence.

**Arrest – Diplomatic Immunity**

4.47. Accredited Ambassadors, their families, and members of their staff are granted immunity from prosecution. However, if their actions endanger the public safety, they can be restrained. Similar privileges are granted, with the same limitation, to members of the North Atlantic Treaty Organization and to United Nations Agencies. Consular Officers may have immunity in limited circumstances, depending on the nature of the offence and the duties the official was engaged in.

4.48. Members conducting an investigation involving an Ambassador, Consular Officer, or members of the family or staff of such person, shall:

- i. immediately notify a Supervisor;
- ii. fully investigate the incident; and
- iii. notify the Duty Officer through their Supervisor of the incident.

- 4.49. The Duty Officer must pre-approve detentions of persons with diplomatic or consular immunity in the Surrey Cell Block
- 4.50. The Member shall complete a GO report and route a copy to the Duty Officer. The Duty Officer shall forward the report to the Chief Constable.
- 4.51. The Chief Constable or delegate shall retain responsibility for notifying all Embassies, Consulates General, Consulates and Global Affairs Canada (telephone: 613-996-8885) regarding the details of any investigation.
- 4.52. If the home country of a Diplomat or members of the family or staff of that person waives diplomatic / consular immunity, a charge may be prosecuted in Canada. Where charges are requested against a Diplomat or a member of their staff or family, the Police/Crown Liaison Unit shall notify Regional Crown Counsel of the circumstances of the case at their earliest opportunity during normal office hours.

#### **Arrest – Foreign National**

- 4.53. In accordance with the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, when a foreign national is arrested, imprisoned or otherwise detained, the arresting Member, in addition to requirements under s. 10 (a) and (b) of the *Charter*, shall:
- i. tell the person of their right to contact their Embassy, Consulate General or Consulate by telephone ; and
  - ii. facilitate the phone call to the Embassy, Consulate General or Consulate if the arrested party so desires.

#### **Arrest – Police Officer**

- 4.54. When a police officer, including an SPS Member, is arrested, the arresting Member must immediately notify their Supervisor.
- 4.55. The Supervisor must immediately notify the Duty Officer.
- 4.56. If the person arrested is an SPS Member, the Duty Officer must:
- i. attend the scene, if in Surrey and it is practicable to attend;
  - ii. if the arrest occurred in another jurisdiction, consult the Duty Officer or senior officer from the police of jurisdiction that has conduct of the investigation and determine whether an SPS Supervisor is required to attend;
  - iii. notify the Inspector, Professional Standards Section;
  - iv. notify the Chief Constable, via the chain-of-command; and
  - v. notify the Inspector, Employee Services Section, who must inform the Surrey Police Union, if applicable, and the Wellness Unit to ensure the Member is supported.

4.57. If an SPS Member is arrested in another jurisdiction, SPS Members must not attend the scene or the arrested Member's current location unless specifically directed to by the Duty Officer or Inspector, Employee Services Section.

4.58. When advised that a police officer from another police service has been arrested, the Duty Officer shall notify the Deputy Chief Constable and the Duty Officer or Watch Commander of the arrested Member's police service, if the grounds for the arrest could constitute "misconduct" as defined in the *Police Act*.

#### **Arrest – Municipal Bylaw / Provincial Statute**

4.59. In relation to a municipal bylaw or provincial statutory offence without an arrest provision, a person may be detained for the purposes of identification and initiating process, but may not be arrested, unless the Member has reasonable grounds to believe the person committed the offence and the person refuses to identify themselves and thereby obstructs a Member's investigation.

#### **Apprehension – Mental Health Act**

4.60. A Member may apprehend a person under s. 28 *Mental Health Act* (MHA) when the Member is satisfied from personal observations, or information received from a recent and credible source, that the person:

- i. Is acting in a manner likely to endanger that person's own safety or the safety of others, and
- ii. Is apparently a person with a mental disorder.

4.61. Apprehensions under the MHA should occur primarily when a Member comes into contact with a person who meets the criteria for apprehension and the person has not committed a criminal offence. There may, however, be occasions where Members use their discretion to apprehend a person under the MHA where the offence is minor and non-violent in nature, where the apprehension criteria in s. 28 are satisfied.

4.62. When Members come into contact with a person who meets the criteria for apprehension under s. 28 MHA, Members may apprehend the person and ensure that the person is taken to a physician for examination. Members must transport the person to a physician for the examination, and cannot release the person once the apprehension has occurred.

4.63. Members shall apprehend any person who has attempted suicide or is about to attempt suicide, under s. 28 MHA and take them to a physician for examination. The Member shall accompany the patient to the hospital and provide the hospital staff with a full and detailed report.

4.64. Members shall maintain control of the apprehended person until the hospital has assumed control of the person and the medical doctor has begun the examination under MHA s. 28(1). Once the physician begins the examination, Members may leave the apprehended patient with

the hospital, unless the patient poses an on-going risk to the safety of hospital personnel, the public and the patient.

- 4.65. If a Member encounters a person who satisfies the apprehension criteria in MHA section 28(1), but the person only will consent to a “voluntary ride” to the hospital, the Member should score this as an apprehension under MHA s. 28(1) to ensure liability coverage under MHA section 16(f.1), even if the Member agrees with the person’s request not to be apprehended and only get a voluntary ride to the hospital.
- 4.66. The British Columbia Ambulance Service (BCAS) will normally transport persons apprehended under s. 28 MHA. During this transportation to a physician, Members retain responsibility for the apprehended persons. The apprehending Member shall:
- i. consult the Ambulance Attendant to determine the most appropriate hospital emergency ward for the person;
  - ii. prepare a GO Report immediately after the person has been admitted into hospital;
  - iii. obtain the hospital's fax number and the name of the appropriate contact person (e.g., Mental Health nurse);
  - iv. after completing the GO Report, contact the Information Management Section. Provide the Reviewer with the incident number, the fax number of the hospital, and the name of the hospital contact person. The Reviewer will process the electronic report, make a hard copy and fax the required report to the hospital; and
  - v. notify the hospital staff when further police action is contemplated.

#### **Persons on Unauthorized Leave from Hospital**

4.67. When patients have eloped from Provincial Mental Health Facilities, the following apply:

- i. If a patient is suspected of having left lawful custody under the *Mental Health Act* without authorization, Members will query CPIC. If there is nothing on file, further enquiries may be made directly to the hospital where the person is believed to be a patient on unauthorized leave. If no authority to apprehend can be located, Members may consider proceeding under s. 28 MHA;
- ii. If information is received from a Provincial Mental Health Facility authority (nurse, doctor, etc.), that a patient detained under the MHA has left lawful custody under the MHA without authorization, then Members may:
  - a. if a Form 21 Director's Warrant has been issued, apprehend and return the patient to the facility. The Provincial Mental Health Facility should provide Members with identifying information about the patient, including a current photograph; or
  - b. where no warrant exists, the patient may be apprehended under s. 41(6) MHA, if the apprehension takes place within 48 hours of the time the patient was reported to have left lawful custody under the MHA without authorization.

4.68. When Members assist in the transport of a patient on unauthorized leave to hospital, they shall advise staff at the hospital of the circumstances so that the hospital is aware that a Medical Certificate is in effect for the patient. A Medical Certificate provides the hospital with authority to prevent the patient from leaving the facility. The hospital then assumes responsibility for the patient.

#### **Continued Detention of Person Arrested**

4.69. A Member requires lawful and articulable justification to continue to hold a person who has been arrested, pending court appearance; otherwise, the person must be released as soon as practicable once the relevant process has been completed or be brought before a justice as soon as practicable and no later than 24 hours from the time of arrest.

4.70. If a person arrested is not released, but instead brought before a justice, a delay with respect to the court appearance, up to the 24-hour limit, may be justified on the basis of adequate preparation of “show cause” submissions.

#### **Persons with Injuries or Other Medical Risks**

4.71. A Member who detains, arrests or has taken custody of a person, and has reason to suspect the person is injured (whether or not visibly apparent), in medical distress or for any other reason may require medical assessment or attention, based on apparent visible indicators or abnormal responsiveness to verbal directions or physical stimulus, is required to:

- i. provide emergency medical assistance, if required, to the best of their ability in the circumstances;
- ii. as soon as practicable call for attendance of the British Columbia Ambulance Service, provide personnel with all known information that may assist in the assessment and care of the person, and allow any recommended care to be performed; and
- iii. request a Supervisor to attend the scene.

4.72. A Supervisor who has been notified that a person detained, arrested or in the custody of a Member, is injured, in medical distress or for any other reason may require medical assessment or attention, must:

- i. notify the Duty Officer if the injury is the result of a “Reportable Injury” or “Critical Incident” and follow procedure as set out in the *Police Act* (see OP 2.4 IIO Notification); and
- ii. attend the scene and ensure that medical attention is provided and determine the cause of any injury.

#### **Search Incident to Lawful Arrest**

4.73. A Member may search an arrested person as soon as practicable following an arrest:

- i. to locate and remove:

- a. items dangerous to the officer, the arrested person or others;
  - b. evidence to support a contemplated charge; and
  - c. anything that may aid the person in escaping.
- ii. However, the search must be carried out in a reasonable manner and respectful of a person's privacy, gender identity, culture and religion (see OP 3.2 Searches of a Person).

### **Investigative Detention**

4.74. A Member's temporary detention of a person must:

- i. be to further an investigation related to the commission or continuing commission of a criminal offence proximate in time and location to the person to be detained;
- ii. be based on a factually-based suspicion, (i.e., on a pattern of objectively discernable facts, by the Member, that the person to be detained is implicated in the commission of the offence);
- iii. require the detention with respect to the investigating Member's duties;
- iv. be temporary and no longer than the investigation reasonably requires and is factually justified; and
- v. only interfere with the person's rights and freedoms to the extent proportional to the public interest.

4.75. A Member shall not detain a person based on:

- i. a mere hunch that the person may be implicated in the commission of a criminal offence;
- ii. solely the Member's operational intuition or past experience with the person; or
- iii. on the Member's local knowledge of crime trends specific to the neighborhood or location where the Member engages the person.

4.76. Members shall not detain a person for any reason based on bias or social stereotype. Any such detention by a Member is arbitrary and unlawful, and any search incident to such a detention is unreasonable (see OP 4.45 *Street Checks – Bias Free Policing*).

4.77. A Member may only search a detained person if the Member has reasonable grounds to believe the Member's safety or the safety of others is at risk. The search must be limited to a "Protective Search" to locate and remove any item that poses a risk.

4.78. A person fleeing from Investigative Detention may be arrested by a Member for obstructing the investigation, pursuant to s. 129 *Criminal Code*. However, not cooperating with an investigation, short of failing to comply with lawful commands or fleeing, does not constitute obstruction.

4.79. When detained, a person has no legal duty to self-identify to police unless the person is lawfully arrested or detained for the purposes of the Member issuing the person a provincial or federal violation ticket or municipal bylaw ticket. A detained person who refuses to identify themselves is not obstructing a Member's investigation unless the Member requires identifying the person on

the basis of a compelling public interest to advance the investigation and determining identity is essential to that purpose.

- 4.80. A Member must create notes and a PRIME report, adequate and proportional to the event, with respect to any Investigative Detention (whether or not such detention ultimately results in an arrest) for the purpose of enabling the Member to refresh their memory as to the articulable grounds supporting the detention.

## APPENDIX A: DEFINITIONS

“CPIC” means the Canadian Police Information Centre, the computerized national information repository and retrieval system operated by the RCMP on behalf of the nation’s policing community that facilitates the sharing of information among authorized agencies.

“Charter” means the *Canadian Charter of Rights and Freedoms*.

“Charter Card” means a card issued by the Director of Police Services with requisite legal warnings.

“Critical Incident” means pursuant to the *Police Act* and the Memorandum of Understanding respecting IIO Investigations, whenever on-duty Members attend:

- i. any incident where there are reasonable grounds to believe that the presence, action, or decision of an on-duty Member:
  - a. may have been a contributing factor in the death of any person, including all in-custody deaths;
  - b. may have been a contributing factor in a life-threatening injury to any person;
  - c. may cause disfigurement (permanent change in appearance) if there were no medical intervention; or
  - d. may cause permanent loss or impairment of any function or mobility of the body, if there were no medical intervention;
- ii. any discharge of a firearm by an on-duty Member where there are reasonable grounds to believe that any person (including a police officer) may have been injured;
- iii. any incident where there are reasonable grounds to believe that the action of an off-duty officer:
  - a. may have been a contributing factor in the death of any person;
  - b. may have been a contributing factor in a life-threatening injury to any person;
  - c. may cause disfigurement (permanent change in appearance), if there were no medical intervention;
  - d. may cause permanent loss or impairment of any function or mobility of the body, if there were no medical intervention.

“Diplomat” means Accredited Ambassadors, their families, and Members of their staff and Consular Officers who are Members of the North Atlantic Treaty Organization and to United Nations Agencies.

“Duty Officer” means the Frontline Policing Inspector on duty at any given time.

“E-Comm” means the Lower Mainland’s Emergency Communications Centre.

“GO” means General Occurrence Report submitted in the PRIME records management system.

“Investigative Detention” means the temporary detention of a person for the furtherance of an investigation related to the commission or continuing commission of a criminal offence proximate in time and location to the person to be detained. The Member must have reasonable suspicion, in all the circumstances, that a person is connected to a recent and particular offence for which the detention is necessary.



“Member” means a Sworn Police Officer appointed by the Surrey Police Board.

“NCO” means non-commissioned officer and includes the rank of Sergeant and Staff Sergeant or Member acting in that role.

“OCC” means the Operational Communications Centre.

“PRIME” means Police Records Information Management Environment, the provincial police records management system, which is shared by 14 municipal police agencies and 135 RCMP detachments across BC.

“Protective Search” or “Safety Search” means patting down a person who has been detained when there are reasonable grounds to believe the person may be in possession of an item that poses a safety risk. The scope of the search is limited to exterior patting of clothing such as pockets, waistband, or areas that may reasonably conceal such items.

“Reportable Injury” means as defined in the *Police Act*, any of the following: “an injury caused by discharge of a firearm; an injury requiring emergency care by a medical practitioner or nurse practitioner and transfer to a hospital; or any injury described by s. 184(2)(c) (regulations under Parts 9 and 11)” of the *Police Act*.

“Serious Harm” as defined in the *Police Act* means, “Injury that may result in death, may cause serious disfigurement, or may cause substantial loss or impairment of mobility of the body as a whole or of the function of any limb or organ”.

“Supervisor” means a Sergeant, Staff Sergeant, Inspector, Superintendent, Deputy Chief Constable, Chief Constable, and any other person acting in a Supervisory capacity who is accountable for a particular area or shift on behalf of SPS.

## **APPENDIX B: REFERENCES**

*Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982*

*Criminal Code, R.S.C. 1985, c. C-46*

*Immigration and Refugee Protection Act, S.C. 2001, c. 27*

*Liquor Control and Licensing Act, S.B.C. 2015, c. 19*

*Mental Health Act, R.S.B.C. 1996, c. 288*

*Motor Vehicle Act, R.S.B.C. 1996, c. 318*

*Police Act, R.S.B.C. 1996, c. 367*

*Regina v. Mann 2004 S.C.C. 52; 2004 S.C.R. 59*

*Youth Criminal Justice Act, S.C. 2002, c. 1*

*Youth Justice Act, S.B.C. 2003, c. 85*