



Policy Name:	APPEARANCE NOTICES AND UNDERTAKINGS		
Policy #:	OP 3.3	Last Updated:	2022-01-24
Issued By:	COMMUNITY POLICING BUREAU	Approved By:	SURREY POLICE BOARD
		Review Frequency:	AS REQUIRED

RELATED POLICIES

OP 3.1 *Arrest and Detention*

1. PURPOSE

1.1. To ensure Surrey Police Service (SPS) understands the required conditions and follows direction on compelling an accused person to attend Court.

2. SCOPE

2.1. This policy applies to all SPS Members.

3. POLICY

3.1. Members may compel an accused person’s attendance in court through various means. For most offences, when a person is arrested without a warrant, the arresting Member must:

- i. release the accused person if Court Appearance and Public Interest are satisfied;
- ii. give primary consideration to the release of the accused at the earliest reasonable opportunity; and
- iii. release the accused person on the least onerous conditions that are appropriate in the circumstances, including conditions that are reasonably practicable for the accused to comply with.

Federal Appearance Notice (FAN) – Form 9 *Criminal Code*

3.2. Sections 497, 498(1)(b), 499(a), and 503(1.1)(a) of the *Criminal Code* describe the offences for which a FAN may be issued. A FAN may be issued to a lawfully arrested person, or pursuant to a lawful detention (for example an impaired investigation) that did not result in an arrest.

3.3. A FAN does not have a mechanism by which conditions may be imposed upon release, as it is only used to compel an accused person to court and for fingerprinting.

3.4. A FAN should only be issued when there are concerns related to Court Appearance or Public Interest.

Provincial Appearance Notice (PAN) – Form E *Offence Act*

3.5. A PAN may be issued to a lawfully arrested person in circumstances where a power of arrest exists under a provincial statute and/or for those offences indicated in Schedule 1, Columns 2 or 3 of the *Offence Act* and the *Violation Ticket Administration and Fines Regulation* (e.g., Driving while Prohibited under the *Motor Vehicle Act*, or *Safe Streets Act* offences).

Undertaking – Form 10 *Criminal Code*

3.6. A Member's authority to release a lawfully arrested accused on an Undertaking is found in sections 498(1)(c), 499(b) and 503(1.1)(b) of the *Criminal Code*.

3.7. An Undertaking may be issued at various stages throughout the investigation (e.g., a Member may issue an Undertaking at the scene if Court Appearance and Public Interest criteria are satisfied). In other circumstances, the arrested person may have to be transported to Jail until Public Interest concerns are addressed, after which the accused person may be released on an Undertaking. An Undertaking is used to impose specific conditions on the accused pursuant to s. 501 of the *Criminal Code* to address Public Interest concerns.

4. PROCEDURE

4.1. Based on the requirements of a specific investigation and to meet court administrative needs, Members will allow a minimum of six (6) calendar weeks, or as soon as practicable, but no longer than five (5) months, between the date the Appearance Notice or Undertaking is issued and the initial court appearance. In selecting the appropriate initial court appearance date, Members should consider:

- i. What evidence remains to be gathered to complete the file and what time frame is required to conduct follow-up;
- ii. six (6) weeks will be a reasonable length of time for most routine investigations;
- iii. for complex investigations, a lengthier court return date may be required (up to five (5) months should be considered a maximum limit and only given in extenuating circumstances);
- iv. consider the circumstances, and when there are Public Interest concerns that can be addressed through the imposition of conditions in an Undertaking, which must be articulated in the Bail Comments of the PRIME Report to Crown Counsel (RTCC);
- v. the available release conditions that can be issued by police are listed in s. 501(3)(a) through (k) of the *Criminal Code*. (examples: to abstain from communicating directly or indirectly with any victim, witness or other person identified in the Undertaking);

- vi. when Members request the condition of depositing a surety as allowed for by section 501(3)(j) of the *Criminal Code*, Members must contact a Supervisor for assistance; and
- vii. if police are imposing conditions by an Undertaking, a timely investigation is required and Crown Counsel must receive the completed RTCC at the earliest opportunity.

4.2. The PRIME RTCC must be submitted to Crown Counsel at least three (3) weeks in advance of the court date.

Court Appearance: Location and Times

4.3. For Provincial and Federal Adult Court matters, the location for all Appearance Notices or Undertakings will be Courtroom 100 of the Provincial Court, 14340 - 57 Avenue, Surrey, BC. The day of the week/hour is determined by the accused’s Surname, as follows:

Provincial Crown Matters (ADULT)			Federal Crown Matters (ADULT)		
LAST NAME	DAY OF FIRST APPEARANCE	COURT ROOM AND TIME	LAST NAME	DAY OF FIRST APPEARANCE	COURT ROOM AND TIME
A - C	Monday	Courtroom 100 0900 am	A - C	Monday	Courtroom 100 1030 am
D - H	Tuesday	Courtroom 100 0900 am	D - H	Tuesday	Courtroom 100 1030 am
I - L	Wednesday	Courtroom 100 0900 am	I - L	Wednesday	Courtroom 100 1030 am
M - R	Thursday	Courtroom 100 0900 am	M - R	Thursday	Courtroom 100 1030 am
S - Z	Friday	Courtroom 100 0900 am	S - Z	Friday	Courtroom 100 1030 am

4.4. For Provincial and Federal Youth Court matters, the location for all Appearance Notices or Undertakings will be Courtroom 312 of the Provincial Court, 14340 - 57 Avenue, Surrey, BC. The following day, time and courtroom will be used depending on the Provincial or Federal matter:

Provincial Crown Matters (YOUTH)			Federal Crown Matters (YOUTH)		
LAST NAME	DAY OF FIRST APPEARANCE	COURT ROOM AND TIME	LAST NAME	DAY OF FIRST APPEARANCE	COURT ROOM AND TIME
(A-Z)	Wednesday	Courtroom 312, 0930 am	(A-Z)	Wednesday	Courtroom 312, 1030 am

4.5. Members must not set court dates between December 25 and December 31. If the required court appearance day happens to be a statutory holiday, Members will select the same day in the following week.

4.6. When there are two or more accused charged jointly with the same offence or charged with offences arising from the same incident, each accused shall be given the same court date based on the first letter of the surname of the accused who appears first when the surnames are placed in the alphabetical order.

Fingerprinting, Palmprinting and Photographs

4.7. Members may fingerprint, palmprint and photograph an accused person pursuant to s. 2(1) of the *Identification of Criminals Act* (see OP 7.1 *Booking and Fingerprinting Prisoners*).

4.8. Fingerprinting, palmprinting and photographs and the court date are to be scheduled on the same day to not inconvenience the accused.

4.9. Members will schedule fingerprinting, palmprinting and photographs on the court document for one hour before the scheduled court date at SPS Headquarters across from the Court house located at 14355 - 57 Avenue, Surrey, B.C.

4.10. A Member assigned to the SPS Cell Block will be responsible for fingerprinting the accused person before their court appearance when the accused was released on scene without prior being transported to jail.

4.11. If a Member fingerprints, palmprints and photographs an accused for the offence while at the Surrey Cell Block prior to release, the Member will void the “Print” section of the Appearance Notice or Undertaking by drawing a line through the section, initialing, and writing “PRINTED AT JAIL” across the top of the Appearance Notice or Undertaking.

Information Required on Appearance Notices and Undertakings

4.12. Members must note a full description of the accused on the back of the police copy of the Appearance Notice or Undertaking so the fingerprinting Member at the Surrey Cell Block can confirm identity. This will include the accused’s:

- i. height;

- ii. weight;
- iii. scars, marks and tattoos;
- iv. hair colour;
- v. facial hair, if any; and
- vi. any other prominent feature to assist with identification of the accused.

4.13. The Member providing a copy of the Appearance Notice to the accused will be responsible for completing the Affidavit of Service on the back of the document.

4.14. The Member providing a copy of the Undertaking to the accused will be responsible for filling out the Certificate of Service on the back of the document.

4.15. The PRIME file number will be written on the top of the documents and submitted to CPIC for upload so that release conditions imposed on an accused are uploaded in a timely manner.

Reports

4.16. Whenever practicable, the RTCC should be completed and submitted on the day that the accused was released on the FAN or Undertaking. If the investigation cannot be completed on this day, the investigating Member must complete as much of the RTCC as possible before the end of shift, indicating:

- i. any missing evidence that will be forthcoming with information on when follow up is expected to be completed and by whom; and
- ii. Public Interest concern(s) for which the condition(s) of release were given so that Members who query the accused can understand the gravity of the charge(s) sought and reason for the condition(s) placed on CPIC.

4.17. When a Member releases an accused on an Undertaking, the file should be treated like an in-custody file, with the end of the shift being the target completion time. As much evidence as possible should be compiled in the PRIME RTCC before the end of shift to support any Breach of Undertaking arrest that may occur between the time of arrest and that of file submission to Crown Counsel.

APPENDIX A: DEFINITIONS

"Court Appearance" means a police officer does not have reasonable grounds to believe that an accused person will fail to appear in court if released from custody.

"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.

"FAN" means a Federal Appearance Notice, Form 9 of the *Criminal Code*.

"Member" means a sworn Police Officer appointed by the Surrey Police Board.

"PAN" means a Provincial Appearance Notice, Form E of the *Offence Act*.

"Public Interest" means having regard to all the circumstances of the offence, 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.

"PRIME" means the Police Records Information Management Environment, the provincial police records management system.

"RTCC" means an investigational file with multiple reports, pages and notes sent through Police Crown Liaison to Crown Counsel for charge assessment.

"SPS" means the Surrey Police Service.

"Undertaking" means Form 10 of the *Criminal Code*.

APPENDIX B: REFERENCES

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

Identification of Criminals Act, R.S.C. 1985, c. I-1

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

Offence Act, R.S.B.C. 1996, c. 338

Safe Streets Act, S.B.C. 2004, c. 75