



|                     |  |                          |                     |
|---------------------|--|--------------------------|---------------------|
| <b>Policy Name:</b> | <b>IMPAIRED DRIVING INVESTIGATIONS</b> |                          |                     |
| <b>Policy #:</b>    | OP 4.36.7                              | <b>Last Updated:</b>     | 2022-05-12          |
| <b>Issued By:</b>   | COMMUNITY POLICING BUREAU              | <b>Approved By:</b>      | SURREY POLICE BOARD |
|                     |  | <b>Review Frequency:</b> | AS REQUIRED         |

**RELATED POLICIES**

OP 4.36.8 *Towing and Impounding Vehicles*

OP 5.1 *Seized Property*

OP 5.1.3 *Exhibits Requiring Forensic Examination*

**CONTENTS**

**PART I – MEMBER DEMANDS**

**PART II – 12-HOUR SUSPENSIONS and 24-HOUR PROHIBITIONS**

**PART III – IMMEDIATE ROADSIDE PROHIBITION (IRP)**

**PART IV – STANDARDIZED FIELD SOBRIETY TEST (SFST)**

**PART V – CRIMINAL IMPAIRED DRIVING INVESTIGATIONS**

**PART VI – DRUG RECOGNITION EXPERT EVALUATION**

**PART VII – BLOOD SAMPLE WARRANTS**

**1. PURPOSE**

1.1. To provide guidance and direction to Surrey Police Service (SPS) Members when investigating incidents where a person has operated a motor vehicle or other conveyance and the Member believes that the person was affected or impaired by alcohol or drug.

**2. SCOPE**

2.1. This policy applies to all Members.

### 3. POLICY

- 3.1. Persons who operate a motor vehicle, vessel, aircraft, or railway equipment (conveyance) while their ability to do so is impaired by alcohol and / or drugs pose a significant threat to public safety.
- 3.2. Members conducting an impaired driving investigation may proceed by charges and sanctions under the provincial *Motor Vehicle Act* (MVA) and/or by recommending criminal charges under the *Criminal Code*.
- 3.3. When Members are determining whether to proceed by a MVA administrative sanction or a criminal charge, Members must consider:
  - i. the seriousness of the incident (i.e., were injuries or death caused to any person);
  - ii. the suspected level of impairment or intoxication of the conveyance operator; and
  - iii. whether public interest would be served by proceeding by a provincial administrative sanction instead of a criminal charge.
- 3.4. This policy provides procedural direction for:
  - i. Member Demands;
  - ii. 24-Hour Prohibition;
  - iii. Immediate Roadside Prohibition;
  - iv. Standardized Field Sobriety Test;
  - v. Criminal Impaired Driving Investigations;
  - vi. Drug Recognition Expert; and
  - vii. Blood Sample Warrants.

### 4. PROCEDURE

#### PART I – MEMBER DEMANDS

##### Approved Screening Device (ASD) Demand

- 4.1. Members must make an Approved Screening Device (ASD) Demand, where there are reasonable grounds to suspect that the driver has operated a conveyance within the preceding three hours with alcohol in their body. The Demand is pursuant to *Criminal Code*, s. 320.27(1).
- 4.2. The Member must immediately obtain sample of operator's (driver's) breath into an accuracy checked ASD – Alco-Sensor FST. Members should have the ASD-Alco-Sensor FST with them at the time of the demand to prevent unreasonable delay in obtaining the breath sample.
- 4.3. Members must not provide the person an opportunity to contact legal counsel before testing.
- 4.4. If the person refuses to provide an ASD-Alco-Sensor FST breath sample, the Member is to arrest/detain the person under *Criminal Code*, s. 320.15(1).

#### **Mandatory Alcohol Screening ASD Demand**

- 4.5. Members may make a Mandatory Alcohol Screening (MAS) ASD demand pursuant to *Criminal Code*, s. 320.27(2). The Member must have an ASD in their possession, must already be in the course of a lawful execution of their duties, and must be dealing with a person operating a motor vehicle.
- 4.6. Members will make detailed notes regarding the circumstances of any MAS ASD Demand, such as the original reason for the stop and any other relevant information. The MAS ASD Demand is a search authority, not an authority to stop a driver of a motor vehicle.
- 4.7. If the person refuses the MAS ASD Demand, the Member is to arrest/detain the person under *Criminal Code*, s. 320.15(1).

#### **Approved Drug Screening Equipment (ADSE) Demand**

- 4.8. Members must have reasonable grounds to suspect that a person has a drug in their body, and that they have operated a conveyance within the preceding three hours before making an ADSE demand pursuant to *Criminal Code*, s. 320.27(1)(c).
- 4.9. Members must not provide the person an opportunity to contact legal counsel before testing.
- 4.10. The Member must immediately obtain sample of operator's oral fluid into a quality control tested Approved Drug Screening Equipment (ADSE) – (e.g., Abbott SoToxa).
- 4.11. An ASDE may only be used by Members who are trained and qualified in their use.
- 4.12. The Member will provide a Standardized Field Sobriety Test (SFST) Demand, if an ASDE is not readily available.
- 4.13. If the person refuses to provide an oral fluid sample, the Member is to arrest/detain the person under *Criminal Code*, s. 320.15(1).

#### **Standardized Field Sobriety Test (SFST) Demand**

- 4.14. Members must provide a Standardized Field Sobriety Test (SFST) Demand, where there are reasonable grounds to suspect that the driver has operated a conveyance within the preceding three hours with alcohol or a drug in their body.
- 4.15. Members must not provide the person an opportunity to contact legal counsel before testing.
- 4.16. If the person refuses to perform the SFST test, the Member is to arrest/detain the person under *Criminal Code*, s. 320.15(1).

#### **Approved Instrument (AI) Demand**

- 4.17. When making an AI Demand, Members must have reasonable grounds to believe that an offence under *Criminal Code*, s. 320.14(1)(b) has been committed, or that a person has operated a conveyance while their ability to do so was impaired, to any degree, by alcohol.
- 4.18. When making an AI Demand, Members must provide the person with a *Canadian Charter of Rights and Freedoms*, section 10 notification and a police caution.
- 4.19. If the person refuses the AI Demand, the Member is to arrest/detain the person under *Criminal Code*, s. 320.15(1).

#### **Blood Demand (Alcohol)**

- 4.20. Members must provide a Blood Demand (Alcohol), where there are reasonable grounds to believe that the driver has operated a conveyance while impaired by alcohol to any degree, and the conscious driver can provide informed consent.
- 4.21. When making a Blood Demand, Members must provide the person with a *Canadian Charter of Rights and Freedoms*, section 10 notification and a police caution.
- 4.22. If the person refuses the Blood Demand, the Member is to arrest the person under *Criminal Code*, s. 320.15(1).

#### **Drug Recognition Expert (DRE) Demand**

- 4.23. Members may provide a Drug Recognition Expert (DRE) Demand, where there are reasonable grounds to believe that the driver has operated a conveyance while impaired by a drug to any degree or a combination of a drug and alcohol to any degree.

#### **Blood Demand (Drugs)**

- 4.24. Members must provide a Blood Demand, where there are reasonable grounds to believe that the driver has operated a conveyance while impaired by alcohol or drug or a combination of both to any degree.
- 4.25. When making a Blood Demand, Members must provide the person with a *Canadian Charter of Rights and Freedoms*, section 10 notification and a police caution.
- 4.26. If the person refuses the Blood Demand, the Member is to arrest/detain the person under *Criminal Code*, s. 320.15(1).

### **PART II – 12-HOUR SUSPENSIONS and 24-HOUR PROHIBITIONS**

- 4.27. Members may issue a 12-hour suspension for alcohol under the provincial Graduate Licensing Program, pursuant to s. 90.3 of the MVA.

4.28. Members may issue a 12-hour suspension when a Graduated Licensing Program driver provides a sample of breath into an ASD which results in a reading in the range of 5 to 50 mg%. A Violation Ticket for driving contrary to restrictions of licence may also be issued.

4.29. A Member may issue a 24-hour prohibition under s. 215 of the MVA if the Member is satisfied that:

- i. the person was the driver of a motor vehicle, which includes a person having care or control of a motor vehicle on a highway or industrial road whether the motor vehicle is in motion; and
- ii. the Member has reasonable grounds to believe that the driver's ability to drive a motor vehicle is affected by either alcohol and/or a drug.

4.30. The investigating Member will:

- i. read the 24 Hour Roadside Prohibition to the driver from the warning card;
- ii. seize the Driver's Licence and forward to the Road Safety Section;
- iii. verify the name and address on the Driver's Licence are correct, and that the driver is not presently under suspension or prohibition;
- iv. if the driver refuses or fails to surrender the Driver's Licence, the driver is still prohibited for the period of 24 hours;
- v. complete a Notice of 24 Hour Prohibition and Report to ICBC – Form MV2634;
- vi. have the driver sign the acknowledgment of the Notice of Driving Prohibition;
- vii. read the back of the driver's copy of the prohibition notice (blue copy) to the driver in its entirety:
  - a. right to an ASD test or BAC test to determine BAC level if prohibition was for alcohol;
  - b. right of review;
  - c. notice of driving record;
- viii. enter the 24 Hour Prohibition on CPIC; and
- ix. complete the "Officer's Report" on the reverse side of the MV2634

4.31. If the driver requests an ASD test and a roadside screening device is utilized, and the results are:

- i. 0 mg% - 50 mg% (Pass) – return the Driver's Licence (unless the driver is under the Graduated Licence Program);
- ii. 51 mg% - 59 mg% – continue with the 24 Hour Prohibition;
- iii. 60 mg% to 99 mg% (WARN) – serve a 3 Day Immediate Roadside Prohibition (IRP);
- iv. Over 99 mg% (FAIL) – serve 90 Day IRP;

4.32. If the driver contests the results, they may request a breath test for alcohol impairment or SFSTs for drug impairment.

- 4.33. When a Member has grounds to believe that a driver's ability to operate a motor vehicle is affected by alcohol, the Member will use the following UCR code in the PRIME-BC General Occurrence report: 8120-40: 215 ALCOH- 24HR
- 4.34. When a Member has grounds to believe that a driver's ability to operate a motor vehicle is affected by drugs, the Member will use the following UCR codes in the GO report:
- i. 8120-50: 215 DRUG; and,
  - ii. 9235-0: IMPAIRED OP MOTOR VEH (DRUGS).
- 4.35. The driver will be role coded as a Suspect Chargeable and a CCJS status of "O" - departmental discretion chosen. Members must complete the Roadside Prohibition Template with the text type "SY" in the GO report.
- 4.36. Members may complete an additional narrative (OR) text page to further explain the incident if necessary.
- 4.37. Members may impound vehicles for twenty-four (24) hours upon issuing a 24-hour prohibition. Members may use their discretion and release the vehicle to a sober person holding a valid Driver's Licence or leave the vehicle if it is legally parked. Tell the suspended driver that the Section 215 driving prohibition will form part of their driving record.
- 4.38. When completing the GO, Members must include the:
- i. location of the vehicle;
  - ii. make, colour, and licence number of the vehicle;
  - iii. name and Driver's License number of the prohibited driver;
  - iv. time of prohibition; and
  - v. name and badge number of the Member issuing the prohibition.

### **PART III – IMMEDIATE ROADSIDE PROHIBITION (IRP)**

- 4.39. The Immediate Roadside Prohibition (IRP) program prohibits drivers who register a WARN or FAIL on an ASD or refuse to provide a breath sample on an ASD upon a lawful demand.
- 4.40. An IRP cannot be combined with a 215 MVA 24-hour prohibition or criminal charges.
- 4.41. Members must be trained in the IRP program before using this enforcement tool.
- 4.42. Upon proceeding under the IRP Program with a Warn or Fail result, the Member:
- i. tell the driver that they are prohibited from driving and require the driver to surrender their Driver's Licence;
  - ii. tell the driver that they have a right to a second test on a different ASD; and

- iii. if requested by the driver, provide the driver with a second ASD test on a different ASD instrument.

4.43. When a WARN is registered, the Member will serve on the driver a 3 Day IRP, unless there is an action line on their Driver’s Licence query to service a 7- or 30-Day prohibition.

4.44. When a FAIL result is registered after the first ASD test, the Member will need to consider whether to continue under the IRP Program or to proceed with an AI Demand under s. 320.28(1)(a)(i) of the *Criminal Code* and impaired driving investigation.

4.45. The Member’s subsequent action under the IRP Program will be as follows:

**ASD RESULTS MATRIX**

| 1 <sup>st</sup> ASD Test | 2 <sup>nd</sup> ASD Test    | Sanction   |
|--------------------------|-----------------------------|--|
| Digital Result           | No further ASD test         | <ul style="list-style-type: none"> <li>• 24 Hour Prohibition, or</li> <li>• 12 Hour Suspension, or</li> <li>• No Sanction</li> </ul> |
| WARN OR FAIL             | Digital Result              | <ul style="list-style-type: none"> <li>• 24 Hour Prohibition, or</li> <li>• 12 Hour Suspension, or</li> <li>• No Sanction</li> </ul> |
| WARN                     | Declined or/Did not provide | WARN IRP   |
| WARN                     | WARN                        | WARN IRP   |
| WARN                     | FAIL                        | WARN IRP   |
| FAIL                     | WARN                        | WARN IRP   |
| FAIL                     | Declined or/Did not provide | FAIL IRP   |
| FAIL                     | FAIL                        | FAIL IRP   |
| Failed to provide        | N/A                         | REFUSAL IRP  |
| REFUSAL                  | N/A                         | REFUSAL IRP  |

4.46. When an IRP FAIL, IRP 30 Day Warn or a REFUSAL results, the Member MUST impound the vehicle.

4.47. When an IRP WARN with either a 3 Day or 7 Day sanction results, the Member may impound the vehicle for either 3 days or 7 days, as the case may be.

4.48. If the person provides a “WARN” or “FAIL” on an ASD, the Member must:

- i. tell the prohibited driver that the IRP will form part of their driving record;
- ii. request a tow truck and provide the tow truck driver the completed Impound Lot Operator (ILO) copy of the MV2721;
- iii. complete the following forms at the time of prohibition:
  - a. Notice of Driving Prohibition MV2723;
  - b. Report to Superintendent MV2724- IRP;
  - c. If required, the Notice of Impoundment MV2721; and,

- d. Report to Superintendent- Vehicle Impoundment MV2722.
- iv. complete a GO report including the Roadside Prohibition Template with the text type “SY” in the GO report. The Member may complete an additional narrative (OR) text page to further explain the incident if necessary, and:
  - a. When a driver provides a breath sample into an ASD and “FAIL” is displayed, use UCR codes:
    - i. 9230-2: Drive Over .08;
    - ii. 8120-44: 215ALCOH IRP FAIL ASD-90DAY; and,
    - iii. 8110-90: VI-Vehicle Impoundment.
  - b. When a driver refuses to provide a breath sample into an ASD, use UCR codes:
    - i. 9240-2 FAIL/REFUSE TO PROVIDE BREATH; and
    - ii. 8120-45: ALCOH IRP REFUSE ASD-90DAY; and,
    - iii. 8110-90: VI-Vehicle Impoundment.

**Note:** The driver will be role coded as a Suspect Chargeable and a CCJS status of “O” – departmental discretion chosen.
  - c. When a driver provides a breath sample into an ASD and “WARN” is displayed, use the applicable UCR code:
    - i. 8120-41: 215ALCOH IRP WARN-3DAY; or,
    - ii. 8120-42: 215ALCOH IRP WARN-7DAY; or,
    - iii. 8120-43: 215ALCOH IRP WARN-30DAY; and,
    - iv. 8110-90: VI-Vehicle Impoundment.

**Note:** The driver shall be role coded as a Driver and a CCJS status of “B” – founded not cleared.
  - d. Complete the Conclusion Block (CB).

4.49. The Member who issued the IRP must:

- i. place the Driver’s Licence in an envelope and attach the envelope to the white copies of the: MV2723 and MV2724, and if completed, the MV2721 and MV2722;
- ii. attach the Certificate of a Qualified Alco-Sensor FST Calibrator;
- iii. attach a copy of the relevant PRIME-BC Narrative;
- iv. ensure the prohibition is entered on CPIC; and
- v. send the envelope containing the White copies and the Driver’s Licence to the Road Safety Section prior to the end of the Member’s shift.

4.50. The Road Safety Section will send the above documents to the Insurance Corporation of British Columbia.



## **PART IV – STANDARDIZED FIELD SOBRIETY TEST (SFST)**

4.51. Where a Member has reasonable grounds to suspect a person operated a conveyance with alcohol or drug in their body, a Member may demand the person conduct physical coordination tests pursuant to s. 320.27(1)(a) of the *Criminal Code*. The Member will provide the person with the demand for physical coordination tests (SFSTs), as follows:

*“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?”*

4.52. Only Members who have successfully completed SFST training may conduct an SFST.

4.53. Members conducting an SFST must conduct the full battery of tests or make detailed documentation about why the entire test could not be performed.

4.54. A driver who performs poorly on an SFST may be, based on the results of the SFST, detained for Impaired Driving, and an appropriate demand may be read to advance the investigation.

4.55. The Member who conducts the SFST test will record the results on an SFST Worksheet.

## **PART V – CRIMINAL IMPAIRED DRIVING INVESTIGATIONS**

4.56. When conducting an impaired driving investigation, Members will collect as much evidence as possible, including:

- i. evidence that person is / was driving/operating a conveyance;
- ii. establishing identity of the driver/operator;
- iii. Member observations of driving, if applicable;
- iv. establishing continuity of offence if driver not found driving;
- v. indicia of impairment displayed by the driver/operator; and
- vi. witness evidence, SFST results, ASD test results, ADSE test results, or any combination of these or other indicators.

4.57. An ASD may be used to help establish reasonable grounds for making an AI demand.

4.58. An ADSE may be used to help establish reasonable grounds for making a DRE evaluation demand or a blood demand.

4.59. When a Member has reasonable grounds to make an AI Demand, a DRE Evaluation Demand, or a Blood Demand, the Member must immediately provide the person with a *Canadian Charter of*

*Rights and Freedoms*, section 10 notification and a police caution after the Demand. The Member must provide the person access to retain and instruct counsel, in private, as soon as practicable.

- 4.60. If the person is a Youth, the Member must ensure that the appropriate cautions and/or waivers have been reviewed with the Youth in accordance with s. 146 of the *Youth Criminal Justice Act* before conducting a breath test, DRE Evaluation, or obtaining a Blood Sample.
- 4.61. Upon completion of access to counsel, the investigating Member must observe the driver for at least fifteen (15) continuous minutes prior to the breath test, ensuring the driver does not drink any alcohol beverages or other liquids, and does not place anything in their mouth or burp or vomit.
- 4.62. Any interruption of the “face to face” observation of the person, including but not limited to access to counsel or the use of the washroom, requires the “face to face” observation to be restarted.
- 4.63. After the person has consulted with counsel and has been given a police caution, and has not indicated that they do not wish to give a statement, the Member may use this 15 minute period to attempt to gather as much information as possible concerning the person's drinking pattern leading up to the offence, including the time of the last drink, time(s) of consumption, quantities, and types of beverages consumed (also, attempt to determine what and when the driver last ate).
- 4.64. A Qualified Technician (QT) must conduct a breath test in accordance with an AI Demand.
- 4.65. The QT must be qualified in the Intox EC/IR II instrument and must successfully complete the online exam once every 12 months from the date of their certification.
- 4.66. The Intox EC/IR II is an approved instrument used to measure a subject's blood alcohol concentration through samples of breath.
- 4.67. The QT must ensure that the AI is functioning properly.
- 4.68. Before conducting any tests, the QT must confirm with the investigating Member that an appropriate demand has been made, and that the driver/operator has had an opportunity to contact counsel or has waived their rights under *Canadian Charter of Rights and Freedoms*.
- 4.69. The QT must provide the investigating Member the results of the tests, or if the QT deems the process a refusal, and appropriate notes for Crown Counsel disclosure and/or file retention purposes.
- 4.70. The Member will, if the driver's/operator's lowest reading of blood alcohol content (BAC) is:

- i. 100 mg% or greater – complete a Report to Crown Counsel (RTCC) recommending that the driver be charged of operating a conveyance while impaired to any degree (s. 320.14(1)(a) of the *Criminal Code*); or 80 mg% if within two hours after ceasing to operate a conveyance (s. 320.14(1)(b) of the *Criminal Code*);
- ii. Less than 100 mg% – recommend charges under s. 320.14(1)(a) of the *Criminal Code* only where there is physical and/or driving evidence to support prosecution;
- iii. 50 mg% or less – terminate the s. 215 MVA prohibition and return Driver's Licence to the driver.

4.71. Where the person's BAC is shown to be equal to or greater than 80 mg%, the Member may proceed by way of recommending a charge under s. 320.14(1)(a) of the *Criminal Code* and an Administrative Driving Prohibition (ADP) under s. 94.1(1)(a) of the MVA, or just an ADP.

4.72. After the Member receives the *Certificate of a Qualified Technician*, the Member is to complete the Notice of Intention portion and serve a true copy on the driver, prior to their release from custody.

4.73. The Member may continue the detention of a driver/operator after a breath test while the Member prepares an Appearance Notice, as it is in the public interest to do so. Persons are not to be further detained to allow a Member to make their notes or complete internal reports or certificates.

4.74. The arresting Member must release a person arrested on impaired driving offences on an Appearance Notice, unless on reasonable grounds, a Member believes the arrested person:

- i. does not meet the Public Interest requirements of the *Criminal Code*; or
- ii. is unable to care for themselves due to their level of intoxication.

4.75. A Member must arrange transportation for the person or document actions taken if the impoundment of the driver's vehicle jeopardizes their safety (e.g., leaves the person stranded).

4.76. The Cellblock Supervisor must approve the incarceration of all persons who do not meet the criteria for release on an Appearance Notice when impaired driving charges are recommended. Members shall note the reasons why a person was further detained in the Cellblock and the Cellblock Supervisor who approved the detention.

4.77. When a person is further held in custody, the arresting Member must ensure that the RTCC is completed as soon as practicable and prior to the Member going off duty.

4.78. Before release on an Appearance Notice, the arresting Member must ensure that all certificates, the ADP, and the *Notice to Seek Greater Punishment*, if applicable, are served on the driver.

4.79. Members who are recommending criminal charges and used an ASD and / or an ASDE in the investigation must record in their notebooks and RTCC:

- i. the number of the instrument;
- ii. the date printed on the label of the ASD/ASDE. The date indicates the expiration of the calibration period for the instrument; and
- iii. that they performed the tests recommended by the manufacture to ensure the ASD/ASDE is functioning properly.

#### **PART VI – DRUG RECOGNITION EXPERT EVALUATION**

4.80. When there are reasonable grounds to believe that a person has committed an offence under the *Criminal Code*, s. 320.14(1)(c), s. 320.14(4), or s. 320.14(1)(d), or that the person has operated a conveyance while their ability to do so was impaired, to any degree, by a drug or a combination of alcohol and a drug, a Member may make a Drug Recognition Expert (DRE) Evaluation Demand and/or a Blood Demand pursuant to s. 320.28(2) of the *Criminal Code*.

4.81. After making a DRE Evaluation Demand, the Member must request that a DRE conduct an evaluation of the subject.

4.82. Before conducting an evaluation, the DRE must ensure that the DRE Evaluation Demand has been read to the evaluation subject, and that they have had an opportunity immediately provide to retain and instruct counsel, in private.

4.83. If the evaluation subject is a youth, ensure that the appropriate cautions and/or waivers have been reviewed with them before conducting the DRE evaluation, in accordance with the *Youth Criminal Justice Act*, section 146.

4.84. If the DRE has reasonable grounds to believe at the conclusion of the evaluation that the person's ability to operate a conveyance is impaired by one or more drugs in the categories listed in s. 320.28(5) of the *Criminal Code*, the DRE must identify the relevant categories of drugs and make the bodily substance demand as outlined in s. 320.28(4) of the *Criminal Code*.

4.85. After a DRE evaluation, and once the DRE has formed an opinion and obtained a sample of blood or of a bodily substance, the investigating Member must take possession of the sample.

4.86. The investigating Member must obtain authorization to submit this sample to the National Forensic Laboratory Service by completing Form C-414 *Request for Forensic Laboratory Analysis* (see OP 5.1.3 *Exhibits Requiring Forensic Examination*).

#### **PART VII – BLOOD SAMPLE WARRANTS**

4.87. Members may obtain samples of blood by warrant under s. 320.29 of the *Criminal Code* if a Member has:

- i. reasonable grounds to believe that a person has, within the preceding eight (8) hours, operated a conveyance that was involved in a collision resulting in bodily injury to themselves or another person, or resulting in the death of another person;
- ii. reasonable grounds to suspect that the person has alcohol or a drug in their body; and
- iii. a medical practitioner is of the opinion that the person is unable to consent to providing samples of blood, and that the person's life or health would not be endangered by the taking of such samples.

4.88. Neither a qualified medical practitioner nor a qualified technician who refuses to take a blood sample or who refuses to have a blood sample taken commits an offence if they have a reasonable excuse for refusing to do so.

4.89. A *Warrant to Obtain Blood Samples* under s. 320.29(1) of the *Criminal Code* may be made before a Judicial Justice either in person or by telewarrant (Warrant applications must be sworn within eight hours of the operation or the care or control).

4.90. After a *Warrant to Obtain Blood Samples* has been issued, the Member must:

- i. tell the qualified medical practitioner that the warrant has been obtained;
- ii. provide an approved Blood Sample Container Kit;
- iii. serve a copy of the *Warrant to Obtain Blood Samples* on the person from whom the blood samples were taken as soon as practicable;
- iv. complete the *Certificate of a Qualified Medical Practitioner Who Caused Blood Samples to be Taken* or the *Certificate of the Qualified Technician Who Took Blood Samples* and ensure they contain the notices that:
  - a. the accused is charged with an impaired operation offence;
  - b. the Crown has had a sample of the accused blood analyzed; and
  - c. second sample was taken and that sample is available for testing by or on behalf of the accused;
- v. review these certificates with the qualified medical practitioner or qualified technician and request that they sign the appropriate certificate; and
- vi. serve the documents on the person from whom blood was taken.

4.91. An approved container must be used to collect blood samples and must be subsequently sealed.

4.92. The procedures for submitting blood samples for analysis are outlined in see OP 5.1.3 *Exhibits Requiring Forensic Examination*.

## APPENDIX A: DEFINITIONS

“Accuracy Check” means a check performed by an Alco-Sensor FST Calibrator to determine that the Approved Screening Device (ASD) – Alco-Sensor FST is operating within +/- 5 mg% without an adjustment to the calibration.

“ADP” means Administrative Driving Prohibition.

“Approved Drug Screening Equipment” (ADSE) means equipment that is designed to ascertain the presence of a drug in a person’s body and that is approved by the Attorney General of Canada.

“Approved Instrument” (AI) means an instrument that is designed to receive and make an analysis of a sample of a person’s breath to determine their blood alcohol concentration and that is approved by the Attorney General of Canada.

“Approved Screening Device” (ASD) means a device that is designed to ascertain the presence of alcohol in a person’s blood and that is approved by the Attorney General of Canada

“Conveyance” means a motor vehicle, a vessel (this includes hovercraft), an aircraft, or railway equipment.

“Drug Recognition Expert” (DRE) means a police officer who has successfully completed the Drug Evaluation and Classification Program in accordance with the International Association of Chiefs of Police and is currently certified as a DRE.

“Drug Evaluation and Classification Program” (DECP) means the national DRE program managed and coordinated by the International Association of Chiefs of Police (IACP), with support from the National Highway Traffic Safety Administration (NHTSA) of the United States of America Department of Transportation. In Canada, the RCMP is responsible for the DECP.

“Intox EC/IR II” means an approved instrument used to measure a subject’s blood alcohol concentration through samples of breath.

“Mandatory Alcohol Screening” (MAS) Demand means a demand to provide a Mandatory Alcohol Screening (MAS) Device Demand.

“Medical Practitioner” means a person who is authorized under provincial or territorial law to practice medicine in that province or territory. This definition is not limited to a physician.

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

“Operate” means in respect of:

- i. a motor vehicle, to drive it or to have care or control of it;
- ii. a vessel or aircraft, to navigate it, to assist in its navigation or to have care or control of it; and

- iii. railway equipment, to participate in the direct control of its motion, or to have care or control of it as a member of the equipment's crew, as a person who acts in lieu of a member of the equipment's crew by remote control, or otherwise.

"Qualified Technician (QT)" means any person designated by the Attorney General as being qualified to operate an approved instrument, or any person designated by the Attorney General as being qualified to take blood samples.

"RTCC" means Report to Crown Counsel.

"SPS" means Surrey Police Service.

"Standardized Field Sobriety Test" (SFST) means an assessment of a person's ability to perform the physical coordination tests.

"Youth" means a person under 18 years of age.

## **APPENDIX B: REFERENCES**

*Constitution Act, 1982, Part 1: Canadian Charter of Rights and Freedoms*

*Criminal Code, R.S.C. 1985, c. C-4*

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

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