

The Victoria Police Manual is issued under the authority of the Chief Commissioner in s.60, Victoria Police Act 2013. Non-compliance with or a departure from the Victoria Police Manual may be subject to management or disciplinary action. Employees must use the VPM Professional and ethical standards to inform the decisions they make to support compliance.

Fingerprinting

Context

Taking fingerprints can assist in the investigation of a crime, confirm or disprove a person's involvement in the commission of an offence and obtain impartial scientific evidence for use in the courts.

The powers that enable police officers to take fingerprints are in ss.464K-Q, *Crimes Act 1958*. This policy is designed to support members' compliance with this legislation.

Policy at a glance

This policy includes:

- the criteria and reasons for fingerprinting a person
- members obligations and considerations when taking a person's fingerprints
- the procedure for making application to the Children's Court for a court order to take children's fingerprints
- guidelines on the use of force to take a person's fingerprints
- processes and responsibilities for the destruction of fingerprints.

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Definitions

There are no specific definitions for this policy. Refer to the **VPM Dictionary** for definitions and acronyms.

Scope and application

This policy does not apply to:

- obtaining of finger scanning for identification under s.464NA, *Crimes Act* or fingerprints for elimination purposes, licence applications and similar
- obtaining fingerprints of registrable offenders under s.27, *Sex Offenders Registration Act 2004*; refer to **VPM Registered Sex Offender management** for relevant details.

Policy

- Fingerprints must be taken on every occasion where it is lawful and justified, unless it is unsafe to do so, or due to an existing medical condition.
- A child aged less than 12 cannot be requested to have their fingerprints taken or have their fingerprints taken (s.464L(1)).
- Fingerprints may be taken by means of a device to obtain a record of the fingerprints (e.g. a finger scan) or by any other means (s.464N(1)).

Responsibilities and procedures

1. When can fingerprints be taken?

1.1 Criteria

Police can take fingerprints to:

- confirm identity
- assist in the investigation of, or to obtain evidence concerning an indictable offence or a summary offence referred to in Schedule 7, *Crimes Act*, which the person is believed on reasonable grounds to have committed, has been charged with or has been summonsed for (s.464K(1)).

Schedule 7 offences are:

- any summary offence where the maximum penalty for a first or subsequent offence includes a period of imprisonment (including applicable traffic offences)
- ss.3(2) and 3(4), *Court Security Act 1980* (refuse or give false information)
- s.6(2), *Control of Weapons Act 1990* (carry regulated weapon)
- s.36A, *Drugs Poisons and Controlled Substances Act 1981* (forge etc. prescription)
- s.20 or 35(6), *Prevention of Cruelty to Animals Act 1986* (impersonate/obstruct inspector).

1.2 Justifying fingerprinting

The reasons that can justify fingerprinting include:

- the proper identification of the person involved in the criminal activity
- the need to match the identity of a person with relevant information or intelligence that is in Victoria Police's possession concerning that person
- for evidentiary purposes.

1.3 *Cautioning or infringement notice*

Where legal power and justification to fingerprint exists, it can be used even where the matter is to be dealt with through the issue of either:

- an Infringement Notice
- a notice under the Cautioning Program, including diversion.

2. Fingerprinting adults and children aged 15 or above

2.1 *Members' obligations when requesting fingerprints*

Section 464K(2), requires a member requesting fingerprints to inform the person, in a language they are likely to understand, of the following:

- the purpose for taking the fingerprints
- the offence they are suspected of, charged with, or summonsed for
- that the fingerprints may be used as evidence in court
- if they refuse to give their fingerprints voluntarily, reasonable force may be used
- if the person is not charged or summonsed within six months of taking the fingerprints, the fingerprints will be destroyed
- the fingerprints will be destroyed if the matter is not proceeded with or there is a finding of not guilty by the courts. This includes diversion programs, dismissed, withdrawn, caution, struck out, discharged, acquitted, quashed, exonerated and warning notices
- that Victoria Police is not required to destroy a person's fingerprints if another set is already lawfully retained on the national fingerprint database
- fingerprints may not be destroyed if the person dies before the fingerprints are required to be destroyed
- the Chief Commissioner of Police may use the fingerprints to identify a deceased person, to identify a person who has suffered a serious injury or to identify a deceased person in a coronial inquest or investigation.

Section 464K(3)&(6) requires the member informing the person of the above matters to:

- audio or audio visually record giving the information and the person's response, if any, in line with Request for Fingerprints from Person Aged 15 years or More [Form 262A]; or
- for Schedule 7 summary offences that are not recorded, read and complete the Request for Fingerprints from Person Aged 15 years or More [Form 262] and
- give a copy of the recording or provide the person with a copy of the completed and signed Form 262.

2.2 *Indictable matters*

If it is an indictable offence, giving the information and the person's response, if any, must be recorded by audio or audio visual recording. A copy of the recording is to be either:

- handed to the person or their legal representative

- delivered by post to either of those persons within seven days

If any transcript of the tape is made it must be given personally or by post to the person or their legal representative as soon as practicable (s.464K(4)&(5)).

2.3 *Child aged 15-17 years*

If fingerprints of a person aged 15, 16 or 17 years are required:

- a parent or guardian of the child or, if a parent or guardian cannot be located, an independent person, needs to be present during the request for the fingerprints, giving the information and taking the fingerprints
- if the person refuses to give their fingerprints voluntarily, seek authority to use reasonable force (see section 6 of this policy).

3. Fingerprinting children aged 12–14 years

3.1 *Members' obligations when requesting fingerprints*

Section 464L(3) requires a member requesting fingerprints from a child aged 12-14 years to inform the child and their parent or guardian, in language they are likely to understand, of the following:

- the purpose for taking the fingerprints
- the offence they are suspected of, charged with or summonsed for
- that the fingerprints may be used as evidence in court
- that the child or the child's parent or guardian may refuse consent to the child's fingerprints being taken
- that if consent is refused, an application may be made to the Children's Court directing the child to give their fingerprints
- that if the child is not charged or summonsed within six months of taking the fingerprints, the fingerprints will be destroyed
- fingerprints will be destroyed if the matter is not proceeded with or there is a finding of not guilty by the courts. This includes diversion programs, dismissed, withdrawn, caution, struck out, discharged, acquitted, quashed, exonerated and warning notices
- that Victoria Police is not required to destroy a person's fingerprints if another set is already lawfully retained on the national fingerprint database
- fingerprints may not be destroyed if the child dies before the fingerprints are required to be destroyed
- the Chief Commissioner of Police may use the fingerprints to identify a deceased child, to identify a child who has suffered a serious injury or to identify a deceased child in a coronial inquest or investigation.

Section 464K(3)&(6) requires the member informing the child and their parent or guardian of the above matters to:

- audio or audio visually record giving the information and the responses, if any, of the child and the parent or guardian, in line with the Request for Fingerprints from a Child who is 12 years of age or over but under 15 years of age [Form 264A]; or

- for Schedule 7 summary offences that are not recorded, read and complete the Request for Fingerprints from a Child who is 12 years of Age or over but Under 15 Years of Age [Form 264];
and
- give to the child, or cause the child to be given, a copy of the recording or provide them with a copy of the completed and signed Form 264.

3.2 *Parent or guardian*

- A parent or guardian of the child must be present when members:
 - request the fingerprints
 - give the required information
 - take the fingerprints
- The child and parent/guardian must both give consent to the taking of fingerprints. An independent person cannot give consent to the taking of fingerprints from a person aged 12 to 14 years.
- If the child and their parent/guardian (if applicable) gives consent:
 - take the fingerprints
 - complete Fingerprint Form [Form 235A], if applicable
 - if recorded in writing also attach Form 264.

4. Children's Court Order

4.1 *Application*

- If a child aged 12-14 years or their parent or guardian refuses to consent to the taking of fingerprints or the parent or guardian cannot be located, a member may apply to the Children's Court for an order to take the child's fingerprints (s.464M(1)).
- Complete the Application for Court Order for Fingerprinting of a Child who is 12 years of Age or over but Under 15 Years of Age [Form 265].
- All applications must be supported by affidavit or evidence on oath.
- Serve copy of Form 265 on:
 - the child's parent or guardian (unless the Court considers it impractical to do so)
 - the child, if the child is not in custody within the meaning of s. 464.

4.2 *Warrant*

- If the court makes an order, it may also issue a warrant to:
 - break, enter and search, if necessary, any place where the child is suspected to be
 - arrest the child
 - take the child to the nearest accessible police station for fingerprinting (s.464M(12)).
- If a child is apprehended under a warrant, the warrant ceases to have effect immediately after the child's fingerprints have been taken.

4.3 *Procedure for taking fingerprints*

The following applies to taking fingerprints from a child aged 12-14 years with a court order:

- a parent/guardian or independent person must be present
- a member may use reasonable force
- taking the fingerprints must be recorded by audio visual recording, if practicable, or otherwise by audio recording
- the member taking the fingerprints, if practicable, must be of the same gender with which the child identifies or is most comfortable and not be involved in the investigation (s. 464N)
- if the child is held in a prison, police gaol, youth training centre or residential centre, the court must order that the officer in charge of that place take or cause to be taken the child's fingerprints and deliver them to the applicant within the time period specified on the order
- complete the Form 265, attach to the court order (and Form 264 if applicable) and submit with the Form 235A
- endorse the order or facsimile with:
 - a notation of whether reasonable force was required. Attach the Form 264 (if applicable) and Form 265 to the endorsed copy of order
 - if applicable, name and signature of independent person (other than a parent or guardian) who was present at the time
 - if applicable, name of video operator
- the member taking the fingerprints must:
 - give the child a copy of the endorsed order
 - ensure the Form 265 is lodged at the court from which it was issued with the executed order or warrant.

4.4 *If the court order is refused*

Complete Form 265 and attach the Form 264 if applicable. The informant must retain the forms.

5. Guidelines for the use of force

- When consent has not been given by an adult or child aged 15 or above, a member may, with appropriate authorisation, use reasonable force to detain a person and take their fingerprints (s.464K(7)).
- Complete an Authorisation to Use Reasonable Force to Take Fingerprints [Form 263] and forward to the authorising member.
- The authorising member must be:
 - a sergeant or above, or in charge of a police station at the time of the request
 - independent of the investigation if practicable.
- The member taking the prints, if practicable, is to:
 - be of the same gender with which the person identifies or is most comfortable as the person giving the fingerprints
 - not be involved in the investigation (s. 464N(2)).

- Complete details on the Form 263 and make a notation in the Attendance Module.
- Where the person is aged 15 -17:
 - taking the fingerprints must be recorded by audio visual recording, if practicable, or by audio recording
 - a parent, guardian, or independent person must be present.

6. Taking fingerprints

- Fingerprints may be taken using 'Livescan' or, if necessary, as an ink set (use Form 235A).
- Livescan fingerprints will be automatically forwarded to the Fingerprint Sciences Group (FSG), Forensic Services Department
- Ink sets must be forwarded through a Sub-officer to FSG.

7. Destruction of fingerprints

7.1 *Legislation*

Forensic Evidence Management Group (FEMG) is responsible for the destruction of any fingerprints. Fingerprints obtained under ss. 464K–464N must be destroyed according to s.464O if:

- the person fingerprinted has not been charged with a relevant offence at the end of a period of six months from taking the fingerprints (see extension process below)

or

- the person has been charged but that charge has not proceeded or there is a finding of no guilt before the end of that period or one month after the conclusion of the proceedings and the end of any appeal period.

For children the fingerprints must also be destroyed (s.464P) if the person is not found guilty of any further offence before attaining the age of 26 (does not apply to some specified offences).

Where fingerprints were given on a voluntary basis (i.e., complainant or elimination) the person's consent is required to retain them.

7.2 *Responsibilities – member taking prints*

The member responsible for the investigation for which the fingerprints were taken must notify FEMG of the need for the destruction of fingerprint records by submitting a Notification of Need to Destroy Fingerprint Record [Form 1126] within one month where:

- the case is not proceeded with; or
- the person is not found guilty as a result of, but not limited to:
 - the case being discharged, including where a diversion program is completed
 - the case being dismissed – except under s. 76, *Sentencing Act*, which constitutes a finding of guilt
 - the case being quashed
 - being acquitted
 - being found not guilty on appeal

Responsibility for failure to provide such information, and any issues that arise from non-legislatively authorised use of such fingerprints, rests with the informant and/or their work unit manager. Untimely notification leads to a breach of legislative requirements if fingerprints are held beyond the legal limits in s.464.

7.3 *Extension process*

- Members may make application on only one occasion to the Magistrates' or Children's Court to extend the six-month non-destruction period. The application must be:
 - made within a period outlined in s.464O(4)
 - supported by affidavit or on oath or affirmation
 - completed using the Application for Court Order for Extension of Destruction Period re Fingerprints [Form 266].
- If the court grants the order for extension, the member must serve a copy on the person from whom the fingerprints were taken and email a copy of the Certified Extract to the FINGERPRINT DESTRUCTIONS-FSD-OIC as soon as practicable.

Further advice and information

For further advice and assistance regarding this policy refer to the Forensics Resources intranet page and/or contact your supervisor, the Forensic Evidence Management Group or the Fingerprint Sciences Group, Forensic Services Department.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
01/07/19	New instrument combines and replaces relevant section of VPMP Forensic procedures and fingerprints and VPMG Fingerprinting . VPM Forensic procedures also published.	FF-143085
01/08/23	Additional information added to the cautions in relation to collective destruction and the use of fingerprints to disclose identity due to changes to the <i>Crimes Act 1958</i> . Amendments to align with streamlined notification for destruction process (e.g. removal of monitor status). Administrative updates for currency.	FF-237741
30/09/25	Amendments to reflect the change of the minimum age of criminal responsibility from 10 years to 12 years of age.	FF-273062
06/11/2025	Updated to reflect FSD organisational realignment of the fingerprint destruction function to the Forensic Evidence Management Group.	N/A