

A. FILE CLOSURE

The Waterloo Regional Police Service will destroy, seal or make inaccessible adult fingerprints and/or dispositions (“identification records”) in accordance with the following procedure and subject to Section C.

1. REQUEST FILE CLOSURE

- a) The applicant is required to complete the File Closure Request form available at the Police Reporting Centre at 150 Maple Grove Road, Cambridge. The form is also available online at www.wrps.on.ca
- b) The applicant must submit the request form with a \$50 application fee + HST = \$56.50, payable by cash or certified cheque.

2. TIME PERIODS

Identification records are eligible for file disclosure after the end of the applicable period that follows:

- a) **ACQUITTAL** (Other than by reason of a verdict of not criminally responsible on account of mental disorder): **Two (2) months** after the expiration of the time allowed for the taking of an appeal, or where an appeal is taken, on the expiration of **three (3) months** after all proceedings in respect of an appeal having been completed.
- b) **WITHDRAWN: 30 days** have elapsed from withdrawal date (to allow for receipt and internal processing of the withdrawal).
- c) **DISMISSED: 30 days** have elapsed from the disposition date (appeal period).
- d) **CHARGES STAYED: One (1) year** has passed from the disposition date.
- e) **WITHDRAWN – PEACE BOND: 30 days** from the expiry of the peace bond (which is normally **one (1) year** from disposition date).

Note: The above time periods are the times of eligibility only. Actual file closure cannot be approved until the disposition has been received from the Court and processed in the police system and confirmed.

3. AUTOMATIC FILE CLOSURE

Identification records arising out of a charge(s) that was subject to the following disposition(s) will be destroyed, sealed or made inaccessible only after the end of the following periods:

- a) **WITHDRAWN – DIVERSION:** Will automatically be purged **two (2) years** after the diversion was completed.
- b) **ABSOLUTE DISCHARGE:** Will automatically be purged **one (1) year** after the discharge was ordered.
- c) **CONDITIONAL DISCHARGE:** Will automatically be purged **three (3) years** after the offender was discharged on the conditions prescribed in a probation order.

No application or fee is required due to the fact that these records will be destroyed, sealed or made inaccessible automatically.

Note: The automatic purging of files by the RCMP for Absolute and Conditional Discharges started July 24, 1992. They did not purge discharges prior to this date. Anyone wishing criminal file closure where a discharge was received prior to July 24, 1992, must write to the RCMP (RCMP – PARDON AND PURGE SERVICES, Box 8885 Ottawa, ON K1G 3M8 or fax 613-957-9063) requesting removal of this conviction. The applicant will receive a letter of confirmation from the RCMP and then can submit the letter to the local police service to have the local criminal file closed, if the eligible criteria are met.

B. APPROVED FILE CLOSURE

Once the application is received it will be reviewed by the Waterloo Regional Police Service’s Records Manager or designate within 30 days to determine if it meets the time period(s) and does not fall under a Special Case Exemption. After the review, and if approval is granted, a letter of approval will be sent to the applicant.

The Waterloo Regional Police Service will notify the RCMP to return the fingerprints and update their records. The RCMP backlog can be approximately 9 to 12 months. Once the RCMP returns the fingerprints, the Waterloo Regional Police Service will destroy, seal or make inaccessible the fingerprints, provided eligibility is still met, within 15 days of receipt. A letter will be sent to the applicant when this has occurred.

C. DENIED FILE CLOSURE – Special Case Exemption

a) DENIAL PROCESS

If the Records Manager or designate determines that all or part of the request for file closure should be denied because the time period(s) listed above have not expired or the request falls under a Special Case Exemption, a letter of denial will be sent to the applicant. The letter will state why the request was denied unless stating the reason for denial would jeopardize an on-going or open investigation or intelligence gathering, potentially endanger a person or property, be contrary to a privilege or be against public policy (e.g., fall under public immunity privilege).

The letter will further state that the \$50 application fee is not refundable and will outline the appeal process.

b) SPECIAL CASE EXEMPTION

While a person has a prima facie right to have identification records destroyed upon request, a request shall be denied and the records retained if, in the particular circumstances, it can be shown that there are other factors that would trump the privacy interest [reference – *R. v. Dore*].

When determining whether a request falls under a Special Case Exemption, and therefore the request should be denied, the following criteria shall be included in the consideration:

- a) The applicant is not a first-time offender (i.e., previous record);
- b) There are outstanding charges;
- c) Information is required for an on-going investigation or intelligence;
- d) The offence resulted in a mandatory ViCLAS entry;
- e) Past occurrences/charges show a pattern of domestic violence, sexual predatory behaviour, threats of violence and/or assaults causing bodily harm;
- f) The requester continues to present a substantial risk to the community;
- g) The reasons for withdrawal or the Crown's input justifiably support retention;
- h) Given the type of offence(s), if subsequently repeated, identification records would be valuable or essential to the solving of that subsequent case;
- i) The amount of time without incident(s) – the longer the requester is incident free, the more likely to support destruction;
- j) Other exigent factors, on a case-by- case basis, that support retention; and
- k) The RCMP will not grant file closure, for a minimum of five years, for non-conviction records related to high treason, treason, potential terrorist activity, first and second degree murder, manslaughter, aggravated assault and sexually-based offences.

D. APPEAL PROCESS

If an applicant disagrees with the decision they may appeal it in writing, **within 35 days** of the date of the decision letter. The appeal must state why the Waterloo Regional Police Service should reconsider its decision and be accompanied by a \$30 appeal fee + HST = \$33.90, payable by cash or certified cheque. Send the appeal to the Records Manager, Waterloo Regional Police Service, P.O. Box 3070, 200 Maple Grove Road, Cambridge, Ontario N3H 5M1

Within 60 days of receipt of an appeal notification the Waterloo Regional Police Service will convene the Identification Records File Closure Appeal Board to consider the appeal. The Board may, at its discretion and confidentially, seek the Crown Attorney's input regarding the file closure of the identification records and/or the legal advice of the Waterloo Regional Police Services' solicitor.

After the decision of the Appeal Board is made, a letter will be sent to the applicant to indicate the final decision. The Identification Records File Closure Appeal Board's decision is final.

The \$33.90 appeal fee is not refundable.

E. ELECTRONIC RECORDS

Electronic records, which include the fingerprints, will be deleted where possible and if not possible will be sealed or made inaccessible to restrict access. No other electronic records, including occurrence reports will be modified.

F. EXTENSION OF TIMELINES

If, in extenuating circumstances, the Waterloo Regional Police Service can not meet the timelines indicated in this procedure the applicant will be notified of the applicable extensions, as required.



**WATERLOO REGIONAL
POLICE**

File Closure of Fingerprints and Dispositions Procedure

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