



EA11

OFF-DUTY EXERCISE OF POLICE POWERS

EA11

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POLICY

1. Delta Police Department (Department) members are, as a result of their peace officer status, subject to common law and statutory duties, beyond their paid working hours, including the duty to:
 - a) preserve the peace;
 - b) prevent offences;
 - c) enforce the law; and
 - d) preserve life, protect against serious injury and protect property, including where no criminal activity is involved.
2. Members may:



- a) exercise the common law and statutory powers of a peace officer, for the purposes of carrying out duties beyond paid working hours;
 - b) rely on common law and statutory immunities, if exercising powers or duties of a peace officer beyond their paid working hours; and
 - c) exercise the powers and duties of a peace officer, beyond their paid working hours, throughout British Columbia.
3. If, and only if, presented with circumstances in which an individual's safety or public safety is at risk, or it is clearly consistent with the public interest, may a member, and is a member required to exercise the powers and duties of a peace officer, beyond their paid working hours.
 4. A member may refrain from intervening directly if, during hours when not being paid, the member is presented with circumstances in which an individual's safety, public safety or the public interest can be adequately addressed without the member needing to exercise the powers and duties of a peace officer.
 5. The degree to which a member intervenes, during hours when not being paid, is to be proportionate to the circumstances giving rise to the member's common law and statutory duties to exercise the powers and duties of a peace officer.
 6. Members shall exercise the powers and duties of a peace officer, beyond their paid working hours, in a manner that seeks to ensure their own safety, and in accordance with procedures established by the Chief Constable.
 7. Members shall not, at any time, exercise the common law and statutory powers of a peace officer where their own self-interest is, or can be perceived to be the dominant purpose for doing so.

REASON FOR POLICY

8. To provide direction to, and seek to ensure the safety of members in the exercise of their powers and duties, beyond their paid working hours.

RELATED POLICIES

EA10 – Jurisdiction



EC10 – Rules of Conduct
EC11 – Conflict of Interest

DEFINITIONS

9. For the purposes of this Policy, the following definition will apply:

Engaging While Off-duty: performing the powers or duties of a peace officer while off-duty, within or outside of the City of Delta (Delta).

PROCEDURES

Determination

10. In determining whether to engage while off-duty, and how to do so, members must give consideration to:
- whether a presented risk of harm to another person or property can be prevented or sufficiently mitigated, by not engaging, but instead calling '911' for police, fire department or ambulance assistance;
 - the member's own physical and psychological state and readiness;
 - the adequacy of the tools or equipment available to the member to ensure their own safety upon engaging; and
 - the adequacy of skills the member possess to ensure thier own safety upon engaging.

Identification

11. Members engaging while off-duty must, if practicable and safe to do so, identify themselves as a police officer before engaging, and in any event as soon as possible thereafter.
12. A member who calls "911" while off-duty, to report an incident that the member does not intend to engage in, or to request assistance in the course of engaging, must identify themselves to the call-taker as a police officer with the Department.



Investigative Responsibilities

13. A member who has engaged while off-duty must:
- a) remain at the scene until an on-duty member of the Department attends, and outside of Delta until police of jurisdiction attend, and assumes conduct of the incident;
 - b) secure any evidence specific to an offence, in so far as it is safe to do so, and log it or transfer it to an officer who is assigned as primary investigator;
 - c) upon affecting a detention or arrest, provide the appropriate *Charter of Rights and Freedoms* (Charter) warnings and police warnings consistent with the legal requirements; and
 - d) maintain physical custody of an arrested person, if safe to do so, and transfer the person to the custody of a subsequently attending on-duty police officer.

Reserve Constables

14. A Department reserve constable is designated as a special municipal constable for the limited purpose of participating in the Department's volunteer based reserve program, and shall not exercise powers of a peace officer at any time other than when scheduled to perform program duties.

Notification

15. A member who engages while off-duty:
- a) within Delta, must notify the on-duty Patrol NCO; and
 - b) outside of Delta, must notify and report their off-duty engagement to the police of jurisdiction, as well as to the Department's on-duty Patrol NCO.
16. Depending on the circumstances, a member engaging while off duty must provide the required notification either before, upon or as soon as practicable after engaging.



Reporting

17. A member who has engaged while off-duty must, as soon as practicable, provide a written report documenting the circumstances requiring their engagement and the actions taken.
18. A member who has engaged while off-duty is not in the role of a witness, but as an attending officer.
19. If the incident in which the member engaged occurred in Delta, the member is to be either the primary investigator and prepare a General Occurrence report, or provide a 'Will Say' to a report of the incident, if a subsequently attending member is assigned as primary investigator.
20. If a member engaged in relation to an incident outside of Delta, the member is to complete a report documenting their observations and actions, and submit it to the police of jurisdiction for inclusion in the General Occurrence report, as well as provide a copy to the Department's Patrol NCO on duty at the time of the incident.
21. A NCO receiving a report of off-duty engagement for approval, must provide notice of the same, through the chain of command, to the Superintendent, Community Policing Bureau, for reporting at the next meeting of the Risk Management Committee.
22. If the seriousness of the matter warrants, the Patrol NCO must advise the Chief Constable if the incident and the member's engagement, as soon as possible.

Remuneration

23. A member engaging while off-duty is entitled to remuneration in accordance with the Collective Agreement provisions specific to callouts, and may be required to remain on-duty for the duration of the remunerated time.

Adherence to Policy

24. A member who engages while off-duty, thereby placing themselves on-duty, is subject to and required to adhere to all provisions of the *Police Act* and all applicable Department policy, procedures and directives, as if on a regular shift.



Injuries

25. For purposes of the *Workers Compensation Act*, injury sustained as a result of a member engaging while off-duty in accordance with this Policy, may be deemed to have arisen out of and in the course of the member's employment.

26. A member who sustains injury as a result of engaging while off-duty in breach of this Policy, may not be considered injured in the course of his employment and therefore not covered under the *Workers Compensation Act*.

*Revised Dates:
N/A