



IM54

**COURT ORDERS
(FAMILY & CIVIL)**

IM54

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POLICY

1. In most instances, Members of the Delta Police Department (Department) will restrict their involvement in civil matters to prevent a breach of the peace; other than where a court has made a custody, access, restraining or protection order, or circumstances dictate that additional actions are required.

REASON FOR POLICY

2. To ensure members understand their limited role in civil disputes, as well as their responsibilities in regards to certain types of court orders.

RELATED POLICIES

CS32 – Protection of Children

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Court Orders (Family & Civil)

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PROCEDURES

General

3. The *Family Relations Act* ceased to exist as of March 18, 2013. Orders made pursuant to the *Act* continue to be enforceable as per their terms or under the provincial *Offence Act* by way of a Report to Crown Counsel requesting a summons or warrant.
4. The *Family Law Act* came in to force on March 18, 2013 and allows for the making of 'protection orders' under Section 183 of the *Act*. Disobeying a protection order constitutes an offence under Section 127 of the *Criminal Code of Canada (CCC)*.
5. Disobeying a *Child, Family and Community Service Act* Section 28 'protective intervention order' or Section 98 'restraining order,' made on or after March 18, 2013, constitutes an offence under Section 127 of the CCC (disobeying an order made pursuant to the *Act* before March 18, 2013, remains enforceable under the *Offence Act*, regardless of whether the breach offence occurs before, on, or after that same date).
6. When a court order in any of the above categories is produced, a member shall:
 - a) notify a supervisor to attend; and
 - b) establish reasonable grounds to believe that the order is both valid and enforceable by contacting the British Columbia Protection Order Registry (BCPOR) by telephone, 1-800-990-9888 (24 hours). The Registry will fax a copy of the valid order.

B.C. Supreme Court Order

7. A B.C. Supreme Court order has the following marks:
 - a) a stamp mark bearing the B.C. Coat of Arms and the wording 'Supreme Court of British Columbia.;
 - b) a B.C. Court Registry stamp bearing the date and registry number;
 - c) an original (not photocopy) stamp mark certifying the document as a true document; the date of certification and an original signature must also be present; and



- d) a signature of a Judge.

Provincial Court (Family Court) Order

- 8. A Provincial Court (Family Court) order has the following marks:
 - a) a stamp mark bearing the words .Provincial Court of British Columbia, Entered.;
 - b) a court file number and date;
 - c) an original (not photocopy) stamp mark certifying the copy as a true copy, and an original signature must be present; and
 - d) a signature of a Judge.

Out-Of-Province Court Order

- 9. An out-of-province court order must be registered with or endorsed by a B.C. Court to be enforceable.
- 10. The out-of-province court order must have the same 4 markings as a B.C. Supreme Court order.

Court Order – Non-Certified Copy

- 11. When a non-certified copy of a court order is produced, the member may confirm the validity by phoning the appropriate Court Registry.

Enforcement Procedures

- 12. In enforcing the provisions of a court order, members shall:
 - a) ensure that a supervisor is in attendance;
 - b) make detailed notes on the following:
 - i) date of the order,
 - ii) the jurisdiction of the Court Registry, the date registered and the registry number, and
 - iii) other relevant court markings on the order that establish the order is valid and enforceable in B.C.;



- c) confirm with the complainant or the BCPOR that the order produced is the most recent and valid order;
- d) ask the complainant if it is known the suspect is aware of the order;
- e) take the court order in hand and confront the suspect;
- f) explain to the suspect that the police are required to carry out the directives in the order and/or have the authority to enforce the provisions of the order;
- g) allow the suspect the opportunity to produce any amended orders; and
- h) in the event that more than one apparently valid order is produced, the order registered on the latest date will take precedence; however, in some situations a subsequent order will only vary part of the previous order; in these cases, the portions of the first order that have not been amended are still valid.

Violations of Restraining, Protective Intervention & Protection Orders

13. No new *Family Relations Act* restraining orders will be issued as of March 18, 2013, but existing orders remain in effect. From the same date forward, a court may issue a protection order under the new *Family Law Act* and such an order is only enforceable by pursuing breach charges under Section 127 of the CCC. Protective intervention orders and restraining orders, issued as of the same date under the *Child, Family and Community Service Act*, are enforceable only by pursuing breach charges under Section 127 of the CCC. A violation of a valid order shall be enforced in the following manner:

- a) these orders are issued in cases of adult, or adult and child, relationship conflicts involving a concern about safety. Complex family dynamics are at play, potential risks have been identified and the subjects are most likely in the process of separation, divorce or a child custody dispute. For these reasons the enforcement of such orders should be viewed in the context of a thorough evidence-based, risk-focused domestic violence or child safety investigation;
- b) when the suspect is believed to have disobeyed, but is not found disobeying, an order, members shall submit a Report to Crown Counsel requesting a warrant (when appropriate);



- c) when the suspect is found disobeying an order, members shall give consideration to conditions of public interest (including preventing repetition or continuation) and assuring appearance in court, and arrest and lodge the suspect in the police detention facility if necessary, or otherwise advise the suspect that a warrant will be requested; and
- d) for breaches of *Family Law Act* protection orders and for *Child, Family and Community Service Act* protective intervention orders and restraining orders, and any other type of order that does not provide a punishment or other mode of proceeding, a charge under Section 127 of the CCC must be considered. Normal release provisions would then apply. Care should be taken to ensure the breach of the order does not continue.

Interference With Custody, Parenting Time or Contact

- 14. Under the *Family Law Act*, interfering with lawful custody of, or access to, a child is not a summary offence, but is dealt with exclusively by way of remedies under the *Act* available to individuals in the civil proceedings. Under that *Act*, a court can, however, make an order requiring a police officer to apprehend a child and take the child to the person from whom it has been wrongfully withheld and, for the purpose of locating and taking the child, order that a police officer may enter and search any place he or she has reasonable and probable grounds for believing the child to be.
- 15. Members may only enter and search any place including a dwelling house to locate a child if authorized by an order under the *Family Law Act* or the member has reason to believe the child is 'in need of protection' under the *Child, Family and Community Service Act* (refer to Policy CS32 – *Protection of Children*).

Peace Bonds

- 16. A peace bond is issued by a judge in Criminal Court to restrict the activities of one person in order to prevent harm to another person. A peace bond may also include conditions to protect children and property.
- 17. Peace bonds, which are normally associated with the protection of women in relationships, may also be ordered in other situations, such as neighbour or co-worker disputes, to prevent violence or damage to property.



18. Peace bonds are recognized officially under Sections 810 and 810.1 of the CCC as Criminal Recognizances, which may or may not have associated sureties to keep the peace. Section 811 of the CCC stipulates that 'a person bound by a recognizance under Section 810 or 810.1 who commits a breach of the recognizance is guilty of a dual offence.'

General Occurrence

19. Members shall complete a General Occurrence rather than requesting charge under the following circumstances:
- a) there are no reasonable and probable grounds to believe that the accused was aware of the order prior to the offence occurring;
 - b) an order is produced and members do not consider it to be valid and enforceable; or
 - c) the violation of the order appears to be inadvertent or unintentional and the complainant agrees that charges are not warranted.

Duty NCO

20. The supervisor in attendance shall ensure the actions of the member are appropriate. In the event of controversial or unusual incidents, the Duty NCO or Duty Officer shall be consulted and, if necessary, contact the appropriate Crown counsel.

Note: Some foreign court orders may be enforceable under the provisions of Section 282 of the CCC (Abduction in Contravention of Custody Order) and/or Section 127 of the CCC. In addition, provisions of the Convention of the Civil Aspects of International Child Abduction, The Hague, are in force in this province. This agreement, ratified by several nations, including Canada, provides a formal procedure for the prompt return of children abducted from their country.

Note: As specified above, these unusual situations shall be referred to the Duty NCO and/or Duty Officer, who shall contact the appropriate Crown Counsel, if necessary.

*Revised Dates:
12 February 2013
20 June 2013