



WEST VANCOUVER POLICE DEPARTMENT

Operational Policy

OD0100: Duty to Warn Investigations

1.0 PURPOSE

- 1.1 The purpose of this policy is to provide guidelines to Members for investigating, assessing risk, and notifying persons who are the subject of a Credible Threat.

2.0 DEFINITIONS

- 2.1 For the purposes of this policy, the following definitions will apply:

“CBSA” means the Canada Border Service Agency responsible for managing the access of people and goods to and from Canada.

“Credible Threat” means a threat that discloses information about a clear, serious and imminent danger to a person’s life or safety.

“DCC” means the Deputy Chief Constable of the Department.

“Department” means the West Vancouver Police Department.

“DTW Assessment Tool” means a structured document used to:

- a) assist in the process of determining whether a DTW exists;
- b) identify any collateral risk that may result from executing the warning;
- c) provide the information to form the rationale for conducting the DTW notification; and
- d) allow DTW investigations to be accessible to RTIC-BC in a consistent format

“Duty Officer” means the on-call Executive Officer (Inspector rank or above and includes Acting Inspector), outside normal business hours.

“Duty to Warn (DTW)” means the obligation of the Department, subject to the consideration of public interest, to warn persons who have been identified as potential victims of a Credible Threat. The DTW includes the completion of a thorough risk assessment and does not always result in a DTW notification.

Duty to Warn

“Duty to Warn Notification” means the contact made by police with a person who is the subject of a Credible Threat to their life or safety, and the provision to that person of a warning to that effect.

“Entrust” means a computer-based file encryption program used by RCMP, Federal Government and police agencies.

“Executive Officer” means a Member who has been appointed to the rank of Inspector or above.

“FIPPA” means the Freedom of Information and Protection of Privacy Act, RSBC 1996, Chapter 165, as amended from time to time.

“Handler” means a Member who receives information from, and acts as a point of contact with a Source.

“MCFD” means the BC Ministry of Children and Family Development.

“Member” means a sworn peace officer employed at the Department.

“MIT” means the Major Investigation Team of the Department.

“NCO” means a Non Commissioned Officer of the Department (Corporal, Sergeant and Staff Sergeant).

“PRIME” means the Police Records Information Management Environment.

“PRIME GO” means a General Occurrence Report completed in the PRIME records management system.

“RTIC-BC” means the Real Time Intelligence Centre BC, an RCMP led multi-jurisdiction integrated organization responsible for the analysis of intelligence gathered by Lower Mainland police agencies, and for providing immediate information and support to those agencies as they investigate crimes that pose a high risk to public safety.

“Source” means persons who provide information to Members regarding past, present or future criminal activity with the explicit or implicit expectation of confidentiality, and who may or may not expect a form of remuneration, or any other form of reward, consideration or advantage.

“UCR” means Uniform Crime Reporting, a standardized data collection system utilized by the Canadian Centre for Justice Statistics (CCJS), in collecting police-reported crime statistics through the Uniform Crime Reporting Survey.

Duty to Warn

3.0 POLICY

- 3.1 The Department recognizes that police have a common law and statutory obligation to warn individuals when becoming aware of a Credible Threat that could endanger their life or cause them serious bodily harm.
- 3.2 Where a Member has reasonable grounds for belief that any person's life or safety is in clear, serious and imminent danger due to the actions of one or more other individuals, the person is to be warned of the risk(s) to his or her safety, regardless if such a warning may adversely impact an ongoing police investigation.

4.0 PROCEDURES

General

- 4.1 The Department will conduct a DTW investigation for notification of a Credible Threat made against an individual or group which has been:
- a) reported by a Source;
 - b) received as anonymous information;
 - c) received as a Crime Stoppers tip;
 - d) identified through a covert/ongoing investigation; or
 - e) received from a reportee who may be in danger due to the notification.
- 4.2 The DTW obligation is initiated the moment the Department becomes aware of a Credible Threat.
- 4.3 Should the information of the Credible Threat originate from a Source, all standard protocols for the protection of the Source's identity will be followed, including information sharing and document retention. Further details are available in Department policy **OG2550: Confidential Human Sources**.
- 4.4 A DTW notification issued pursuant to this policy normally does not disclose the identity of the individual(s) who pose the threat; however, if the investigation pursuant to this policy results in a finding that personal identifier information is required to be released, the warning must be conducted in accordance with the provisions of FIPPA.
- 4.5 The safety of the intended victim and unintended victims supersedes all other police-related interests, including the viability of an ongoing investigation that may be driven by covert and/or sensitive investigative techniques.

Duty to Warn

Approval of Duty to Warn

- 4.6 The OIC Investigations and Intelligence Division and OIC Operations (or Duty Officer) or delegate has the authority to approve the carrying out of a DTW. The completed DTW Assessment Tool and all relevant appendices will be forwarded to the approving Executive Officer or delegate for review. The Chief Constable and DCC will be notified of a DTW investigation as soon as practicable.
- 4.7 The approving Executive Officer or delegate will consider the following factors related to a potential DTW:
- a) the nature and use of the affected area and possibility of collateral damage;
 - b) the possibility of mistaken identity or innocent person becoming targeted in error; and
 - c) the presence of children, relatives, tenants, or coworkers that could be victimized as a result of their association and/or proximity to the subject of the DTW.
- 4.8 In circumstances where there is likelihood that a DTW notification will compromise a Source, a supplementary review will be conducted by the DCC who will have final approval.

Jurisdiction

- 4.9 The Department will conduct a DTW investigation if:
- a) it is believed the threat will be carried out in West Vancouver; or
 - b) the location where the threat will be carried out is unknown, but the intended victim resides in West Vancouver.
- 4.10 The Department may carry out the delivery of a DTW notification on behalf of another police jurisdiction.

Investigation

- 4.11 Exigent circumstances notwithstanding, the DTW investigation will follow the Department DTW standard procedure and will make use of standard forms and templates created for this purpose where they exist.

Duty to Warn

Information Received from Another Agency

- 4.12 In the event that information concerning a DTW is received from another police agency, the receiving Member shall refer the matter to the Sgt i/c MIT for immediate review and follow-up.
- 4.13 The Sgt i/c MIT will advise the OIC Investigations and Intelligence Section of all DTW investigations as soon as practicable.
- 4.14 The Sgt i/c MIT is responsible to obtain and initiate the DTW Assessment Tool by sending an email to: DutytoWarn.AssessmentTool@rcmp-grc.gc.ca.
- 4.15 If the origin of the DTW is Source information, the Sgt i/c MIT shall request the associated Department, or external agency Source Handler to complete "Appendix A" of the DTW Assessment Tool.

Information Generated from Within the Department

- 4.16 Any Member receiving information they believe may necessitate a DTW must immediately notify their NCO. The NCO is responsible to obtain and initiate the DTW Assessment Tool by sending an email to: DutytoWarn.AssessmentTool@rcmp-grc.gc.ca.
- 4.17 If the DTW information concerns a situation in another police agency's jurisdiction, the OIC Investigations and Intelligence or delegate will determine whether or not to advise that jurisdiction.
- 4.18 If the DTW investigation arises from a Member's Source, the Handler will be directed to complete "Appendix A" of the DTW Assessment Tool and that document will be reviewed by the Sgt i/c MIT prior to being provided to the police agency of jurisdiction.

Deconfliction

- 4.19 Deconfliction is the process of identifying relevant active files that may be affected by a decision to conduct a DTW, and in all cases where a DTW is considered, deconfliction will be conducted through the MIT Intelligence Coordinator (internal deconfliction) and RTIC-BC.
- 4.20 The MIT Intelligence Coordinator or Sgt i/c MIT will be responsible for requesting the deconfliction to assist in identifying relevant active files that may be affected and result in the need to consult with the responsible agency that may be impacted.

Duty to Warn

- 4.21 As appropriate, the Sgt i/c MIT will ensure that other responsible agencies impacted by a DTW are advised of an approved warning that is going to be conducted, e.g. CBSA, provincial or federal Corrections or MCFD.

Conducting a Duty to Warn Notification

- 4.22 A DTW notification will be conducted in the following manner:
- a) where practicable, 2 Members working in unison will conduct the notification and the interaction with the subject being warned should be in person, and audio and video or audio recorded; and
 - b) where practicable, the subject's signature will be obtained to acknowledge delivery of the notification.
- 4.23 If the intended victim has children living with them, Members will consider their apprehension. Members will report the DTW as soon as practicable to the MCFD and where reasonable to do so, notify MCFD in advance of any planned apprehension to assist in taking custody of the child(ren) as soon as possible after apprehension.
- 4.24 Unless exigent circumstances exist, the Chief Constable & DCC Chief Constable will be notified verbally or in writing prior to the DTW and in any event as soon as practical once the notification is made.

Documentation of the Duty to Warn Investigation

- 4.25 If the Department is the police agency of jurisdiction, the Sgt i/c MIT will initiate a PRIME GO utilizing the DTW UCR code.
- 4.26 If the Department originates the DTW information (other than Source information), but is not the police agency of jurisdiction, the Sgt i/c MIT will initiate a PRIME assist file to assist the police agency of jurisdiction.
- 4.27 If Department Source information is the origin of the DTW investigation, but the Department is not the police agency of jurisdiction:
- a) the Department Source Handler will complete Appendix A of the DTW Assessment Tool, and forwarded it to the Sgt i/c MIT for review; and
 - b) the Sgt i/c MIT will submit it to the agency of jurisdiction.
- 4.28 All completed DTW Assessment Tool and Appendix A forms must be kept stored in a secure file within MIT and will not be scanned and added to PRIME.

Duty to Warn

4.29 A briefing note will be submitted to RTIC-BC (via Entrust), by the Sgt i/c MIT in cases where a DTW is considered, whether carried out or not.

Requirement for Concurrent Criminal Investigation

4.30 Where appropriate a concurrent criminal investigation into the substantive elements of the DTW is to be conducted to determine if there is sufficient evidence to support a criminal charge.

Date Approved: WVPD Executive: 2018-09-19 Policy & Procedure Comm.: 2018-10-17 Police Board: 2018-10-25	Date Published: 2018-10-30
---	----------------------------