



# WEST VANCOUVER POLICE DEPARTMENT

## Operational Policy

### OG4700: Arrests of Persons on Private Property

#### 1.0 PURPOSE

- 1.1 The purpose of this policy is to provide direction to Members on their authority to arrest persons on private property and the procedures to be followed in such circumstances.

#### 2.0 DEFINITIONS

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

“CCC” means the Criminal Code of Canada, R.S.C. 1985, c. C-46, as amended from time to time.

“Department” means the West Vancouver Police Department.

“LCLA” means the Liquor Control and Licensing Act [RSBC 1996] Chapter 267, as amended from time to time.

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

“PTA” means a Promise to Appear.

“Trespass Act” means the BC Trespass Act, [RSBC 1996] Chapter 462, as amended from time to time.

#### 3.0 POLICY

- 3.1 Members arresting persons on private property will do so in accordance with the provisions of the CCC or applicable provincial enactment, and the procedures contained herein.

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### 4.0 PROCEDURES

#### Statutory Authority

- 4.1 Members may remove and arrest, without warrant, any persons on private property, if police are lawfully on the property and they have reasonable and probable grounds to believe that an indictable offence has been committed, or is about to be committed, or if they find the person committing a criminal offence or a Breach of the Peace (Sec. 495 and Sec. 31 CCC).
- 4.2 If it is determined that a person or persons are trespassing on private property, the person in charge of that property may be advised that he has a right to eject the trespassers. A trespasser who refuses to leave when requested commits an offence, (Provincial Trespass Act or CCC – Assault/Mischief/Obstruct Peace Officer) and triggers a Member’s powers of arrest to remove the person.
- 4.3 Recent Court decisions have differentiated between passive resistance and overt resistance, stating that simply refusing to leave a property, absent some overt act by the trespasser, was not an assault (R. v. K.B. [2012] B.C.J. No. 271). Members will consider this differentiation in determining the appropriate level of force utilized in intervening and the appropriate charges to be laid if required.
- 4.4 An arrest may be made and charges requested under Sec. 61 LCLA for persons who:
  - a) remain in a service area, in an establishment or at an event site after the person is requested to leave in accordance with Sec. 61(3);
  - b) enter a service area, an establishment or an event site within 24 hours after the time the person was requested to leave the service area, establishment or event site in accordance with Sec. 61(3); or
  - c) without lawful excuse, the proof of which lies on the person, possess a knife or weapon in a service area, in an establishment or at an event site.
- 4.5 Members are not agents for the owners/managers of premises and shall not assist in preventing entry to or removing a trespasser from the premises until they are asked to do so by the owner/manager of the premise or their designate.
- 4.6 Members arresting persons under the statutory authorities noted above must consider the interim release provisions of the CCC, and issue a PTA (if release

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conditions are required), or an Appearance Notice (Federal or Provincial) if public interest and court attendance concerns, as outlined in section 495(2) CCC, are satisfied.

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