



WEST VANCOUVER POLICE DEPARTMENT

Operational Policy

OK0100: Child, Family and Community Service Act

1.0 PURPOSE

- 1.1 The purpose of this policy is to provide guidance to Members on their roles and responsibilities pursuant to the CFCSA in instances where it is necessary to act to ensure the safety and well-being of a Child.

2.0 DEFINITIONS

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

"Aboriginal Child" means a Child:

- a) who is registered under the Indian Act;
- b) who has a biological parent who is registered under the Indian Act;
- c) who is under 12 years of age and has a biological parent who:
 - i. is of aboriginal ancestry, and
 - ii. considers himself or herself to be aboriginal, or
- d) who is 12 years of age or over, of aboriginal ancestry and considers himself or herself to be aboriginal.

"Aboriginal Community" means an aboriginal community designated by the minister.

"CFCSA" means the Child, Family and Community Service Act, (RSBC 1996), Chapter 46, as amended from time to time.

"Child" means a person, under 19 years of age, and includes a youth.

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“Department” means the West Vancouver Police Department.

"Director" means the Director of Child Protection, Ministry of Children and Family Development, and his/her delegates providing Child protection services throughout BC.

“Indian Act” means the Indian Act (RSC, 1985, c. I-5), as amended from time to time.

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

“Young Child” means a Child under 12 years of age.

"Youth" means a person who is 16 years of age or over but is under 19 years of age.

3.0 POLICY

3.1 The CFCSA was proclaimed in force on January 29, 1996 and will be interpreted and administered by Members so that the safety and well being of Children are of paramount consideration.

3.2 Members will be familiar with the roles and responsibilities of police officers pursuant to the CFCSA, and will, at all times in the course of their duties, act in accordance with the CFCSA to protect the best interests of a Child.

4.0 PROCEDURES

Best Interests of a Child

4.1 When consideration is being given to the "best interests of a Child", all relevant factors must be considered in determining the Child's best interests, including for example:

- a) the Child's safety;
- b) the Child's physical and emotional needs and level of development;
- c) the importance of continuity in the Child's care;
- d) the quality of the relationship the Child has with a parent or other person and the effect of maintaining that relationship;
- e) the Child's cultural, racial, linguistic and religious heritage;

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- f) the Child's views; and
- g) the effect on the Child if there is delay in making a decision.

If the Child is an Aboriginal Child, the importance of preserving the Child's cultural identity must be considered in determining the Child's best interests.

Child In Need of Protection

4.2 A Child needs protection in the following circumstances:

- a) if the Child has been, or is likely to be, physically harmed by the Child's parent;
- b) if the Child has been, or is likely to be, sexually abused or exploited by the Child's parent;
- c) if the Child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the Child's parent is unwilling or unable to protect the Child;
- d) if the Child has been, or is likely to be, physically harmed because of neglect by the Child's parent;
- e) if the Child is emotionally harmed by the parent's conduct;
- f) if the Child is deprived of necessary health care;
- g) if the Child's development is likely to be seriously impaired by a treatable condition and the Child's parent refuses to provide or consent to treatment;
- h) if the Child's parent is unable or unwilling to care for the Child and has not made adequate provision for the Child's care;
- i) if the Child is or has been absent from home in circumstances that endanger the Child's safety or well-being;
- j) if the Child's parent is dead and adequate provision has not been made for the Child's care;
- k) if the Child has been abandoned and adequate provision has not been made for the Child's care; and

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- l) if the Child is in the care of a Director or another person by agreement and the Child's parent is unwilling or unable to resume care when the agreement is no longer in force.
- 4.3 For the purpose of S. 4.2 (a) and (c) but without limiting the circumstances that may increase the likelihood of physical harm to a child, the likelihood of physical harm to a child increases when the child is living in a situation where there is domestic violence by or towards a person with whom the child resides.
- 4.4 For the purpose of S. 4.2(e), a Child is emotionally harmed if the Child demonstrates severe:
 - a) anxiety;
 - b) depression;
 - c) withdrawal, or
 - d) destructive or aggressive behaviour.

Police Officers' Powers

- 4.5 If a Young Child breaks the law, a police officer may take charge of the Child and deliver him or her to a parent if the police officer considers that the Child:
 - a) is under 12 years of age, and
 - b) has acted in a manner prohibited by law or has failed or refused to act in a manner required by law.

If the Child has killed, assaulted or endangered another person, the police officer must report the circumstances to a Director, and in any other case, may report the circumstances to a Director.

- 4.6 With reference to S. 4.5 where a Young Child breaks the law and circumstances of the offence do not require a report to a Director, consideration should be given to the factors outlined in S. 4.2 above (when protection is needed) to determine whether a report to a Director may be required.
- 4.7 A police officer may, without a court order, take charge of a Child if the police officer has reasonable grounds to believe that the Child's health or safety is in immediate danger.

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- 4.8 A police officer may, without a court order and by force if necessary, enter any premises or vehicle, or board any vessel for the purpose of taking charge of a Child under S. 4.7 if:
- a) the police officer has reasonable grounds to believe that the Child's health or safety is in immediate danger, and
 - b) a person denies the police officer access to the Child or no one is available to provide access.
- 4.9 On taking charge of a Child in immediate danger, the police officer must immediately report the circumstances to a Director and:
- a) take the Child to the Director or to a person or place designated by the Director, or
 - b) with the approval of the Director, return the Child to the Child's parent or take the Child to a person designated by the parent.
- 4.10 In all cases where a Member takes charge of a Child under the authority of the CFCSA and where a report to a Director is required, the Member will, as soon as practicable, ensure that the Child is given over to a Director who will assume custody of the Child.

Other Duties

- 4.11 When requested by a Director, a police officer must accompany and assist the Director in exercising the authority given in S. 30(3) of the CFCSA for removal of a Child by a Director. Additionally, a police officer may be required to enforce orders obtained under the CFCSA in the following circumstances:
- a) an order granted by virtue of S. 17 where a Director is denied access to a Child;
 - b) a Protective Intervention Order granted by virtue of S. 28;
 - c) an Enforcement of Custody Order granted by virtue of S. 63; and
 - d) a Restraining Order granted by virtue of S. 98.
- 4.12 Domestic situations involving adult partners, where physical, sexual or emotional abuse is present and to which a Child is exposed, may come under scrutiny of S. 4.2(e) detailing that protection may be needed where the Child is emotionally harmed by the parents' conduct. If the investigating Member deems not to take

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charge of the Child(ren) at that time, a report to a Director, citing the family circumstances, will be made.

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