
Child Custody Disputes

328.1 PURPOSE

The Vancouver Police Department enforces many of the provisions outlined in restraining/protection orders. However, civil orders involving child custody require specific consideration. For this reason, information set forth in this policy is intended to guide our agency through these often difficult circumstances.

328.2 WRIT OF HABEAS CORPUS - DEFINED

Generally, a Writ of Habeas Corpus refers to a legal petition used to bring a person or detainee before the court to determine if the person's imprisonment, detention or custody is lawful. In regard to child custody disputes, a person (usually a parent) may bring an action in habeas corpus to seek custody of a minor child. When issued, a Writ of Habeas Corpus will direct law enforcement to take the child and bring him or her before the court to be dealt with according to the law. In Clark County, Washington, the Clark County Sheriff's Office (CCSO) serves and follows-up on all Writs of Habeas Corpus for children.

328.3 CUSTODIAL ISSUES AND COURT ORDERS

If the enforcement of restraining/protection orders creates circumstances requiring the transfer of child custody, then Child Protective Services will be notified. Vancouver Police Officers will avoid conducting child custody transfers in the field, if feasible.

The Vancouver Police Department will not enforce civil orders such as divorce decrees, parenting plans, custody or visitation orders. A child shall not be forcibly removed by law enforcement solely on the authority of these civil orders.

Officers will keep in mind that the welfare of the child is paramount and will assess any imminent harm or danger to the child. Any situations of possible custodial interference will be documented in a report and forwarded to the Domestic Violence Prosecution Center (DVPC) for follow-up. See RCW 9A.40.060 (070, 080) - Custodial Interference for further information.

328.3.1 FOREIGN / OUT-OF-JURISDICTION ORDERS

After the initial investigation on scene where reports are generated and completed, all follow-up of foreign or out-of-jurisdiction orders will be conducted by the DVPC and/or the CCSO Child Recovery Unit.

328.4 CONSULTATION

When appropriate, Officers and first line supervisors should consult with the City Attorney's Office or Clark County Prosecutors Office prior to enforcing court ordered child custody issues.

After business hours assistance should be handled by contact with the DVPC supervisor.

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328.5 WRIT OF HABEAS CORPUS PRESENTED TO LAW ENFORCEMENT PERSONNEL

When an attorney, parent or legal guardian contacts an officer with a Writ of Habeas Corpus and there is not probable cause to believe the child is being abused or neglected or that the child would likely be injured physically or sexually, the following will occur:

- A. The officer will notify their supervisor.
- B. The child will not be given to the person(s) with the Writ of Habeas Corpus based upon that fact alone. Instead they will be referred to the CCSO, Civil Department, during normal business hours.
- C. If VPD officers are contacted concerning the service of a Writ of Habeas Corpus for a child, officers shall direct the party to the Clark County Sheriff's Office. The Clark County Sheriff's Office follows up on all Writs of Habeas Corpus for children within Clark County.
- D. The officer will complete an information report, documenting what occurred, to include taking any documents needed to accompany the report. This report should be routed to the DVPC and CCSO Child Recovery Unit, in addition to any other investigatory notifications that are necessary.

328.6 PHYSICAL SEIZURE OF A CHILD

For the purposes of this section, a child may only be physically seized by law enforcement officers in the following circumstances:

- A. The child is at risk, RCW 26.44.050. A child may only be taken into custody under this statute as follows:
 1. A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that taking the child into custody is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050.
 2. If the child is taken into police protective custody, the child shall be transferred to the custody of Child Protective Services.
 3. The parents should be advised that the child will remain with Child Protective Services pending a court hearing.
- B. Based on a Juvenile Court pick-up order, RCW 13.34.050
- C. Writ of Habeas Corpus, RCW 7.36. VPD officers should contact the CCSO Child Recovery Unit if presented with a Writ of Habeas Corpus.