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|---|---|---------------------------|
|  | Abbotsford Police Department<br><b>Policy and Procedure</b> |                           |
|   | Operations  | Investigation             |
|   | II.B.250  | Assistance to Shelter Act |

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## PREAMBLE

The *Assistance to Shelter Act* (“*Act*”) provides police the option of using reasonable physical force to compel a person who has been deemed at risk of suffering physical harm or is suffering physical harm to be transported to an emergency shelter. This option is only applicable when an extreme weather alert, within the definition of the *Act*, is in effect. The *Act* is not intended to supplant or limit the enforcement of any other provincial or federal Acts. The *Act* does not provide any powers of arrest, nor does it provide any powers to compel persons at risk to remain in an emergency shelter if the police have transported them there.

Existing legislation such as the *Mental Health Act*, the *Child, Family and Community Service Act*, and the *Liquor Control and Licensing Act* have provisions for the police that may be applicable and of assistance in ensuring the safety of persons at risk during extreme weather. These more specific legislative provisions should be used in the first instance if appropriate.

## DEFINITIONS

- (1) **Extreme Weather Alert** – has the same meaning as that defined in the *Assistance to Shelter Act*.
- (2) **Police Officer** – for the purposes of this policy and procedure, means an Abbotsford Police Department municipal constable or Operational Support Officer working under the direct supervision of a municipal constable.

- (3) **Reasonable Grounds** – includes both a subjective and an objective component and means that the Officer must personally believe that the decision or action is necessary, and in addition, the decision or action must be able to stand the test of whether an objective third person, who is acting reasonably—and is informed of the Officer's training, experience and the factual circumstances known at the time—would also reach the same conclusion.

## POLICY

- (4) In compliance with the *Assistance to Shelter Act*, the Abbotsford Police Department (AbbyPD) will take all reasonable steps necessary to facilitate access to shelter for persons at risk of harm should they remain without shelter while an Extreme Weather Alert is in effect.
- (5) Consistent with s.25 of the *Criminal Code*, a Police Officer must:
- (a) only use force if there exists a lawful authority for the action being taken;
  - (b) act on Reasonable Grounds; and
  - (c) only use as much force as is reasonably necessary

## PROCEDURE

- (6) The OIC i/c Operations Support Branch or their delegate is responsible for liaising with those responsible for administering the *Act* and advising Police Officers when an Extreme Weather Alert is in effect.
- (7) A Patrol NCO will include any incidents relating to the application of this *Act* in end-of-shift reports.
- (8) Where a Police Officer encounters persons without shelter while an Extreme Weather Alert is in effect, the following will be considered:
- (a) if the person is under 19 years of age, utilizing the provisions of s. 27(1) of the *Child, Family and Community Service Act* to protect a child at risk;
  - (b) if the person meets the criteria under s. 28 of the *Mental Health Act*, following that apprehension process; or
  - (c) if the person meets the criteria to arrest for being in a State of Intoxication in a Public Place (SIPP) pursuant to s. 74(2) of the *Liquor Control and Licensing Act*, following that arrest process.
- (9) If the Police Officer determines that there are no grounds for an apprehension or arrest as described in paragraph (8), and in the Police Officer's opinion the

person may be suffering physical harm or is at risk of suffering physical harm due to the extreme weather, the Police Officer will:

- (a) state their authority under the *Assistance to Shelter Act*,
  - (b) offer transportation to an emergency shelter or other appropriate shelter; and
  - (c) permit the person to go unaccompanied to an emergency shelter or other appropriate shelter.
- (10) If the person refuses to attend an emergency shelter, the Police Officer will:
- (a) request that a supervisor attend the scene;
  - (b) request that EHS attend if the person, in the opinion of the Police Officer, the person requires immediate medical assistance (e.g. may be hypothermic);
  - (c) consider apprehension pursuant to the *Mental Health Act*, if appropriate;
  - (d) offer other reasonable assistance to the person which may include:
    - (i) reinforcing the Police Officer's authority under the *Assistance to Shelter Act* in an attempt to convince the person to cooperate for their own safety;
    - (ii) providing blankets (if available);
    - (iii) contacting available outreach workers to assist;
    - (iv) requesting that on-duty Police Officers periodically check on the welfare of the person (where operationally feasible); and
    - (v) taking other steps that will satisfy AbbyPD's duty of care to the person at risk (e.g., obtaining the person's agreement to move to a more protected location where they are not at risk of imminent serious injury or death); and
  - (e) document the interaction in a General Occurrence report with Assist General Public coding and "Assistance to Shelter Act" in the body of the synopsis.
- (11) If the subject refuses all efforts undertaken in (10)(d), and the supervisor believes the subject is suffering physical harm or is at risk of suffering physical harm because of the extreme weather, pursuant to s.5(1)(d) of the *Act*, the Police Officer is authorized to use reasonable force to transport the person to a shelter location.
- (12) Although the *Act* may legally authorize the use of reasonable force, since the purpose of the *Act* is to assist a person found to be at risk due to the weather,

and since remaining at a shelter cannot be compelled, any level of force used will be extremely limited. Police Officers may, after trying to use persuasion on a person found to be at risk, take them by the arm, but if they pull away, no more force is to be used under the authority of the *Assistance to Shelter Act*.

| REFERENCES   |   |
|--------------|---|
| Legislation: | <a href="#">Assistance to Shelter Act</a>               |
| Legislation: | <a href="#">Mental Health Act</a>                       |
| Legislation: | <a href="#">Child, Family and Community Service Act</a> |
| Legislation: | <a href="#">Liquor Control and Licensing Act</a>        |

| DOCUMENT HISTORY |                         |
|------------------|-------------------------|
| Effective:       | January 2010 (Rev. 869) |
| Revised:         | April 1, 2021           |