



VANCOUVER POLICE DEPARTMENT PLANNING AND RESEARCH SECTION

POLICY REPORT

REPORT DATE: February 27, 2005
BOARD MEETING: March 14, 2007
BOARD REPORT # 0721

TO: Vancouver Police Board
FROM: Jamie Graham, Chief Constable
SUBJECT: Amendment to the RPM 15.18 Noisy Party Complaints

RECOMMENDATION(S):

That the Vancouver Police Board approves the following amendments to the Regulations and Procedures Manual:

-
- Noisy Party Complaints: Section 15.18 of the Regulations and Procedures Manual BE DELETED IN ITS ENTIRETY
 - Enforcement of Noise Control By-Law: Section 3.02 of the Regulations and Procedures Manual be amended.
-

POLICY:

THAT, the Vancouver Police Board approve the amendments to the Regulations and Procedures Manual pursuant to Section 28 of the *Police Act*.

PURPOSE:

THAT, the following amendments to the Regulations and Procedures Manual be submitted to the Vancouver Police Board for their consideration and approval, and subsequent forwarding to Police Services as required by Section 28 of the *Police Act*.

DISCUSSION/ IMPLICATIONS/ ALTERNATIVES

Currently, R&PM s. 15.18: *Noisy Party Complaints* authorizes members, in certain circumstances, to force entry into a dwelling-house to effect an arrest. Amendments to s. 529 of the *Criminal Code* (in response to *R. v. Feeney*, [1997] 2 S.C.R. 13) impose restrictions on the right of entry of police that are not reflected in R&PM s. 15.18.

Section 529 of the *Criminal Code* allows warrantless entry to effect an arrest only if necessary to prevent imminent bodily harm or death, or to prevent the imminent loss or destruction of

evidence relating to the commission of an indictable offence. Section 15.18(5) of the R&PM requires amendment to reflect these restrictions.

It is anticipated that exigent circumstances will rarely be present in the case of an ordinary noisy party complaint. If the noisy party becomes out of control members shall be guided by RPM S. 15.19: *Noisy Party out of Control*, which contains guidelines for entering private premises.

APPENDIX 1

EXISTING PROCEDURE

Section 3.02 Enforcement of Noise Control By-Law #6555

Noise is regulated in the City of Vancouver By-law 6555. The By-law contains general offences that may be enforced by the police and specific offences requiring sound measurements. For offences requiring sound measurements, members shall refer to complainant to the Environmental Health Division (phone 736-2866).

Members proceeding under By-law 6555 shall be guided as follows:

1. The Noise Control By-law 6555 is intended to regulate those noises which disturb or tend to disturb the peace of the neighbourhood or the residents of the neighbourhood. It is not necessary to prove that someone is disturbing but rather the noise would have that tendency. The By-law allows the person responsible for the noise or the owner of the premises where the noise occurs to be charged.
2. The investigating member shall speak with the complainant to determine the cause and all other relevant aspects of the complaint. It is not necessary for the complainant to appear in court if the investigating member can give evidence regarding the noise. However, if the noise has ceased and the investigating member cannot give evidence as to the degree or type of noise and the complainant still wishes to proceed with the charge, the complainant will have to attend Court.
3. The investigating member shall conduct an Incident History by Location (IHL) query prior to speaking to the person(s) responsible for the noise, using either the MDT or via the radio dispatcher. Any pattern of noise complaints shall be considered in determining whether to proceed by warning or by charge under the by-law. Because recurring noise problems are a source of great concern to the public, members are encouraged to use all available resources, including the laying of charges, in an attempt to achieve a long-term solution.
4. The member shall then attempt to speak to the person responsible for the noise in an effort to resolve the complaint. It is usually appropriate to proceed informally if there is no history of noise complaints, warning that if the noise does not stop, the person responsible will be charged under the Noise Control By-law. If the person responsible for the noise refuses to open the door or to identify him/herself, every effort should be made to identify the suspect by speaking to the neighbours or to the landlord or by obtaining the information from the mailbox or the intercom labels.
5. If enforcement action is to be taken, the investigating member may:

- a. in cases involving minor disturbances or transients, issue a Notice of By-law Violation using the wording "Violation of Noise Control By-law 6555" and attach a copy to a Crown Counsel Report with the words "By-law prosecutor" prominently displayed in the "Proposed Charges" area of the report; or
 - b. submit a Crown Counsel Report requesting a summons to the City By-law Prosecutor in the following cases:
 - i. serious or continuous violations;
 - ii. when the member is unable to issue a Notice of By-law Violation (example: an unattended loud radio or a person refusing to answer the door); or
 - iii. complaints regarding the sound of a burglar alarm or security system that continues for more than 15 minutes.
6. To arrest for a By-law violation, the person responsible (example: owner/occupant or other identified offenders) must be found committing. An arrest should be used as a last resort and only when the following criteria have been met:
- a. The person responsible refuses to identify themselves; or
 - b. The member has reasonable and probable grounds to believe the person will continue to repeat the violation.

A supervisor is required to attend the scene before a By-law arrest is made. The name of the supervisor shall be included in the Crown Counsel Report.

7. Where a member deems that issuing a Notice of By-law Violation or requesting a summons would be inappropriate, the member may direct the complainant to contact the Office of the City By-law Prosecutor.
8. In the case of a barking dog complaint the Communications Section will assess the availability of manpower and the call load and, if appropriate, will assign a unit to investigate the complaint. If, however, the police are unable to attend, the Communications Section will instruct the complainant to contact the City By-law Prosecutor on the next working day.
9. Construction noise that disturbs the quiet or enjoyment of the public is only allowed in the following circumstances:
- a. In or adjacent to residential premises;
 - i. between 07:30 and 20:00 hrs. on any weekday; and
 - ii. between 10:00 and 20:00 hrs. on Saturday.
 - b. In all other areas and for construction on streets;
 - i. between 07:00 and 20:00 hrs. on any weekday or Saturday; and

- ii. between 10:00 and 20:00 hrs. on any Sunday or holiday.
- c. There is a valid Mayor's exemption permit.

APPENDIX 2

PROPOSED PROCEDURE

Section 3.02 Enforcement of Noise Control By-Law #6555

FOI Recommendation: For Public Release

Noise is regulated in the City of Vancouver By-law 6555. The By-law contains offences that may be enforced by the police generally, as well as offences requiring specific sound measurements. For offences requiring sound measurements, members shall refer the complainant to the Environmental Health Division [<link>](#). Members proceeding under By-law 6555 shall be guided as follows:

1. The Noise Control By-law 6555 is intended to regulate those noises which disturb, or tend to disturb, the peace of the neighbourhood or the residents of the neighbourhood. It is not necessary to prove that someone is disturbed, but rather that the noise would have that tendency. The By-law allows the person responsible for the noise or the owner of the premises where the noise occurs, to be charged.
2. If the complaint appears to be valid the member shall:
 - a. Conduct a location query prior to speaking to the person(s) responsible for the noise;
 - b. Speak with the complainant (where practicable) to determine the cause and all other relevant aspects of the complaint. It is not necessary for the complainant to appear in court, if the investigating member can give evidence regarding the noise. However, if the noise has ceased and the investigating member cannot give evidence as to the degree or type of noise and the complainant still wishes to proceed with the charge, the complainant will have to attend Court.
 - c. Speak to the person(s) responsible for the noise (and/or the residence, if applicable) and obtain their name(s);
 - d. Advise the person(s) responsible that a complaint has been received, but do not release name or location of complainant;
 - e. Explain that the noise is an offence under the Noise Control By-law;
 - f. If appropriate, e.g., there is no recent history of noise complaints, advise that if the noise continues the persons will be charged under the Noise Control By-law;
 - g. If there is a history of noise complaints, consider proceeding by charge. Recurring noise problems are a source of great concern to the public and members are encouraged to use all available resources, including the laying of charges, in an attempt to achieve a long-term solution; and
 - h. Advise that charges for mischief may also be considered;

3. If the person responsible for the noise and/or residence refuses to open the door or to identify themselves, every effort should be made to establish their identify, e.g., by Location Query, speaking to neighbours or landlord, or by obtaining the information from the mailbox or the intercom labels;
 4. The member shall ensure the complainant is informed of the action taken and advised to call back if the noise continues.
 5. If the noise continues to cause a problem, the investigating member shall consider taking enforcement action. If enforcement action is to be taken, the investigating member may:
 - a. In cases involving minor infractions or transient persons, issue a Notice of By-Law Violation (NBV). The GO report number and the words "Violation of Noise Control By-law 6555" should be specified on the ticket. Members should be aware that if the fine is not paid voluntarily, the charge approval standard must be met before an information can be laid and the matter prosecuted in court. Members shall complete a GO report outlining all the essential elements of the offence. The GO report should also include details of the circumstances of all dealings with the premises including:
 - i. Number of times attended;
 - ii. Previous problems at premises;
 - iii. Whether police members can testify to noise levels, and if they cannot, the civilian witnesses who are willing to give evidence; and
 - iv. Type of noise and the extent of the disruption caused by it.
 - b. In the following cases, submit a GO Report along with any notebook entries to the City By-law Prosecutor, requesting a summons (requesting a summons will leave the amount of the fine to the discretion of the judge, who will consider the seriousness of the violation) :
 - i. Serious or continuous violations; or
 - ii. When the member is unable to issue a Notice of By-law Violation, e.g., when a loud radio has been left unattended or a person refuses to answer the door.
 - a. For the following offences under the By-law, a Municipal Ticket Information (MTI) may be issued, (refer to RPM Section 3.04: Municipal Ticket Informations <link>)
 - i. Section 4 – Objectionable Noise
 - ii. Section 19 – Refuse Collection Noise Outside of Permitted Time
 - b. The member issuing a MTI must be satisfied that there is evidence of all essential elements of the offence, and must make sufficient notes of this evidence. Notes can be written in the space provided on the MTI form, in the member's notebook, or detailed in a GO report. Copies of all notes and reports shall be submitted with the MTI and forwarded to the Bylaw Prosecutor's office.
6. To arrest an individual for violating the By-law, the responsible owner/occupant or other identified individual must be found committing the offence. An arrest should be used as a last resort and only when the following criteria have been met:

- a. The person responsible refuses to identify themselves; or
- b. The member has reasonable and probable grounds to believe the person will continue to repeat the violation.

A supervisor is required to attend the scene before a By-law arrest is made. The name of the supervisor shall be included in the GO Report.

7. Where a member deems that issuing a Notice of By-law Violation or requesting a summons would be inappropriate, the member may direct the complainant to contact the Office of the City By-law Prosecutor.
8. In the case of a complaint regarding an audible security alarm, members shall refer to RPM Section 3.01: False Alarm Reduction Program – By-law 7111<Link>.
9. In the case of a complaint regarding a barking dog, members shall refer to the Animal Control By-law No. 9150<Link>.
10. Construction noise that disturbs the quiet or enjoyment of the public is only allowed in the following circumstances:
 - a. In or adjacent to residential premises;
 - i. between 07:30 and 20:00 hrs. on any weekday; and
 - ii. between 10:00 and 20:00 hrs. on Saturday.
 - b. In all other areas and for construction on streets;
 - i. between 07:00 and 20:00 hrs. on any weekday or Saturday; and
 - ii. between 10:00 and 20:00 hrs. on any Sunday or holiday.
 - c. Where a valid Mayor's exemption permit is in effect.

APPENDIX 3

EXISTING PROCEDURE

Section 15.18 Noisy Parties

Members attending as the result of a noisy party complaint may determine that the complaint is relatively minor and only involve an excess of noise. In these cases, the following procedures shall apply:

1. The member attending a complaint of excessive noise shall determine if there has been a breach of a Noise By-law.
2. If the complaint appears to be valid the member shall:
 - a. Conduct an Incident History by Location (IHL) query prior to speaking to the person(s) responsible for the noise, using either the MDT or via the Channel Dispatcher;
 - b. Obtain the names of the person(s) responsible for the residence;
 - c. Advise the person(s) responsible that a complaint has been received (do not release name or location of complainant);
 - d. Explain that the noise is an offence under the Noise By-law;
 - e. If appropriate (i.e., there is no recent history of noise complaints) advise that if the noise continues the persons will be charged under the Noise By-law;
 - f. If there is a history of noise complaints, the member shall consider this in determining whether to proceed by charge under the by-law. Because recurring noise problems are a source of great concern to the public, members are encouraged to use all available resources, including the laying of charges, in an attempt to achieve a long-term solution; and
 - g. Advise that charges for mischief may also be considered.
3. The member shall ensure the complainant is informed of the action taken and advised to call back if the noise continues.
4. If the noise continues to cause a problem, the investigating members shall process a charge under the Noise By-law in the following manner:
 - a. Issue a By-law Violation Notice to the person in charge of the premises if the complaint is considered minor. Use the wording "Violation of Noise Control By-law"; or
 - b. Explain to the person in charge of the residence (and other persons responsible for producing noise if applicable) that a Summons will be requested (requesting a Summons will leave the amount of the fine to the discretion of the judge, who will consider the seriousness of the violation); and
 - c. In either case complete a GO report detailing the circumstances of all dealings with the premises including:
 - Number of times attended;
 - Previous problems at premises;
 - Whether police members can testify to noise levels, or if unable, the civilian witnesses who are willing to give evidence; and
 - Type of noise and the extent to the disruption caused by it.

Note: The sound of musical instruments, recorded, live or amplified is preferable to referring to "stereo" music in the Report.

- d. If a By-law Notice has been served, submit the court copy as an attachment to the GO report;
5. When a noisy party in which the occupants refuse to answer the door confronts a member, the member shall have a NCO attend the scene. The NCO shall only authorize forced entry to arrest a person within for a criminal offence:
- a. If the occupants refuse to identify themselves and several attempts have been made to require them to do so, consider entry for an obstruction charge. (Note: If at all possible, the obstruction warning is to be given prior to entry); **and**
 - b. If the occupants have identified themselves but are refusing to stop making noise and the noise is seriously interfering with the neighbours use and enjoyment of their property, consider an entry for a mischief charge.
 - c. When entry is made for the purpose of arrest, under (a) or (b), it is anticipated that in some cases no arrest will be made. It may be impossible to determine who was responsible for the obstruction or the mischief. Even when the persons can be identified, members must still consider the provisions of the Bail Reform Act before arresting the suspect.

APPENDIX 4

PROPOSED PROCEDURE

Section 15.18 Noisy Parties

To be deleted.

- END -