

# Seattle Police Department Manual

## **15.110 – Investigating Custodial Interference**

Effective Date: 10/01/2015

This manual section applies to all employees when investigating possible cases of custodial interference.

The validity and types of custodial interference offenses depend on the relationship of the parties and any existing court orders.

Parents and their legal representatives may try to manipulate law enforcement to take custody of a child. It is important that employees stay familiar with relevant statutes.

[RCW 9A.40.060 Custodial Interference in the First Degree](#)

[RCW 9A.40.070 Custodial Interference in the Second Degree](#)

[SMC 12A.06.300 Custodial Interference](#)

### **15.110-POL**

#### **1. Child's Legal Residence Determines Jurisdiction**

The involved child's legal residence determines the jurisdiction in a custodial interference incident. This differs from abduction cases where the geographical location of the abduction determines the jurisdiction.

The King County Prosecutor's Office makes the final determination of jurisdiction in accordance with federal statutes that establish interstate enforcement.

#### **2. The Domestic Violence Unit has Follow-Up Responsibility for SPD Custodial Interference Cases**

#### **3. Responding Officers Will Take a Custodial Interference Report if There is a Potential Offense**

If an officer responding to a complaint of custodial interference believes there is potential for a criminal case, the officer will take a report even if criminal intent cannot be determined at the time of the complaint.

# Seattle Police Manual

Officers will take a report even if custody papers have not been filed, paternity is not established, or one party is not named on the child's birth certificate.

Officers will not complete a Missing Person Report in custodial interference cases unless instructed to do so by the Domestic Violence Unit. Normally, the Domestic Violence Unit will complete it when appropriate.

## **4. Custodial Interference Reports Must Contain Necessary Information**

The reporting officer will list the involved parties on custodial interference Report as follows:

- Victim - the involved child
- Suspect - Parent or relative denying access to the child
- Complainant - Reporting parent, custodian, foster parent, or foster home

Reporting officers will include the following information in all custodial interference Reports:

- Complete names and dates of birth
- Relationships of the parties involved
- Social Security numbers for all parties, if available
- Names of any courts involved
- A copy of relevant court documents, if available
- Description of any parent's refusal to comply with a court order
- Allegations/objections made by parties involved
- The welfare of the child
- Any actions taken by officers
- A note in the narrative that the report should go to CPS

## **5. Officers May Inform the Offending Parent of Possible Outcomes**

# Seattle Police Manual

The offending parent may not fully know the civil and/or criminal penalties connected with custodial interference.

If officers contact the offending parent, they may warn of the following possible outcomes:

- Civil
  - The offending parent could be found in contempt of court and subsequently fined or have an arrest warrant issued.
  - Due to the offending parent's actions, the court could modify the existing custody order in the favor of the complaining parent.
- Criminal
  - The offending parent could be arrested and face charges of a misdemeanor or felony offense of custodial interference.
  - A conviction would not only create a criminal record, but it could affect future decisions regarding custody/visitation in the civil courts.

There are times when contacting the offending parent could lead to an aggravated situation. Officers may contact the DV Unit for guidance.

Offending parents frequently give reasons for withholding custody/visitation rights, including money owed for support and complaints of neglect or abuse. Officers may advise that, whether a complaint is valid or not, the parent cannot arbitrarily withhold the child on that basis.

The complainant must submit their concerns to CPS or the courts to obtain authorization to retain the child under these circumstances.

## **6. Patrol Officers Will Screen Custodial Interference Incidents Before Making an Arrest**

The combination of civil and criminal law makes custodial interference a very complex issue to enforce without further investigation or review.

Patrol officers will not make arrests for custodial interference without first screening the situation with a sergeant.

The Domestic Violence Unit encourages patrol personnel to contact them with questions arising from custodial interference incidents.

# Seattle Police Manual

Patrol supervisors may contact DV Unit personnel via Communications after hours.

## **7. Exigent Circumstances May Require Immediate Action**

If exigent circumstances exist, such as a parent with a foreign citizenship seizing a child with intent to flee the country, an officer may take the child into protective custody.

Officers must be able to determine if the offending parent is outside of his/her right to take the child. Officers may verify by examining a valid parenting plan or court order prohibiting the parent from taking the child.

If there is no supporting documentation, the officer may not stop the parent from leaving with the child, unless the child is at risk.

If the officer removes the child from the offending parent, the officer shall return the child to the person or agency having the right to physical custody, unless the officer feels the child would be at risk.

Officers who believe a child is at risk shall refer to manual section [15.220 - Child Welfare](#).

## **8. The King County Sheriff's Child Find Unit Will Serve Writs of Habeas Corpus for Children Within King County**

The King County Sheriff's Office (KCSO) Child Find Unit follows up on all writs of habeas corpus for children within King County.

If officers are contacted concerning the service of a writ of habeas corpus for a child, officers shall direct the party to the KCSO Child Find Unit.

## **9. Courts Enforce Civil Custody and Visitation Orders**

Officers do not have authority to remove a child based solely on a parenting plan, custody, or visitation order.

Parenting plans usually contain a dispute resolution process to encourage mediation and negotiation rather than relying on judicial intervention.

Officers should instruct parents to follow the steps outlined in the parenting plan. Officers may not offer legal advice.