



VANCOUVER POLICE DEPARTMENT

REPORT TO THE VANCOUVER POLICE BOARD

REPORT DATE: January 11, 2016
BOARD MEETING DATE: January 26, 2016
BOARD REPORT # 1701R01
Regular

TO: **Vancouver Police Board**

FROM: Drazen Manojlovic, Director, Planning, Research and Audit Section

SUBJECT: **Proposed Addition of Policy, Procedure and Guidelines for Street Checks
PR&A File # 2015-074**

RECOMMENDATION:

It is recommended that Vancouver Police Board (VPB) receives the report and approves the proposed Policy, Procedure and Guidelines pertaining to the Vancouver Police Department's (VPD) practice of Street Checks.

SUMMARY:

To bridge the gaps between public perception, the law, and police practices, the VPD has authored the proposed Street Check Guidelines and policy/procedure for conducting and recording Street Checks (attached as Appendix A and B).

The intention of the Guidelines is to provide a reminder and reference for VPD members for occasions when they conduct Street Checks. The Guidelines will also provide context, and inform the public as to the reasons why police conduct Street Checks. As well, they will educate citizens with regard to their rights and the legal justifications for the checks.

The VPD does not support, condone or endorse police officers carrying out arbitrary, random stops that do not have a valid policing purpose. The related Policy and Procedure is written to ensure consistency in the conduct of members in the documentation of Street Checks, and includes reference to the relevant legal authorities that govern police duties to prevent and investigate crime. The Policy, Procedure and Guidelines also guard against the practice of arbitrary detention and discriminatory prohibitions by reiterating and reinforcing the importance of citizen's *Charter* rights and the *BC Human Rights Code*.

The VPD Street Check Policy and Guidelines will be available to the public. To further inform the public of their rights, the VPD proposed Policy and Procedure includes a link to "The Arrest Handbook – A Guide to Your Rights" produced by the BCCLA.

RELEVANT POLICY:

The VPD currently has no sections contained within the Regulations and Procedures Manual (RPM) that pertain to Street Checks. The following PRIME-BC Operational Policy and Procedure Section is currently the only policy governing the conduct of Street Checks:

- *Part 2 Generating an Occurrence, Chapter 2.4 Street Check.*

BACKGROUND:

To further the VPD's commitment to transparency in our relationship with the public, it is believed that there is a significant benefit to having policy, procedure and guidelines detailing the VPD's philosophy, practice, and relevant legal authorities regarding Street Checks.

As it pertains to the VPD, a Street Check is the contact with a person where there is suspicious activity or suspected involvement in a crime. This contact may, where warranted, be recorded in PRIME to document the information obtained by a police officer. This may include details about individuals, vehicles, locations, dates, and times, and provides a brief report on the circumstances and justification of the contact with police. This may be relevant to current or subsequent law enforcement investigations as well as necessary for officer safety and situational awareness. Information is gathered through cooperation of the individuals or through compliance with legislative requirements (e.g. *BC Motor Vehicle Act*).

DISCUSSION:

How do Street Checks Prevent Crime or Increase Safety?

Information is essential to effective policing. The value of Street Checks cannot be overstated and is essential to successful proactive policing as well as for solving crime. Over time, analysis of Street Check data has revealed patterns in criminal behaviour and activity that assists in informing police strategies to reduce crime, apprehend criminals and improve public safety.

Between 2011 and 2015, the VPD conducted an average of 7,445 Street Checks per year. The VPD has a deployment of 652 uniformed patrol members as well as traffic, community policing and mounted units. An analysis of this data reveals that an average of 11.4 Street Checks are entered into PRIME per officer per year, less than one per month. When taken into consideration that members of the VPD have an estimated one million contacts with the public per year this figure illustrates that a Street Check is a relatively uncommon occurrence during the course of an officer's regular daily duties.

The proposed Guidelines summarize the legal framework that members of the VPD operate within when they are carrying out their duties by conducting Street Checks. They also provide specific examples of how Street Checks conducted by VPD members have solved crime and increased community safety. Street Checks serve a vital function as a part of police common law and *Police Act* duties to protect life and property, as well as to prevent and investigate crime, and apprehend criminals.

In 2014, the University of the Fraser Valley published, "Eliminating Crime: The Seven Essential Principles of Police-based Crime Reduction", which was written to provide the tools for police

organizations to reduce crime and improve public safety. It sets out principles for making a community safe. The “Seven Essential Principles” form the chapters of this book are:

- i. Be Information-led;
- ii. Be Intelligence-led;
- iii. Focus on Offenders;
- iv. Focus on Problems;
- v. Develop Meaningful Partnerships;
- vi. Be Pre-emptive;
- vii. Be Performance-Based.

According to this guide, Street Checks are a crucial strategy for police-based crime reduction. The value of this practice was described in Chapter 3 – Focus on Offenders¹:

One of the most effective information gathering and crime prevention strategies for police is to conduct regular, deliberate street checks with offenders. Being offender-focused means using street checks as a tool to ensure compliance with court orders, but is also an effective way of collecting timely, relevant, actionable, and investigative information from offenders about their behaviour, the behaviour of their associates, general criminal activity, and emerging crime trends. The key is for the police to make their presence known and repeatedly remind offenders that they are being watched. In order to be most effective, police should consider some form of standardization of street check information collection, and an efficient way to share this information with crime analysts and have the analyst disseminate the results of their work throughout the organization.

Objectives of Procedural Standardization

The VPD proposed Policy, Procedure and Guidelines effectively address three primary objectives:

1. Identifying the circumstances in which it is appropriate to initiate a Contact.

Under the common law and in section 34(2) of the BC *Police Act*, it is the **duty** of police to preserve the peace and prevent crime and offences against the law. The proposed Guidelines clearly require that a Street Check be based on a member’s reasonable belief that a Street Check is conducted as a result of this duty.

2. Improving police-community interactions and eliminating the collection, retention, use and disclosure of irrelevant personal information.

The proposed Policy, Procedure and Guidelines, as well as the link to a BCCLA publication, will serve to educate members of the public on all aspects of Street Checks. When the public is given the ability through these published sources to learn and know the duties and tasks of a

¹ Cohen, I. M., Plecas, D., McCormick A.V. & Peters A. M. F. (2014) *Eliminating Crime: The Seven Essential Principles of Police Based Crime Reduction*, University of the Fraser Valley.

police officer, this can only tend to increase their understanding and positive perception of the police.

Regarding information retention, Sergeant Mark Wooldridge of the VPD PRIME Unit has advised that Street Check data is held within the PRIME database and currently this particular data is retained indefinitely. This retention schedule will be reviewed with stakeholders in the near future.

Disclosure of Street Check information by the VPD complies with the statutory requirements under the BC *Freedom of Information and Protection of Privacy Act*. The VPD does not release Street Check information in a Police Record Check except in extreme cases where public safety is at stake.

3. *Prevent discrimination from Contacts.*

The Guidelines list the prohibited grounds of discrimination under to section 8(2) of the BC *Human Rights Code* and state that members of the VPD will never “profile”, stop, question or detain any person based solely on any one of those grounds.

The VPD proposed policy provides for accountability for individual officers and the organization in regards to its conduct of Street Checks. The proposed Policy, Procedures and Guidelines have also been developed to reflect a proportional and preventative response to the potential misuse of Street Checks and reflect the VPD principles of:

- **Justification:** “Police actions shall be necessary, legitimate and legally justified”;
- **Proportionality:** “The risk of impact of police actions shall be proportional to the priority and the severity of the situation in need of intervention”;
- **Intrusiveness:** “Police actions should be the least intrusive required to ensure public safety.”

Training

Currently the VPD does provide training pertaining to conducting Street Checks, particularly as it pertains to the case law surrounding psychological detention. The law relevant to Street Checks is included in the VPD’s Legal Exams Study Package, and has often been subject to examination, e.g., in promotion exams in the Sergeant competition. Further, all members undergo recruit training at the Justice Institute of British Columbia (JIBC) where they receive extensive instruction in police powers of detention/arrest, search and seizure, and regarding relevant legislation, including the *Criminal Code* of Canada and the *Canadian Charter of Rights and Freedoms*. All recruits are required to know their powers of arrest and detention, and are assessed both by written examination and by simulation scenarios.

One such simulation involves a Street Check where recruits are required to demonstrate their understanding of their powers of detention and arrest. If the recruits arrest and detain the individuals without first developing sufficient grounds, they effectively fail the scenario. Members must know that every person has the right to be free from arbitrary detention as per s. 9 of the *Charter*. Members learn they are free to, and indeed are expected to, speak to

members of the public to build relationships, seek information and ensure safety of citizens. When members observe a person engaged in suspicious behaviour/circumstances, they have a duty to speak to that person in order to inquire as to their behaviour and identity. But members also learn that unless they have formed the grounds to detain or arrest, that a citizen is not obligated to cooperate by, for example, answering questions, producing identification, or remaining at the scene. This type of training provides the frontline patrol members of the VPD with a solid foundation and understanding of their powers and responsibilities.

Release of Street Check Information in Police Record Checks

The VPD does not release Street Check information in a Police Record Check except in extreme cases where public safety concerns exist.

CONCLUSION:

Properly employed Street Checks can prevent and solve crime, which serves the public interest and improves public safety. The proposed Policy, Procedure and Guidelines are intended as a preventative measure to ensure that Street Checks continue to be an effective policing tool, while providing information to inform and educate the public about police practices and their rights.

Author: Sergeant Mike Wheeler Telephone: 604-717-2593 Date: January 11, 2016

Submitting Executive Member:

DCC Warren Lemcke Date: January 11, 2016

Appendix A

1.6 Incident Investigations

1.6.52 Conducting and Recording Street Checks

POLICY

Police obtain their authority to conduct Street Checks from common law and BC *Police Act* duties to prevent and investigate crime and apprehend offenders. Street Checks must not be conducted in a discriminatory or arbitrary manner, and members must be able to articulate their reasons for conducting the Street Check. [Insert link to Guidelines here](#)

Members shall only engage in Street Checks for reasons that serve a valid investigative and/or safety purpose which includes:

- i. Investigating a suspected offence or series of offences;
- ii. Preventing an offence;
- iii. Ensuring the safety of a member(s) of the public;
- iv. Ensuring the individual who is the subject of the contact is not at risk of harm;
- v. For any incidents that fall outside of points **i** to **iv** a formal General Occurrence report should be considered.

After making contact with persons, detailed documentation allows the circumstances encountered to be used as information to potentially solve or prevent crimes or apprehend offenders.

Members of the public inquiring about their rights in relation to contacts with the police can be referred to “[The Arrest Handbook – A Guide to Your Rights](#)” published by the BC Civil Liberties Association <LINK>.

Any subject of a Street Check wanting to receive disclosure of the specific Street Check record can be referred to the [VPD Information and Privacy Unit](#) <LINK>.

PROCEDURE

1. When a member submits a Street Check that may have investigative value or a public safety purpose, the member will document the following in a PRIME Street Check report:
 - a. The reason for initiating the contact that led to the Street Check;
 - b. All entity information;
 - c. All relevant information and observations from the Street Check.
2. If contact with a citizen is initiated and a member’s suspicion is unfounded or the conversation reveals that there is no investigative value or public safety concern then a Street Check **shall not** be entered into PRIME.

3. A Street Check will not be used for reporting any incident for which a General Occurrence Report would normally be submitted. (PRIME-BC policy s. 2.3)
[<LINK>](#)

Appendix B



VANCOUVER POLICE DEPARTMENT

Street Checks – General Guidelines

January 2017

PREPARED BY:

Sergeant Mike Wheeler – Operations Division, Patrol: District 4 Team 5

Introduction

Information is essential to effective policing. It is the essential ingredient in every one of a police officer's duties. A significant amount of information that police receive comes from interactions and conversations with the public. This can take many forms, such as from witness and accused statements obtained during a criminal investigation, confidential informants, daily conversations with business and homeowners in a neighbourhood, and from talking to those persons who police officers believe are engaged in crime or suspicious activities. The latter of these examples are what are known as "Street Checks".

An academic study by the University of the Fraser Valley has asserted that "One of the most effective information gathering and crime prevention strategies for police is to conduct regular, deliberate street checks with offenders...[and] is also an effective way of collecting timely, relevant, actionable, and investigative information from offenders about their behaviour, the behaviour of their associates, general criminal activity, and emerging crime trends." [<Link to paper here>](#)

This document describes the inherent value of Street Checks in:

1. Maintaining public safety;
2. Upholding the rule of law; and
3. Preventing crime.

These Guidelines also summarize the legal framework that members of the VPD operate within when they are carrying out their duties by conducting Street Checks. This framework includes the common law and statutory authorities (e.g., in the *Motor Vehicle Act*, *Criminal Code* and municipal bylaws) as well as the duties to prevent and investigate crime set out in the *BC Police Act*. The VPD expects its members to engage with the public and conduct appropriate Street Checks as part of their regular daily duties.

What is a Street Check?

A "Street Check" is when police stop a person to conduct a field interview or an investigation in regards to suspicious activity or a suspected crime. These interactions can take place in public, private places or any place where police have contact with the public. A Street Check report may be written in PRIME-BC based on information gathered by a police officer when appropriate to do so. This report documents the observations and information obtained about individuals, vehicles, locations, dates and times, and provides a short, concise description of the circumstances of the contact with police. Although the report does not serve as the basis for a stop, this information may be relevant to current or subsequent law enforcement investigations as well as necessary for officer safety and situational awareness and forming strategies to reduce crime and improving community safety. Information is gathered through the cooperation of the individuals, or through compliance with legislated requirements (e.g., *Motor Vehicle Act*).

Authority to Conduct Street Checks

Conducting Street Checks falls within the scope of the duties of police officers under the *BC Police Act*, as well as the common law duties of police officers. Section 34(2) of the *Police Act* states that police must perform the duties and functions respecting the preservation of peace, the prevention of crime and offences against the law. Police also have common law duties to preserve the peace and prevent crime.

The courts have repeatedly held that police are free to stop and make inquiries of members of the public, and that this is a legitimate use of police powers, but if the person refuses to answer, the officer must allow the person to proceed on his/her way unless the officer detains him/her for a lawful investigative purpose, or arrests the person.¹ These types of stops and subsequent inquiries must not be arbitrary; they must be rooted in an officer's observations of what they reasonably believe is suspicious activity, or used to gather pertinent intelligence. The courts have further recognized that "not every interaction between the police and members of the public, even for investigative purposes, constitutes a detention within the meaning of the *Charter*. Section 9 of the *Charter* does not dictate that police abstain from interacting with members of the public until they have specific grounds to connect the individual to the commission of a crime."²

Street Checks are not random activities that exist outside of articulable cause justifying police contact with an individual. Street Checks **are not** the indiscriminate obtaining of personal information for the purposes of creating a database on members of the public. The difference between an arbitrary stop and a legitimate Street Check are vital distinctions to recognize if Street Checks are to be a component of policing within a free and democratic society where bias free policing and respect for individual's *Charter* right not to be arbitrarily detained is a societal expectation and legal requirement.

The *BC Human Rights Code* prohibits discrimination against any person in the provision of a service customarily available to the public – which includes policing – based on the following grounds:

- Race;
- Ancestry;
- Place of origin;
- Colour;
- Religion;
- Age;
- Sex;
- Sexual orientation, gender identity or gender expression;
- Marital status;

¹ *R. v. Grant* [2009] 2 S.C.R. 353, 2009 S.C.C. 32 *see also* *R. v. Poole* 2015 BCCA 464

² *R. v. Suberu*, [2009] 2 SCR 460, 2009 SCC 33.

- Family status;
- Physical or mental disability;
- Political belief.

The VPD is committed to respecting the rights of all individuals. Therefore, members will not stop, question or detain any person for a reason based on prohibited grounds of discrimination, or engage in “profiling”. The VPD does not support any random or arbitrary stops of any individual in order to collect personal information.

Detention Authority

There exists a continuum of authorities for police to detain an individual(s) and obtain identifying information from them in relation to an investigation which falls outside of a Street Check:

- **Investigative Detention:** A detention that is based on an officer’s reasonable suspicion or articulable cause but falls short of reasonable and probable grounds for belief. An example may be a person walking on a deserted street at 3:00 am, carrying a backpack a block or two away from where a break and enter had just occurred. This would provide not only grounds for detention, but also the authority to conduct a pat down search for officer safety, if warranted;³
- **Statutory Authority:** Federal statutes such as the *Criminal Code* and *Controlled Drugs and Substances Act* as well as certain provincial statutes, such as the *Motor Vehicle Act*, and certain municipal bylaws, provide police the authority to compel identification from a person when they have committed an offence in relation to the statute or by-law;
- **Reasonable Grounds to Arrest:** Reasonable grounds are grounds that would lead an ordinary, prudent and cautious person to have a strong and honest belief about the situation at issue.⁴ It is not sufficient for the police officer to subjectively believe that he has reasonable and probable grounds to make an arrest. Rather, it must also be shown that a reasonable person, standing in the shoes of the officer, would have believed that reasonable and probable grounds existed to make the arrest. However, the police need not go further and establish a prima facie case.⁵ When an officer has reasonable grounds to believe that a person has committed, is committing, or is about to commit an indictable offence, then s. 495 of the *Criminal Code* provides authority for an arrest;

³ *R. v. Mann*, [2004] 3 S.C.R. 59, 2004 S.C.C. 52

⁴ McGraw-Hill Ryerson (2004), *Criminal Law and the Canadian Criminal Code*.

⁵ *R. v. Storrey*, [1990] 1 S.C.R. 241, 53 C.C.C. (3d) 316

When conducting a Street Check, absent any authority to detain, an officer will have to rely on cooperation, as the person has the right to walk away and refuse to answer questions. “Absent statutory compulsion, everyone has the right to be silent in the face of police questioning, even if he or she is not detained.”⁶

A Street Check can be a stressful event for citizens. A Street Check may seem arbitrary, or even discriminatory, to a person if they are not aware of the reasons that motivated a police officer to initiate contact. Members must be mindful of the possibility that the subject of the check may feel that they are psychologically detained. As the Supreme Court of Canada stated in *Grant*, “In cases where there is no physical restraint or legal obligation, it may not be clear whether a person has been detained...In those situations where the police may be uncertain whether their conduct is having a coercive effect on the individual, it is open to them to inform the subject in unambiguous terms that he or she is under no obligation to answer questions and is free to go.”⁷ If a person asks why they are being spoken to, or the member suspects through their own observations that a person may feel they are detained, then members should provide an explanation for conducting the Street Check and advise the individual that they are not required to speak to or remain with the officer. This type of communication provides for transparency in police actions, helps prevent misunderstandings, and may lead to greater cooperation. This practice is not appropriate, however, where it could compromise an officer’s ability to investigate a particular offence, or compromise the safety of a member of the public.

Why Street Checks Matter in Solving and Preventing Crime

Street Checks are a very powerful crime-solving tool. They serve a vital function as a part of police common law duties to protect life and property and to prevent crime. Many violent offenders and chronic property offenders are caught by diligent members who are keeping an eye out for suspicious activity. For example:

- A string of commercial skylight B&Es was solved because members conducted a Street Check of a male with a coil of rope in his backpack, and, knowing of the unsolved crimes and the M.O., proposed him as a good suspect for surveillance, which was quickly successful in capturing him while committing a similar offence.
- A member noticed a vehicle darting in and out of traffic during rush hour. Although there was no specific Motor Vehicle Act offence that had occurred, the erratic driving behaviour made the officer suspicious, so they conducted a traffic stop. The member’s observations after the traffic stop provided grounds for arrest and the subsequent search yielded drugs and a firearm.
- A Street Check of a male leaving a suspected drug house led to intelligence that resulted in the arrest and charge of multiple persons, a seizure of a cache of

⁶ *R. v. Turcotte*, [2005] 2 S.C.R. 519, 2005 S.C.C. 50

⁷ *R. v. Grant* [2009] 2 S.C.R. 353, 2009 S.C.C. 32 *see also* *R. v. Poole* 2015 BCCA 464

drugs and guns as well as the rescue of two young children from deplorable living conditions.

- A Street Check of an individual who appeared to be casing stores in the downtown core led to the identification, surveillance and arrest of a violent robbery suspect.
- Street Checks of persons engaged in suspicious activity, in areas plagued by property crime, assist in identifying the probable persons of interest responsible for criminal activity. This information may provide direction or a 'starting point' for police in developing strategic responses to reduce that crime and potentially apprehend the offender(s).
- Countless warrant arrests occur when an individual is found to be wanted during the course of a Street Check.

Sometimes even the most innocuous and unexpected details obtained from a Street Check can lead to important intelligence. In one example a serious Assault Causing Bodily Harm investigation was solved because a member conducted a Street Check of an individual and noted the unique colour and presence of a bandana on his dog's collar. This type of thorough documentation of observations can be as critical as confirming a person's identification.

Street Checks are also instrumental in ensuring the welfare of marginalized or at risk persons. VPD Missing Persons Unit members have asserted that Street Checks have led to the location of countless missing persons, including those at high risk such as dementia patients or persons suffering from severe mental illness. Detective Payette went on to state that Street Checks have been pre-emptive in nature. Family members who have not seen loved ones for weeks, months or years have started to file a police report, only to find that the police have had recent contact with that person. This alleviates significant stress for these family members.

Street Checks are conducted based on the justifiable beliefs of the officer at the time of the Street Check which are subjectively and objectively reasonable. Police members who know their area and its residents, and who are proactive in conducting Street Checks, not only make important arrests, they create other intelligence as a result of the Street Check. Although this intelligence does not serve as a basis for initiating a future Street Check, it has consistently been instrumental in providing intelligence that is a powerful tool for follow-up investigators such as:

- Cultivating potential informants;
- Identifying offenders who are new to an area;
- Associating individuals, vehicles and locations which create linkages that may turn out to be crucial in solving crime;
- Providing valuable intelligence for future investigations;
- Deterring criminal behaviour;

Speaking with citizens in a variety of circumstances is an important part of every operational police officer's responsibilities. Where Street Checks are concerned, their value cannot be overstated. They are an essential tool for effective policing and crime prevention. As the VPD strives to meet its vision of becoming the safest major city in Canada, it will continue to strongly support this type of lawful proactive work, conducted in a professional and transparent manner, consistent with VPD core values of Integrity, Compassion, Accountability, Respect and Excellence.