

Street Checks (and Police Stops)

OB235

Effective: January 2020

OB235

Risk Assessment: High

POLICY

1. A Street Check is not appropriate when members are operating with lawful authority to detain or arrest. When members are operating without lawful authority to detain or arrest, this policy provides direction to members with regards to the completion of a Street Check.
2. In addition to their lawful duties, members are expected to interact with the public. Members must nonetheless ensure that those interactions are consistent with the Canadian Charter of Rights and Freedoms (sections 7, 9, 10 and 15) and the values they reflect, including the right to be free from arbitrary arrest and detention; to move freely in society subject only to reasonable restrictions imposed by law; and to equal protection and benefit of the law, without discrimination.

REASON FOR POLICY

3. In British Columbia (BC) and across Canada there has been attention on the police practice of Street Checks. The changes to the practice of Street Checks are a part of broader efforts by the BC Police Services Division to promote unbiased policing. One of those efforts is the issuance of an interim BC Provincial Policing Standard (BCPPS) on Police Stops, which includes the practice of Street Checks.
4. The procedures about Street Checks, contained herein, provide direction to members that is compliant with the BCPPS on Police Stops; however, it is important to specify that sections 11, 12, 13, and 20 of the procedure does provide direction to members when they are conducting a police stop with lawful authority.
5. To promote a policing model free of bias or the perception of bias during any interactions with persons of the community.

PROCEDURES

Definitions

6. **Street Check** – Any voluntary interaction between a police officer and a person that is more than a casual conversation and which impedes the person's movement. A Street Check may include a request for identifying information depending on the circumstances.
7. **Psychological Detention** – a situation where, in the absence of a direction or demand from a police officer, a person reasonably believes that they are not free to leave.
8. **Identity Factors** – any information which, alone or in combination with other information, can be used to identify a person. Identity Factors include but are not limited to: economic or social status, race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age.

DETENTION AUTHORITIES

9. The scope of lawful authorities for police to detain a person which fall outside of a Street Check and which may permit a request or demand for identifying information from a person include:
 - a) **Investigative Detention:** a brief detention based on a police officer's reasonable suspicion, in all of the circumstances, that a person is connected to a recent and particular crime for which the detention is necessary.
 - b) **Reasonable Grounds to Arrest:** Grounds that would lead an ordinary, prudent and cautious person to have a strong and honest belief about the situation at issue. When a police officer has reasonable grounds to believe that a person has committed, is committing, or is about to commit an indictable offence, then Section 496 of the Criminal Code provides authority for an arrest.
 - c) **Statutory Authority:** Federal statutes such as the *Criminal Code* as well as certain provincial statutes such as the *Motor Vehicle Act* in the case of driving activity, and certain municipal bylaws, provide police the authority to compel identification from a person pursuant to the applicable statute or when the person is or has committed an offence in relation to the statute or bylaw.

PROCEDURES

10. In compliance with the BCPPS, the following provisions shall govern NWPD members:

Member Responsibilities

When conducting a Street Check or a police stop where there is lawful authority

11. The decision to conduct a Street Check or a police stop shall not be based on Identity Factors.
12. The decision to conduct a Street Check or a police stop shall not be based solely on that person sharing an Identity Factor with a person being sought by the police.
13. Arbitrary or random Street Checks or police stops, which may or may not include a request for the collection or recording of a person's identifying information, shall not be conducted.

When Conducting a Street Check

14. If a detention, arrest, or application of a statutory authority is appropriate, a Street Check should not be conducted.
15. Members must take steps to ensure that the interaction with the person is voluntary, including but not limited to advising the person they are:
 - a) Not required to provide any identifying information;
 - b) Not required to answer any questions; and
 - c) Free to walk away at any time.
16. In fulfilling their obligations under 15 (above), members should be mindful of the possibility that the person may feel psychologically detained due to factors such as:
 - a) The circumstances that gave rise to the interaction;
 - b) The nature of the member's conduct; and
 - c) The particular characteristics of the person, included but not limited to:
 - (i) Indigenous;
 - (ii) Homelessness;
 - (iii) Racialized;
 - (iv) Age;

- (v) Physical stature;
- (vi) Minority status; and
- (vii) Level of sophistication.

17. Where a member concludes that a person is psychologically detained, the member should conclude the Street Check and allow the person to proceed.
18. Where the member asks the person for identifying information, the members shall inform the person of the public safety purpose or objective for the Street Check.
19. After a person's refusal to cooperate with a Street Check, a member may only take subsequent law enforcement action in circumstances where that subsequent law enforcement action is completely unrelated to the initial request made in the Street Check.

Authority to Collect Identifying Information During a Police Stop with lawful Authority

20. Members are not permitted to request or demand, collect, or record a person's identifying information without a justifiable reason. A member's request or demand for a person's identifying information in relation to a lawful detention, arrest, statutory authority or other existing legal authority is considered a justifiable reason and without limitation, examples are:
 - a) As permitted or required by City of New Westminster, municipal, provincial or federal legislation or regulations;
 - b) A traffic stop, consistent with statutory and common law;
 - c) An arrest;
 - d) An attempt to execute a warrant against the person; or
 - e) An investigation of an offence, or reasonable grounds to believe that an offence has occurred or is about to occur, or an imminent public safety threat.

Requesting Identifying Information During a Street Check

21. Members may request that a person voluntarily provide identifying information provided that:
 - a) the member reasonably believes the interaction, and any information requested, serves a specific public safety purpose or objective, including:
 - (i) assisting in locating a missing person;
 - (ii) an objectively reasonable concern for a person's immediate safety;
 - (iii) assisting a person in distress to refer them to health, substance use, mental health or other supports or services; or

- (iv) as part of the response to a call for service.
- b) the member informs the person of the reason or purpose for the interaction;
and
- c) the member takes steps to ensure the information is provided voluntarily,
including but not limited to advising the person that they are not required
to answer any questions and are free to leave.

Documenting a Street Check

- 22. A Street Check report should not be used to document any incident for which a General Occurrence Report would normally be submitted (PRIME-BC policy section 2.4).
- 23. When a member conducts a Street Check, for which identifying information was requested, the member shall document the following in a PRIME Street Check report:
 - a) the public safety purpose or objective of the Street check in sufficient detail to articulate the reason for the interaction;
 - b) identifying information collected or provided;
 - c) factual information and/or observations from the Street Check; and
 - d) that the member advised the subject of the Street Check that the interaction was voluntary and that the person was not required to answer any questions and was free to leave at any time.

(See also: OD80 - Arrests)
(See also: Investigative Detention)