



WEST VANCOUVER POLICE DEPARTMENT

Operational Policy

OC0010: Street Checks

1.0 PURPOSE

- 1.1 The purpose of this policy is to promote a practice of Street Checks that accords with legal authorities and requirements, and thereby build and maintain public confidence in the criminal justice system and promote a policing model absent of any practice, or the perception of a practice, of bias in interactions with persons in the community.
- 1.2 In British Columbia and across Canada there has been attention on the police practice of Street Checks. The changes to the practice of Street Checks are part of broader efforts by the BC Police Services Division to promote unbiased policing. One of those efforts is the issuance of an interim BCPPS on Police Stops, which includes the practice of Street Checks. The procedures about Street Checks, contained herein, provide direction to Members that align with the BCPPS on Police Stops.

2.0 DEFINITIONS

- 2.1 For the purposes of this policy, the following definitions will apply:

"BCPPS" means the binding British Columbia Provincial Policing Standards as authorized by the Director of Police Services in accordance with amendments to S. 40 of the Act (passed in June 2010 and brought into effect by Order in Council), which transfer the content of previous regulations into the form and content of the BCPPS.

"CCC" means the Criminal Code of Canada, R.S.C. 1985, c. C-46, as amended from time to time.

"Department" means the West Vancouver Police Department.

Street Checks

“Detention” means when a police officer assumes control over the movement of a person by physical constraint, a demand or a direction which may have significant legal consequence, and which prevents or impedes access to counsel.

“Identifying Information” means any data that could potentially identify a specific individual, including, but not limited to: name, address, date of birth and physical description (physiological, clothing).

“Identity Factors” means personal characteristics or descriptors including, but 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.

“Member” means a sworn peace officer employed at the Department.

“MVA” means the BC Motor Vehicle Act, [RSBC 1996], Chapter 318, as amended from time to time.

“Police Information Checks” means a comprehensive check by name and date of birth of a local police agency’s records management system, queries of the CPIC Identification, Investigative and Intelligence databanks. The query may also include a search of court records and a query of records management systems in other police jurisdictions.

“Police Stop” means police interaction with a person where the person’s Identifying Information is collected and added to the Police Records Information Management Environment (PRIME). Casual conversations with the public are not considered a Police Stop.

“PRIME” means the Police Records Information Management Environment.

“PRIME G.O.” means a General Occurrence Report completed in the PRIME records management system.

“Psychological Detention” means when a person is legally required to comply with a direction or demand or where, in the absence of such a direction, police conduct would lead a reasonable person to conclude that they had no choice but to comply.

“Street Check” means 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. A Member should conduct a street check where there is no statutory or other authority to detain or arrest.

Street Checks

"Vulnerable Sector Checks" means a level of screening that is designed to protect vulnerable persons from dangerous offenders by uncovering the existence of a criminal record, adverse police contact, and/or pardoned (or record suspension) sexual offence conviction. This level of screening is restricted to applicants seeking employment and/or volunteering with vulnerable persons.

3.0 POLICY

- 3.1 Members will conduct Street Checks in a manner consistent with this policy, BCPPS, the Canadian Charter of Rights and Freedoms and other relevant legal authorities.
- 3.2 In the absence of the authority to arrest or detain, all police interactions with a person are voluntary. A person voluntarily interacting with the police is free to go, and their refusal to stay or answer questions does not justify further law enforcement action.
- 3.3 Unless authorized by law (statutory or common law), Street Checks (with or without a request for Identifying Information) will not be conducted in a random or arbitrary manner.
- 3.4 In the furtherance of 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 and the values that 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.
- 3.4 Members must be able to articulate a justifiable reason for requesting, demanding, collecting or recording a person's Identifying Information.

4.0 PROCEDURES

Detention Authorities

- 4.1 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;

Street Checks

- 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; and
- c) Statutory Authority - Federal statutes such as the CCC as well as certain provincial statutes such as the MVA 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.

Member Responsibilities

- 4.2 The decision to conduct a Street Check of a person shall not be based on Identity Factors and shall not be based solely on that person sharing an Identity Factor with a person being sought by the police.
- 4.3 Arbitrary or random Street Checks, which may or may not include a request for or the collection or recording of a person's Identifying Information, shall not be conducted. If a detention, arrest, or application of a statutory authority is appropriate, a Street Check should not be conducted.
- 4.4 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.
- 4.5 In fulfilling their obligations under Sec. 4.4 (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, including but not limited to:
 - i. Indigenous;
 - ii. homelessness;
 - iii. racialized;

Street Checks

- iv. age;
 - v. physical stature;
 - vi. minority status; and
 - vii. level of sophistication.
- 4.6 Where a Member concludes that a person is psychologically detained the Member should conclude the Street Check and allow the person to proceed.
- 4.7 Where the Member asks the person for Identifying Information, the Member shall inform the person of the public safety purpose or objective for the Street Check.
- 4.8 After a person's refusal to cooperate with a Street Check, a Member may only take law enforcement action in circumstances where the offence is unrelated to the initial request made in the Street Check.

Authority to Collect Identifying Information

- 4.9 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 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.
- 4.10 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 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 support services; or

Street Checks

- 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

- 4.11 A Street Check report should not be used to document any incident for which a PRIME G.O. would normally be submitted.
- 4.12 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; and
 - c) factual information and/or observations from the Street Check.

Records Management

- 4.13 If a Street Check is determined to be related to an event documented in a PRIME G.O., the records must be linked as “Related Events” in PRIME.
- 4.14 The Department will not release Street Check information in a Police Information Check or a Vulnerable Sector Check except in extreme cases where public safety is at risk.
- 4.15 Requests for disclosure or expungement of Police Stop records will be referred to the Department Records Section.

Audit

- 4.16 An audit of a representative sample of Street Checks will be conducted annually. The audit must include consideration of:
 - a) whether the scoring is appropriate to the circumstances of the interaction;
 - b) whether the reasons for the interaction and the request for identifying information have been articulated sufficiently;

Street Checks

- c) whether the inclusion of identifying information in the record is justifiable;
- d) providing direction to the officer if the interaction is not consistent with the policy and procedures of the police force or these BC Provincial Policing Standards; and
- e) ensuring that any identifying information is removed if either the initial collection or ongoing retention of the record is not justifiable.

Revised: January 1985	
Date Approved: WVPD Executive: 2014.01.09 Policy & Procedure Comm.: 2014.01.15 Police Board: 2014.01.23	Date Published: 2014.01.28
Date Approved: WVPD Executive: 2017-05-24 Policy & Procedure Comm.: 201706-08 Police Board: 2017-06-22	Date Published: 2017-07-07
Date Approved: WVPD Executive: 2019-01-16 Policy & Procedure Comm.: 2020-02-20 Police Board: 2020-02-27	Date Published: 2020-03-10