



TRANSIT POLICE

POLICE STOPS

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Office of Primary Responsibility: Deputy Chief Officer Operations

POLICY

Definitions

Articulable cause – A cause that can be justified in a stated explanation. Articulable cause has been defined as objectively discernible facts which give the detaining officer reasonable cause to suspect that the detainee is criminally implicated in the activity under investigation.

Charter – *Canadian Charter of Rights and Freedoms, Constitution Act, 1982.*

Chief Officer – The Transit Police Chief Officer or designate.

Criminal Code – *Criminal Code of Canada [RSC 1985, c. C-46].*

Designated Constables – The Transit Police police officers appointed by the Police Board.

Detention – Refers to a suspension of an individual's liberty interest by virtue of a significant physical or psychological restraint at the hands of the state (*R. v. Grant*). Therefore, when police conduct general inquiries with Members of the public, they have the ability to do so, without the interaction becoming a "detention" as long as that restraint is not significant. The point at which the restraint becomes a *significant one* is the point at which the interaction turns into a legal detention, and the citizen's *Charter* interests become engaged.

GO – General Occurrence Report on the Police Records Information Management Environment ("PRIME").

Human Rights Code – *BC Human Rights Code [RSBC 1996, Chapter 210].*

Identity Factors – 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.ⁱ

Member – Designated Constable (all ranks), the Chief Officer or a Deputy Chief Officer of the Transit Police.

Metro Vancouver Transit Police ("Transit Police") – The operating name of the South Coast British Columbia Transportation Authority Police Service.

Police Act – BC *Police Act* [RSBC 1996], c. 367.

Police Stop – Any interaction between a police officer and a person that is more than a casual conversation and which impedes a person's movement. A stop may include a request or demand for identifying information depending on the circumstancesⁱⁱ. (Casual conversations with the public are not considered a Police Stop.)

[NOTE: A Police Stop does not include when asking witnesses for their identification.]

PRIME – The Police Records Information Management Environment; the designated police records management system for police agencies in BC.

Reasonable suspicion – An expectation that an individual is possibly engaged in some criminal activity. It must be based on something more than a hunch or mere suspicion and is something less than a belief based on reasonable and probable grounds. "Like reasonable and probable grounds, reasonable suspicion is an objective standard that requires "objectively discernable facts, which can be subject to independent judicial scrutiny". However, reasonable suspicion is a lower standard than reasonable and probable grounds, looking at reasonable *possibility*, rather than reasonable *probability*. Reasonable suspicion is tantamount to articulable cause (as defined in this policy)ⁱⁱⁱ.

Street Check – Any voluntary interaction between a police officer and a person that is more than a casual conversation and impedes the person's movement. [Note: A Street Check may also be referred to as a 'voluntary Police Stop'.]

Authority

1. Certain authorities and powers are granted to police officers from both statute (e.g., *Criminal Code* and *Police Act*) and common law in order to discharge their duties. Members will perform their duties consistent with statute, the law, BC Provincial Policing Standards and Transit Police policy.

General

2. Members' interactions with persons in the community are recognized to be critical to fulfilling their policing duties and must be consistent with the *Charter* (sections 7, 9, 10 and 15) and the values it reflects, including:
 - (1) The right to be free from arbitrary arrest and detention;
 - (2) To move freely in society subject only to reasonable restrictions imposed by law; and
 - (3) To equal protection and benefit of the law, without discrimination.
[BCPPS 6.2.1(1)]
3. A Member's decision to stop a person must not be based on Identity Factors.
[BCPPS 6.2.1(3)]

4. Further to s. 3 above, a Member's decision to stop a person must not be based solely on that person sharing an identity factor, such as race, with a person being sought by police. [BCPPS 6.2.1(4)]
5. Members will not randomly or arbitrarily stop persons, which may or may not include a request for or the collection or recording of a person's identifying information, unless authorized by law or case law. [BCPPS 6.2.1(5)]
6. Members are not permitted to request or demand, collect or record a person's identifying information without a justifiable reason. Justifiable reasons include circumstances where the request or demand for identifying information is consistent with existing legal authorities and related limitations granted to police officers, such as:
 - (1) As permitted or required by provincial or federal legislation or regulations;
 - (2) A traffic stop, consistent with statutory and common law;
 - (3) An arrest;
 - (4) An attempt to execute a warrant against the person; or
 - (5) 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. [BCPPS 6.2.1(6) and (7)]
7. Members may, in the course of interacting with a person, request the person to voluntarily provide identifying information, provided that:
 - (1) The Member reasonably believes the interaction, and any information requested, serves a specific public safety purpose, including:
 - a. Assisting in locating a missing person;
 - b. An objectively reasonable concern for a person's immediate safety;
 - c. Assisting a person in distress to refer them to health, substance use, mental health or other supports or services; or
 - d. As part of the response to a call for service;
 - (2) The Member informs the person of the reason or purpose of the interaction or the request; and
 - (3) 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. [BCPPS 6.2.1(8)]
8. Where there is no lawful authority to detain or arrest a person, the person's interactions with a Member are voluntary, and the person is free to go and their refusal to stay or answer questions does not justify further law enforcement action. [BCPPS 6.2.1(9)]

Audit

9. The Chief Officer will ensure that an audit is conducted, at least annually, on voluntary requests for identifying information as outlined in s. 7 of this policy. Audits will be conducted consistent with the BCPPS 6.2 and any additional requirements of the Ministry of Public Safety and Solicitor General. [BCPPS 6.2.1(11) and (12)].

PROCEDURES

Legal Authority

10. Members will only detain persons based on lawful authority [BCPPS 6.2.1(2)]. There exists a continuum of authorities for Members to detain persons and obtain identifying information from them in relation to an investigation (which may also result from a Police Stop), for example:

- (1) Investigative Detention: A brief detention that is based on the Member's reasonable suspicion or articulable cause but falls short of reasonable and probable ground for belief.
- (2) Statutory Authority: Federal statutes (i.e., the *Criminal Code*, *Controlled Drugs and Substances Act*) as well as certain provincial statutes (i.e., *Motor Vehicle Act*, *Liquor Control and Licencing Act*, *Trespass Act*, *Transit Conduct and Safety Regulation*) provide Members the authority to compel identifying information from a person when they have committed an offence in relation to the statute or a bylaw.
- (3) Reasonable and Probable Ground to Arrest: Reasonable and probable grounds are grounds that would lead an ordinary, prudent and cautious person to have a strong and honest belief about the situation at hand [[R. v. Storrey](#)].

NOTE: It is not sufficient for the police officer to subjectively believe that they have 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 believe that reasonable and probable grounds existed to make the arrest. However, the police need not go further and establish a prima facie case. 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.

11. When detaining a person, Members must ensure they comply with their obligations under the *Charter*. This includes advising the person of the reason for the Detention [s.10(a)] and advising the person of their right to retain and instruct counsel [s.10(b)]. If a person asserts a desire to consult counsel, the Member must provide a reasonable opportunity for them to do so. [[R. v. Suberu](#)]
 - (1) If the Member feels that the person is unable to understand the Member's explanation (e.g., due to age, physical or cognitive disability, language skills), the Member will seek alternate methods of communication to ensure the

person or their capable representative understands the person's rights (e.g., make use of an interpreter, legal representative, community services worker, guardian). [BCPPS 6.2.1(2)]

[Refer to Transit Police Policy [OD170 – Police Warnings](#)]

Conducting a Street Check

12. In Street Checks, Members must take steps to ensure that the interaction with the person is voluntary, including but not limited to advising the person they are:

- (1) Not required to provide any identifying information;
- (2) Not required to answer any questions; and
- (3) Free to walk away at any time.

13. In fulfilling obligations under s. 12 (above), Members are to be mindful of the possibility that the person may feel 'psychologically detained' due to factors such as:

- (1) The circumstances that gave rise to the interaction;
- (2) The nature of the Member's conduct; and
- (3) The particular characteristics of the person, including but not limited to:
 - a. Indigenous;
 - b. Homelessness;
 - c. Racialized;
 - d. Age;
 - e. Physical stature;
 - f. Minority status; and
 - g. Level of sophistication.

(Refer to [R. v. Grant](#)). [BCPPS 6.2.1(2)]

14. Where a Member concludes that a person is psychologically detained, the Member will conclude the Street Check and allow the person to proceed. [BCPPS 6.2.1(2)(a)]

15. Where the Member asks the person for identifying information, the Member will inform the person of the public safety purpose or objective for the Street Check. [BCPPS 6.2.1(8)(a)]

Child and Minor

16. Members may interact with a child (person under 12 years old) or minor (person 12 to 18 years old) to conduct a well-being check, or to confirm the identity of a missing or runaway child, or other victims of crime, or in a situation of urgency. A record will be made in PRIME of those types of interactions in accordance with Transit Police policy and legal authority (e.g., *BC Child, Family and Community Services Act*). See Transit Police policies: OD160 – Vulnerable Person and OD180 – Young Persons.

17. Where it appears that the person stopped may be a minor, the Member will ask the person their age before being asked to provide other voluntary identifying information. The minor will also be advised of their right to contact a parent or guardian, and to have such a person present when being asked to consent to providing identifying information.

Documentation of Street Checks

18. Members will be required to record Street Checks on PRIME, according to the relevant scoring code or rules, and in sufficient detail to articulate and demonstrate the reason for the interaction. [BCPPS 6.2.1(10)]
19. Chapter 2.2 of the PRIME Operational Policy and Procedures Manual specifies the guidelines of when a GO should be submitted. Members will ensure that the event being entered on PRIME does not require a GO. Where a reportable event occurs, per Canadian Center for Justice Statistics (CCJS) standards, the investigating Members must submit a GO report.
20. The PRIME 'Street Check Event'^{iv} will be used by Members to document Street Checks (can be submitted on PRIME for 'Persons', 'Unknown Persons', 'Institutions', 'Vehicles' or 'Vessels').
21. When completing a 'Street Check Event', the Member will:
 - (1) Leave the incident number to its default setting, as PRIME will auto-generate the Street Check Event number;
 - (2) Index as entities all persons, vehicles and locations involved and complete all entity information. Code all entities with a primary role code of (10) "Street Check", and use secondary codes as appropriate (e.g., "Registered Owner", "Driver", "Passenger" etc.); and
 - (3) Complete the Synopsis page (within the Street Check Event) outlining the reason for initiating the contact that lead to the stop, and all relevant and factual information and observations from the interaction.
22. If a Street Check is submitted and it is subsequently determined that it is related to a GO, the two must be linked through 'Related Events' by the Reader or Supervisor.

Monitoring and Audit

23. Supervisors will monitor the conducting of Street Checks by their Members to help ensure compliance with this policy and to flag concerns. (Flagging concerns at an early stage benefits both the public and the police.) Where a concern exists, the Supervisor may consider coaching Members on conducting of a Street Check and the policy provisions and standards. Supervisors will consult with the PRIME Coordinator when it is considered appropriate to remove identifying information from the Street Check entry on PRIME.

- (1) Supervisors will be informed of their Members' Street Check entries through an automatic direct notification set up in PRIME.
24. The Deputy Chief Officer Administrative Services will ensure that PRIME audits are conducted on Street Checks, consistent with requirements of the BCPPS and any related guidelines from the Ministry of Public Safety and Solicitor General.
 - (1) Audits will be conducted at least annually (frequency to be as so determined by the Chief Officer). [BCPPS 6.2.1(11)]
 - (2) The audit will be of a representative sample of Street Checks by Members and 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;
 - 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 this policy chapter and the associated BCPPS (any direction to be through the Member's Supervisor); and
 - e. Ensuring that any identifying information is removed, if either the initial collection or ongoing retention of the record is not justifiable.
[BCPPS 6.2.1(12)]
25. If upon review (ss. 23 and 24 of this policy) it is found that a Street Check was not justifiable, identifying information will be removed from the record, as follows:
 - (1) Such identifying information as Name, Date of Birth, Address, Telephone Number and Driver's Licence Number that may be entered on the Master Name Index of PRIME and in the synopsis; OR
 - (2) Identifying criteria as so specified by an issued guideline/standard by the Ministry of Public Safety and Solicitor General.
26. Audit results and any recommendations will be submitted to the Chief Officer via the chain of command.
27. The Administrative Services Division will maintain aggregate data about the number and type of interactions that resulted in a request for identifying information in Street Checks.
28. Aggregate data will be provided to the Police Board and public through periodic reports.

Training

29. The Transit Police will provide standardized training to all Members on conducting of Police Stops, including but not limited to: legal framework for investigative detention and Police Stops, rights of a person under the *Charter* and *BC Human Rights Code*, psychological detention, bias awareness, legal articulation, parameters for conducting of Street Checks, and provisions of this policy and BCPPS 6.2.

30. Specific to Police Stops involving Indigenous persons, Members are to be mindful of the overrepresentation of Indigenous persons in the criminal justice system, and consider whether bias, racism or systemic discrimination has played a part in that person coming into police contact.

Records Management

31. Street Check information will be retained in PRIME for such period specified by BCPPS, or in absence of a specified period, the retention schedule used by PRIME. The exception is when a Street Check is linked to a secondary operational file, in which case the Street Check record must be retained in support of the secondary operational file.
32. The Inspector Support Services will implement a protocol to purge Street Check records consistent with the retention schedule determined by BCPPS or as otherwise required by the law.
33. The Transit Police will comply with statutory requirements under the *BC Freedom of Information and Protection of Privacy Act* and will not release identifying information from Street Checks except in exigent circumstances where public safety is at risk. Any requests for disclosure of Street Check records will be referred to the Privacy Officer.

Key References

BC Human Rights Code [RSBC 1996, Chapter 210]

BC Police Act [RSBC 1996], c. 367

[BC Provincial Policing Standards 6.2 – Police Stops](#)

Canadian Charter of Rights and Freedoms, *Constitution Act*, 1982

Criminal Code of Canada [RSC 1985, c. C-46]

[Halifax, Nova Scotia: Police Stops Report](#), March 2019 by Dr. Scot Wortley, University of Toronto – Centre for Criminology and Sociological Studies

Letter from Assistant Deputy Minister Butterworth Carr on BC Provincial Policing Standards regarding Police Stops, December 19, 2019

R. v. B.S., 2014 BCCA 257

R. v. Grant, 2009 SCC 32, [2009] 2 S.C.R. 253

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

R. v. Suberu, 2009 SCC33, [2009] 2 S.C.R. 460

R. v. Turcotte, 2005 SCC 5, [2005] 2 S.C.R. 519

[The Honourable Michael H. Tulloch, Judge of the Court of Appeal for Ontario, “Report on the Independent Police Stops Review”](#), Queen’s Printer for Ontario 2018, ISBN 978-1-4868-2330-2

[Vancouver Police Department, “Understanding Police Stops: An examination of a Proactive Policing Strategy,” September 2018](#)

ⁱ BC Provincial Policing Standards 6.2.1(3)

ⁱⁱ [BC Provincial Policing Standards 6.2 Police Stops - Foreward](#)

ⁱⁱⁱ Adapted from [The Honourable Michael H. Tulloch, Judge of the Court of Appeal for Ontario, “Report on the Independent Police Stops Review”](#), Queen’s Printer for Ontario 2018, ISBN 978-1-4868-2330-2, page xiii.

^{iv} Use of this specific term is in accordance with current PRIME policy.