



June 14, 2018

Office of the Police Complaint Commissioner
5th Floor, 947 Fort St.
PO Box 9895, Stn Prov Govt
Victoria, BC V8W 9T8

Attn: Stan Lowe, Police Complaint Commissioner

Dear Commissioner Lowe,

Re: Policy Complaint Concerning Street Checks by the Vancouver Police Department

The Union of BC Indian Chiefs (“UBCIC”) and the BC Civil Liberties Association (“BCCLA”) write to submit a Policy Complaint with the Office of the Police Complaint Commissioner (“OPCC”) under s. 168(1)(b) of the *Police Act*, RSBC 1996, c. 367.

We submit this complaint in respect to the inadequacy and inappropriateness of the Vancouver Police Department’s (“VPD”) training programs, policies, and internal procedures on the practice of “street checks” or police stops - the practice of stopping an individual not due to an investigation or occurrence,¹ questioning them and obtaining their identifying information, and (with certain exceptions) recording the individual’s personal information in the PRIME-BC database.

On May 24, 2018, the VPD released data on street checks from 2008 to 2017 based on a Freedom of Information request. Over the period from 2008 to 2017, the VPD conducted 97,281 street checks.² Of the total, 15 percent (14,536) were of Indigenous people,

¹ BC Ministry of Justice / Justice Institute of BC, *British Columbia Guideline for Police Information Checks*, at p. 56 <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/police/standards/police_infochecks_guideline_3.pdf>.

² Vancouver Police Department, Published Freedom of Information Requests, *VPD Street Check Data 2008-2017* (Vancouver: 2018) <<http://vancouver.ca/police/organization/public-affairs/freedom-of-information.html>>.

despite this population making up only two percent of the population of Vancouver.³ In 2017, Indigenous people accounted for over 16 percent of the checks (1,033) despite making up just over two percent of the population – overrepresentation by a factor of seven.⁴ From 2008 to 2017, over four percent (4,365) of the street checks were of Black people, despite this population making up less than one percent of the population of Vancouver over this time period.⁵ In 2017, Black people accounted for five percent of the checks (315) despite making up only one percent of the population – overrepresentation by a factor of five.⁶

In the OPCC's 2015-16 Annual Report, you recommended that the Vancouver Police Board "... examine and reconsider any policies or procedures relating to the practice of conducting investigative detention and street checks in light of an increasing trend in complaint allegations involving the police practice of conducting street checks ..."⁷ You determined that the VPD had no policy on the practice of street checks at the time. While a draft policy has been in development, the VPD continues to have no policy – to our knowledge – on the practice of street checks as of the date of this complaint.

In light of the above data, it is indisputable that Indigenous and Black people are overrepresented in the rates of street checks conducted by the VPD. This results in disproportionate rates of police stopping, questioning, and eliciting or recording the personal information of people from Indigenous and Black communities. We are not concerned with informal conversations between police and the public. We are concerned with non-detention non-arrest interactions between police and the public that involve the eliciting and recording of personal information. Our concern is deepened in that the VPD's own data reveal a racial disparity in the rates of street checks. While the data does not reveal reasons for this disparity, we believe that there is a public interest in an immediate and in-depth investigation by the OPCC into this matter.

The data create a strong suggestion that street checks are being conducted in a discriminatory manner, contrary to the *Canadian Charter of Rights and Freedoms* and B.C.'s *Human Rights Code*.

The UBCIC upholds the principles and standards articulated in the United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295 ("UN Declaration"). Article 2

³ Statistics Canada, *Census Profile*, 2016 Census, Vancouver, CY [Census subdivision], British Columbia and Greater Vancouver, RD [Census division], British Columbia (table), Statistics Canada Catalogue no. 98-316-X2016001 (Ottawa: Statistics Canada, 2018) ["2016 Census"] <<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/index.cfm?Lang=E>>.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ British Columbia, Office of the Police Complaint Commissioner, *2015/2016 Annual Report* (Victoria: Office of the Police Complaint Commissioner, 2016), at p. 23: https://www.opcc.bc.ca/wp-content/uploads/2017/04/2015-2016_OPCC_Annual_Report.pdf.

of the UN Declaration states that “Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.” The disproportionate number Indigenous people subject to street checks is contrary to Article 2 of the UN Declaration.

We are also concerned as to the extent that the number of street checks conducted may be used either formally or informally by the VPD and other police departments as an indicator of performance. We understand that the VPD has stopped using this metric as a formal performance measure, but we are concerned that it may continue to be used informally.

Our significant concern is supported by our experience, and that of other civil society organizations, hearing reports about experiences with street checks or police stops. We often hear reports of this practice affecting Indigenous and racialized people, and we hear from individuals that they perceive their race to play a role in their being stopped. This perception is complemented by evidence nationwide that Indigenous, Black, and Arab/Middle Eastern youths are more likely than other youths to be questioned by police (see Anthony Doob and Rosemary Gartner, *Understanding the Impact of Police Stops*, University of Toronto Centre for Criminology and Sociolegal Studies, 17 January 2017 at p. A11).

The BCCLA and UBCIC strongly question the efficacy and necessity of street checks as a policing practice. Neither the VPD, nor any police agency in Canada, has provided compelling evidence to suggest that the practice achieves its stated aims, and that such aims could not be achieved by other less rights-intrusive means. Law enforcement cite anecdotes about how street checks have helped in particular cases, but positive crime-fighting outcomes are not the sole basis for judging police action. There is insufficient evidence to judge the claimed benefits of street checks against the now clearly established evidence of the discriminatory effect of street checks in the City of Vancouver.

We note that in Ontario, it is now a province-wide requirement that officers must provide a reason for requesting identifying information from a street check subject, and must inform the subject of their right not to provide identifying information, subject to certain exceptions (Collection of Identifying Information in Certain Circumstances - Prohibition and Duties, O. Reg 58/16, under *Police Services Act*, R.S.O. 1990, c. P.15). We are aware that VPD staff has drafted, but the Vancouver Police Board has not adopted, a policy related to street checks. Unlike the Ontario regulation, the draft policy would not require police to inform all subjects of these rights. We do not think that that draft policy is adequate in its present form, particularly in light of the new statistical evidence of discrimination.

In filing this complaint, we ask that you exercise the fullest extent of your statutory authority to ensure that it is properly and fully investigated by the Vancouver Police Board. We further

request that you consider exercising your authority under s. 177(4) of the *Police Act* to take all actions that you consider necessary to deal with this issue, including making recommendations to the Vancouver Police Board, engaging in research on the practice of street checks in *all* municipal police forces under the jurisdiction of the OPCC, including an audit of all data related to this practice. We would support a recommendation by your office, should you consider it appropriate, that the Director of Police Services or the Minister cause an independent external audit and review of the practice of street checks, with a view to creating a provincial standard to govern all law enforcement in British Columbia.

We appreciate your attention to this most pressing matter.

Sincerely,

On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip
President



Chief Robert Chamberlin
Vice-President



Kukpi7 Judy Wilson
Secretary-Treasurer

On behalf of the BC Civil Liberties Association



Josh Paterson
Executive Director

cc: Hon. Mike Farnworth, Minister of Public Safety and Solicitor General
Gregor Robertson, Mayor, City of Vancouver; Chair, Vancouver Police Board
Adam Palmer, Chief Constable, Vancouver Police Department