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MINISTER'S DIRECTIVE – STREET CHECKS BAN

WHEREAS under the Nova Scotia *Police Act*, the Minister of Justice is the constituted authority for the administration of justice within the Province and is responsible to ensure an adequate and effective level of policing is maintained throughout the Province;

AND WHEREAS under the Nova Scotia *Police Act*, the Minister shall promote the preservation of peace, the prevention of crime, the efficiency of police services and the improvement of police relationships with communities within the Province;

AND WHEREAS for the purposes of so doing, the Minister may issue a directive to police;

AND WHEREAS Dr. Scot Wortley's *Halifax Nova Scotia: Street Checks Report* ("Wortley Report"), released on March 27, 2019, found the use of street checks resulted in a disproportionate and negative impact on the African Nova Scotian community;

AND WHEREAS the former Minister issued a Directive to police on March 28, 2019 prohibiting the use of street checks as part of a quota system or as a performance measurement tool, and dedicated funding for police training on the findings of the Wortley Report;

AND WHEREAS the former Minister issued a further Directive on April 17, 2019 imposing a moratorium on street checks;

AND WHEREAS former Chief Justice J. Michael MacDonald and Jennifer Taylor, in a legal opinion to the Nova Scotia Human Rights Commission dated October 15, 2019, concluded that street checks were illegal;

AND WHEREAS the use of street checks has created fear, intimidation and mistrust of police in the African Nova Scotian community and has undermined overall public confidence in police;

AND WHEREAS respectful interactions between police and citizens are essential to safe communities and effective policing;

AND WHEREAS the Government of Nova Scotia is committed to addressing systemic racism in the justice system;

AND WHEREAS the Minister's September 14, 2021 Mandate Letter directs the Minister to support the implementation of the Wortley Report and ensure that street checks end;

I, BRADLEY H. JOHNS, MINISTER OF JUSTICE FOR NOVA SCOTIA DO HEREBY ISSUE THE FOLLOWING DIRECTIVE BANNING THE PRACTICE OF STREET CHECKS to all municipal police forces and the Royal Canadian Mounted Police, in their capacity as the Provincial Police, across the Province:

DEFINITIONS

In this Directive:

“Identifying information” means any information which, alone or in combination with other information, can be used to identify an individual, and includes information about an individual’s race, ethnicity, age, sex, sexual orientation, gender identity, marital or family status, socioeconomic circumstances, and education, medical, psychiatric, psychological, criminal or employment history.

DIRECTIVE

1. No police officer shall:

- a. interact with a person for the purpose of collecting and recording identifying information; or
- b. collect and record identifying information as the result of an interaction with a person;

unless, at the time of the interaction, the police officer reasonably suspects that:

- c. the person has recently engaged in, is engaged in, or will engage in unlawful activity; or
- d. the person has information relevant to the investigation or prevention of unlawful activity or the enforcement of the law.

2. No police officer shall record identifying information about an individual based on an observation unless, at the time of the observation, the police officer reasonably suspects that the person has a connection to recent prior, ongoing or reasonably probable future unlawful activity.

3. Articles 1 and 2 do not apply to the following police activities, if otherwise lawful:

- a. responding to calls for service;
- b. addressing the health and safety of at-risk individuals or those in need of assistance;

- c. investigations under and enforcement of federal, provincial or municipal laws, including motor vehicle stops under the *Motor Vehicle Act* and the *Criminal Code of Canada*;
 - d. operations in relation to serious and organized crime, or terrorism.
- 4. No police activities, whether addressed in this Directive or not, shall be conducted in a discriminatory manner, including on the basis of race.
- 5. For greater certainty, this Directive does not, and is not intended to, constrain respectful general interactions between police and community.
- 6. Senior leadership in all municipal police forces and the Royal Canadian Mounted Police shall:
 - a. ensure that police officers at all levels, and particularly front-line officers, adhere to this Directive;
 - b. ensure that police officers at all levels, and particularly front-line officers, receive all information and direction necessary to adhere to this Directive, in accordance with clause (c), including on the following, consistent with current and evolving statute and case law:
 - i. sources of police authority and the limits of that authority in the context of police-citizen interactions;
 - ii. the responsibility of police to ensure that their interactions with citizens are consistent with the *Canadian Charter of Rights and Freedoms* and free from discrimination in accordance with applicable human rights legislation;
 - iii. factors that may result in psychological detention, even where there is no legal obligation to comply with a restrictive or coercive request or demand by police, including:
 - A. the circumstances giving rise to the encounter as they would reasonably be perceived by the individual: whether the police are providing general assistance; maintaining general order; making general inquiries regarding a particular occurrence; or, singling out the individual for focussed investigation;
 - B. the nature of the police conduct, including the language used; the use of physical contact; the place where the interaction occurred; the presence of others; and the duration of the encounter; and,

- C. the particular characteristics or circumstances of the individual where relevant, including age; physical stature; race and ethnicity; and level of sophistication;

and in particular, where relevant, the racialized context of the interaction and the individual's membership in a racialized community, taking into consideration the larger, historic and social context of race relations between the police and racialized communities and individuals in our society;

- c. ensure the information and direction required under clause (b) is provided to new police officers at all levels, and particularly front-line officers, as soon as reasonably practicable upon commencing employment with a municipal police force or the Royal Canadian Mounted Police and refreshed for existing police officers at least annually;
- d. report to the Minister annually on the actions taken under clauses (b) and (c).

THIS DIRECTIVE is in addition to, and does not replace, the Minister's Directive issued on March 28, 2019 prohibiting the use of street checks as part of a quota system or as a performance measurement tool.

THIS DIRECTIVE is effective upon signing and replaces the Minister's Directive issued on April 17, 2019.

DATED this 1 day of December, 2021.

- Original Signed -

Bradley H. Johns
Minister of Justice & Attorney General