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**Board of Police Commissioners
June 17, 2019**

TO: Chair and Members of the Halifax Regional Board of Police Commissioners

SUBMITTED BY: Chief Robin McNeil, Halifax Regional Police

DATE: June 14, 2019

SUBJECT: **Retention of historical street check records**

ORIGIN

At the May 13, 2019 Board of Police Commissioners meeting, the following motion was put and passed:

Be it resolved that the Board directs the Chief of Halifax Regional Police (HRP) and the Officer in Charge of Halifax District RCMP to prepare a report for the next regular meeting of the Board of Police Commissioners detailing the intended steps for retention and removal of street check records currently held in the Versadex system, indicating:

- *an appropriate timeline for retention and removal of records;*
- *which police staff will have access to existing street check records;*
- *whether, if and how anonymous data from the street check records will be maintained after removal from the records management system;*
- *how members of the public can request access to street check records pertaining to them prior to removal from the records management system.*

Following this motion, HRP staff held a planning session to determine an appropriate timeline for retention and removal of street checks collected between 2005-2019 (the historical street check record database), as well as how historical street check records and related data should be accessed and managed during the retention period.

Based on the discussion in that session, this report sets out the following plan, detailed further below, for retention and removal of information contained in the historical street check database in the Versadex RMS:

- HRP will retain existing historical street check records until December 2020, at which point all records not specifically identified for further retention will be purged from the RMS.
- HRP will continue to restrict direct access to the historical street check database to Crime Analyst Unit members and supervisory officers, who will continue to support requests for access officers for investigative purposes.

- HRP will retain metadata (data for research purposes) relating to historical street checks until December 2020, at which point the metadata will be purged along with the original records.
- HRP will continue to make personal information contained in the historical street check database available to members of the public utilizing HRP's established FOIPOP application process.
- Requests for personal information or metadata from the historical street check database should be received by October 31, 2020, to allow for adequate processing time ahead of the purging schedule.
- This plan applies only to historical street check records, and a separate plan will be required for any similar records collected in the future.

LEGISLATIVE AUTHORITY

Police Act, S.N.S. 2004 c. 31, Section 35

BACKGROUND

The HRP Versadex Records Management System (RMS) contains a database of approximately 109,000 historical street check records, covering the period from the introduction of the RMS in 2005 to the current moratorium on street checks implemented in 2019. These street checks are public records and pursuant to relevant legislation and policy¹ a retention and removal schedule should be established to govern these records. While from a strictly legal perspective it is potentially allowable to retain some or all of these records for an indefinite period, in general terms it is important to remove records in a timely manner to ensure an appropriate balance between privacy and operational concerns.

Additionally, the Nova Scotia Human Rights Commission (NSHRC) report on street checks in Halifax sets out several recommendations relating to retention and removal of existing street check records. Specifically, the report sets out recommendations on timelines to removal of existing street check records (recommendations 1.3, 2.20, 2.21); police access to those records during the retention period (1.1, 1.2, 2.16, 2.17, 2.18); retention of anonymized data from the records for research purposes (1.5, 1.6, 2.22, 2.23) and public access to street check records prior to removal from the RMS (1.4, 2.19).

In turn, in line with municipal and provincial policy and guidelines, the NSHRC report recommendations, and the direction of the Board of Police Commissioners, HRP is establishing a plan for retention and removal of street check records. This plan addresses the four central points set out in the Board motion: timeline for retention, law enforcement access to existing records, retention of anonymous data for research purposes, and public access to existing records. The plan established by HRP staff and a brief rationale on each of these points is set out below.

¹ Specifically, the Municipal Government Act - Part XX - Freedom of Information and Protection of Privacy; the HRM File Plan; and HRP's Policy and Procedures Manual, chapter 9 section 3.

DISCUSSION

Timeline for retention

Retention timelines for street check records at other police services across the country range from two years to indefinite retention. The NSHRC report recommends retention of historical street check data for a period of one year following either an outright ban or a new regulation of street checks. While neither a ban nor a new provincial regulation is in place (therefore the timeline recommended in the NSHRC report would not be precisely relevant here), HRP recognizes the negative impact that continued retention of these records has on relationships with the community, and particularly the African Nova Scotian community; the risks of impact on implicit bias at an operational level; as well as the privacy concerns involved for all people whose information is in the database. HRP also recognizes that most historical street check records in the RMS are unlikely to have substantial investigative value beyond the end of 2020, since most of the intelligence value from most of the historical street check records (those collected up to April 2019) will already have been realized by then through ongoing intelligence activities.

However, it is also important to recognize that there is no clear timeline by which historical street check data will no longer be operationally relevant. Most obviously, street check records that may have probative value for an ongoing criminal case or which could be involved in a court process will need to be retained for as long as those investigations and/or court processes require. Further, it is not always possible to determine which information contained in historical street check records may be of future investigative use, so any purging of data carries an operational risk.

The NSHRC report recommends that a process should be set out by which police officers can apply to retain specific street check records for an extended period, where these records are related to ongoing investigation activities, or have significant intelligence value. This seems entirely sensible as part of the retention and removal process and should also include at minimum instances where a street check record is related to ongoing court processes (alongside those retained for intelligence and investigation purposes). Therefore, in the coming months HRP will set out an internal process for onward retention and communicate this to front-line officers and law enforcement partners. This process will require some modifications to the RMS to allow retention of specific street check records as needed, while allowing for purging of the vast majority of historical street check records.

Based on these considerations, **HRP will retain existing historical street check records until December 2020, at which point all records not specifically identified for further retention will be purged from the RMS.** Those street check records specified for retention will then be subject to the retention schedule of the file or purpose for which they are retained (for example, if a street check record is maintained as part of a robbery investigation file, then the retention period for that file will apply).

Law enforcement access to existing records

HRP had immediately complied with the Nova Scotia Justice Minister's directive establishing a moratorium on street checks in Nova Scotia. During the period of this moratorium, HRP has chosen to go further than this directive, and restricted access rights to the full street check database in the RMS, allowing access only to members of the Crime Analyst Unit (CAU) and to supervisory officers (those holding the rank of sergeant and above). This was in line with recommendations 2.16-2.18 from the NSHRC report and is intended to reduce the potential impact through implicit bias that street check records may create in interactions between police officers and citizens, while retaining the potential investigative value of historical street check records. Any access by front-line officers or other law enforcement agencies to information contained in the database is therefore currently only by request to either CAU members or supervisors. This approach to access has been generally suitable since it was established, but increased clarity is required as to under what circumstances this information ought to be accessed. The Information Management Officer is therefore currently working on guidelines to provide to front line officers and those with access to street check database, which will enhance the clarity around the restricted access approach. This will include guidelines for accessing street check records for active investigations, as well as to support applications to retain street checks beyond 2020.

As the current access approach appears to be adequate to HRP's needs and in line with the recommendations of the NSHRC report, **HRP will continue to restrict direct access to the historical street check database to CAU members and supervisory officers until the end of 2020.** Other officers and law enforcement partners requiring access to information contained in the database will do so via a request-based process, following the guidelines being developed by the Information Management Officer.

Retention of anonymized data for research purposes

The NSHRC report recommends continued retention of metadata (quantitative data for research purposes) relating to historical street checks beyond the retention period (at recommendation 2.22 of the report). This is to allow continued examination of the impacts of historical street checks in Halifax, beyond what has been done in the NSHRC report and future supplemental reports.

The metadata from street check records has been important for the research exercise undertaken by the NSHRC as well as for research conducted internally at HRP over the past two years, and such research is important to understand issues related to policing, disproportionality, and the effects of police actions on racialized communities. However, it needs to be recognized that the research conducted by the NSHRC used non-anonymous (person-identifiable) data, since data such as age, race, gender, date and location of check, and so on were required to conduct the analysis needed to properly understand the drivers of disproportionality. While names were removed from the dataset, the dataset still contained enough personal identifiers that it could not be shared publicly or widely without risking breach to individual privacy. Removal of the kinds

of data that would risk person-identifiability (such as race, age, gender, and event location) would create an incomplete dataset that could not answer the same questions that the NSHRC report was able to address. In simplest terms, fully anonymous data cannot be created while also allowing for meaningful analysis of disproportionality.

If we take seriously the privacy concerns related to historical street check records, and recognize that meaningful analysis of the street check data cannot be done with fully anonymized data, we need to treat the research dataset with the same logic that we treat the underlying records – specifically, that it should be retained for adequate time to allow for important forms of analysis and to accommodate appropriate external research requests, but that we cannot justify maintaining the dataset indefinitely for unspecified future purposes, in light of privacy concerns. It is also important to note that the street check dataset is only one of several datasets held by HRP that can be used to conduct research into historical police activities, and street checks constitute a small number of total formal police contacts each year. In turn, eventual purging of street check data does not mean that historical research into police activities will be significantly jeopardized.

In turn, **HRP will retain metadata relating to historical street checks until December 2020**, at which point the metadata will be purged along with the original records. In advance of December 2020, researchers may consult with the HRP Research Coordinator about possible research access to the street checks dataset, subject to Chief’s approval and as per HRP Research Policy. Any research requests will need to be received no later than October 31, 2020 to allow for processing time.

Public access to historical street check records

Members of the public who wish to access their personal data in the historical street check database have, up to this point, been able to request this data through existing FOIPOP requests, and this is a process that is well-established at HRP. In turn, **HRP will continue to make personal information contained in the historical street check database available utilizing HRP's established FOIPOP application process**, subject to FOIPOP rules. However, once this database has been purged in December 2020, the information will no longer be available. In turn, members of the public will be required to submit FOIPOP requests for historical street check data no later than October 31, 2020 to allow for processing time.

BUDGET IMPLICATIONS

There are no budget implications.

ALTERNATIVES

During the planning and discussion session held by HRP staff, several alternative retention periods and strategies for managing historical street check data were discussed. For example, a

longer retention period for historical street check records was considered, as was an archiving strategy (for example, archiving rather than deleting all street check records after 2020 but making access only possible by written application). Alternatively, a ‘rolling purge’ was also discussed, where records from 2015 and before would be purged in 2020, records from 2016 purged in 2021, and so on until all historical records had been purged by 2024. Such an approach would reduce operational risks associated with potentially purging recent crime-relevant information. However, the planned approach, in our opinion, strikes a more appropriate balance between operational needs and community concerns, while still retaining the operational relevance of the information in the historical street check records.

It should be recognized that the NSHRC report recommends a five-year retention schedule for future street check records (in an environment where street check policies have been appropriately modified), and therefore we emphasize that the proposed retention and removal plan is only for historical street check records. Similarly, the restricted-access approach to the database and the retention of metadata as outlined above relate only to management of the existing historical street check data. A separate, and more extensive, discussion will therefore be required regarding timelines for retention, access and management of any similar records generated in future.

A copy of this report can be obtained online at <https://www.halifax.ca/city-hall/boards-committees-commissions/a-c/board-police-commissioners>, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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-Original Signed-

Report Approved by: _____
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