

**Report to / Rapport au:**

**OTTAWA POLICE SERVICES BOARD  
LA COMMISSION DE SERVICES POLICIERS D'OTTAWA**

**25 January 2021 / 25 janvier 2021**

**Submitted by / Soumis par:**

**Chief of Police, Ottawa Police Service / Chef de police, Service de police d'Ottawa**

**Contact Person / Personne ressource:**

**Inspector Jim Elves /Inspecteur**

**[ElvesJ@ottawapolice.ca](mailto:ElvesJ@ottawapolice.ca)**

**SUBJECT: COLLECTION OF IDENTIFYING INFORMATION – DUTIES &  
PROHIBITIONS POLICY: ANNUAL REPORT**

**OBJET: COLLECTE DE RENSEIGNEMENTS IDENTIFICATOIRES – POLITIQUE  
SUR LES FONCTIONS ET INTERDICTIONS : RAPPORT ANNUEL**

**REPORT RECOMMENDATIONS**

**That the Ottawa Police Services Board receive this report for information.**

**RECOMMANDATIONS DU RAPPORT**

**Que la Commission de services policiers d'Ottawa prenne connaissance du  
présent rapport à titre d'information.**

**BACKGROUND**

Following province-wide and local community/police consultations in 2015, the Minister of Community Safety and Correctional Services announced that the province filed final regulations on March 21, 2016. The first regulation is known as Ontario Regulation 58/16, under the Police Services Act titled "Collection of Identifying Information in Certain Circumstances – Prohibition and Duties," commonly referred to as the "Street Checks Regulation." The second regulation amends the Code of Conduct under Ontario Regulation 268/10 of the Act and provides a code of conduct violation where a police officer is found not to comply with Ontario Regulation 58/16.

Ontario Regulation 58/16 provides for voluntary police-public interactions, which are designed to ensure the regulated interactions are without bias or discrimination. It

establishes rules for: data collection, retention, access and management, training, and policy and procedures with audit and public reporting requirements. The regulation takes effect in two phases – July 1, 2016 and January 1, 2017.

The regulation applies when police are attempting to collect identifying information from an individual during ‘face-to-face’ encounters while:

- Investigating general criminal activity in a community;
- Inquiring into suspicious activities to detect offences; or
- Gathering information for intelligence purposes.

The regulations do not apply when an officer is conducting an investigation into an offence that is reasonably suspected to have occurred, has been or will be committed, or other circumstances that are specifically outlined in the regulation. For example, the regulation does not apply if:

- The person is legally required to provide information, for example, during a traffic stop.
- The person is under arrest, being detained, or the officer is executing a warrant.
- Complying with a specific aspect of the regulation would compromise an ongoing investigation or compromise safety.
- The officer has a reasonable suspicion that the interaction is necessary to their investigation of an offence that has been committed or that the officer reasonably suspects will be committed.

The regulation prohibits attempts to collect identifying information about an individual/from the individual in ‘face-to-face’ encounters which are arbitrary or where any part of the reason for the attempt is that the officer perceives the individual to be within a “particular racialized group” unless certain other and legitimate conditions exist.

The regulation also prohibits the use of quotas of regulated interactions for individual performance measurement.

The OPS worked with police and provincial partners to ensure compliance with the new legislative requirements and completed the one-time eight hour mandatory training that was developed by the Ontario Police College and a roundtable of provincial subject matter experts. This training included a two-hour online module and a six hour in-class training session that focuses on the new regulation requirements as well as:

- The right of a person not to provide information to the police;

- The right of a person to discontinue an interaction with an officer;
- Bias awareness, discrimination and racism and how to avoid them when providing police services;
- How a person may access information about themselves held by this service under the Municipal Freedom of Information and Protection of Privacy Act; and,
- The initiation of interactions with members of the public.

All new OPS recruits continue to receive the mandatory training.

The OPS Inspector of Specialized Investigations is the business owner and ensures ongoing implementation, reporting, and consistent delivery of the legislation and policy requirements.

## **DISCUSSION**

The purpose of this report is to provide the 2020 annual report required by the Board, OPS policy requirements, and provincial legislation.

With this report, the OPS fulfills the provincial reporting requirement to ensure the stats produced by the data are in a format shareable and comparable across the province.

### **Annual Reporting Requirements**

As per OPS policy, the annual report for Regulated Interactions shall be provided by the Chief of Police to the Board in the first quarter of the year.

Annual Report for Regulated Interactions (**January 1, 2020 to December 31, 2020**):

The content of the annual report as it relates to Regulated Interactions includes:

- A. The number of attempted collections and the number of attempted collections in which identifying information was collected; **Three** “Regulated Interactions” were attempted/reported by OPS members. For clarification:
  - Identifying information (of a person) was only collected from two of the three attempts. As such, the other one did not meet the requirements/definition of a “Regulated Interaction” and was re-entered under the proper category.
  - Of the two attempts, where identifying information was collected, only one met the requirements/definition of a Regulated Interaction.
- B. The number of individuals from whom identifying information was collected: two.
- C. The number of times each of the following provisions were relied upon to not advise the individual of his/her right that he/she is “not required to provide

identifying information to the officer” and/or the reason “why the police officer is attempting to collect identifying information about the individual” as otherwise required under regulation:

1. Might compromise the safety of an individual: zero;
  2. Would likely compromise an ongoing police investigation: zero;
  3. Might allow a confidential informant to be identified: zero; or
  4. Might disclose the identity of a person contrary to law, including the Youth Criminal Justice Act (YCJA): zero.
- D. The number of times an individual was not given a receipt because the individual did not indicate that they wanted it: zero.
- E. The number of times each of the following clauses was relied upon to not offer or give a receipt:
1. Might compromise the safety of an individual: zero; or
  2. Might delay the officer from responding to another matter that should be responded to immediately: zero.
- F. The number of attempted collections from individuals who are perceived, by a police officer, to be within the following groups based on the sex of the individual:
- Male individuals: one;
  - Female individuals: one.
- G. For each age group established by the Chief of Police, the number of attempted collections from individuals who are perceived, by a police officer, to be within that age group:
- 0 – 17     zero
  - 18 – 29    one
  - 30 – 49    one
  - 50 and up     zero.
- H. For each racialized group established by the Chief of Police for the purpose of this paragraph, the number of attempted collections from individuals who are perceived, by a police officer, to be within that racialized group:
- White/Caucasian: two.

- I. A statement, based on an analysis of the information, as to whether the collections were attempted disproportionately from individuals within a group based on:
- a. The sex of the individual;
  - b. A particular age;
  - c. A racialized group; or
  - d. A combination of groups and, if so, any additional information that the Chief of Police considers relevant to explain the disproportionate number of attempted collections.

Given that the number of attempts to collect identifying information was two individuals, it is difficult to formulate any real patterns/assumptions/conclusions. It should be noted that looking at the attempts, there is no identifiable “disproportionate” pattern regarding sex, age, race or location.

- J. The neighbourhoods or areas where collections were attempted and the number of attempted collections in each neighbourhood or area:
- 1019 Smith Road, Division 3, Sector 37. 1 attempt.
  - 275 West Hunt Club Road; Division 1, Sector 17. 1 attempt.
- K. The number of determinations made by the Chief (or designate) as to whether the information entered into the database:
- Complied with limitations on collection set out in; the regulation, and the results of the review(s), done at least once a year, of an appropriately sized random sample of entries of identifying information included in the database to estimate within a margin of error of plus or minus 5 percent, at a 95 percent confidence level, whether it appears that limitations on collection of information, duties to inform of rights and reasons before collecting, with exceptions or document for individual – document, with exceptions were complied with.

A review of each attempt determined that only one of the three met the requirements/definition of the regulation. Although only three Regulated Interactions were attempted/reported, each one was reviewed by the OPS Regulated Interaction Coordinator, who reports to the Sergeant and Staff Sergeant of the Intelligence Unit.

L. The number of times, if any, employees of the police service were permitted to access identifying information to which access must be restricted by virtue of one or more of the following:

- i. For the purpose of an ongoing police investigation: zero;
- ii. In connection with legal proceedings or anticipated legal proceedings: zero
- iii. For the purpose of dealing with a complaint under Part V of the Act or for the purpose of an investigation or inquiry under the Act: zero;
- iv. In order to prepare the annual report or a report required due to disproportionate collection: one (Inspector Jim Elves #1023);
- v. For the purpose of complying with a legal requirement: zero; or
- vi. For the purpose of evaluating a police officer's performance: uncertain.

M. Where feasible, tracking of the times a Regulated Interaction led to a charge: uncertain

- vii. The number of complaints (public and Chief's) resulting from or related to Regulated Interactions along with their status or outcome: There were zero complaints resulting from the three attempted Regulated Interactions referred to in this report.

There were, however, five complaints received by the Professional Standards Section (PSS) that were based on the assumption (by the complainant) that it was a Regulated Interaction. None of the five complaints received were documented by the OPS as a Regulated Interaction:

Complainant 1: The complaint was screened out by the OIPRD on the basis the complainant was not affected by the alleged conduct.

Complainant 2: The complainant chose to withdraw their complaint after a constructive discussion with the respondent officer at mediation.

Complainant 3: The complaint was found to be unsubstantiated when it was determined that the complainant had committed both a City of Ottawa By-Law and Ontario Trespass to Property Act violation.

Complainant 4: The OIPRD opted not to proceed with the complaint as it was determined to be not in the public interest to do so.

Complainant 5: The complainant chose to withdraw his complaint after a facilitated discussion/mediation with the respondent officer.

- N. The number of *Municipal Freedom of Information and the Protection of Privacy* requests relating to Regulated Interactions: zero for Regulated Interactions and zero for street Checks; and
- O. An estimate of the cost of complying with the regulation. For the period of January 1, 2020 until December 31, 2020 there was no additional cost with regard to the regulation.

### **DISPROPORTIONATE REPORT**

If a disproportionate collection is identified based on an analysis of the information, as to whether the collections were attempted disproportionately from individuals within a group based on (a) the sex of the individual, (b) a particular age, (c) a racialized group, or (d) a combination of groups, in addition to the statement required in the annual report, the Chief of Police shall:

- A. Review the practices of the police service; and
- B. Prepare a report to the Board setting out the results of the review and his or her proposals, if any, to address the disproportionate attempted collection of information.

With only three attempted Regulated Interactions and one correct Regulated Interaction, the compiled data is too small to draw any conclusions/patterns/behaviours. It should be noted that looking at the three attempts, there is no identified “disproportionate” pattern regarding sex, age, race or location. Therefore, no disproportionate report will be prepared.

### **CONSULTATION**

As outlined in past reports to the Board, consultation and engagement have been an important part of this project and the development and implementation of provincial legislation – at both the local and provincial level.

Updates are available at the dedicated web page: [ottawapolice.ca/regulatedinteractions](http://ottawapolice.ca/regulatedinteractions).

### **INDEPENDENT STREET CHECK REVIEW**

On June 7, 2017, the Government of Ontario appointed the Honorable Michael Tulloch, a judge of the Ontario Court of Appeal, to lead an independent review of the implementation of the regulation.

After consultation efforts with police and community stakeholders across the province, Justice Tulloch released his report and recommendations on December 31, 2018.

The Report of the Independent Street Checks Review is available [online](#) on the Ministry of Community and Correctional Services website.

### **FINANCIAL IMPLICATIONS**

The regulations presented significant unplanned impacts to the organization, which were reported in the January 29, 2018 report to the Board. There were no new/additional financial costs for the 2020 reporting period.

### **CONCLUSION**

The number of Regulated Interactions for the fourth annual OPS report is consistent with the totals across the province.

We are committed to professional and equitable policing. We will continue to work together with the community, on street checks and other related initiatives, to ensure policing is without discrimination and done in a way that promotes public confidence and protects human rights.