

Report to / Rapport au:

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

19 December 2016 / 19 décembre 2016

Submitted by / Soumis par:

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

Contact Person / Personne ressource:

Inspector Mark Patterson / Inspecteur

PattersonM@ottawapolice.ca

SUBJECT: REGULATED INTERACTIONS UPDATE

OBJET: MISE À JOUR SUR LES INTERACTIONS RÉGLEMENTÉES

REPORT RECOMMENDATIONS

That the Ottawa Police Services Board:

- 1. Receive this update.**
- 2. Approve the attached receipt for Regulated Interactions.**

RECOMMANDATIONS DU RAPPORT

Que la Commission de services policiers d'Ottawa :

- 1. Reçoive la mise à jour.**
- 2. Approuve le billet ci-joint en ce qui concerne les interactions réglementées.**

BACKGROUND

Following province-wide and local community-police consultation efforts 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* entitled “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 *Police Services 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 that 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;
- Gathering information for intelligence purposes.

The regulations do not apply when an officer is conducting an investigation into an offence that is reasonably suspected has been or will be committed, or in 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 or being detained, or when 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. OPS is already in compliance with this prohibition and stands against such practices. The Regulation also prohibits the use of quotas of regulated interactions for individual performance measurement. The Ottawa Police Service is already in compliance with this requirement – quotas are not part of the practices or policies for performance reviews, promotional processes or transfers.

The Ontario Association of Chiefs of Police (OACP) created a special working group to develop model practices to address the policy, data/records management and training

requirements of the regulations and ensure consistent implementation across the province, where possible.

Inspector Mark Patterson is actively participating on the provincial working group as the OPS Lead and is leading an OPS implementation team.

DISCUSSION

Further to the last update provided to the Board in June, the purpose of this report is to provide a brief project update on key implementation areas required for compliance by January 1, 2017:

- Policy and Procedures including providing the “document” or “receipt” to the Board for information and input prior to implementation as required by the Board Policy CR-18;
- Training Update;
- Preparations for the required first annual report.

The regulations present significant unplanned impacts to the organization, particularly on front line training, data management processes and storage, auditing and reporting.

We have been working with police members as well as provincial partners to ensure best effort and progress towards compliance and readiness.

The OPS implementation for Regulated Interactions must meet the provincial reporting requirement ensuring that the statistics produced by the data are in a format that is shareable and comparable across the province. To that end, OPS will not be conducting regulated interactions before February 2017. The Service will take the requisite time to complete front-line training, IT changes and testing.

Police services across Ontario are also impacted and facing similar delays.

Police Board Policies – Completed June 2016

The regulation requires that specific new policies be created by police services boards to include:

- The document to be provided to the individual;
- The contents, in relation to matters to which the regulation applies, of the Chief of Police’s annual report;
- Supplementary reports to be provided by the Chief of Police (if it is determined that information is collected disproportionately from particular groups);
- Access to and retention of identifying information collected on or after January 1, 2017. The regulation requires that this board policy provide that information collected contrary to the regulation is not retained longer than is

reasonably necessary to ensure the information is available in the specific circumstances a Chief of Police may grant access to the information (which are outlined in section 9 (10) of the regulation.); and

- Access to, retention of, or disclosure of identifying information collected before January 1, 2017.

The new [policy](#), which is largely consistent with the recommended policy drafted by the OACP special working group, was approved by the PSB in June 2016.

Chief of Police Procedures

The regulation also requires the police services to develop procedures that are consistent with the requirements of the Board's approved policy and the final regulations. Already in development and well underway thanks to the best practice models developed by the OACP Special Working Group, the OPS procedures will ensure compliance with the regulation including: data collection, training, audit, access, and reporting.

IT system and software updates are required to meet the data collection and reporting requirements of the Regulation. And the data collection entry process that officers will need to follow on their in-car computer is being tested before roll-out in 2017.

As per Board Policy CR-18, the "receipt" prototype is being provided to the Board for approval. See Document 1.

The Regulation requires all police officers engaged in regulated interactions to:

- Offer to give the individual a document that provides a record of the attempt; and
- Give the individual such a document if the individual indicates that he or she wants it unless one of the exemptions in the Regulation applies (ie. it might compromise the safety of an individual or delay the officer from responding to another matter that should be responded to immediately, and the officer is able to articulate the reason with details".)

As per the Regulation, the document includes the required information:

- The officer's name and officer identification number and the date, time and location of the attempted collection.
- Information about how to contact the Independent Police Review Director.
- An explanation that the individual can request access to information about himself or herself that is in the custody or under the control of a police force, under the *Municipal Freedom of Information and Protection of Privacy Act* in the case of a municipal police force, or under the *Freedom of Information and Protection of Privacy Act* in the case of the Ontario Provincial Police,

and information about how to contact persons to whom such a request may be given.

Training – Underway

The Regulation requires that police officers who will be conducting the regulated interactions or those police members who act as the Chief's designate in reviewing information under the regulation are trained before they attempt to collect identifying information or review it internally.

The mandatory eight hour training was developed by the Ontario Police College and a roundtable of provincial subject matter experts. This training includes 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.

A Chief's General Order has been issued for the mandatory training sessions, and priority has been given to front-line officers. Officers who have not completed the training by December 31, 2016 will not be permitted to conduct regulated interactions until they have completed the in-class and on-line training modules.

The required training presents significant unplanned pressures, but every effort is being made to ensure compliance without overtime costs. 624 officers will have completed the in-class training by the end of December, and any remaining officers will take the training in January. Additional training sessions will be provided throughout the year to ensure training compliance for officers returning to front-line police roles.

Reporting

As per section 14 of the Regulation, the OPS will also be required to conduct audits and provide a report to the Board. The annual public report will include information such as the number of attempted collections, gender, age, and race of the individuals stopped; number of times officers relied on exemptions; and the neighbourhoods/areas where the information was collected.

If the annual report indicates that a particular group (i.e. members of a racialized group) is found to be disproportionately affected, the Chief of Police must submit a

supplemental report to the Police Services Board with an explanation and, in some cases, a proposal to address the disproportionate impact.

We will be working to incorporate reporting requirements into regular OPS reporting. The first annual report must be provided to the Board in Q1 of 2018.

CONSULTATION

Consultation has been an important part of this project – at both the provincial and local level.

The Ministry of Community Safety and Correctional Services has undertaken significant province-wide consultation to develop the Regulation. As already outlined in earlier reports to the Board, the Ottawa Police Service also carried out an engagement plan with police and community members in order to make a local submission to the province.

Updates and engagement opportunities will continue to be provided on this important project. It is also expected that the Ministry will undertake a public education campaign in the near future.

FINANCIAL IMPLICATIONS

The financial implications of implementing Regulation 58/16 are unknown at this time but will be tracked and are expected to be significant – especially related to the training and data/records management and review and reporting requirements.

Reporting on the costs will be included in the first annual report on the Regulation to the Ottawa Police Services Board in Q1 2018.

SUPPORTING DOCUMENTATION

Document 1: Receipt – Regulated Interactions

CONCLUSION

Regulated interactions are an important tool for solving and preventing crime in our community. The OPS is committed to community engagement, crime prevention and community safety while balancing the rights of individuals.

While the regulations have significant unplanned impacts on the organization, particularly on training, data management processes and storage, auditing and reporting, we will continue working with our police members as well as provincial partners to ensure compliance with the new regulations.

An update report will be provided in the second quarter of 2017.

Document 1

000001

RECEIPT/ REÇURegulated Interactions/
Interactions réglementées_____|_____
OFFICER'S NAME/NOM DE L'AGENT CADRE_____|_____
DATE TIME/HEURE

LOCATION/ENDROIT :

The Ottawa Police Service is committed to protect the safety and security of our communities./Le Service de police d'Ottawa s'est engagé à protéger la sûreté et la sécurité de nos communautés



Under the *Freedom of Information and Protection of Privacy Act* you may request access to information about yourself that is in the custody or under the control of the Ottawa Police Service. If you wish to make such a request, please complete the Request Form found on our website at <https://www.ottawapolice.ca/en/contact-us/police-reports.asp>.

If you wish to file a complaint, you can contact the Office of the Independent Police Review Director (OIPRD) at www.oiprd.on.ca or at 1-877-411-4773 or TTY: 1-877-414-4773.

En vertu de la *Loi sur l'accès à l'information et la protection de la vie privée*, vous pouvez demander l'accès aux renseignements vous concernant et qui sont sous la garde ou sous l'autorité du Service de police d'Ottawa. Si vous souhaitez faire une telle demande, veuillez remplir le formulaire de demande disponible sur notre site web, au <https://www.ottawapolice.ca/fr/contact-us/police-reports.asp>.

Si vous souhaitez porter plainte, vous pouvez communiquer avec le Bureau de directeur indépendant de l'examen de la police (BDIEP) en ligne au www.oiprd.on.ca, par téléphone au 1-877-411-4773 ou par Télétipe au 1-877-414-4773.