



Information and Privacy  
Commissioner of Ontario  
Commissaire à l'information  
et à la protection de la vie privée de l'Ontario

December 11, 2015

The Honourable Yasir Naqvi  
Minister of Community Safety and Correctional Services  
18th Floor, George Drew Building  
25 Grosvenor Street  
Toronto, ON M7A 1Y6

Dear Minister Naqvi:

**Re: Ontario Draft Street Checks Regulations – O. Reg. 268/10**

The Office of the Information and Privacy Commissioner of Ontario welcomes the opportunity to participate in the public consultation regarding the draft street check regulations issued on October 28, 2015. I commend you and Premier Wynne for committing to prescribe a provincial standard for the police conduct of street checks, and to doing so in such an open and transparent manner. The enactment of clear, comprehensive and equitable standards will help ensure that street checks are conducted in a consistent manner that respects privacy rights, as well as other fundamental rights and freedoms.

The issues associated with street check practices are complex matters of vital public interest. As has already been shown, street check practices can have a serious effect on the public's rights to privacy and dignity. Evidence demonstrating that street checks are effective in reducing crime and contributing to community safety has not yet emerged. We understand that the Ministry of Community Safety and Correctional Services ("the Ministry") will be conducting a study on street check practices that will assess their impact on community safety. It is recommended that the results of the study be made public.

Despite all these challenges, the public continues to expect that police will engage members of the public and do so in accordance with privacy legislation and the principles enshrined in section 1 of the *Police Services Act*. Those principles include the need to ensure the safety and security of all persons in Ontario, the importance of safeguarding fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*, and the need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.

In an effort to assist the Ministry in achieving standards that will both protect personal privacy and allow for effective policing, we recommend changes to the draft regulation entitled "Collection of Identifying Information in Certain Circumstances – Prohibition and Duties" ("the Regulation"). We have no comments to offer on the draft regulation entitled "Police Services Act – Code of Conduct Amendment."



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Our recommendations have been developed on the basis of our statutory authority in privacy matters, as set out in the *Municipal Freedom of Information and Protection of Privacy Act* and its provincial counterpart. They are also grounded in our long history of consulting with police services across the province, including through our active participation in discussions over the last two years with the Toronto Police Services Board and the Toronto Police Service's PACER Advisory Committee regarding street check-related information handling policies, procedures and practices.

Consistent with our August 28, 2015 comments on the Ministry's *Ontario Proposed Regulation for Street Checks Consultation Discussion Document*, our recommendations are designed to ensure privacy, transparency and accountability in the conduct of street checks in Ontario. The precise terms of those recommendations can be found within the attached copy of the Regulation. In an effort to provide you with context for our suggested amendments, what follows is an overview of the critical issues in the Regulation and a general description of how those issues can be addressed.

### **The scope and application of the Regulation**

The Regulation will only apply in a relatively narrow range of circumstances. For example, it will not apply whenever an officer is investigating a particular offence. It is important to note that street checks are frequently conducted during the course of police investigations into particular offences. Members of the public have reported being subject to a street check, for example, in relation to an investigation into a 'robbery up the street' or 'yesterday's assault.'

It may be that the Regulation should not apply to certain investigative circumstances, for example, where a police officer is responding to or following up on a call for service and requests that a complainant or witness provide a voluntary statement. However, a blanket exclusion of all activities associated with the investigation of particular offences is not justifiable. We would consider wording that excluded specific investigative circumstances from the application of the Regulation in so far as those circumstances do not generally raise heightened concerns about arbitrary or discriminatory stops.

As drafted, it appears that the Regulation will only apply when an officer explicitly seeks to identify an individual in person. However, street checks can involve asking individuals for a wide range of personal information about themselves, as well as about other individuals, without the officer ever asking the individual to disclose his or her identity. The Regulation should be amended to apply whenever a street check is being conducted for the purpose of attempting to collect any "identifying information" from an individual, including when the information is about the individual or another individual.

Recommendation #1: The Regulation should be amended to ensure that, subject to specific and justifiable exclusions, it applies to the full range of street check-related encounters between police officers and members of the public, including when an officer is investigating a particular offence or asking an individual to provide any personal information. This also requires that the term "identifying information" be defined to mean information that, if recorded, would be

“personal information” within the meaning of Ontario privacy legislation. [Please see sections 1, 2, 3, 3.1, and 4 in the attached document.]

### **Rights notification**

The Regulation does not require an officer to inform an individual of his or her right not to answer the officer’s questions. Instead, the Regulation simply requires an officer to inform the individual that he or she is not required to remain in the presence of the officer. Notice of the right to leave is necessary, but insufficient to protect the voluntary character of these encounters. In some cases, an individual may wish to remain where he or she is without having to answer any questions. In addition, it should be clear that notice of these rights must be given at the outset of the encounter or at the first reasonable opportunity. Furthermore, the exceptions to an officer’s duty to provide rights notification, to disclose the reason for a street check, and to provide other rights-related information, are overbroad. As a general rule, each of these duties should be prescribed in clear terms, subject only to specific and justifiable exceptions.

Recommendation #2: The Regulation should be amended to ensure that, subject to specific and justifiable exceptions, police officers provide individuals with timely and clear notice of their right not to answer questions and to leave, as well as information about the officer’s reasons for and conduct of the street check. [Please see sections 5 and 6 in the attached document.]

### **The treatment of personal information going forward**

While the Regulation places limits on an officer’s right to seek “identifying information,” it does not require that officers assess whether, at the end of the encounter, there is a valid reason for recording that information in a street check database. Requiring officers to make this assessment at the end of the encounter will help to both limit intrusions on privacy and improve the quality of the information contained in police databases.

While the Regulation requires that “identifying information” be reviewed by a chief’s designate to ensure that improperly collected information is placed in a restricted database, it appears to allow the information to be used by any officer before that review takes place. The Regulation also permits the overly broad use of information that has been sequestered in a restricted database on the basis that it was improperly collected. In particular, it permits such information to be accessed and used to the detriment of the individual to whom it relates, for example, in a subsequent police investigation. These are significant deficiencies, especially given that the intelligence value of this information generally declines over time, but its potential to negatively impact the privacy and dignity of affected individuals does not.

To its credit, the Regulation requires that all street check information be sequestered in a database to which access is restricted five years after it was collected. However, the Regulation fails to provide for the destruction of any street check-related information, including personal information collected improperly in the first place. The Regulation should include destruction requirements that apply to police forces across Ontario. Bearing in mind concerns some have expressed about access to information for the purpose of overturning wrongful convictions, these destruction requirements need not apply to the information contained in an officer’s notebook.

Database-related destruction requirements are, however, necessary to implement street checks in a manner consistent with privacy legislation and the principles enshrined in section 1 of the *Police Services Act*.

Recommendation #3: The Regulation should be amended to require that:

- An officer assess whether or not, at the end of the encounter, there is a valid reason for recording “identifying information” in a street check database;
- A chief of police or his or her delegate review the information before it can be used by any police officer;
- “Identifying information” that is collected in contravention of the Regulation not be accessed or used subject to specific and justifiable exceptions; and
- “Identifying information” in street check databases be destroyed within two years of it being entered into restricted databases subject to specific and justifiable exceptions.

[Please see sections 7, 8 and 10 in the attached document and note that, in the case of “identifying information” that was validly collected, it will remain available to the police for seven years.]

### **The treatment of legacy data**

The Regulation does not address the destruction or even the sequestering of legacy data, other than by requiring police services boards to develop policies regarding retention, access, and disclosure of pre-July 1, 2016 data that the Regulation would have applied to had the collection taken place on July 1, 2016. The treatment of legacy data is another critical issue requiring a consistent, cross-Ontario approach that addresses public concerns about the protection of privacy and dignity, as well as the legitimate concerns of law enforcement. Given its depreciating intelligence value and heightened impact on privacy and dignity, that approach must incorporate a default mandatory destruction rule.

Recommendation #4: The Regulation should be amended to ensure that all legacy data is transferred to restricted databases by July 1, 2016 and may only be accessed, used or disclosed for two years with the approval of a chief of police for the specific purposes set out in section 8 (7) of the Regulation. Subject to specific and justifiable exceptions, legacy data must be securely destroyed by July 1, 2018. [Please see sections 2(2) and 11 in the attached document.]

### **The role of de-identified data in supporting privacy, transparency and accountability**

While the Regulation requires a chief of police to report on the number of attempted collections with respect to the perceived sex, age and race of the affected individuals, it does not provide a province wide requirement that officers record such de-identified information or that police secure it in a separate database. The purpose of requiring the collection and secure retention of de-identified data with respect to both attempted and actual collections of personal information is to assist chiefs of police, police services boards, the Minister and members of the public to learn of and address any police practices that may impact the privacy and human rights of individuals,

as well as to ensure the fair and effective delivery of police services. Such a database should not, of course, contain the names, addresses, dates of birth, or unique identification numbers of individuals subject to street checks, nor should it be accessed, used or disclosed for the purpose of identifying the individuals to whom it relates.

Recommendation #5: The Regulation should be amended to ensure that police will collect sufficient de-identified data with respect to all street checks. It should also require that police disclose and report on that data in order that police chiefs, police services boards, the Minister, and members of the public are in a position to evaluate the impacts of street check practices on privacy and other rights. [Please see sections 7, 8.1, 11(1)4.1, 13(2) and 14(1) of the attached document.]

### **The Minister's five year review**

The Regulation does not require that the Minister's five year review report on Parts I and II of the Regulation. Only a review of Part III is required under the Regulation. The first two parts of the Regulation are no less critical to the success of the Regulation and its five year review than Part III. Parts I and II will determine the scope and application of the Regulation and provide some of the key limitations on a police officer's power to attempt to collect "identifying information." The Minister's review will be incomplete if it does not consider these parts and the impact of their implementation on fundamental rights. In establishing the duty to conduct the five year review, the Regulation should also require the Minister to seek public input.

Recommendation #6: The Regulation should be amended to ensure that the Minister's five year review will report on Parts I - III of the Regulation and include opportunities for public input. [Please see section 16 of the attached document.]

In closing, I wish to acknowledge that the task of establishing an appropriate legal framework for the conduct of street checks is difficult. The regulation must be sufficiently clear, comprehensive and flexible to ensure both the protection of rights and the effective performance of police duties. Our recommendations have been provided to assist you in that vital task. With respect to the critical issues associated with data retention and destruction, I believe that it is in the public interest to identify solutions that will allow the police and the public to put past street check practices to rest and make a fresh start, as well as address privacy and policing imperatives going forward. To summarize, that solutions oriented approach would require that:

- Legacy data would be confined to a restricted database for two years and then destroyed, subject to the exceptional circumstances set out in section 11(2) of the Regulation (including where the data has been identified as being required for the purpose of an active investigation);
- Going forward, data collected in contravention of the Regulation would also be confined to a restricted database for two years and then destroyed subject to the exceptional circumstances set out in section 8(10) (circumstances which would not extend to include retention for active investigations); and
- Going forward, data collected in compliance with the Regulation would be available to police officers in an unrestricted database for five years,

transferred to a restricted database for two years and then destroyed subject to the exceptional circumstances set out in section 8(9) of the Regulation (including where the data has been identified as being required for the purpose of an active investigation).

Thank you again for working so closely with my office. I look forward to further opportunities for dialogue on these and other important policing issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'B Beamish', with a large, stylized initial 'B' and a long, sweeping tail.

Brian Beamish  
Commissioner

Enclosure

**Disclaimer:**

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

**NOTE: The amendments proposed by the Information and Privacy Commissioner of Ontario appear in this document as red text.**

**ONTARIO REGULATION**

to be made under the

**POLICE SERVICES ACT:  
A CONSULTATION DRAFT**

**COLLECTION OF IDENTIFYING INFORMATION IN CERTAIN CIRCUMSTANCES  
– PROHIBITION AND DUTIES**

[Skip Table of Contents](#)

**CONTENTS**

**PART I**

**APPLICATION AND INTERPRETATION**

- 1. Application — attempts to collect
- 2. Application — information collected
- 3. Interpretation — attempt to collect identifying information
- 3.1 Definitions

**PART II**

**PROHIBITION — CERTAIN COLLECTIONS OF INFORMATION**

- 4. Limitations on collection of certain information

**PART III**

**DUTIES RELATING TO COLLECTIONS OF INFORMATION**

OFFICER DUTIES WHEN ATTEMPTING TO COLLECT INFORMATION

- 5. Duties to inform when attempting to collect information
- 6. Document for individual
- 7. Police officer must record reason and other information
- 8. INCLUSION OF COLLECTED INFORMATION IN POLICE DATABASES
- 8.1 Identifying information in police databases – unrestricted database; restricted database  
De-identified information in police databases

RESTRICTIONS ON PERFORMANCE TARGETS

- 9. Performance targets not to be used in evaluating work performance

**PART IV**

**OTHER MATTERS**

TRAINING

- 10. Chiefs of police must ensure training

POLICIES AND PROCEDURES

- 11. Boards and Minister must develop policies
- 12. Chiefs of police must develop procedures

REPORTS, REVIEWS AND COMPLIANCE

- 13. Annual report
- 14. Chiefs of police must review practices and report
- 15. Chiefs of police must make records available
- 16. Review of Part III

COMMENCEMENT

- 17. Commencement

## PART I APPLICATION AND INTERPRETATION

### Application — attempts to collect

1. (1) This Regulation applies with respect to an attempt by a police officer to collect identifying information about an individual from the individual in the performance of the police officer's duties.

(2) This Regulation does not apply with respect to an attempt by a police officer to collect identifying information from an individual if,

- (a) the individual is legally required to provide the information to a police officer, but only with respect to an attempt to collect that specific information;
- (b) the individual is under arrest or is being detained;
- (c) the officer is engaged in a covert operation;
- (d) the police officer is responding to or following up on a call for service and requests that a complainant or witness provide a voluntary statement for the purpose of investigating a particular offence;
- (e) the officer is executing a warrant or acting pursuant to a court order;
- (f) the attempted collection is made in an informal or casual interaction, the officer's questions are not of an investigative nature and the officer has no intention, at the time of the attempted collection, of recording the information; or
- (g) the individual from whom the officer attempts to collect information is employed in the administration of justice or is carrying out duties or providing services that are otherwise relevant to the carrying out of the officer's duties.

### Application — information collected

2. (1) This Regulation applies with respect to identifying information collected on or after July 1, 2016 as a result of an attempt to collect to which this Regulation applies.

(2) This Regulation applies with respect to identifying information that was collected before July 1, 2016 only as provided under paragraph 7 of subsection 11 (1), subsection 11(2), subsection 11 (2.1), subsection 11(2.2), subsection 11 (3) and under subsection 12 (1) in relation to that paragraph and those subsections.

### Interpretation — attempt to collect identifying information

3. (1) For the purposes of this Regulation, an attempt to collect identifying information about an individual from the individual is an attempt to collect identifying information by asking



the individual, in a face to face encounter, to identify himself or herself, to provide information for the purpose of identifying the individual or to provide any other identifying information and includes such an attempt whether or not identifying information is collected.

(2) For greater certainty, photographing or recording an individual is not an attempt to collect identifying information from the individual for the purposes of this Regulation.

## **Definitions**

### **3.1 In this Regulation,**

“Identifying information” means information that, if recorded, would be “personal information” within the meaning of section 2 (1) of the *Freedom of Information and Protection of Privacy Act* or section 2 (1) of the *Municipal Freedom of Information and Protection of Privacy Act*.

## **PART II PROHIBITION — CERTAIN COLLECTIONS OF INFORMATION**

### **Limitations on collection of certain information**

**4.** (1) A police officer shall not attempt to collect identifying information about an individual from the individual if,

- (a) any part of the reason for the attempted collection is that the officer perceives the individual to be within a particular racialized group unless,
  - (i) the officer is seeking a particular individual in the course of doing anything set out in paragraph 1 of subsection (2), and
  - (ii) being within the racialized group forms part of a credible and reasonably detailed description of the particular individual or is evident from a visual representation of the particular individual; or
- (b) the attempted collection is done in an arbitrary way.

(2) For the purpose of clause (1) (b), an attempted collection by a police officer from an individual is done in an arbitrary way unless the officer has a reason that the officer can articulate that complies with all of the following:

1. The reason includes details about the individual that cause the officer to reasonably believe that identifying the individual

(a) may be relevant to,

- i. gathering information, for criminal intelligence purposes, about individuals known or reasonably suspected to be engaged in illegal activities; ~~or~~
- ii. inquiring into specific suspicious activities for the purpose of detecting related illegal activities; or

iii. investigating a particular offence; or

(b) is necessary to the proper performance of a specific common law or statutory duty.

2. The reason does not include either of the following:

- i. that the individual has declined to answer a question from the officer which the individual is not legally required to answer, or
- ii. that the individual has attempted or is attempting to discontinue interaction with the officer in circumstances in which the individual has the legal right to do so.

3. The reason is not only that the individual is present in a neighbourhood or area.

### **PART III DUTIES RELATING TO COLLECTIONS OF INFORMATION**

#### OFFICER DUTIES WHEN ATTEMPTING TO COLLECT INFORMATION

##### **Duties to inform when attempting to collect information**

5. (1) A police officer who attempts to collect identifying information about an individual from the individual shall, at the outset of the encounter or at the first reasonable opportunity thereafter,

- (a) inform the individual that he or she is not required to remain in the presence of the officer, provide identifying information or answer the officer's questions; and
- (b) inform the individual of the specific reason why the information is being sought.

(1.1) Despite subsection (1), a police officer is not required to inform the individual under clause (a) of subsection (1) if the officer has a reason, which he or she can articulate and that includes details relating to the particular circumstances, to believe that informing the individual could reasonably be expected to result in imminent and serious harm to an individual.

(2) Despite subsection (1), a police officer is not required to inform the individual under clause (b) of subsection (1) if the officer has a reason, which he or she can articulate and that

includes details relating to the particular circumstances, to believe that informing the individual under that clause,

- (a) would likely compromise a police investigation of a particular offence;
- (b) would likely allow a confidential informant to be identified; or
- (c) would likely compromise the safety of an individual.

### **Document for individual**

6. A police officer who attempts to collect identifying information about an individual from the individual shall, unless it would be unreasonable in the circumstances to do so, give the individual a document that contains at least the following information:

- 1. The officer's name and officer identification number and the date, time and location of the attempted collection.
- 2. The information provided to the individual under section 5.
- 3. Whether the police officer has recorded or intends to record identifying information about the individual.
- 4. Information about how to contact the Independent Police Review Director.

### **Police officer must record reason and other information**

7. (1) A police officer who attempts to collect identifying information about an individual from the individual shall record the following:

- 1. The officer's reason required under section 4, including the details referred to in paragraph 1 of subsection 4 (2).
- 2. Whether the individual was informed as required under subsection 5 (1) and, if informing the individual under subsection 5 (1) was not required under subsection 5(1.1) or subsection 5 (2), the reasons why that was not required.
- 3. Whether the individual was given a document referred to in section 6, and, if the document was not given, the reasons why it was impractical to give the document in the circumstances.
- 4. The apparent race, gender, age and ethnicity of the individual.
- 5. The date, time, and location of the officer's encounter with the individual.

6. Such other information as the chief of police requires the officer to record.

(2) A police officer shall not attempt to include identifying information under subsection (1) in a database unless, at the end of the encounter, the officer reasonably believes that there is a valid reason for recording the information consistent with the limitations in section 4.

#### INCLUSION OF COLLECTED INFORMATION IN POLICE DATABASES

##### **Identifying information in police databases – unrestricted database; restricted database**

8. (1) This section applies with respect to the inclusion, in databases under the control of a police force, of identifying information about an individual collected by a police officer from the individual.

(2) The chief of police shall ensure that the requirements under this section are complied with.

(3) Access to identifying information shall be restricted in accordance with subsection (7) unless the information may be included under this section without limiting the access of members of the police force.

(4) Subject to subsections (5) and (6), identifying information may be included in a database without limiting the access of members of the police force if,

(a) a person designated by the chief of police has reviewed the information, as well as the officer's reason required under section 4 (including the details referred to in paragraph 1 of subsection 4 (2)), and has determined that, in view of the information recorded by the officer, it is reasonable to conclude that the officer complied with the requirements of sections 4, 5, 6 and 7 and the requirements of the procedure developed under section 12; or

(b) the database indicates that: (i) a review and determination described in clause (a) has not been done for the information and (ii) the information may not be used in any way without the written permission of the chief of police.

(5) The following apply with respect to the information and the review and determination described in clause (a) of subsection (4):

1. The review and determination shall be done within 30 days after the information was first entered into a database under the control of the police force and the indications required under clause (b) of subsection (4) shall be retained until that review and determination has been done.

2. If it is determined that it is not reasonable to conclude that the officer complied with the requirements of sections 4, 5, 6, and 7 and the requirements of the procedure developed under section 12, the identifying information shall be retained in a database under the control of the police force but access to such information shall be restricted and only be made accessible in accordance with paragraph 1 of subsection (7) and clauses ii, iii, iv or v of paragraph 2 of subsection (7).

(6) Access to identifying information shall be restricted in accordance with subsection (7) after the fifth anniversary of the date on which the information was first entered into a database under the control of the police force.

(7) The following apply with respect to identifying information to which access must be restricted:

1. No person may access, use or disclose the information without the written permission of the chief of police.
2. A chief of police may permit a member of his or her police force to access, use or disclose the information only if the chief of police is satisfied that access to and use or disclosure of the information is needed,
  - i. for the purpose of an active police investigation,
  - ii. in connection with a legal proceedings or an anticipated legal proceedings,
  - iii. in order to prepare a report relating to the provision of police services, which will not identify the individuals from whom the information was collected,
  - iv. for the purpose of complying with a legal requirement, or
  - v. for the purpose of evaluating a police officer's performance.

(8) Subject to subsections (9) and (10), identifying information in a restricted database shall be securely disposed of after the second anniversary of the date on which the information was first entered into a restricted database under the control of the police force.

(9) Despite subsection (8) and subject to subsection (10), identifying information that has been identified as being required under paragraph 2 of subsection (7), including to comply with disclosure obligations in relation to the prosecution of offences, may be retained for a further period but only so long as is reasonably necessary for that purpose.

(10) Despite subsection (9), identifying information retained under paragraph 2 of subsection (5) may only be retained for a further period if it has been identified as being required under clauses ii, iii, iv or v of paragraph 2 of subsection (7).

### **De-identified information in police databases**

8.1. (1) Information required to be recorded under section 7 shall be recorded and retained in a database under the custody and control of a police force in a de-identified manner for the purpose of assisting a chief of police, a board and the Minister of Community Safety and Correctional Services to perform their duties and functions under Part IV.

(2) A chief of police, a board and the Minister of Community Safety and Correctional Services may access, use and disclose the information referred to in subsection (1) for the purpose of performing their duties and functions under Part IV.

(3) A chief of police, a board, the Minister of Community Safety and Correctional Services or any of their officers, employees, consultants or agents may not access, use or disclose the information referred to in subsection (1) for the purpose of identifying any individuals to whom the information relates.

### RESTRICTIONS ON PERFORMANCE TARGETS

#### **Performance targets not to be used in evaluating work performance**

**9.** A chief of police shall ensure that no performance target based on any of the following factors is used to evaluate the work performance of a police officer on his or her force:

1. The number of times, within a particular period, that the officer collects or attempts to collect identifying information about individuals from the individuals.
2. The number of individuals from whom the officer collects or attempts to collect identifying information within a particular period.

### **PART IV OTHER MATTERS**

#### TRAINING

#### **Chiefs of police must ensure training**

**10.** (1) A chief of police shall ensure that every police officer on his or her police force who attempts to collect identifying information about an individual from the individual has successfully completed the training described in subsection (2) within the previous 36 months.

(2) The training referred to in subsection (1) is training that includes, at a minimum, training on the following topics:

1. The right of an individual not to provide information to a police officer, the limitations on this right and how to ensure that this right is respected.

2. The right of an individual to discontinue an interaction with a police officer, the limitations on this right and how to avoid unlawfully psychologically detaining an individual.
3. Bias awareness, discrimination and racism and how to avoid bias, discrimination and racism when providing police services.
4. The rights that individuals have to personal privacy and to access information about themselves that is in the custody or under the control of a police force.
5. The initiation of interactions with members of the public.

## POLICIES AND PROCEDURES

### **Boards and Minister must develop policies**

**11.** (1) A board shall develop policies regarding the following matters:

1. Attempts by police officers to collect identifying information about individuals from the individuals.
2. The informing of individuals, by police officers, as required under section 5.
3. The document to be given to individuals under section 6.
4. The entry of identifying information about individuals collected by police officers from the individuals into databases under the control of a police force.

4.1 The entry of the information listed in section 7 about police officers' attempted collection and actual collection of identifying information into databases in a de-identified manner as required under section 8.1.

5. The training referred to in section 10.
6. The collection, retention, accessibility, use, disclosure and secure disposal of identifying information collected on or after July 1, 2016, including the retention of identifying information collected contrary to this Regulation.
7. The collection, retention, accessibility, use, disclosure and secure disposal of identifying information collected before July 1, 2016 with respect to which this Regulation would have applied had the collection taken place on July 1, 2016.

(2) The policy developed under paragraph 7 of subsection (1) shall provide that identifying information collected before July 1, 2016 with respect to which this Regulation would have applied had the collection taken place on July 1, 2016,

(a) shall be transferred to a restricted database by July 1, 2016;

(b) may only be accessed, used or disclosed in accordance with subsection 8 (7); and

(c) shall, subject to subsection (2.2), be securely disposed of by July 1, 2018.

(2.1) A board shall provide the public with reasonable notice of the secure disposal referred to in paragraph (c) of subsection (2)

(2.2) Identifying information referred to in subsection (2) that has been identified as being required pursuant to paragraph 2 of subsection 8(7) may be retained for a further period but only so long as is reasonably necessary for the specific purpose.

(3) The duties imposed by subsections (1), (2), (2.1) and (2.2) on boards in relation to municipal police forces apply to the Minister of Community Safety and Correctional Services in relation to the Ontario Provincial Police.

(4) The policies developed under this section shall be consistent with this Regulation.

### **Chiefs of police must develop procedures**

**12.** (1) A chief of police shall develop procedures regarding the matters set out in section 11.

(2) The procedures developed under subsection (1) shall be consistent with this Regulation and the relevant policies developed under section 11.

## REPORTS, REVIEWS AND COMPLIANCE

### **Annual report**

**13.** (1) This section applies to,

- (a) an annual report provided by a municipal chief of police to a board under section 31 of Ontario Regulation 3/99 (Adequacy and Effectiveness of Police Services) made under the Act; and
- (b) the annual report provided by the Commissioner under subsection 17 (4) of the Act.

(2) A chief of police shall ensure that his or her annual report includes the following information in relation to attempted collections of identifying information:

1. The number of attempted collections and actual collections.



2. The number of individuals from whom collections were attempted and actually collected.
3. The number of times subsections 5 (1.2) and 5 (2) were relied upon by a police officer to not inform an individual as would otherwise be required under subsections 5 (1) and 5 (1.1).
4. The number of times a document referred to in section 6 was given and not given to an individual.
5. The number of attempted collections and actual collections from individuals who are perceived, by a police officer, to be within the following groups based on the sex of the individual:
  - i. male individuals, and
  - ii. female individuals.
6. For each age group established by the chief of police for the purpose of this paragraph, the number of attempted collections and actual collections from individuals who are perceived, by a police officer, to be within that age group.
7. For each racialized group established by the chief of police for the purpose of this paragraph, the number of attempted collections and actual collections from individuals who are perceived, by a police officer, to be within that racialized group.
8. A statement, based on an analysis of the information provided under this subsection, as to whether the collections were attempted or actually collected disproportionately from individuals within a group based on the sex of the individual, a particular age or racialized group, or a combination of groups and if so, any additional information that the chief of police considers relevant to explain the disproportionate attempted or actual collections.
9. The neighbourhoods or areas where collections were attempted or actually made and the number of attempted collections and actual collections in each neighbourhood or area.
10. The number of determinations, as described in clause (a) of subsection 8 (4), that a police officer did not appear to have had a reason that met the requirements of section 4.
11. The number of times members of the police force were permitted to access identifying information under each of clauses i, ii, iii, iv, and v in paragraph 2 of subsection 8 (7).

(3) A chief of police shall establish age groups for the purpose of paragraph 5 of subsection (2).

(4) A chief of police shall establish racialized groups for the purpose of paragraph 6 of subsection (2) and shall do so in a way that allows the information required by subsection (2) relating to the racialized groups to be comparable to the data referred to in the following paragraphs, as released by the Government of Canada on the basis of its most recent National Household Survey preceding the period covered by the chief of police's annual report:

1. For each derived visible minority group set out in the National Household Survey, the number of individuals who identified themselves as being within that group.
2. The number of individuals who claimed Aboriginal identity.

(5) This section does not require the inclusion of information about anything that occurred before July 1, 2016.

#### **Chiefs of police must review practices and report**

**14.** (1) If an annual report referred to in section 13 reveals that identifying information was attempted to be collected or collected disproportionately from individuals perceived to be within a group, the chief of police shall review the practices of his or her police force and shall prepare a report setting out the results of the review and his or her proposals, if any, to address the disproportionate attempted collection or collection of information or any practice that appears to contravene Part II or Part III.

(2) A municipal chief of police shall provide his or her report to the relevant board, and the Commissioner shall provide his or her report to the Minister of Community Safety and Correctional Services.

(3) When a board receives a report from a municipal chief of police under subsection (2), and when the Minister of Community Safety and Correctional Services receives a report from the Commissioner under subsection (2), the board or the Minister, as the case may be,

- (a) shall publish the report on the Internet in a manner that makes it available to the public free of charge; and
- (b) may make the report available to the public free of charge in any other manner that the board or the Minister, as the case may be, considers appropriate.

#### **Chiefs of police must make records available**

**15.** (1) For the purpose of carrying out a duty, or exercising a power, under clause 3 (2) (b), (d), (e) or (h) of the Act, the Minister of Community Safety and Correctional Services may request a chief of police to make available to an employee in the ministry, within the period

specified in the request, any record that is relevant to that duty or power and is in the possession or under the control of the chief of police's police force.

(2) A chief of police shall comply with a request made under subsection (1).

### **Review of Parts I, II, and III**

**16.** The Minister of Community Safety and Correctional Services shall ensure that a review of Part I, Part II, and Part III is conducted that allows a reasonable opportunity for input from members of the public, and that a report on the findings of the review is published no later than July 1, 2021.

## **COMMENCEMENT**

### **Commencement**

**17. (1) [Commencement].**