



OWEN SOUND POLICE SERVICE

BOARD POLICY

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Rescinds: **OSPSB GP-006** Regulated
Interaction with Community and the
Collection of Identifying Information

OSPSB GP-006 Collection of
Identifying Information in Certain
Circumstances – Prohibition and
Duties – Street Checks

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1. **Preamble:**

- a) It is the policy of the Owen Sound Police Service Board (the Board) to comply with the Collection of Identifying Information in Certain Circumstances – Prohibitions and Duties - Collection of Identifying Information in Certain Circumstances – Prohibitions and Duties – *Ontario Regulation 400/23* (the *Regulation*), with the intent to eliminate a perceived bias in a particular police practice while maintaining this Police Service's commitment to keep the City of Owen Sound safe; and

- b) Further, it is the policy of the Board to ensure the Owen Sound Police Service takes a proactive approach in which they interact with members of the public in order to promote public confidence and public trust in policing. Interactions between members of the public and the Owen Sound Police Service are undertaken to advance community safety and are intended to inspire confidence and build positive relationships. The practices and procedures of the Owen Sound Police Service in respect of the collection of identifying information shall not be arbitrary or based upon any racial profiling, and shall reflect a commitment to professionalism, accountability and transparency.

2. **Definitions**

For the purposes of this Policy the following applies:

- a) Predecessor Regulation - means *Ontario Regulation 58/16 - Collection of Identifying Information in Certain Circumstances - Prohibition and Duties* made under the *Police Services Act*, as it read immediately before its revocation;
- a) **Annual Report** – means the Annual Report provided by the Chief of Police to the Board under section 12 - *Ontario Regulation 399/23 – Matters Under the Authority of the Lieutenant Governor in Council*;
- b) **Attempt to collect identifying information about an individual from the individual** - means attempt to collect identifying information by asking the individual, in a face-to-face encounter, to identify themselves or to provide information for the purpose of identifying the individual and includes such an attempt whether or not identifying information is collected;
- c) **Community Interactions** – means on-duty police contact with member(s) of our community meant to:
 - I. Foster positive relationships; and/or
 - II. Assist members of the public (without gathering personal information for an investigative or intelligence purpose).
- d) **Database** – means the paper or electronic filing system under the control of the Chief of Police where identifying information about an individual collected by a Police Officer within a Regulated Interaction (but does not include a database where intelligence notes information is stored or other criminal/intelligence-based databases);

- e) **Legacy Data** – identifying information collected by the Police Service and contained in a database prior to January 1, 2017, and will be subject to the access and disclosure restrictions laid out in this Police Service's Records Retention Schedule;
- f) **Identifying Information** - may include but is not limited to:
 - I. The appearance of the individual, including information about the individual's clothing, height, weight, eye colour, hair colour or hair style;
 - II. The location where the individual might be found;
 - III. The type of vehicle the individual might be found in;
 - IV. The associates the individual might be found with; or
 - V. The behavior of the individual.
- g) **Member** – All sworn and civilian Owen Sound Police Service personnel;
- h) **Prohibited Grounds** – under the *Ontario Human Rights Code* include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;
- i) **Protected Grounds** – The *Ontario Human Rights Code* prohibits actions that discriminate against people based on protected grounds. Protected grounds are:
 - I. Age;
 - II. Ancestry, colour, race;
 - III. Citizenship;
 - IV. Ethnic origin;
 - V. Place of origin;
 - VI. Creed;
 - VII. Disability;
 - VIII. Family status;
 - IX. Marital status (including single status);

- X. Gender identity, gender expression;
- XI. Receipt of public assistance (in housing only);
- XII. Record of offences (in employment only);
- XIII. Sex (including pregnancy and breastfeeding); and
- XIV. Sexual orientation.

- j) **Racialization** – the process through which groups come to be designated as different and, on that basis, subjected to unequal treatment. Racialization can extend to specific traits and attributes, which are connected to racialized people and deemed to be abnormal and of less worth. Besides physical characteristics of people, other characteristics that are commonly racialized are accent, speech, name, clothing, diet, intelligence, beliefs, practices, and habits;
- k) **Racialized Groups** - includes people who might experience differential treatment on the basis of race, ethnicity, language, religion, or culture. Racialized groups are treated outside the norm and receive unequal treatment based on their race;
- l) **Racial/biased profiling** – is defined by the Ontario Human Rights Commission as any action undertaken for reasons of safety, security, or public protection that relies on stereotypes about race, colour, ethnicity, ancestry, religion, or place of origin rather than on reasonable suspicion, to single out an individual for greater scrutiny or differential treatment; and
- m) **Collection of Identifying Information in Certain Circumstances (CIIC)** – means the interactions and documentation of such by a Member regarding an “attempt to collect identifying information about an individual from the individual”; that is, attempt to collect identifying information by asking the individual, in a face-to-face encounter, to identify themselves or to provide information for the purpose of identifying the individual and includes such an attempt whether or not identifying information is collected as governed by *Regulation*.

3. **Policy of the Board:**

It is the policy of the Board that the Chief of Police shall ensure that:

- a) That a written procedure is maintained to ensure compliance with *Ontario Regulation 400/23 - Collection of Identifying Information in Certain Circumstances – Prohibition and Duties* (the *Regulation*) made under the *Community Safety and Policing Act, 2019 (CSPA)*;

- b) A document is offered to each individual from whom identifying information is attempted to be collected and given to each individual if they want it, unless the Officer believes that continuing to interact with the individual will compromise the safety of an individual or might delay the Officer from responding to another matter that should be responded to immediately;
- c) The document given to the individual includes:
 - I. The Officer's name, identification number, and the date, time and location of the attempted collection;
 - II. Information about how to contact the Law Enforcement Complaints Agency (LECA) should the individual wish to inquire about making or make a public complaint;
 - III. An explanation that an individual can request access to information about themselves that is in the custody or control of the DRPS, under the *Municipal Freedom of Information and Protection of Privacy Act*; and
 - IV. Any amendments to the document will be shared with the Board for information and input.
- d) Identifying information collected before January 1, 2017, be retained, accessed and disclosed pursuant to Owen Sound Police Service (OSPS) procedures in place at the time the information was collected. If the information was collected in violation of the law as it existed at the time of collection, its retention, access and disclosure shall be subject to the restrictions in the *Regulation*;
- e) Identifying information collected on or after January 1, 2017, be retained, accessed, and disclosed only in the following circumstances, where such reasons can be articulated:
 - I. Where the requirements of paragraph 10(4) of the *Regulation* are satisfied;
 - II. For the purpose of an ongoing police investigation;
 - III. In connection with legal proceedings, or anticipated legal proceedings;
 - IV. For the purpose of dealing with a complaint under Part X of the *CSPA*;

- V. In order to prepare the Annual Report, or a report on disproportionate collection, as described in the Reporting section of this policy;
 - VI. For the purpose of complying with a legal requirement; and
 - VII. For the purpose of evaluating a Police Officer's performance
- f) Identifying information collected contrary to the *Regulation* shall not be retained longer than is reasonably necessary to ensure the information is available in the following circumstances:
- I. For the purpose of an ongoing police investigation;
 - II. In connection with legal proceedings or anticipated legal proceedings;
 - III. For the purpose of dealing with a complaint under Part X of the *CSPA*;
 - IV. In order to prepare the Annual Report or a report required due to disproportionate collection under section 16 of the *Regulation*;
 - V. For the purpose of complying with a legal requirement; or
 - VI. For the purpose of evaluating a Police Officer's performance.

4. **Reporting:**

- a) An Annual Report, each calendar year, at a time determined by the Board, in consultation with the Chief of Police, be presented to the Board that includes all information to be reported as required by this policy and in section 15 of the *Regulation*. The Annual Report on the collection of identifying information shall be included as part of the OSPS Annual Report under section 41(1) of the *CSPA*. The Annual Report on the collection of identifying information shall include:
- I. An assessment of the utility of the information collected pursuant to the *Regulation* to achieving positive community safety outcomes;
 - II. Approximate costs for adhering to the *Regulation*, including all training and administrative costs;
 - III. The number of public complaints resulting from or relating to information collected pursuant to the *Regulation*, and the number of such complaints that were substantiated;

- IV. The number of requests made to the OSPS under the *Municipal Freedom of Information and Privacy Act* relating to information collected pursuant to the *Regulation*;
- V. The number of attempted collections;
- VI. The number of attempted collections in which identifying information was collected;
- VII. The number of individuals from whom identifying information was collected;
- VIII. The number of times a Police Officer did not inform the individual under 7(2) of the *Regulation* because the Officer had reason to believe that informing the individual might compromise the safety of an individual;
- IX. The number of times a Police Officer did not inform the individual under 7(3)(a) of the *Regulation* because informing the individual would likely compromise an ongoing police investigation;
- X. The number of times a Police Officer did not inform the individual under 7(3)(b) of the *Regulation* because informing the individual might allow a confidential informant to be identified;
- XI. The number of times a Police Officer did not inform the individual under 7(3)(c) of the *Regulation* because informing the individual might disclose the identity of a person contrary to the law, including a young person contrary to the *Youth Criminal Justice Act*;
- XII. The number of times an individual was not given a receipt document because the individual did not indicate that they wanted it;
- XIII. The number of times an Officer did not provide a receipt as the Officer believed that continuing to interact with the individual might compromise the safety of a an individual;
- XIV. The number of times an Officer did not provide a receipt as the Officer believed that continuing to interact with the individual might delay the Officer from responding to another matter that should be responded to immediately;

- XV. The number of attempted collections from individuals who are perceived by the Police Officer to be:
- Males;
 - Females;
 - Transgender, non-binary, or other gender identity;
 - Within the age groups as identified by the Chief of Police and in accordance with the *Regulation*; and
 - Within the racialized groups as identified by the Chief of Police and in accordance with the *Regulation*.
- XVI. An analysis of whether the collections were attempted disproportionately based on the gender identity, age, or membership in a racialized group, or a combination of these factors, and if so, any additional information that the Chief of Police considers relevant to explain the attempted collections;
- XVII. The neighbourhoods or areas where collections were attempted and the number of attempted collections in each neighbourhood or area;
- XVIII. The number of determinations made by the Chief of Police as to whether the information entered into the database:
- Did not comply with limitations on collection set out in section 5 or clause 10(4)(a) of the *Regulation*; and
 - Did not comply with sections 6, 7 and 8 of the *Regulation* based on 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.
- XIX. The number of times, if any, Members 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:
- For the purpose of an ongoing police investigation;
 - In connection with legal proceedings or anticipated legal proceedings;

- For the purpose of dealing with a complaint under Part X of the *CSPA*;
 - In order to prepare the Annual Report or a report required due to disproportionate collection under section 16 of the *Regulation*;
 - For the purpose of complying with a legal requirement; or
 - For the purpose of evaluating a Police Officer's performance.
- b) Following an analysis of the Annual Report, if a determination is made that identifying information was attempted to be collected disproportionately, a review of the practices of the OSPS is conducted and a report is provided to the Board that includes:
- I. The results of the review; and
 - II. Any proposals the Chief of Police determines to be appropriate to address the disproportionate attempted collection of information.
- c) Any such report prepared by the OSPS under Section 4 (b) of this Policy be presented to the Board within 60 days of the Annual Report to the Board. The Board shall publish any such report it receives under Section 4 (b) of this Policy on the Internet and shall make it available to the public free of charge. The Board shall consider the report and its proposals and consider whether to give direction to the Chief of Police under section 40(1) of the *CSPA*.

John Thomson
Chair

December 18th, 2024
Date

K. Wardell
Board Secretary

December 18th, 2024
Date