



## OWEN SOUND POLICE SERVICE

### BOARD POLICY

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Rescinds:

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

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## 1. **Preamble:**

The Board recognizes that the practice known as ‘carding’ or ‘street checks’ has had a negative impact on public trust. This Policy seeks to address that legacy and replace it with a process that will enhance public trust concerning the collection of identifying information, promote police-community engagement and improve community relations. Enhanced public trust increases police legitimacy and, in turn, improves public safety.

The Board recognizes that conversations between police officers and members of the public are an integral part of community-based policing. The Policy is intended to support pro-active policing, to ensure that stops are not arbitrary or based on biased policing and to promote professional interactions between police officers and 2 individuals.

It permits informal greetings and interactions, observations, and undercover activities. It permits interactions between police officers and individuals who actively assist the police in the performance of their duties. It does not regulate interactions between police officers and individuals who actively enlist the help of the police, such as victims of offences, individuals reporting lost property or individuals engaged in educational efforts.

The Policy intends that identifying information associated with ‘carding’, ‘street checks and Regulated Interactions should be retained, accessed, or disclosed in a manner consistent with section 9(10)(2) of the *Regulation*.

Data collected contrary to the *Regulation*, or this Policy will be restricted and accessible only with the permission of the Chief of Police or a senior officer appointed by the Chief of Police. The choice of appointee should reflect the importance of the role and responsibility being delegated.

## 2. **Goals and Objectives:**

- a) Acknowledge that the collection of Historical Contact Data has disproportionately affected some communities and encourage the Chief of Police to create procedures that acknowledge this history and the social costs and impact of this activity on police legitimacy;
- b) Ensure that the Chief of Police understands that the Board does not expect or require Police Service members to attempt or conduct Regulated Interactions;

- c) Ensure the Chief of Police procedures acknowledge that the effective delivery of police services does not obligate officers to conduct Regulated Interactions;
- d) Ensure that Regulated Interactions are evaluated in conjunction with, and sensitive to, the potential social cost associated with such interactions;
- e) Ensure that the Chief of Police's procedures consider the need to collect and record the information and the potential social cost of Regulated Interactions;
- f) Ensure that Regulated Interactions are only conducted when necessary and, if conducted, carried out in a manner consistent with the requirements in the *Regulation* and this Policy;
- g) Ensure that considerations of social costs associated with the collection of Historical Contact Data are not intended to prevent officers from engaging positively with the community;
- h) Prevent arbitrary or discriminatory Regulated Interactions;
- i) Ensure that police officers do not attempt to gather identifying information in a Regulated Interaction or prepare a Regulated Interaction Report solely for the purpose of:
  - I. Building a body of general intelligence information;
  - II. Investigating an unsupported suspicion;
  - III. Prolonging an interaction in the hope of acquiring the reasonable suspicion necessary to detain;
  - IV. Meeting a quota or performance target; or
  - V. Raising awareness of police presence in the community.
- j) Respect the individual's decision about whether to freely participate in a Regulated Interaction;
- k) Ensure that police officers can explain why they initiated a Regulated Interaction and, if relying on an exemption under the Regulation, why they could not tell an individual:
  - I. That they are not required to provide identifying information and/or;
  - II. About the reasons for the Regulated Interaction; and

- III. In the context of the *Regulation*, provide strategic direction to the Chief of Police consistent with the Board's expectations of transparency and accountability as integral components of the effective delivery of police services.
- l) Ensure the delivery of police services is fair, impartial, and free from both individual and systemic biases; and
- m) Provide strategic direction to the Chief of Police on the areas of the *Regulation* for which the Board has the ability, and is required by law, to address, including:
  - I. The content of the Receipt;
  - II. Retention, access, and disclosure of Historical Contact Data and Regulated Interaction Data; and
  - III. Reporting requirements that ensure transparency and accountability.

### 3. **Definitions:**

The following definitions apply:

- a) *Abstracted Data* is a simplified representation of a larger body of data that includes only relevant non-identifiable data;
- b) *Annual Report* means the annual report provided by the Chief of Police to a Board under section 31 of *Ontario Regulation 3/99 (Adequacy and Effectiveness of Police Services)* made under the *Police Services Act (Act)*;
- c) *Historical Contact Data* refers to all Person Investigated, Community Safety Note (Street Check) records submitted into the Police Service's records management systems prior to January 1, 2017, and may include any such submitted record whether or not it would have been categorized as a Regulated Interaction Report had it been submitted on or after January 1, 2017;
- d) *Identifying Information* is any information that, alone or in combination with other information, can be used to identify an individual. It may include information about an individual's race, age, sex, sexual orientation, gender identity, marital or family status, economic circumstances, and education, medical, psychiatric, psychological, criminal or employment history;
- e) *Regulated Interaction* is an attempt by a police officer to collect identifying information by asking an individual, in a face-to-face encounter, to identify himself or herself or to provide information for the purpose of identifying the

individual, and includes such an attempt whether or not identifying information is collected;

- I. If that attempt is done for the purpose of:
    - inquiring into offences that have been or might be committed;
    - inquiring into suspicious activities to detect offences; or
    - gathering information for intelligence purposes.
  - II. But does not include an attempted collection made by a police officer for the purpose of investigating an offence the officer reasonably suspects has been or will be committed; and
  - III. But does not include an attempt by a police officer to collect identifying information from an individual if:
    - the individual is legally required to provide the information to a police officer;
    - the individual is under arrest or is being detained;
    - the officer is engaged in a covert operation;
    - the officer is executing a warrant, acting pursuant to a court order, or performing related duties; or
    - 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.
- f) *Regulated Interaction Report* is the electronic record of a Regulated Interaction submitted into the Police Service's record management system, whether or not identifying information was collected during the Regulated Interaction;
- g) *Restricted* is a classification which applies to Historical Contact Data and may apply to Regulated Interaction Reports for which the Service will institute constraints that prevent access to the record unless:
- I. Approved by the Chief of Police or designate; and

- II. Consistent with the *Regulation*, access to the record is required:
- 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 V of the Act or for the purpose of an investigation or inquiry under clause 25(1)(a) of the Act;
  - in order to prepare the annual report described in subsection 14(1) of the *Regulation* or the report required under section 15 of the *Regulation*;
  - for the purpose of complying with a legal requirement; or
  - for the purpose of evaluating a police officer's performance.

4. **General:**

- a) The Chief of Police shall establish procedures regarding Regulated Interactions that:
- I. Ensure compliance with *Ontario Regulation 58/16*, Board Policy, the Act, the Canadian Charter of Rights and Freedoms, the Ontario Human Rights Code, and the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA);
  - II. Ensure Regulated Interactions are not conducted on the basis of biased policing, including racial profiling, or in an arbitrary manner;
  - III. Acknowledge that collecting "identifying information" includes collecting any "information for the purpose of identifying the individual" as defined by this Policy;
  - IV. Ensure police officers approach all attempts to collect personal information in the same way, regardless of whether the police officer intends to identify the individual; and
  - V. Emphasize both the individual's right to disengage from a Regulated Interaction and that an officer's disengagement from a Regulated

Interaction is an acceptable, valued and sometimes necessary policing practice.

- b) The Chief of Police shall ensure that Police Service members understand the importance of police community engagement and proactive policing and that this shall be reflected in training.

5. **Attempts to Collect Identifying Information:**

- a) A police officer shall not attempt to collect identifying information about an individual from the individual if:
  - I. Any part of the reason for the attempted collection is that the officer perceives the individual to be within a particular racialized group unless;
  - II. The attempted collection is done in an arbitrary way; and
  - III. The officer has additional information, in addition to information about the particular individual being in a racialized group, that may help to identify the individual or narrow the description of the individual;
- b) Without limiting what might constitute the additional information required under subparagraph 5(a)(III), such information may consist of information about:
  - 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 behaviour of the individual.
- c) The additional information required under subparagraph 4(a)(iii) may not consist only of the sex of the individual, the approximate age of the individual or both;
- d) For the purpose of subparagraph 5(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 explain that complies with all of the following:

- I. The reason includes details about the individual that cause the officer to reasonably suspect that identifying the individual may contribute to or assist in an inquiry into offences that have been or might be committed or into suspicious activities to detect offences or the gathering of information for intelligence purposes;
- II. The reason does not include either of the following:
  - that the individual has declined to answer a question from the officer which the individual is not legally required to answer, or
  - 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.
- III. The reason is not only that the individual is present in a high crime location.

6. **Rights Notification:**

- a) A police officer shall not attempt to collect identifying information about an individual from the individual without first informing the individual:
  - I. That he or she is not required to provide identifying information to the officer; and
  - II. Has informed the individual why the police officer is attempting to collect identifying information about the individual.

Unless the police officer is exempt from a requirement to notify the individual because of a specific exemption in section 5(c) of the *Regulation* or section 6 (b) and (c) of this Policy;

- b) A police officer is not required to inform the individual under paragraph 6(a)(I) or (II) if the officer has a reason to believe that informing the individual under that clause might compromise the safety of an individual;
- c) A police officer is not required to inform the individual under paragraph 6(a)(II) if the officer has a reason to believe that informing the individual under that clause:
  - I. Would likely compromise an ongoing police investigation;
  - II. Might allow a confidential informant to be identified; or



- III. Might disclose the identity of a person contrary to the law, including disclose the identity of a young person contrary to the *Youth Criminal Justice Act*.

7. **Receipts:**

- a) The Chief of Police shall establish procedures that requires police officers conducting Regulated Interactions to comply with the Receipt requirement in section 7 of the *Regulation*, including the exemptions described in the *Regulation*; and
- b) The Chief of Police shall ensure that the Receipt contains:
  - I. The name and badge number of the police officer and any partner or supervisor who is present at or assists in conducting the Regulated Interaction;
  - II. The date, time, and location of the Regulated Interaction;
  - III. Information about how to contact the Office of the Independent Police Review Director;
  - IV. An explanation that the individual can request access to information in the Police Service's custody or control under MFIPPA and information about how to make such a request; and
  - V. An explanation of the reason for the Regulated Interaction.

8. **Retention, Access, Use and Disclosure of Historical Contact Data:**

- a) The Chief of Police shall develop procedures that ensure all Historical Contact Data is Restricted in a manner that prevents Police Service members from accessing it without authorization;
- b) Historical Contact Data must be stored in a way that leaves an auditable technological trail. All Historical Contact Data stored in hard copy report forms generated before January 1, 2017, should be digitized, as soon as possible if not already digitized, with the hard copy report form retained only as required by law;
- c) Access to Historical Contact Data under Section 8(a) of this Policy shall be authorized by the Chief of Police, in accordance with the constraints imposed on records classified as Restricted, and only when access is required for a substantial public interest or to comply with a legal requirement;

- d) The Chief of Police shall develop procedures that control access to Historical Contact Data in accordance with Section 8 (a) to (b) of this Policy. The procedures shall ensure the Chief of Police provides the Board, on a quarterly basis, with a public report on:
  - I. The number of requests, submitted to the Chief of Police, by Police Service members, for access to Historical Contact Data;
  - II. The number of approvals, by the Chief of Police, for access to Historical Contact Data;
  - III. The purpose(s) of the requests and approvals identified in subparagraphs 16(a) and (b);
  - IV. Whether or not accessing the Historical Contact Data fulfilled the purpose(s) for which it was accessed; and
  - V. When hard copy report forms generated before January 1, 2017, are digitized, the number of records digitized and the records management system to which the records were added.
  
- e) The Board will establish a Regulated Interactions Review Panel composed of three persons: a Board member, a community member, and a third person to be determined by the Board with the mandate to:
  - I. Review the quarterly report for compliance with paragraphs 13 to 16 of this Policy;
  - II. Identify and track any significant trends;
  - III. Summarize its review of the Chief of Police's quarterly report, in a report to the Board including, if necessary, suggestions or recommendations for consideration by the Board; and
  - IV. Make its summary review of the Chief of Police's quarterly report available to the public by submitting it to the Board at the same time that the Chief of Police's quarterly report is submitted to the Board.
  
- f) At least two weeks in advance of submitting the quarterly report to the Board, the Chief of Police will make the quarterly report available to the Board's Regulated Interactions Review Panel to enable it to conduct its review;

- g) If, as part of its review, the Regulated Interactions Review Panel requires additional information, it will submit, through the Board, any request(s) for additional information required to assist with fulfilling its mandate;
- h) The Police Service must not use Historical Contact Data as a basis for classifying an individual as “known to police; and
- i) The Chief shall ensure Historical Contact Data does not result in an entry on an individual’s Clearance Letter, Police Reference Check, Vulnerable Sector Check, or any other police record check required by the Police Record Check Reform Act.

9. **Retention, Access, Use and Disclosure of Regulated Interaction Reports – Compliant:**

- a) The Chief of Police shall establish procedures dealing with the retention, access, and disclosure of Regulated Interaction Data collected on or after January 1, 2017, that provide:
  - I. The Chief of Police or designate shall determine whether identifying information collected during Regulated Interactions complies with the Regulation and this Policy by reviewing Regulated Interaction Reports upon entry into the Police Service’s records management system or within thirty days of their entry, in accordance with Sections 9(4) and (5) of the *Regulation*;
  - II. Any Regulated Interaction Report which has not been reviewed shall contain an indication that the report has not been reviewed for compliance with the *Regulation* and this Policy;
  - III. Regulated Interaction Reports shall not result in an entry on an individual’s Clearance Letter, Police Reference Check, Vulnerable Sector Check, or any other police record check required by the *Police Record Check Reform Act*, S.O. 2015 C.30; and
  - IV. The Police Service must not use Regulated Interaction Reports as a basis for classifying an individual as “known to police”.
- b) Access to any Regulated Interaction Report collected in compliance with this Policy and the *Regulation* shall be Restricted five years after the date it was submitted to the Police Service’s record management system.

**10. Retention, Access, Use and Disclosure of Regulated Interaction Reports – In Violation:**

- a) Subject Section 10(c) of this Policy, access to any Regulated Interaction Report determined to have been collected in violation of this Policy or the *Regulation* shall be Restricted immediately upon such determination, whether;
  - I. Upon initially being reviewed by the Chief of Police or designate;
  - II. During the course of an internal or external complaint investigation; or
  - III. As a result of a finding by the judiciary, a tribunal or other governing body.
  
- b) As required by section 12(2) of the *Regulation*, this Policy provides that identifying information collected on or after January 1, 2017, contrary to the *Regulation* shall not be retained longer than is reasonably necessary to ensure the information is available:
  - 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 V of the Act or for the purpose of an investigation or inquiry under clause 25(1)(a) of the Act;
  - IV. in order to prepare the annual report described in subsection 14(1) of the *Regulation* or the report required under section 15 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.
  
- c) Where identifying information has been identified as being required under Section 10(b) of this Policy, it may be retained only as long as reasonably necessary for the specific purpose(s) for which it was retained and, when no longer required for that purpose(s) or otherwise by law, shall be deleted;
  
- d) The Police Service must not use Regulated Interaction Reports as a basis for classifying an individual as "known to police"; and

- e) The Chief of Police shall ensure Regulated Interaction Reports do not result in an entry on an individual's Clearance Letter, Police Reference Check, Vulnerable Sector Check, or any other police record check required by the *Police Record Check Reform Act*.

**11. Training:**

- a) The Chief of Police shall ensure that all police officers, prior to conducting Regulated Interactions under section 9 of the *Regulation*, have successfully completed:
  - I. The training required under section 11 of the *Regulation* within the previous 36 months; and
  - II. Additional training on the Police Service's procedures, as developed in accordance with this Policy, within the previous 12 months.
- b) The Chief of Police shall ensure that, the training referred to in paragraph 29 includes the mandatory training required by section 11 of the *Regulation* on the topics of:
  - I. 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;
  - II. The right of an individual to discontinue an interaction with a police officer, the limitations on this right and how to avoid an unlawful psychological detention of an individual;
  - III. Bias awareness, discrimination, and racism and how to avoid bias, discrimination and racism when providing police services;
  - IV. The rights that individuals have to access information about themselves that is in the custody, or under the control, of a Police Service;
  - V. The initiation of interactions with members of the public;
  - VI. The *Regulation* and its application;  
  
additionally includes, at a minimum, instruction on the topics of promoting public trust and public confidence by recognizing;
  - VII. The social cost of historic police practices; and

VIII. How the use of respectful language, tone, and demeanour, during Regulated Interactions benefits the community, individuals, officers, and the Police Service.

- c) The Chief of Police shall ensure that police officers responsible for supervising the initiation of Regulated Interactions and the creation of Regulated Interaction Reports receive the training necessary to ensure all police officers comply with this Policy and the *Regulation*; and
- d) The Chief of Police shall provide to the Board copies of all training modules on Regulated Interactions for review upon request from the Board.

## 12. **Supervision:**

The Chief of Police shall establish procedures regarding Regulated Interactions to ensure that:

- a) Supervisors understand that the *Regulation* and this Policy do not impose an obligation on officers, implicitly or explicitly, to conduct Regulated Interactions;
- b) Supervisors understand that Regulated Interactions should occur only when necessary and, if conducted, are carried out in compliance with both the *Regulation* and this Policy;
- c) Police officers receive effective supervision related to Regulated Interactions;
- d) Supervisors are trained to critically examine the circumstances leading to a Regulated Interaction and any resulting Regulated Interaction Reports to determine compliance with this Policy and the *Regulation* and are held accountable for any failure to do so;
- e) Supervisors consider using a variety of Police Service technological resources, if available, to effectively review for compliance leading up to, during and after, Regulated Interactions; and
- f) Where discipline is justified, police officers are subject to the full range of disciplinary measures in Section 85 of the Act in relation to Regulated Interactions.

## 13. **Reports to the Board:**

- a) As part of the Annual Report required under *Adequacy Regulation 3/99*, the Chief of Police shall include a section relating to Regulated Interactions;

- b) The annual report relating to Regulated Interactions shall include, at a minimum:
- I. The number of attempted collections and the number of attempted collections in which identifying information was collected;
  - II. The number of individuals from whom identifying information was collected;
  - III. The number of times a police officer chose not to tell an individual that he or she was “not required to provide identifying information to the officer” and/or the reason “why the police officer is attempting to collect identifying information” as otherwise required under subsections 6(2) and (3) of the *Regulation*, and the reason(s) for making the choice;
  - IV. The number of times a police officer chose not to give an individual a Receipt and the reason(s) for making the choice;
  - V. The number of times each of the following clauses was relied upon to not offer or give a Receipt:
    - might compromise the safety of an individual (subsection 7(2)(a) of the *Regulation*); or
    - might delay the officer from responding to another matter that should be responded to immediately (subsection 7(2)(b) of the *Regulation*);
  - VI. 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;
    - female individuals; or
    - individuals who self-identify otherwise.
  - VII. 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;
  - VIII. 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;

- IX. A statement, based on an analysis of the information, as to whether the collections were attempted disproportionately from individuals within a group based on:
- the sex of the individual;
  - a particular age; iii. a racialized group; or
  - 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.
- X. The neighbourhoods or areas where collections were attempted and the number of attempted collections in each neighbourhood or area;
- XI. The number of determinations made by the Chief of Police or designate as to whether the information entered into the database:
- complied with limitations on collection set out in section 5 and 9(4)(a) of 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 five percent, at a 95 percent confidence level, whether it appears that section 5(b) (limitations on collection of information), section 6 (duties to inform of rights and reasons before collecting, with exceptions) or section 8 (document for individual – document, with exceptions) of the *Regulation* were complied with.
- XII. 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 V of the Act or for the purpose of an investigation or inquiry under clause 25(1)(a) of the Act;
- in order to prepare the annual report or a report required due to disproportionate collection (under section 15 of the *Regulation*);
- for the purpose of complying with a legal requirement; or
- for the purpose of evaluating a police officer's performance.

XIII. The number of complaints resulting from or related to Regulated Interactions, along with their status or outcome; and

XIV. The results of any audit conducted under procedures enacted pursuant to this Policy.

- c) If an analysis of the Regulated Interaction data forming the basis for the annual report reveals that Regulated Interactions were conducted disproportionately in relation to individuals based on perceived sex, age, race, or a combination thereof, the Chief of Police shall review the Police Service's practices and prepare a supplementary report to the Board setting out the results of the review and his or her proposals, if any, to address the disproportionality;
- d) The Chief of Police shall make the abstracted data underlying the annual report available to the Board as requested;
- e) The need for and contents of any supplementary report may be determined by either the Chief of Police or the Board after review of the data in the annual report;
- f) The Board, upon receipt of the annual report and any supplementary report, shall:
  - I. Publish all reports and the underlying abstracted data on the Board's website so they are available to the public free of charge; and
  - II. Consider the report and the proposals, if any, set out in any supplementary report and consider whether to give directions under clause 31(1)(e) of the Act to direct the Chief of Police and monitor his or her performance.

**14. Retention, Access, Use and Disclosure of Abstracted Data:**

- a) The Chief of Police, in consultation with the Board, shall compile and retain abstracted data with respect to Regulated Interactions and Historical Contact Data for the purpose of evaluating the quality and effectiveness of police services in Owen Sound;
- b) The Chief of Police shall ensure that any data compiled and retained for the purpose of evaluating the quality and effectiveness of police services is de-identified, stored in a restricted database and not used for any purpose other than that of evaluating the quality and effectiveness of police services in Owen Sound;
- c) The Chief of Police shall give the Board, and any person designated by the Board, any de-identified data or de-identified internal or external report related to Regulated Interactions compiled and retained under Section 14 (a) and (b) 41 of this Policy upon the Board's request;
- d) The Board and the Police Service shall only use the data compiled and retained under Section 14 (a) and (b) of this Policy to evaluate the quality and effectiveness of police services in Owen Sound in accordance with provincial law, including the *Adequacy and Effectiveness Regulation 3/99*, enacted under the *Police Services Act*; and
- e) The Police Service and the Board shall disclose data compiled and retained under Section 14 (a) and (b) of this Policy to the Ministry of Solicitor General as necessary for the preparation of the Ministry's report on the *Regulation* as described in section 17 of the *Regulation*.

**15. Policy Consistent with Regulation:**

This Policy is intended to be consistent with *Regulation 58/16*. However, if any provision is or appears to be in conflict with the *Regulation*, it shall be deemed to be modified to make it consistent.

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date