

GREATER SUDBURY POLICE SERVICES BOARD

Ontario Regulation 58/16

“Collection of Identifying Information in Certain Circumstances – Prohibition and Duties”

May 18, 2016



Agenda

- ✓ **Background & Overview of the Regulation**
- ✓ **Board Policy**
- ✓ **Chief's Procedures**
- ✓ **Timing and Implementation Key Dates**
- ✓ **Training**
- ✓ **Independent Reviewer**
- ✓ **Management of Information**
- ✓ **Reporting**
- ✓ **Financial Implications & Public Education**
- ✓ **Next Steps**
- ✓ **Summary & Questions**



Background

- “Street Check” Activities in Sudbury 2013 to 2015
- October 2015 - Ministry of Community Safety and Correctional Services released a draft regulation for consultation under the *Police Services Act* entitled “Collection of Identifying Information in Certain Circumstances – Prohibition and Duties”
- 45 day consultation period for key stakeholders and citizens to provide input



Overview of O.Reg 58/16

The regulations apply 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

This is to ensure police can continue to do their work safely in some specific situations



Background

- **March 22, 2016, Minister Naqvi announced final regulations on the arbitrary collection of identifying information by police, typically referred to as ‘Street Checks’ or ‘Carding’**
- **Released as Ontario Regulation 58/16**
 - **Governs police in the collection of identifying information about an individual / from the individual as it applies in certain circumstances and detailing the requisite prohibition and duties**
 - **Police services no longer permitted to use targets/quotas for the collection of identifying information**
 - **Training, reporting, and policy requirements to ensure compliance**

Also released a regulation to amend O.Reg 268/10 which governs police conduct



Overview of O.Reg 58/16

Takes a new approach to collection of identifying information by police and establishes rules for the retention of the information collected

Defines what is deemed to be the arbitrary collection of information

Police Services Boards policy development

Requires Chiefs of Police to develop new procedures to implement the requirements as detailed in Police Services Board policies



Police Board Policy

Must address:

- The document to be provided to the individual
- The contents of the Chief of Police's annual report as required by regulation
- 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
- Access to, retention of, or disclosure of identifying information collected before January 1, 2017



Chief's Procedures

Board Policy will require that the Chief of Police develop procedures relating to the operationalization of the procedure which will include data management, training, and reporting requirements

Similar to all operating procedures that guide police practice within the Service



Timing and Implementation – Key Dates

July 1, 2016

- **Application and Interpretation**
 - **Prohibition of quotas as performance measurement tool**
 - **Police Services Boards and Minister to develop policies related to the application of the regulation including the retention or disclosure of legacy data**
 - **Direction to Chiefs of Police to develop procedures**
- **Board Draft Policy will be tabled at June 22, 2016 meeting for endorsement and resolution**



Timing and Implementation – Key Dates

January 1, 2017

All remaining sections including training and the amended Code of Conduct come into effect as follows:

- Officers must inform the person of their right not to provide identifying information
- Officers must provide a reason for requesting identifying information. The reason cannot be:
 - Arbitrary
 - That the person declined to answer a question or attempted to end the interaction
 - Based on race or solely because that individual is in a high crime location

A small calendar grid for January 2017 is located in the bottom right corner. The grid shows the days of the month from 1 to 31, arranged in a standard 5x7 format. The title "January 2017" is at the top left of the grid. The grid is partially obscured by a red and blue decorative banner that runs across the bottom of the slide.

January 2017						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Timing and Implementation – Key Dates

January 1, 2017 *(continued)*

- Officers must offer a document that includes the officers' name and identification number, information on how to contact the Office of the Independent Review Director (OIPRD) if there are concerns about the interaction, and how to access information under MFIPPA
- Officers must keep detailed records about each interaction
- Failure to comply with the regulation could be a Code of Conduct violation for police officers



Training



- **Train the Trainer Model**
Online modules, theory, practical exercises
- **All officers to receive 8 hours of initial training (Fall 2016)**
- **Roundtable of experts appointed with knowledge of human rights, community needs, issues affecting youth, privacy laws, curriculum development, policing, and other relevant fields to provide input to the development of new training for police officers**
- **The Ontario Police College will take the lead on certifying and coordinating the training**



Training

The training will include topics such as:

- discrimination
- racism
- bias awareness
- police-public interactions, and
- avoiding psychological detention
- the right of a person not to provide information to an Officer and respect for this right
- the right of a person to discontinue an interaction with an Officer



By January 1, 2017, all officers in Ontario will have completed the prescribed training



Independent Reviewer

An independent reviewer will be appointed in the coming months with reporting responsibilities to the Minister to:

- Conduct a review of the regulation to be completed within two years of full implementation
- Make recommendations to improve the implementation of the regulation
- Consult with Anti-Racism Directorate



GSPS compliance review plan will:

- Audit section of Executive Services will be assigned carriage of compliance review
- Monitor for a particular group found to be disproportionately checked



Management of Identifying Information

Identifying information submitted within 30 days for review by Chief or designate who will review:

- The police officer's reason for collecting the information; and
- If the police officer indicated that there was compliance with other aspects of the regulation

Officers must keep detailed records about each interaction detailing the interaction and that a documentation card was offered



Management of Identifying Information



At least once a year, the Chief of Police or designate to conduct a detailed review of an appropriate random sample of entries into the database to verify compliance with the regulation overall

Access to identifying information to be restricted if it is found the identifying information was inappropriately collected



Management of Identifying Information

Access to restricted information can only be granted by the Chief of Police on a case-by-case basis for specified purposes (e.g. ongoing police investigation, legal proceedings, complying with a legal requirement, etc.)

Access to identifying information to be restricted five years after it is entered into a police database



Management of Identifying Information

Board Policy shall provide that identifying information collected contrary to this Regulation shall not be retained longer than is reasonably necessary to ensure the information is available in the circumstances in which access may be permitted for the following reasons:

- 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 in order to prepare the annual report
- for the purpose of complying with a legal requirement
- for the purpose of evaluating a police officer's performance



New Reporting Requirements

Chiefs of Police will be required to include in their annual report statistical information about the collection of identifying information under the regulation to include:

- number of times identifying information was collected
- demographic information about individuals from whom information was requested
- the number of times it was determined, upon review of the officers reasons, that the officer did not comply with the regulation



Financial Implications

Costs associated with implementation are unknown but will be tracked and quantified

Training is anticipated to cost in excess of \$100,000

Thereafter, all officers must participate in refresher training every thirty-six months

The more training required inevitably leads to significant costs in officer overtime and/or the need to hire more police officers to patrol while other officers are off on training



Financial Implications

Costs associated with administrative and business processes :

- creating receipts
- development of data collection forms
- statistical reporting
- record keeping
- file storage and retrieval
- data network storage
- processing freedom of information requests
- audit functions
- ongoing training



Financial Implications

Information Technology Impacts

- moving the data
- setting up different fields (e.g. racialized groups, neighbourhoods or areas where collections attempted, age groups, attempts vs actual collection, tracking of access to the information, etc.)
- sectorized databases with limitations on access
- associated external costs such as software providers amending RMS systems and maintenance costs



Financial Implications



Human Resource Cost and Staffing Implications:

- Data input staff
- Requests for information records release personnel
- IT programmers
- Content management of the database within our Intelligence Branch/Information Analysts/Witness Protection
- Professional standards investigators to respond to increased complaints

Equipment Requirements:

Hardware such as printers for receipts, servers and hard drives



Public Education

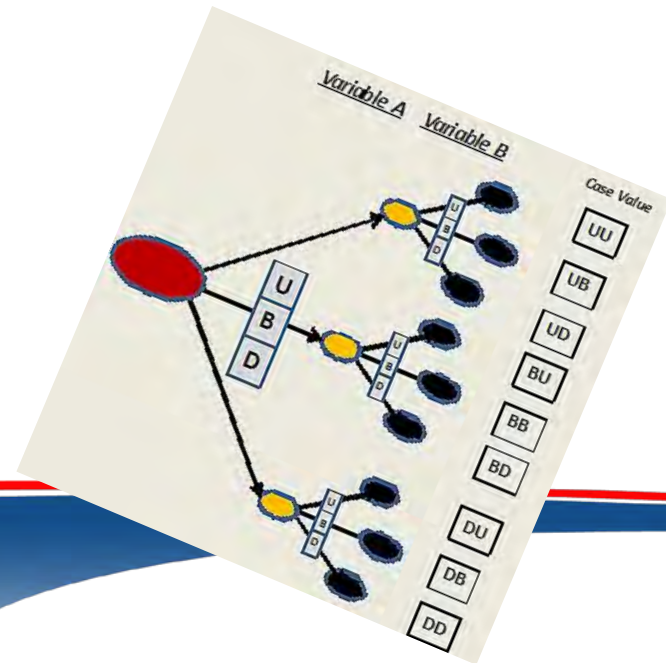
The Ministry is in the process of developing a robust public education campaign. This will be developed to improve awareness and understanding of the regulation and will be rolled out in the coming months.



Scenario Examples

Neighborhood stop – neighbour complaint of vehicle thefts and property damage

Neighborhood stop – no complaint/officer observation



Next Steps



ACTIVITIES	TARGET DATE
OACP Working Group	May 5, 2016
Draft documentation	May 10, 2016
Internal Planning Team Appointed	May 30, 2016
OACP Draft Policies/Procedure for finalization	End of May 2016
Board Policy Adopted	June 22, 2016
8 Hour Mandated Training Completed	Fall 2016
Procedural Implementation – record keeping, audits, reporting, IT	January 2017



QUESTIONS

