



Brantford Police Services Board

## **Policy #24-18**

### **Collection of Identifying Information in Certain Circumstances – Prohibition and Duties**

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#### **Description**

It is the policy of the Brantford Police Services Board that in compliance with the Community Safety and Policing Act, 2019, O.Reg. 400/23 as it relates to collection of identifying information in certain circumstances – prohibition and duties, that

Police service board policies

38 (1) A police service board shall establish policies respecting,

- (a) the administration of the police service;
- (b) the provision of adequate and effective policing in accordance with the needs of the population of the area for which it has policing responsibility;
- (c) disclosure by the chief of police of personal information about individuals;
- (d) disclosure of secondary activities under section 89 and decisions under that section;
- (e) the handling of discipline within the police service;
- (f) subject to subsection (4), the indemnification of members of the police service for legal costs; and
- (g) any other prescribed matters.

O. Reg. 400/23 Collection of Identifying Information in Certain Circumstances – Prohibition and Duties.

Policies and Procedures

Boards and Minister must develop policies

13. (1) The following matters are prescribed for the purposes of clauses 38 (1) (g) and 60 (1) (f) of the Act:

1. The document to be given to individuals under section 8.
2. The contents, in relation to matters to which this Regulation applies, of the annual reports described in subsection 15 (2).
3. The report required under section 16.
4. The retention of, access to and disclosure of identifying information collected on or after January 1, 2017, including the retention of identifying information collected contrary to this Regulation or the predecessor regulation.
5. The retention of, access to and disclosure of identifying information collected before January 1, 2017 with respect to which the predecessor regulation would have applied had the collection taken place on January 1, 2017.

(2) For greater certainty, policies established in accordance with subsection (1) must be consistent with this Regulation.

#### Document for individual

8. (1) A police officer who attempts to collect identifying information about an individual from the individual shall,

- (a) offer to give the individual a document that provides a record of the attempt; and
- (b) give the individual such a document if the individual indicates that it is wanted.

(2) A police officer is not required to comply with subsection (1) if the officer has a reason to believe that continuing to interact with the individual,

- (a) might compromise the safety of an individual; or
- (b) might delay the officer from responding to another matter that should be responded to immediately.

(3) A reason required under subsection (2) must be a reason the police officer can articulate and must include details relating to the particular circumstances.

(4) The document required under subsection (1) shall contain at least the following information:

1. The police officer's name and officer identification number and the date, time and location of the attempted collection.
2. Information about how to contact the Complaints Director.
3. An explanation that the individual can request access to information about themselves that is in the custody or under the control of a police service under the Municipal Freedom of

Information and Protection of Privacy Act or the Freedom of Information and Protection of Privacy Act, as the case may be, and information about how to contact persons to whom such a request may be given.

## Reports

### Annual reports

15. (1) In this section,

“racialized group” means a group of individuals identified by one of the following race categories, as set out with respect to the collection of Participant Observer Information (POI) in the data standards established under section 6 of the Anti-Racism Act, 2017:

1. Black.
2. East/Southeast Asian.
3. Indigenous (First Nations, Métis, Inuit).
4. Latino.
5. Middle Eastern.
6. South Asian.
7. White.

(2) The following information respecting attempted collections of identifying information shall be included in the annual report provided by a chief of police to a police service board under section 12 of Ontario Regulation 399/23 (General Matters Under the Authority of the Lieutenant Governor in Council) made under the Act or by the Commissioner under subsection 58 (1) of the Act:

1. The number of attempted collections and the number of attempted collections in which identifying information was collected.
2. The number of individuals from whom identifying information was collected.
3. The number of times each of the following provisions was relied on to not do something that would otherwise be required under subsection 7 (1):
  - i. Subsection 7 (2).
  - ii. Clause 7 (3) (a).
  - iii. Clause 7 (3) (b).
  - iv. Clause 7 (3) (c).

4. The number of times an individual was not given a document under clause 8 (1) (b) because the individual did not indicate that they wanted it.
5. The number of times each of the following clauses was relied on to not do something that would otherwise be required under subsection 8 (1):
  - i. Clause 8 (2) (a).
  - ii. Clause 8 (2) (b).
6. For each of the following categories of gender identity, the number of attempted collections from individuals who are perceived, by a police officer, to be within that category:
  - i. Male.
  - ii. Female.
  - iii. Transgender, non-binary or other gender identity.
7. For each age 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 age group.
8. For each racialized group, the number of attempted collections from individuals who are perceived, by a police officer, to be within that racialized group.
9. A statement, based on an analysis of the information provided under this subsection, as to whether the collections were attempted disproportionately from individuals within a group based on gender identity, 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 collections.
10. The neighbourhoods or areas where collections were attempted and the number of attempted collections in each neighbourhood or area.
11. The number of determinations, referred to in subsection 10 (5), that section 6 or clause 10 (4) (a) was not complied with.
12. The number of determinations, referred to in subsections 10 (6) and (7), that section 6, 7 or 8 was not complied with.
13. The number of times members of the police service were permitted under subsection 10 (10) to access identifying information to which access must be restricted.

Chiefs of police must review practices and report

16. (1) If an annual report referred to in subsection 15 (2) reveals that identifying information was attempted to be collected disproportionately from individuals perceived to be within a

group or combination of groups, the chief of police shall review the practices of the police service and shall prepare a report setting out the results of the review and the chief's proposals, if any, to address the disproportionate attempted collection of information.

(2) The chief of police shall provide the report to the police service board or, in the case of the Commissioner, to the Minister.

(3) On receipt of a report under subsection (2), the police service 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 may make the report available to the public free of charge in any other manner that the police service board or the Minister, as the case may be, considers appropriate; and

(b) shall consider the report and the proposals, if any, set out in the report and consider, in the case of a police service board, whether to give directions under section 40 of the Act or, in the case of the Minister, whether to give directions to the Commissioner under section 62 of the Act.

#### Inclusion of Collected Information in Police Databases

##### Collected information in police databases

10. (1) This section applies with respect to the inclusion, in databases under the control of a police service, 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 (10) unless the information may be included in a database, under this section, without limiting the access of members of the police service.

(4) Identifying information may be included in a database without limiting the access of members of the police service if,

(a) the police officer who collected the information,

(i) has indicated that the attempted collection complied with section 6,

(ii) has indicated that the individual was informed as required under clauses 7 (1) (a) and (b) or, if informing the individual under one of those clauses was not required under subsection 7 (2) or (3), has indicated the reason why that was not required,

(iii) has indicated that the individual was offered the document as required under clause 8 (1) (a) or, if offering the document was not required under subsection 8 (2), has indicated the reason why that was not required, and

(iv) has indicated that the individual was given the document offered under clause 8 (1) (a) or, if giving the document was not required under clause 8 (1) (b) or subsection 8 (2), has indicated the reason why that was not required; and

(b) either,

(i) the chief of police has determined, after considering the officer's reasons for the attempted collection, including the details referred to in paragraph 1 of subsection 6 (4), that it appears that section 6 was complied with and has ensured that clause (a) has been complied with, or

(ii) the database indicates that what is required under subclause (i) has not yet been done.

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(iv) has indicated that the individual was given the document offered under clause 8 (1) (a) or, if giving the document was not required under clause 8 (1) (b) or subsection 8 (2), has indicated the reason why that was not required; and

(b) either,

(i) the chief of police has determined, after considering the officer's reasons for the attempted collection, including the details referred to in paragraph 1 of subsection 6 (4), that it appears that section 6 was complied with and has ensured that clause (a) has been complied with, or

(ii) the database indicates that what is required under subclause (i) has not yet been done.

(7) If, as a result of a detailed review under subsection (6), it is determined, with respect to identifying information included in a database under subsection (4), that section 6, 7 or 8 was not complied with, the identifying information shall be retained, subject to the procedures developed under section 14 in relation to paragraph 4 of subsection 13 (1), in a database under the control of the police service, but access to such retained information shall be restricted in accordance with subsection (10).

(8) The chief of police shall consider the results of the detailed reviews under subsection (6) and take such actions as the chief of police considers appropriate.

(9) Access to identifying information shall be restricted in accordance with subsection (10) after the fifth anniversary of the date on which the information was first entered into a database under the control of the police service.

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

1. No person may access the information without the permission of the chief of police.

2. A member of the police service may be permitted to access the information only if the chief of police is satisfied that access is needed,

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 Act,

iv. in order to prepare the annual report described in subsection 15 (2) or the report required under section 16,

v. for the purpose of complying with a legal requirement, or

vi. for the purpose of evaluating a police officer's performance.

(11) The chief of police shall ensure that identifying information collected contrary to this Regulation or the predecessor 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 under paragraph 2 of subsection (10).

(12) For greater certainty, this section applies with respect to any member of a police service to whom the chief of police delegates the chief's powers or duties under this section as it would to the chief, with necessary modifications.

### **Legislative Reference**

Board Policy / Community Safety & Policing Act, 2019, O. Reg. 400/23

### **Passed / Reviewed and/or Updated**

Passed: June 15, 2016

Reviewed/Updated: November 28, 2024