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# Report of the Independent Street Checks Review

Read the executive summary from the report of the Independent Street Checks Review by the Honourable Michael H. Tulloch.

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## Acknowledgements

At the outset, I want to highlight the contributions, input, support, and expertise of many people who have been essential to the success of this Review and the completion of this report.

First, I wish to thank Chief Justice Strathy, Chief Justice of Ontario, and my colleagues on the Ontario Court of Appeal for their constant support and understanding while I was away from the Court serving as the Independent Reviewer.

Second, I thank all the team members on the Independent Street Checks Review. The success of this Review was a direct result of the team that supported me throughout this process. Each member brought a unique set of skills and expertise to this Review and each of their contributions was integral to its ultimate success. I could not have done this without their tireless commitment, dedicated service, and exemplary work over the past 18 months. Their contributions are numerous and invaluable. I am very grateful for everything they have done during the consultations under the Review and for the completion of this report.

Third, I would like to acknowledge and thank all of the stakeholders we met with during our extensive police, community, and public consultations throughout the province. Consultations with a wide range of community members, experts, organizations, police services, and the public were a core component of this Review and of central importance to my approach. I will never forget the powerful contributions and submissions stakeholders made during these meetings and in a range of written submissions. These contributions and submissions informed my analysis and the recommendations in this report.

Fourth, I was fortunate to rely on a number of individuals to test ideas and approaches and review certain portions of my report. They know who they are. Their comments were so helpful in this process and I thank them.

Finally, and closest to my heart, is my family. Thank you for your unyielding support and belief in me and for dealing with my many absences and schedule under this Review over the past 18 months. I could not have undertaken this work without you and I am so grateful for you. You are my everything.

Michael H. Tulloch

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## Executive summary

1. On June 7, 2017, I was appointed by the Government of Ontario to lead an independent review of [Regulation 58/16 \(Collection of Identifying Information in Certain Circumstances - Prohibition and Duties\) \(/laws/regulation/160058\)](#) and its implementation. *Regulation 58/16*, introduced in 2016, outlines Ontario's new rules on the collection of identifying information by police in certain circumstances, a practice that is commonly known as street checks (and sometimes referred to as carding).
2. In my capacity as the Independent Street Checks Reviewer, I reviewed the content of the Regulation and assessed whether police officers, chiefs of police and police services boards are complying with it. More specifically, the Review has looked at whether the Regulation reflects the government's goal of ensuring that police-public relations are consistent, bias-free and done in a way that promotes public ence and protects human rights.

3. This report seeks to answer certain critical questions and provide recommendations on how to improve the Regulation and ensure that it serves the original intent and purposes for which it was enacted. In this Executive Summary (Part I of my report), I summarize: the background of this Review (Part II), the legal context (Part III), and my findings and recommendations (Parts IV and V).

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## Summary of Part II: Background

The public's trust in police is the bedrock on which police legitimacy is built.

4. Crime prevention is essential to the maintenance of public safety, and the police must have proper tools in order to undertake this work. However, the public's trust in police is the bedrock on which police legitimacy is built: without it, police lose authority and the ability to do their jobs. This is the lens through which any analysis of street checks and carding must be done.
5. Street checks were originally intended as an investigative tool to capture the information of people who police had reason to suspect of being involved in criminal activity. Over time, however, it grew into a much less focused practice. Some police services began collecting and storing personal identifying information of many citizens without any belief that they were involved in criminal activity, and without much evidence that such databases were particularly useful in solving crime.
6. Many of the issues surrounding carding and street checks stem from a misunderstanding of the terms themselves. A street check is where information is obtained by a police officer concerning an individual, outside of a police station, that is not part of an investigation. This is a very broad category of police information gathering, and much of it is legitimate intelligence gathering of potentially useful information. Carding, as referred to in this report, is a small subset of street checks in which a police officer randomly asks an individual to provide identifying information when the individual is not suspected of any crime, nor is there any reason to believe that the individual has information about any crime. This information is then stored into a police database.

7. In Chapter 2 of this report, I go over the history and evolution of street checks, as well as the impact of random street checks, including their benefits and costs. While proponents of random street checks argue that such stops can help deter crime and assist in criminal investigations, the many costs include: the negative effects on the physical and mental health of those carded; potential negative impacts on their employment and other opportunities; the loss of public trust and cooperation; and a reduction in the perception of police legitimacy. These impacts are felt disproportionately by certain races and groups, particularly Indigenous, Black and other racialized communities, as well as youth and people from lower socioeconomic groups.
8. These issues ultimately led the Government of Ontario to file *Regulation 58/16*, which I am mandated to review. In Chapter 2, I also outline the history and purpose of the Regulation, and salient issues around the understanding, interpretation and application of the Regulation in Ontario. Within this context, I recommend that the Government of Ontario immediately proceed to implement or amend the Regulation in accordance with the recommendations I make in Chapters 5 to 12 of this report. I note that all recommendations and amendments must take into account the time and resources necessary for police services to ensure effective, proper training and implementation of the revised Regulation. The government should allocate additional resources to police services specifically for this purpose (Recommendation 2.1).
9. Under the terms of reference, the Government of Ontario asked me to answer a number of questions about (a) the content of the Regulation and (b) the implementation of the Regulation.
10. Regarding the content of the Regulation, I was asked to answer the following questions:
  - Does the Regulation ensure that police-public interactions are consistent?
  - Does the Regulation ensure that police-public interactions are conducted without bias or discrimination?
  - Does the Regulation ensure that police-public interactions are done in a manner that promotes public confidence and keeps our communities safe?
  - Does the Regulation appropriately reflect the principle that Ontario takes the protection of human rights very seriously and has zero tolerance for racism or any form of discrimination based on the prohibited grounds set out in section 1 of the Human Rights Code?

- Does the Regulation appropriately reflect the principle that Ontario stands opposed to arbitrary, random stops that do not have a clear policing purpose, and which are done solely for the purpose of collecting identifying information?
- Are there any recommendations that should be made regarding the content of the Regulation in light of the preceding questions?

11. On the implementation of the Regulation itself, I was asked to answer the following questions:

- Are there any challenges, operational or otherwise, in applying the Regulation and, if so, what are the recommendations as to how they could be addressed?
- Are the accountability and oversight mechanisms in the Regulation appropriate to ensure compliance with the Regulation and, if not, what are the recommendations as to how the mechanisms could be improved?
- Are there any amendments, policy and/or procedural changes recommended to improve the implementation of the Regulation?
- Are police officers and police chiefs generally in compliance with the Regulation?
- Are police officers and police chiefs specifically in compliance with the Regulation regarding:
  - the data retention and management requirements
  - the elimination of performance targets
  - the delivery of training
  - the development of procedures
  - the provision of reports?
- Have police services boards developed policies that comply with the Regulation?
- Do the curriculum and related training materials developed by the Ontario Police College ensure compliance with the Regulation?
- Are there any recommendations to be made regarding the effectiveness of the training developed by the Ontario Police College?
- What are the approaches police services have adopted to implement Regulation?

- Are there any recommendations regarding the approaches police services boards should take with regard to the document to be provided to individuals following a regulated interaction, and is consistency required in that regard?
- Are there any recommendations regarding the approaches police services boards should take with regard to the retention of information collected pursuant to the Regulation, and is consistency required in that regard?
- Are there any recommendations regarding the approaches police services boards should take with regard to the establishment of age groups and racialized groups when reporting on the collection of data, and is consistency required in that regard?

The overall consultation process under the Review took over 11 months, during which time I met with more than 2,200 people and received over 100 written submissions.

12. These questions are numerous and complex, and they required in-depth analysis, research, consultations and outreach in order to answer them.
13. At this stage, I wish to outline the Review's consultation process. It was very important to me to hear from as many people as possible in order to develop recommendations that would make a tangible impact.
14. The terms of reference required that I consult with the Minister Responsible for Anti-Racism and the Independent Police Review Director. I was also required to conduct an independent survey of civilians to address certain issues around police compliance with the Regulation, and police-public interactions. This survey was conducted as part of the Review and a summary of its findings are threaded throughout the report and included in Appendix E.
15. The overall consultation process under the Review took over 11 months, during which time I met with more than 2,200 people and received over 100 written submissions. Many stakeholders were consulted, including police services, community groups and organizations, public interest groups, individuals and academics.
16. I met with officials from 34 police services in Ontario, including police chief members and police services boards, in order to understand their perspectives and the impact of the Regulation on their work.

17. There were 12 public consultations held throughout the province during which members of the public expressed their views, concerns and feedback on street checks and the Regulation, and made recommendations.
18. I met with Indigenous, Black and other racialized communities throughout the province. Hearing directly from these communities highlighted the historic and current issues these communities face with respect to the practice of street checks.
19. Consultations with all of these groups were essential to me, as they provided valuable context, information and insight into the issues I was asked to address under the Review. Their contributions shaped my recommendations in this report. I am deeply grateful to everyone I met for their openness and willingness to share their knowledge, experiences, lived realities and expertise with me.
20. In addition to the consultations, I undertook extensive research on the legal issues implicated in the Review of the Regulation to answer the questions asked of me. I conducted a comparative analysis of other countries' approaches to these issues, with a view to identifying approaches or analytic frameworks that would be of particular relevance to the situation in Ontario.
21. In Chapter 4 of this report, I provide important contextual information on key legal concepts, statutes and constitutional provisions that underpin the analysis and recommendations in this report. My recommendations are set out in Parts IV and V, namely Chapters 5 to 12. I have included the full list of recommendations in Appendix A. In the following sections, I briefly summarize each chapter, and highlight the key recommendations made in Chapters 5 to 12.

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## Summary of Part III: The Context for the Independent Review

### Chapter 4: Policing – Powers and limits

22. In Chapter 4, I provide a summary of certain civil liberties and fundamental rights of individuals, as well as the applicable duties and powers of police officers and the limits on those powers that currently exist in our law. This summary serves as the legal context for the Regulation and my recommendations set out in later chapters.

23. People enjoy many individual rights, one of which is the right to walk about freely without state interference. Faced with police questioning on the street, a person is generally free to decline to answer and walk away. This, of course, does not prevent a police officer from being able to speak to people but, unless a police officer has grounds to arrest or detain a person, they cannot prevent someone from leaving an interaction.
24. The duties of police officers form an important part of the discussion in this chapter. Certain powers are granted to police officers in order to enable them to discharge their duties. These powers come from both statute (for example, the Criminal Code) and from common law. Police duties include the preservation of peace, the prevention of crime and the protection of life and property. To discharge these duties, police officers may need to engage with members of the public, including stopping and questioning them. But their ability to do so is not unlimited: a balance must be struck between protecting individual liberties and properly recognizing certain police functions.
25. To discharge their duties, police have certain limited powers to interfere with the ability of citizens to walk freely down the street. These powers include powers of arrest, statutory powers of detention and common law powers of detention.
26. Police officers can arrest a person with or without a warrant. When they are arresting a person without a warrant, they must find the person committing a criminal offence or have reasonable grounds to believe the person has committed or is about to commit an offence. Police also have some powers of arrest derived from other statutes. When individuals are arrested, police must advise them of the reasons for the arrest as well as their right to counsel, and individuals then have an obligation to identify themselves.
27. Police have a number of statutory authorities for stopping or detaining individuals, such as legislation regulating access to courthouses and airports, or providing for certain types of warrants (for example, a warrant for DNA).
28. The main detention power that police have at common law is the power to detain for investigative reasons. Police have the power to briefly detain an individual for investigation if the police have objectively reasonable grounds to suspect that the individual is connected to a particular crime and that the detention is reasonably and objectively necessary. This reasonable suspicion must be based on something more than a mere suspicion or a "hunch" but can be something less than a belief based on reasonable and probable grounds that would justify an arrest. When an individual is



subject to an investigative detention, the police must advise them of the reasons for the detention as well as their right to counsel. In these circumstances, individuals do not have to speak to police.

29. Detention does not automatically occur as soon as police engage an individual for investigative purposes; it only arises when a person is either physically detained (for example, through handcuffing) or psychologically detained. Psychological detention occurs when a reasonable person in the person's position would feel obligated to comply with a police direction or demand. Courts have outlined a number of factors to be considered when determining whether there has been a psychological detention, which I outline in Chapter 4. Ultimately, whether someone is psychologically detained is determined by taking into account all of the circumstances of the encounter and the conduct of the police.
30. In situations falling short of a "detention", individuals have other protections against arbitrary conduct provided by statute, such as those provided by the [Ontario Human Rights Code \(/laws/statute/90h19\)](#) and [Ontario's Anti-Racism Act, 2017 \(/laws/statute/17a15\)](#).
31. With this legal context in mind, I will now summarize each of the following chapters, highlighting key recommendations.

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## Summary of Part IV: Collecting and managing identifying information – findings and recommendations

### Chapter 5: Application and interpretation of the regulation

I recommend that the Regulation expressly stipulate that its purpose or objective is to prevent arbitrary or random stops of individuals

32. In this chapter, I examine the circumstances in which the Regulation applies to the interaction between a police officer and an individual. I consider the general

application of the Regulation, the meaning of identifying information, the categories of collections to which the Regulation applies and areas where the Regulation does not apply. I identify gaps in the Regulation's operation, based on concerns that the Regulation was intended to address, and I make recommendations to address those gaps.

33. At the outset, I recommend that the Regulation expressly stipulate that its purpose or objective is to prevent arbitrary or random stops of individuals (Recommendation 5.1).
34. The Regulation applies to attempts to collect identifying information from individuals by police officers if the 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. I have recommended that officers be instructed that it also applies whether or not an officer decides to ultimately discard the information (Recommendation 5.2). I have also made recommendations about standardizing the definition of what constitutes identifying information across jurisdictions. (Recommendations 5.3 and 5.4).
35. The Regulation specifically does not apply to a number of situations, including instances where a person is legally required to provide the information to a police officer. These instances arise where legislation, such as the *Highway Traffic Act*, the *Liquor License Act*, or the *Trespass to Property Act* enable police to obtain identifying information from individuals. I have recommended that the Province of Ontario consider the possibility of revising such Acts to include similar protections as those contained in the Regulation (Recommendation 5.5). I have also made recommendations regarding the application of the Regulation to vehicle stops and to passengers in vehicles (Recommendations 5.6 and 5.7).
36. I have explored and made recommendations about the circumstances to which the Regulation ought not to apply, including: where an individual appears to match the description of a missing person, human trafficking victim, or other victim of crime; or where an officer is simply chatting with members of the community to build relationships (Recommendations 5.8 and 5.9). I also recommend that procedures developed by chiefs of police ensure that identifying information collected in such situations is not recorded in any regulated interactions database (Recommendation 5.10).
37. A key aspect of the Regulation is the distinction between investigating an o which is exempt from the Regulation, and inquiring into suspicious activities and

general criminal activities, which fall under the Regulation's purview. I explain that, in the latter case, there should be some suspicion based on objective and credible grounds justifying an inquiry, albeit short of the reasonable grounds for suspicion required for an investigation. I make recommendations designed to ensure that this distinction is clear and that identifying information collected under this provision of the Regulation is collected in a manner and spirit in line with the Regulation's purpose (Recommendations 5.12, 5.13, and 5.14). I also recommend that regulated interactions should take no longer than reasonably necessary (Recommendation 5.11).

38. Next, I discuss the collection of information for intelligence purposes, which is the final category of collection to which the Regulation applies. This information gathering can be specific or random in nature. It is specific in nature when there is a specific reason to believe the identifying information would be valuable police intelligence. In my view, these interactions are proper and should be subject to the Regulation.
39. Random gathering of information for intelligence purposes, however, amounts to the practice traditionally known as carding: people are being identified simply to create a database of individuals in the area. Two fundamental questions central to this Review are: do random street checks actually work and should random street checks or carding ever be allowed?
40. In contemplating whether random street checks work, I consider Canadian and international experiences and research, as well as my own observations from the many consultations conducted over the course of this Review. I conclude that random street checks, which take considerable time and effort for a police service to conduct, have little to no verifiable benefits relating to the level of crime or even arrests. In fact, even before the Regulation, many police services had already discontinued the practice because of its lack of effectiveness.
41. I also consider emergency situations and threats to public safety, and find that the tools police already have, without random street checks, allow them to effectively address such circumstances. I thus recommend discontinuing the use of random street checks altogether (Recommendation 5.15).

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## Chapter 6: Prohibition on the collection of confidential information

42. In this chapter, I address the question of when police officers are not authorized to collect identifying information.
43. Under section 5 of the Regulation, police officers are prohibited from collecting identifying information if “any part” of the reason for the attempted collection is because the officer perceives the individual to be part of a racialized group or the attempted collection is done in an “arbitrary way”. I recommend that other prohibited grounds of discrimination under the *Ontario Human Rights Code* and the individual’s socioeconomic status also be included in this section (Recommendation 6.1).
44. The collection of identifying information is, thus, considered to be improper if part of the reason for the collection is the person’s membership in a protected group (i.e. they are part of a group protected by a prohibited ground of discrimination under the Ontario Human Rights Code or on the basis of their socioeconomic status). That said, membership in a protected group, such as racial identity, is often a necessary component of a suspect description. As such, an officer can attempt to collect identifying information from individuals on the basis that they appear to be part of a protected group as long as the officer is seeking a particular individual and the officer has additional information regarding the individual other than their membership in a protected group.
45. The purpose of this requirement is to prevent people from being stopped and questioned for improper reasons or based on a vague description. The solution is to require a credible, reasonably specific description relating to the individual and their circumstances before a request is made for identifying purposes. I have made a recommendation on the phrasing of this section of the Regulation to assist with this issue (Recommendation 6.1).
46. As I mentioned above, police officers are also prohibited from collecting identifying information in an arbitrary way. A collection is considered to be arbitrary unless the police officer can articulate a proper reason for the attempted collection. I have made a recommendation to expand the section of the Regulation that specifies what those reasons can and cannot include (Recommendation 6.2). I also explore and give examples of circumstances in which police officers should and should not obtain identifying information from members of the public.
47. Finally, I close this chapter by addressing an issue that the Regulation currently does not canvass: the need for all police–public interactions to be conducted without bias or discrimination. I therefore recommend that: officers should be trained to give articulable reasons for initial inquiries and gathering information regardless of

whether identifying information is requested; and that no part of the reasons for these interactions may be a ground prohibited by the Regulation (Recommendation 6.3).

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## Chapter 7: Duties relating to collection of information

Public confidence in the police is promoted when the police are perceived to be acting legitimately and they treat members of the public in a polite, respectful, open and dignified manner.

48. Chapter 7 focuses on the duties of police officers relating to the collection of identifying information. I begin the chapter by underscoring the importance of procedural justice and civility, noting that public confidence in the police is promoted when the police are perceived to be acting legitimately and they treat members of the public in a polite, respectful, open and dignified manner. When police are seen to be acting in a legitimate manner, people are more likely to follow police directives, report crime and cooperate in investigations.
49. When it comes to requests for identifying information, police have a duty to inform individuals of certain things before attempting to collect the identifying information. In this chapter, I outline the importance and timing of these notifications and what these notifications should include. I explain why there is a compelling reason to let people know the reason the information is being requested and how it will be used.
50. In this chapter, I recommend that requests for identifying information be made in a professional, civil manner (Recommendation 7.1). I make recommendations on what must be included in the rights notification that officers provide before requesting identifying information, the tone and manner that officers should use when notifying people of their rights and, finally, officer requests for supporting documentation (Recommendations 7.2, 7.3, and 7.4).
51. I pay close attention to requests for identifying information involving children under the age of 12. I make a recommendation about when officers can request identifying

information from children and the special rules that apply in these situations (Recommendation 7.5).

52. I then turn to a review of the document of interaction (also known as the “receipt”) and the importance of this document in promoting public confidence. I make recommendations on the province-wide standardization of the receipt, including details on the format of the receipt and the information to be contained on the receipt (Recommendations 7.6, 7.7, and 7.8).
  53. I outline and explore the duty of officers to record the reason for collecting identifying information, including an examination of the other information that should be specifically recorded during and after a request for identifying information under the Regulation. I make recommendations on what a police officer must record during a regulated interaction (Recommendations 7.9 and 7.10).
  54. I also recommend a format for and province-wide standardization of the form for police officers to input information obtained from these regulated interactions into their databases (Recommendations 7.11 and 7.12).
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## **Chapter 8: Inclusion of collected information in databases**

55. This chapter is divided into two parts.
56. The first part looks at the inclusion of data collected from requests for identifying information after the Regulation came into force on January 1, 2017. I address when identifying information collected by a police officer may be entered into a database on a restricted and a non-restricted basis, depending on compliance with the terms of the Regulation, and the role of the chief of police and their designate in making this determination. To this end, I make a recommendation on the role of the chief of police and their designate in ensuring compliance with the Regulation (Recommendation 8.1). I also recommend when information should be included in a restricted versus a non-restricted database (Recommendation 8.2).
57. In this first part, I also outline situations where police can access restricted information, and make recommendations related to: the rules for accessing information, documenting the access and the restrictions on the use of the information (Recommendations 8.3, 8.4 and 8.5). When it comes to the retention of

identifying information in police databases, I note that there is currently no consistent, province-wide time limit on retention. I recommend a definite time limit for the retention of data (five years), after which time it should automatically be destroyed unless needed for a specific, listed purpose in the Regulation (Recommendation 8.6). I further recommend that a police service may choose to destroy identifying information earlier than five years after it was collected (Recommendation 8.7).

58. Regarding the analysis of the identifying information in police databases, I outline the requirements for an annual, detailed review by the chief of police (or their designate) of an appropriately sized random sample of entries in the non-restricted database, with a recommendation about the need for clarity in what constitutes an appropriately sized random sample (Recommendation 8.8). When the chief of police's review determines that there was not proper compliance with the Regulation when identifying information was collected, this information must be kept in a restricted database. The chief of police must consider the results of the review and take appropriate actions to ensure that data is collected pursuant to the requirements of the Regulation. I also make a recommendation on the use of the collected, de-identified data for research purposes (Recommendation 8.9).
59. In the second part of Chapter 8, I address the retention of, access to and disclosure of data collected before January 1, 2017, to which the Regulation would have applied (also referred to as historical data). More specifically, the Regulation requires police services boards to develop policies and chiefs of police to develop procedures, respectively, regarding the retention of, access to and disclosure of historical data to which the Regulation would have applied. The challenge I faced here is that identifying information collected before January 1, 2017, was not separated into different types of interactions. The pre-Regulation computer modules for street checks in the police databases included what are now considered regulated interactions and other, non-regulated interactions (for example, tickets, observation checks). A reason for the sharp decline in the numbers of what are commonly referred to as street checks post-Regulation is that the numbers outlined pre-Regulation, which often were in the thousands, included both regulated and non-regulated interactions grouped together under the street checks module.
60. The challenge I faced here is that identifying information collected before January 1, 2017, was not separated into different types of interactions. The pre-Regulation computer modules for street checks in the police databases included what are now considered regulated interactions and other, non-regulated interactions (for example,

tickets, observation checks). A reason for the sharp decline in the numbers of what are commonly referred to as street checks post-Regulation is that the numbers outlined pre-Regulation, which often were in the thousands, included both regulated and non-regulated interactions grouped together under the street checks module.

61. At present, the Regulation does not require identifying information collected before January 1, 2017, to be deleted after a certain time nor does it require information collected contrary to the Regulation's terms to be placed in a restricted database. These decisions are left to the respective policies and procedures, which I described above.
62. I noted that many communities and organizations in my consultations requested that all historical data be destroyed, while other stakeholders indicated that historical data could be useful in future litigation or for possible missing persons investigations..
63. Given these considerations and to balance these perspectives, I recommend that historical data be destroyed five years after it was collected (Recommendation 8.12). I also make recommendations about storing historical data in restricted databases and the circumstances under which historical data can be accessed and used (Recommendations 8.10 and 8.11). Finally, I note that a police service may choose to destroy historical data earlier than five years after it was collected (Recommendation 8.13).

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## Summary of Part V: Operational, policy and procedural challenges – findings and recommendations

### Chapter 9: Training of Police and Public Education

The training failed to give adequate attention to the reason for the Regulation and, as such, failed to get strong buy-in from police officers who often viewed street checks as a Toronto-centric issue rather than a province-wide on



64. As part of my mandate, I was asked to review the curriculum and related training materials on the Regulation prepared by the Ontario Police College and to make recommendations on the training provided to police officers across the province. The Regulation mandates that training be provided to any police officer who attempts to collect identifying information.
65. In outlining the origins and development of the training and determining whether the training provided complied with the Regulation, I review in detail both the in-person training sessions and the online training modules that police officers were required to complete. I also outline the complexities in the initial delivery of the training in the Fall of 2016, noting the rushed development and delivery of the training and the fact that police services only finalized procedures for the implementation of the Regulation after the training was delivered.
66. I find that the training failed to give adequate attention to the reason for the Regulation and, as such, failed to get strong buy-in from police officers who often viewed street checks as a Toronto-centric issue rather than a province-wide one. In my view, the training also failed to spend sufficient time on the Regulation itself and the legal bases for police stops.
67. While the training focused on frontline police officers who collect identifying information and the designates of the chiefs of police, there was no specific training for the data verifiers on their roles and responsibilities, nor was there training for police chiefs or their deputies on the reporting, data retention and oversight requirements of the Regulation. I make recommendations on expanding the training to supervising officers and ensuring that there is strong buy-in from supervisors (Recommendations 9.1 and 9.2). I also recommend that trainers be selected based on their credibility with other officers and support of the Regulation (Recommendation 9.3).
68. In my meetings with police services in Ontario, I noticed that there was a lack of consistency in the training provided. Some services reported that the training was excellent while other services noted that the training was problematic and raised concerns among officers. Some officers felt that the training on implicit bias was founded on the incorrect assumption that all police officers are racist. However, I note that unconscious bias training is provided across many sectors. Unconscious bias is an issue that impacts all actors in the criminal justice system and everyone within society more generally. As such, I make observations and recommendations on how anti-bias and implicit bias training should be designed and implemented (Recommendations 9.4, 9.5, 9.6, 9.7, 9.8, and 9.9).

69. I highlight the importance of police and community cooperation in the development and delivery of training to police officers. I recommend that the training include: a consideration of adolescent development; specific segments regarding the geographic area and local realities of the police service; the application of the Regulation in real-world scenarios; and a special focus on the ability to articulate reasons for a regulated interaction (Recommendations 9.4, 9.5, 9.6, and 9.10). I recommend that the training include testing (Recommendation 9.9). Given the complexity of the Regulation, I recommend that there be regular, periodic refresher training on the Regulation (Recommendation 9.11). Further, when a police officer transfers from one police service to another, I recommend that they receive training about the specific communities being served and their particular issues (Recommendation 9.12). In my view, the Ministry of Community Safety and Correctional Services should fund the ongoing training on the Regulation for all police services in Ontario.
70. I recommend the creation of a Code of Practice, similar to those used in the United Kingdom (UK), which would provide officers with clear, coherent, comprehensive instructions on the implementation of the Regulation. The Code of Practice would include: definitions of key terms and legal concepts; information on when the Regulation applies; protocols and procedures; and the importance of civility and professionalism (Recommendation 9.15). I recommend that the Code of Practice be made publicly available so that people have information on the Regulation and its application (Recommendation 9.18).
71. As outlined in my report on the Independent Police Oversight Review, I recommend again here that consideration be given to establishing a College of Policing as the professional body for policing, and to modernizing the policing curriculum (Recommendation 9.13). A degree program or an expanded educational requirement would go a long way to ensuring that officers have the full suite of tools to undertake their critical work. I recommend developing a task force or working group to evaluate existing post-secondary programs in police studies or law enforcement issues, with a view to modernizing these programs and to updating the Ontario Police College curriculum to develop a full, stand-alone post-secondary degree in policing (Recommendation 9.14).
72. In addition, in this chapter I review the limited public information and lack of public education provided on the Regulation. The failure to properly inform the public has resulted in mass confusion regarding the Regulation, its specific terms and operation in practice. I recommend that the Ministry of Community Safety Correctional Services work with community groups, youth advocacy groups, legal aid

clinics and school boards to develop and launch public education materials (Recommendation 9.16). I recommend that the Ministry create a full, cross-platform advertising and social media strategy on the Regulation (Recommendation 9.17).

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## Chapter 10: Performance targets, policies and procedures

The failure to properly inform the public has resulted in mass confusion regarding the Regulation, its specific terms and its operation in practice.

73. In Chapter 10, I outline the current requirements under the Regulation regarding the policies and procedures developed by police services boards and chiefs of police, respectively. My recommendations in this chapter are made to ensure clarity and consistency across the province.
74. I note at the outset of this chapter that the Regulation prohibits police services from imposing on its police officers performance targets for the collection of identifying information. This restriction was intended to prevent unnecessary and improper street checks and it is a good one.
75. All policies and procedures must be consistent with the Regulation. The current Regulation requires policies and procedures to be developed regarding: the form of the receipt; the content of the annual report; and the retention, access and disclosure of information collected.
76. Police services and police services boards across the province are very different, and so are their policies and procedures. To address this issue, I recommend that there should be a minimum, consistent, province-wide policy to implement the Regulation that is binding on all police services boards (Recommendation 10.1).
77. To ensure the accuracy and consistency of information stored by police, I recommend that inaccurate information be restricted and eventually purged from the regulated interactions database (Recommendation 10.2).

78. I recommend that the policies seek to eliminate interactions based, even in part, on grounds of discrimination prohibited by the *Ontario Human Rights Code* (Recommendation 10.3). Police services boards may also develop policies that expand on the content of the Regulation for the purpose of protecting human rights and preventing discrimination (Recommendation 10.4).
79. Another major issue I heard about during my consultations is how police use the information they collect. Many individuals expressed the concern that they would be labelled a “usual suspect” or “known to police”, which would lead to further stops and negative treatment, and affect their employment prospects and travel. This is especially significant because there is no way to guarantee that information collected during a street check is reliable (for example, someone could pretend to be someone else). I have made a recommendation aimed at addressing this issue (Recommendation 10.5).
80. Chiefs of police must develop procedures that are consistent with the policies developed by the police services boards. This has not always been the case, particularly where a police services board makes a policy that goes beyond the basic requirements of the Regulation. I recommend that chiefs of police ensure their procedures are in line with their police services boards’ policies (Recommendation 10.6). I also make a recommendation regarding the substance of the procedures: that they should seek to eliminate regulated interactions that are based, even in part, on a prohibited ground of discrimination under the *Ontario Human Rights Code* (Recommendation 10.7). The procedures can, of course, go beyond the requirements of the Regulation for the purposes of protecting human rights and preventing discrimination, as long as they meet the minimum standard set out in the Regulation (Recommendation 10.8). Finally, I recommend that the procedures be binding on chiefs of police (Recommendation 10.9).
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## Chapter 11: Reports and compliance

81. In this chapter, I focus on the annual reports that, according to the Regulation, must be prepared by chiefs of police and reviewed by police services boards to ensure compliance with the Regulation.
82. The annual reports must include the following information regarding attempted collections of identifying information: the number of attempted collections; the

number of individuals from whom identifying information was collected; the number of times specific sections of the Regulation were relied upon to exempt officers from certain rights notifications or from providing a receipt; the age, race and gender of the individuals from whom attempts to collect identifying information were made and whether there was any disproportionate collections; the neighborhoods or areas where collections were attempted; instances of non-compliance with the Regulation; and the number of times members of a police service were allowed to access restricted information in the police service's database.

83. In reviewing the annual reports required under the Regulation from various services, I have noted that these reports have ranged in length anywhere from a paragraph in a police service's overarching annual report to a 20-page stand-alone report. The reports include different age ranges, racial categories and approaches to the number of compliant vs. non-compliant requests. These variations make it difficult to compare the implementation and impact of the Regulation across Ontario. I also note that some services have included the number of complaints and requests for information they have received with respect to regulated interactions while others have not. I recommend that a template annual report be developed for use by police services across the province (Recommendation 11.1).
84. The timeliness of annual reports is a concern. As of the time of writing, only 13 police services had made their reports publicly available. Currently, the Regulation does not include a timeline for submission of annual reports. I recommend that annual reports be made publicly available within the first six months of the following calendar year (Recommendation 11.2).
85. I recommend that the annual report list the number of complaints and requests for information made with respect to regulated interactions (Recommendation 11.3). Furthermore, I recommend that the age groups of those requested to provide identifying information be standardized and that the information distinguish between children and adults, including a clear list of recommended age groups (Recommendations 11.4, 11.5 and 11.6). Similarly, I recommend that the racial groups of those requested to provide identifying information be standardized, including a list of recommended racial group categories (Recommendations 11.7 and 11.8).
86. At present, the Regulation requires that the data be analyzed to determine if identifying information is being collected from people disproportionately, but it does not define what "disproportionately" means. The result is that each police : : could have a different interpretation of disproportionate. I canvass various jurisdictions including the United States and the United Kingdom, as well as practices

within certain police services in Ontario, to bring clarity to the concept of disproportionate collections of information. I have made recommendations to address this issue and ensure consistency among police services, including defining the term disproportionate and making the analyzed, de-identified data publicly available (Recommendations 11.9, 11.10, 11.11 and 11.12).

87. In the context of disproportionate collections of identifying information, I underscore the importance of chiefs of police reviewing the practices of their police services and preparing reports summarizing their review as well as any proposals to address issues of concern. I recommend that: collected identifying information be monitored for compliance as it is received to ensure that it was properly obtained; and an early warning system be put in place to ensure officer compliance and to correct any unintentional mistakes (Recommendations 11.13, 11.14 and 11.15). Identifying concerns early ensures that officers not complying with the Regulation can receive instruction or retraining as required (Recommendation 11.16). I recommend that officers who persist in collecting identifying information in breach of the Regulation be subject to discipline (Recommendation 11.17).
88. Finally, in this chapter, I address the issue of disciplinary charges, noting that police officers could be sanctioned for obtaining information improperly but chiefs of police would not be sanctioned for using the improperly obtained information as long as the use of that information is allowed under the Regulation. I note that the disciplinary measures should not be limited only to those who are attempting to collect the identifying information contrary to the Regulation but should also include those who authorize or allow such conduct, including supervisors or chiefs of police. I recommend that the Code of Conduct be amended to include both groups (Recommendation 11.18).
89. During my consultations, I also heard about repeated instances where officers refused to provide their name or badge number to members of the public when requested. I make a recommendation to address this concern by noting that it should be considered misconduct for officers who are not engaged in covert operations to refuse to provide their name and badge number if requested (Recommendation 11.19).

## Chapter 12: Other policy and procedural recommendations to improve the implementation of the regulation

Community policing is a vital part of policing in Ontario and goes a long way to establish and maintain the strong police–community relations essential for building public trust in police.

90. This Review focuses on *Regulation 58/16* and its specific terms and provisions. However, the terms of reference for the Review ask me to consider any overarching amendments and policy and/or procedural changes to improve the implementation of the Regulation.
91. Within these parameters, I have considered some ways in which the issues regarding street checks intersect with police practice more generally. To this end, I have made some observations and recommendations in the areas of community policing, partnerships with Indigenous communities, locally-based policing, youth education, and diversity and inclusion in police services.
92. Community policing is a vital part of policing in Ontario and goes a long way to establish and maintain the strong police–community relations essential for building public trust in police. After outlining some examples of strong, positive community policing programs in Ontario, I recommend that police services in Ontario receive adequate funding for greater community involvement (Recommendation 12.1).
93. I heard during my consultations with police and Indigenous communities that the relationship between police and many Indigenous peoples throughout Ontario is a complex one. Respectful relationships between police and Indigenous communities takes time and commitment. I recommend that police services increase outreach to establish meaningful and equitable partnerships with Indigenous communities (Recommendation 12.2).
94. Throughout my consultations, I heard from many stakeholders that they were concerned that police officers did not live within the communities they served, resulting in a lack of strong direct links to or deep knowledge of the communities they

police. Given the emphasis on community-based policing, I believe it is beneficial to have police officers hired to work in the community in which they live, and I make a recommendation that efforts be made by police services to hire people who live within the city or region they will serve (Recommendation 12.3).

95. Seeing the vital role that community police officers serve, I recommend that they should be engaged in a local community for a sufficient period of time to form meaningful relationships within that community (Recommendation 12.4).
96. Further, based on my consultations with youth across the province and my review of Saskatchewan's K-12 rights education program, I recommend that there be a similarly robust curriculum in Ontario schools to teach youth about: their rights and responsibilities; Indigenous and Black history; and information about the Regulation and its operation (Recommendation 12.5).
97. Finally, part of the perception of discrimination in regulated interactions may result from the fact that the police officer requesting identifying information may be of a different racial background than the person to whom the request is made. I believe that a diverse, inclusive police service, at all ranks, will address this concern and make a valuable difference.
98. I know that diversity and inclusion has a range of tangible benefits in policing, including dispelling myths and stereotypes, bringing in new perspectives, building connections to diverse communities and engendering a deeper understanding of the communities served. Current statistics demonstrate a noticeable lack of diversity in policing at all levels, and I believe more must be done to ensure that the profession is representative of Canadian society.
99. Having a diverse police service alone will not ensure stronger police-community relations or automatically solve all the concerns raised in this report. It should be recognized that police culture is a powerful force that can have a strong impact on all officers – regardless of racial identity, sexual orientation, gender or Indigeneity – compelling them to adopt the prevailing, hierarchical norms of the organization.
100. I make a range of recommendations to address this issue, including conducting periodic surveys and reviews, and developing diversity and inclusion strategies (Recommendations 12.6, 12.7, 12.8, 12.9, 12.10, 12.11, 12.12, 12.13 and 12.14).

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