

Policy Type: **Executive Limitations**

Policy Title: **Collection of Identifying Information in Certain Circumstances – Prohibition and Duties**



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## Policy Statement

The Durham Regional Police Services Board is committed to enhancing trust and confidence in police services and to ensuring that they are delivered without bias or discrimination. Interactions between members of the public and members of the DRPS are undertaken to advance community safety and are intended to inspire confidence and build positive relationships. The practices and procedures of the DRPS in respect of the collection of identifying information shall not be arbitrary or based upon any racial profiling, and shall reflect a commitment to professionalism, accountability and transparency.

## Reporting

Accordingly, the Chief of Police shall not fail to ensure that:

1. A procedure is adopted to ensure compliance with all requirements stated in Regulation 58/16 of the *Police Services Act*, “Collection of Identifying Information in Certain Circumstances – Prohibition and Duties” (the Regulation).
2. Beginning January 1, 2017, a document is offered to each individual from whom identifying information is attempted to be collected and given to each individual if he or she wants it, unless the officer believes that continuing to interact with the individual will compromise the safety of an individual or might delay the officer from responding to another matter that should be responded to immediately.
3. The document given to the individual includes:
  - a. The officer’s name, identification number, and the date, time and location of the attempted collection;
  - b. Information about how to contact the Independent Police Review Director should the individual wish to inquire about making or make a public complaint;
  - c. An explanation that an individual can request access to information about himself or herself that is in the custody or control of the DRPS, under the *Municipal Freedom of Information and Protection of Privacy Act*.

- 3.1 Any amendments to the document be shared with the Board for information and input.
4. An annual report, each calendar year, at a time determined by the Board, in consultation with the Chief, be presented to the Board that includes all information to be reported as required by this policy and in section 14 of the Regulation. The annual report on the collection of identifying information shall be included as part of the DRPS annual report under section 31 of the Adequacy and Effectiveness of Police Services Regulation. The annual report on the collection of identifying information shall include:
- a. An assessment of the utility of the information collected pursuant to the Regulation to achieving positive community safety outcomes;
  - b. Approximate costs for adhering to the Regulation, including all training and administrative costs;
  - c. The number of public complaints resulting from or relating to information collected pursuant to the Regulation, and the number of such complaints that were substantiated;
  - d. The number of requests made to the Police Service under the *Municipal Freedom of Information and Privacy Act* relating to information collected pursuant to the Regulation;
  - e. The number of attempted collections;
  - f. The number of attempted collections in which identifying information was collected;
  - g. The number of individuals from whom identifying information was collected;
  - h. The number of times a police officer did not inform the individual under 6(1) because the officer had reason to believe that informing the individual might compromise the safety of an individual;
  - i. The number of times a police officer did not inform the individual under 6(1) because informing the individual would likely compromise an ongoing police investigation;
  - j. The number of times a police officer did not inform the individual under 6(1) because informing the individual might allow a confidential informant to be identified;
  - k. The number of times a police officer did not inform the individual under 6(1) because informing the individual might disclose the identity of a person contrary to the law, including a young person contrary to the Youth Criminal Justice Act;
  - l. The number of times an individual was not given a receipt document because the individual did not indicate that he or she wanted it;

- m. The number of times an officer did not provide a receipt as the officer believed that continuing to interact with the individual might compromise the safety of an individual;
- n. The number of times an officer did not provide a receipt as the officer believed that continuing to interact with the individual might delay the officer from responding to another matter that should be responded to immediately;
- o. The number of attempted collections from individuals who are perceived by the police officer to be:
  - i. Males;
  - ii. Females;
  - iii. Within the age groups as identified by the Chief of Police and in accordance with the Regulation;
  - iv. Within the racialized groups as identified by the Chief of Police and in accordance with the Regulation.
- p. An analysis of whether the collections were attempted disproportionately based on the sex, age, or membership in a racialized group, or a combination of these factors, and if so, any additional information that the Chief considers relevant to explain the attempted collections.
- q. The neighbourhoods or areas where collections were attempted and the number of attempted collections in each neighbourhood or area.
- r. The number of determinations made by the Chief as to whether the information entered into the database:
  - i. Did not comply with limitations on collection set out in section 5 or clause 9(4)(a) of the Regulation;
  - ii. Did not comply with sections 5, 6 and 7 of the Regulation based on the results of the review(s), done at least once a year, of an appropriately sized random sample of entries of identifying information included in the database to estimate within a margin of error of plus or minus 5 percent, at a 95 percent confidence level.
- s. The number of times, if any, members of the police force were permitted to access identifying information to which access must be restricted by virtue of one or more of the following:
  - 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* or a report required due to disproportionate collection (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.
5. Following an analysis of the annual report referred to in paragraph 4 of this policy, if a determination is made that identifying information was attempted to be collected disproportionately, a review of the practices of the Police Service is conducted and a report is provided to the Board that includes:
- a. The results of the review;
  - b. Any proposals the Chief determines to be appropriate to address the disproportionate attempted collection of information.
- 5.1 Any such report prepared by the Police Service under section 5 of this policy be presented to the Board within 60 days of the annual report to the Board. The Board shall publish any such report it receives under section 5 of this policy on the Internet and shall make it available to the public free of charge. The Board shall consider the report and its proposals and consider whether to give direction to the Chief of Police under section 31(1)(e) of the Act.
6. Identifying information collected before January 1, 2017 be retained, accessed and disclosed pursuant to DRPS procedures in place at the time the information was collected. If the information was collected in violation of the law as it existed at the time of collection, its retention, access and disclosure shall be subject to the restrictions in the Regulation.
7. Identifying information collected on or after January 1, 2017 be retained, accessed, and disclosed only in the following circumstances, where such reasons can be articulated:
- a. Where the requirements of paragraph 9(4) of the Regulation are satisfied;
  - b. For the purpose of an ongoing police investigation;
  - c. In connection with legal proceedings, or anticipated legal proceedings
  - d. 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;
  - e. In order to prepare the annual report described in section 5 of this policy or the report described in section 6 of this policy;
  - f. For the purpose of complying with a legal requirement;
  - g. For the purpose of evaluating a police officer's performance.

8. Identifying information collected contrary to this Regulation, or information held in the database beyond five years, be restricted to the Chief and his or her designate(s). Identifying information collected contrary to the Regulation shall not be retained longer than is reasonably necessary to ensure the information is available in the following circumstances:
  - a. for the purpose of an ongoing police investigation;
  - b. in connection with legal proceedings or anticipated legal proceedings;
  - c. 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;
  - d. in order to prepare the annual report or a report required due to disproportionate collection (under section 15 of the Regulation);
  - e. for the purpose of complying with a legal requirement; or
  - f. for the purpose of evaluating a police officer's performance.
  
9. On an annual basis, the performance of designate(s) under the Regulation is reviewed to determine whether the designate(s) is performing his or her duties effectively and if the number of designate(s) is sufficient to manage the workload associated with the Regulation.