



04-14 Regulated Interactions

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Rationale

This Procedure provides direction to members of the Toronto Police Service (Service) only for the specified interactions with the public that are governed by *Ontario Regulation 400/23* made under the *Community Safety and Policing Act (CSPA)* entitled *Collection of Identifying Information in Certain Circumstances – Prohibition and Duties* (O. Reg. 400/23) and Toronto Police Service Board Policy entitled *Regulated Interactions with the Community and the Collection of Identifying Information* (Board Policy).

This Procedure **applies only** to an attempt by a police officer to collect identifying information by asking an individual, in a face-to-face encounter, to identify themselves or to provide information for the purpose of identifying the individual, and includes such an attempt whether or not identifying information is collected, **only if that attempt is done for the purpose of**

- inquiring into offences that have been or might be committed; and/or
- inquiring into suspicious activities to detect offences; and/or
- gathering information for intelligence purposes.

Notwithstanding the above, this Procedure **does not apply** to an attempt by a police officer to collect identifying information from an individual when

- investigating an offence the police officer reasonably suspects has been or will be committed;
- the individual is legally required to provide the information to a police officer (e.g. during a traffic stop or trespass investigation);
- the individual is under arrest or is being detained;
- the police officer is engaged in a covert operation;
- the police officer is executing a warrant, acting pursuant to a court order or performing related duties; or
- the individual is employed in the administration of justice or is carrying out duties or providing services that are otherwise relevant to carrying out the police officer's duties.

Procedure

A police officer's exercise of discretion and all interactions between a police officer and an individual must be lawful, ethical, bias-free, and conducted in a professional manner with effective communication which respects and upholds the rights and freedoms of all individuals.

This Procedure outlines a legislated process police officers shall follow for all Regulated Interactions that will ensure compliance with

- the *Canadian Charter of Rights and Freedoms* (Charter) generally and, in particular, the S. 9 protection against arbitrary detention and the S. 15 right to equal treatment under the law;
- O. Reg. 400/23;
- the *Human Rights Code* (HRC) of Ontario generally and, in particular, the S. 1 freedom from discrimination based on race, place of origin, age, colour, ethnic origin, gender identity or gender expression;
- the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) generally and in particular, with Part II of the MFIPPA; and
- Board Policy and other associated Service Governance.

Limitations on Regulated Interactions

Regulated Interactions shall be conducted in a manner consistent with this Procedure and O. Reg. 400/23.

A police officer shall **not** attempt to collect identifying information about an individual from the individual if

- any part of the reason for the attempted collection is that the police officer perceives the individual to be within a particular racialized group **unless**,
 - the police officer is seeking a particular individual,
 - being within the racialized group forms part of the description of the particular individual or is evident from a visual representation of the particular individual, **and**
 - the police 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;
- ➔ *Additional information **may** include, but is not limited to the following:*
- *the appearance of the individual, including clothing, height, weight, eye colour, hair colour, hair style;*
 - *the location where the individual might be found;*
 - *the type of vehicle the individual might be found in;*
 - *the associates the individual might be found with; or*
 - *the behaviour of the individual.*
- However, additional information **may not** consist solely of one or more of the individual's sex, gender, or approximate age.*

or

- the attempted collection is **done in an arbitrary way**.

For the purpose of this Procedure **only**, as stipulated in O. Reg. 400/23, a Regulated Interaction is **done in an arbitrary way unless** the police officer has a reason that they can articulate that complies with all of the following

- The reason includes details about the individual that cause the police officer to reasonably suspect that identifying the individual **may** contribute to or assist with
 - inquiring into offences that have been or might be committed; and/or
 - inquiring into suspicious activities to detect offences; and/or
 - gathering information for intelligence purposes.
- The reason **does not** include either of the following:
 - that the individual has declined to answer a question from the police officer which the individual is not legally required to answer; or

- that the individual has attempted or is attempting to discontinue interaction with the police officer in circumstances in which the individual has the legal right to do so.
- The reason is **not only** that the individual is present in a high crime location.

Permission Required for Access to Restricted Regulated Interaction Reports & Historical Contact Data

As of January 1, 2017, all Historical Contact Data was classified as restricted. Access to any Regulated Interaction Report collected in accordance with this Procedure shall be restricted after the 5th anniversary of the date on which it was entered into a Service database.

Prior to accessing restricted Regulated Interaction Reports or Historical Contact Data, members will require the approval of the Chief. Members seeking approval to access the restricted records shall submit a request to their Officer in Charge (OIC), in accordance with this Procedure, to seek the approval of the Chief.

A member **may only** submit a request for access to a restricted record

- for the purpose of an ongoing police investigation involving
 - preservation of life and/or preventing bodily harm or death,
 - homicides and attempts,
 - sexual assaults, and all attempts (for the purpose of this standard, is deemed to include sexual interference, sexual exploitation and invitation to sexual touching),
 - occurrences involving abductions and attempts,
 - missing person occurrences, where circumstances indicate a strong possibility of foul play,
 - occurrences suspected to be homicides involving found human remains,
 - criminal harassment cases in which the offender is not known to the victim,
 - occurrences involving a firearm or discharge of a firearm, and/or
 - gang related investigations;
- in connection with legal proceedings or anticipated legal proceedings
 - including instances where crown advice is that it is relevant to R. v. Stinchcombe, (1991) and other disclosure obligations;
- for the purpose of dealing with a complaint under Part X of the CSPA;
- in order to prepare the annual report described in subsection 15 (2) or the report required under section 16 of O. Reg. 400/23;
- for the purpose of complying with a legal requirement; or
- for the purpose of evaluating a police officer's performance.

No member of the Service shall use any Historical Contact Data or Regulated Interaction Report as a basis for classifying an individual as "known to police".

Member

1. When seeking access to restricted Regulated Interaction Reports and/or Historical Contact Data shall
 - ensure the need to access the restricted record is in accordance with this Procedure
 - complete a TPS 294 and TPS 294A, as required

➔ ***Only information contained in the 294A will be queried by Intelligence Services.***

- submit the completed request, as required, through their OIC , for approval of the Chief
 - ➔ *Under exigent circumstances, the OIC may request access to the restricted records by contacting the Duty Senior Officer prior to the completion and submission of the TPS 294. If satisfied of the exigency of the request, the Duty Senior Officer shall consult with the Staff Superintendent – Detective Operations.*
- after receiving the results complete the TPS 295, as required, and submit to their Unit Commander

Police Officer

2. Police officers acting in accordance with this Procedure shall have successfully completed the required training within the previous 36 months. This includes
 - every police officer who attempts to collect identifying information about an individual from an individual; and
 - any police officer to whom the Chief delegates any powers or duties of the Chief outlined in section 10 of O. Reg. 400/23
3. When a police officer initiates a Regulated Interaction, **whether or not** identifying information is collected, shall
 - ensure the purpose for the interaction is not done in an **arbitrary way**
 - ensure the reason for the interaction can be clearly articulated, including details relating to the particular circumstance
 - comply with Procedure 13–14
 - not attempt to collect identifying information, **without first**
 - informing the individual that they are not required to provide identifying information; **unless** the police officer has reason to believe that informing the individual may compromise the safety of an individual
 - informing the individual why they are attempting to collect their identifying information; **unless** informing the individual:
 - may compromise the safety of an individual;
 - would likely compromise an ongoing police investigation;
 - may result in the identification of a confidential informant; or
 - may disclose the identity of a person contrary to the law, including disclosing the identity of a young person contrary to the *Youth Criminal Justice Act*.
 - respect and uphold the individual's right to
 - decline to answer a question from the police officer which the individual is not legally required to answer, and/or
 - discontinue interaction with the officer in circumstances in which the individual has the legal right to do so
 - recognize, upon disengaging without having asked the individual for Identifying Information the encounter is not a Regulated Interaction and, therefore;
 - a Regulated Interaction Report is not to be submitted, and
 - the individual is not to be offered or provided a TPS 308
 - record pertinent details in their memorandum book in compliance with Procedure 13–17
 - complete a separate Regulated Interaction Report for each individual, as required
 - ➔ *A Regulated Interaction Report is required in **all** instances where an attempt to collect identifying information is made, **whether or not identifying information is collected**. The report must include the officer's perception of the individual's gender identity, age, and racialized group, but recording name information is not mandatory.*
- comply with Procedure 15–17, if applicable

- offer a TPS 308 to the individual from whom an attempt to collect identifying information was made
 - if the individual indicates that they want it
 - complete a TPS 308;
 - provide the copy to the individual; and
 - retain the original by affixing it in the memorandum book.
- ➔ *The name and badge number of any assisting police officer or supervisor who is present at or assists in conducting the Regulated Interaction shall be included on the TPS 308.*
4. A police officer is not required to offer and/or provide a TPS 308 when
 - it might compromise the safety of an individual; or
 - it might delay the police officer from responding to another matter that should be responded to immediately; or
 - the individual discontinues the interaction

➔ *A police officer **must** be able to articulate the reason(s) why a TPS 308 was not offered and/or provided, including details relating to the particular circumstances.*
 5. When the individual is unable to communicate shall
 - consider possible reasons, including but not limited to; disability, medical condition, language barrier
 - if the individual has difficulty communicating due to a medical condition comply with Procedure 10–06
 - upon determining the individual cannot communicate in English comply with Procedure 04–09
 6. Upon receipt of a Regulated Interaction Report returned by a Supervisory Officer for correction shall amend and resubmit the report as required, forthwith.
 7. When using information from a Regulated Interaction Report which has not yet been approved shall notify the Controller – Regulated Interactions via email.

Supervisory Officer

8. When assigned to duties which involve supervising police officers who conduct Regulated Interactions shall
 - monitor and evaluate the quality of any Regulated Interactions conducted by police officers under their supervision
 - ensure police officers under their supervision can articulate the reason for any Regulated Interaction they initiate
 - not use the number of times or the number of individuals from whom a police officer attempts to collect identifying information to evaluate work performance
9. If the Regulated Interaction Report is complete, accurate, uses appropriate language and is compliant with this Procedure shall approve the Regulated Interaction Report.
10. If the Regulated Interaction Report is incomplete, needs amendment, or contains information which needs to be recorded in another type of eReport, shall
 - document the areas of the Regulated Interaction Report requiring amendment
 - return the Regulated Interaction Report to the submitting police officer for amendment
 - provide guidance or instruction targeted at correcting the deficiency, if applicable
 - ensure the police officer receives additional training, if applicable
 - notify the submitting police officer's supervisory officer, if applicable

11. If the Regulated Interaction Report contravenes this Procedure shall
 - document the areas of the report which contravene this Procedure
 - notify the submitting police officer's supervisory officer, if applicable
 - notify the OIC
 - if applicable, initiate the appropriate complaint/discipline process in compliance with 13–03 and/or 13–11
 - notify the Unit Commander – Toronto Police College and Controller – Regulated Interactions via email
12. If there are any issues or concerns with a Regulated Interaction Report that is being reviewed, may contact the Controller – Regulated Interactions via email for clarification and assistance as required.

Officer in Charge

13. The OIC shall
 - not use the number of times or the number of individuals from whom a police officer attempts to collect identifying information to evaluate work performance of police officers
 - ensure supervisory officers are monitoring and evaluating the quality of any Regulated Interactions conducted by police officers under their supervision
 - when reviewing memorandum book entries ensure compliance with this Procedure
14. Upon becoming aware of a Regulated Interaction Report which has not yet been approved shall ensure the report is reviewed for completeness, accuracy, appropriate language and compliance with this Procedure.
 - ➔ *In accordance with O. Reg. 400/23, the process to review all Regulated Interaction Reports needs to be completed within 30 days.*
15. If the Regulated Interaction Report is complete, accurate, uses appropriate language and is compliant with this Procedure shall ensure the Regulated Interaction Report is approved.
16. If the Regulated Interaction Report is incomplete, needs amendment, or contains information which needs to be recorded in another type of eReport, shall ensure
 - the areas of the Regulated Interaction Report requiring amendment are documented
 - the submitting police officer's supervisory officer is notified, if applicable
 - the Regulated Interaction Report is returned to the submitting police officer for amendment
17. If the Regulated Interaction Report contravenes this Procedure shall ensure compliance with item 11 of this Procedure.
18. If there are any issues or concerns with a Regulated Interaction Report that is being reviewed, may contact the Controller – Regulated Interactions via email for clarification and assistance as required.
19. Upon receipt of a TPS 294 and TPS 294A request to access restricted Regulated Interaction Reports and/or Historical Contact Data shall
 - review the request, and
 - ensure the need to access the restricted records is in accordance with this Procedure;
 - consider the merits of the submission, on a case by case basis; and
 - only approve the request when satisfied that the specified purpose for which access was requested cannot reasonably be fulfilled without the requested access.
 - if denying, indicate the reason and ensure the request is returned to the submitting member

- if approving, ensure the request is submitted through the Unit Commander for approval of the Chief
 - ➔ *Under exigent circumstances, the OIC may request access to the restricted records by contacting the Duty Senior Officer prior to the completion and submission of the TPS 294. If satisfied of the exigency of the request, the Duty Senior Officer shall consult with the Staff Superintendent – Detective Operations.*

Unit Commander

20. The Unit Commander shall ensure
 - all police officers under their command successfully complete the required training in accordance with this Procedure within the previous 36 months
 - unit level performance management processes do not use the number of times or the number of individuals from whom a police officer attempts to collect identifying information to measure performance of police officers
21. Upon receipt of a TPS 294 request to access restricted Regulated Interaction Reports and/or Historical Contact Data shall
 - review the request, and
 - ensure the need to access the restricted records is in accordance with the specified purposes for which access may be approved;
 - consider the merits of the submission, on a case by case basis; and
 - only approve the request when satisfied that the specified purpose for which access was requested cannot reasonably be fulfilled without the requested access.
 - if denying, indicate the reason and ensure the TPS 294 is returned to the submitting member
 - if approving, ensure the TPS 294 is submitted through the Staff Superintendent for approval of the Chief, as applicable
 - ensure the requesting member completes and submits a TPS 295, as required

Unit Commander – Toronto Police College

22. The Unit Commander – Toronto Police College shall ensure
 - complete and accurate training records are maintained for the requisite training
 - a police officer is designated as the Controller – Regulated Interactions for the Service
 - compliance with item 29 of this Procedure

Director – Information Management

23. The Director – Information Management shall establish unit-specific processes to ensure
 - the Controller - Regulated Interactions is notified of any Regulated Interaction Report
 - which has not been approved within 30 days
 - after the 5th anniversary of the date on which it was entered into a Service database
 - ➔ *Any Regulated Interaction Report that is not reviewed within 30 days, or after the 5th anniversary of the date on which it was entered into a Service database, is required to be restricted in accordance with O. Reg. 400/23.*
 - access to any identifying information collected in a Regulated Interaction is restricted after the 5th anniversary of the date on which it was entered into a Service database
 - the Service Annual Statistical Report relating to Regulated Interactions is completed

- the Service quarterly report relating to requests for access to Historical Contact Data is completed
- compliance with all Board reporting requirements outlined in
 - O. Reg. 399/23; and
 - O. Reg. 400/23

Staff Superintendent

24. Upon receipt of a TPS 294 request to access restricted Regulated Interaction Reports and/or Historical Contact Data shall
- review the request, and
 - ensure the need to access the restricted records is in accordance with the specified purposes for which access may be approved;
 - consider the merits of the submission, on a case by case basis; and
 - only approve the request when satisfied that the specified purpose for which access was requested cannot reasonably be fulfilled without the requested access
 - if denying, indicate the reason and ensure the TPS 294 is returned to the submitting member
 - if approving, ensure the TPS 294 is submitted to the Staff Superintendent – Detective Operations

Staff Superintendent – Detective Operations

25. Upon receipt of a TPS 294 request to access restricted Regulated Interaction Reports and/or Historical Contact Data shall
- review the request, and
 - ensure the need to access the restricted records is in accordance with the specified purposes for which access may be approved;
 - consider the merits of the submission, on a case by case basis; and
 - only approve the request when satisfied that the specified purpose for which access was requested cannot reasonably be fulfilled without the requested access.
 - if denying, indicate the reason and ensure the TPS 294 is returned to the submitting member
 - if approving, ensure the TPS 294 is submitted for approval of the Chief, as applicable
26. In exigent circumstances only, after consultation with the Duty Senior Officer and prior to the completion of the TPS 294, if satisfied of the exigency of the request, may approve access to the restricted records on behalf of the Chief.

Chief

27. Upon receipt of a TPS 294 request to access restricted Regulated Interaction Reports and/or Historical Contact Data shall review the request and
- if denying, indicate the reason and ensure the TPS 294 is returned to the submitting member
 - if approving, ensure the TPS 294 is forwarded to the Unit Commander – Intelligence Services

Unit Commander – Intelligence Services

28. Upon receipt of a TPS 294 request to access restricted Regulated Interaction Reports or Historical Contact Data shall
- ensure appropriate members of Intelligence Services are assigned to facilitate the request in accordance with unit-specific policy

Controller – Regulated Interactions

29. When assigned as the Controller – Regulated Interactions at the Toronto Police College shall
- fulfill the role of subject matter resource for the Service
 - review and assess all Regulated Interaction Reports
 - develop and maintain a process to
 - address any Regulated Interaction Reports that are non-compliant with O. Reg. 400/23
 - restrict Regulated Interaction Reports
 - that are non-compliant with O. Reg. 400/23
 - that have not been approved within 30 days of the information first being entered into a Service database
 - after the 5th anniversary of the date on which it was entered into a Service database
 - prepare a semi-annual report that outlines the results of all reviews undertaken specific to Regulated Interaction Reports
 - identify any relevant training enhancements that may be required
 - monitor and report on any changes or amendments to legislation or Service Governance which may be relevant to training specific to Regulated Interactions

Supplementary Information

Governing Authorities

Federal:

- Constitution Act, Part I, Canadian Charter of Rights and Freedoms
- Criminal Code

Provincial:

- Community Safety and Policing Act
- Community Safety and Policing Act (Ontario Regulations)
 - O. Reg. 392/23, Adequate and Effective Policing (General)
 - O. Reg. 399/23, General Matters Under the Authority of the Lieutenant Governor in Council
 - O. Reg. 400/23, Collection of Identifying Information in Certain Circumstances – Prohibition and Duties
- Human Rights Code
- Municipal Freedom of Information and Protection of Privacy Act

Municipal:

- Toronto Municipal Code, Chapter 219, Records, Corporate (Local Boards), Article 1

Other:

- R. v. Stinchcombe (Supreme Court of Canada) (1991)

Associated Governance

Toronto Police Service Board:

- Board Policies

- Collection, Use and Reporting of Demographic Statistics
- Human Rights Policy
- Race and Ethnocultural Equity Policy
- Regulated Interaction with the Community and the Collection of Identifying Information

Toronto Police Service Procedures:

- 04–09 American Sign Language and Language Interpreters
- 10–06 Medical Emergencies
- 13–03 Police Officer Internal Complaint Process
- 13–11 Unsatisfactory Work Performance
- 13–14 Human Rights
- 13–17 Notes and Reports
- 15–17 In–Car Camera System

Other:

- Standards of Conduct
 - 1.9 – Fairness, Discrimination and Harassment
 - 1.10 – Racially Biased Policing
- Records Retention Schedule

Forms:

- eReports
- Regulated Interaction Report
- TPS 294 Request to Access Restricted Records
- TPS 294A Request to Access Restricted Records – Supplementary Report
- TPS 295 Restricted Records Post-Access Summary Report
- TPS 308 Regulated Interaction Receipt

Definitions

For the purposes of this Procedure, the following definitions will apply:

Controller – Regulated Interactions means the member of the Service, assigned by the Unit Commander - Toronto Police College, who assesses procedural compliance of Regulated Interaction Reports. The Controller – Regulated Interactions is also responsible for:

- fulfilling the role of subject matter resource for the Service
- reviewing and assessing all Regulated Interaction Reports
- developing and maintaining a process to
 - address any Regulated Interaction Reports that are non-compliant with O. Reg. 400/23
 - restrict Regulated Interaction Reports
 - that are non-compliant with O. Reg. 400/23
 - that have not been approved within 30 days of the information first being entered into a Service database
 - after the 5th anniversary of the date on which it was entered into a Service database
- preparing a semi-annual report that outlines the results of all reviews undertaken specific to Regulated Interaction Reports
- identifying any relevant training enhancements that may be required
- monitoring and reporting on any changes or amendments to legislation or Service Governance which may be relevant to training specific to Regulated Interactions

Historical Contact Data means all Person Investigated Card (Form 172), Field Information Report (Form 208), Community Inquiry Report (Form 306), and Community Safety Note (Street Check) records submitted into the 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.

Identifying Information means 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.

Regulated Interaction means an **attempt by a police officer to collect identifying information by asking an individual, in a face-to-face encounter**, to identify themselves or to provide information for the purpose of identifying the individual, and includes such an attempt **whether or not identifying information is collected**,

- i. **only if** that attempt is **done for the purpose of**,
 - **inquiring into offences that have been or might be committed; and/or**
 - **inquiring into suspicious activities to detect offences; and/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;
- iii. **and 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 police officer is engaged in a covert operation;
 - the police officer is executing a warrant, acting pursuant to a court order or performing related duties; or
 - the individual from whom the police 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 police officer's duties.

Regulated Interaction Report means the electronic record of a Regulated Interaction submitted into the Service's record management system, whether or not identifying information was collected during the Regulated Interaction.

Restricted is a classification which applies to Historical Contact Data and may apply to Regulated Interaction Reports for which the Service has instituted constraints that prevent access to the record unless:

- i. approved by the Chief of Police, or designate; and
- ii. access is needed:
 - 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 X of the Community Safety and Policing Act;
 - in order to prepare the annual report described in subsection 15 (2) or the report required under section 16 of O. Reg. 400/23;
 - for the purpose of complying with a legal requirement; or
 - for the purpose of evaluating a police officer's performance.

We are dedicated to delivering police services, in partnership with our communities, to keep Toronto the best and safest place to be.

Learn more about our [Service Core Values and Competencies](#) [here](#)

