



# 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 58/16* made under the *Police Services Act (PSA)* entitled *Collection of Identifying Information in Certain Circumstances – Prohibition and Duties* (O. Reg. 58/16) and Toronto Police Services Board Policy entitled *Regulated Interactions with the Community and the Collection of Identifying Information* (TPSB Policy).

This Procedure **only applies** 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, and 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. 58/16;
- 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
- TPSB 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. 58/16.

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 only of the sex of the individual, approximate age, or both.*

**or**

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

For the purpose of this Procedure **only**, as stipulated in O. Reg. 58/16, 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 shall be classified as restricted. Access to any Regulated Interaction Report collected in accordance with this Procedure shall be restricted 5 years after the date it was submitted to the Service's records management system.

Prior to accessing restricted Regulated Interaction Reports or Historical Contact Data, members will require the approval of the Chief, or designate acting in the absence of the Chief. Members seeking approval to access the restricted records shall submit a request to their Unit Commander to seek the approval of the Chief, or designate acting in the absence of the Chief. The Chief has appointed the designate as follows

- a Deputy Chief, or
- in exigent circumstances only, the Staff Superintendent – Detective Operations.

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 homicide 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 V of the PSA or for the purpose of an investigation or inquiry under clause 25 (1)(a) of the PSA;
- in order to prepare the annual report described in subsection 14 (1) or the report required under section 15 of O. Reg. 58/16;
- 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. Members acting in accordance with this Procedure shall have successfully completed the required training.

2. 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, as required
  - submit the TPS 294, as required, through their Unit Commander, for approval of the Chief, or designate acting in the absence of the Chief
  - after receiving the results of an approved TPS 294, complete the TPS 295, as required, and submit to their Unit Commander

### Police Officer

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 sex, 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 problem 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 – GO Review 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 a Supervisory Officer – GO Review.

### 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. Upon becoming aware of a Regulated Interaction Report returned by a Supervisory Officer – GO Review shall
  - review the report as required
  - ensure the submitting police officers amends and resubmits the report as required, forthwith
  - if applicable, provide guidance or instruction targeted at correcting the deficiency
  - if applicable, ensure the police officer receives additional training
  - if applicable, initiate the appropriate complaint/discipline process in compliance with 13–03 and/or 13–11
  - if applicable, ensure access to the Regulated Interaction Report is, or has been, restricted by a Supervisory Officer – Go Review

### Supervisory Officer – GO Review

10. 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.
11. If the Regulated Interaction Report is complete, accurate, uses appropriate language and is compliant with this Procedure shall approve the Regulated Interaction Report.
12. 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
  - notify the submitting police officer's supervisory officer
13. If the Regulated Interaction Report contravenes this Procedure shall
  - document the areas of the report which contravene this Procedure
  - if applicable, ensure access to the report is, or has been, restricted
  - notify the submitting police officer's supervisory officer
14. If there are any issues or concerns with a Regulated Interaction Report that is being reviewed, may contact the Controller – Regulated Interactions for clarification and assistance as required.

### Officer in Charge

15. The Officer in Charge 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 made by police officers under their supervision
  - when reviewing memorandum book entries ensure compliance with this Procedure
16. 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 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, or designate acting in the absence of the Chief, as applicable

➔ *Under exigent circumstances, the OIC shall 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

17. The Unit Commander shall ensure
  - all members under their command successfully complete the required training in accordance with this Procedure

- 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
18. 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, or designate acting in the absence of the Chief, as applicable
  - ensure the requesting member completes and submits a TPS 295, as required

### Unit Commander – Records Management Services

19. The Unit Commander – Records Management Services shall establish processes to ensure
- all Regulated Interaction Reports are reviewed within 30 days after information was first entered into a database
  - access to a Regulated Interaction Report which is not in compliance with this Procedure is restricted by a Supervisory Officer – GO Review, if applicable

### Unit Commander – Toronto Police College

20. The Unit Commander – Toronto Police College shall ensure
- all required training is developed and conducted for members acting in accordance with this Procedure
  - the Controller – Regulated Interactions is assigned to
    - review and assess all Regulated Interaction Reports restricted by a Supervisory Officer to identify any relevant training enhancements;
    - review a random sample of Regulated Interaction Reports approved by a Supervisory Officer to identify any relevant training enhancements;
    - prepare a report every three months that outlines the results of all reviews undertaken specific to Regulated Interaction Reports;
    - fulfill the role of subject matter resource for Supervisory Officers; and
    - monitor and report on any changes or amendments to legislation or Service Governance which may be relevant to training specific to Regulated Interactions.

### Staff Superintendent

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 for approval of the Chief, or designate acting in the absence of the Chief, as applicable

### Chief or Designate

22. 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

23. 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

### Unit Commander – Strategy Management – Analytics & Innovation

24. The Unit Commander – Strategy Management – Analytics & Innovation shall establish processes to ensure
- the Service Annual Report relating to Regulated Interactions is completed
  - the Service quarterly report relating to all accessing of restricted Regulated Interaction Reports and Historical Contact Data is completed

## Supplementary Information

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### Governing Authorities

**Federal:** Constitution Act, Part I, Canadian Charter of Rights and Freedoms; Criminal Code.

**Provincial:** Human Rights Code; Municipal Freedom of Information and Protection of Privacy Act; Police Services Act; Police Services Act, O. Reg. 3/99, Adequacy & Effectiveness of Police Services; Police Services Act, O. Reg. 58/16, Collection of Identifying Information in Certain Circumstances – Prohibition and Duties.

**Municipal:** Toronto Municipal Code, Chapter 219, Records, Corporate (Local Boards), Article 1.

**Other:** R. v. Stinchcombe (Supreme Court of Canada) (1991).

### Associated Governance

**TPSB Policies:** TPSB Policy Collection, Use and Reporting of Demographic Statistics; TPSB Policy Human Rights Policy; TPSB Policy Race and Ethnocultural Equity Policy; TPSB Policy Regulated Interaction with the Community and the Collection of Identifying Information.



**TPS Procedures:** 04–09 American Sign Language and Language Interpreters; 10–06 Medical Emergencies; 13–03 Uniform Internal Complaint Intake/Management; 13–11 Unsatisfactory Work Performance; 13–14 Human Rights; 13–17 Notes and Reports; 15–17 In-Car Camera System.

**Other:** 1.9 Standards of Conduct – Fairness, Discrimination and Harassment; 1.10 Standards of Conduct – Racially Biased Policing; Records Retention Schedule.

**Forms:** eReports; Regulated Interaction Report; TPS 294 Request to Access Restricted Records; 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, designated by the Chief of Police, who assesses procedural compliance of Regulated Interaction Reports, once they have been approved or restricted by a Supervisory Officer. The Controller – Regulated Interaction Reports is also responsible for:

- fulfilling the role of subject matter resource for Supervisory Officers;
- preparing a report to the Unit Commander of the Toronto Police College every three months that outlines the results of all reviews undertaken specific to Regulated Interaction Reports; and
- 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 himself or herself 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:

- approved by the Chief of Police, or designate; and
- 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 V of the PSA or for the purpose of an investigation or inquiry under clause 25 (1)(a) of the PSA;
  - in order to prepare the annual report described in subsection 14 (1) or the report required under section 15 of O. Reg. 58/16;
  - 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](#)

