



## North Bay Police Service Board

By-Law #8: Disclosure by the Chief of Police of Personal Information About Individuals

Legislative Reference / Authority

*Community Safety and Policing Act* and Regulations

### 1. Preamble

- a. As prescribed in the *Community Safety and Policing Act (CSPA)* and through Regulation the North Bay Police Service Board shall establish policy(ies) consistent with the *Act*, Regulation(s) and any other applicable legislation.
- b. It is the policy of the North Bay Police Service Board with respect to disclosure by the Chief of Police of Personal Information About Individuals that the Chief of Police shall establish procedures that are consistent with the requirements of the *Community Safety and Policing Act*, Regulation(s) and incorporating any existing established operational and accounting practices as approved by the North Bay Police Service Board and or the Office of the Chief of Police.

### 2. Definitions

- a. Annual Report – Means the Annual Report provided by the Chief of Police to the North Bay Police Services Board under Section 41(1) of the *Community Safety and Policing Act*.
  - i. Board – Shall mean the North Bay Police Service Board.
  - ii. NBPS – Is the acronym for the North Bay Police Service.
  - iii. Chief – Shall mean the Chief of Police.
  - iv. Community Interactions – Shall mean on-duty Police contact with member(s) of the community meant to:
    - (a) Foster positive relationships, and/or
    - (b) Assist members of the public, without gathering personal information for an investigative purpose.
- b. CSPA – Means the acronym for the *Community Safety and Policing Act*.
- c. Database – Means the paper or electronic filing system under the control of the Chief where identifying information about an individual collected by an Officer from the individual within a Street Check.
- d. Prohibited Grounds means under the *Ontario Human Rights Code* include:
  - i. Age;
  - ii. Ancestry, Colour, Race;
  - iii. Citizenship;
  - iv. Ethnic or Place of Origin;
  - v. Creed;
  - vi. Disability;



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- vii. Family or Marital Status (including single status);
  - viii. Gender Identity or Expression;
  - ix. Receipt of Public Assistance (In housing only);
  - x. Records of Offences (In employment only); and
  - xi. Sex or Sexual Orientation.
- e. Racial/Biased Profiling is the practice of a Member linking a person or persons to an unlawful incident or incidents and/or relating to public safety concerns, based primarily or predominantly on any prohibited ground or stereotypes relating to those prohibited grounds listed in Section 2 (above).
- f. Racialized Groups includes:
- i. Black.
  - ii. East/Southeast Asian.
  - iii. Indigenous. (First Nation, Metis, Inuit)
  - iv. Latino.
  - v. Middle Eastern.
  - vi. South Asian.
  - vii. White.
- g. Receipt is the document reflected in Section 8 of Regulation 400/23.
- h. Street Checks are the interactions and documentation of such by an Officer regarding an attempt to collect identifying information about an individual from the individual by asking the individual in a face-to-face encounter and includes such an attempt whether or not identifying information is collected.
- i. Street Check Report – a report completed annually and provided to the Deputy Chief by the Executive and Investigative Services Inspectors that complies with the requirements set out in Regulation 400/23.
2. **Policy**
- a. It is the policy of the Board with respect to Street Checks that the Chief shall:
- i. Ensure that all Street Checks are done in a manner that is consistent with Regulation 400/23 and, particularly, shall not be based on racial/biased profiling or be done in any arbitrary way;
  - ii. Have a procedure that complies with the duties and obligations imposed by Regulation 400/23 and this Policy to ensure there is direction and assistance provided to Officers regarding Street Checks; and
  - iii. Ensure that there is a database created or adapted that allows for the recording, analysis and reporting required by Regulation 400/23.



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### 3. **Reporting to the Board**

- a. For the purpose of reporting to the Board as part of the Street Check Report and for other analytic reasons as directed by the Board and/or the Ministry of Community Safety and Correctional Services, the Chief shall establish:
  - i. Age groups;
  - ii. Racialized groups;
  - iii. Neighbourhoods or areas; and
  - iv. Appropriate sized random sample of entries of identifying information for the purposes of Section 10(6) of Regulation 400/23 or, if the Chief believes it would be assistive and feasible, the entire dataset.
- b. When establishing racialized groups as set out in Section 3. a. (above) the Chief shall do so in a manner that allows the information required by Ontario Regulation 400/23, the number of attempts to collect information from individuals perceived by an Officer to be with a racialized, relating to the racialized groups to be comparable to the data referred to below in Section 3. a. i. & ii. as released by the Government of Canada on the basis of its most recent National Household Survey preceding the period covered by the Chief's Annual Report:
  - i. For each derived visible minority group set out in the National Household Survey, the number of individuals who identified themselves as being within that group; and
  - ii. The number of individuals who claimed Aboriginal identity.
- c. This Policy does not apply to Community Interactions or lawful interactions where a person is either detained or required to provide personal information.

### 4. **Receipt**

- a. The Chief shall have a procedure requiring all Officers engaged in Street Checks to:
  - i. Offer the individual a Receipt if the individual indicates that they want it unless one of the exemptions in Regulation 400/23 applies and the Officer is able to articulate the reasons with details:
    - (a) It might compromise the safety of an individual; or
    - (b) It might delay the Officer from responding to another matter that should be responded to immediately.
- b. The Chief shall ensure that the Receipt contains the mandated information required by Regulation 400/23 and that the Receipt and any amendments thereto are provided to the Board for its information and input, if any, before use.

### 5. **Training**

- a. The Chief shall ensure that every Officer who attempts to collect identifying information about an individual from the individual, or anyone who acts as the designate of the Chief for the purpose of reviewing the database, has successfully completed the required training within the previous 36 months.



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### 6. Annual Report

- a. The Street Check Report shall be provided by the Chief to the Board annually and during the first quarter, unless an extension is approved by the Board Chair.
- b. The contents of the Street Check Report shall include, at minimum:
  - i. The number of attempted collections and the number of attempted collections in which identifying information was collected;
  - ii. The number of individuals from whom identifying information was collected; and
  - iii. The number of times each of the following provisions was relied upon to not advise the individual of their right that they are not required to provide identifying information to the Officer and/or the reason why the Officer is attempting to collect identifying information about the individual:
    - (a) Might compromise the safety of an individual;
    - (b) Would likely compromise an ongoing Police investigation;
    - (c) Might allow a Confidential Informant to be identified;
    - (d) Might disclose the identity of a person contrary to law, including the *Youth Criminal Justice Act*;
  - iv. The number of times an individual was not given a Receipt because the individual did not indicate that they wanted one;
  - v. The number of times each of the following clauses was relied upon to not offer or give a Receipt:
    - (a) Might compromise the safety of an individual; and/or
    - (b) Might delay the Officer from responding to another matter that should be responded to immediately;
  - vi. The number of attempted collections from individuals who are perceived by the Officer to be:
    - (a) Male individuals;
    - (b) Female individuals;
    - (c) Transgender, non-binary or other gender identity;
  - vii. For each age group established by the Chief, the number of attempted collections from individuals who are perceived by the Officer to be within that age group;
  - viii. For each racialized group established by the Chief, the number of attempted collections from individuals who are perceived by the Officer to be within that racialized group;
  - ix. A statement based on an analysis of the information, as to whether the collections were attempted disproportionately from individuals within a group based on any of the following and any information the Chief considers relevant to explain the disproportionate number of attempted collections:
    - (a) The gender identity of the individual;
    - (b) A particular age;
    - (c) Racialized group; or
    - (d) A combination of groups.



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- x. The neighbourhoods or areas where collections were attempted and the number of attempted collections in each neighbourhood or area;
- xi. The number of determinations made by the Chief or designate as to whether the information entered into the database:
  - (a) Complied with limitations on collection; and
  - (b) 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%, at a 95% confidence level, whether it appears that Regulation 400/23 was complied with; and
- xii. The number of times, if any, NBPS Members were permitted to access restricted identifying information.

### 7. **Disproportionate Report**

- a. If disproportionate collection is identified based on an analysis of the information, as to whether the collections were attempted disproportionately from individuals within a group listed in Section a. ix., in addition to the statement required in the Street Check Report, the Chief shall:
  - i. Review the practices of NBPS; and
  - ii. Prepare a report to the Board setting out the results of the review and their proposals, if any, to address the disproportionate attempted collection of information.
- b. The Board, upon receipt of the Disproportionate Report shall:
  - i. Publish the report on the Internet in a manner that makes it available to the public free of charge and may make the report available to the public free of charge in any other manner that the Board considers appropriate; and
  - ii. Consider the report and the proposals, if any, set out in the Disproportionate Report and consider whether to give directions under Section 40 of the *CSPA* to direct the Chief and monitor their performance.

### 8. **Retention, Access, and Disclosure**

- a. The Chief shall have a Procedure dealing with retention, access and disclosure of identifying information that provides, at a minimum that no person shall have access to the information without the permission of the Chief or designate with respect to:
  - i. Identifying information entered into the database five or more years ago and identifying information gathered and/or entered into the database that is determined to have been collected in non-compliance with Regulation 400/23 shall have restricted as follows; and
  - ii. A Member may be permitted to access the information only if the Chief or the designate is satisfied that access is needed for the purpose of anything listed in below:
    - (a) For the purpose of an ongoing police investigation;



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- (b) In connection with legal proceedings or anticipated legal proceedings;
  - (c) For the purpose of dealing with a complaint under part x of the act,
  - (d) In order to prepare the annual report described in subsection 15 (2) or the report required under Section 16;
  - (e) For the purpose of complying with a legal requirement; or
  - (f) For the purpose of evaluating a police officer's performance.
- b. Access to and disclosure of identifying information collected on or after January 1<sup>st</sup>, 2017, including the retention of identifying information collected contrary to Regulation 400/23 shall be restricted to the Chief and the Street Check Verifier in order to comply with Regulation 400/23 and subject to the exemptions set out in in the Regulation;
- c. Identifying information collected contrary to Regulation 400/23 shall not be retained longer than is reasonably necessary to ensure the information is available in the circumstances in which access may be permitted as listed in Section 6. b. ix. (above);
- d. The Chief shall ensure identifying information and records relating thereto that were collected before January 1<sup>st</sup>, 2017, shall be accessed, retained and/or disclosed pursuant to NBPS Standard Operating Procedures such as Management of Police Records, Release of Information & Police Criminal Record Checks and should any of the data be determined to have been collected in violation of the law, as it existed at the time of the collection, its access and disclosure shall be subject to the restriction in Regulation 400/23.
9. **Policy Consistent with Regulation**
- a. Where this Policy is inconsistent with Regulation 400/23, the Regulation shall apply, and any inconsistent provision shall be deemed to be modified to render it consistent.

Read the first time this 21 day of March, 2024

Read the second time this 21 day of March, 2024

Read the third time this 21 day of March, 2024

R. Stivrins

Board Chair