



**BY-LAW NO. 468-2024**

**A BY-LAW RESPECTING THE  
COLLECTION OF IDENTIFYING INFORMATION ("COII")  
IN CERTAIN CIRCUMSTANCES – PROHIBITION AND DUTIES**

**1. PREAMBLE**

- 1.1 WHEREAS subsection 37 (1) of the *Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1, ("CSPA")* provides that a Board shall provide adequate and effective policing in the area for which it has policing responsibility as required by Section 10 of the CSPA;
- 1.2 AND WHEREAS subsection 38 (2) of the CSPA provides that a Police Service Board may establish policies respecting matters related to the Police Service or the provision of policing;
- 1.3 AND WHEREAS O. Reg. 400/23: Collection of Identifying Information in Certain Circumstances – Prohibitions and Duties prescribes inter alia, duties, prohibitions, policy, procedure and reporting requirements of police officers and Chiefs of Police;
- 1.4 AND WHEREAS Section 13 of O. Reg. 400/23 requires a Police Service Board to have a policy with respect to the "Collection of Identifying Information in Certain Circumstances – Prohibition and Duties" that is consistent with O. Reg. 400/23;
- 1.5 AND WHEREAS Section 14 of O. Reg. 400/23 requires the Chief of Police to establish procedures for the police service on the "Collection of Identifying Information in Certain Circumstances – Prohibition and Duties" that is consistent with O. Reg. 400/23;
- 1.6 AND WHEREAS the Board deems it expedient to enact this By-law to ensure that the Board and the Service adhere to the CSPA, O. Reg. 400/23 and directives and guidelines received from the Ministry of Solicitor General.

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD ENACTS AS FOLLOWS:

**2. DEFINITIONS**

- 2.1 "Act" or "CSPA" means the *Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1, and amendments thereto*;
- 2.2 "Annual Report" means the Annual Report provided by the Chief of Police to the Board under Section 15 of O. Reg. 400/23 made under the CSPA;
- 2.3 "Board" means the Regional Municipality of Niagara Police Service Board;

- 2.4 "Chief" means the Chief of the Niagara Regional Police Service;
- 2.5 "Community Interactions" means on-duty police contact with member(s) of our community meant to:
- (i) foster positive relationships; and/or
  - (ii) assist members of the public (without gathering personal information for an investigative or intelligence purpose);
- 2.6 "Database" means the paper or electronic filing system under the control of the Chief of Police where identifying information about an individual collected by a police officer from the individual within a Regulated Interaction (but does not include a database where Intelligence Notes information is stored or other criminal/intelligence-based databases);
- 2.7 "Member" means a member of the Niagara Regional Police Service;
- 2.8 "O. Reg. 400/23" means Ontario Regulation 400/23: Collection of Identifying Information in Certain Circumstances – Prohibitions and Duties of the CSPA;
- 2.9 "Police Officer" is defined in accordance with the CSPA;
- 2.10 "Prohibited Grounds" under the Ontario Human Rights Code include race, creed, colour, ancestry, place of origin, ethnic origin, language or dialect spoken, citizenship, sex, sexual orientation, age, marital status, family status, gender identity, gender expression, physical or mental disability;
- 2.11 "Racial/Biased Profiling" means 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 predominately on Prohibited Grounds or stereotypes relating to those Prohibited Grounds;
- 2.12 "Receipt" means the document contemplated in Section 8 of O. Reg. 400/23;
- 2.13 "Regulated Interaction" means 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"; that is, attempt to collect identifying information by asking the 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 as governed by Regulation; and
- 2.14 "Service" means the Niagara Regional Police Service.

### **3. BOARD POLICY**

The Board recognizes that public trust is essential to effective policing and that all interactions between Service and community members must be done in a manner that enhances public trust and co-operation with the police and fully respects citizens' rights and dignity. It is therefore the policy of this Board that the practices and procedures of the Service shall be dealt with in a professional and accountable manner to enhance positive relationships between the community and the Service in accordance with O. Reg. 400/23 and in accordance with procedures established by the Chief as directed in this By-law.

## **4. DIRECTION TO THE CHIEF**

### **4.1 GENERAL**

4.1.1 The Chief of Police shall develop, implement, and as required, amend, procedures that are consistent with the CSPA, O. Reg. 400/23, any guidelines or directives received from the Ministry from time to time and this Bylaw, including at a minimum the following;

- (i) collection and attempted collection of identifying information;
- (ii) limitations on collection of certain identifying information;
- (iii) retention, access and disclosure of identifying information;
- (iii) receipts;
- (iv) duties of police officers and the Service in the collection of information, and in the inclusion of such information in the police data base;
- (v) training; and
- (vi) reporting in accordance with Sections 15 and 16 of the CSPA.

4.2 The said procedures shall ensure that all Regulated Interactions and Community Interactions are conducted in a manner that is consistent with O. Reg. 400/23 and, particularly, shall not be based on Racial/Biased Profiling, Prohibited Grounds or conducted in an arbitrary way.

### **4.3 TRAINING**

4.3.1 The Chief of Police shall ensure that every police officer who attempts to collect identifying information about an individual from the individual, or anyone who acts as the designate of the Chief of Police for the purpose of reviewing the database, has successfully completed the required training in accordance with Section 12 of O. Reg 400/23 within the previous 36 months.

## **5. REPORTING REQUIREMENTS**

### **5.1 ANNUAL REPORT**

5.1.1 The Annual Report as it relates to Regulated Interactions shall be provided by the Chief of Police to the Board in the first quarter (unless an extension is approved by the Board Chair) of each year.

5.2 The contents of the Annual Report as it relates to Regulated Interactions shall include, at a minimum, the following:

- (a) the number of attempted collections and the number of attempted collections in which identifying information was collected;
- (b) the number of individuals from whom identifying information was collected;
- (c) 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 office" and/or the reason "why the police officer is attempting to collect identifying information about the individual":
  - i. might compromise the safety of an individual (subsection 7(2)),
  - ii. would likely compromise an ongoing police investigation (clause 7(3)(a)),
  - iii. might allow a confidential informant to be identified (clause 7(3)(b)), and
  - iv. might disclose the identity of a person contrary to law, including the Youth Crime Justice Act (clause 7(3)(c));

- (d) the number of times an individual was not given a receipt/document because the individual did not indicate that they wanted it (clause 8 (1) (b));
- (e) the number of times each of the following clauses was relied upon to not offer or give a receipt/document:
  - i. might compromise the safety of an individual (subsection 8(2)(a)); and
  - ii. might delay the officer from responding to another matter that should be responded to immediately (clause 8(2)(b));
- (f) for each of the following categories of gender identify, the number of attempted collections from individuals who are perceived, by a police officer, to be within the that category:
  - i. male;
  - ii. female; and
  - iii. transgender, non-binary or other gender identity.
- (g) for each age group established by the Chief of Police, the number of attempted collections from individuals who are perceived, by a police officer, to be within that age group;
- (h) for each racialized group established by the Chief of Police for the purpose of this paragraph, the number of attempted collections from individuals who are perceived, by a police officer, to be within that racialized group;
- (i) a statement, based on an analysis of the information, as to whether the collections were attempted disproportionately from individuals within a group based on gender identity, a particular age or racialized group, or a combination of groups and if so, any additional information that the Chief of Police considers relevant to explain the disproportionate attempted collections;
- (j) the neighbourhoods or areas where collections were attempted and the number of attempted collections in each neighbourhood or area;
- (k) the number of determinations made by the Chief of Police (or designate) as to whether the information entered into the database:
  - i. complied with limitations on collection set out in Section 6 and 10(4)(a) of the Regulation, and
  - ii. 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 five (5) percent, at a 95 percent confidence level, whether it appears that Section 6 (limitations on collection of information), Section 7 (duties to inform of rights and reasons before collecting, with exceptions) or Section 8 (document for individual – receipt/document, with exceptions) were complied with;
- (l) the number of times, if any, members of the police service 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, for the purpose of dealing with a compliant under Part VIII of the CSPA or for the purpose of an investigation or inquiry under Part VII CSPA,

- iii. in order to prepare the Annual Report or a report required due to disproportionate collection (under Section 16 of the Regulation),
- iv. for the purpose of complying with a legal requirement, or
- v. for the purpose of evaluating a police officer's performance.

5.3 DISPROPORTIONATE REPORT

5.3.1 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 based on gender identity, a particular age or racialized group, or a combination of groups, in addition to the statement required in the Annual Report, the Chief of Police shall:

- (a) review the practices of the Police Service, and
- (b) shall 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.

5.3.2 The Board, upon receipt of the Disproportionate Report shall:

- (a) 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
- (b) 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 of Police and monitor their performance in accordance with Section 37 (1) (f) of the CSPA.

6. IMPLEMENTATION

6.1 Where this By-law is inconsistent with Ontario Regulation 400/23, the Regulation shall apply and any inconsistent provision shall be deemed to be modified to render it consistent.

6.2 By-law No. 360-2016 and all other By-laws, sections of By-laws and procedural policies of the Board inconsistent with the provisions of this By-law are hereby repealed effective March 31, 2024.

6.3 This By-law shall come into force on April 1, 2024.

ENACTED AND PASSED this 25<sup>th</sup> day of April, 2024.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD

  
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Jen Lawson, Chair

  
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Deb Reid, Executive Director