



EDMONTON POLICE SERVICE

REPORT TO THE EDMONTON POLICE COMMISSION

DATE: 2022 July 14

SUBJECT: *Collection of Information Voluntarily Provided by the Public*
Regulation – s. 17 Report (the “Regulation”)

RECOMMENDATION(S):

That this report be received for information.

BACKGROUND:

In June 2021 the Government of Alberta introduced legislation to ban “carding” and regulate “street checks” for police. Pursuant to the Regulation, each police service in Alberta must prepare and submit an annual report to the police commission of jurisdiction, and the Director of Law Enforcement. The Regulation requires the report to be completed by March 31 in each year. For data collected in calendar 2021, the Minister of Justice allowed for an extension to July 31, 2022.

The annual report is to include information regarding the number of attempts to collect information from members of the public **under the authority established by the Regulation**. The existing policy framework at EPS only permits members to conduct street checks in circumstances where an existing authority, responsibility, or duty to do so is set out by the Regulations. Accordingly, EPS members are already restricted from performing “street checks” or “carding” as defined in the new statutory regime.

The data set below represents that the EPS did not make any attempts to collect information from members of the public under as prescribed in the amendments to the *Police Act* and the new Regulation.

The EPS has undertaken an analysis of the legislative framework and is electing to proceed without using the authority to conduct “street checks”. Rather, the EPS is satisfied section 1 of the Regulation, and specifically section 1(3)(a-h), provides police officers with sufficient authority to interact with members of the public without relying on the power to conduct “street checks”.

It is our intention to return to the EPC with a fulsome report and presentation later this calendar year to articulate the approach the EPS is taking to the new legislative authority and our commitments to reporting, internal training and educating the public.

ANNUAL DATA SET

Regulation Section	Information Required	EPS #
3(a)	Total number of attempts to collect information under the authority of s. 38.1 of the <i>Police Act</i>	0
3(b)(i)	Total attempts in each operational division	N/A
3(b)(ii)	Aggregate data for each operational division on gender, age, race, and indigenous identity	N/A
A	Information collected from members of the public	N/A
B	Information recorded based on police observations	N/A
3(c)	Analysis by operational division of whether members collected or engaged in attempts to collect information disproportionately with respect to members of the public of a certain gender, age, race or indigenous identity, or any combination thereof.	N/A
3(d)	Information the Chief of Police considers relevant to any disproportionate collection of information identified at s. 3(c).	N/A
3(e)	Number of requests for information that did not meet the requirements of the Act, this Regulation, any applicable standards established under the Act or policies and procedures.	N/A
3(f)	Number of public complaints related to attempts to collect information under the <i>Regulation</i> and the outcome of each complaint, including unresolved complaints.	N/A
3(g)	Number of times that access to restricted information was permitted and the reason access was permitted in each case.	N/A

ADDITIONAL INFORMATION ATTACHED:

Attachment 1 – Regulation

Written By: Justin Krikler, Chief of Staff

A/Chief of Police: 

Date: July 7/22



Enyinnah Okere
Chief Operations Officer
Community Safety and
Well-being Bureau



Province of Alberta

POLICE ACT

COLLECTION OF INFORMATION VOLUNTARILY PROVIDED BY THE PUBLIC REGULATION

Alberta Regulation 147/2021

Current as of June 30, 2021

Extract

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Note

All persons making use of this document are reminded that it has no legislative sanction. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

(no amdt)

ALBERTA REGULATION 147/2021

Police Act

COLLECTION OF INFORMATION VOLUNTARILY PROVIDED BY THE PUBLIC REGULATION

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Application of Regulation

1(1) Subject to subsections (2) and (4), this Regulation applies to the collection, recording, retention, storage, use and disclosure of information, including personal information, voluntarily provided by a member of the public, obtained as a result of a non-detention, non-arrest interaction with a police officer.

(2) This Regulation only applies where a police officer or other employee of a police service has no other authority, responsibility

or duty to collect, record, retain, store, use or disclose information from a member of the public.

(3) Without limiting the generality of subsection (2) and for greater certainty, a police officer has other authorities, responsibilities or duties to collect, record, retain, store, use or disclose information from a member of the public in the following circumstances:

- (a) the police officer has collected the information from a member of the public who has been a victim of crime or who matches the description of a missing person, human trafficking victim or other victim of crime;
- (b) the police officer has collected the information from a member of the public who is legally required to provide the information to the police officer;
- (c) the police officer has collected the information through observation and not through interaction with a member of the public;
- (d) the police officer has collected the information through an interaction with a confidential informant;
- (e) the police officer has collected the information from a member of the public that is being lawfully detained or arrested;
- (f) the police officer has collected the information in the execution of a court order or warrant;
- (g) the police officer has collected the information from a member of the public who is engaged in the administration of justice;
- (h) the police officer has collected the information while engaging in a necessary police function to undertake the officer's statutory and common-law duties or to provide for safe communities.

(4) Without limiting the generality of subsection (2) and for greater certainty, an employee of a police service who is not a police officer may have other authorities, responsibilities or duties to record, retain, store, use or disclose information from a member of the public in the circumstances described in subsection (3).

(5) This Regulation does not apply when a police officer is engaging with members of the public in the context of a community building activity meant to foster positive relationships or to assist members of the public unless the police officer is

engaged in a crime prevention, investigative or intelligence activity.

Authority to collect information

2(1) Every police officer has the authority to

- (a) collect information, including personal information, in the manner prescribed by this Regulation, and
- (b) record, retain, store, use and disclose information, including personal information,

voluntarily provided by a member of the public, obtained as a result of a non-detention, non-arrest interaction with a police officer if that information is obtained during the course of one or more of the activities described in section 38.1(4)(a) to (e) of the Act.

(2) An employee of a police service who is not a police officer and who has duties or responsibilities that require them to record, retain, store, use or disclose information has the authority to record, retain, store, use or disclose information, including personal information, voluntarily provided by a member of the public, obtained as a result of a non-detention, non-arrest interaction with a police officer if that information is obtained during the course of one or more of the activities described in section 38.1(4)(a) to (e) of the Act.

General requirements

3 Prior to attempting to collect information from a person who is a member of the public, a police officer must inform the person from whom information will be requested

- (a) of the reason for attempting to collect the information,
- (b) that the interaction is voluntary, and
- (c) that the person
 - (i) is under no obligation to provide any information to the police officer or to answer any questions, and
 - (ii) has the right to discontinue the interaction with the police officer.

Requirements respecting minors

4 Prior to attempting to collect information from a person who is a member of the public and who appears to be under the age of 12,

the police officer attempting to collect the information must ask the person what the person's age is and, if the person indicates that they are under the age of 12,

- (a) the police officer must ask the person if they have a parent or guardian that is readily available to attend the interaction between the police officer and the person, and
- (b) if the person indicates that a parent or guardian is not readily available to attend the interaction, the police officer shall not attempt to collect any information from the person unless the police officer is concerned for the person's well-being.

Mandatory records

5(1) For the purposes of this section "demographic information" means a person's race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.

(2) Whenever a police officer attempts to collect information from a person who is a member of the public, the police officer must record

- (a) the time and location of the interaction,
- (b) the specific reason for
 - (i) the interaction, and
 - (ii) the request for information from the person,
- (c) any relevant suspect profile or intelligence report relied on as part of the reason for attempting to collect information from the person,
- (d) whether the person was informed
 - (i) of the reason for attempting to collect information from the person,
 - (ii) that the interaction was voluntary,
 - (iii) that the person was under no obligation to provide any information to the police officer or to answer any questions, and
 - (iv) that the person had the right to discontinue the interaction with the police officer,

- (e) if the person appeared to be under 12 years of age, whether the person was asked if a parent or guardian was readily available to attend the interaction, what the person's response was and, if the person voluntarily provided information to the police officer, if the interaction occurred in the presence of a parent or guardian,
 - (f) if the person was asked to provide a document confirming the person's identity, why the request was made,
 - (g) any further action taken as a result of the interaction, and
 - (h) the officer's name and identification or badge number.
- (3)** If a person who is a member of the public voluntarily provides a police officer with the following information, the police officer must record the information:
- (a) any name the person identifies themselves by;
 - (b) any demographic information the person provides to the police officer, including the person's gender, age, race and indigenous identity, if any;
 - (c) if the person provides a document confirming the person's identity, information contained in the document that differs from, or is in addition to, information that the person provides about themselves.
- (4)** If a person who is a member of the public voluntarily provides a police officer with the information described in subsection (3), the police officer must record whether the interaction was successful in obtaining information related to the reason for the interaction.
- (5)** If a person who is a member of the public continues to interact with a police officer after the person has been provided with the information required by section 3,
- (a) the police officer must request the person to self-identify their age, gender, race and indigenous identity, if any, and
 - (b) subject to subsection (7), the police officer shall not record the police officer's observations of the person's gender, age, race and indigenous identity, if any, if the person self-identifies this information about themselves.
- (6)** If the person does not voluntarily provide information requested by the police officer,

- (a) if the person provides a reason for declining to provide the information, the police officer must record the reason,
 - (b) if the person declines to self-identify their age, gender, race or indigenous identity, if any, the police officer shall record the police officer's observations of the person's age, gender, race or indigenous identity, as the case may be, and
 - (c) if the person declines to provide any information to the police officer, the information recorded pursuant to this section must be disposed of as soon as practicable after the information has been included in an annual report as required by section 17.
- (7) If it is obvious to a police officer that a person has self-identified their age, gender, race or indigenous identity incorrectly, the police officer shall record
- (a) the information that the person has provided to the police officer, and
 - (b) the police officer's observations of the person's age, gender, race or indigenous identity, as the case may be.

Policies and procedures

6 The chief of each police service, or a person designated by the chief, shall establish policies and procedures relating to the collection or attempted collection of information under the authority established by this Regulation that comply with any applicable standards established under section 3.1 of the Act.

Storage of information

7 The chief of each police service, or a person designated by the chief, must ensure that any information collected under the authority established by this Regulation is kept separate and apart from other information in the records management system of the police service and separate and apart from any other information in the custody of the police service.

Use of information

8(1) Information collected under the authority established by this Regulation may be accessed by any employee of the police service if

- (a) the information was collected and recorded in a way that complies with section 38.1(4) and (5) of the Act and this Regulation, and

- (b) the employee is accessing the information in the course of one or more of the activities described in section 38.1(4) of the Act, for research purposes or for intelligence related to the police service and its jurisdiction.
- (2) Access to the information will be restricted if the information was collected or recorded in a manner that does not comply with the Act and this Regulation.
- (3) Despite subsection (1), access to the information shall be restricted on the 5th anniversary of the date on which the information was first collected.
- (4) If access to information has been restricted, no employee of the police service may access the information without the permission of the chief of the police service or a person designated by the chief of the police service.
- (5) An employee of a police service may only be permitted to access information that has been restricted if the chief of the police service, or a person designated by the chief of the police service, is satisfied that access to the information is needed
 - (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 against a police officer or police service by a member of the public,
 - (d) to prepare an annual report required by section 17 or any other report required by the Minister under the Act,
 - (e) for the purpose of complying with a legal requirement,
 - (f) for the purpose of evaluating a police officer's performance,
 - (g) for the purpose of research pertaining to the conduct of collecting, recording, retaining, storing, using or disclosing information collected under the authority established by this Regulation, or
 - (h) for research purposes or for intelligence related to the police service and its jurisdiction.
- (6) The chief of each police service, or a person designated by the chief, is responsible for ensuring that access to the information only occurs in accordance with this section.

Protection of privacy

9(1) For greater certainty, the collection, recording, retention, storage, use and disclosure of information voluntarily provided by a member of the public, including the placement of information in a records management system and use of that records management system, shall be in accordance with

- (a) applicable privacy legislation, and
- (b) subject to section 7, any applicable record retention enactments or policies.

(2) Information that is collected and recorded under the authority established by this Regulation shall not be released through requests for police information checks or vulnerable sector checks.

Access to records

10(1) The chief of a police service, or a person designated by the chief, must make any record relating to the collection, recording, retention, storage, use or disclosure of information collected under the authority established by this Regulation available to the Minister on request, and the Minister is authorized to indirectly collect personal information, if necessary, for the purposes of a request.

(2) Subject to subsection (3), the chief of a police service, or a person designated by the chief, must make records available to any person, organization or public body for the purpose of research on request if the request complies with any research protocols established by the police service.

(3) The chief of a police service, or person designated by the chief,

- (a) must not make any records available to any person, organization or public body under subsection (2) that may identify personal information about a person, and
- (b) may redact records or aggregate information contained in records as necessary to comply with this subsection.

Report of interaction

11(1) If a police officer has collected or attempted to collect information under the authority established by this Regulation, the police officer must create a report in the records management system referred to in section 7 as soon as practicable following the collection or attempted collection of information.

(2) The report must include the information that the police officer is required to record under section 5 and any other information that

the police officer recorded during the interaction in which the police officer collected or attempted to collect information.

Quarterly reviews

12 The chief of each police service shall establish a review process relating to the collection or attempted collection of information under the authority established by this Regulation, which will include conducting quarterly reviews of a random selection of the reports referred to in section 11.

Training

13(1) In section 38.1(4)(d) of the Act and this section, “suspicious activities” means any observed behaviour that indicates a person may be engaged in a crime or other illegal activity or about to commit a crime or other illegal activity.

(2) The chief of each police service, or a person designated by the chief, shall establish, within one year of this Regulation coming into force, a standardized training program for employees of the police service relating to the collection, recording, retention, storage, use and disclosure of information voluntarily provided by a member of the public that includes training relating to

- (a) bias awareness, including how to avoid bias,
- (b) discrimination and racism and how to prevent discrimination and racism,
- (c) the conduct of a police officer in the context of suspicious activities, including the difference between
 - (i) collecting or attempting to collect information under the authority established by this Regulation, and
 - (ii) making inquiries to confirm or dispel the officer’s suspicion that a person may be engaged in a crime or other illegal activity or about to commit a crime or other illegal activity,
- (d) the voluntary nature of the interaction, the differences between a voluntary interaction and a non-voluntary interaction and the legal basis for each,
- (e) the differences between physical and psychological detention and how to mitigate the impacts of a detention,
- (f) the right of a member of the public to decline to provide information or to answer any questions and to discontinue the interaction,

- (g) how a police officer should approach a person who is a member of the public, including
 - (i) the process for complying with a police officer's obligations under section 3,
 - (ii) the process for articulating reasons for requesting information from the person, and
 - (iii) what a police officer must do in the context of a person who appears to be under the age of 12,
- (h) the information that must be recorded and how information collected shall be recorded, including in circumstances where the member of the public did not voluntarily provide information requested by the police officer,
 - (i) the policies and procedures established under section 6,
 - (j) the security of information that has been collected, when that information may be accessed and for what purposes,
 - (k) the right of a person who is a member of the public to access information about themselves that is in the possession or under the control of a police service,
 - (l) the creation of the report required by section 11, and
- (m) any other training the chief or the person designated by the chief deems relevant.

(3) The Minister may, by order or through standards established under section 3.1 of the Act, identify additional matters that must be included in a training program established under subsection (2).

(4) The training program established under subsection (2) must be reviewed by the chief of each police service, or a person designated by the chief, every 3 years.

Completion of training

14 The chief of each police service, or a person designated by the chief, shall ensure that

- (a) every police officer who is a member of the chief's police service has completed the training program established under section 13 within one year of this Regulation coming into force,
- (b) every new police officer who is a member of the chief's police service completes the training program established

under section 13 as part of the new member's training program and within 6 months of becoming a member of the police service,

- (c) every employee of the chief's police service who is not a police officer and who has access to the information collected under the authority established by this Regulation has completed the elements of the training program described in section 13(2)(j) to (m) within one year of this Regulation coming into force,
- (d) every new employee of the chief's police service who is not a police officer and who has access to the information collected under the authority established by this Regulation has completed the elements of the training program described in section 13(2)(j) to (m) within 6 months of becoming an employee of the police service,
- (e) every employee of the chief's police service renews their training at least once every 2 years, and
- (f) the renewal of the training includes, at a minimum, any applicable elements of the training program that are new or revised after a review of the program has been completed under section 13(4).

Performance measures

15 The chief of each police service, or a person designated by the chief, shall ensure that no performance target based on either of the following factors is used to evaluate the work performance of a police officer:

- (a) the number of times, during a particular period, that the police officer collects or attempts to collect information from persons who are members of the public;
- (b) the number of persons from whom the police officer collected or attempted to collect information during a particular period of time.

Non-compliance

16 The chief of each police service, or a person designated by the chief, shall be responsible for responding to any failure by any employee of the chief's police service to comply with the Act, this Regulation, any applicable standards established under the Act or any policies or procedures established under section 6.

Annual report**17(1)** For the purposes of this section

- (a) “operational division” means a city, a portion of a city, a community, a neighbourhood, a district or a detachment, and
- (b) subject to any standards established under the Act, the chief of each police service, or a person designated by the chief, when reporting on the area within the chief’s jurisdiction, shall determine what operational division is appropriate to use for the purposes of this section.

(2) The chief of each police service, or a person designated by the chief, shall prepare an annual report in accordance with this section with respect to the previous calendar year.

(3) The annual report must contain the following information:

- (a) the number of attempts to collect information from members of the public under the authority established by this Regulation by members of the police service during the previous calendar year;
- (b) the following information for each operational division:
 - (i) the number of attempts to collect information conducted in each operational division;
 - (ii) aggregate data for each operational division on the gender, age, race and indigenous identity, if any, of the members of the public from whom a police officer attempted to collect information, with separate reporting for
 - (A) information collected from members of the public, and
 - (B) information recorded based on a police officer’s observations;
- (c) an analysis, by operational division if possible, of whether the members of the police service collected or engaged in attempts to collect information disproportionately with respect to members of the public of a certain gender, age, race or indigenous identity, or any combination of gender, age, race or indigenous identity, which must include statistical tests using census data;
- (d) if the members of the police service collected or engaged in attempts to collect information disproportionately with

respect to members of the public of a certain gender, age, race or indigenous identity, or any combination of gender, age, race or indigenous identity, any information that the chief of the police service considers relevant relating to the disproportionate collection or number of attempts;

- (e) the number of requests for information that did not meet the requirements of the Act, this Regulation, any applicable standards established under the Act or the policies and procedures established under section 6;
- (f) the number of public complaints related to attempts to collect information under the authority established by this Regulation and the outcome of each complaint, including the number of complaints that remains unresolved;
- (g) the number of times that access to restricted information was permitted and the reason access to the information was permitted in each case.

(4) The annual report shall be submitted to the police service's police commission or equivalent oversight body and to the Director of Law Enforcement by no later than March 31 in each year.

(5) The annual report shall be made available to the public within 6 months of the completion of the report.

Disproportionate attempts to collect information

18 If an annual report indicates that the members of a police service have engaged in attempts to collect information disproportionately with respect to members of the public of a certain gender, age, race or indigenous identity, or any combination of gender, age, race or indigenous identity, the chief of the police service, or a person designated by the chief, must review the practices of the members of the police service and must develop and implement, within 6 months of the submission of the report under section 17(4), a plan for addressing the disproportionality.

Public awareness

19(1) The chief of each police service, or a person designated by the chief, shall design and implement a public awareness campaign that informs the public about their rights and the responsibilities of police officers with respect to attempts by a police officer to collect information under the authority established by this Regulation.

(2) When designing and implementing the public awareness campaign, the chief or person designated by the chief shall take the local context into consideration.

Review

20(1) The Minister shall ensure that this Regulation is reviewed by an independent third party within 2 years of this Regulation coming into force.

(2) On completion of the review, the third party shall prepare a report outlining the findings of the review and shall make the report available to the public within one year of the report's completion.

Expiry

21 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2025.

Coming into force

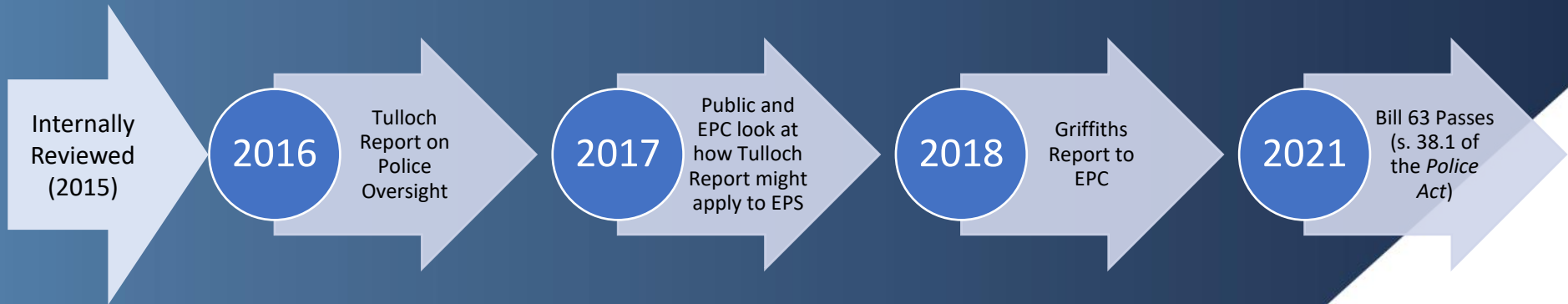
22 This Regulation comes into force on the coming into force of the *Police (Street Checks and Carding) Amendment Act, 2021*.

Street Checks, Carding and Proactive Policing

Legal Advisors Section
Edmonton Police Service

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Edmonton's Ongoing Review of Street Checks



“...the nature of the interaction between the police and citizens, as much as the police stop itself, may play a significant role in the experiences and perceptions of community residents.” (Griffiths Report)



What does s. 38.1 of the *Police Act* do?

It prohibits carding

Carding is an attempt to collect personal information in a manner that is discriminatory or arbitrary.

Already prohibited by EPS policy – never functionally supported.

It creates and regulates new statutory street checks

The Act does not modify a police officer's existing duties, responsibilities, or authorities

In EPS, no member is permitted to collect personal information without an existing duty, responsibility, or authority to do so.

Statutory Requirement	EPS Policy Requirement
s. 38.1 regulates everything outside existing, duties, authorities, and responsibilities	Policy requires members rely on existing authorities, responsibilities and duties



What police activity is not captured by s. 38.1
of the *Police Act*?

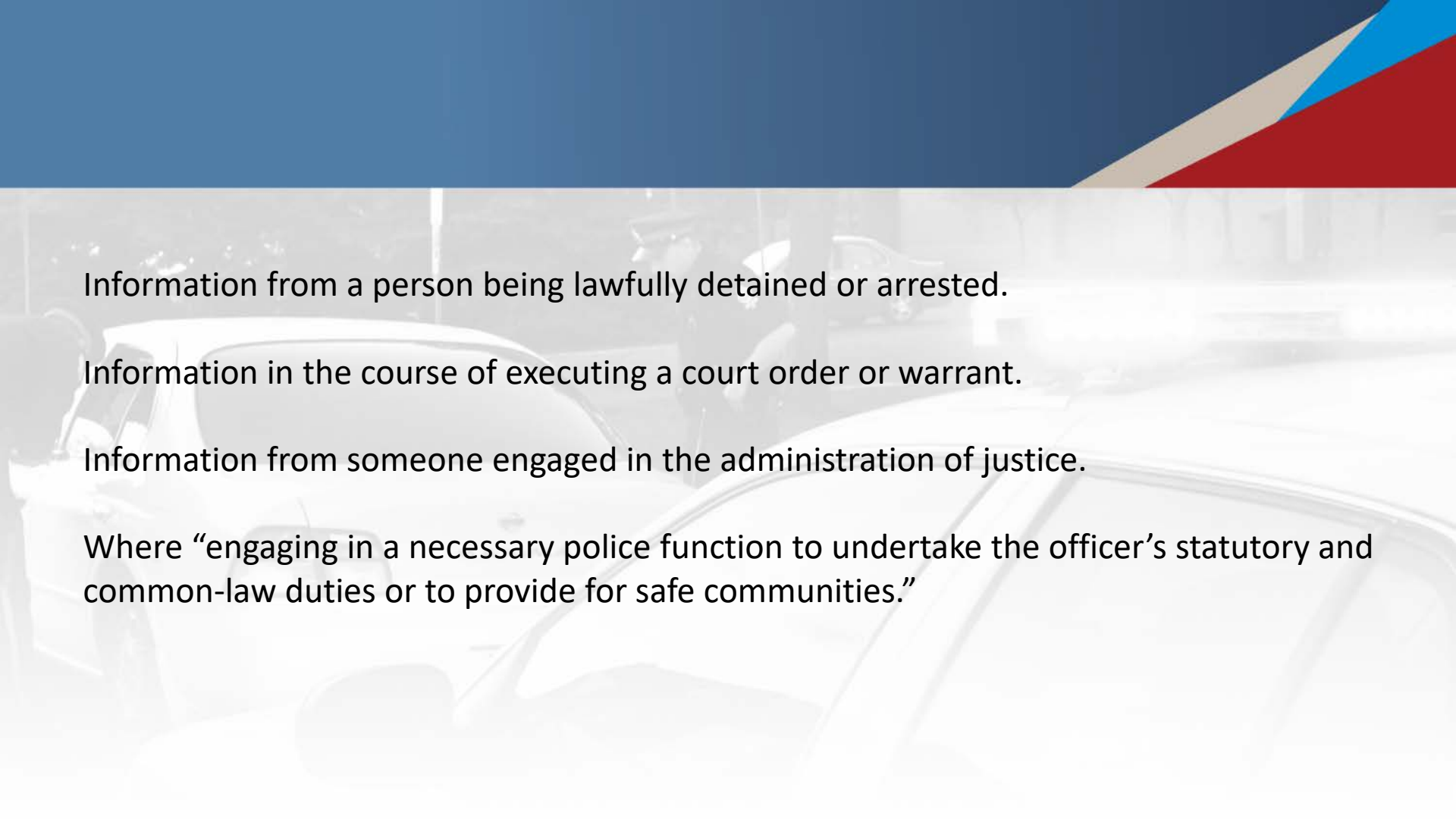
Any police action already authorized by law

Information from a potential victim of crime or missing person.

Information from someone who is legally required to provide the information.

Observations without an accompanying interaction.

Confidential informant information.



Information from a person being lawfully detained or arrested.

Information in the course of executing a court order or warrant.

Information from someone engaged in the administration of justice.

Where “engaging in a necessary police function to undertake the officer’s statutory and common-law duties or to provide for safe communities.”



What has the EPS done to improve non-arrest, non-detention interactions between a police officer and member of the public?

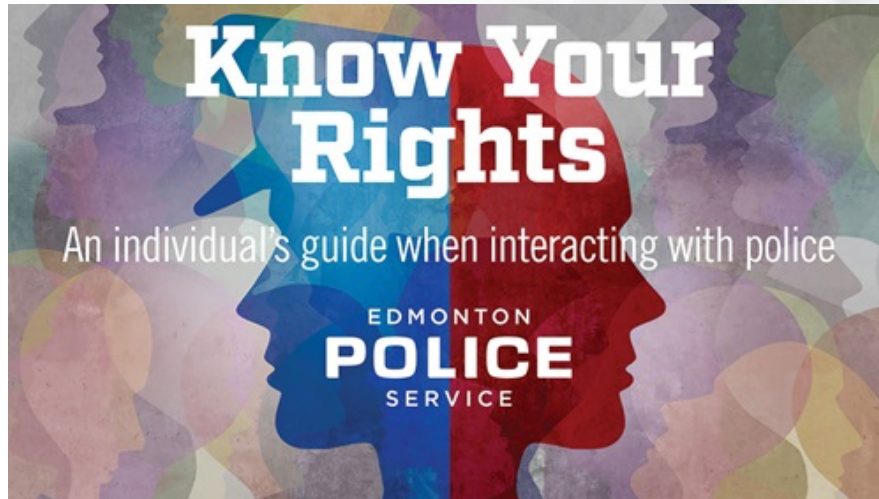
Prohibiting discriminatory and arbitrary subject stops

Bill 63 Requirement	EPS Action
Prohibit “carding” as arbitrary and discriminatory	<p>Policy and procedure prohibits carding.</p> <ul style="list-style-type: none">• Require members to “articulate the reason(s) they conducted a Street Check.”• Require members to articulate an exercise of discretion (<i>R v Beaudry</i>)

Extensive training and engagement with employees

Bill 63 Requirement	EPS Action
Train members on bias awareness, discrimination, racism, and other aspects of the amendments.	<p>All members receive training in recruit training on bias awareness, discrimination, and racism (ongoing).</p> <p>All current members were provided professional development on bias awareness, discrimination and racism earlier this year. This will continue on a rolling basis.</p> <p>All members given additional training on proactive policing strategies that advise people of the nature of voluntary interactions with the police.</p>

Know Your Rights



- Available in 17 languages, including English
- Campaign will run again with updated language through February 2023
- Encourage understanding at both points in the officer-citizen contact
- Working with Equity, Diversity and Human Rights (EDHR) on bringing information to community groups.



What does the EPS still need to do?

Stop Using Confusing Terminology

EPS will no longer use the term “Street Check Reports” because this is an old term; we are not doing street checks.

EPS will continue to require lawful authority to collect personal information.

“Carding” still prohibited.

“Observed Reports” and “Officer Contact Reports” will be used. Members will articulate their authority on each.

Use more precise terminology

“Observed Reports” will be a report when police did not interact with a subject.

- Making observations of individuals known to police, but not talked to.

“Officer Contact Reports” will occur when police interact with a member of the public, and personal information is collected.

- Police officers must have a pre-existing duty, responsibility or authority.
- Usually person is detained or enforcement action being taken (including a warning)



How will the EPS report according to s.38.1
of the Police Act?

The EPS will report more expansively, more transparently

All non-detention, non-arrest interactions in which personal information is dealt with will be reported to the EPC and Minister.

- The Act does recognize an authority to collect personal information.
- The Act does not regulate existing duties, responsibilities, or authorities.
- EPS will report on all interactions.
- The goal is to provide greater transparency and accountability in police interactions.

How will EPS report

EPS will report through integration of existing:

- Bias audit report which will continue to examine officer contacts and observed reports.
- OCR audit process
- Joint report template to be developed for presentation to Commission by Q3-2023

Out of audit process, Equity, Diversity, and Human Rights Branch (EDHR) will operationalize the bias audit report:

- What are we doing well and need to encourage more of?
- What can be improved and how?

New Information Management Solutions will improve the quality & quantity of reportable data

The report to EPC and the Minister will be provided in two parts:

- Street Checks: These results will be “nil.”
- Observed Reports and Officer Contact Reports

Our CRIMM update will require subject stops be classified according to an existing authority.

- This will provide greater quality and quantity in data.

THANK YOU

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