

INDEPENDENT STREET CHECKS REVIEW

February 1, 2018

LOCATION-DAVINCE CENTER
340 WATERLOO STREET SOUTH
THUNDER BAY

Independent Reviewer
Jodie-Lynn Waddilove

Justice Michael Tulloch
Lawyer-Independent Street Checks Review

JODIE-LYNN WADDILOVE: My name is Jodie-Lynn Waddilove. I'm a lawyer with the Independent Street Checks Review.

I'm going to be moderating this evenings session, and I want to say first of all thank you again for taking the time to come out and join us this evening.

This is our very first public consultation session. It's one of many that's gonna be held across the Province about the practice, the police practice of street checks and "carding". We will have some group discussions at your tables with some discussion questions. At your table you will find a copy of our Engagement Guide. You will also find a copy of the regulation itself related to street checks and carding, as well as an information sheet or a guide that was produced by the Ministry of Community Safety and Correctional Services. So those are information tools to help further your discussion, or for your information. But before we get any further into our discussions I would like to now take this opportunity to introduce Justice Michael Tulloch. Justice Tulloch was appointed by Ontario to be the Independent Reviewer for this review. Previous to this he also was the Independent Reviewer for the Independent Police Oversight Review, and that report was released in March of last year. By all accounts it was well-regarded and well-received and certainly is leading to some significant action in the Province. So I'd like to welcome Justice Tulloch to the podium where he'll provide some formal remarks.

JUSTICE MICHAEL TULLOCH: Thanks Jodie-Lynn. Good evening everyone. My name is, as Jodie-Lynn has indicated, is Michael Tulloch. I want to thank you for coming out to speak with me this evening about street checks, also known as "carding", and the new regulation, regulation 58/16 that the Government of Ontario has introduced to regulate this particular practice. I want to thank all of you that are here this evening. I know that some of you have travelled very long distances. I think your presence here is valued and very much, very very important to be included in the voices that we listen to on this particular subject. I'm grateful for the opportunity to meet here, and we thank all of the generations of people who have taken care of this land. I echo Jodie-Lynn's comments with respect to the importance of acknowledging these lands and the first peoples who settled on this land since time immemorial. Long before today, as we gather here today there has been indigenous peoples who have been the stewards of this land, and I too would like to begin by acknowledging that we are in Robinson superior treaty territory and that the land on which we gather is the Anishinanabek Traditional Territory of the Fort William First Nations. I also recognize the contributions of the Metis and Inuit and other indigenous peoples who have made a tremendous amount of contributions to these territories, both in shape and in strength in this community, the Province, and the country as a whole. By acknowledging this traditional territory we're recognizing and respecting the first peoples

of this country. It is also the recognition of their presence and contributions both in the past and the present. This acknowledgement is key to any relationship in reconciliation on a go-forward basis.

5
10
15
20
25
30

Now by way of background. On June 7, 2017, I was appointed by the Provincial Government to lead a full and independent review of Ontario's regulation 58/16 which outlines Ontario's new rules on police street checks, a practice sometimes referred to as "carding". In this capacity I will be reviewing the content of the regulation and assessing whether Police Officers, Chiefs of Police and Police Services Boards are following it. I will also assess whether the regulation reflects the important goal of ensuring that police and public interactions are consistent, bias-free and done in a way that promises public confidence and protects human rights and civil liberties. Since my appointment I have assembled a team of experts to assist me and we have participated in a number of consultations across the Province. Today's consultations in Thunder Bay marks the first of 12 public consultations throughout the Province of Ontario. I intend to draw on what I have been learning from these consultations to include in a report with recommendations on the regulation around the practice of street checks. That report will be submitted to the Government of Ontario on November 30, 2018 and made available to the public in the early parts of 2019. Now as I mentioned the focus of this review is on regulation 58/16 which

came into effect on January 1, 2017 in which it outlines the new rules police must follow when it comes to street checks, also known as "carding". The street check is when a police officer asks someone for identifying information in a particular circumstance. Now we've provided you some handouts, the black handout on each of your tables, they're included with an Engagement Guide, and these documents provide you with information on when the new rules under the regulation apply and when they do not. For instance the regulation applies if an officer asks you to identify yourself when they are looking onto suspicious activities or investigating general criminal activity in the community. By contrast, the new rules under the regulation do not apply if the officer is talking to a driver during a traffic stop pursuant to the Highway Traffic Act, arresting someone or investigating a specific crime. The regulation also outlines what an officer must do if they ask for your identification in a situation where the new rules apply. For example, an officer must tell you that you do not have to share your identifying information and offer you a receipt with certain information after request for your information is made. The regulation also provides information on the storage of information that comes from street checks, mandatory training for all police officers on the new rules and public reporting requirements.

Now with that background in mind I want to take the opportunity this evening to hear from you. This review is an independent review. This means that I

am free to critically examine how this regulation operates and look at issues of police public interactions in the context of street checks. Meeting with you members of the public is a crucial part of the process. I'm grateful that you have taken time, or taken the time to meet with me this afternoon. And I appreciate that speaking about some of these issues may be difficult for some people; however, it is essential that a review of this kind be as thorough as possible and that as the Independent Reviewer I consider all relevant information from a variety of perspectives. I can assure you that I will so long as you participate and offer me your perspective. So again I thank you for coming out tonight to share your thoughts, experiences and your recommendations. And I assure you that in this process we're going to be listening to you and we will be reflecting your perspectives and your views. You will definitely be heard. Thanks very much.

DANIELLE: Good evening everyone. There's just a little bit of a technical issue here so there may be a delay on this presentation. I'm just here to go over really quickly what this evening will be about. Just to outline the process and then we're gonna get started. Before I get started, let me just say, for those of you who would like to listen to the proceedings in french. (At this time french translation)

So again, welcome to our consultation, and I don't, and I'm not gonna go over this because Justice Tulloch just outlined the mandate of the

review and as he mentioned we're gonna be travelling to various cities across the Province, 12 public meetings in total. And the meetings will be set up structured just like this. So the goal of today's meeting is to hear your thoughts and so there is paper on your tables to help to guide the conversations that you're gonna have. Some of the questions that you'll see are around, you know, us trying to understand is the practice still going on? What your experience has been? What's the impact of carding on communities? And what is the impact and the effect of the new regulation? Just as a disclaimer, the review does not include reviewing individual cases. So if you have had an individual experience with a police officer, that's not for us to review or resolve. But we do want to hear those cases for sure because it does inform the work that we're doing. And so how this works is we start off with the introduction, which is this, we're gonna go right into the round table discussions. And you'll see some of us sitting at the tables with you. My name is Danielle. Hillary, she's also on our team, Jodie-Lynn, Justice Tulloch and Presna at the back of the room. And if you see us sitting down or listening it's because we want to hear what the conversations are, but by all means don't stop just because we're there. And then once we're done we're just gonna do a quick report back and we want to hear the questions that you answered and the discussions that you had and we we'll be up here taking notes on your feedback. We are also on social media, right now this is on face book live, live

5

10

15

20

25

30

streaming. So if you know anybody that wasn't able to make it they can watch it there. We're also gonna be live tweeting or semi live tweeting the discussion today. If you, and I should have said this before, so there are cameras here and we're gonna be taking pictures as well. If you don't want your photo taken, it's not an issue. If you don't want your photo taken let him know he will delete it. Sorry I forgot to introduce Peter Rehack. Peter's already taking photos. If you don't want your photo taken just let him know and he'll delete it. If you see any of us taking photos it's because we're tweeting and we're posting on social media. But we don't want to invade anyone's privacy that doesn't want to be photographed. So just let us know and it's not an issue at all. That's it. And thank you for coming out this evening and we wish you a fruitful discussion.

JODIE-LYNN WADDILOVE: So if I may offer some practical advice. So you're in your groups at your table. You have your discussion questions. You certainly aren't limited to them. You don't have to work in order. It's just something to help guide your discussions. I would also encourage you to appoint a person, or maybe two, if you want to share the responsibility, but someone who at the end of the 45 minutes is going to get up and report back to the larger group at the end of your discussion. So that person may, so as the discussion is going, they are either making their notes or formulating in their head what they will share back with the larger group. Also, if you're

more comfortable and you want to provide some comments in writing, we will accept that as well. There's paper there or you can write it on the questions. Certainly you can hand that to any member of our team and we'll take your written comments as well. So hopefully that will help you to get started practically. Again you don't have to stick to the discussion questions, but those are some of the issues that we would like your thoughts and feedback on. Thank you.

JODIE-LYNN WADDILOVE: So we're gonna get started and we're gonna work from this table here. I'm biased cause I sat at this table for some time. So we'll begin with this table here for the first report back. There's a portable mic right there. Yeah.

UNIDENTIFIED FEMALE: So some of our recommendations were that uniform statistics be kept. So what I mean by that is that time line to them is that, you know, forever and a day, or is that five years or what does that look like for information that's been collected?

JODIE-LYNN WADDILOVE: Okay, can I just get you to stop. We want to carry on the table discussions, but out of respect for the person speaking can we just keep the talk to a minimum. And I'm sorry, so the first recommendation from the group was uniform reporting statistics, right?

UNIDENTIFIED FEMALE: Yeah, and time line to that. So is that forever? Is that five years? What is the procedures in that? Our other one was having a

data management and uniform way that that is collected and stored.

JODIE-LYNN WADDILOVE: Okay.

UNIDENTIFIED FEMALE: And education.

So education based on community level of carding and education all the way, top up?

JODIE-LYNN WADDILOVE: Anything else from the group?

No.

UNIDENTIFIED FEMALE: We have a lot more, but no that is all.

JODIE-LYNN WADDILOVE: Okay. We're gonna move further along to the next table.

UNIDENTIFIED FEMALE: First of all, I think we felt that the new regulation hasn't been widely publicized and within our group we felt a certain level of mistrust or cynicism that even though the regulation sounds good that it would be respected and followed by everyone. We felt there were benefits to police stops if the situation warrants it. But the reason it is very important that the reason for the stop be given. We felt that the police need to acknowledge and recognize that certain sectors such as visible minority, indigenous people, will assume that they have been stopped because of their colour or, and that the police need to be aware of this and kind of acknowledge it to themselves. The question that we had was if someone is stopped and questioned by the police, but not asked for their ID, is this actually carding?

JUSTICE MICHAEL TULLOCH: The question was what, I'm sorry?

JODIE-LYNN WADDILOVE: Clarification about the stop, whether it is carding or not.

UNIDENTIFIED FEMALE: Yes, I mean, example, somebody is parked at the LCBO and a police officer comes over and asks them, starts asking them, have you been drinking in the last 12 hours? Doesn't ask them for their specific identification, but quite intrusive questions.

JUSTICE MICHAEL TULLOCH: Right. So the issue is, you know, identify the information and that information is what gets deposited, right.

UNIDENTIFIED FEMALE: Right.

JUSTICE MICHAEL TULLOCH: And that is what the effects of.. but the police should be able to still engage with people in the community to ensure that there is public safety.

(MICROPHONE BEING CHANGED)

What I was saying was we still want the police to engage with communities, and they have a public safety function within their duties as police officers. The issue really is if the identifying information is being collected and stored in some kind of a data base, without any justifiable reason.

UNIDENTIFIED FEMALE: Okay. Moving on to training. We felt that there's a big difference in police officers today in this community for sure in terms, often having to do with age, that younger officers have had different training and often more empathetic and understanding and it is sometimes older officers who are more hardline about things. We realize that training isn't always immediately effective. Sometimes it needs to happen a number

of times before it really takes effect. We felt questions about data were important, how it's used and how it's stored, and if there is a time when it needs to be deleted and in terms of starting over. We feel that the accountability in terms of recording things would be important. It would be very important that the demographics indicate those demographics where we assume that there may be a bias. We also wondered whether it would be easy for officers to, like if they didn't agree with the system, if they don't give out receipts then how, what would there be to report on? I guess if they don't collect the information. So again we were a little cynical about whether the reports would be an accurate reflection. And training, that's the one big important thing that I forgot. In terms of training, we think that the police themselves should be doing some of this training and that if they were to be doing it hand in hand with community groups and groups that are well trusted that this could be very beneficial for the community as a whole. That if just the community groups do it it doesn't go very far to alleviate mistrust or distrust in the police. If just the police do it they may not be heard sort of saying, oh well, that's just what they're supposed to do, but that's not going to be what they really do. But if the two groups can work together informing all community members about the changes, that this could be most effective.

JODIE-LYNN WADDILOVE: Is there anything else?

UNIDENTIFIED FEMALE: I just wanted to reiterate and reemphasize the two aspects of training and

education for police officers around these regulations. The thing about training is with police services, because a number of us have worked with police, the time that is allotted to police training is very little really, so they don't get, cause a number of us worked with police. The time that is allotted to police training is very little. You don't really, I don't think they get in depth training or really to grasp the seriousness importance of these kinds of regulations. And so I would say they might get surface training, to put a whole police services through training in their allotted training time, training resources that they have is very, very limited I think. The other thing around education, and Brenda touched on this was sometime ago we used to have community policing. We had neighbourhood policing. And in terms of the police themselves being involved because I think education for the broader community needs to be prolonged so that your average citizen knows what this is all about, what their rights are and what the responsibilities of this is all about, what their rights are and what the responsibilities of police are. So that's gonna take a while for the broader community to understand their rights and responsibilities of police. But I think if police were involved, we still do have police that work on the streets and walk down the streets. If they were involved in talking to citizens on the street, the message that would get out to the community is that an officer is saying here is what is happening, you know, here is what this is all about and here is what your rights are, here's what

you can ask for. I think that would go a long way. So I just wanted to reiterate the training and the education and how it plays out. It has to be prolonged so that your broader community will know what this is.

JODIE-LYNN WADDILOVE: Thank you.

UNIDENTIFIED FEMALE: I'm just gonna pull my thoughts together here. I think one of the things that our table discussed was the receipts that are given and if somebody is stopped and there needs to be a reason why they were stopped. I think sort of what we had discussed, you know, I had never heard of a receipt being given for somebody who has been stopped and asked for their name or I.D. So the first thought I had was that it was an incident card that was given with be an incident number but apparently it's not and they don't have to be given a reason why they have been stopped. I think that needs to be standard across the board. The other thing we have chatted a bit about and I think the only organization in Thunder Bay that does it is the Know Your Rights card through Anishnabe Legal Service corporation, they are pretty, you know, they've been doing that for a few years now, if I remember correctly.

Yeah.

A few years. And they're gonna be updating those cards and, again, it's really vital that those cards are getting in the hands of students and young people that need them. So, again, sharing that information across the board. I think Thunder Bay has been good for sharing that information between places like Metalla which is

connected to Nan. But we need to broaden that because we're representing Treaty 4 and we need to broaden that understanding and languages for young people across Thunder Bay. The other thing and sort of I was thinking about it as the other table was talking about some of these things, is one of the things we are doing in a friendship agreement with Thunder Bay police is trying to build community relations with police officers because again, if we look at historically an officer in a uniform represents so much if we look at first Nations history and how that uniform is already a sign that there is a division between your community and the officer. And so, again, you know, that was another bit of a conversation that we had at the table. Does that sum it up? And we have one more comment. So again we talked a bit about advertising stats and promoting it. Educating the public.

JODIE-LYNN WADDILOVE: So statistics by police or statistics by community?

UNIDENTIFIED FEMALE: By police.

UNIDENTIFIED FEMALE: Statistics by police.

JODIE-LYNN WADDILOVE: Okay.

About what?

UNIDENTIFIED FEMALE: About what it is they are doing.

I'm gonna turn it over.

UNIDENTIFIED MALE: We talked about advertising as a means of accountability and just sharing the training that's going on, sharing the stats that are going on, and just so people know about it as a means to promote the accountability and the

service, the service to the community. That was it.

One of the other things. The peripheral issue was about carding and how that leads to incarcerations. Because people that have been breached, that have had breaches on their conditions of release, knowing that sometimes those conditions if they're down from a northern community to a medical appointment and that's why they've left the community. So sometimes the situations can be very complicated.

JODIE-LYNN WADDILOVE: Okay. Anything else from the group? Moving on to the next...

UNIDENTIFIED FEMALE: During our discussions we also were talking about the receipt as well. I'm, we got it confused with an incident receipt. A carding receipt that you've been carded. And if it's anything like an incident receipt those are just basic thin little pieces of paper. I guess I don't know what a carding receipt looks like. If it is like the incident receipt, where it's just basic maybe that actual little piece of paper can have information on the back and what you can do with it or information on data base or something that corresponds with the information that they are collecting and what, just some information on the back of it perhaps would be a little more helpful. And if it's not a thin piece of paper, maybe it can be a little bit thicker, cause if you're giving this to youth or a younger people that can easily be just lost and they don't care. Maybe more people won't care about it. But that could be a bit helpful. We also discussed international

5 students and that when they get carded that they just use that as an excuse to card them. And then that brings up the discussion of immigration, and their rights are questionable and that they can't get legal aid, that comes into play how do they handle immigration when they're doing carding was another thing that we discussed. We did discuss that public awareness and information on that would be beneficial. In terms of collecting data and who should be able to access it. Definitely this committee, special investigation units were a few that we mentioned. And that, yes, it should be the police service should store rec, the police services should store this information, we said yes and also just because it does, it can prove racism and biasness, and so that it can show that they do need more training in that area and that is about all we had to say.

10 For number 19, I guess, what should be reported to the public? The amount of checks that are done and why they were done would be a good piece of information to share because then that information could be used with other organizations.

15 JODIE-LYNN WADDILOVE: Thank you. Last table.

UNIDENTIFIED FEMALE: But not least.

20 JODIE-LYNN WADDILOVE: No. Certainly not least.

25 UNIDENTIFIED FEMALE: So we had some really great conversation at our table. One of our participants had to leave. So a lot of our thoughts were already shared by the other tables. So I just wanted to mention a couple of things. So the need for more education of course was mentioned at a couple of tables. Education for police, of course,

30

around the regulation, but also we felt for citizens to better understand the regulation. But also we felt for citizens to better understand the regulation and also to understand what their rights are in terms of when they can decline a request for information by police. I think that's really important. We talked about the fact that with the regulations we didn't see anywhere stated what the penalty may be for a police officer or police service who did not follow the regulation and so that may be, that may be elsewhere in the Police Service Act but it wasn't connected back to the Act. So I don't know exactly what the penalty would be and I think that's important to know, and perhaps in some way be included. What else did I want to say? I wanted to mention also Brenda at this table, I liked her comment about the importance of police officers understanding that there may be certain groups of individuals who are going to assume that they're being carded or they're being targeted because they belong to a certain demographic, and I think that that understanding that some groups may have an intrinsic distrust for police because of historic reasons. I think that is really important. So I think we need to focus on more education around anti-oppression, anti-racism, inter generational trauma, the impacts of that and understand why there are certain levels of distrust. And someone mentioned at our table that there as a recent CBC story that Ottawa released a report over the last year the number of police record checks that they had made, and I think someone said that it was

seven over the last year and so, and it was sort of, our table was surprised, only seven for a large community like that. And so I think there has to be a lot of education around what actually constitutes a check as opposed to a police officer just approaching an individual on a street or being stopped and asking for information, so what the difference is. I actually spent quite a bit of time going through the regulation myself and I found that there were some sections that were quite confusing. So I believe that, you know, I understand that it's legalese and it's, it can be complicated, but I just, I believe that it's going to take a lot of education and the fact that it's been in effect for a year and there were people at our table who hadn't heard of it, weren't aware of it and may have been subject to a check, but weren't aware of that. I think that's a little problematic. And then finally with respect to the receipt, there was someone at our table who had been stopped and the police officer offered her a card, and it looked like a business card, and so she didn't know if that was a, you know, a receipt or if it was a business card out of courtesy, like here's my information if you need to reach me, you know, if you have any questions, it wasn't, it wasn't a check, like it wasn't a carding incident, but she wasn't clear on that. So I understand there isn't consistency in terms of what the receipt looks like across the board and I think that that should be considered so that it's very clear what this looks like and what people are

receiving. Anything else to add? John? (Shaking head negatively) Thank you.

JODIE-LYNN WADDILOVE: Thank you everyone for your feedback. Again, if you feel that there are some comments or points made, either by yourself or your colleagues or anyone that you know, feel free to contact us. We are on line, we have a website where you can fill out the information. There is an area on our website you can type the information directly. You can send it to us by email or mail it to us, all of our contact information is there. Thank you very much again for taking the time to come out. We really do value your input and please do spread the word about our review and we look forward to meeting and hearing from you again. We all have your, make sure that you signed our contact information, we want to have all of your information there so that we can provide you with the link to the report when that is finished. But Thank you very much. Safe travels. And have a good evening. Thank you.

JUSTICE MICHAEL TULLOCH: Okay. I just want to thank you guys for coming out. Hello. Okay. Thank you so much for coming out and participating in this process. What I can say to you is that a lot of your comments are comments that we've heard from other groups as well as from the police stakeholders themselves. I think there needs to be a greater amount of public education, as well as education within the police and community, education and training. I think that there needs to be greater consistency, that's another common theme across the board, as to the application of

these particular regulations. For example, the actual receipts and what they look like. Just, you know, a larger amount of understanding on the part of the public as to what the role of police officers are within the context of public safety and police engagement and the understanding of individual liberties and the rights of citizens. So again thanks so much to all of you for your contributions.

5
10
15
20
25
30

THIS IS TO CERTIFY THAT THE FOREGOING
IS A TRUE AND ACCURATE TRANSCRIPTION OF
THE SOUND RECORDINGS TO THE
BEST OF MY SKILL AND ABILITY

5

.....

Certified Court Reporter

Michelle Lewis

10

15

20

25

30

