

INDEPENDENT STREET CHECK REVIEW

Date: January 4, 2019

Location: Chelsea Hotel
Sala Marco Polo
33 Gerrard Street West
Toronto, ON
18h00-20h00

PRESIDED BY THE HON. JUGE MICHAEL H. TULLOCH

(i)

TABLE DES MATIÈRES

INDEPENDENT REVIEWER: Juge Michael H. TULLOCH

DATE TRANSCRIPT ORDERED: January 29, 2019

1 **DANIELLE DOWDY:**

2 Okay. So, we're going to get started now,
3 so if everyone could just grab a seat.
4 Everyone can just grab a seat. Thank you.
5 Honoured guests, ladies and gentlemen,
6 members of the media, bidigen (ph),
7 welcome, and bienvenue to the public
8 release of the report of the Independent
9 Street Checks Review.

10
11 My name is Danielle Dowdy and for the last
12 18 months, I've served as the senior
13 strategic initiative lead to the reviewer,
14 the Honourable Justice Michael H. Tulloch.

15 Today, I will serve as the facilitator
16 for this event, so please allow me to just
17 briefly go over the agenda. We're going
18 to begin with a presentation from Justice
19 Tulloch on his report, and following that,
20 Justice Tulloch will depart and I will
21 call on the stage our review counsel. And
22 then I will be facilitating questions from
23 the media, question and answers from the
24 media and from the audience. And then
25 that will conclude our event.

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So, without further delay, please welcome the independent street checks reviewer to the stage, the Honourable Justice Michael H. Tulloch.

[Applauds]

HONOURABLE M.H. TULLOCH:

Good morning, and - okay. So, I would like to first acknowledge that we're gathered upon the traditional territories and meeting place for several - for several indigenous nations included in the Anishinabek, the Haudenosaunee, Huron-Wendat, and the Mississauga's of New Credit. The territory was the subject of the dish in one spoon, one *[indiscernible]* covenant and agreement between the Anishinaabeg and the Haudenosaunee and Allied Nations, to share in peace and care for the land of this great lake's region. Today, the meeting place of Toronto is still home to many indigenous people from across Turtle Island, and we're grateful

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to have the opportunity to work in the community of this territory.

I want to thank you for coming to hear my speak about the report that I've just recently released. Street checks, the police, and the communities they serve are inextricably tied. This connection is underscored in the Peelian Principles of law and law enforcement, which recognize that the role of police is to maintain at all times, the trust of the communities that they serve. The Peelian Principles is one of the guiding principles of the review that I have just - have just completed, and according to Peel, the relationship with the public and the police gives reality to the historic tradition that the police are the public, and that the public are the police.

Now, at its core, modern policing is founded on public trust to be relevant, responsive, and meaningful in today's society. It is critical that the police

1 keep the protection and promotion of the
2 public trust as a guiding principle in
3 their work because at the end of the day,
4 a community that trusts the police,
5 confides in the police, a community that
6 trusts the police, helps the police, and a
7 community that trusts the police, respects
8 the police.

9
10 I will first explore the mandate
11 background and approach the Independent
12 Street Checks Review. I will then outline
13 the analysis and key recommendations
14 contained in my report under the following
15 thematic headings; key definitions and
16 legal framework, when the regulation
17 applies, street checks in violent crime,
18 the banning of carding, duties of police
19 officers and standardization, training and
20 education, retention of identifying
21 information in databases, and overarching
22 changes to improve the implantation of the
23 regulation. I will preface my comments by
24 stating that I feel privileged to be a
25 Canadian citizen and to live in Ontario.

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Global News recently reported that for the third year in a row, Canada has been ranked as the second-best country in the world according to the US News and Reports Best Country List. Personally, I would rank Canada first, but I might be a little bit biased. Virtually all similar reports list Canada as being within the top ten safest countries of the world. And the 2018 Gala Survey lists Canada as being tied for the country with the highest level of confidence in the police. There's no other country that I would prefer to live in; we, as Canadians, we are the envy of the world. We're not perfect, but we live in a country that is better to live in than most other countries in the world. Why is this? This is because of our shared values as Canadians. Regardless of our colour, ethnicity, socio-economic backgrounds, ethnic, gender, sexual orientation, or religion, most of us are hardworking, law-abiding citizens, most of us want the best

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for our families, our children, and our communities.

[Laughter]

So, I'll have this guy arrested. Anyway, it's okay.

[Laughter]

By the way, he's taking some really bad pictures of me, right. So, anyways, okay, I'll excuse you. Just make sure that the pictures are good. Okay. So, over the course of this review, I've had the opportunity to travel throughout the province. I met with first nations, as well as Canadians from all walks of life and racial backgrounds. I learned that regardless of where we live, we all want to feel safe and we all want to have pride in our communities. We do not want to be stigmatized as criminals or victimized by criminals. We all share these common values; all Canadians want to feel safe in

1 their communities, and most reasonable
2 people understand that we can't feel safe
3 if we don't have a professional police
4 working with the community to ensure the
5 safety of the community. There are
6 criminal elements in all communities, but
7 no community wants to be defined by the
8 criminal elements that prey on those
9 communities. Most reasonable people that
10 would - would - would - most reasonable
11 people are of the view, that in order to
12 maintain safety in their communities, they
13 need to have community police cooperation.

14 Wisdom tells us we can't have community
15 police cooperation without mutual trust.

16
17 Now, in Canada we're governed and
18 protected by the rule of law. I had
19 dedicated my life to upholding that rule
20 of law. I understand that police officers
21 share that commitment. I have tremendous
22 respect for police services in Ontario and
23 the work that they do. I have been - I've
24 seen first hand, the high level of
25 professionalism of Canadian police

1 services, and in particular, Ontario
2 police services. Police services in
3 Canada and in Ontario have striven to set
4 the standard for - for policing; they have
5 been willing to try new policing
6 techniques and have been equally willing
7 to recognize when a mistake has been made
8 and that a new direction is required. The
9 people of Ontario should be proud of their
10 police services. While conducting this
11 review, I heard during my consultations
12 and through our civilian survey, that
13 citizens generally are supportive of the
14 police.

15
16 Now, I would like to turn to my mandate
17 background and approach.

18
19 On June the 7th, 2017, I was appointed by
20 the provincial government to lead a full
21 and independent review of Ontario
22 Regulation 58/16, which outlines Ontario's
23 new rules on police street checks, a
24 practice sometimes referred to as carding.
25 This regulation is the first piece of

1 legislation in Canada dealing with street
2 checks. Briefly, the regulation applies
3 if a police officer ask a person to
4 identify themselves when looking into
5 suspicious activities or investigating
6 general, criminal activity in the
7 community. It also applies where a police
8 officer ask a person to identify
9 themselves for general intelligence
10 gathering purposes. By contrast, the
11 regulation does not apply if the police
12 officer is talking to a driver during a
13 traffic stop, arresting someone or
14 investigating a specific crime. The
15 regulation outlines what an officer must
16 do if they ask for a person's
17 identification. The regulation also
18 addresses the storage of information that
19 comes from street checks, mandatory
20 training for all police officers on the
21 new rules, and public reporting
22 requirements. I reviewed the content of
23 the regulation and assessed whether police
24 officers, chiefs of police, and police
25 services boards are following it. I also

1 assessed whether the regulation reflects
2 the important goal of ensuring that public
3 police interactions are consistent, biased
4 free, and done in a way that promotes
5 public confidence and protects human
6 rights. To be candid, prior to conducting
7 the Street Checks Review, I knew very
8 little about the mechanics of street
9 checks or the benefits that street checks
10 may or may not provide to police services,
11 or the impact that street checks may have
12 on those who are stopped by police. To be
13 completely forthcoming, before the review
14 I was not entirely sure that even - that -
15 of what even constituted a street check.
16 During the course of the review, I found
17 that my ignorance of these issues was
18 widely shared. As we read the media, as
19 we hear pundits, we hear a lot of
20 definitions of what street checks are, as
21 I - as a result, I had to engage in an
22 intense study of the issues and interact
23 with both police services and community
24 members, as well as members of racial and
25 indigenous communities who had been

1 adversely affected by - by - by the
2 practice. I met with representatives of
3 34 police services throughout Ontario,
4 held 12 public consultations, undertook a
5 range of private stakeholder meetings, met
6 with indigenous, black, and other
7 racialized communities, and launched a
8 civil - the civilian survey to gather
9 public views on street checks. In total,
10 I met with over 2,200 and received over
11 100 written submissions. It is important
12 to note that street checks have not
13 affected all members of the public in the
14 same way, or to the same degree. Numerous
15 studies have shown that street checks had
16 disproportionately impacted members of
17 indigenous, black, and other racialized
18 communities. For instance, in the years
19 2010 and 2012, a series of articles in the
20 Toronto Star highlighted the
21 disproportionate number of black people
22 being carded and by the year 2013, black
23 people were approximately 17 times more
24 likely to be carded than white people in
25 certain parts of downtown Toronto.

1 Indigenous women are nearly 10 times more
2 likely to be street checked by Edmonton
3 police. According to 2015 reports, black
4 people in Brampton and Mississauga were
5 three times more likely to be stopped by
6 the police and form 21 percent of all
7 street checks, even though they were only
8 nine percent of the population.

9
10 In addition to the consultations, I
11 conducted in depth Canadian and
12 international research to address the
13 myriad of issues under consideration, and
14 launched as well, as conducted a civilian
15 survey which was a requirement under the
16 terms of reference. Now, it's critical to
17 - to any analysis of the issues
18 surrounding street checks and carding to
19 ensure that we all have a clear
20 understanding of what these terms mean.
21 The two have been taken as the same, when
22 in fact, they are quite different.

23
24 During the course of the review, it became
25 apparent to me that there were many

1 misunderstandings and misconceptions
2 regarding the regulation which I believe I
3 must address. First, people are using the
4 terms carding and street checks
5 interchangeably. They're debating the
6 relative merits of those practices without
7 a common understanding as to what those
8 terms mean. I believe that there is a
9 difference between what are called street
10 checks and what has commonly been referred
11 to as carding. Police services use the
12 term street checks to refer to any
13 information obtained while an officer is
14 out in the community obtaining
15 information. For example, if an officer
16 fills out an observation report that they
17 saw someone doing something at a
18 particular location, is qualified as a
19 street check even though no identifying
20 information was requested or obtained from
21 that person. As a result, the first thing
22 that had to be done was to define key
23 terms. For the purpose of the report, a
24 street check is limited to situations
25 where identifying information is obtained

1 by a police officer concerning an
2 individual outside of a police station
3 that is not part of an investigation.
4 Carding is defined to be a situation in
5 which a police officer randomly ask an
6 individual to provide identifying
7 information when there is no objectively
8 suspicious activity. The individual is
9 not suspected of any offence and there is
10 no reason to believe that the individual
11 has any information about any offence.
12 That information is then recorded and
13 stored in a police intelligence database.
14 Carding therefore, is a small subset of
15 street checks. I should also note that
16 identifying information is not just a
17 person's name; it includes any information
18 which alone or in combination with other
19 information can be used to identify an
20 individual. This could be a person's name
21 but it could also be for example in
22 combination their age, sexual orientation,
23 marital status, socio-economic
24 circumstances, or employment history. I
25 have recommended that this definition be

1 standardized across the province. It is
2 with these definitions in mind that I have
3 conducted my analysis and review. I also
4 thought it was important to provide the
5 legal framework for the analysis. Police
6 officer's have a general duty to protect
7 the public; they are provided only limited
8 statutory common law powers to perform
9 that duty. Police officers may ask people
10 to identify themselves in any situation,
11 unless there is a legal requirement for
12 people to identify themselves such as when
13 they're operating a motor vehicle or they
14 and under arrest, or there is some
15 statutory requirement requiring them to
16 identify themselves. People do not have
17 to provide their identity to a police
18 officer. The regulation attempts to
19 ensure that if a person is asked by a
20 police officer to provide identifying
21 information when the person is not legally
22 required to provide it, the request is
23 made indiscriminately, and not arbitrarily
24 in that the information is provided
25 voluntarily. In that regard, the

1 regulation simply codifies the existent
2 common law.

3
4 Now, when does the regulation apply? As I
5 explained earlier, the regulation as it is
6 currently drafted, applies when a police
7 officer requests an individuals
8 identifying information, where police are
9 inquiring into suspicious conduct, or a
10 potential offence, or where they're
11 gathering information for intelligence
12 purposes. During these interactions,
13 there's no obligation on the individual to
14 provide identifying information and they
15 are at all times free to go. A point of
16 concern often - is - is often raised and I
17 saw throughout my consultation, was that
18 suspicious activities can be interpreted
19 very broadly. What one person finds
20 suspicious another might not, and such a
21 broad category could result in
22 indiscriminate stops being made. For this
23 reason, I have recommended that when
24 police officers are request an identifying
25 information because they are inquiring

1 into suspicious activities or a general
2 criminal activities, they must have
3 objective and credible grounds to justify
4 these inquiries. At this point, I'd ask
5 you to please read the actual report.
6 We've got copies in this room for all of
7 you and I - I think it's, you know, you
8 can't really understand any of these
9 recommendations, without understanding the
10 context. Context is important and I think
11 it's the lack of context that has caused
12 all this confusion, and it's caused us to
13 be in the state that we're in. So, I - I
14 really encourage you to not just listen to
15 my - my commentaries today, not just read
16 the various newspaper articles, but please
17 read the entirety of the report. I think
18 it's critically important for all of us so
19 that we're all aware of what our
20 obligations are as - as citizens and what
21 our civil liberties are.

22
23 Now, for this reason I've recommended, as
24 I've indicated, that when police officers
25 are requesting identifying information

1 because they're inquiring into suspicious
2 activities or general criminal activities,
3 they must have objective and credible
4 grounds to justify these inquiries. And -
5 and objective and credible grounds are
6 defined in the report. I've also listed
7 scenarios and examples in the report, so
8 that it can be easily understood by police
9 officers as well as citizens, so that
10 there shouldn't be much confusion in these
11 kinds of situation.

12
13 Now, in order to maintain public trust and
14 confidence in police and to make sure that
15 police resources are used appropriately,
16 stops must be based on more than a hunch
17 or spidey sense. It is critically
18 important that police officers be able to
19 articulate their objective and credible
20 reasons for the request. There are a
21 number of circumstances in which the
22 regulation does not apply and I would like
23 to highlight a few. The regulation does
24 not apply to community interactions;
25 police should be able to meet and speak to

1 members of their community without
2 entering into - without entering this
3 information into a police database,
4 without being obligated to follow the
5 rules of the regulation. Conversely,
6 community members should feel that they
7 can meet their local police officers in
8 casual, friendly settings and not feel as
9 though their name is being requested to be
10 recorded in a police database. The
11 regulation also does not apply to
12 investigations generally. The police are
13 able to question potential witnesses and
14 suspects in relation to an offence that
15 has been or will be committed without
16 following the rules of the regulation; and
17 this is the law by the way. They can also
18 investigatively detain an individual that
19 they suspect has committed an offence and
20 can arrest an individual where there are
21 reasonable and probably grounds to believe
22 they have committed an offence or another
23 - or under some other lawful authority.

24
25 Another important aspect of the regulation

1 is the circumstances under which it
2 prohibits the collection of identifying
3 information. Police officers cannot
4 collect identifying information if any
5 part of the reason for the attempted
6 collection is because the officer
7 perceives the individual to be of the
8 racialized - of a racialized group or if
9 the attempted collection is done in an
10 arbitrary way. Of course, the one
11 important exception to this is where
12 racial identity is part of a subject's
13 description. Where there is a description
14 of a particular individual that police are
15 seeking, and the police officer has a
16 reasonable specific description of the
17 individual that consists of more than just
18 that individuals age, gender, and racial
19 identity, an officer can consider race in
20 requesting identifying information. While
21 ensuring that people are not stopped on
22 the basis of race alone is an important
23 step for - step towards ensuring fairness
24 and equality in police public
25 interactions, I do not believe it goes far

1 enough. Stops should also not be made on
2 the basis of other prohibited grounds of
3 discrimination, under the human rights
4 code, or based on an individual socio -
5 socio-economic status. Such a rule would
6 go a long way in developing trust between
7 the police and the public they serve.
8 Finally, it is not only interactions where
9 an officer request identifying information
10 that must be conducted without bias and
11 discrimination, all police public
12 interactions must be carried out in this
13 manner. Officers should be trained that
14 they should have articulable reasons to -
15 for their stops and that no part of these
16 reasons should be based on a prohibited
17 ground of discrimination under the *Human*
18 *Rights Code*. Of the types of interactions
19 to which the regulation applies, it is the
20 general intelligence gathering category
21 that has drawn the most criticism from
22 stakeholders. They view the intelligence
23 gathering provision as a catch all,
24 allowing police to ask whomever they wish
25 for their identifying information.

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Now, there are two types of request for identifying information for intelligence gathering purposes. Specific intelligence gathering, where an officer has objective and credible reasons to believe that obtaining the identifying information would provide valuable intelligence. And random intelligence gathering, where the sole focus of the request is to gather names and create a database of individuals. As I've outlined in my report, the former is an appropriate police activity and should be a regulated stop. The latter, which essentially amounts to carding, is a different story.

In order to determine the appropriateness of this activity, I asked two questions that were critical to my review. Do random street checks actually work? And should random street checks or carding ever be allowed? It is impossible to complete an analysis of this issue and not address the elephant in the room and some people have made a connection between a

1 significant decrease in street checks and
2 an increase in violent crime. The link
3 is, in my view, unsubstantiated. Many
4 jurisdiction in - in Ontario, did not
5 report any increase in crime after
6 reduction of street checks. In Toronto,
7 violent crime actually declined in the
8 years leading up to 2014, despite the fact
9 that the Toronto Police Service
10 voluntarily curtailed the number of street
11 checks performed during this time, or - or
12 the number of, what I would say, carded.
13 As well, the 2016 to 2018 numbers or - as
14 well, from 2016 to 2018, the number of
15 shootings actually dropped in
16 neighborhoods that had been heavily carded
17 prior to the regulation coming into force.
18 Gun violence is not the only indicator of
19 violent crime, and I'm not in any way
20 excusing gun violence. Like I said, you
21 know, I spent my entire career in the
22 criminal system and both as a prosecutor,
23 as a defence lawyer, a trial judge, and a
24 court of appeal judge, but we have to look
25 at the objective data. Significantly,

1 Statistics Canada has reported that in
2 2017, the first year that the regulation
3 was in force, Ontario had the second
4 largest decline in homicides among the
5 provinces in Canada, which was largely
6 attributed to guns and gangs. I think
7 this is important to emphasize; the year
8 the regulation came out, homicides in
9 Ontario actually went down.

10
11 The link between violence and street
12 checks is also a furious one, because it
13 compares apples to oranges. The general
14 argument is that street checks have
15 drastically declined post-regulation, and
16 therefore any increase in violence is
17 linked to that decrease. And again, the
18 definition of course when these articles -
19 or when these arguments are being made,
20 it's still mixing, what I would say,
21 carding and - and - and proper street
22 checks, right? So, there is not that
23 distinction. So, the argument goes on,
24 right, that there's this straight-line
25 correlation. This ignores the fact that

1 prior to regulation, police use the term
2 street checks as an umbrella term that
3 included many interactions that are not
4 regulated and not considered street checks
5 under the new regime. Before the
6 regulation, street checks could include,
7 as I've indicated, observations an officer
8 made without talking to people, or
9 information obtained in speaking to
10 someone not including identifying
11 information. A reduction in the number of
12 interactions that qualifies street checks,
13 would not impact the crime rate.

14
15 Now further, police powers have not been
16 eroded. Police remain entitled to stop
17 and question people reasonably suspected
18 of being implicated in an offence without
19 triggering the regulation. Police remain
20 entitled to approach people and question
21 them without asking for identifying
22 information without triggering the
23 regulation. Police are entitled to search
24 people for weapons where they reasonably
25 suspect that the persons carrying a weapon

1 in a regulated or a non-regulated
2 interaction. None of these important
3 police powers have been taken away or
4 impacted by the regulation, the only thing
5 that has changed is that when a police
6 officer requests a persons identifying
7 information with less than reasonable
8 suspicion of criminal activity, there has
9 to be a good justifiable reason for the
10 request. This, in my view, is not a
11 difficult requirement.

12
13 Now, it was clear to me from my
14 consultations and research that the
15 practice of random carding
16 disproportionately impacts innocent, law-
17 abiding, indigenious, black and other
18 racialized people. The long-term impact
19 of randomly carding people in these
20 communities, is the alienation of entire
21 communities from the police and a result
22 in lack of public trust in and cooperation
23 with the police. Our current system of
24 policing, as I've indicated, is by
25 consent. The public consents to allow

1 police officers to have powers and lee -
2 and - and legal defences unavailable to
3 other citizens. A requirement of that
4 consent is that police officers exercise
5 those powers appropriately. Properly
6 conducted street checks are an effective
7 and necessary component of proactive
8 policing. Most people support police in
9 stopping people and asking them to
10 identify themselves in the right
11 situations. That is one of the areas of
12 common ground that I - I identified in
13 this review. For example, imagine that a
14 police officer sees someone trying to open
15 the windows of a home late at night. It
16 is possible the person accidentally locked
17 themselves out of their own home, it is
18 also possible that the person is a
19 burglar. If you agree that the police
20 officer should inquire as to which one of
21 those possibilities apply, and in my view,
22 any reasonable person would, then you have
23 just supported a police street check.
24 Most people do not support the police
25 randomly demanding that people provide

1 their identifying information and then
2 recording that information in a police
3 database. As I will mention later, that
4 has now become an area of common ground,
5 with most police services as well. The
6 problem worsened in the past when police
7 services made it a performance measure for
8 police officers to obtain identifying
9 information from people; that provided an
10 incentive for police officers to engage in
11 extremely poor police practices. The bar
12 for what was considered to be suspicious
13 behaviour was lowered and then removed
14 entirely. People were no longer stopped
15 because they were acting suspiciously;
16 they were stopped because they were
17 available on the street to be stopped. In
18 order to meet the required quotas, groups
19 of young people sometimes were
20 collectively asked by police officers to
21 provide their identifying information.
22 Some people were stopped on their way both
23 to and from school or work and asked to
24 provide their identifying information.
25 The process sank so low that police

1 officers - and I say some, and I would not
2 in any - I'm not tainting all police
3 officers, but some police officers began
4 to record names and birthdates of
5 headstones in cemeteries and submit it as
6 street check data. Sometimes people
7 provided someone else's name or address,
8 presumably someone they did not like. So,
9 as a result, the quality and the
10 reliability of the collected information
11 was extremely poor. And analysis of
12 collected street check data would indicate
13 the combined presence of the walking dead.

14
15 [Laughter]

16
17 Police stakeholders confirmed that random
18 carding produced low quality intelligence,
19 however, people were still denied jobs and
20 other opportunities because of that data,
21 some of which was incorrect information.
22 Many newspaper reports indicated that
23 certain groups were stopped and questioned
24 far more often than others. Street checks
25 were seen to be a manifestation of racial

1 profiling; this resulted in a loss of
2 trust and a reduction in the perceived
3 legitimacy of police activities within
4 those groups. It also delegitimized
5 proper police street checks because of the
6 negative publicity and the poor level of
7 quality of intelligence. Most police
8 services stopped the practice of randomly
9 stopping people and recording their
10 identifying information long before the
11 regulation came into effect. At the same
12 time, through my research and
13 consultations, I found that random carding
14 had a very minimal role in detecting or
15 deterring offenders or reducing crime. In
16 my view, it is far better to use our
17 limited resources to focus on individuals
18 who are reasonably suspected of committing
19 an offence, rather than using valuable man
20 power to question thousands of people not
21 reasonably suspected of anything. The
22 negative impact of random carding
23 particularly on indigenous, black and
24 other racialized communities combined with
25 the limited evidence that it is an

1 effective police tool, brings me to only
2 one logical conclusion and that is, that
3 random carding should end. Now in my
4 extensive analysis, I was unable to find
5 an example of a situation where polices
6 inability to randomly stop people to
7 conduct street checks for general
8 intelligence gathering, or as I've
9 referred to it today, inability to
10 randomly card people, would interfere with
11 their ability to effectively fulfill their
12 duties. Even in emergency situations
13 where they are faced with threats to
14 public safety, the tools already at the
15 polices disposal are more than sufficient
16 to address any threat that may arise.
17 Again, I'm going to point you to chapter 4
18 of my report, where I talk about the legal
19 framework. Chapter 5 and 6, I've given
20 you concrete examples and scenarios for
21 you to - to study and to look at. Many
22 police services have already come to this
23 same conclusion and have ceased the
24 practice of random carding. For those
25 services that have not, in my view, it is

1 time. Now, a key part of my report
2 focuses on the duties of police officers
3 relating to the collection of identifying
4 information and the standardization of
5 receipts, forms, policies, and procedures
6 for the implementation of the - of the
7 regulation.

8
9 In noting the significance of civility and
10 professional in officer request for
11 identifying information, I make a series
12 of recommendations in my report on what
13 must be included in the rights
14 notification that officers provide before
15 questioning or requesting identifying
16 information, the tone and manner that
17 officers should use when notifying people
18 of their rights, and finally officer
19 request for supporting documentation.

20 Now, recognizing the vulnerability of
21 children and the lived experience that in
22 many instances a street check is a
23 child's, in some communities, first
24 interaction with the police, I have paid
25 close attention to request for identifying

1 information involving children under the
2 age of 12. I make a recommendation about
3 when officers can request identifying
4 information from children and the special
5 rules that apply in these situations.
6 This brings me to the concept of
7 standardization and its importance;
8 standardization of documentation policies
9 and procedures ensures that members of
10 police services at all levels, working
11 across the province, under expectations
12 and understand the expectations and
13 undertake their work in a systemic
14 fashion. Standardization also ensures
15 that members of the public know and
16 appreciate under what circumstances and
17 exactly when and how a request for
18 identifying information will be undertaken
19 and it also helps police officers who
20 transfer laterally between services, so
21 that they all have the same level of
22 training and they all have the same
23 expectations. As it relates to request
24 for identifying information,
25 standardization means A, that officers

1 must inform anyone they ask for
2 identifying information, that their
3 participating is voluntary. That the
4 receipt or document of interaction
5 provided to individuals after identifying
6 information is requested or collected, be
7 the same throughout the province in
8 content and format so that citizens are
9 confidence, or confident that the same
10 rules are being applied consistently.
11 That officers must provide the reason for
12 collecting information as the reason is
13 vitally important to clarity to members of
14 the public on why they stopped, or why
15 they were stopped and asked for their
16 identifying information in the first
17 place, and that officers must record
18 specific information during a regulated
19 interaction in a form that is consistent
20 for all police services province wide.
21 Having said that, it's also our
22 recommendation that this form and this
23 process be simplified.

24
25 Now, consistency in standardization is

1 also a great importance at an
2 organizational and systemic level. By
3 this, I mean that there should be a
4 minimum consistent province wide policy to
5 implement the regulation that is binding
6 on all police services wards, which they
7 can then adopt to include increase
8 requirements if they so choose. Chiefs of
9 police must develop procedures that are
10 consistent with the policies developed by
11 police services boards. Procedures should
12 be binding on the chiefs of police. A
13 template annual report should be developed
14 for use by police services across Ontario
15 so that there reports, data and analysis
16 are easily comparable to one another.
17 Annual reports should be made publicly
18 available within the first six months of
19 the following calendar year. Age groups
20 and racial groups of those requested to
21 provide identifying information should be
22 standardized throughout the province of
23 specific age through - through the
24 provision of specific age ranges and
25 racial categories. This proportionate

1 impact should be defined to ensure
2 consistency, analysed, deidentified data
3 should be made publicly available for
4 research purposes. Now, in my many
5 consultations and through my research and
6 analysis, I realize that consistency and
7 standardization are only possible if there
8 are compliance and accountability
9 mechanisms in place.

10
11 To this end, I recommend that collected
12 identifying information be monitored to
13 ensure it was properly obtained and that
14 an early warning system be set up to
15 ensure that officers are following the
16 regulation. Officers who are not
17 complying with the regulation should
18 receive instructions and retraining, and
19 those who persist in breaching the
20 regulation, should be subjected to
21 discipline.

22
23 Now, I will turn to the importance of
24 training and education. As I note in the
25 report, essential piece of the review

1 relates to the training provided to police
2 officers on the regulation. Training is
3 arguably the most important part of the
4 regulation. In the report, I look at the
5 training that was delivered in the fall of
6 2016 before the coming into force of the
7 regulation, and then discuss training on
8 an ongoing basis. The training offered in
9 the fall of 2016 generally complied with
10 the requirements in the regulation but was
11 lacking in certain regards. First, the
12 training failed to give enough attention
13 to the reason for the regulation and as
14 such, failed to get strong buy-in from
15 officers who viewed as a Toronto centric
16 problem. Second, the training failed to
17 spend enough time on the regulation itself
18 and the legal basis on authorities for
19 police stops. Third, there was no
20 specific training for data verifiers,
21 supervisors, or for chiefs of police on
22 their specific roles and responsibilities
23 under the regulation. Recognizing these
24 issues, I make specific recommendations in
25 the report to expand the scope of the

1 training and ensure consistency throughout
2 the province on a go forward basis. I
3 highlight the importance of police
4 community collaboration in the development
5 and delivery of training to police
6 officers, and that any future training
7 include a focus on adolescent development,
8 the local realities of the police service
9 in question, the application of the
10 regulation for real world scenarios, and a
11 general focus on the ability to articulate
12 reasons. The training should include
13 testing and there should be regular
14 periodic refresher training.

15
16 Additionally, I recommend that Ontario
17 consider establishing a college of
18 policing as the professional body of
19 policing. I introduced this
20 recommendation in my report of the
21 Independent Police Oversight Review and
22 underscored here again, because it bears
23 repeating; policing is a demanding,
24 complex profession and a degree program of
25 expanded educational requirement would go

1 a long way to ensuring that police
2 officers have the full suite of tools to
3 undertake their important work. Equally
4 important to the education and training of
5 police is public education and information
6 on the regulation. Members of the public
7 have not been properly and fully informed
8 about the regulation and its operation.
9 And this has resulted in mass confusion
10 and misinformation about street checks,
11 carding, and the rules within the new
12 regulation. The public must not be
13 trained simply on the regulation and its
14 operation, but also should - but also
15 about key legal principles and authorities
16 around concepts such as, you know, police
17 authorities and the right to walk away
18 freely and as well as the whole legal
19 concept of investigative detention.

20
21 I recommend that any public education and
22 training materials be developed using a
23 multifaceted, multidisciplinary approach,
24 which involved community groups, legal aid
25 clinics, school boards, and youth advocacy

1 groups. There should also be a full cross
2 platform advertising social media strategy
3 on the regulation.
4

5 During my consultations throughout
6 Ontario, I also noted that there was a
7 need for a robust education, rights
8 education program. And, you know, I note
9 at this point that civic education is no
10 longer taught in our schools at the levels
11 that we were taught at when I was young,
12 and I certainly believe that this should
13 be a part of educational curriculum.
14

15 In addition, you know, individuals should
16 be taught indigenous histories and black
17 history and information as to how their
18 experiences historically has affected them
19 living within this cultural mosaic.
20

21 Now, another key issue is the retention of
22 identifying information in the database;
23 information collected during regulated
24 interactions is often stored in a database
25 within the police services records

1 management system. The storage of this
2 collected information raises many issues
3 that warranted my close attention. Many
4 stakeholders indicated that the data was
5 critical to solve future crimes and to
6 answer any potential future complaints or
7 lawsuits. Other stakeholders pointed to
8 many high-profile stories of how the
9 information stored within these databases
10 has had a negative impact on the lives of
11 many law-abiding citizens. Some of these
12 stories are outlined in the report and
13 include instances where the data collected
14 from street checks stored in databases
15 resulted in the loss of employment and
16 educational opportunities. A range of
17 reports and studies have recommended
18 different timeframes for the retention of
19 identifying information in databases. I
20 recognize that it was imperative to set a
21 definitive time limit across the province
22 for the retention of identifying
23 information, after which time it should be
24 destroyed; I determined that five years
25 was an appropriate period. Historical

1 data, meanwhile, refers to data collected
2 before the coming into force of the
3 regulation, to which the regulation would
4 have applied had it been in place at the
5 time. Recognizing the importance of
6 consistency in the management and handling
7 of data by police services province wide,
8 I recommend that historical data should
9 automatically be destroyed five years
10 after it was collected.

11
12 Now finally, the terms of reference ask me
13 to consider any overarching changes to
14 improve the implementation of the
15 regulation. And I recognized at the
16 outset that any review of the regulation
17 would be incomplete unless I pursued a
18 contextual approach that considered themes
19 of public trust and confidence in
20 policing.

21
22 In my report, I've considered some ways in
23 which street checks intersect with police
24 practice more generally and made some
25 observations and recommendations in the

1 areas of community policing, partnerships
2 with indigenous communities, locally based
3 policing and diversity and inclusion in
4 police services. Community policing is
5 instrumental in establishing and
6 maintaining strong police relations and
7 building public trust.

8
9 Partnerships between police and indigenous
10 communities develop through strong
11 programs and initiatives build on
12 recommendations made in previous reports
13 and are crucial to establishing
14 meaningful, equitable relationships with
15 indigenous communities.

16
17 As for locally based policing, there was a
18 concern that arose repeatedly throughout
19 my consultations that many police officers
20 often did not live in the communities that
21 they served. This distance resulted in a
22 lack of strong direct links to the
23 community were knowledge of the community.

24
25 As such, I have recommended that police

1 services make efforts to hire people from
2 within the city or region of the services
3 that the police officers will be serving
4 in, and that community police officers in
5 particular, be engaged in a local
6 community for a sufficient period of time
7 to form positive long-lasting
8 relationships.

9
10 Last, but certainly not least, I
11 underscore the importance of diversity and
12 inclusion in police services. Part of the
13 perception of discrimination in regulated
14 interactions or street checks may result
15 from the fact that the police officer
16 requesting identifying information is from
17 a different racial background than the
18 person from whom the information is
19 sought. I believe that a diverse,
20 inclusive police service at all levels is
21 essential to address this concern and make
22 a valuable difference. To this end, I
23 outline the importance of periodic data
24 collection and diversity and inclusion
25 strategies.

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Now, in conclusion, I am grateful for the opportunity to provide my input into this important area through this report. I cannot in one brief speech properly cover everything detailed in the report. I hope today has given you an area or an idea of the work that I have done on this review, but I also ask that you take the time to read and contemplate the report in its entirety. I believe that the recommendations I have made will improve public confidence in policing and bring much clarity to the complexities and confusion in the regulation. In my work reviewing the regulation, I have seen firsthand a great commitment by members of the public, police, and community organizations to make meaningful changes to ensure that there's an appropriate balance between principles of public safety and the protection of human rights.

I want to close by acknowledging and thanking all of the stakeholders we met

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during our consultations in Ontario; I could not have undertaken this work without your contributions. Thank you very much, that is my presentation.

[Applauds]

Thank you. I will now excuse myself and I have my counsel here, just so you're aware, as a judge I don't answer questions on my judgments and I'm not going to start a new precedent in answering questions on this report. I'm encouraging all of you to read the report. Thank you.

[Applauds]

DANIELLE DOWDY:

Thank you to justice Tulloch. I'd now like to call up our review counsel, Prasanna Ranganathan, JAQUELINE McNamara, and Christine Mainville.

NON IDENTIFIED SPEAKER:

For the English speaking journalist, Ms.

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Mainville can answer your questions in French.

DANIELLE DOWDY:

Dave, if you could just wave, and Esther have microphones. If you have a question, please make your way to them or signal to them and they will bring the microphone to you. Please also note that counsel is not available to answer questions about individual or personal cases. We've got 30 minutes set aside for questions, so I'm going to ask that you keep your questions brief so that we can hear from as many people as possible.

NON IDENTIFIED SPEAKER:

Can you just clarify counsel's role, do they represent Justice Tulloch?

DANIELLE DOWDY:

Yeah, so they were the - the counsel to the reviewer. We've got a small team and....

1 **NON IDENTIFIED SPEAKER:**

2 So, they're lawyers?

3

4 **DANIELLE DOWDY:**

5 They're lawyers, yes.

6

7 **NON IDENTIFIED SPEAKER:**

8 Okay.

9

10 **DANIELLE DOWDY:**

11 So, these were our three lawyers and
12 they're available to answer questions.
13 So, if you have a question, just raise
14 your hand and Dave will bring, or Esther,
15 will bring you a microphone.

16

17 **NON IDENTIFIED SPEAKER:**

18 Thank you. Thank you for being here. I
19 just have a question related to Justice
20 Tulloch's definition of street checks
21 versus carding. He gave an example of a
22 street check which was somebody opening a
23 window and police stopping and
24 investigating that. I want to know, does
25 that street check definition, is it

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synonymous with the practice of
investigative detention, and can they be
used interchangeably?
Prasanna Ranganathan, JAQUELINE McNamara,
and Christine Mainville

PRASANNA RANGANATHAN:

Sorry, just a point of clarification, are
you asking about the example Justice
Tulloch provided in his speech just now?

NON IDENTIFIED SPEAKER:

Yes, I am.

PRASANNA RANGANATHAN:

Okay. So, in that instance, Justice
Tulloch was outlining the - the context of
when street checks would operate as
opposed to carding. And the example that
we'd like to point you to, I think that
would clarify that even further, is the
one in Chapters 5 and Chapter 6 of the
report, and that has four scenarios. And
that clearly outlines the distinction
between street checks and carding - sorry,

1 street checks and also then the notion of
2 investigative detention.

3

4 **NON IDENTIFIED SPEAKER:**

5 Thank you.

6

7 **PRASANNA RANGANATHAN:**

8 Thank you.

9

10 **NON IDENTIFIED SPEAKER:**

11 The - the report is highly commendable in
12 dealing with situations wherein police
13 officers stop, arbitrarily detain, hassle
14 some may say, individuals and attempt to
15 get identifying information. Why is the
16 report silent as to the most common form
17 of street check today, which is stopping
18 individuals who are minding their own
19 business, asking them all sorts of random
20 questions, without identifying -
21 requesting any identifying information,
22 therefore falling outside the regulation?

23 If I'm right in that, the amount of
24 street checks that the Toronto Star
25 covered is going to continue and we're not

1 even going to have the data to support
2 whether or not it's racially motivated.
3 Thank you.
4

5 **CHRISTINA MAINVILLE:**

6 I think that's - it's a fair concern.
7 It's, I think, one of the central ills
8 that the regulation was initially targeted
9 at, was at the fact that at the end of the
10 day, people's information, personal
11 information, identifying information was
12 collected in a database which had
13 significant or could have significant
14 repercussions for members of the community
15 and that is, on a long-term basis. And
16 that is really one of the - the principle
17 ills that was targeted to at least be able
18 to curb that, and that's why there is a
19 significant focus on the collection of
20 identifying information because that's
21 really, at the end of the day, what has
22 potential long-term consequences. It's a
23 bit more of a difficult issue to - to
24 regulate various interactions where newer
25 information is collected. But there are

1 recommendations in the report that, you
2 know, seeks to address these concerns and
3 educate both officers in the public about
4 the types of interactions that should be
5 taking place, civility, and - and basic
6 core principles that should be respected
7 by police officers in all instances, and
8 emphasising that identifying information
9 should be requested only, at the end of
10 the day, when necessary. And - and even
11 if there is a circumstance where the
12 police should be interacting with
13 individuals or approaching them because of
14 there's - there may be a situation of
15 concern, that the starting point should
16 not be to request their identifying
17 information. And so, there is no ban on
18 approaching civilians in various
19 instances, nor should there be
20 necessarily. It shouldn't be abused of
21 and I think that the report makes that
22 clear.

23
24 **PRASANNA RANGANATHAN:**

25 And I would also add to my colleague's

1 comments, is that the purpose of the
2 review is specifically to look at the
3 terms of regulation 58/16. And that
4 regulation was designed around the issue
5 of asking for identifying information.
6 So, the analysis centres on that approach,
7 and that is also the parameters within
8 which we provided the analysis.
9

10 **NON IDENTIFIED SPEAKER:**

11 All right. Hi there. Oh - okay. Hi.
12 So, one of my questions is towards the -
13 one of the Justice Tulloch's
14 recommendations in the report. So, one of
15 his recommendations asks that if a child
16 who is 12 and under, they should not be
17 street checked unless a parent is guard -
18 is involved or they get permission from
19 the parent. Now, my question is from my
20 experiences, I know of many individuals
21 who are 13 and 14, who have faced
22 traumatizing experiences when they were
23 randomly stopped, so don't you think 12 is
24 too low of a threshold? Because 13, 14
25 for example, those kids can be

1 traumatized, it can impact their life, and
2 a lot of them need counselling after they
3 face experience and then they lose a lot
4 of trust with policing. Thank you.

5
6 **CHRISTINA MAINVILLE :**

7 Thank you for that. I think I do have to
8 address one of the core premises of your
9 question, which is that these youth are
10 being randomly stopped. And Justice
11 Tulloch is very clear that random stops of
12 adults, youth, people under the age of 12,
13 over the age of 12, doesn't matter, those
14 should not be happening. And so, the -
15 these situation about a parent or a
16 guardian needing to be present, is - is
17 aimed at not carding situations, but other
18 types of interactions where the police may
19 wish to request, for valid reasons, a
20 person's identifying information. And
21 what Justice Tulloch recommends is that
22 that should not happen when a person is
23 under 12, unless a person - a parent or
24 guardian is readily available and present
25 for it.

1 **JAQUELINE MCNAMARA:**

2 I would just add to my colleague's
3 response, that the recommendations that
4 Justice Tulloch has made are *[sic]* reflect
5 the existing framework in the *Youth*
6 *Criminal Justice Act* and the ages that are
7 set out in that act. And so, rather than
8 imposing a new age limit and determining
9 that separately, he's gone with what is
10 the existing criminal law.

11
12 **NON IDENTIFIED SPEAKER:**

13 Hi. Thanks so much. Justice Tulloch
14 acknowledges that policing is a demanding
15 and complex profession; he said that here
16 today. And also, we know that police
17 officers often have to make life or death
18 decisions and think very quickly on their
19 feet. In saying that, he says, you know,
20 stopping someone for suspicious activities
21 can be interpreted very broadly, that idea
22 of what is a suspicious activity, it must
23 be objective and credible and can't be
24 based on spidey sense or just a hunch.
25 How confident is the Justice that, you

1 know, there's a lot of recommendations
2 here, that an officer will be able to, you
3 know, when he sees someone and has
4 concerns, be able to, you know, quickly go
5 through the criteria in his mind, his or
6 her mind, for example, and make sure that,
7 you know, they're not infringing on
8 someone's human rights, that they are
9 respecting the recommendations if they
10 are...

11
12 **CHRISTINA MAINVILLE:**

13 So....

14
15 **NON IDENTIFIED SPEAKER:**

16 ...approved by the Ontario government? I
17 mean, how confident is he in a police
18 officer to think quickly and do that?
19 Follow the regulations.

20
21 **CHRISTINA MAINVILLE:**

22 They are - I am very confident in their
23 ability to do that because that's what
24 police officers do on a daily basis. That
25 is what they're trained to do. The

1 criminal laws replete with various rules,
2 parameters, standards. It's what they do
3 regularly, and I think that part of the
4 issue with the current framework or up to
5 now, that Justice Tulloch is trying to
6 improve on, is that there - there were
7 legitimate reasons to be confused about
8 some of these thresholds, the standards,
9 the parameters. It's - the regulation was
10 confusing in many respects. And so, it's
11 true that there has been difficulty in
12 applying it and quite legitimately so,
13 because even lawyers would have difficulty
14 sometimes understanding certain aspects of
15 the regulation, as currently drafted. But
16 our hope is that once - if and when these
17 recommendations are implemented, they
18 actually simplify, clarify many aspects of
19 this regulation. And having done that,
20 I'm quite confident that police officers
21 would be able to distinguish between
22 what's a random or inappropriate
23 discriminatory stop and what is
24 objectively grounded and - and warranted
25 in terms of an interaction and a potential

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request for information - identifying information.

PRASANNA RANGANATHAN:

And to just add a point here, Chapter 9 of the report specifically talks about the parameters of the training that should be delivered. It includes a review of the training that was provided. And the report clarifies the confusion that had existed previously held by both members of the police and the community, just widespread confusion. And so, Chapter 9 talks about how that training should happen on a go-forward basis and how both community members, members of the public, and the police should be trained so that there's a common understanding.

NON IDENTIFIED SPEAKER:

Good morning. I'm from the African Heritage Educators' Network. And I have to commend the judge for actually making it a point to say that the recommendations should be part of the curriculum for

1 students. Now, having said so, I'm
2 wondering further what action plans are
3 recommended and what sort of
4 accountability measures are in place for
5 that to happen? Because many of, as my
6 brother just said, many of the victims of
7 carding, many of them have been very
8 innocent and vulnerable kids. And many of
9 them have been led to the path where they
10 ended up being so harassed that they
11 actually went into paths - they were
12 placed in and pressured so much that at
13 some point, you know, when you're hunting,
14 you're going to find something, right?
15 So, they were targeted. So, you know, for
16 the protection of our kids, I'm just
17 wondering about measures, action plans,
18 accountability measures for - that are
19 placed for the protection of our kids.
20 Thank you.

21
22 **JAQUELINE MCNAMARA:**

23 So, just - just as a starting point to
24 address your question; we want to
25 acknowledge that this is a really

1 traumatic issue and we had so many people
2 come out to consultations and come to
3 private meetings with Justice Tulloch and
4 - and share those traumatic stories. And
5 all of those voices have been heard; the
6 report could not have been drafted as it
7 was without your contributions and so I
8 know Justice Tulloch really appreciates
9 that and - and so do we.

10
11 With respect to the specific content of
12 your question, action plans and - and how
13 to proceed with public education, Justice
14 Tulloch has made a number of
15 recommendations with respect to how he
16 believes that should proceed, including
17 cross media advertising campaigns,
18 indicating various aspects of both the
19 regulation and existing laws surrounding
20 police public interactions. But with
21 respect to a specific action plan going
22 forward, Justice Tulloch's mandate was to
23 produce this report and it's not in the
24 government's hands. We have every
25 confidence that they're going to move

1 forward in good faith, but ultimately,
2 it's up to them to decide....

3
4 [Laughter]

5
6
7 **NON IDENTIFIED SPEAKER:**

8 No, really? *[Indiscernible]*.

9
10 **JAQUELINE MCNAMARA:**

11 Ultimately, it's up to them to decide how
12 to proceed with the recommendations. With
13 respect to discipline measures, that's in
14 Chapter....

15
16 **PRASANNA RANGANATHAN:**

17 Eleven.

18
19 **JAQUELINE MCNAMARA:**

20 Eleven, specific recommendations regarding
21 how officer discipline should proceed.

22
23 **PRASANNA RANGANATHAN:**

24 And I would just add to my colleague's
25 comments that Justice Tulloch has designed

1 the recommendations so that they are a
2 step by step process. Like, for education
3 particularly, he references the importance
4 of youth education in Chapter 12, he talks
5 about public education on the regulation
6 in Chapter 9, and all of them talk about
7 various models of doing so. So, social
8 media campaign, as my colleague mentioned,
9 also revising school curriculum in Chapter
10 12, with reference to models that are
11 existing on rights and responsibilities,
12 education throughout the country, so that
13 young people are aware of not only the
14 regulation, but also their rights sort of
15 more largely within society and, like, the
16 context of the criminal justice system.

17
18 **NON IDENTIFIED SPEAKER:**

19 Good afternoon. Two interrelated
20 questions; first, the rights notification
21 component of the regulation is one of the
22 central, I think we would agree,
23 components for police accountability in
24 terms of police telling people whether or
25 not they have the right to walk away from

1 an interaction. My questions, first, is
2 have police in Ontario been notifying
3 civilians during stops, that they have the
4 right not to answer questions, that they
5 have the right to walk away, and how have
6 you verified that they're doing that? And
7 secondly, related to Howard Morton's
8 question about stops where police do not
9 end up collecting information; is there a
10 requirement for rights notification in
11 those cases also? So, if the police are
12 like, well, I didn't end up taking your
13 information, what triggers the police's
14 necessity to tell us what are our rights
15 are if they're just, like, hi Desmond
16 (ph), how are you today? We could argue,
17 I guess, that they don't have to tell me
18 my rights, but then if they don't have to
19 tell me then, what forces them to have to
20 tell me in a given situation, that I am
21 free to go, that I don't have to answer
22 their questions?

23
24 **PRASANNA RANGANATHAN:**

25 So - sorry, I'm having a bit of trouble

1 seeing with the lights, I apologize. So,
2 for your two questions, the first I would
3 say that Justice Tulloch met with
4 representatives of, as he notes in the
5 report, 34 police services in the province
6 of Ontario. And during those meetings,
7 there were very in-depth questions about
8 the numbers of regulated interactions that
9 had happened since the regulation. He
10 also made it a point to not just meet with
11 senior leadership in the police services,
12 but also meet with frontline officers,
13 middle managers, sergeants, supervisor,
14 everyone because he wanted to get a sense
15 of how this regulation operated in
16 practice. When it came in who was
17 responsible to verify the information,
18 what they had to do, like, he went in
19 minute detail with each of these services.

20
21 With the - in terms of the reporting on
22 the regulated interactions, we had two
23 frameworks by which to analyze it. One
24 was the annual reports that were released
25 by the police services to the police

1 service boards, and then the second was
2 speaking with representatives at the OIPRD
3 to determine if their public complaints
4 made under the regulation, in terms of
5 conduct that had existed there. He also
6 asked officers that he met with throughout
7 all of the various services, about whether
8 they had undertaken this work, what were
9 the complexities, et cetera. The same
10 sort of rigour was applied in both the
11 public consultations and private
12 stakeholder meetings, to get a sense of
13 what we were hearing from our meetings at
14 the police services, what we were reading
15 in reports, was reflected in community
16 experiences. And so, we heard from the
17 full spectrum of participants in order to
18 make that determination.

19
20 One of the challenges of the report notes,
21 is that we - only 13 police services had
22 provided annual reports at the time of
23 writing. Those annual reports are
24 required to show the number of regulated
25 interactions that happen throughout the

1 year, as well as the disproportionate
2 impact, if any, existed, and the groups -
3 the individuals under those stops, and
4 what racialized communities they belonged
5 to. So, that was mandated under the
6 regulation and that's what some of the
7 reports provided.

8
9 As Justice Tulloch notes in Chapter 11 -
10 sorry, Chapter 10, on the reports, he
11 talks about how the report needs to be
12 standardized because sometimes you would
13 get a 20-page standalone report, and at
14 other times it would be one to two pages
15 in another, like, minutes of the meeting.
16 So, there's a real need for
17 standardization. His belief is that with
18 standardization, there's a requirement
19 then for objective and clear reporting
20 throughout and if that reporting is
21 consistent across services, then it's
22 comparable as well to see has this
23 regulation made a tangible impact and has
24 there been changes.

1 **NON IDENTIFIED SPEAKER:**

2 I guess, just my simple question is, when
3 you ask police officers and police chiefs,
4 are your officers providing rights
5 notification, what did they say?
6

7 **CHRISTINA MAINVILLE:**

8 They said, well...

9

10 [Laughter]

11

12 No, but I - I think - I think in the -
13 generally speaking, and without, you know,
14 being able to report at this moment every
15 conversation, I think there was compliance
16 generally.
17

18 **PRASANNA RANGANATHAN:**

19 Yes, we were hearing....
20

21 **CHRISTINA MAINVILLE:**

22 When - when the regulation applied, we did
23 hear that there - there was confusion
24 sometimes in terms of when the regulation
25 applied, that's what we hope to improve

1 on. And in terms - I want to answer
2 certain aspects of your earlier question
3 as well. In terms of a built-in
4 protection for ensuring that this is done,
5 there are several of them, but a key one
6 is that the information obtained cannot be
7 placed into an accessible police database,
8 unless all of the regulations requirements
9 have been followed, including notification
10 given, and there are - there's a system in
11 place or there has to be a system in place
12 and there are verifications of the
13 information done, and there's
14 verifications of that system to ensure
15 that that is being done. And so, at - at
16 a minimum, the information won't be able
17 to be accessed and used if those
18 requirements are not met. Now, to your
19 point about when information or
20 identifying information is not ultimately
21 requested, I can't say much more than my
22 earlier answer, other than the hope is
23 that - I think the - the real - the only
24 real thing that could truly address that
25 is public education so people know that

1 they don't have an obligation to speak to
2 the police, except in certain
3 circumstances, if they're detained or
4 arrested of course, or pursuant to certain
5 lawful authorities, certain legislation
6 like if you're driving a vehicle, right?
7 But in other instances, the hope is that
8 there will be enhanced public education so
9 that people know and understand their
10 rights and that they have the right to
11 walk away generally.

12
13 **NON IDENTIFIED SPEAKER:**

14 Good morning, or good afternoon now. I
15 want to say thanks to Justice Tulloch and
16 his team for this report, because being
17 part of pacer (ph) that invested over six
18 years and we still have some subcommittee
19 members who are still within the loop of
20 following through. He's touched on some
21 very key issues, for me though, that was
22 very clear a little while ago, is the five
23 years he has recommended for the retention
24 of information based on cases that are
25 either current or for appeals. And what

1 we brought up back in 2014, the aspect of
2 all the data that has still been sitting
3 on individuals that are not being used for
4 any of those two parameters, when are we
5 going to finally destroy the
6 documentation? And that has to be clear
7 that we are putting it there, that if it
8 is not for current cases or for any
9 appeals that are going forward, or any
10 lawsuits, all of that data, the hundreds
11 of thousands of data that has been
12 collected on individuals should be
13 expunged, it should be removed, whatever
14 terminology wants to be utilized, we have
15 to push for this.

16
17 And the question then becomes, this report
18 is going to the Ministry of Corrections
19 and Safety, but do they have - do they
20 have the final say with regards to the
21 direction of the various police forces to
22 say destroy or expunge? Or is it still,
23 as you just stated, is it still at the
24 discretion of the chiefs to be able to
25 make that determination of that data that

1 has been collected within their databases?

2

3 **JAQUELINE MCNAMARA:**

4 So, your question is with respect to what
5 the current state is, or what Justice
6 Tulloch's recommendations have been?
7 Because that's....

8

9 **NON IDENTIFIED SPEAKER:**

10 Justice Tulloch recommended
11 *[indiscernible...away from microphone]*.

12

13 **JAQUELINE MCNAMARA:**

14 Right.

15

16 **NON IDENTIFIED SPEAKER:**

17 *[Indiscernible...away from microphone]*.

18

19 **NON IDENTIFIED SPEAKER:**

20 This recommendation, how do we try to
21 ensure we expedite that all of that data,
22 to whom is accountable for making sure it
23 is destroyed?

24

25 **CHRISTINA MAINVILLE:**

1 I would say two things; the ministry can
2 direct and choose to adopt the
3 recommendation and direct all police
4 services to do that. That's in their
5 hands. Police services have a certain
6 discretion to destroy data, subject to
7 certain laws that may require them to
8 preserve certain pieces of information,
9 but they would have some discretion in
10 that respect. And I would also just point
11 out that pursuant to the regulation as it
12 currently stands, data that has been
13 collected prior to 2017 and - identifying
14 information, I should say, that's been
15 collected prior to 2017, and that would
16 fall within the application of the
17 regulation is in the restricted database
18 already, and that's been verified. And -
19 and so only subject to those exceptions
20 that you've - you've cited.

21
22 **NON IDENTIFIED SPEAKER:**

23 Thank you very much for all the work
24 you've done on this. I was present in
25 Scarborough in one of the consultation

1 meetings. I came from it from the point
2 of view of the effect on employability, as
3 I currently am on secondment for the
4 union, so the workers of colour were very
5 concerned about the impact on
6 employability. Question; can you connect
7 the dots to me, because that was raised in
8 the consultation, that some people had
9 experienced prejudice in current work or
10 loss of employment. Justice Tulloch spoke
11 about after this, I'm pleased he heard the
12 message was made loud and clear, but can
13 you just expand on how does that take
14 place? Because in my way of thinking, if
15 I'm required to do a police background
16 check for employability, if I have a
17 record, that comes up, but how could a
18 street check result in loss of
19 employability? I've not been able to
20 demystify that.

21
22 **CHRISTINA MAINVILLE:**

23 I think it's largely in law enforcement,
24 and so if someone applies to the police,
25 it would typically or generally, as we

1 heard, be a bar to being employed by law
2 enforcement. And there is new legislation
3 that's come into effect generally, about
4 non - provincial like law, that's come
5 into effect, restricting non-conviction
6 records from being a bar to - to
7 employment, and being disclosed even by
8 police services. So, prior to that, now
9 it could not be, just based on that law as
10 well, it could not be a bar to other types
11 of employment. Prior to that, it might
12 have been a bit ambiguous about when that
13 information could be released, but
14 certainly the main impact we've heard of
15 was when people were applying to the
16 police or - or other law enforcement
17 bodies, who had that information of
18 course, because it was accessible to them.

19
20 **PRASANNA RANGANATHAN:**

21 And in Chapter 2, particularly we talk
22 about the impact that that had pre-
23 regulation. And in Chapter 11, the
24 recommendation that Christine shared is
25 specifically there, about how regulated

1 information - data from regulated
2 interactions, as well as historical data
3 cannot be used in any sort of pre-
4 employment screening, vulnerable sector
5 check, any of those things. So, that's
6 specifically a recommendation in Chapter
7 11.

8
9 **NON IDENTIFIED SPEAKER:**

10 Esther.

11
12 **NON IDENTIFIED SPEAKER:**

13 Hi there. First of all, I just wanted to
14 thank Justice Tulloch and the staff for
15 your - for your work and for the
16 recommendations. I have a couple
17 questions and they are related; the first
18 is, you keep using the word the ministry
19 can choose. So, if the government chooses
20 to do nothing, and let's be frank about
21 what we're talking about here, the
22 premier, whenever asked about carding has
23 deferred to the language of law and
24 order...

1 [Applause]

2
3 ...and doesn't seem to have an interest in
4 exploring this issue any further. So, if
5 the government chooses to do nothing, what
6 happens then? And my second question is;
7 in the absence of the government taking
8 action, what concerns me is the data, not
9 just because of possible loss of
10 opportunities, but also because of people
11 who have been say for example, had their
12 security - their security clearances
13 stripped away and have lost their jobs due
14 to information that was ordered into the
15 database. So, in the absence of the
16 government choosing to take action, the
17 data that's already there, to what extent
18 can people challenge the police services
19 right to retain that information?

20
21 **CHRISTINA MAINVILLE:**

22 I think Justice Tulloch has completed his
23 mandate that's been asked of him, that's
24 the extent of his authority on this issue.

25 Frankly, it's in - it's in the public's

1 hands and it's - it's - yes, it's in the
2 government's hands, but you know, we trust
3 that this will be looked at seriously and
4 we hope that - I think people see that
5 there is common ground here, and if the
6 report is read fully and understood
7 properly by all, the hope is that there
8 should be little disagreement, frankly
9 about - about why it should be
10 implemented.

11
12 **NON IDENTIFIED SPEAKER:**

13 *[Indiscernible...away from microphone].*
14

15 **CHRISTINA MAINVILLE:**

16 So, but was it the - the same? I'm not
17 sure I understand your question, whether
18 what can be done if the government doesn't
19 act?
20

21 **NON IDENTIFIED SPEAKER:**

22 If they do nothing, to what extent can
23 people who have information stored in the
24 databases, to what extent can they
25 challenge the police services right to

1 retain that data?

2

3 **CHRISTINA MAINVILLE:**

4 Oh, I see what you mean. For - for before
5 the regulation was into effect, before
6 2017?

7

8 **NON IDENTIFIED SPEAKER:**

9 Or now, generally.

10

11 **CHRISTINA MAINVILLE:**

12 Or now, generally. Yes, I think it's - I
13 think I'd be providing you with legal -
14 direct legal advice if I were to - to do
15 that, so I don't think I can answer the
16 question generally.

17

18 **KINGSLEY GILLIAM:**

19 Kingsley Gilliam from the Black Action
20 Defence Committee, and I want to
21 congratulate Justice Tulloch and the
22 exhaustive piece of work that he has done
23 with this very nebula subject. He has
24 vetted and clarified what is actually
25 going on and made some outstanding

1 recommendations. The problem we have is
2 that the current government shelved Bill
3 175 hours before, by notifying the police
4 unions only, not the public, not any
5 stakeholders. And so, this is in their
6 hands at this time. Justice Tulloch's met
7 his requirement by virtue of his ordering
8 counsel and it's going to be up to each
9 and every one of us in this room to make
10 sure that Doug Ford does not file it in 5-
11 13.

12
13 [Applause]

14
15 Having this said, I just want to address a
16 couple of questions, issue *[sic]* relating
17 to the concept of training of police.
18 Because it is a common understanding that
19 training is the panacea for every ill.
20

21 **DANIELLE DOWDY:**

22 Sorry, Kingsley (ph), can I just ask you
23 to get to the question?

24 **KINGSLEY GILLIAM:**

25 I'm getting there.

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DANIELLE DOWDY:

Thank you.

KINGSLEY GILLIAM:

Now, what really happens is that around the training, Justice Tulloch has mentioned a number of different types of training that should be included. But it does not address training to deal with the core problem, which is racism, antiblack racism, and racial profiling. So, the training package should include mandatory training on antibias, and antiblack racism, antiracism training; it's not only antiblack, but there's racism towards various group. So, antiracism training; without that, you are not going to get someone who has that bias to change.

CHRISTINA MAINVILLE:

Yes.

KINGSLEY GILLIAM:

It is a structured type of program and I

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know about that because I design and deliver that in the OPS before.

CHRISTINA MAINVILLE :

Great, okay. Prasanna?

PRASANNA RANGANATHAN :

Thank you. Thank you for your question. I will - I will again just say that Chapter 9 specifically outlines how antibias training and training about antiracism is essential. And it actually, Justice Tulloch very powerfully notes the importance of the police working with communities to jointly deliver that training, to help them design the training, to talk about local realities. Justice Tulloch underscores throughout that chapter, not only about historical issues or systemic issues, but about how those issues play out in local communities. And so, he's, like, very, very insistent that the training have local realities threaded throughout it. And it's not just a one time training as

1 well; Justice Tulloch has underscored the
2 importance of regular periodic refresher
3 training that will include those elements.
4 And so that's a really essential part of
5 it.

6
7 **CHRISTINA MAINVILLE:**

8 And - and so yes, just to be very clear;
9 the recommendation is there for that type
10 of training to be delivered. And - and I
11 also want to be clear that it's not also
12 about simply singling out police officers.
13 It's a reality in our society as a whole.

14
15 **KINGSLEY GILLIAM:**

16 This is dealing with police.

17
18 **CHRISTINA MAINVILLE:**

19 Yes, this is dealing with police. But I
20 think more broadly than that, it has to be
21 contended with more generally, and it's -
22 it's not simply overt racism, it's as the
23 report takes pains to explain, it's
24 unconscious biased views, which are
25 sometimes contrary to the actual values

1 that people say they hold or hold, right?
2 And so, it is something that is difficult
3 to contend with, but it's - it's addressed
4 directly in the report.

5

6 **DANIELLE DOWDY:**

7 Thank you. I'm just going to say, there's
8 only time for four more questions. I know
9 it's going a bit long, but if folks could
10 just take their conversations outside
11 instead of at the back of the room, that
12 would be appreciated. Sorry, next
13 question. Only four left.

14

15 **NON IDENTIFIED SPEAKER:**

16 Hi. So, Justice Tulloch said that police
17 officers should be able to articulate the
18 reasons why they are stopping someone and
19 taking their information and so on; is
20 that - are they supposed to articulate
21 that in a report that they're making, to
22 the person they're speaking to, or is it
23 just like a mental exercise?

24 **JAQUELINE MCNAMARA:**

25 So, the police officers need to be able to

1 articulate objective and credible reasons
2 why they are requesting identifying
3 information, both orally to the person
4 that they are speaking to at the time, and
5 Justice Tulloch has made the
6 recommendation that those reasons should
7 be recorded on the receipt that is given
8 to the person and it's a record of the
9 interaction.

10
11 **CHRISTINA MAINVILLE:**

12 And not just a checkbox, but an actual
13 detailed, precise description.

14
15 **NON IDENTIFIED SPEAKER:**

16 Thank you.

17
18 **PRASANNA RANGANATHAN:**

19 And the receipt also - sorry. The reason
20 also needs to be according to Justice
21 Tulloch's recommendations inputted into
22 the system when it's being submitted, so
23 that reason is in those; orally, on the
24 receipt, and on the form being submitted.

25

1 **MIGUEL ABILAM (PH) :**

2 Thank you. My name is Miguel Abilam (ph)
3 and I spoke at the Tropicana Community
4 Centre. I was one of the participants and
5 asked a question regarding a - a location
6 towards residents of Toronto Community
7 Housing. As you're aware, Toronto
8 Community Housing signed with Toronto
9 Police Services an agreement to coming to
10 our homes and to our units, and to
11 anywhere they want to, because they are
12 the agent - the agent or the landlord.
13 So, I brought this policy, carding to the
14 Toronto Community Housing Board of
15 Directors; I told them, listen, we have a
16 new recommendations, I mean, new
17 regulations on street carding because the
18 matter is related to agent or the
19 landlord. So, you know what they tell me?
20 We are - we going to be taking your
21 comment under advice and has - it has been
22 more than two years now and when I went to
23 Tropicana, I asked Judge Tulloch if he can
24 make recommendations at the municipal
25 level. So, that is my - again, my

1 question, if someone can answer that
2 question, that would be wonderful because
3 the Toronto Community Housing has - has
4 been, you know, the object of human right
5 violations by Toronto police in many, many
6 ways. Thank you.

7
8 **CHRISTINA MAINVILLE :**

9 Thanks for your question. There are
10 authorities, you're correct, under certain
11 pieces of legislation such as the
12 *Trespassing Act* and the *Highway Traffic*
13 *Act* that grant officers certain powers and
14 that fall outside of the scope of this
15 regulation. Given the mandate given to
16 Justice Tulloch, what he has done, because
17 he heard concerns about these situations,
18 he's conveyed these concerns and
19 recommended that the province consider
20 reviewing those pieces of legislation to
21 see whether the similar protections could
22 be built into those pieces of legislation.

23
24 **MIGUEL ABILAM (PH) :**

25 *[Indiscernible]* the board of directors,

1 because I provided with the - the - the
2 whole document, and they have not anything
3 about it. The document is sitting
4 somewhere and they have done nothing.
5 Thank you so much.

6

7 **CHRISTINA MAINVILLE:**

8 Thank you.

9

10 **JAQUELINE MCNAMARA:**

11 Thank you.

12

13 **NON IDENTIFIED SPEAKER:**

14 Hi. So, I'm reviewing some Black Lives
15 Matter Toronto and what I've noticed is
16 that it wasn't necessarily mentioned that
17 the reason why we're - we're sitting in
18 this room is because of the death of an
19 unarmed black man at - at reasons of this
20 sort of confusion that was articulated by
21 Justice Tulloch. So, I'm - I'm - I'm -
22 I'm wondering, because he mentioned that
23 there would be, sort of what the
24 consequence was, was to go back into
25 training if - if they broke the

1 regulation, if police officers broke the
2 regulations that are being offered. What
3 exactly is that? What is the actual
4 consequence other than going back into
5 retraining or along with?

6
7 **CHRISTINA MAINVILLE:**

8 So, I think there's a few aspects to - to
9 - to the consequences. The first being
10 that if the information - as I mentioned
11 earlier, the information can't be used if
12 the check was conducted improperly. The
13 second being that the verifications have
14 to happen very promptly and the minute
15 it's seen that it was improperly done, the
16 first step is retraining, because there's
17 been confusion, because sometimes it's in
18 good faith that errors are made. But
19 there's a clear recommendation that if the
20 officer persists in making errors, or - or
21 conducting checks improperly, that
22 discipline measures should be taken,
23 disciplinary measures. So....

24
25 **NON IDENTIFIED SPEAKER:**

1 *[Indiscernible]*.

2

3 **CHRISTINA MAINVILLE :**

4 Do you have the chapter?

5

6 **PRASANNA RANGANATHAN :**

7 Yeah, it's Chapter 11.

8

9 **CHRISTINA MAINVILLE :**

10 I might refer you because it's a - an
11 elaborate scheme. We'll refer you to the
12 relevant chapter.

13

14 **PRASANNA RANGANATHAN :**

15 Chapter 11.

16

17 **CHRISTINA MAINVILLE :**

18 Chapter 11.

19

20 **PRASANNA RANGANATHAN :**

21 Starting at paragraph 61.

22

23 **CHRISTINA MAINVILLE :**

24 Starting at paragraph 61. Part of the
25 chapter on that.

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NON IDENTIFIED SPEAKER:

[Indiscernible].

DANIELLE DOWDY:

Sorry, sir....

NON IDENTIFIED SPEAKER:

[Indiscernible].

CHRISTINA MAINVILLE:

I think - I think we've had that question.

NON IDENTIFIED SPEAKER:

[Indiscernible].

DANIELLE DOWDY:

Sir, we've - we've had that question already. And we've got one last question and then we're going to conclude, but thank you.

NON IDENTIFIED SPEAKER:

Thank you. I just - I had to step out before you guys started, so I do apologize

1 if this was asked. But I was just curious
2 because Justice Tulloch talked about the
3 subset of the proper checks, the fact
4 that, you know, there's obviously a - a
5 need for proper checks, but the carding
6 issue has turned into that small subset,
7 so I'm just curious, and again I apologize
8 if this was asked, but can you give kind
9 of a quantitative, perhaps ratio of, even
10 just Toronto alone, of - of - of how much
11 of those - that percentage of proper
12 checks; is it five percent, ten percent,
13 fifteen percent, twenty percent, that
14 would be considered a random, arbitrary,
15 inappropriate carding, a carding example?

16 Is there a ratio?
17

18 **CHRISTINA MAINVILLE:**

19 I frankly think that's impossible to - to
20 give you. Simply because there was no
21 kind of uniform definition of these
22 concepts before, it was done in practice.
23 We've kind of framed it to - to be
24 meaningful and so people know what is
25 being discussed and debated, but it's not

1 as though there - they were clearly
2 defined. Even as between different police
3 services, or that, you know, they were
4 compiled in any kind of clear measurable
5 way, so unfortunately it was difficult to
6 really tangibly....

7

8 **PRASANNA RANGANATHAN:**

9 And before we close, just to pick up on a
10 theme Christine said, because I think it -
11 it bears repeating and maybe to be
12 underscored; as Justice Tulloch mentioned
13 in his speech, the regulation is the first
14 time any province in Ontario has looked at
15 this issue through legislation. And so,
16 the purpose of the review is to review
17 that regulation and see whether it was
18 working in practice and Justice Tulloch
19 made recommendations in this report to
20 make sure that there's clarity where there
21 was confusion, and to bring sort of a new
22 path forward with the - through this
23 regulation, so I just wanted to add that.

24

25 **DANIELLE DOWDY:**

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Thank you so much for that. And that concludes our question portion.

[Applause]

Thank you so much for coming out today and for supporting the work of the review, and we appreciate all that you've done over the last 18 months to support this work, it wouldn't have been possible without you and for that, we are very grateful. Thank you.

[Applause]

... END OF RECORDING

