



ADDRESS ALL CORRESPONDENCE TO THE CHIEF OF POLICE

# Cobourg Police Service

Paul VandeGraaf  
Chief of Police

## Board Report:

In Camera Session: NO

Date of report: 2021-01-23  
Date of meeting: 2021-02-16

Mr. D. Pepper, Chair  
And members of the  
Cobourg Police Services Board

## Subject:

**Chief's Recommendation:** "That the Cobourg Police Services Board receives the following information.

**Motion:** "That the Cobourg Police Services Board receives the following report for information."

## Background:

The Office of the Independent Police Review Director (OIPRD) released their report titled "Breaking the Golden Rule – A Review of Police Strip Searches in Ontario" in March 2019. The report was authored by then Independent Police Review Director (IPRD) Gerry McNeilly.

In 2001, in a landmark decision on the constitutionality of strip search practices (*R. v. Golden*), the Supreme Court of Canada defined what amounts to a strip search, and when and how it can lawfully be done. Despite this decision on the legality of strip searches, courts in Ontario continue to regularly find that police officers unlawfully or unreasonably conduct strip searches, sometimes resulting in the exclusion of evidence or the stay of charges.

Members of the public, as well as participants in the criminal justice system, continue to express concerns about the overuse or misuse of police powers in conducting such searches. A number of these concerns are well-founded. Illegal strip searches often go unaddressed because no charges are pursued. The public is also concerned – and rightfully so – that illegal strip searches may result in criminal cases being dismissed without a trial on the merits.

Allegations of unlawful or improper strip searches have been made – some substantiated, some not – in complaints to the OIPRD, since its inception. It is extremely concerning that almost two decades after the *Golden* decision, police compliance is still a serious issue.

The Police Services Act provided the IPRD, the authority to examine and review issues of a systemic nature that may give rise to public complaints, and make recommendations to police chiefs, police services boards, the

Attorney General, the Minister of Community Safety and Correctional Services and any other body. A systemic review is designed to identify and address larger issues of systemic importance, rather than find individual misconduct.

In July 2016, the OIPRD commenced a systemic review of strip searches conducted by police services of individuals arrested or detained. The terms of reference examined:

- The prevalence of strip searches incidental to police arrest or detention;
- Existing policies of police services across Ontario, as they relate to when and how strip searches are to be conducted;
- The extent to which front-line officers are aware of existing policies, and how, if at all, compliance with existing policies is monitored and supported;
- The extent to which strip search decisions are documented;
- The extent to which judicial findings or improper strip searches are identified by police services and addressed;
- Ontario Police College and police services training provided to supervisors and front-line officers regarding strip searches.

The Cobourg Police Service participated in the review by providing data, statistics and comments. Subsequent to this review the Service moved towards electronic record-keeping (Niche Custody Module) regarding detainees and, as a result have enhanced our data mining capabilities to provide data and analyze concerning the number of persons arrested who were also strip searched.

The Service keeps accurate statistics of the number of persons they arrest or detain, the number of persons strip searched (based on a common interpretation of what a strip search entails, in accordance with binding jurisprudence) and the justifications provided for such strip searches. The statistics also capture identity-related information to reflect, among other things, the race of the person subjected to such a strip search. The Service has moved to effective oversight and accountability examining the statistics, officer notes and prisoner management documentation pertaining to strip searches as captured in the Niche Custody Module.

The procedures that police services follow is the Search of Persons guideline (LE-012) created by the Ministry of Community Safety and Correctional Services (MCSCS). This guideline is contained in the Policing Standards Manual. However, the manual was last updated in 2000, prior to the Supreme Court of Canada's decision in *Golden*. The MCSCS Search of Persons guideline should be updated as part of a larger initiative to create consistent and comprehensive policies and procedures on strip searches across the province.

The Service reviewed LE-012 and it has been updated to include the best practices established in *R v. Golden* and as recommended through the OIPRD review. Training is scheduled to be provided during this year's annual "Block Training Program" and will be informed by the most prevalent issues identified in judicial decisions and the contents of the OIPRD Review.

One of the recommendations of the OIPRD review focused on oversight. Designated supervisors will conduct random reviews of strip searches completed by members at least on a regular basis to ensure searches are conducted and documented properly. Designated supervisors should consider, among other action, re-training or further supervision of a member if a member is exhibiting a misunderstanding of or failure to comply with the law and the existing procedures regarding strip searches.

Further the OIPRD review recommended that annually, the chief shall obtain strip search data and report to the police service board on the following information:

1. Number of strip searches conducted that year;
2. Race, if known, of the arrestees;
3. Gender, if know, of the arrestees;
4. Age of the arrestees;
5. Number of times force was used;
6. Number of times items were found during strip searches;
7. Any analysis of trends and concerns, if any.

**Report:**

*R v. Golden 2001 SCC described the nature of strip searches as "Strip searches are inherently humiliating and degrading for detainees regardless of the manner in which they are carried out and for this reason they cannot be carried out simply as a matter of routine policy. The adjectives used by individuals to describe their experience of being strip searched give some sense of how a strip search, even one that is carried out in a reasonable manner, can affect detainees: "humiliating," "degrading," "demeaning," "upsetting," and "devastating." Some commentators have gone as far as to describe strip searches as "visual rape." Women and minorities in particular may have a real fear of strip searches and may experience such a search as equivalent to a sexual assault. The psychological effects of strip searches may also be particularly traumatic for individuals who have previously been subject to abuse. Routine strip searches may also be distasteful and difficult for the police officers conducting them".*

Appendix "A" clearly outlines the 2020 Annual Report for Board on strip search data as outlined above including the analysis of trends and concerns.

Respectfully Submitted,

Staff Sergeant Scott Bambridge #234

Chief P. VandeGraaf  
Chief of Police

## Appendix “A” Strip Search Annual Report

Category	2020	Percentages
<b>Number of arrests</b>	692	
<b>Number of strip searches conducted</b>	27	3.9 % of Total Arrests
<b>Race Collection Data (Total #)</b>	27	
Black	4	14.8 % of Total Strip Searches
East/Southeast Asian	0	
Indigenous	1	3.7 % of Total Strip Searches
Latino	0	
Middle Eastern	0	
South Asian	0	
White	21	77.8 % of Total Strip Searches
None Listed	1	3.7 % of Total Strip Searches
<b>Gender</b>		
Male	21	77.7 % Male
Female	6	23.3 % Female
Other	0	
<b>Age</b>		
Adult	27	100 % Adults
YCJA (Under 18)	0	
<b>Number of times forces used</b>	0	0 % Force Used
<b>Number of times items located:</b>	1	
Evidence	1	3.7 %
Weapon	0	
Drugs	0	
None	3	11.1 %
Not Listed	24	85.7 %

The Service reviewed LE-012 and it has been updated to include the best practices established in R v. Golden and as recommended through the OIPRD review. Training is scheduled to be provided during this year’s annual “Block Training Program” and will be informed by the most prevalent issues identified in judicial decisions and the contents of the OIPRD Review. The training will include updates to Service members, in detail, concerning their responsibilities in conducting strip searches to ensure that officers do not continue to misunderstand or fail to comply with their obligations in conducting, authorizing or supervising strip searches.

It is clear from this review that Service members are able to:

1. Articulate grounds for when a strip search may be conducted;
2. Articulate the facts in issue of what constitutes a strip search;
3. Articulate reasonable grounds to believe a strip search is necessary;
4. Articulate alternatives to strip search searches for safety reasons;
5. Conduct strip searches in a reasonable manner including the location of the search always being within the station to afford a private area such that no one other than the individuals engaged in the search can observe the search;
6. Conduct all strip searches to ensure the health and safety of all involved;
7. Ensure all strip searches were authorized by a police officer acting in a supervisory capacity;
8. Ensure that the members carrying out the strip search are of the same gender as the individual being searched including circumstances to respect transgender or self-identification respecting sexual orientation (zero (0) instances);
9. Ensure that the number of members involved in the search be no more than is reasonably necessary given the circumstances;
10. Employ the minimum of force necessary to conduct the strip search;
11. Ensure the strip search was conducted as quickly as possible and in a way that ensures the person is not completely undressed at any one time;
12. Ensured the strip search involved only a visual inspection of the arrestee's genital and anal areas without any physical contact;
13. Articulate upon visual inspection the presence of a weapon/evidence in a body cavity (not including the mouth), to give the detainee option of removing the object themselves or having the object removed by a trained medical professional (one incident).

The main issue revealed during this analysis was the proper recording of the reasons for, the manner of search, and details related to the strip search. This will be included during training to ensure proper records are kept. The consistent approach and format revealed during the OIPRD review will be implemented with training while we continually strive to electronically capture the documentation to ensure searchability, monitoring and accountability.

The training will be structured to ensure the comprehensive new version of LE-012 is adhered to.