



GUELPH POLICE SERVICES BOARD

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OFFICE OF THE CHIEF OF POLICE

TO: Chair Robert Carter and Members of the Guelph Police Services Board

DATE: September 17, 2020

SUBJECT: Correspondence received from the Canadian Civil Liberties Association dated August 17, 2020 seeking responses to questions with regard to Guelph Police Service's accessing of the Provincial First Responders COVID-19 Risk Look-Up Web Portal between April 13, 2020 and July 22, 2020 (the date the Province closed the portal)

PREPARED BY: Judith Sidlofsky Stoffman, Legal Counsel

APPROVED BY: Gord Cobey, Chief of Police

RECOMMENDATION:

That the Board Chair respond to correspondence from the Canadian Civil Liberties Association dated August 17, 2020, in accordance with the information set out below.

SUMMARY:

ISSUE:

On August 17, 2020, correspondence from the Canadian Civil Liberties Association on behalf of Aboriginal Legal Services, the Black Legal Action Centre, and the HIV & AIDS Legal Clinic of Ontario was directed to Chair Robert Carter seeking responses to a series of questions in regard to this Service's access to COVID-19 personal health data through the Province's First Responders COVID-19 Risk Look-Up Web Portal and the use made thereof as well as questions regarding the storage of the data retrieved by the Service.

I am taking the liberty of duplicating portions of August 17, 2020 correspondence below for your ease of reference:

- *Records we have received from the province indicate that the Guelph Police Service accessed the provincial COVID database 4,057 times while it was active.*
- *We are calling on all police services to immediately delete the personal health information that was collected through this database. Can you please confirm:*
 - *Where individuals' COVID-19 status is being locally stored;*
 - *Who currently has access to the locally-stored data, and for what purposes;*

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- *Whether individuals' data has been accessed locally since the revocation of the provincial regulation; and*
 - *The process by which the information downloaded from the provincial COVID-19 database will be deleted.*
 - *We are also concerned about the unusually high number of access requests made by the Guelph Police Service. Taking into account the population served by the Guelph Police Service, GPS had one of the top five per capita data access rates in the province.....We request that the police services board require the Guelph Police Service to undertake an audit of the use of the database and make the results of the audit available to the board and the public. The audit should consider:*
 - *Were the requests made by authorized users?*
 - *Who were the authorized users?*
 - *Were the requests made for authorized purposes, and if so what were those purposes?*
 - *What was the reason for such abnormally high access requests?*

It is to be noted that the CCLA delivered similar correspondence to Services throughout the province and, contemporaneously with its delivery of correspondence to Services, the CCLA sent media releases to all media outlets. In the result, our Service received calls from our local media outlets for detailed responses and on-camera interviews. Our response to those requests and to the CCLA was that the Service would be bringing the matter before the Board for a fulsome review and consideration at the upcoming September 17th open session.

The CCLA was advised that the Board would correspond with the CCLA thereafter and the media outlets were advised that they were welcome to participate in the Board's open meeting through our website portal access as the media have always been able to do.

BACKGROUND:

On April 13, 2020, under cover of **All Chiefs Memo 20-0048 "Launch of the First Responders COVID-19 Risk Look-Up Web Portal"**, the Ministry of the Solicitor General launched the First Responders COVID-19 Risk Look-Up web portal which included information about the COVID-19 status of specific individuals (i.e., name, address, date of birth, and whether the individual had had a positive test result).

Access to the Portal was limited to authorized users involved in communication and dispatch centres as identified by police services in compliance with the *Emergency Management and Civil Protection Act* (EMCPA) which provided that information shared pursuant to the emergency order only be used to prevent, respond to or alleviate the effects of the emergency.

Police services boards and chiefs of police were directed that information be secured appropriately at communication and dispatch centres and that the information should only be disclosed when needed to support frontline policing personnel in making informed decisions about whether to take additional precautions to prevent the spread of COVID-19 when responding to calls for service while the emergency order was in effect.

Thereafter, on April 27, 2020, a further **All Chiefs Memo 20-0064 “First Responders COVID-19 Risk Look-Up Tool Web Portal: Protection of Personal Health Information and Appropriate Use”** was issued by the Ministry of the Solicitor General.

The Memo advised that effective that date, the portal contained confirmed positive test results (beginning on April 1, 2020) for individuals who had undergone a COVID-19 test and further advised that an individual who was included in the portal was never removed, even if they had subsequently recovered. The Memo reminded policing personnel to continue to conduct point of interaction risk assessments and take other appropriate precautions when interacting with members of the public and it pointed out some of the weaknesses of the portal itself including, but not limited to, the fact that: it might take up to four days for test results to become available; the information in the portal was only updated once a day and did not reflect real-time testing information; individuals who had tested positive may no longer have COVID-19; an individual who was included in the portal was never removed; individuals’ addresses may have been recorded inconsistently; an address for a multi-unit building may have had a positive case but not at the relevant unit; and there may have been individuals at an address who did not reside there.

The April 27th Memo also advised that the Ministry had instituted an audit logging function to track all user activity on the portal which had the ability to flag any queries deemed to be an inappropriate use of the portal (e.g., broad municipal-based searches) which could ultimately result in a revocation of access to the portal for the user who violated the terms of service or the entire group of users affiliated with the police service and/or a reporting of the police service to the Privacy Commissioner of the province.

Subsequently, on June 11, 2020, a third **All Chiefs Memo 20-0091 “Audit of the First Responders COVID-19 Risk Look-Up Tool Web Portal”** was issued by the Ministry.

The Memo advised Services that the Ministry’s audit logging function had captured historical data for the periods of April 17 to April 27 and from April 28 to May 29, 2020 in which it was discovered that a number of searches of the portal did not appear to be consistent with the Ministry’s instructions or the restrictions on the use of the information subject to O. Reg. 120/20 set out in the *Emergency Management and Civil Protection Act*.

On July 20, 2020 a final **All Chiefs Memo 20-0112 “Expiry of Emergency Order, O. Reg. 120/20 (Access to COVID-19 Status Information by Specified Persons)”** was issued by the Ministry.

The memo advised services that the Emergency Order, O. Reg. 120/20 (Access to COVID-19 Status Information by Specified Persons) would expire on **July 22, 2020** and access to the portal would also be discontinued effective July 20, 2020.

On August 6, 2020, the Guelph Police Service was notified that the Ministry’s audit logging function found two searches run by authorized users within the Guelph Police Service Communications Centre were potentially inappropriate for the following reason: “broad based municipal queries” as the only search query entered for both these searches was “Guelph”. Sgt. Lester Tang of the Service’s Professional Standards Branch was immediately tasked with reviewing the circumstances of the two searches.

On August 13, 2020 Sgt. Tang tabled his report in which he found that the two referenced searches occurred on July 12, 2020 and July 14, 2020 were conducted by two communicators in execution of their duties while inputting information into calls for service that corresponded to the date/timestamp provided by the Ministry. Due to the close time proximity to their actual duty of running a COVID-19 query prior to dispatching police officers to a scene, these searches are found to be inadvertent and accidental searches where a fragment of information was sent to the database prior to the intended query.

Sgt. Tang's review concluded that there were no intentional broad-based municipal queries undertaken; no deliberate misuse or inappropriate access to confidential information had occurred and no further action required. His review was submitted to the Ministry and the Service has received no further requests by way of follow-up from the Ministry to date.

RESPONSE TO THE CCLA's AUGUST 17, 2020 CORRESPONDENCE:

S/Sgt. Mike Davis, who oversees our Service's Communications Unit, was asked to respond to the questions posed by the CCLA about use of the COVID-19 database by the Guelph Police Service. His responses are set out below:

Q. Where individuals' COVID-19 status is being locally stored.

A. No information about a specific person's COVID-19 status is being locally stored, in any format.

Q. Who currently has access to the locally-stored data, and for what purposes.

A. There is no locally-stored data

Q. Whether individuals' data has been accessed locally since the revocation of the provincial regulation.

A. There is no locally stored data

Q. The process by which the information downloaded from the provincial COVID-19 database will be deleted.

A. Information from the provincial COVID-19 database was not saved locally. There are no files to delete.

Q. Were the requests made by authorized users.

A. Direct access of the COVID-19 database was only by authorized users, all of whom were members of the Communications Unit at the time the database was active

Q. Who were the authorized users.

A. The names of the authorized users were provided to the Ministry in advance of being given access to the database

Q. Were the requests made for authorized purposes, and if so what were those purposes.

A. The requests were made for authorized purposes – as per procedure delineated below:

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- a. The access, use, disclosure and destruction of COVID-19 status information by the Guelph Police Service will be according to legislation and the direction of the Ministry of the Solicitor General.
 - b. COVID-19 status information must only be used to prevent, respond to or alleviate the effects of the COVID-19 emergency, such as ensuring appropriate measures are taken to protect police personnel when responding to a call.
 - c. The COVID-19 portal is another tool to assist officers in making an informed decision about the appropriate level of precaution to take when attending a call.

Q. What was the reason for such abnormally high access requests

- A.** The Guelph Police Service has no way to audit our own use of the COVID-19 database. Communicators accessed the database only when required in order to determine the COVID-19 status of individuals known to be involved in calls (that officers would interact with), and incident locations. The fact that the data base was queried would be documented in the related call for service (*dissociated from any personal information or query results). It is to be noted that there may have been significant “double counts” in the portal’s use simply because if there was the slightest typographical error in inputting a name or an address, the portal would not provide a responsive record. In such cases the authorized user would try under the other portal access option (ie. address and then name or name and then address).

CONCLUSION:

We cannot lose sight of the fact that, at no time did our Service have a running tally of the number of times the portal was accessed by this Service nor did it have a running comparative analysis of the portal’s use by this Service as compared to other Services. The portal checks were undertaken, at all times, in accordance with the legal parameters established by the province and were conducted to protect our GPS first responder members and our fellow Fire and EMS first responder partners and, ultimately, all other members of this Service and our fellow Fire and EMS organizations in order to maintain continuity in the delivery of the high quality of emergency response services the citizens of Guelph have come to expect.

No data viewed by GPS authorized users in the provincial COVID-19 portal’s data base was stored by this Service in any fashion. The COVID-19 portal was used as intended, as a prudent means to protect first responders from the COVID-19 virus when responding to calls for service in a pandemic environment.

CORPORATE BUSINESS PLAN: N/A

FINANCIAL IMPLICATIONS: N/A

ATTACHMENTS: N/A