



Canadian Association of Black Lawyers (CABL)  
20 Toronto Street, Suite 300  
Toronto, ON M5C 2B8  
info@cabl.ca

## **CABL's statement regarding the Province of Ontario's Broadening of Police and Peace-Officers Street Check Powers**

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The Canadian Association of Black Lawyers (CABL) strongly calls on the Province of Ontario to constrain or clarify the recent broadening of police and peace-officer's powers under the *Emergency Management and Civil Protection Act*. This new regulation increases police officers' ability to conduct arbitrary street checks. This will disproportionately result in the harming and harassment of Black, Indigenous and racialized Ontarians.

On April 17, 2021, [Regulation 294/21](#) sought to vastly broaden the powers of police in Ontario to stop any individual, whether on foot or driving, removing any requirement for an officer to have any suspicion of misconduct. The original regulation imposed fines starting at \$750 on an individual who refused to provide personal information to the police. Although [Regulation 298/21](#) subsequently amended the requirement to identify, to a requirement to provide information, and limited its application, there are still significant concerns about how this power could be used by law enforcement.

Police use of arbitrary detention and questioning has been a part of the daily experience of Black, Indigenous and racialized individuals living in Ontario and across Canada. As noted in the Right Honourable Justice Tulloch's 2018 "[Independent Street Check Review](#)," the "unfocused practice" of street checks is a tool that is "disproportionately applied to the most marginalized communities and against the most disadvantaged people". As found in CABL's 2021 Report on [Race and Criminal Injustice: An examination of public perceptions of and experiences with the Ontario criminal justice system](#), these practices disproportionately impact Black communities, infringe human rights, and act only to further degrade relationships between law enforcement and communities. Unfortunately, the Province of Ontario failed to employ the recommendations of Justice Tulloch's report in [Bill 68, An Act with respect to community safety and policing](#), which received Royal Assent on March 26, 2019.

We applaud the fact that some police services in Ontario have stated they will not commence the arbitrary detention of individuals, stating that they need to prioritize public trust in law enforcement. However, this commitment is not universal. For example, the Ontario Provincial Police have stated they will utilize these expanded powers.

Furthermore, regardless of stated intent, we have already heard stories of community members being questioned by police, and it remains the law of Ontario that police officers can and will demand information from any individual. These measures are likely unconstitutional, violating sections 8, 9 and 15 of the Canadian *Charter of Rights and Freedoms*, when they are employed without objectively reasonable and probable grounds to believe that an offence has been committed. We know that some law enforcement members apply the concept of "reasonable and probable grounds" differently for Black Ontarians than for others in society.

Black Canadians are [disproportionately likely to live and work in “hot-spot” neighbourhoods](#), are [disproportionately less likely to have access to vaccinations](#), and [face increased health risks from COVID-19](#). This pandemic has and continues to hit Black communities hard, and we are in need of governance and regulation that will protect and support, not further malign and target us.

We urge the Province to exercise significant caution and restraint in utilizing law enforcement to promote public health measures where there is inadequate oversight of their activities, and focus instead on enforcement of public health measures in a manner that works closely in consultation with the hardest hit and most vulnerable communities. Special consideration for the impact of laws and new regulations on Black, Indigenous and racialized Ontarians needs to be considered at every juncture, and stakeholders with expertise in these areas need to be properly engaged.

CABL also calls upon the Province to reconsider their rejection of the recommendations of the Tulloch Report. Adopting these recommendations into provincial legislation will demonstrate the Province’s interest in and commitment to improving the relationship and trust between law enforcement and members of the public.

In the meantime – Black Ontarians can contact BLAC if they experience issues with the police, or are in need of legal services during this stay-at-home order (1-877-736-9406).

#### CANADIAN ASSOCIATION OF BLACK LAWYERS

<p>The Canadian Association of Black Lawyers is a national network of law professionals with an overall mandate to promote the advancement of black lawyers within the profession by providing support systems, promoting academic and professional excellence, and advancing issues of equity and diversity among the bar and the judiciary.</p>
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[Regulation 294/21](#) states:

2.1 (1) This section applies as of 12:01 a.m. on April 17, 2021.

(2) A police officer or other provincial offences officer may require any individual who is not in a place of residence to,

(a) provide the address of the residence at which they are currently residing; and

(b) provide their purpose for not being at their residence, unless the individual is in an outdoor or common area of their residence.

(3) A police officer, First Nations Constable or special constable, for the purpose of requiring an individual to provide information pursuant to subsection (2), may require the driver of a vehicle to stop, and the driver of a vehicle, when signalled or requested to stop by a police officer, First Nations Constable or special constable who is readily identifiable as such, shall immediately come to a safe stop.

(4) Every individual who is required under subsection (2) to provide a police officer or other provincial offences officer with information described in that subsection shall promptly comply.

(5) The powers described in subsections (2) and (3) may only be exercised in a health unit to which Ontario Regulation 265/21 (Stay-at-Home Order) made under the Act applies.

(6) The powers described in subsections (2) and (3) may only be exercised for the purpose of determining compliance with Ontario Regulation 265/21 (Stay-at-Home Order).

[Regulation 298/21](#) states:

1. Section 2.1 of Schedule 1 to Ontario Regulation 8/21 is revoked and the following substituted:

Requirement to provide information

2.1 (1) Where a police officer or other provincial offences officer has reason to suspect that an individual may be participating in a gathering that is prohibited by clause 1 (1) (c) of Schedule 4 of Ontario Regulation 82/20 (Rules for Areas in Stage 1) made under the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, and believes that it would be in the public interest to determine whether the individual is in compliance with that clause, the officer may require the individual to provide information for the purpose of determining whether they are in compliance with that clause.

(2) Every individual who is required under subsection (1) to provide a police officer or other provincial offences officer with information described in that subsection shall promptly comply.

(3) The power described in subsection (1) may only be exercised in a health unit to which Ontario Regulation 265/21 (Stay-at-Home Order) made under the Act applies.