



Discussion Document

Missing Persons Legislation

Enhancing missing persons investigations

The Yukon government is considering legislation as a mechanism to enhance how missing persons investigations are conducted by the RCMP.

When a loved one is missing, time is of the essence. The police are currently limited in their ability to investigate reports of missing persons when there is no evidence of criminal activity.

Missing persons legislation would provide the police with avenues to move more quickly and efficiently on missing persons investigations by allowing access to specific information (e.g., telephone, banking, travel and health records) while balancing considerations for an individual's privacy.

We want to hear from you

Background information on missing persons legislation is provided in the following pages.

You will find links to examples of missing persons legislation from other Canadian jurisdictions and a summary of common provisions found within missing persons legislation.

We invite your comments and feedback to gauge if missing persons legislation would be beneficial in Yukon and to learn what provisions you think are essential. Discussion Questions are provided on page 6.

Questions and feedback can be directed to the Department of Justice Policy and Communications unit at: jus.pcu@gov.yk.ca or 867-667-3033.

Background

Missing person report statistics

The police receive more than 60,000 reports of missing persons in Canada every year (National Centre for Missing Persons and Identified Remains, 2014). These numbers reflect numbers of reports and not necessarily different individuals. For example, a youth could be reported missing several times over the period of a year.

The RCMP defines a *missing person* as anyone reported to or by police as someone whose whereabouts are unknown, regardless of the circumstances of the disappearance. The person is considered missing until they are located.

The majority of missing persons are found or return home within one week.

Reports of missing persons

... in Canada:

- 20,871 reports of missing adults
- 41,342 reports of missing children and youth, the majority being recorded as runaways

... in Yukon:

- 78 reports of missing adults
- 96 reports of missing children and youth, the majority being recorded as being runaways

Purpose and advantages of missing persons legislation

Despite popular belief, there is not a 24-hour waiting period before a person can be reported missing. Therefore, as soon as friends and family become aware that a loved one may be missing, it should be reported to the RCMP so they can begin their investigation.

Missing persons legislation allows the police to start a missing persons investigation, once they have obtained a court order or issued an emergency order, when there is no evidence of a criminal offense and/or explanation for the person going missing, although there is concern for the person's safety or well-being.

Furthermore, such legislation affords better safeguards and provides rules for organizations and businesses that may be required to release clients' personal information or records.

Common provisions

Parts of missing persons legislation

The intent of the missing persons legislation is to increase the effectiveness of investigations while striking the appropriate balance between privacy and access to personal information (e.g., telephone, financial and health records).

The legislation would clarify the associated processes that the RCMP would be required to follow in order to compel organizations or individuals to provide information that may help locate the missing person.

Here are examples of missing persons legislation from [Alberta](#), [British Columbia](#), [Manitoba](#), [Nova Scotia](#) and [Saskatchewan](#). Legislation has also been passed in [Newfoundland](#), but it is not yet in force.

The following items are common provisions found in missing persons legislation:

- 1. Definitions of Missing Persons** Clarifies who is considered a missing person. Definition could include vulnerable or at-risk persons whose safety and welfare are of concern because of their age (e.g., minors), physical or mental capabilities, or other mitigating circumstances.
- 2. Obtaining Records** Outlines when court orders and emergency demands for records can be made; how to make an application for records; and what information is considered privileged.
- 3. Search Orders of Private Property** Provides circumstances for search orders for private property, including when the missing persons case involves a vulnerable person or person at risk, where the person has limited physical or mental capacity or is a minor (18 and under). For example, police could apply for a search order to enter a dwelling where they believe a missing person may be located.
- 4. Third Party Records** Outlines how the RCMP will seek access to third-party records, including any limitations to such records when the missing persons case involves a vulnerable person or person at risk, such as a minor or person with limited physical or mental capacity.

For example, Alberta and British Columbia allow for a member of a police force to obtain a court order from a justice for access to third-party records when there is reason to believe that the vulnerable person or person at risk is in the company of another person. The

justice granting the court order would be able to impose conditions on the kinds of records allowed, depending on the situation.

- 5. Emergency Demands for Records** Explains situations when a police officer may make a written demand for records in an emergency. This could include instances when there is belief a missing person may be at imminent risk of serious bodily harm or death or there may be destruction of records. Provisions could include that the police officer would have to file a written notice with the commanding officer of the police agency after each occurrence of this being used. Some jurisdictions require police to publically report on an annual basis the number of, and types of, emergency demands made under the legislation.
- 6. Use of Records** Describes purposes for which police agencies may use records obtained under the legislation. For example, the records obtained could only be used for finding the missing person and for no other purposes.
- 7. Disclosure of Records** Clarifies purposes for which police agencies may disclose records obtained under the legislation. For example, the legislation could prescribe what information a police agency may disclose to assist in locating a missing person (i.e., last known location, last person seen with, description of vehicle, medical conditions, etc.). Furthermore, on finding a missing person, unless the person is vulnerable (i.e., under adult guardianship or a minor), the police may only be able to disclose that the person has been found and withhold specifics of whereabouts. If the person was vulnerable, there could be provisions for the parent or guardian to apply to the police or court for access to records that have been disclosed to the police agency.
- 8. Liability** Provides protection for persons acting in good faith, both as the record provider or receiver.
- 9. Offences and Prescribed Penalties** Details offences with penalties attached for individuals or businesses that refuse to comply with a court order to produce records.
- 10. Regulations** Clarifies and enables the provisions and policy items within the accompanying act. The regulation will include a schedule of forms to be used under this legislation.

Discussion Questions

Missing persons legislation

Consider the following questions. Provide your feedback by filling out a Response Form ([PDF](#) or [doc](#)), calling or writing the Department of Justice Policy and Communications unit (contact information below).

1. Do you think missing persons legislation would enhance how the police conduct missing persons investigations in Yukon? Why or why not?
2. What records should the RCMP be able to access? What shouldn't they be able to access?

Examples:

- *contact or identification information*
 - *cell phone records, including call and Internet browsing history*
 - *global positioning system tracking records (GPS)*
 - *in-bound and out-bound text messaging*
 - *video records (including closed-circuit surveillance video)*
 - *information about travel or accommodation*
 - *employment information*
 - *financial information*
 - *personal health information*
 - *school attendance information*
3. Beyond the 10 common provisions listed above, are there any others that should be included in missing persons legislation?
 4. Are there any provisions included in missing persons legislation from [Alberta](#), [British Columbia](#), [Manitoba](#), [Nova Scotia](#), [Newfoundland](#) or [Saskatchewan](#) that Yukon should consider adopting? Conversely, what shouldn't be considered?

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