

MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

BRIEFING NOTE

APPROVED
W. Sheehan

PREPARED FOR: Honourable Mike de Jong, Solicitor General **FOR DECISION**

SUBJECT: Public access to driving records

ISSUE: Lack of public access to information about drivers who receive administrative penalties for impaired driving

BACKGROUND:

- On April 27, 2010, amendments to the *Motor Vehicle Act (MVA)* were announced. The new impaired driving provisions will allow police to issue prohibitions at the roadside.
- The new administrative roadside prohibitions are:
 - 3 days for a drivers with blood alcohol concentrations (BACs) of at least 0.05, escalating to 7 and 30 days for repeat offenders within a five year period
 - 90 days for drivers with a BAC of at least .08.
- Unlike criminal penalties, which are open to public scrutiny via court records, administrative sanctions are recorded on the driver's driving record which is not a public document.
- Currently, driving records are available only with the driver's consent. In addition to drivers, typically, driving abstracts are requested by employers or others (for example, insurance companies) who have a responsibility to ensure that the driver has a safe driving history.
- The introduction of the new legislation has raised concerns that with the increase in administrative sanctions, and the possibility that criminal sanctions may decrease, the public will not have access to necessary information about impaired drivers.

DISCUSSION:

Current Access to Driving Records:

- Driving records are protected under the *Freedom of Information and Protection of Privacy Act (FOIPPA)*, and can only be obtained with the consent of the driver.
- When a driving record is requested from ICBC, a "Driver Abstract" is produced with the following information:
 - Driver's name and address, birthdate, height, weight, eye and hair color.
 - Drivers licence number, driver status (e.g. prohibited, normal, etc.) and any driving restrictions (e.g. corrective lenses required, etc.).
 - Five year history of motor-vehicle related violations under the *MVA* or *Criminal Code* (e.g. Contraventions, prohibitions from driving and licence suspensions) and
 - Correspondence (e.g. Driver Improvement Program warning letter).

- Currently only the Superintendent of Motor Vehicles and enforcement personnel have access to driving records.

Freedom of Information and Protection of Privacy (FOIPPA):

- Court records are expressly excluded from the scope of *FOIPPA*. Court records are open to the public based on the "open court principle", which recognizes the rights of members of the public to attend court proceedings; and have access to records in the court file, including the reasons for decision.
- The public's right to access administrative records does not automatically override an individual's right to privacy. As such, a thorough assessment of privacy impacts and the provisions of the existing legislation with respect to *FOIPPA* would be required to justify public access to driving records. Any change to release this information would likely require an amendment to the *MVA*, and this would include receiving the support of the Privacy Commissioner.
- Prior to amending the legislation, an examination of the principles, legislation and case law behind privacy for administrative sanctions should also be explored.
- Public access to driving records is likely to generate public concerns, particularly since information about criminal convictions will still be available through the courts and information about administrative sanctions is not currently available. Allowing public access to any driver's history will impact the entire driving population, including those that have only minor or very few driving or motor vehicle contraventions and those who have their licence cancelled for medical reasons.

Other Jurisdictions:

- In Ontario, any person may request a copy of any other driver's three-year driving record. The person making the request must have the driving licence number of the person they are enquiring about and must pay a \$12 fee. The address and personal information of the driver is not released to protect their privacy.
- The privacy protection provisions of Ontario privacy legislation do not apply "to personal information that is maintained for the purpose of creating a record that is available to the general public". Driving records have long been considered "records available to the general public" and therefore privacy provisions do not apply.
- Ontario's policy has been in place since 1973 and Ontario drivers are made aware that driving records are public records (without the residential address) via a Public Notice posted in all Driver & Vehicle Issuing Offices, and information posted on several government websites (e.g. the Ontario Ministry of Transportation website and the Ontario Information and Privacy Commissioner's Office website). While Ontario reports that they do receive complaints, the fact that the provisions have been in place for so long allows them to continue their current practice.

- In all other provinces, including those with escalating roadside prohibitions (i.e. Saskatchewan, Nova Scotia, Newfoundland Prince Edward), driving records are protected under privacy legislation and can only be obtained with consent of the driver.

Impact to ICBC:

- The impact to ICBC is dependent upon the extent of changes to existing processes. ICBC estimates that the current demand for third-party driving records is 750,000 requests per year. These requests are primarily from commercial driving business owners (long haul trucking, taxis) who require a copy of their employees' driving records every 6 months. Other volunteer agencies may also request a driver provide a copy of the driving record before transporting passengers. The operational impacts to ICBC would be high if everyone requesting a driving record did so in person at an ICBC office.
- Changes in the amount of information to be released in the driver abstracts would also result in minor system impacts.

OPTIONS:

s.13, s.17

s.13

s.13, 17

RECOMMENDATION:

s.13

APPROVED / NOT APPROVED

Mike de Jong, Solicitor General

Prepared by:

Linda Mazzei/Devon Windsor
Office of the Superintendent of Motor Vehicles
250-356-5952/8070

Date: May 14, 2010
Cliff No.: 385841

From: [Windsor, Devon SG:EX](#)
To: [Blewett, Tyann M SG:EX;](#)
Subject: FW: Principles behind open access - court system
Date: Tuesday, May 11, 2010 2:30:28 PM

FYI

From: Kimberley, Kate AG:EX
Sent: Tuesday, May 11, 2010 1:12 PM
To: Windsor, Devon SG:EX
Subject: Principles behind open access - court system

Devon – a few comments/references...access to the court record is an area of law/policy that continues to evolve....I think one of the questions for your purposes would be – while the SCC recognizes the principle of openness before the court (barring exceptions as deemed necessary according to principles outlined below) – what are the principles/legislation/case law behind privacy for administrative sanctions, particularly those of the nature which the OSMV has responsibility? Should there be a difference in the nature of access? Does an individual have a right to privacy? Why? Why not?

Big questions ☺

The Supreme Court of Canada has clearly recognized the principle of openness in the court system in *Dagenais v. Canadian Broadcasting Corp.*, [1994] 3 S.C.R. 835; *R. v. Mentuck*, [2001] 3 S.C.R. 442 and more recently in *R. v. Toronto Star Newspapers Ltd.* 2005 SCC 41. <http://csc.lexum.umontreal.ca/en/2005/2005scc41/2005scc41.pdf>

The Court has also recognized that there are exceptions to this principle.

The general principles are as follows:

1. Every court has a supervisory and protecting power over its own records.
 2. The presumption is in favor of public access and the burden of contrary proof lies upon the person who would deny the exercise of the right.
 3. Access can be denied when the ends of justice would be subverted by disclosure or the judicial documents might be used for an improper purpose. Curtailment of public accessibility can only be justified where there is present the need to protect social values of superordinate importance. One of these is the protection of the innocent.
- A.G. (Nova Scotia) v. MacIntyre*, [1982] 1 S.C.R. 175, at 186-189.

In summary, the public interest in open trials and in the ability of the press to provide complete reports of what takes place in the courtroom is rooted in the need:

- (1) to maintain an effective evidentiary process;
- (2) to ensure a judiciary and juries that behave fairly and that are sensitive to values espoused by society;
- (3) to promote a shared sense that our courts operate with integrity and dispense justice; and
- (4) to provide an ongoing opportunity for the community to learn how the justice system operates and how the law being applied daily in the courts affects them.

Edmonton Journal v. Alberta (Attorney General), [1989] 2 S.C.R. 1326, at 1361.

Supreme Court decision in *MacIntyre*, courts have both a supervisory and protecting power over their own records.

<http://csc.lexum.umontreal.ca/en/1982/1982scr1-175/1982scr1-175.html>

Kate Kimberley | Director - Strategic Projects, Communications and Training
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From: [Lowther, Brett GCPE:EX](#)
To: [Brazier, Heather M JTI:EX;](#)
cc: [Blewett, Tyann M SG:EX;](#)
Subject: Times colonist article
Date: Friday, May 7, 2010 1:32:35 PM

Hi there – Just wondering if you saw this story. I would imagine that the Minister was just musing on the possibility of bringing in a scheme similar to Ontario's, but given that he says he is willing to look at it – the media will likely follow up in a week or so, and see if we've made any progress in this area. Do you have anything we could say - or did this come as a surprise to you folks as well?

Thx

brett

Driving records could go public

Times Colonist (Victoria)

Friday, May 07, 2010

Page A01

By Lindsay Kines and Rob Shaw

The secret nature of B.C.'s new impaired-driving sanctions might force the government to open driving records to public scrutiny.

Right now, such records are considered private. But that means many people punished for drunk driving will escape public notice, because the new administrative penalties will be imposed by the police at roadside and never make it to a public courtroom.

Solicitor General Mike de Jong told the Times Colonist that he will consider setting up a system similar to that in Ontario, where people can check how many traffic infractions someone has committed, or whether they've had their licences suspended for impaired driving over a three-year period.

"We may want to look at that," de Jong said. "If a driver has been sanctioned for behaviour that society condemns, then there is a reasonable argument that says that information should be readily available."

He said government is not attempting to shield impaired drivers from punishment or publicity.

"Nothing could be further from the truth," he said. "These are the toughest sanctions in the country."

The new rules give police discretion to slap first-time offenders with an immediate 90-day driving ban and \$500 fine, rather than a criminal charge, if

they fail a roadside screening test. They'd also have to participate in a responsible driver program and blow into an interlock ignition device before starting their cars for a year.

Unlike speeding offences or criminal charges for driving under the influence, however, the administrative penalties do not generate a court file, so there is no public record of the offence.

That means you might never know if your mayor, MLA, daycare provider or child's school-bus driver has been fined or lost their licence for impaired driving. By contrast, if you live in Ontario, you could pay a fee to obtain a three-year snapshot of a person's driving record -- including traffic act and criminal convictions, licence suspensions and demerit point total. The driver's home address is withheld for privacy reasons.

Emna Dhahak, a media liaison officer with Ontario's Transportation Ministry, said the three-year driving snapshot has been a public record in that province since 1973.

She was unable to locate records indicating why Ontario first made the records public.

"To the best of anyone's recollection, it was for consumer protection and road-safety purposes," Dhahak said in an e-mail to the Times Colonist. "For example, it allows an individual to check the driving record of the person they are loaning their vehicle to, insurance companies for automobile-insurance underwriting purposes, as well as permitting employers to check the driving records of employees driving company-owned vehicles."

De Jong said any move to provide similar transparency in B.C. would require legislation, but he's willing to look at that.

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<p style="text-align: center;">CONFIDENTIAL ISSUES NOTE</p> <p>Ministry Public Safety and Solicitor General Date: Apr. 29, 2010 Minister Responsible: Mike De Jong</p>	<p style="text-align: center;">Impaired Legislation – Appeal Process</p>
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Suggested Response:

- **A fair, timely review process and safeguards for personal privacy are already in place under the current system.**
- **That won't change when tougher administrative penalties for impaired driving are enacted this fall.**
- **Drivers who receive a roadside prohibition and question the reliability of the roadside screening device have the right to ask for a second breathalyser test on a different roadside screening device at the roadside.**
- **Additionally, drivers will continue to have the opportunity to have the prohibition reviewed by the Superintendent of Motor Vehicles.**
- **These administrative penalties are no different than current privacy laws that ensure a person's driving record remains personal and confidential.**
- **However, a motorist's driving record can be made public if the motorist gives consent and should a B.C. driver be criminally charged with impaired driving, that will remain public as part of the court process.**
- **There is a growing number of people who choose to drive impaired in B.C., causing death and injuries that are preventable. This legislation will help to stop this disturbing trend by removing intoxicated drivers from our roads.**

Background:

On Apr. 29, 2010, a media article asserted that B.C.'s new administrative penalties for impaired driving do not provide an appeal process for drivers. The article also says that many of the penalties will be imposed in secret, with no public record of the offence. Critics say that a lack of transparency should worry the public.

ADVICE TO MINISTER

Belsky, Belle SG:EX

From: XT:Thomson, Kathy CITZ:EX
Sent: Monday, May 17, 2010 6:35 AM
To: Mazzei, Linda D SG:EX
Subject: RE: Impaired Project - Driving Records

There is no cost for the abstract

From: Mazzei, Linda D SG:EX [<mailto:Linda.Mazzei@gov.bc.ca>]
Sent: Thursday, May 13, 2010 2:05 PM
To: Thomson, Kathy
Subject: RE: Impaired Project - Driving Records

Thanks Kathy. Is there a cost or fee for driver's abstracts?

From: Thomson, Kathy [<mailto:Kathy.Thomson@icbc.com>]
Sent: Wednesday, May 12, 2010 2:57 PM
To: Mazzei, Linda D SG:EX
Cc: XT:Matthews, Lindsay ICBC:IN; Van Helvoirt, Joy; Thomson, Kathy
Subject: RE: Impaired Project - Driving Records

Linda here are some VERY high level numbers as we haven't had time to think this thoroughly thru and would not want these numbers to be carved in stone.

There are 3 million active drivers presently – we estimate that a minimum of 25% of those customers will want to have access to the driving records of others. We believe that you will have lawyers, media and general public wanting to look other peoples records up.

A privacy impact assessment must be done before going further

There will be system impacts – either the present driving record will have to be modified to hide personal information
Operational impacts if these customers attend our offices, so to eliminate that we would recommend that this be an on line function which again impacts systems as we do not have this ability today.

.....
Kathy Thomson
Director, Provincial Licensing
Driver Licensing Division
ICBC building trust. driving confidence.
.....
910 Government street|
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facsimile: 250-978-8007 | **mobile:** 250-812-0387

From: Mazzei, Linda D SG:EX [<mailto:Linda.Mazzei@gov.bc.ca>]
Sent: Wednesday, May 12, 2010 10:36 AM
To: Thomson, Kathy
Subject: Impaired Project - Driving Records


Hi Kathy, I've been asked to prepare a very high level DN about the feasibility of releasing driving records to the public. I'm looking at the privacy and legislative issues, and would like to know at a very high level (for now) what impact this would have on ICBC? PS I have to have the note done by this afternoon!!

Linda Mazzei, Senior Policy Advisor

Office of the Superintendent of Motor Vehicles

Ministry of Public Safety and Solicitor General

Tel: 250-356-5952 | Fax: 250-356-5568

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Belsky, Belle SG:EX

From: Belsky, Belle SG:EX
Sent: Thursday, May 13, 2010 4:28 PM
To: Cornett, Kathy M SG:EX
Cc: Biggs, Jackie SG:EX; Clayton, Penny L SG:EX; Blewett, Tyann M SG:EX; Belsky, Belle SG:EX; Gilmour, Lori SG:EX; Mazzei, Linda D SG:EX; Windsor, Devon SG:EX
Subject: Decision BN for SG, CLIFF 385841, Disclosure of Driving Records

Hi Kathy,

Attached is a Decision BN regarding Disclosure of Driving Records for the SG that's been approved by Steve Martin.



BN - 385841
Access to Driving ..

*Belle Belsky
Administrative Assistant
Policy & Research
Office of the Superintendent of Motor Vehicles
Ministry of Public Safety & Solicitor General
Phone: 250-387-5371
Fax: 250-356-5568*

Belsky, Belle SG:EX

From: Ferguson, Michael [Michael.Ferguson@icbc.com]
Sent: Thursday, May 13, 2010 2:21 PM
To: Mazzei, Linda D SG:EX
Subject: Would you like to see the records we hold and disclose?

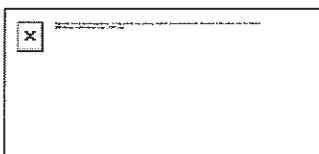
Good afternoon.

Hope your note went well. I didn't learn anything new after we spoke.

Penny Clayton is coming here on Tuesday at 9:00. She wants to talk about records, who discloses what and why. Assuming Penny is okay with it, would you be interested in joining us?

.....
Mike Ferguson
Senior Information Officer
Privacy & Freedom of Information
ICBC building trust. driving confidence.
.....
910 Government St.
Victoria| British Columbia | V8W 3Y8
Save trees. Print only when necessary.

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Belsky, Belle SG:EX

From: Bersenev, Elena Y CITZ:EX
Sent: Wednesday, May 12, 2010 1:03 PM
To: Mazzei, Linda D SG:EX
Subject: RE: Driver Abstracts

Good afternoon Linda,

I don't have enough information to provide any privacy advice for this initiative at this time. However, here are some suggestions that I would like to make:

1. In order to be aware of the privacy implication could you please find Privacy Impact Assessment for the changes to the MVA. That PIA should have been done for the RFL. That PIA should indicate any privacy concerns the ministry might have.
2. **Is a driving record covered by the provisions of the Freedom of Information and Protection of Privacy Act – which specifies that a public body must not release personal information to another person if the disclosure would be an unreasonable invasion of that person's privacy?** All records in the custody or under the control of the public body with very limited exceptions are subject to the provisions of the FOIPPA. In order for the FOIPPA to not apply to the records, there should be notwithstanding FOIPPA provision in the enabling legislation.
3. **Do you know if administrative sanctions are a private matter between the regulatory body and the individual – if so, under what legislation?** I cannot provide advice to this question. I think you should ask legal counsel about it.
4. I would also do research for Ontario practice for driving records to see what kind of authority they use to release the records.
5. Here is the link to the "Access and Privacy Issues A Guide for Tribunals"
http://www.oipc.bc.ca/images/stories/pdfs/public/Guide_Admin_Trib%28Jan2010%29.pdf . Even though it's a guide for tribunals, it discusses the same issues about balance between openness and Privacy, and concerns about disclosure of personal information that might lead to identity theft, stalking etc.

Linda, when we are clear what policy we would like to develop, we have to do Privacy Impact Assessment for the initiative.

Thank you.

Elena Bersenev
Privacy Advisor
Information Access Operations
Phone:(250) 356-9071
Providing Services to:
All B.C. Government Ministries

From: Mazzei, Linda D SG:EX
Sent: Tuesday, May 11, 2010 4:54 PM
To: Bersenev, Elena Y SSBC:EX
Cc: Mazzei, Linda D SG:EX
Subject: Driver Abstracts

Hi Elena, Thanks for taking a moment to talk to me so late in the day today. This is a long note, with background first and my questions in **bold** at the bottom. Thanks for taking a look at it. Phone me if you have any questions!!

Here is the text of our news release for our new impaired driving legislation, just announced on April 27, 2010 – First Reading.

B.C. INTRODUCES CANADA’S TOUGHEST IMPAIRED DRIVING LAWS VICTORIA – The Province is introducing Canada’s most immediate and severe impaired driving penalties to save lives, curb repeat offenders and give police more enforcement tools, Solicitor General Michael de Jong, QC, announced today. “Despite increased enforcement and significant efforts to promote awareness, we’ve begun to see a rise in impaired driving across British Columbia,” said de Jong. “That trend is unacceptable and that’s why we’re bringing in these new laws: to get impaired drivers off the road with clear, swift and severe penalties.”

In memory of Alexa Middelaer, de Jong also announced a provincial goal: to reduce alcohol-impaired driving fatalities by 35 per cent by the end of 2013. Middelaer was four when she was killed by an alleged drunk driver in Delta two years ago.

Under changes to the Motor Vehicle Act (MVA), drivers who provide a failing breath sample above 0.08 per cent BAC or refuse to provide a breath sample at the roadside will face an immediate, 90-day driving ban and a \$500 fine. As well, they will have their vehicle impounded for 30 days. They may also face criminal charges. Drivers caught once in the “warn” range (between 0.05 and 0.08 per cent BAC) in a five-year period will face an immediate, three-day driving ban and a \$200 fine; a second time, a seven-day ban and a \$300 fine; and a third, a 30-day ban and a \$400 fine. Research shows that driving with a BAC in that range means a driver is seven times more likely to be in a fatal crash than if they have no alcohol in their body. In addition, drivers who blow once in the “fail” range, or three times within five years in the “warn” range, will be required to participate in the rehabilitative Responsible Driver Program. They must also use an ignition interlock device, which tests a driver’s breath for alcohol every time they operate their vehicle, for one year.

“B.C.’s measures target impaired drivers more effectively than any Canadian jurisdiction has to date,” said Andrew Murie, CEO of Mothers Against Drunk Driving Canada. “We believe these major, escalating penalties will better support both deterrence and enforcement, save lives and prevent hundreds of injuries each year on B.C.’s roads. We encourage other provinces to study what B.C. is doing and follow its example.” The new, roadside-issued, 90-day bans mean officers will no longer need to take drivers to the station for a full breath analysis in order to impose a driving ban longer than 24 hours.

“We believe that this new initiative will help all law enforcement officers to apprehend and reduce the number of impaired drivers in our province,” said Insp. Mike Diack of the RCMP’s B.C. Traffic Services. “There are people killed on B.C. highways each year as a direct result of impaired drivers. With additional enforcement powers, our police officers will be better equipped to reduce those casualties. Harm reduction is our number-one priority.”

The changes to B.C.'s impaired driving laws are expected to come into effect in fall 2010. More information on the changes is available at www.pssg.gov.bc.ca/osmv/ online.

Backgrounder available at: http://www2.news.gov.bc.ca/news_releases_2009-2013/2010PSSG0026-000472.pdf

If the legislation goes through, police will have the discretion to issue administrative sanctions at the roadside. Unlike criminal sanctions for impaired driving, administrative sanctions are currently not available for public scrutiny. Here is a news article showing the public is concerned about this.

Drunk-driving laws to hide penalties

Times Colonist (Victoria)

Thursday, April 29, 2010

Page A03

By Rob Shaw and Lindsay Kines

One of the consequences of B.C.'s new drunk driving laws is that many of the penalties will be imposed in secret, with no public record of the offence.

B.C.'s superintendent of motor vehicles confirmed yesterday that the new administrative penalties for impaired driving will not show up in any court records and are shielded from public scrutiny.

"When it comes to a person's driving record, that's considered personal and confidential," said superintendent Steve Martin.

The new rules give police discretion to slap first-time offenders with a 90-day driving ban and \$500 fine if they fail a roadside sobriety test. They'd also have to participate in a responsible driver program and blow into an interlock ignition device before starting their cars for a year.

But unlike criminal charges for driving under the influence, the administrative penalties are not disclosed to the public because they do not generate a court file, said Martin. That means a member of the public would never know if their local mayor, MLA, daycare provider or child's school-bus driver had been fined or lost their licences for impaired driving.

Critics say that lack of transparency should worry the public.

But Andrew Murie, chief executive officer of Mothers Against Drunk Driving Canada, said while some first-time offenders may face less public scrutiny, the trade-off is worth it if it helps reduce impaired-driving injuries and deaths.

The beauty of B.C.'s new rules, he said, is they bypass the cumbersome court process and focus on rehabilitation. A first-time offender will still have to blow into an interlock device and get a handle on their drinking even if their name never makes the papers. "I am not so worried about the shaming part of it," Murie said. "I'm more concerned about, 'Will this person ever do this again?' Because I'll tell you, most of the people who kill out there, nobody's heard of them."

The government said the new rules are designed to let police focus charges on drivers who have been banned from driving in the past or have caused serious injury or death.

Drunk drivers will only get one chance to avoid criminal charges, said RCMP Insp. Ted Smith, head of Vancouver Island's traffic services.

"If we know somebody has been through the administrative sanctions once, we aren't going to cut them any slack ... we are going to throw the book at them," said Smith.

But B.C. Civil Liberties Association president Robert Holmes said the public should be skeptical of any disciplinary process that is done behind closed doors. "Anyone who is affected by this and wants to take their lumps and not have the public stigma would think keeping this private is a wonderful thing," said Holmes, a Vancouver lawyer.

"But in terms of our ability to ensure that the agents of the state, whether they are the police or anybody else ... are doing their job and doing it fairly, properly and so on, yes, there is a concern."

Here is an example of a driving record:

<< File: 20100511164730.pdf >>

**We are preparing a Decision Note for our Minister
very high level at this time.**

s.13

This is at a

Questions:

- 1. Is a driving record covered by the provisions of the Freedom of Information and Protection of Privacy Act – which specifies that a public body must not release personal information to another person if the disclosure would be an unreasonable invasion of that person's privacy.**
- 2. Do you know if administrative sanctions are a private matter between the regulatory body and the individual – if so, under what legislation?**
- 3. What other considerations/impacts should we be aware of?**

Linda Mazzei, Senior Policy Advisor
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 Please consider the environment before printing this email

Belsky, Belle SG:EX

From: Windsor, Devon SG:EX
Sent: Tuesday, May 11, 2010 3:33 PM
To: Mazzei, Linda D SG:EX
Subject: FW: Times colonist article

Hi Linda,

There is a times colonist article at the bottom that talks about the Minister saying he would look at opening up driver's records.

Thanks,
~Devon

From: Blewett, Tyann M SG:EX
Sent: Friday, May 7, 2010 4:21 PM
To: Windsor, Devon SG:EX
Cc: Gerhart, Bradley SG:EX
Subject: FW: Times colonist article

Devon – could you work on a briefing note for the Minister on this issue. I did some work last week (with your help) on how/why Ontario does it and did some preliminary discussions with Melinda Minkley on what it would take to do something similar in BC.

I'll send you everything I have, if you could take a crack at drafting something, we can talk on Tuesday. I think they'll be looking for this sooner rather than later.

Thanks.



RE: Driver
Abstracts



Driver Abstracts



Ontario Abstracts



FW: Driver's
License Abstracts...Chief Informatio...



Office of the



Disclosure of
Driving Records



FW: Driver
Abstracts



RE: URGENT

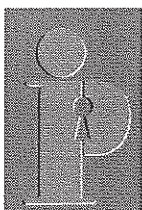


media question and information under n

Tyann Blewett

A/Director, Policy & Research
Office of the Superintendent of Motor Vehicles
phone: 250-953-3330

From: Lowther, Brett PAB:EX
Sent: Friday, May 7, 2010 1:33 PM



NUMBER 25

REVISED AUGUST 2007



IPC

Practices

PUTTING ONTARIO'S INFORMATION AND PRIVACY LEGISLATION TO WORK

INFORMATION AND PRIVACY COMMISSIONER/ONTARIO

ANN CAVOUKIAN, Ph.D., COMMISSIONER

You and Your Personal Information at the Ministry of Transportation

Over the years, members of the public have expressed their concerns to the office of the Information and Privacy Commissioner (IPC) over the availability of their personal information held by the Ministry of Transportation under the authority of the Highway Traffic Act. This situation is not unique to Ontario. Most transportation authorities in North America make some, if not all of their driver and vehicle information available to the public. While there may be sound reasons for this practice, the public remains concerned, especially relating to the disclosure of an individual's home address.

Until October 1994, the names and addresses of Ontario drivers and vehicle owners were available from the Ministry of Transportation. In 1988, the IPC received a complaint from a member of the public regarding the Ministry's policy of releasing the names and addresses of drivers and vehicle owners. At that time, we learned that upon payment of a fee, the name and address of a vehicle's registered owner was provided to anyone. Since that time, we have been meeting with Ministry staff to discuss the privacy protection of the personal information it maintains in its databases.

Together with the Ministry, we reviewed the various information contained in the databases and determined that it consisted of a mix of general and personal information. We also determined that the home address was the most sensitive item of personal information in the databases. A number of proposals for administrative changes were developed with the Ministry, and in 1994 privacy was improved when the Ministry began to suppress home address information when responding to vehicle and driver information requests.

Ontario's *Freedom of Information and Protection of Privacy Act* and *Municipal Freedom of Information and Protection of Privacy Act* ensure that government organizations that hold your personal information protect your privacy in the collection, use, storage, dissemination, and disposal of that information.

Here are some answers to questions frequently asked about personal information held by MTO:

What are the Ministry of Transportation (MTO) databases?

MTO has two databases that contain personal information about members of the general public; the *Driver Licence Database* and the *Vehicle Registration Database*.



What is the Driver Licence Database and what personal information does it contain?

The *Driver Licence Database* is a registry of all persons who are licenced to operate a motor vehicle in the Province of Ontario. It contains the information that you provided when you applied for a driver's licence, such as your name, address, date of birth, and gender. It also contains your driver's licence number, a record of any driving convictions and a digitized photograph of your face.

What is the Vehicle Registration Database and what information does it contain?

The *Vehicle Registration Database* is a listing of registered vehicle owners in Ontario. It contains a description of every motor vehicle and trailer (boat, camper, etc.) registered in Ontario, together with the current owner's name, address, and licence plate number. In addition to listing what vehicle or trailer is owned by whom, it also contains a history of the vehicle's or trailer's previous owners.

Why do they keep a record of my driving convictions?

All driving convictions are added to the *Driver Licence Database* by the Ministry of the Attorney General after a person has been found guilty of a driving offence under the *Highway Traffic Act* or *Criminal Code of Canada*. This information is used by the Ministry for monitoring and controlling driver licensing. For example, if your driving record indicates that you have had a number of driving convictions within a short period of time, you may be asked to explain your behaviour to the Ministry and your driver's licence may be suspended by the Ministry.

Can I access my personal information on the Driver Licence Database?

Yes. With the payment of a fee, you can obtain a driver abstract from the *Driver Licence Database*. You must provide your driver's licence number and either your name and date of birth or name and address. You will receive a listing of your driving convictions (speeding, impaired driving, etc.) for the past three years and information as to whether or not your licence has been suspended. This information is known as your "driver record."

Can other people access my "driver record?"

Yes. Your record of the past three years is available upon request (with the payment of a fee). Organizations as well as members of the public request this information from the *Driver Licence Database* on a regular basis. However, your address is not provided to members of the public who request your driver information.

Can I access my vehicle information?

Yes. With the payment of a fee, anyone can obtain either a history of the licence plate or the vehicle. You must supply the Ministry with either the licence plate number or the vehicle identification number (VIN). The VIN can be found on the dashboard in the lower left hand corner of the windshield.

- If you request a *plate* history, you will receive a listing of the various vehicles to which a particular licence plate has been attached, as well as the name and driver's licence number of the plate's owner. This is because a licence plate is assigned to one person and is attached to the various vehicles that person has owned.
- If you request a *vehicle* history, you will receive a listing of the names and driver's licence numbers of the people who have owned that particular vehicle as well as the licence plate numbers that have been attached to it.



Can others access information on the Driver Licence Database and the Vehicle Registration Database, and why do they need access to my information?

Yes, both individuals and organizations may access this information. Because many adults in Ontario either have a driver's licence or own a vehicle, these databases are considered to be a reliable source of current name and address information. Various bulk or account clients have signed agreements with the Ministry to access these databases. In order to be accepted as an account client, the organization must meet strict criteria set by the Ministry. The agreement stipulates what personal information will be provided (for example: name, address, type of vehicle) and that the information must only be used for a specific purpose and cannot be shared with other organizations. Account clients fall into the following eight categories:

- **Insurance companies** access driver records (e.g., driving convictions, name, address, date of birth) to assess people's driving habits and set premiums accordingly.
- **Financial institutions** access vehicle records (e.g., name, address and vehicle owner) to verify ownership, provide loans, and locate bad debtors.
- **Private security companies** access vehicle and driver records (e.g., name and address of registered owners of illegally parked vehicles) to assist in the investigation of parking problems on private property.
- **Private investigators** access vehicle and driver records (e.g., name and address of registered owners of vehicles under investigation) to assist in the investigation of insurance claims for companies and contacting owners of vehicles.
- **Judicial services** access vehicle and driver records (e.g., name, address, suspension and conviction notices) to assist in settling court cases involving a driver and/or vehicle.

- **Motor vehicle manufacturers** access vehicle records (e.g., name and address of current registered owners) to support manufacturer's vehicle recalls and demographic reports.
- **One charitable organization** (War Amputees of Canada) accesses driver records (e.g., name and address) to solicit support for the WarAmps "key tag" service, for the safe return of lost keys.
- **Other government organizations** such as the police and municipalities access vehicle and driver records (e.g., name and address of registered owners) for law enforcement purposes.

While individuals requesting my information are not given my address, I notice that some organizations can get it. Can I have my address information kept private for personal safety reasons?

Yes, if you feel that the release of your name and address to third parties may pose a threat to you or your family's well being. Written confirmation from the police is required in order to have the address suppressed. For example, if you feel you are, or may be, stalked or abused by an ex-spouse, your address will then be removed from the computer database. However, it is still the responsibility of the driver and/or vehicle owner to keep his or her address current in order to comply with the *Highway Traffic Act*. This act states that a driver or vehicle owner must notify the Ministry within six days of moving. Furthermore, if the request is approved, the driver or vehicle owner would no longer receive any driver or vehicle renewal application. Therefore, it is also the driver's and/or vehicle owner's responsibility to ensure that they are driving with a valid driver's licence and/or vehicle permit. For more information on how you can suppress your address information, please call the Ministry of Transportation at (416) 246-7103 ext. 1514 or write to the Ministry at: Licensing Administration Office, Special Enquiry Unit, Building A, 2680 Keele Street, Downsview, Ontario, M3M 3E6.



Is there any other type of personal information that may be on my “driver record?”

While the above are the principal types of information in the Ministry’s databases, the Ministry also collects medical information as it relates to a person’s ability to safely operate a motor vehicle. The *Highway Traffic Act* requires the Ministry to ensure that persons licensed to operate a motor vehicle are physically fit and requires all qualified medical practitioners and licensed optometrists to report any instances which might indicate that it would be dangerous for a person to operate a motor vehicle. [Thus, if you have had a seizure or lost consciousness for no apparent reason, your doctor must report this to the Ministry and your licence may be suspended for medical reasons for a period of time. Similarly, licensed optometrists are also required to report any person, who in their opinion, is suffering from an eye condition that may make it dangerous for the person to operate a motor vehicle.] For more information regarding the collection and use of your medical information, please call the Ministry of Transportation’s Medical Department at (416) 235-1773 or 1-800-268-1481, or write to the Ministry at: Driver Improvement Office, Medical Review Section, Building A, 2680 Keele Street, Downsview, Ontario, M3M 3E6.

How can I get driver or vehicle information?

You may complete an “Application for Driver Record Search” or “Application for Vehicle Record Search” form. These are available at any of the ServiceOntario licence issuing offices. Or, you may obtain this information by using one of the ServiceOntario kiosks located in major centres

throughout the province, or visit the ServiceOntario website at <http://www.serviceontario.ca>.

Where’s the privacy?

Currently, the home address of drivers and vehicle owners in Ontario is not released when vehicle and driver record searches are conducted by individuals. If you know the plate number of a vehicle, you can find out the owner’s name and, in most cases, the owner’s driver licence number. Once you know the driver’s licence number, you can find out the driver’s driving history. It is difficult to balance the apparent need for access by third parties to information contained in the *Driver Licence Database* and *Vehicle Registration Database* with the need for an appropriate level of privacy that is expected by the public. While various organizations may be able to access your personal information on the Ministry’s databases, there are formal agreements in place that limit the use and disclosure of this personal information by these organizations. If an organization does not follow the terms of agreement, the Ministry can terminate it.

Any questions or complaints?

If you have any questions or complaints about the collection and use of your personal information contained in the Ministry of Transportation’s *Driver Licence Database* or *Vehicle Registration Database*, please call the ServiceOntario Driver & Vehicle Licensing call centre at (416) 235-2999 or 1-800-387-3445 or write to the Ministry at: Licensing Administration Office, Main Floor, Building A, 1201 Wilson Ave., Downsview, Ontario, M3M 1J8.

IPC Practices

is published regularly by the **Office of the Information and Privacy Commissioner**.

If you have any comments regarding this publication, wish to advise of a change of address or be added to the mailing list, contact:

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Information and Privacy Commissioner/Ontario
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Toronto, Ontario M4W 1A8
Telephone: 416-326-3333 • 1-800-387-0073
Facsimile: 416-325-9195
TTY (Teletypewriter): 416-325-7539
Website: www.ipc.on.ca



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Belsky, Belle SG:EX

From: Windsor, Devon SG:EX
Sent: Tuesday, May 11, 2010 3:26 PM
To: Mazzei, Linda D SG:EX
Subject: FW: OSMV - drinking/driving records

Elena's contact information.

From: McCartney, Angela SSBC:EX
Sent: Monday, May 10, 2010 2:27 PM
To: Windsor, Devon SG:EX
Cc: Bersenev, Elena Y SSBC:EX
Subject: OSMV - drinking/driving records

Hello Devon,

As discussed, here is Elena's contact information to discuss the SG's comments regarding public driving records.

Elena – with the recent changes to the Privacy Team, please let me know if you're not the primary privacy contact for PSSG anymore. Wish I could help more on this one, sounds really interesting!

Thanks,
Angela

Angela McCartney

Senior Analyst
Information Access Operations
Operations, Shared Services BC
Ministry of Citizens' Services

Tel: 250-356-0788 Fax: 250-387-9843
E-mail: angela.mccartney@gov.bc.ca

Providing Services to:

*Ministry of Aboriginal Relations and Reconciliation
Ministry of Attorney General
Ministry of Children and Family Development
Ministry of Housing and Social Development
Ministry of Public Safety and Solicitor General*

Belsky, Belle SG:EX

From: Blewett, Tyann M SG:EX
Sent: Tuesday, May 11, 2010 3:16 PM
To: Mazzei, Linda D SG:EX
Subject: FW: Principles behind open access - court system

Some info

Tyann Blewett

A/Director, Policy & Research
Office of the Superintendent of Motor Vehicles
phone: 250-953-3330

From: Windsor, Devon SG:EX
Sent: Tuesday, May 11, 2010 2:30 PM
To: Blewett, Tyann M SG:EX
Subject: FW: Principles behind open access - court system

FYI

From: Kimberley, Kate AG:EX
Sent: Tuesday, May 11, 2010 1:12 PM
To: Windsor, Devon SG:EX
Subject: Principles behind open access - court system

Devon – a few comments/references...access to the court record is an area of law/policy that continues to evolve....I think one of the questions for your purposes would be – while the SCC recognizes the principle of openness before the court (barring exceptions as deemed necessary according to principles outlined below) – what are the principles/legislation/case law behind privacy for administrative sanctions, particularly those of the nature which the OSMV has responsibility? Should there be a difference in the nature of access? Does an individual have a right to privacy? Why? Why not?

Big questions ☺

The Supreme Court of Canada has clearly recognized the principle of openness in the court system in *Dagenais v. Canadian Broadcasting Corp.*, [1994] 3 S.C.R. 835; *R. v. Mentuck*, [2001] 3 S.C.R. 442 and more recently in *R. v. Toronto Star Newspapers Ltd.* 2005 SCC 41.
<http://csc.lexum.umontreal.ca/en/2005/2005scc41/2005scc41.pdf>

The Court has also recognized that there are exceptions to this principle.

The general principles are as follows:

1. Every court has a supervisory and protecting power over its own records.
2. The presumption is in favor of public access and the burden of contrary proof lies upon the person who would deny the exercise of the right.
3. Access can be denied when the ends of justice would be subverted by disclosure or the judicial documents might be used for an improper purpose. Curtailment of public accessibility can only be justified where there is present the need to protect social values of superordinate importance. One of these is the protection of the innocent.

A.G. (Nova Scotia) v. MacIntyre, [1982] 1 S.C.R. 175, at 186-189.

In summary, the public interest in open trials and in the ability of the press to provide complete reports of what takes place in the courtroom is rooted in the need:

- (1) to maintain an effective evidentiary process;
- (2) to ensure a judiciary and juries that behave fairly and that are sensitive to values espoused by society;
- (3) to promote a shared sense that our courts operate with integrity and dispense justice; and
- (4) to provide an ongoing opportunity for the community to learn how the justice system operates and how the law being applied daily in the courts affects them.

Edmonton Journal v. Alberta (Attorney General), [1989] 2 S.C.R. 1326, at 1361.

Supreme Court decision in *MacIntyre*, courts have both a supervisory and protecting power over their own records.

<http://csc.lexum.umontreal.ca/en/1982/1982scr1-175/1982scr1-175.html>

Kate Kimberley | Director - Strategic Projects, Communications and Training

Court Services Branch | Ministry of Attorney General

Direct: 250.356.6680 | Mobile: 250.588.0134 | Fax: 250.356.8152

Not Responsive

From: Blewett, Tyann M SG:EX
To: Windsor, Devon SG:EX
Cc: Gerhart, Bradley SG:EX
Sent: Fri May 07 16:21:04 2010
Subject: FW: Times colonist article

Devon - could you work on a briefing note for the Minister on this issue. I did some work last week (with your help) on how/why Ontario does it and did some preliminary discussions with Melinda Minkley on what it would take to do something similar in BC.

I'll send you everything I have, if you could take a crack at drafting something, we can talk on Tuesday. I think they'll be looking for this sooner rather than later.

Thanks.

<<RE: Driver Abstracts>> <<Driver Abstracts>> <<Ontario Abstracts>> <<FW: Driver's License Abstracts>> <<Office of the Chief Information and Privacy Officer>> <<Disclosure of Driving Records>> <<FW: Driver Abstracts>> <<RE: URGENT Media question and issues note>> <<access to information under new laws.docx>>

Tyann Blewett

A/Director, Policy & Research

Office of the Superintendent of Motor Vehicles

phone: 250-953-3330

From: Lowther, Brett PAB:EX
Sent: Friday, May 7, 2010 1:33 PM
To: Brazier, Heather M SG:EX
Cc: Blewett, Tyann M SG:EX
Subject: Times colonist article

Hi there - Just wondering if you saw this story. I would imagine that the Minister was just musing on the possibility of bringing in a scheme similar to Ontario's, but given that he says he is willing to look at it - the media will likely follow up in a week or so, and see if we've made any progress in this area. Do you have anything we could say - or did this come as a surprise to you folks as well?

Thx

brett

Driving records could go public
Times Colonist (Victoria)
Friday, May 07, 2010
Page A01

By Lindsay Kines and Rob Shaw

The secret nature of B.C.'s new impaired-driving sanctions might force the government to open driving records to public scrutiny.

Right now, such records are considered private. But that means many people punished for drunk driving will escape public notice, because the new administrative penalties will be imposed by the police at roadside and never make it to a public courtroom.

Solicitor General Mike de Jong told the Times Colonist that he will consider setting up a system similar to that in Ontario, where people can check how many traffic infractions someone has committed, or whether they've had their licences suspended for impaired driving over a three-year period.

"We may want to look at that," de Jong said. "If a driver has been sanctioned for behaviour that society condemns, then there is a reasonable argument that says that information should be readily available."

He said government is not attempting to shield impaired drivers from punishment or publicity. "Nothing could be further from the truth," he said. "These are the toughest sanctions in the country."

The new rules give police discretion to slap first-time offenders with an immediate 90-day driving ban and \$500 fine, rather than a criminal charge, if they fail a roadside screening test. They'd also have to participate in a responsible driver program and blow into an interlock ignition device before starting their cars for a year.

Unlike speeding offences or criminal charges for driving under the influence, however, the administrative penalties do not generate a court file, so there is no public record of the offence.

That means you might never know if your mayor, MLA, daycare provider or child's school-bus driver has been fined or lost their licence for impaired driving.

By contrast, if you live in Ontario, you could pay a fee to obtain a three-year snapshot of a person's driving record -- including traffic act and criminal convictions, licence suspensions and demerit point total. The driver's home address is withheld for privacy reasons.

Emna Dhahak, a media liaison officer with Ontario's Transportation Ministry, said the three-year driving snapshot has been a public record in that province since 1973.

She was unable to locate records indicating why Ontario first made the records public.

"To the best of anyone's recollection, it was for consumer protection and road-safety purposes," Dhahak said in an e-mail to the Times Colonist. "For example, it allows an individual to check the driving record of the person they are loaning their vehicle to, insurance companies for automobile-insurance underwriting purposes, as well as permitting employers to check the driving records of employees driving company-owned vehicles." De Jong said any move to provide similar transparency in B.C. would require legislation, but he's willing to look at that.

lkines@tc.canwest.com

rfshaw@tc.canwest.com

From: [Ryan, Fergus GCPE:EX](#)
To: [Blewett, Tyann M SG:EX;](#)
Subject: RE: Media request: TC - De Jongh
Date: Thursday, August 4, 2011 11:00:23 AM

Thanks

From: Blewett, Tyann M SG:EX
Sent: Thursday, August 4, 2011 10:59 AM
To: Ryan, Fergus GCPE:EX
Subject: Re: Media request: TC - De Jongh

All good.

From: Ryan, Fergus GCPE:EX
Sent: Thursday, August 04, 2011 10:57 AM
To: Blewett, Tyann M SG:EX
Subject: Media request: TC - De Jongh

Hello Tyann, please review messaging:

Date/Time: [04/August/9am](#)

Deadline @ 3.30 Thursday

Media: [Times Colonist](#)

Reporter: [Katie DeRosa, 250-380-5343, 250-812-1132](#)

Topic: [Mike de Jongh impaired review](#)

Background: Reporter had a follow up question to her query on Wednesday: In May 2010, Lindsay Kines and Rob Shaw published an article quoting then-Solicitor General Mike de Jong saying he will consider setting up a system similar to that in Ontario, where people can check how many traffic infractions and licence suspensions there have been over a three-year period.

De Jong said: "We may want to look at that. If a driver has been sanctioned for behaviour that society condemns, then there is a reasonable argument that says that information should be readily available."

The reporter wants to know whether that option is still being explored. She would

like to speak to the SG or, failing that, Steve Martin to explain the situation. She believes that the public ought to know about dangerous and drunk drivers. On Wednesday, the Reporter wanted to know if George McGregor, a local assistant fire chief, received an IRP for impairment in the last three months. GCPE staff warned her that it's possible we won't be able to provide any information about an individual driving record due to FOIPPA but that we would ask. If denied, she would like someone in OSMV to explain why driving record information is not releasable under FOIPPA. GCPE staff clarified the difference between an IRP and a criminal code conviction as well.

Questions to ask the reporter for inclusion here:

Questions: [Can the SG or Steve Martin comment on Mike de Jong's statement above and whether the option is still being explored?](#)

Suggested Response:

- . **This is a complex matter that requires further discussion.**
- . **There are privacy and cost issues that need to be considered.**
- . **There were other, more pressing issues that needed to be addressed.**
- . **We are considering Mike de Jongh's suggestion.**

Information provided on Wednesday:

- .
- . **Driving records are subject to the provisions of the Freedom of Information and Protection of Privacy Act which specifies that a public body must not release personal information to another person if the disclosure would be an unreasonable invasion of that person's privacy.**
- . **Administrative sanctions are not considered public record—they are between the regulatory body and the individual.**
- . **This is consistent with other regulatory bodies that do not provide public access to hearings or**

records, such as income assistance tribunals, taxi licence applications, private investigators and security service licences.

Program Area Approval Contact:	Insert Name
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From the bottom, the red is the third one in from the right on the second row.

Fergus Ryan

Ministry of Public Safety & Solicitor General Communications
250-387-4705
fergus.ryan@gov.bc.ca

From: [Ryan, Fergus GCPE:EX](#)
To: [Blewett, Tyann M SG:EX;](#)
cc: [Haltner, Christine GCPE:EX;](#)
Subject: Media request - times colonist - driver records
Date: Thursday, August 4, 2011 9:34:10 AM

Hello Tyann. Please see request below. Could you phone me please to discuss this further?

Regards
Fergus

Date/Time: 04/August/9am

Deadline @ 3.30 Thursday

Media: Times Colonist

Reporter: Katie DeRosa, 250-380-5343, 250-812-1132

Topic: Mike de Jongh impaired review

Background: Reporter had a follow up question to her query on Wednesday: In May 2010, Lindsay Kines and Rob Shaw published an article quoting then-Solicitor General Mike de Jong saying he will consider setting up a system similar to that in Ontario, where people can check how many traffic infractions and licence suspensions there have been over a three-year period.

De Jong said: "We may want to look at that. If a driver has been sanctioned for behaviour that society condemns, then there is a reasonable argument that says that information should be readily available."

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On Wednesday, the Reporter wanted to know if George McGregor, a local assistant fire chief, received an IRP for impairment in the last three months. GCPE staff warned her that it's possible we won't be able to provide any information about an individual driving record due to FOIPPA but that we would ask. If denied, she would like someone in OSMV to explain why driving record information is not releasable under FOIPPA. GCPE staff clarified the difference between an IRP and a criminal code conviction as well.

Questions to ask the reporter for inclusion here:

Questions: Can the SG or Steve Martin comment on Mike de Jong's statement above and whether the option is still being explored?

Suggested Response:

- .
. **Arial 12 point, bolded with bullets**

Information provided on Wednesday:

- .
. **Driving records are subject to the provisions of the Freedom of Information and Protection of Privacy Act which specifies that a public body must not release personal information to another person if the disclosure would be an unreasonable invasion of that person's privacy.**
- . **Administrative sanctions are not considered public record—they are between the regulatory body and the individual.**
- . **This is consistent with other regulatory bodies that do not provide public access to hearings or records, such as income assistance tribunals, taxi licence applications, private investigators and security service licences.**

Program Area Approval Contact:	Insert Name
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From the bottom, the red is the third one in from the right on the second row.

Fergus Ryan

Ministry of Public Safety & Solicitor General Communications

250-387-4705

fergus.ryan@gov.bc.ca

From: [Ryan, Fergus GCPE:EX](#)
To: [Blewett, Tyann M SG:EX;](#)
Subject: RE: Media request: Times Colonist - driver records
Date: Thursday, August 4, 2011 9:21:52 AM

Tyann, please phone me as soon as you can.

250 387 4705

From: Blewett, Tyann M SG:EX
Sent: Thursday, August 4, 2011 8:46 AM
To: Ryan, Fergus GCPE:EX
Cc: Melvin, Stephanie SG:EX
Subject: RE: Media request: Times Colonist

Ontario is the only province in Canada that provides driver records to the public. All other provinces require driver consent before releasing these records.

Should a B.C. driver be criminally charged with impaired driving, that will remain public as part of the court process. Court records are open to the public based on the “open court principle”, which recognizes the rights of members of the public to attend court proceedings; and have access to records in the court file, including the reasons for decision.

BC’s privacy laws ensure a person’s driving record remains personal and confidential. Any change to allow public access to these records would require a change to the Freedom of Information and Protection of Privacy laws.

Allowing public access to any driver’s history will impact the entire driving population, including those that have only minor or very few driving or motor vehicle contraventions and those who have their licence cancelled for medical reasons.

However, I will ask staff to review this idea and the privacy implications for all British Columbians.

What can be done now:

While the FOIPP protects the release of information, information can be provided with the consent of the driver. Any employer or volunteer agency who employs

drivers should be asking the driver to provide a copy of their driving record as a condition of employment. This record would not only show drinking driving incidents but also reveal other dangerous driving behaviour (e.g. speeding, racing etc).

Anyone can call ICBC to confirm whether an individual has a valid driver's licence.

The National Safety Code requires a commercial/business use operator to maintain records of all employees that driver commercial vehicles including accidents, violations, convictions, including 24 hr prohibitions. They are also required to obtain a driver abstract each year for all employees and upon hiring for new employees.

Tyann Blewett

Assistant Director, Policy & Research
Office of the Superintendent of Motor Vehicles
phone: 250-953-3330

From: Ryan, Fergus GCPE:EX
Sent: Wednesday, August 3, 2011 4:14 PM
To: Blewett, Tyann M SG:EX
Subject: FW: Media request: Times Colonist

Hello Tyann

Do you have any messaging that addresses this?

From: DeRosa, Katie (Times Colonist) [mailto:Kderosa@timescolonist.com]
Sent: Wednesday, August 3, 2011 3:35 PM
To: Ryan, Fergus GCPE:EX
Subject: Re: Media request: Times Colonist

Hi Fergus,

Thanks for this information. It raises a second request: In May 2010, Lindsay Kines and Rob Shaw published an article quoting then-Solicitor General Mike de Jong saying he will consider setting up a system similar to that in Ontario, where people can check how many traffic infractions and licence suspensions over a three-year period.

de Jong said: "We may want to look at that. If a driver has been sanctioned for behaviour that society condemns, then there is a reasonable argument that says

that information should be readily available.”

Can I talk to Shirley Bond about whether she would support moving on this? My deadline is Thursday at 3:30 p.m.

Thanks in advance,

Katie

--

Katie DeRosa
Reporter
Times Colonist
office phone: 250-380-5343
cellular: 250-812-1132
kderosa@timescolonist.com

***** Note that all Times Colonist email addresses now end with @timescolonist.com. Please update your address book as appropriate.**

On 8/3/11 1:52 PM, "Ryan, Fergus GCPE:EX" <Fergus.Ryan@gov.bc.ca> wrote:

Hello Katie, the information below is attributable to a ministry spokesperson.

Regards
Fergus

- . Driving records are subject to the provisions of the Freedom of Information and Protection of Privacy Act which specifies that a public body must not release personal information to another person if the disclosure would be an unreasonable invasion of that person’s privacy.**
- . Administrative sanctions are not considered public record—they are between the regulatory body and the individual.**

- . This is consistent with other regulatory bodies that do not provide public access to hearings or records, such as income assistance tribunals, taxi licence applications, private investigators and security service licences.**
- . Administrative sanctions are focused on prevention and deterrence. Anyone who has received a prior administrative driving prohibition, or seriously injured or killed someone, will face the consequences under criminal law and their records would be public.**