

Perri, Stacey JAG:EX

From: Gilks, Greg E TRAN:EX
Sent: Tuesday, September 16, 2014 1:52 PM
To: Staples, Jan JAG:EX
Subject: RE: Motorcycle Noise

Thanks, Jan. Any feedback or direction will be appreciated. If we implement the standard, will police be ready to apply it (i.e. will they have the necessary equipment or will they be looking to you to provide equipment)?

Greg Gilks, Executive Director
Transportation Policy
Transportation Policy & Programs
Ministry of Transportation and Infrastructure
250-387-0882

From: Staples, Jan JAG:EX
Sent: Tuesday, September 16, 2014 1:49 PM
To: Gilks, Greg E TRAN:EX
Cc: Easton, Phil TRAN:EX
Subject: RE: Motorcycle Noise

Tnx Greg

If I'm in a room w/ police, I will get asked because I'm from 'government' – so will make certain to keep in the loop w/ Phil as well.

All the best
Jan

Jan Staples
Director, Road Safety Unit
Police Services Division
Ph: 604.775.2108

From: Gilks, Greg E TRAN:EX
Sent: Tuesday, September 16, 2014 1:26 PM
To: Staples, Jan JAG:EX
Cc: Easton, Phil TRAN:EX
Subject: RE: Motorcycle Noise

Hello, Jan. This is primarily with CVSE, but Policy Branch will be supporting the work for the regulation. CVSE has been working with BCACP on the standard. Apparently there have been some cases in other jurisdictions which have adopted the standard, but the charges were not upheld in court. I expect we will have to work through a time of education and some testing of the system (perhaps similar to the process which was pursued when speed radar was first introduced). I am prepared to recommend changes if the police are comfortable with their ability to equip themselves and provide the necessary training to officers.

CVSE has not approached us to press for a change yet, but I hear rumblings that we may be closer. I am copying Phil Easton on this because he may have more insight from the CVSE Perspective.

Greg Gilks, Executive Director
Transportation Policy
Transportation Policy & Programs
Ministry of Transportation and Infrastructure
250-387-0882

From: Staples, Jan JAG:EX
Sent: Tuesday, September 16, 2014 10:08 AM
To: Gilks, Greg E TRAN:EX
Subject: Motorcycle Noise

Hi Greg

I noticed your name cc'd on a recent piece of correspondence re: MC noise. I didn't know where you were hanging your hat these days, so nice to see your signature block again.

BC Chiefs Traffic Safety Exec meet tomorrow, and by the content of the attached CLIFF, it appears that there's been some movement on the new mc noise standard. Can you please advise where this is at or who I might be able to get an update from?

Tnx
Jan

Jan Staples
Director, Road Safety Unit
Police Services Division
Ph: 604.775.2108

Perri, Stacey JAG:EX

From: Easton, Phil TRAN:EX
Sent: Tuesday, September 16, 2014 1:57 PM
To: Gilks, Greg E TRAN:EX
Cc: Staples, Jan JAG:EX
Subject: Re: Motorcycle Noise

Hi Greg and Jan

There really is nothing further from our group here. BCACP enforcement sub committee on which we sit have not pushed for further action. My understanding is that some recent court decisions have not been supportive of enforcement based on the standard but I could not cite any particular case to support that.

I know Kirk was involved or invited in some meetings of the SAE standard J2825 adoption with an MLA I believe Vancouver West End.

The motion was to adopt the entire standard as the road side testing protocol. I understand Kirk was looking into the pros and cons of that.

Jan

I am not aware of anything further for a BCACP update sorry.

Phil

Sent from my iPhone

On Sep 16, 2014, at 13:26, "Gilks, Greg E TRAN:EX" <Greg.Gilks@gov.bc.ca> wrote:

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From: Staples, Jan JAG:EX
Sent: Tuesday, September 16, 2014 10:08 AM
To: Gilks, Greg E TRAN:EX
Subject: Motorcycle Noise

Hi Greg

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Tnx

Jan

Jan Staples
Director, Road Safety Unit
Police Services Division
Ph: 604.775.2108

Perri, Stacey JAG:EX

From: Perri, Stacey JAG:EX
Sent: Wednesday, December 16, 2015 7:28 AM
To: Martin DEY; Douglas FERGUSON
Cc: Ferguson, Doug JAG:EX
Subject: Exhaust Tickets (MC Noise)
Attachments: 4b_Enforcement_ExhaustTickets.pptx; RE: Vehicle Noise

Categories: Orange Category

Good morning,

Sorry I missed your call Martin – attached please find the presentation along with the submission from VPD for your reference.

Please let me know if you require anything further –

All the best to you and your family for a very festive holiday season – take care.

Stacey

Page 06 to/à Page 10

Withheld pursuant to/removed as

s.15

Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Thursday, June 11, 2015 2:15 PM
To: Martin DEY
Cc: Staples, Jan JAG:EX
Subject: FW: Sub-Committees of BCACP Traffic Safety Committee
Attachments: Motorcycle Noise - MVAR 7A.01.pdf; Noise caselaw Tootill 2012 BCSC 1015 R. v.pdf

Hi Martin,

I just received the attached from VPD A/Insp. Ken Eng. It is just as I envisioned—simple, direct, and very easy to follow.

In my mind sharing this simple, straight forward and proven enforcement protocol for s. 7A.01 MVAR with traffic officers throughout the Province should hopefully yield some consistent decisions in traffic court. Moreover, it alleviates introducing possible “red-heiring” arguments that inevitably plague prosecutions that rely too much on technical or scientific instruments.

I’ve thanked Ken and asked him to pass along our thanks to John.

Fyi, I am meeting with Sgt. Jim Fiddler on Tue next week to discuss his participation on the Enforcement Sub-Committee. It seems A/Insp. Ken Eng was unaware that he was to backfill Les Yeo’s position on the Legal, Procedural & Technical Sub-Committee. He’s now aware of that duty.

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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douglas.ferguson@rcmp-grc.gc.ca / GRC Tél: ^{s.16} / GRC Cellulaire: ^{s.16}

From: ENG, Ken [<mailto:ken.eng@vpd.ca>]
Sent: Thursday, June 11, 2015 1:05 PM
To: Ferguson, Doug JAG:EX
Cc: FIDDLER, Jim
Subject: RE: Sub-Committees of BCACP Traffic Safety Committee

Doug,

Attached is the response from PC John Bercic.

Ken

Ken Eng, A/Insp 1667
Vancouver Police Department
Traffic Section
(Direct)^{s.16}
(Fax)^{s.16}
E-mail: ken.eng@vpd.ca

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From: Ferguson, Doug JAG:EX [<mailto:Doug.Ferguson@gov.bc.ca>]
Sent: Wednesday, June 03, 2015 3:46 PM
To: ENG, Ken
Cc: FIDDLER, Jim; Martin DEY
Subject: Sub-Committees of BCACP Traffic Safety Committee

Hi Ken,

Attached is my most current list of TSC Sub-Committees and their members.

Ken, it appears that you were inserted onto the Legal, Procedural & Technical Committee as the replacement for Insp. Les Yeo.

Enforcement Sub-Committee

The names listed for the Enforcement Sub-Committee are not entirely current as a number of long-standing members have announced they are either retiring or have accepted transfers.

Recent transfers from Traffic duties include: ^{s.22}

and ^{s.22}
^{s.22}

Those with retirements pending include: ^{s.22}

and ^{s.22}

Sub-Committee Chair Insp. Martin Dey (North District Traffic Officer) just recently announced that he will be stepping down as Chair ^{s.22}

Replacements thus far include: Insp. Terry McLachlan (Southeast District Traffic Officer) and Cpl. John Graham (North District IRSU). The addition of Jim to replace ^{s.22} will leave us with just 3 or so more positions to backfill. I will also be nominating Kristen Vanderkuip, Passenger Transportation Branch Registrar to the sub-committee as well.

Examples of Current topics of interest to the Enforcement Sub-Committee

MVA S. 73(1) - Fail to Stop for Police - We've been tossing around some ideas on this topic (attached) to strengthen/combat the increasing incidences of flight from police. As you are aware, s. 73(1) carries a \$183 fine and some points.

MVAR Ss. 7.03 (Mufflers/Cut-outs/Part Removal) & 7A.01 (Loud & Unnecessary Noise) - We've been trying to address a lingering TSC motion concerning motorcycle noise that was not recommended by the BC Chiefs to seek a legislative point (motion and response are attached). The CVSE member on our sub-committee has advised that making the necessary changes to Divs 25 and 7 MVAR to include the use of approved db testing devices, amending the testing standards, etc., will likely create more challenge opportunities than the overall benefits such changes would provide for enforcement. At our last sub-committee meeting we succeeded in convincing each other that the notion of seeking regulatory modernization of decibel-reading methodology, instruments, etc., would inevitably lead us down an accountability path similar to ASDs and conducted energy weapons, i.e., regular calibration, member training/certification, re-certification, etc. This conclusion was shared with the last general TSC meeting.

At this point, we are tossing around ideas of how to proceed. I've attached Insp. Martin Dey's written thoughts on the topic for your reference. You will note we are interested in creating a best-practise-like template/brochure/document that provide officers the most effective techniques to gain an evidence supported conviction to address the issue of loud motorcycles.

Hence my interest in having Cst. Bercic, or another of your members who possesses similar experience, develop a document that takes officers from beginning to end on a 7A.01 charge/prosecution. As I stated yesterday, John and I discussed this topic months ago and at that time, he counselled that the subjectivity of s. 7A.01 makes it far simpler to prove and therefore more effective than proceeding by way of the more objective 7.03.

This fall (Oct/Nov), we expect to discuss possible motions to take to the general membership to endorse and pass along to the BCACP in an effort to address these two topics.

As for a coffee meeting to discuss this further, I usually work at Hornby Street on Tue/Wed/Fri, however, next week (which is kinda messed up) I'll be downtown on Thu/Fri. I am clear this Friday if you guys are available then. Otherwise it will have to be late next week.

Let me know what day works best for you guys.

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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VANCOUVER POLICE DEPARTMENT
TRAFFIC SECTION



June 10, 2015

To: A/Inspector Ken Eng
From: PC John Bercic
Subject: ***Motorcycle Noise***

In response to your request, please find attached a one-page document to assist in prosecuting charges under section 7A.01 of the Motor Vehicle Act Regulations, i.e. "unnecessary loud exhaust noise". The fine for this offence is \$109 and 3 points.

As well, as per your request, please find attached the relevant British Columbia Supreme Court case-law in relation to section 7A.01, i.e. R. v. Tootill, 2012 BCSC 1015, Date: 20120710 Docket: 26027 Registry: Vancouver.

As well, as per your request, please find attached the testing procedure for the Quest 2100 Sound Level Meter that the Vancouver Police Traffic Section uses when issuing Notice and Orders. Division 7 of the Motor Vehicle Act Regulations allows a maximum of 91 dBA for motorcycles.

Thank you,

A handwritten signature in black ink, appearing to read "JB", written in a cursive style.

John Bercic
PC 1446
Traffic 1

PROSECUTING UNNECESSARY LOUD EXHAUST NOISE TICKETS (MVAR 7A.01)

STEP 1: PRESENT THE SUBJECTIVE EVIDENCE OF THE CASE

Explain that your attention was drawn to a loud exhaust noise that you heard coming from the disputant's vehicle. Explain that the loud exhaust noise stood out from the other traffic on the roadway and drew your attention.

Provide your opinion as to how loud the noise was in relation to a similar vehicle with a stock exhaust. (i.e. it sounded twice, three, or four times as loud).

Explain that you were satisfied that the noise you heard was coming from the disputant's vehicle; i.e. the same noise was present up until the disputant's vehicle was stopped.

STEP 2: PRESENT THE OBJECTIVE EVIDENCE OF THE CASE

Explain how far away the vehicle could be clearly heard (e.g. 300 metres) when it drew your attention.

Provide evidence if there was an after-market exhaust. This can be established by examining the brand name stamped on the pipes. For example, some popular after-market motorcycle loud exhaust pipes are Screamin' Eagle, Vance and Hines, Cobra, and SS.

At the time the ticket is written, obtain statements from violators regarding modifications to the exhaust.

Record other statements such as, "Loud pipes save lives."

STEP 3: CROSS EXAMINATION

Upon providing the above evidence, the onus falls upon the disputant to show that the noise was not loud.

The disputant may wish to take the stand, upon which they become subject to cross-examination.

Under cross-examination, the disputant will generally admit that the exhaust is after-market.

Under cross-examination, the disputant will generally admit that the new after-market exhaust is louder than the original manufacturer's exhaust.

Under cross examination, the disputant will generally admit that they have no problem differentiating between a loud vehicle and a quiet vehicle and that this ability does not really require special training.

CONCLUSION

Using the above guidelines will assist in successful prosecutions of noisy exhaust tickets in traffic court.

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Withheld pursuant to/removed as

s.3

Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Wednesday, December 16, 2015 8:20 AM
To: Easton, Phil TRAN:EX (phil.easton@gov.bc.ca)
Subject: MC Noise
Attachments: 4b_Enforcement_ExhaustTickets.pptx

Categories: Orange Category

Hi Phil,

Further to my previous message, attached is a copy of the .ppt prepared by VPD Cst. Bercic for your reference.

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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Perri, Stacey JAG:EX

From: Easton, Phil TRAN:EX
Sent: Monday, December 21, 2015 10:20 AM
To: Ferguson, Doug JAG:EX; Terry MCLACHLAN
Cc: 'Martin DEY'; Perri, Stacey JAG:EX; Thompson, Kim J TRAN:EX
Subject: RE: Enforcement Sub-Committee

Hi all

I can confirm that subsequent to our fall/winter meeting I had several discussions within CVSE program areas.

The m/c noise motion, as we agreed to at the meeting will be satisfied with the combined efforts.

The enforcement protocol and education efforts and our commitment to make the language current in the applicable regulations.

Two formal meetings have been convened at MOTI and my understanding is that the policy branch is now leading the reg change efforts.

Kim Thompson from that group (cc'd here) is in the process of follow up regarding the reg changes.

We hope to move as quickly as priorities and resources permit.

The suggestion of a combined/optional enforcement strategy for speed relative and the pedestrian issue makes sense to me.

s.13

The ESC is well positioned and distracted driving and the associated penalties will be continual debate topics.

Cheers and Merry Christmas

Phil Easton
Manager of Compliance, Education and Policy Programs
Ministry of Transportation and Infrastructure
Commercial Vehicle Safety and Enforcement
PO Box 9250 Stn Prov Govt
3rd Floor 940 Blanshard St.
Victoria, B.C. V8W 9J2



Phone 250-953-4042

From: Ferguson, Doug JAG:EX
Sent: Friday, December 11, 2015 2:04 PM
To: Terry MCLACHLAN
Cc: 'Martin DEY'; Perri, Stacey JAG:EX; Easton, Phil TRAN:EX
Subject: RE: Enforcement Sub-Committee

Hi Terry,

Martin sent me a hard copy envelope containing Enf S-C material, but I've been so swamped lately, I haven't had a chance to review it.

Off the top of my head, there are only a couple of ongoing topics:

1. MC Noise –

At the Fall 2015 TSC meeting the Enf S-C adopted the position that legislative amendments around decibel (db) testing, db testing devices, etc., would create more obstacles than remedies on public nuisance offence that presents no risk to public safety.

The Enf S-C agreed that anticipated issues like the need for regular db measuring device accuracy testing/certification, device user training/certification, etc. ('a la' ASDs, CEWs, etc.), to support "objective" test results, was unnecessary when MVAR s. 7A.01 provides police with BCSC-supported authority to issue charges based on "subjective" evidence from a reasonably experienced officer. It was agreed that police officers should be provided an outline of the attached documents as an investigational aid to assist them in developing their own skills to sufficiently conduct a MVAR s. 7A.01 investigation to provide a structured and highly articulable prosecution in traffic court complete with cross-examination questions for disputant response.

I believe that work on a formal guideline for this remains. Stacey Perri can likely clarify where that topic stands as a S-C topic. Fellow Enf S-C member Phil Easton (CVSE) is the latest to have requested info on this topic. Both are away today so I've cc'd them in hopes they can provide input on the topic.^{s.22}

2. Speed Relative to Conditions as a (Nov) Enforcement Campaign –

Since our fall meeting where the 2016 Enforcement Calendar was agreed to, Enf S-C member Sgt. Lorne Lecker contacted me complaining that the Speed Relative to Conditions November Campaign is impossible to enforce and should be replaced with a Pedestrian Safety (Enforcement) Campaign given the earlier onset of darkness as we move into winter months.

I replied that while Speed Too Fast for Conditions is almost impossible to proactively enforce, this campaign still possesses merit what with the onset of winter driving conditions and increased seasonal darkness. I reinforced that premise by suggesting that while Speed Relative to Conditions messaging is important to publicly convey, the enforcement component of it could be justifiably focussed on speeding generally.

In lieu of the ideas discussed on this topic, I think it should be revisited at our next Enf S-C mtg to seek member input; then, if supported there, we could advance a motion to the general TSC.

Martin, Stacey and Phil – Please feel free to provide input on the two topics mentioned and on any other Enf S-C matters you know to be lingering for discussion/action.

Thanks,

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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From: Terry MCLACHLAN [<mailto:Terry.MCLACHLAN@rcmp-grc.gc.ca>]
Sent: Thursday, December 10, 2015 2:37 PM
To: Ferguson, Doug JAG:EX; Douglas FERGUSON
Subject: Enforcement Sub-Committee

Doug,

It's just 82 short days till the enforcement sub-committee meets.

Are there any enforcement issues/initiatives that we could/should start identifying and examining now in preparation for the meeting that you are aware of?

Terry

Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Tuesday, December 22, 2015 1:23 PM
To: Perri, Stacey JAG:EX; Sitter, Donna GCPE:EX; Staples, Jan JAG:EX
Cc: Turner, Jordan GCPE:EX; McAndrews, Caroline GCPE:EX; Nelson, Tiffany GCPE:EX
Subject: RE: MOTI - motorcycle noise
Attachments: RE: Vehicle Noise

Hi Stacey,

I just briefed Donna by phone of where we're going on this topic, which I might add, relates to loud and unnecessary noise from all types of vehicles including motorcycles.

While I cannot speak specifically to whatever MoTI means by their statement, I can confirm that their Enforcement Sub-Committee (ESC) representative (from CVSE) has been provided the investigational techniques favoured by the ESC and CVSE is comparing them with current regulations to confirm their enforceability and offer inputs that might strengthen the process for police to successfully prosecute this issue.

I believe our last Ministerial Note on this topic alluded to our interest in developing a practical enforcement response to the issue. You might want to check our last BN on it. The attached email from June outlines where we're going on this topic.

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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From: Perri, Stacey JAG:EX
Sent: Tuesday, December 22, 2015 12:06 PM
To: Sitter, Donna GCPE:EX; Staples, Jan JAG:EX; Ferguson, Doug JAG:EX
Cc: Turner, Jordan GCPE:EX; McAndrews, Caroline GCPE:EX; Nelson, Tiffany GCPE:EX
Subject: RE: MOTI - motorcycle noise

Hi Doug – are you able to advise Donna?

Much appreciated - Stacey

From: Sitter, Donna GCPE:EX

Sent: Tuesday, December 22, 2015 12:04 PM

To: Staples, Jan JAG:EX

Cc: Perri, Stacey JAG:EX; Turner, Jordan GCPE:EX; McAndrews, Caroline GCPE:EX; Nelson, Tiffany GCPE:EX

Subject: MOTI - motorcycle noise

Hi Jan - Are you on this with MOTI? Do you have any more info? Their comm shop is talking about us going joint on an announcement of some kind in January. These are bullets they are providing to a reporter who is asking about excessive motorcycle noise.

Draft response:

We are aware of concerns raised by communities and individuals around the province about excessive noise from motorcycle exhaust pipes.

The ministry worked with the BC Association of the Chiefs of Police to identify practical ways to deal with this nuisance, and continues to work with the police to ensure that any recommendations will be enforceable.

The ministry and police expect to have some options for discussion in the new year.

Perri, Stacey JAG:EX

From: Perri, Stacey JAG:EX
Sent: Tuesday, June 16, 2015 1:02 PM
To: Ferguson, Doug JAG:EX
Cc: Tucker, Shannon JAG:EX
Subject: RE: Vehicle Noise

This is excellent – thank you Doug!!

From: Ferguson, Doug JAG:EX
Sent: Tuesday, June 16, 2015 11:55 AM
To: Tucker, Shannon JAG:EX
Cc: Perri, Stacey JAG:EX; Staples, Jan JAG:EX; Martin DEY
Subject: RE: Vehicle Noise

Shannon/Stacey/Jan,

The Enforcement Sub-Committee is already developing an “Enforcement Protocol” relative to MVAR s. 7A.01 – Loud & Unnecessary Noise, as was outlined at the last TSC meeting.

A couple weeks ago I met with my VPD contacts and requested they have one of their experts write up a proven protocol for police to utilize while investigating/prosecuting s. 7A.01 MVAR offences.

On June 11, I received the.pdf docs in the attached email and pushed it to Enf S-C Chair Insp. Martin Dey. Insp. Dey distributed it out to others on the Enf S-C for review. That is where we stand on this topic.

You will note that enforcement using s. 7A.01 MVAR is very subjective and therefore a very straightforward enforcement method as it alleviates the need to get into decibel testing, standards, user certification, calibration or any of an endless number of “red-herring” defence arguments.

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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From: Tucker, Shannon JAG:EX
Sent: Tuesday, June 16, 2015 11:42 AM
To: Ferguson, Doug JAG:EX
Subject: FW: Vehicle Noise

Hi Doug,

You can respond to this message with the VPD info sheet, if you'd like.

Shannon

From: Perri, Stacey JAG:EX
Sent: Thursday, June 11, 2015 7:13 AM
To: Staples, Jan JAG:EX; Tucker, Shannon JAG:EX
Subject: Vehicle Noise

Hi Jan/Shannon,

Wondering if it might be worthwhile to have a conversation with Jane Naydiuk in the hopes that she could link up with the JIBC and PRTC to develop a "How to Deal with Vehicle Noise under the current legislation" info sheet for enforcement to reference.

As the issue keeps getting pushed back to enforcement it would show that we are being proactive!!

My thought for today!!

Stacey

MOTORCYCLE NOISE

ENFORCEMENT APPROACHES

MANDATE: Public Safety

VALUE: Government continues to work on the issue of excessive motorcycle exhaust noise.

TOP 3 MESSAGES:

- Under the Motor Vehicle Act Regulations, most convictions related to vehicle engine or exhaust noise are based on an officer's subjective opinion, and I would defer to police agencies to provide details of their enforcement approaches.

s.13

TWO SUPPORTING FACTS:

- Although the Motor Vehicle Act Regulations set a limit for vehicle noise (91 Dba for motorcycles), B.C. has no approved standards for sound measuring devices.

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MOTORCYCLE NOISE

ENFORCEMENT APPROACHES

BACKGROUND:

On Dec. 30, 2014, a Nanaimo newspaper printed an opinion piece from a resident complaining about motorcycles with modified, loud exhaust systems. He noted that he has contacted the local RCMP to increase their enforcement efforts, but has seen no progress. He is suggesting that Nanaimo mayor and council contact the minister to push her to look into regulating motorcycle exhaust noise. He mentions that an easy fix would be to have all motorcycles go to an ICBC claim centre for a sound level inspection prior to having their insurance renewed and that stiff fines should be imposed if any alterations to the mufflers are done after each inspection.

The issue has received attention in other jurisdictions in recent years: On July 8 of this year, Kelowna RCMP Supt. Nick Romanchuk said, "The Motor Vehicle Act regulations require that motorcycles have mufflers with baffles in them and, generally, when these bikes make the noise that they do, the baffles have been removed. So, we're going to work through the Motor Vehicle Act regulations and conduct some enforcement in terms of issuing traffic notices." An August 2013 letter to Minister Anton from MLA Spencer Chandra Herbert, concerning provincial efforts to curb unnecessary motorcycle and car noise, followed a related February 2013 column in the Vancouver Sun and a 2011 motion by the B.C. Association of Chiefs of Police requesting an approved roadside noise testing method. As well, Premier Christy Clark was scheduled to discuss the issue with the City of Kent at UBCM 2013.

The issue has been under discussion for several years; notably, Police Services Division has done a jurisdictional scan and there's been consultation with the motorcycle industry on a proposed industry standard. As well, some municipalities have separate bylaws on motorcycle noise. As well, some police officers use a device they've acquired personally to test decibel readings, but no standard for these devices exists in the current MVA regulation.

An "unnecessary noise" charge under s. 7A.01 *Motor Vehicle Act Regulations (MVAR)* is not limited by the same objective test evidence outlined in Div. 27 (i.e., testing at an inspection station, 91 Db limit, \$109 fine, etc.), as in the case of prosecutions under s. 7.03. (The latter is the section to which the ongoing work to develop a new standard for motorcycle testing is related.) S. 7A.01 of the *MVAR* is available to police officers in cases where the excessive noise is sourced "in or from the engine, exhaust system, or the braking system, or from the contact of the tires with the roadway" – and related convictions can be (and usually are) based on the subjective opinion of an experienced officer.

**ADVICE TO MINISTER
JAN. 15, 2015**

Perri, Stacey JAG:EX

From: Perri, Stacey JAG:EX
Sent: Tuesday, January 26, 2016 12:27 PM
To: Doug Ferguson
Cc: Staples, Jan JAG:EX; Tucker, Shannon JAG:EX
Subject: MC Noise - latest MoTI info note
Attachments: IN Motorcycle noise.docx

Hi Doug – attached fyi – I'll draft and seek approval of a couple of lines that can be used in response to public inquiries.

Stacey

From: Sitter, Donna GCPE:EX
Sent: Tuesday, January 26, 2016 12:02 PM
To: Perri, Stacey JAG:EX
Subject: FW: motorcycle

Latest IN from MOTI

From: Rorison, Trish GCPE:EX
Sent: Tuesday, January 26, 2016 11:58 AM
To: Sitter, Donna GCPE:EX
Subject: RE: motorcycle

Here is our latest just updated for our House Binder.

From: Sitter, Donna GCPE:EX
Sent: Tuesday, January 26, 2016 11:58 AM
To: Rorison, Trish GCPE:EX
Subject: motorcycle

Hi Trish - would you mind sharing with us your latest messaging on motorcycle noise? Last I've got is your June IN - is that one still ok?

ADVICE TO MINISTER

**CONFIDENTIAL
ISSUES NOTE**

Ministry of Transportation and Infrastructure

Date: Jan. 13, 2016

Minister Responsible: Todd Stone

Motorcycle noise regulations

ADVICE AND RECOMMENDED RESPONSE:

- It's important to note that the province of B.C. already prohibits both loud exhaust noise and modifying exhaust systems.
- As well, local governments have the power to prohibit excessive noise within civic boundaries.
- But we have heard from residents, in both urban and rural areas, that excessively loud motorcycles continue to be a problem, despite being against the law.
- In response to these concerns, we have been working with a subcommittee of the BC Association of Chiefs of Police to develop protocols for addressing loud motorcycles ^{s.13}

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KEY FACTS REGARDING THE ISSUE:

The BC Motor Vehicle Act regulates loud motorcycle exhaust by:

- Prohibiting altering or using devices to increase the noise from an engine;
- Requiring vehicles to be equipped with a muffler; and
- Prohibiting anyone from taking driving actions that cause loud or excessive noise.

As well, the MVA regulations provide noise assessment methods: the opinion of a law enforcement officer or an inspector, or testing in an inspection station. However, inspection stations in B.C. have been replaced by Designated Inspection Facilities.

Commercial Vehicle and Safety Enforcement (CVSE) is recommending changes to the MVA regulations which would reflect that Authorized Inspectors in Designated Inspection Facilities (DIF) can test a vehicle exhaust to determine if it exceeded a specified decibel level. ^{s.13}

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Some individuals have requested the Province adopt motorcycle specific exhaust noise testing standard, SAE Standard J2825. The police have indicated that this is not a practical approach because police vehicles would have to be equipped with the testing equipment, and officers would have to be trained/certified in the operation and maintenance of the equipment. The police have also indicated that roadside testing is difficult to undertake because of ambient noise, so the charges are susceptible to being struck down in court. CVSE staff has worked with the BC Chiefs of Police on a subcommittee composed of RCMP, Ministry of Justice, ICBC and (CVSE) representatives. The subcommittee also recommended further training for police officers responsible for traffic enforcement

The police continue to support and enforce the current regulations, but have indicated the wording should be clarified to indicate that Designated Inspection Facilities can perform motorcycle noise testing with decibel noise meters.

Communications contact: Kate Trotter 250 387-8619
Program contact: Phil Easton – 250 953-4042

Minister's Office	Program Area	ADM	Comm. Dir
	RK/GG	DB	

Perri, Stacey JAG:EX

From: Anderson, Lisa R JAG:EX
Sent: Monday, June 15, 2015 10:32 AM
To: Tucker, Shannon JAG:EX
Cc: Staples, Jan JAG:EX
Subject: FW: Legislation

-----Original Message-----

From: Haywood, Steven TRAN:EX
Sent: Tuesday, May 12, 2015 4:58 PM
To: Gilks, Greg E TRAN:EX; Anderson, Lisa R JAG:EX
Subject: RE: Legislation

Hello,

The committee referenced is the BCACP TSC sub committee - Legal, Procedural, and Technical subcommittee.

At the spring meetings Insp Martin Dey, chair of the subcommittee, advised the membership that the subcommittee feels that regulatory changes are not entirely required as per 2011 motion, and that with proper training and education for the policing community the noise nuisance can be dealt with by all officers and not just those that are comfortable doing so. The subcommittee will be coming forth in the fall session with recommendations on what that may look like.

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t but we will wait to see if the subcommittee recommendations are accepted prior to undertaking. Originally the BCACP motion was to incorporate the SAE standard for testing motorcycle noise at roadside into regulations, however many feel that is not necessary. Similar to speeding, the officer uses professional judgement in estimating speed as the first tool in evidence for prosecution, the radar or laser is the second tool used in evidence. With noise nuisance, the officer uses judgement first that the noise was excessive compared to other vehicles, then could use a sound meter to test the decibel level. If the officer tests to the standard, similar to using a radar/laser to the manufacturers standards, then the second piece of evidence can be used. That in a very shortened version is what the subcommittee will be looking to present.

The article seems to misquote, the consultation will be and has been with law enforcement and select motorcycle users group (Motorcycle and Moped Industry Council). However, we (MOTI) can surely accept consultation from the public and pass along to the subcommittee if deemed necessary. I am hoping that the motorcycle noise issue will quiet down (pardon the pun) so that we can get the work accomplished and back to the TSC for feedback and possible endorsement this fall.

Regards,
Steve

Approved at the March 2, 2016 Meeting

BCACP TRAFFIC SAFETY COMMITTEE	
CHAIR:	Chief Constable Neil Dubord, Delta Police Department
VICE-CHAIR:	Superintendent Derek Cooke, OIC, "E" Division Traffic Services, RCMP
SECRETARIAT:	Ms. Jan Staples, Director, Police Services Road Safety Unit, MJAG
COMMITTEE:	BCACP Traffic Safety Committee – General Membership
LOCATION:	Executive Plaza Hotel 405 North Road, Coquitlam BC

**Priorities as identified by the membership: Drug Impaired Driving & Distracted Driving
Safety Priorities: Be VISIBLE**

Wednesday, October 7, 2015 (0900 – 1630)

#	ITEM	MINUTES
1	Opening Remarks	N. Dubord called the meeting to order at 9:00 and round table introductions were made. See attachment #1 for a list of participants.
2	a. Review, additions, revisions, acceptance of the Agenda b. Review and acceptance of the March 4-5, 2015 Minutes	The agenda for the October 7-8, 2015 General Membership meeting was unanimously accepted as presented. The minutes from the March 4-5, 2015 General Membership meeting were unanimously accepted as written.
3	Chair's Report	N. Dubord provided the following report: The BCACP met in June and adopted the Automated Enforcement motion, requesting that the provincial government conduct pilot enforcement projects in areas identified as high risk travel corridors using automated technologies to measure the benefits and identify the challenges of implementing such a program on a province wide basis. A response from Government has <u>not yet been received</u> . The next BCACP meeting is November 18-19 in Victoria; the 2014 BCACP TSC awards will be presented at this time along with any motions adopted at this meeting. BCACP TSC participated in six campaign launches: High Risk Driving; Safe Grad (Party Buses); Left Lane Legislation; Variable Speed; Summer CounterAttack; and Distracted Driving/Occupant Restraint; and provided quotes for eleven news releases: Easter Long Weekend; High Risk Driving Campaign; Bike to Work Week; Party Buses; Left Lane Legislation; Variable Speeds; Summer CounterAttack; Motorcycle Safety; BC Day Long Weekend; Back to School; and Distracted Driving. The General Membership was asked to indicate one priority topic they would like to see on a future general meeting agenda and one priority topic they would like to focus on in the following year. Feedback received indicated that the membership supports both Driver Distractions and Drug Impaired Driving and the officer safety priority "BE VISIBLE".
4	Subcommittee Reports: a. Legal, Procedural, Technical	a. M. Pears provided the following updates: - Drive without due care causing bodily harm (Motion #2-2012): a response from government was received "the Province regularly monitors the outcomes of our road safety initiatives to ensure that we are providing effective deterrents to all dangerous driving behaviours", no further action. - A proposal was received tcS.13 s.13 ACTION: M. Pears to advise the agency who submitted the proposal of the outcome of discussions.

Approved at the March 2, 2016 Meeting

- redaction of third party personal information on documents sent to RSBC: the membership was reminded not to include third party personal information, but rather refer to witnesses as witness #1 and #2 etc. or passengers as passenger #1 and #2 etc.

- a request to amend s.79 of the Motor Vehicle Act, "officers to arrest without warrant" was received and the following motion was presented;

WHEREAS, Section 79 of the *Motor Vehicle Act (MVA)* reads, an officer or constable of the Royal Canadian Mounted Police or of the police department of a municipality may arrest without warrant.....for a person driving in contravention of Section 95 and 102, no insurance or contravention of Section 68.

WHEREAS, officers of other enforcement agencies such as, Transit Police, CN Police, CP Police, BC conservation officers and other enforcement agencies come into regular contact with violators who are contravening, Sections 95, 102, insurance violations or contravention of Section 68 of the MVA.

WHEREAS, officers of the Transit Police, CN Police, CP Police, BC conservation officer and other enforcement agencies are not currently granted powers of arrest under Section 79 of the MVA.

WHEREAS, the a/n agencies are defined as officers in the *Police Act*.

BE IT RESOLVED THAT the Traffic Safety Committee recommends that the BC Association Chiefs of Police recommend to Government that Section 79 MVA be amended to include an officer as defined in the *Police Act*.

NOT SUPPORTED

After discussion it was agreed not to pursue this amendment request; no further action required.

- numerous requests have been received to remove the restriction from a novice drivers license "no electronic device"; it was agreed that this would not be supported as the restriction on novice drivers is more stringent; it was suggested that when issuing a VT to write a comment such as "electronic device" or "cell phone" on the ticket.

- proposals have been received with regards to "failing to stop for police". The following motion was presented for consideration: **MOTION #2-2015**

WHEREAS, Police in the Province of British Columbia are seeing a marked increase in the incidents of violators failing to stop for police,

AND WHEREAS, a majority of these offenders are career criminals who are conducting criminal activities which include the selling of illicit drugs, stolen property and gang related activity,

AND WHEREAS, these offenders are knowledgeable of restrictive pursuit policies of police forces in British Columbia,

AND WHEREAS, the fine for failing to stop for police Section 73(1) *Motor Vehicle Act* is \$138.00 which is the lowest penalty in Canada.

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UNANIMOUSLY CARRIED

ACTION: Motion #2-2015 to be presented at the November 18, 2015 BCACP meeting for consideration.

- Impaired Driving Advisory Committee (IDAC)

P. Milne advised that the IDAC membership meets monthly to discuss/resolve issues related to calibration, documentation, quality assurance, police training, and to create operational policies and procedures to support police in delivering

Approved at the March 2, 2016 Meeting

<p>- Drug Impaired Driving/ASD Update</p> <p>b. Enforcement</p>	<p>related provincial legislation; the IRP Information Cards have been created and distributed; and the Impaired Driving Reference Manual will be available electronically within the TERM manual.</p> <p>B. Sampson provided an update on DRE training noting that there are currently 31 trained DRE's located within the Lower Mainland District; 18 within Island District; 18 within Southeast District; 8 within North District; and 16 new members are being trained; and provided a demonstration on the new ASD information management system for logging and tracking ASD calibration.</p> <p>b. M. Dey provided the following updates:</p> <ul style="list-style-type: none"> - <u>new co-chairs</u> of the subcommittee are D. Ferguson and T. McLaughlin; - <u>Motorcycle Exhaust Noise</u>: MoTI is reviewing the legislation to make the language current in the applicable regulations and the investigational aide "Prosecuting Unnecessary Loud Exhaust Noise Tickets" prepared by Cst. John Bercic, Vancouver PD be circulated to enforcement for future reference. See attachment #2 for reference. - <u>Party Buses</u>: K. Vanderkuip is now on the subcommittee and advised the industry is well regulated. For any questions or further information contact Kristin.Vanderkuip@gov.bc.ca directly. <p>An additional campaign has been added for consideration "Railway Safety Week", April 24-30 noting that the intention is to raise awareness; this is not a reportable campaign.</p> <p>Motion #3-2015 2016 Provincial Campaign Enforcement Calendar:</p> <p>March 1 – 31 – Distracted Drivers Campaign – Occupant Restraint Campaign</p> <p>April 24 – 30 – Railway Safety Week</p> <p>May 1 – 31 – High Risk Driving Campaign</p> <p>July 1 – 31 – Summer Impaired Driving Campaign (Alcohol/Drug)</p> <p>September 1 - 30 – Distracted Drivers Campaign – Occupant Restraint Campaign</p> <p>November 1 – 30 – Speed Relative to Conditions Campaign</p> <p>December 1 - 31 – Winter Impaired Driving Campaign (Alcohol/Drug)</p> <p>Smaller local/regional campaigns as designated by the strategic needs of the local units with local media and partnership support</p> <p style="text-align: right;">UNANIMOUSLY ADOPTED</p> <p>ACTION: Motion #3-2015 be presented at the November 18, 2015 BCACP meeting for consideration.</p>
<p>c. Administrative, Technical, Recognition</p>	<p>c. K. LeBlanc provided the following updates:</p> <ul style="list-style-type: none"> - new members to the subcommittee include K. Vrolyk and A.J. Obodzinski; - <u>Impaired Driver Investigation Course</u>: the ability for enforcement officers to investigate impaired driving cases since the introduction of the IRP program is a concern; B. Ribeiro proposed a five day course that is now being reworked into a two day course. - <u>Promoting Alexa's Team</u>: This topic has been referred to D. Somerville for further review. - <u>School Bus Safety</u>: has been referred to the Enforcement Subcommittee, who will continue to monitor with regards to fines and penalty points. - <u>2014 BCACP TSC Awards</u>: Twelve nominations were received: 5 Team; 2 Education; 1 Enforcement; 1 Investigation; 3 Criminal Interdiction). Nominations were reviewed and the successful recipients include: Cst. Ron Miciuk, Central Okanagan TS, Traffic Law Enforcement; Cst. Andrew Forslund, Nanaimo TS, Collision or Crash Investigation; Cst. Matthew Innes, GV IRSU, Criminal Interdiction/Civil Forfeiture; Cst. Scott Seutter, Sidney/North Saanich TS, Traffic Safety Education; and the Delta Police Department Traffic Section, Cst. Mike Whiteley and Cst. John Merryman, Outstanding Traffic Team Effort. Awards will be presented at the November 18th BCACP meeting in Victoria. - <u>Training</u>: Senior management were encouraged to support instructors participation during training sessions, noting that on occasion courses are being

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		<p>offered, and then cancelled as a result of instructors not being available.</p>
5	Police Officer Motivation and Impaired Driving Enforcement Study (ATAS)	<p>Dr. Eli Sopow, Director, Operations Strategy Branch, RCMP and S/Sgt. Doug Ferguson, Police Liaison, Police Services, Ministry of Justice presented on the Police Officer Motivation and Impaired Driving Enforcement Study (ATAS). This is a study of traffic officer strategies, tactics, and motivation in British Columbia.</p> <p>A copy of this presentation is available upon request to Stacey.Perri@gov.bc.ca, and for further information or questions please contact Eli.Sopow@rcmp-grc.gc.ca or Douglas.Ferguson@rcmp-grc.gc.ca.</p>
6	Recognition	<p>In appreciation of the members who have or will be retiring or moving to a different portfolio in the near future, on behalf of the BCACP Traffic Safety Committee, "Certificates of Appreciation" were presented to:</p> <p>s.22</p>
7	RoadSafetyBC (RSBC) Updates	<p>Steve Roberts advised of recent staffing changes noting that he is now the Deputy Superintendent of Motor Vehicles and that Judy D'Gal has taken over the role of Director, Stakeholders Relations. RSBC updates included a review of IRP, ADP, and alcohol-related motor vehicle fatalities statistics along with an update on the status of th^s.12</p> <p>s.12 the next meeting of the BC Road Safety Strategy assembly is set for October 15-16, 2015; and results from the 2015 distracted driving public engagement survey. RSBC is reviewing suggestions received from the survey responses that include increased fines; increased penalty points; modify driver improvement program; vehicle impoundment; and an administrative sanction model (similar to IRP).</p> <p>For further information or questions contact Steven.Roberts@gov.bc.ca.</p>
8	Variable Speed Limits Systems (VSLS)	<p>Erin Moxon, Ministry of Transportation and infrastructure provided the following update on the VSLS project: government announced the Variable Speed Limits Systems (VSLS) in June in an effort to improve driver safety; three pilot projects are planned, Highway 99, Squamish Valley Road to Function Junction; Highway 5, Portia interchange to the former Toll Plaza; and Highway 1, Perry River Bridge to Highway 23 South Junction; the extensive system of traffic, pavement and visibility sensors will be calibrated to detect all types of weather conditions and provide a recommended speed to MoTI staff. This information will be used to continuously update the speed shown on digital signs. It is anticipated that the systems will turn on in January 2016 for testing; Kirk Rockerbie is overseeing regulatory changes that are now underway; public education will be incorporated into the "Shift into Winter" campaign.</p> <p>For further information contact Jennifer.Locke@gov.bc.ca.</p>
9	National Safety Codes	<p>Karen Coverett, Commercial Vehicle Safety & Enforcement (CVSE), Ministry of Transportation & Infrastructure provided an overview of BC's National Safety Code (NSC) Program noting that CVSE is responsible for 33,000 carriers and 110,000 commercial vehicles are plated in BC; the issuance of NSC safety certificates; monitor carrier's on road performance; and determine carrier's safety rating.</p> <p>A copy of this presentation is available on request Stacey.Perri@gov.bc.ca.</p> <p>Information can be found on this website www.cvse.ca/national_safety_code.htm or by contacting Karen.Coverett@gov.bc.ca.</p>
10	Road Safety Technology	<p>Representatives from Vantek Innovations presented on a road safety technology; a sound detection for cars and mobile platforms. This technology (an app) is installed in a motor vehicle audio unit and will detect approaching emergency vehicles from 500 meters away; upon detection, the app shuts down the audio system of the vehicle and displays a visual/plays an audio message to yield to the approaching emergency vehicle.</p> <p>For further information contact alextilios@live.com.</p>

Approved at the March 2, 2016 Meeting

11	Other Business	No other business identified.
	Adjournment	Meeting adjourned at 4:20

Thursday, October 8, 2015 (0900 – 1200)

#	ITEM	MINUTES
1	Opening Remarks	N. Dubord called the meeting to order at 0900.
2	"E" Division Traffic Services	D. Cooke advised that he participated on a BC Coroners Service Child Death Review panel yesterday to review pedestrian, cyclist and non-motorized child deaths occurring in BC between 2005-2014 s.16,s.17 s.16,s.17
	Enhanced Traffic Enforcement Program	J. Staples provided the following updates on the Enhanced Traffic Enforcement Program (ETEP): the ETEP includes IRSUs, IMPACT/BAIT Car, Intersection Safety Camera Program; CounterAttack, Automated Licence Plate Recognition (ALPR); and road safety research and policy; the funding agreement between ICBC and government has been extended for an additional two years; one of the deliverables within the extended agreement is to conduct a forward looking review of ETEP to identify efficiencies, delivery model options and make recommendations to MOU Governance Council with respect to structural and organization changes, including administration and oversight of the program, to improve the future delivery of ETEP; a working group consisting of representatives from ICBC; RCMP; BCA Municipal Chiefs of Police; and Police Services has been formed; and an independent contractor, KPMG, has been selected to conduct the review; and funding for the Winter CounterAttack Campaign has been identified for municipal departments, further information to follow in the near future.
	Speed Corridor Demonstration Project	J. Ross provided an overview of the Speed Corridor Demonstration Project, a study that was conducted to demonstrate the effect of enhanced traffic law enforcement on driver speeds on a treatment corridor; the project next steps; and future opportunities to implement findings and advance research.
	ICBC Updates	L. Matthews provided the following updates: ICBC started its submission for 2015 Basic rate to the BC Utilities Commission. ICBC is working with government on strategies to keep the requested rate as low as possible. Pressures include the rising number and cost of injury claims. Two major computer systems have been upgraded; the claims system and changes to the insurance system are in progress. The Road Safety chapter of the submission to the BCUC has been completed; a review of the Intersection Safety Camera upgrade has been conducted noting that a 5% reduction in crashes at the new sites; ICBC continues to invest in the road improvement program s.17); and the Pedestrian Safety campaign launch is on October 21 st .
	Alexa's Bus Deployments	G. Desaulniers advised that s.16 s.16 s.16 Copies of the deployment request form were circulated to the membership for completion. Contact Gerry.Desaulniers@rcmp-grc.gc.ca for further information.
	Alexa's Team Awards	D. Somerville advised that since 2008, 1617 new and returning RCMP and Municipal police officers have become members of Alexa's Team; 298 officers

Approved at the March 2, 2016 Meeting

		<p>were recognized in 2014; these officers processed more than 11,000 impaired drivers. Dates for the 2015 awards have been set as follows: Lower Mainland, April 6th; Island (Victoria) April 27th; Southeast (Kelowna) May 11th; and North (Prince George) May 25th.</p> <p>Contact Dale.Somerville@rcmp-grc.gc.ca for further information.</p>
3	Open Dialogue on Best Practices – Successes in Specific Strategic Priorities	<p>The floor was open to the membership to discuss topics of concern including: K. Eng and the work that Vancouver Police are doing in relation to pedestrian safety and G. Sokoloski and the work that Burnaby Traffic Services is doing in relation to enforcing distract driving laws.</p>
	Adjournment/Closing	<ul style="list-style-type: none"> - the membership was encouraged to support the “Be VISIBLE” safety message; - the next meeting will be scheduled for early in March 2016 (date to be determined); - The meeting was adjourned at 1130.

Approved at the March 2, 2016 Meeting

BCACP TRAFFIC SAFETY COMMITTEE

October 7 & 8, 2015

Executive Plaza Hotel, 405 North Road, Coquitlam BC

Attachment #1

Name	Title	Organization/Location	Name	Title	Organization/Location
Albert, Evan	Sgt.	Fraser Valley IRSU	McLeod, Ryan	Cpl.	South Okanagan TS (Keremeos)
Anderson, James	S/Sgt.	Capital Regional District IRSU	McLeod, Shana	Cpl.	Keremeos IRSU
Anderson, Lisa	Ms.	Policing & Security Branch, MJAG	Meaver, Rick	Cst.	Cariboo Chilcotin TS (Williams Lake)
Aroutiounian, Anna	Ms.	Police Services, MJAG	Miciuk, Ron	Cst.	Central Okanagan Traffic Services
Atherton, Jerome	Mr.	Insurance Corporation of BC	Milne, Paul	S/Sgt.	GV IRSU/New Westminster Police Dept.
Badry, Chad	Cpl.	West Kootenay IRSU (Nelson)	Narayan, Bob	Mr.	Police Services, MJAG
Balaban, Todd	Sgt.	"E" Division Traffic Services	Noonan, Barry	Sgt.	Vancouver Island TS (Courtenay)
Banse, Kurt	Cpl.	Prince George Regional Traffic (Quesnel)	Obodzinski, AJ	Cst.	Vancouver Island TS (Parksville)
Beckerleg, Dwayne	Sgt.	Burnaby Traffic Services	O'Callaghan, Brian	Cpl.	Kamloops Municipal Traffic
Bell, David	Sgt.	North Okanagan Traffic Services	Pears, Mike	Sgt.	Central Interior Traffic Services
Brailey, Paul	Cst.	Central Saanich Police Service	Peat, David	S/Sgt.	Fraser Valley TS (Chilliwack)
Brand'A'mour, Chuck	Cst.	West Kootenay IRSU (Nelson)	Perri, Stacey	Ms.	Police Services, MJAG
Buchanan, David	Cst.	Nanaimo IRSU	Petersen, Bryce	Sgt.	North Vancouver Municipal Traffic
Cooke, Derek	Supt	"E" Division Traffic Services	Peterson, Jeff	Mr.	Justice Institute of BC
Cooke, Kerri	S/Sgt.	Lower Mainland District Traffic Services	Pierschke, Roland	Sgt.	Port Mann Freeway Patrol
Cronk, Ron	Sgt.	Victoria Police Department	Ramey, Al	Insp.	Island District Traffic Services
D'Gal, Judy	Ms.	RoadSafetyBC, MJAG	Ramey, Darrin	Sgt.	Central Vancouver Island TS (Parksville)
Davidson, Roy	Cst.	Southeast District Traffic Services	Ribeiro, Bina	Cst.	Saanich Police Department
Davies, Patrick	Sgt.	Greater Vancouver IRSU	Ridder, Don	Sgt.	Abbotsford Police Department
Dentoom, Andre	Sgt.	South Island TS (Chemainus)	Roberts, Allan	Cpl.	"E" Division Traffic Services
Desautniers, Gerry	Sgt.	"E" Division Traffic Services	Roberts, Steven	Mr.	RoadSafetyBC, MJAG
Dey, Martin	Insp.	North District Traffic Services	Rodrigues, A.J.	Cst.	South Okanagan TS (Keremeos)
Doerr, Bart	Cpl.	North Island IRSU (Courtenay)	Ross, Jesse	Ms.	Police Services, MJAG
Dubord, Neil	C/Cst.	Delta Police Department	Russell, Ronald	Insp.	"E" Division Traffic Services
Easton, Phil	Mr.	CVSE, MoTI	Sampson, Brian	Cst.	BC Impaired Driving Coordinator (Ladysmith)
Eng, Ken	A/Insp.	Vancouver Police Department	Savoy, Dave	Sgt.	Port Mann Highway Patrol
Fehr, Steve	Cst.	Abbotsford Police Department	Sengupta, Joy	Mr.	Ministry of Transportation & Infrastructure
Ferguson, Doug	S/Sgt.	Police Services, MJAG	Seutter, Scott	Cst.	Sidney Municipal Traffic Section
Fiddler, Jim	Sgt.	Vancouver Police Department	Sidhu, Harj	Insp.	Delta Police Department
Graham, John	Cpl.	North District Traffic Services	Sidhu, Raj	Sgt.	Red Deer City Detachment
Hacker, Michael	Sgt.	Cariboo-Chilcotin TS (Williams Lake)	Sokolowski, Gerard	S/Sgt.	Burnaby Traffic Services
Hallett, Harold	Sgt.	South Okanagan TS (Keremeos)	Somerville, Dale	S/Sgt.	"E" Division Traffic Services
Haney, Robert	Sgt.	Trans Canada East TS (Golden)	Spanos, Andrew	Cst.	CN Police Service (Surrey)
Hermann, Dafydd	Sgt.	Transit Police	Staples, Jan	Ms.	Police Services, MJAG
Jewers, Cave	S/Sgt.	Lower Mainland District, ICARS	Steinhauser, Al	Sgt.	North District Regional Provincial TS
Johal, Jag	Cpl.	West Vancouver Police Department	Steiro, Clayton	Mr.	Insurance Corporation of BC
Joiner, Rob	Cst.	Abbotsford Police Department	Stevens, Ingrid	Cpl.	North Vancouver Municipal Traffic
Jumaga, Lane	S/Sgt.	Central Interior TS (Kamloops)	Teague, John	Sgt.	RoadSafetyBC, MJAG
Labossiere, Mike	Insp.	"E" Division Traffic Services	Thompson, Andy	A/Sgt.	Delta Police Department
LeBlanc, Kevin	Sgt.	Pacific Region Training Centre	Tucker, Shannon	Ms.	Police Services, MJAG
Lecker, Lorne	Sgt.	Deas Island Traffic Services	Vanderkuip, Kristin	Ms.	Passenger Transportation Branch, MoTI
Lynn, Elizabeth	Cpl.	Sea to Sky TS (Squamish)	Vrolyk, Krista	Cpl.	Pacific Region Training Centre
Matchett, Brad	Cpl.	Comox Valley Municipal Traffic	Weeras, Kevin	Cpl.	West Pacific Region TS (Smithers)
Matthews, Lindsay	Ms.	Insurance Corporation of BC	Weissbock, Reinhold	S/Sgt.	North District Traffic Services
McLachlan, Terry	Insp.	Southeast District Traffic Services	Whiteley, Mike	Cst.	Delta Police Department
			Wong, Randy	Cpl.	North Vancouver Municipal Traffic Services

Approved at the March 2, 2016 Meeting

Attachment #2

PROSECUTING UNNECESSARY LOUD EXHAUST NOISE TICKETS+ (MVAR 7A.01)

Authored by: Cst. John Bercic, Vancouver Police Department

STEP 1: PRESENT THE SUBJECTIVE EVIDENCE OF THE CASE

- Explain that your attention was drawn to a loud exhaust noise that you heard coming from the disputant's vehicle. Explain that the loud exhaust noise stood out from the other traffic on the roadway and drew your attention.
- Provide your opinion as to how loud the noise was in relation to a similar vehicle with a stock exhaust. (i.e. it sounded twice, three, or four times as loud).
- Explain that you were satisfied that the noise you heard was coming from the disputant's vehicle; i.e. the same noise was present up until the disputant's vehicle was stopped.

STEP 2: PRESENT THE OBJECTIVE EVIDENCE OF THE CASE

- Explain how far away the vehicle could be clearly heard (e.g. 300 metres) when it drew your attention.
- Provide evidence if there was an after-market exhaust. This can be established by examining the brand name stamped on the pipes. For example, some popular after-market motorcycle loud exhaust pipes are Screamin' Eagle, Vance and Hines, Cobra, and SS.
- At the time the ticket is written, obtain statements from violators regarding modifications to the exhaust.
- Record other statements such as, "Loud pipes save lives."

STEP 3: CROSS EXAMINATION

- Upon providing the above evidence, the onus falls upon the disputant to show that the noise was not loud.
- The disputant may wish to take the stand, upon which they become subject to cross-examination.
- Under cross-examination, the disputant will generally admit that the exhaust is after-market.
- Under cross-examination, the disputant will generally admit that the new after-market exhaust is louder than the original manufacturer's exhaust.
- Under cross examination, the disputant will generally admit that they have no problem differentiating between a loud vehicle and a quiet vehicle and that this ability does not really require special training.

CONCLUSION

- Using these guidelines will assist in successful prosecutions of noisy exhaust tickets in traffic court.

Motor Cycle Noise^e

- been discussed at length
- SAE: J 8825

- Need common sense approach
Phil EASTON case

- Seasonal basis ^{spring}
- Geographical location
- MLA's Minister
- complexity

- Jurisdictional Survey

- No decibel limit
- Various fine amount
- decibel limits in bylaws
- No one has adopted standard
- Methodology of testing

Couple of options:

1 of the proposal

D.V. 7 Regulator (Has kept it)

Refers to Inspection Station

and incorporate STANDARD in to the regulation

- Sends To Inspection for decibel limit

2 Enforcement Agency can use
these policy to have it tested and
inspected.

How officers are trained

Agency related
CITS LOWE LEUOR

- sound detail
- calibration
-

- This is an annoyance its not
a real safety issue.

Enforcement options:

• Speed is unnecessary alarm

• Equipment / defective vehicles.

• Need to show more a consequence.

- Discuss Training / Evidence gathering techniques
- Focus to officers ability.

Motion:

1)

2)

- HC Noise

↳ No db reqs in any Cdn jurisdictions (Prov)
↳ Some municipalities have db limits in bylaws.
↳ Simple to update Div 7 language & implement updated db limits for sleep inspections.

↳ Ent agency policy decision eg. J2825 as standard

↳ While Insp & Students amendments are under way by Brian Kavanagh's team.

- S. 79 MMA does not include CN, CP, AP, Transit.

↳ Legislative S-C to address.

Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Friday, December 11, 2015 8:06 AM
To: Easton, Phil TRAN:EX; 'Martin DEY'
Cc: Haywood, Steven TRAN:EX; Dennis, Perry TRAN:EX
Subject: RE: MC Noise Enforcement
Attachments: Motorcycle Noise - MVAR 7A.01.pdf; Noise caselaw Tootill 2012 BCSC 1015 R. v.pdf

Categories: Orange Category

Hi Phil,

Seasons Greetings!

s.22 Nevertheless, in the event your request has gone unanswered, I am advancing the material prepared by VPD Cst. John Bercic via VPD A.Insp. Ken Eng on the topic. Martin might have an electronic version of any additional material on the topic, but I do not.

Martin sent me a hard copy envelope containing Enf S-C material, but I've been so swamped lately, I haven't had a chance to review it. Consequently, I remain uncertain of whether it contains any additional material on MC Noise Enforcement.

Please let me know if the info attached is sufficient for your needs.

Thanks,

Doug

D. L. (Douglas) Ferguson, S/Sgt.

Police Liaison - Road Safety Unit
Police Services Division - BC Ministry of Justice
Address: 405-815 Hornby Street, Vancouver, BC, V6Z 2E6
doug.ferguson@gov.bc.ca / Tel: (604) 775-2099 / Cell: (604)218-5916
douglas.ferguson@rcmp-grc.gc.ca / RCMP Tel: ^{s.16} / RCMP Cell: ^{s.16}

D. L. (Douglas) Ferguson, S.É. M.

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Division service de police - Ministère de la justice de la Colombie-Britannique
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douglas.ferguson@rcmp-grc.gc.ca / GRC Tél: ^{s.16} / GRC Cellulaire: ^{s.16}

From: Easton, Phil TRAN:EX
Sent: Friday, October 30, 2015 11:40 AM
To: 'Martin DEY'; Ferguson, Doug JAG:EX
Cc: Haywood, Steven TRAN:EX; Dennis, Perry TRAN:EX
Subject: MC Noise Enforcement

Hi Martin/Doug

Is it possible to have one of you send me the document that outlines the mc noise enforcement protocol that was presented at BCACP.

Phil Easton
Manager of Compliance, Education and Policy Programs
Ministry of Transportation and Infrastructure
Commercial Vehicle Safety and Enforcement
PO Box 9250 Stn Prov Govt
3rd Floor 940 Blanshard St.
Victoria, B.C. V8W 9J2



Phone 250-953-4042
FAX 250-952-0578

Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Wednesday, February 3, 2016 4:09 PM
To: Perri, Stacey JAG:EX
Cc: Butterfield, Nicole JAG:EX; Engelbrecht, Karen JAG:EX; Hughes, Candice JAG:EX; Dean, Danielle JAG:EX; Steenvoorden, Tom JAG:EX
Subject: RE: Call from s.22

Hi Stacey,

I spoke with s.22 regarding loud motorcycles, current regulations, db testing devices, and the difficulties experienced by police to prosecute these offences.

s.22 is now completely up to date with the Enforcement Sub-Committee's position on this topic, specifically that:

- We prefer that police address the issue of loud motorcycle exhaust noise by issuing charges for Loud and Unnecessary Noise – s. 7A.01 MVAR (given its subjective evidence threshold – motorcycle was louder than other motorcycles) over officers issuing charges under s. 219 MVA (which requires objective evidence that the vehicle exhaust exceeded regulatory decibel limits).
- We will be seeking TSC support next month to distribute “best practice” information to police of how to successfully investigate and prosecute a s. 7A.01 MVAR charge.

I also agreed to discuss this matter with Insp. Jeff Preston, OIC of Campbell River Detachment, in hopes of assisting his members to effectively address this issue. I have left a message for Insp. Preston to call me.

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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Police Services Division - BC Ministry of Public Safety and Solicitor General
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douglas.ferguson@rcmp-grc.gc.ca / RCMP Tel: s.16 / RCMP Cell: s.16

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douglas.ferguson@rcmp-grc.gc.ca / GRC Tél: s.16 / GRC Cellulaire: s.16

From: Perri, Stacey JAG:EX
Sent: Wednesday, February 3, 2016 2:44 PM
To: Ferguson, Doug JAG:EX
Cc: Butterfield, Nicole JAG:EX; Engelbrecht, Karen JAG:EX; Hughes, Candice JAG:EX; Dean, Danielle JAG:EX; Steenvoorden, Tom JAG:EX
Subject: RE: Call from s.22

Hi Doug – would you have a moment to return s.22 call today?

Much appreciated - Stacey

From: Dean, Danielle JAG:EX

Sent: Wednesday, February 3, 2016 2:34 PM

To: Steenvoorden, Tom JAG:EX; Perri, Stacey JAG:EX

Cc: Butterfield, Nicole JAG:EX; Engelbrecht, Karen JAG:EX; Hughes, Candice JAG:EX

Subject: Call from s.22

Hello Tom and Stacey (CC: front line call group),

We had a call transferred by the MO, from a gentleman by the name of s.22, who was hoping to get in touch with the ADM. He said that he has previously spoken with the RCMP regarding enforcement of traffic laws related to noise control, and he is under the impression from this conversation that the allowable level of noise (generated by a vehicle) is not to exceed 91 decibels, but also that there is currently no approved technology (which would stand up in court) for measuring the level of noise generated by a vehicle. He has identified himself as part of a group of concerned citizens with the goals of lowering this legal decibel limit and implementing approved technology for the purpose of enforcing noise control laws. He has requested a call back, although he also left his email address. His contact information is below.

s.22

Best regards,

Danielle Dean

Administrative Assistant

Policing and Security Branch | Ministry of Public Safety & Solicitor General

250.387.1741

Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Friday, February 5, 2016 4:35 PM
To: Jeff Preston
Cc: al.ramey@rcmp-grc.gc.ca; Staples, Jan JAG:EX; Perri, Stacey JAG:EX; Tucker, Shannon JAG:EX
Subject: Loud and Unnecessary Noise
Attachments: Noise caselaw Tootill 2012 BCSC 1015 R. v.pdf; Motorcycle Noise - MVAR 7A.01.pdf; 4b_Enforcement_ExhaustTickets.pptx

Jeff, good day Sir,

Follow-up to our telephone discussion yesterday about our respective conversations with s.22 on the issue of loud motorcycles.

I spoke with s.22 on 2016-02-03 after his call to Minister of Public Safety and Solicitor General's Office was down-streamed to me for a response. We discussed loud motorcycles, the current regulations, sound decibel (Db) testing devices, and the difficulties police incur prosecuting the related offences.

We also discussed the pros/cons between the objective evidentiary standard under s. 219 MVA and the subjective evidentiary standard under s. 7A.01 MVAR.

I outlined to s.22 that from a practical policing perspective, the use of Db testing devices to effectively address the 'public nuisance issue' of loud exhaust noise presents far more obstacles than remedies. I cited some of the 'red-herring' defence challenges anticipated in response to a s. 219 MVA prosecution such as i) police adherence to Db test standards, ii) device accuracy, and iii) officer proficiency using the devices, etc.

s.22 was also advised that the issue of loud motorcycles has been raised repeatedly at BCACP Traffic Safety Committee (TSC) meetings along with the impractical issues around Db testing. At the Fall 2015 TSC conference it was explicitly recommended by the Enforcement Sub-Committee (of which I am the Chair) that officers be encouraged to pursue charges under s. 7A.01 MVAR when dealing with loud motorcycles.

I assured s.22 that I would discuss this topic with you and that I would provide you with material designed to assist police officers to develop the evidence necessary to pursue a prosecutable charge under s. 7A.01 MVAR.

For reference purposes, I have attached the following:

- Case Law R. v. Tootill 2012 BCSC – Though Cst. Bercic used a Db meter (per paragraph 4), he only utilized it to corroborate his subjective assessment of the noise (per paragraph 5), and that a subjective assessment is all that is required for a charge under s. 7A.01 MVAR (per paragraph 15); unlike s. 219 MVA that does require objective Db test evidence.
- Motorcycle Noise – 7A.01.pdf – This single page document outlines a proven 3-step strategy to successfully prosecute s. 7A.01 MVAR Violation Ticket disputes. By recognizing the articulable details/elements needed to successfully prosecute a Ticket dispute, officers can better prepare themselves to note/document the requisite evidence at the roadside.
- 4b_Enforcement_ExhaustTickets (2).ppt – The information in this 5-framed presentation is essentially a duplicate of the single page document above.

The TSC will be distributing these documents to police in BC in the near future.

Please feel free to share the attachments with your members. If you or any of your officers have any questions, please have them contact me.

Thanks,

Doug

D. L. (Douglas) Ferguson, S/Sgt.

Police Liaison - Road Safety Unit

Police Services Division - BC Ministry of Public Safety and Solicitor General

Address: 405-815 Hornby Street, Vancouver, BC, V6Z 2E6

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Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Wednesday, February 10, 2016 9:56 AM
To: 'Garth LETCHER'
Subject: RE: Notice and Orders

Categories: Orange Category

Hi Garth,

I guess my only counter to John Teague's statement to Kurt that a noisy exhaust does not present a safety issue would be that if the loud exhaust noise coming from a car or truck is caused by a leaky exhaust, there could very well be a safety threat (CO exposure) to the vehicle occupants. Obviously this argument would not fly in the case of a MC.

Anyway, thanks again for the info.

Doug

From: Garth LETCHER [<mailto:Garth.LETCHER@rcmp-grc.gc.ca>]
Sent: Wednesday, February 10, 2016 9:41 AM
To: Ferguson, Doug JAG:EX
Subject: Notice and Orders

Hello Doug,

Thanks again for your time this morning and all the information you've provided.

Attached is the e-mail I intercepted from Sgt. John Teague during my research into enforcement strategies dealing with excessive motor vehicle exhaust noise regarding use of Notice and Orders.

Regards,

Garth Letcher

Crime Prevention Supervisor
Kelowna RCMP / Government of Canada
garth.letcher@rcmp-grc.gc.ca / Tel: 250-470-0609 / Fax: 250-763-3330

Garth Letcher

Superviseur de la prévention du crime
GRC de Kelowna / Gouvernement du Canada
garth.letcher@rcmp-grc.gc.ca / Tél. : 250-470-0609 / Téléc: 250-763-3330

Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Wednesday, February 10, 2016 9:07 AM
To: 'garth.letcher@rcmp-grc.gc.ca'
Cc: 'Terry MCLACHLAN'
Subject: Loud and Unnecessary Noise
Attachments: Noise caselaw Tootill 2012 BCSC 1015 R. v.pdf; Motorcycle Noise - MVAR 7A.01.pdf; 4b_Enforcement_ExhaustTickets.pptx

Categories: Orange Category

Garth,

Thank you for our good discussion today on enforcement strategies to deal with loud MC exhaust. Thanks as well for alerting me to the 2014 message from RoadSafetyBC/OSMV explaining that Notice and Orders are not to be used to compel MCs for Div 25 vehicle inspections on the basis of loud exhaust as they do not represent a vehicle safety issue. I would greatly appreciate it if you could pass that message along to me so I might retain it in my records.

We discussed loud motorcycles, the current regulations, sound decibel (Db) testing devices and standards, Notice and Orders, and the difficulties police face prosecuting the related offences. We also discussed the pros/cons between the objective evidentiary standard under s. 219 MVA and the subjective evidentiary standard under s. 7A.01 MVAR.

From a practical policing perspective, I outlined that the use of Db testing devices to effectively address the 'public nuisance issue' of loud exhaust noise presents far more obstacles than remedies. I also cited some of the 'red-herring' defence challenges an officer can anticipate when relying on objective Db testing device evidence in a s. 219 MVA prosecution such as i) police adherence to Db test standards, ii) device accuracy, and iii) officer proficiency using the devices, etc.

We agreed that I would provide you with material designed to assist police officers to develop the evidence necessary to successfully pursue a prosecutable charge under s. 7A.01 MVAR.

For reference purposes, I have attached the following:

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The Traffic Safety Committee will be distributing these documents to police in BC in the near future. Please feel free to share this information with your police contacts in the Okanagan. If you or any of your police contacts have any questions on this topic, please have them contact me.

Thanks again,

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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Police Services Division - BC Ministry of Public Safety and Solicitor General

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douglas.ferguson@rcmp-grc.gc.ca / GRC Tél: s.16 / GRC Cellulaire: s.16

Hi Kurt,

Noisy MC's, or for that matter any noisy vehicle, is a tough one to enforce for sure. I have spoken with CVSE about this and they are no further ahead with any assistance than they have been previously either, although they have worked with the policing community to try to make some headway.

Excessive noise often comes down to a matter of opinion as decibel levels et al are very difficult to measure or prove as per section 27 of the Standards of Approval of a Motor Vehicle. Members have been successful in articulating excessive noise from exhausts on some vehicles in describing what drew their attention to the noise and how they compared it to other similar type vehicles. This is very subjective and therefore open to interpretation.

Also, as the noise is not a safety issue, the police cannot use Division 25.30 of the MVA Regulations to get any vehicle inspections done.

The easiest method to use is probably to target Division 7.03 Muffler provisions in the MVA Regulations. Members have had success in checking visually for cut-outs and also in using a dowel to check for the presence or absence of baffles. All these actions by the owner promote noise and it seems from speaking with other members is the only stuff that has worked for them.

Sorry there is nothing more concrete on the noise aspect.

John.

Sgt. John Teague
Police Liaison Officer
RoadSafetyBC
Ministry of Justice
Office: 250-356-6502
Cell: s.17



RoadSafetyBC

From: Kurt LOZINSKI [mailto:Kurt.Loizinski@rcmp-grc.gc.ca]
Sent: Monday, June 2, 2014 11:08 AM
To: Teague, John JAG:EX
Subject: Motorcycle noise – Penticton RCMP

Perri, Stacey JAG:EX

From: Ferguson, Doug JAG:EX
Sent: Friday, February 12, 2016 11:22 AM
To: Staples, Jan JAG:EX; Perri, Stacey JAG:EX; Tucker, Shannon JAG:EX
Subject: RE: Loud and Unnecessary Noise

I reckon that my reference to Erin as the Police Liaison was a slight stretch as she is a s.22
s.22 However, she will be assuming responsibility for engaging police and responding to related inquiries. Erin works for Judy.

Doug

From: Staples, Jan JAG:EX
Sent: Thursday, February 11, 2016 3:36 PM
To: Ferguson, Doug JAG:EX; Perri, Stacey JAG:EX; Tucker, Shannon JAG:EX
Subject: RE: Loud and Unnecessary Noise

Doug

Just catching up on a few emails, and wanted to ask about Erin Walsh(?). I thought RSBC was permanently doing away w/ Police Liaison position w/s.22 and those duties were going to be rolled up into Judy's role. Is Erin an officer??? On secondment fr ??? Am I missing something here?

Jan

Jan Staples - Director
Road Safety Unit, Police Services Division
Ministry of Public Safety and Solicitor General
Ph: 604.775.2108

From: Ferguson, Doug JAG:EX
Sent: Wednesday, February 10, 2016 9:14 AM
To: Staples, Jan JAG:EX; Perri, Stacey JAG:EX; Tucker, Shannon JAG:EX
Cc: Walsh, Erin E JAG:EX
Subject: FW: Loud and Unnecessary Noise

Jan et al.,

Just an FYI of how I am addressing field inquiries on loud motorcycle enforcement.

I also wanted to introduce you guys to Erin Walsh, the new Police Liaison at RoadSafetyBC. Erin advanced Garth's inquiry to me yesterday.

Doug

D. L. (Douglas) Ferguson, S/Sgt.

Police Liaison - Road Safety Unit
Police Services Division - BC Ministry of Public Safety and Solicitor General

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From: Ferguson, Doug JAG:EX
Sent: Wednesday, February 10, 2016 9:07 AM
To: 'garth.letcher@rcmp-grc.gc.ca'
Cc: 'Terry MCLACHLAN'
Subject: Loud and Unnecessary Noise

Garth,

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We agreed that I would provide you with material designed to assist police officers to develop the evidence necessary to successfully pursue a prosecutable charge under s. 7A.01 MVAR.

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Thanks again,

Doug

D. L. (Douglas) Ferguson, S/Sgt.

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douglas.ferguson@rcmp-grc.gc.ca / GRC Tél: ^{s.16} / GRC Cellulaire: ^{s.16}

Perri, Stacey JAG:EX

From: Perri, Stacey JAG:EX
Sent: Friday, February 26, 2016 11:31 AM
To: Ferguson, Doug JAG:EX; McLachlan, Terry
Subject: BCACP TSC Enforcement Subcommittee Mtg - March 1st
Attachments: 16_Feb_Enforcement Issues.docx

Hi Doug/Terry,

Attached please find an updated list of possible issues for discussion during the March 1st subcommittee, for info/discussion as you see fit.

I will be sending out the meeting logistics to those who will be attending shortly – if you have any agenda for the meeting I am able to circulate on your behalf.

I look forward to seeing you next week – if you have any questions/comments please let me know – Stacey

From: Perri, Stacey JAG:EX
Sent: Thursday, January 7, 2016 11:23 AM
To: Ferguson, Doug JAG:EX; Terry MCLACHLAN
Cc: Douglas FERGUSON
Subject: Spring 2016 Enforcement Subcommittee meeting

Good morning Terry/Doug,

In preparation for the March 1, 2016 BCACP TSC Subcommittee meetings, attached please find a membership list along with possible issues for discussion for your info/comments & advice. I've also attached the minutes of the Spring 2015 meeting and October 2015 DRAFT minutes (not yet seen by the Chair) for your info.

Please let me know if I can be of any assistance in either identifying issues or disseminating information to subcommittee members.

I will be in touch once members have confirmed their participation and to advise of the meeting logistics.

Take care – Stacey

Enforcement Subcommittee

For consideration at the March 1st meeting

- Co-Chairs: Insp. Terry McLachlan, Southeast District TS
S/Sgt. Doug Ferguson, Police Liaison, Police Services
- Members: Sgt. Ron Cronk, Victoria Police Department
Perry Dennis, CVSE, MoTI
Insp. Martin Dey, North District Traffic Services
Sgt. Don Erichsen, East Kootenay TS
Sgt. Jim Fiddler, Vancouver Police Department
Cpl. John Graham, Prince George TS
Sgt. Lorne Lecker, Deas Island TS
Cst. Ron Miciuk, Central Okanagan TS
Cst. Andrew Spanos, Canadian National Police Service
Clayton Steiro, Road Safety Program Delivery, ICBC
Kristen Vanderkuip, Passenger Transportation Branch, MoTI
- Guest: Cst. Andy Dunstan, Capital Regional District IRSU
- Regrets: Cpl. Tom Brannigan, East Kootenay IRSU

New Business:

1. s.15,s.16

2. For consideration when drafting the 2017 Provincial Enforcement Campaign Schedule:

Since the 2016 Enforcement Calendar was adopted, Sgt. Lorne Lecker expressed concern about the Speed Relative to Conditions November campaign specifically that it is impossible to enforce and should be replaced with a Pedestrian Safety (Enforcement) Campaign given the earlier onset of darkness as we move into winter months.

Comments from S/Sgt. Ferguson (Dec 11): I replied that while Speed Too Fast for Conditions is almost impossible to proactively enforce, this campaign still possesses merit what with the onset of winter driving conditions and increased seasonal darkness. I reinforced that premise by suggesting that while Speed Relative to Conditions messaging is important to publicly convey, the enforcement component of it could be justifiably focussed on speeding generally.

As a compromise, I proposed that since pedestrian crashes are primarily an urban phenomenon and because the same seasonal changes affect both Pedestrian Safety and Speed Relative to Conditions, perhaps both should occur simultaneously with enforcement responsibility divided along provincial (speeding) and municipal (pedestrian) enforcement lines.

In lieu of the ideas discussed on this topic, I think it should be revisited at our next subcommittee meeting to seek member input; then, if supported there, we could advance a motion to the general TSC.

Old Business:

1. Vehicle (Motorcycle) Noise: (Motion #1-2011) subcommittee discussed the SAE J825 test equipment noting that conditions at the roadside are not always ideal to use this type of testing; it was suggested that an information package be created outlining how to deal with vehicle noise under the current legislation.

Update: As per S/Sgt. Ferguson's Dec 11th email: At the Fall 2015 TSC meeting the Enforcement Subcommittee adopted the position that legislative amendments around decibel (db) testing, db testing devices, etc., would create more obstacles than remedies on public nuisance offence that presents no risk to public safety.

The subcommittee agreed that anticipated issues like the need for regular db measuring device accuracy testing/certification, device user training/certification, etc. ('a la' ASDs, CEWs, etc.), to support "objective" test results, was unnecessary when MVAR s. 7A.01 provides police with BCSC-supported authority to issue charges based on "subjective" evidence from a reasonably experienced officer. It was agreed that police officers should be provided an outline of the attached documents (attached to the October 2015 meeting minutes that will be circulated to the membership) as an investigational aid to assist them in developing their own skills to sufficiently conduct a MVAR s. 7A.01 investigation to provide a structured and highly articulable prosecution in traffic court complete with cross-examination questions for disputant response.

P. Easton (Dec 23rd email): I can confirm that subsequent to our fall/winter meeting I had several discussions within CVSE program areas. The m/c noise motion, as we agreed to at the meeting will be satisfied with the combined efforts. The enforcement protocol and education efforts and our commitment to make the language current in the applicable regulations. Two formal meetings have been convened at MOTI and my understanding is that the policy branch is now leading the reg change efforts.

Kim Thompson from that group (cc'd here) is in the process of follow up regarding the reg changes. We hope to move as quickly as priorities and resources permit.

Issues on hold:

1. Defining "Distractions" while driving on hold pending RoadSafetyBC public consultation results/recommendations.
2. s.16,s.17
3. School Bus Safety: This issue was forwarded on from the Admin Training Recognition Subcommittee noting that the Enforcement Subcommittee will continue to monitor fines and penalty points. (background can be provided if this issue becomes a concern).

2016/17 ESTIMATES NOTE

Vehicle/Motorcycle Noise

Suggested Response:

- Noisy vehicles, including motorcycles, are not a public safety issue. However, government recognizes the negative impact of excessive vehicle noise on communities.
- The enforcement option within the *Motor Vehicle Act Regulations* (s. 7A.01) provides police with a practical roadside enforcement option to charge vehicles emitting loud noise, including noise emitted by exhaust pipes.
- The subjective elements contained in this section remove the need for decibel testing, testing devices, and the training of officers on a specific tool.
- The Enforcement sub-committee of the British Columbia Association of Chiefs of Police Traffic Safety Committee (BCACP TSC) is developing a training and enforcement protocol to assist law enforcement personnel in collecting the evidence necessary to support convictions related to excessive noise from vehicles.

Background:

- The BCACP passed a motion in 2011 asking the Province to examine and adopt a roadside industry standard noise testing protocol known as SAE J2825.
- Following this motion, the Province reviewed its existing legislation and its effectiveness, surveyed North American jurisdictions regarding decibel limits and technical standards, engaged with motorcycle manufacturers through the Motorcycle and Moped Industry Council, participated in testing and demonstrations, and examined other jurisdictional approaches used to address excessive vehicle noise concerns.
- The BCACP TSC Enforcement and Legal/Technical sub-committees have led this effort with involvement from Ministry of Transportation and Infrastructure's (MoTI) Commercial Vehicle Safety and Enforcement Branch (CVSE). Law enforcement agencies worked closely with CVSE policy and technical staff. Current rules regarding vehicle noise, technical standards, enforcement options, authorities, education and training were reviewed and evaluated by the BCACP TSC sub-committees.
- Several communities such as Nelson, Kelowna and the West End neighbourhood of Vancouver have raised concerns about loud motorcycles with the Ministry. It's important to note there are some organizations that advocate that loud pipes on motorcycles are a safety feature that alert vehicles to their presence on the road although there is no credible research to support this position.

Confidential

[Note #]

- This is a complex matter that will continue to be reviewed by MPSSG and MoTI.

Contact: Shannon Tucker

Phone: 604-660-2986

Mobile: 604-369-3087

Perri, Stacey JAG:EX

From: Perri, Stacey JAG:EX
Sent: Wednesday, January 20, 2016 11:47 AM
To: Doug Ferguson
Cc: Staples, Jan JAG:EX
Subject: FW: Motorcycle regulations
Attachments: 20160120104105423.pdf

Hi Doug,

See below inquiry – s.22 _____ is a concerned citizen from Nelson – link to new article <http://www.mynelsonnow.com/16521/residents-petition-against-chronic-vehicle-noise/> - speaks about noise & speeding – the Nelson DP rep was not at the Fall TSC meeting so may not be able to provide an update –

Is there a standard statement that we can use for now?

Thanks for your advice - Stacey

From: Perri, Stacey JAG:EX
Sent: Wednesday, January 20, 2016 11:36 AM
To: 'Deb Kozak'
Subject: RE: Motorcycle regulations

Good morning Mayor Kozak,

Yes, the vehicle noise motion was adopted by the BC Chief's and was moved forward to Government. The Ministry of Transportation is taking the lead – the Traffic Safety Committee will be receiving an update during their March 2nd meeting.

I'll make a few inquiries on the status and get back to you ASAP - Stacey

From: Deb Kozak [<mailto:DKozak@nelson.ca>]
Sent: Wednesday, January 20, 2016 11:19 AM
To: Perri, Stacey JAG:EX
Subject: Motorcycle regulations

Good morning,

I am in a meeting with s.22 _____ who is interested in if the motion to regulate noise in motorcycles has been passed. Can you provide an update?

I am attaching some documents that were shared with me.

Thanks very much,

Mayor Deb Kozak
City of Nelson
101-310 Ward St.
Nelson BC V1L 5S4
(250) 352-8263
www.nelson.ca



Chandra Herbert.MLA, Spencer

From: Perri, Stacey JAG:EX <Stacey.Perri@gov.bc.ca>
Sent: April 15, 2014 10:55 AM
To: Chandra Herbert.MLA, Spencer
Cc: 'Dubord, Neil'
Subject: Excessive Vehicle Noise - BCACP's Resolution

Sending on behalf of Chief Officer Neil Dubord

Mr. Spencer Chandra Herbert, MLA
Vancouver-West End
Parliament Buildings
Victoria BC V8V 1X4
sent via email: s.chandraherbert_mla@leg.bc.ca

Dear Mr. Chandra Herbert,

Thank you for your letter dated March 3, 2014, addressed to Deputy Chief Constable Len Goerke, President of the BC Association of Chiefs of Police (BCACP), in which you requested information pertaining to BCACP's recommendations related to loud vehicle noise.

At the November 16, 2011 BCACP meeting the membership adopted the following resolution:

WHEREAS, excessive motor vehicle noise routinely disturbs peace and enjoyment of countless British Columbians, and

WHEREAS, many years ago the British Columbia Legislature recognized the need for and approved limits and testing protocols for motor vehicle exhaust noise within the Schedule pursuant to Division 7 of the *Motor Vehicle Act Regulations*, and

WHEREAS, those Inspection Facilities where those tests could be performed are no longer in operation, and

WHEREAS, a Society of Automotive Engineers standard known as J2825 developed through Transport Canada outlining the testing procedure of motorcycle exhaust noise exists and has been accepted and is in use in other jurisdictions in Ontario, New Brunswick, Alberta and the State of Maine.

THEREFORE BE IT RESOLVED THAT the BCACP recommend to Government that regulations be changed to add the SAE J2825 as the protocol to test motorcycles providing acceptable and standardized evidence of excessive exhaust noise.

This resolution was forwarded to the Honourable Blair Leckstrom, former Minister of Transportation and Infrastructure for consideration in January of 2012 and it is my understanding that the Ministry of Transportation is continuing to review this recommendation.

The BCACP appreciate your support in addressing this important public annoyance issue.

Sincerely,

Neil Dubord, Ph.D. CHRP
Chair, BCACP Traffic Safety Committee

Enforcement Sub-Committee
2016-03-01

Participants: Co-Chairs: Douglas Ferguson
Terry McLachlan

Members: Sgt. Ron Cronk, VicPD
Perry Dennis, CVSE, MoTI
Insp. Martin Dey, RCMP NDTs
Sgt. Don Erichsen, EKTS
Sgt. Jim Fiddler, VPD
Cpl. John Graham, PGTS
Sgt. Lorne Lecker, DITS
Cst. Ron Miciuk, COTS
Cst. Andrew Spanos, CN Police
Clayton Steiro, Road Safety Program Delivery, ICBC
Kristen Vanderkuip, PTB, MoTI

Guests: Cst. Andy Dunstan, CRD IRSU
Insp. Al Ramey, Island District Traffic Officer
Sgt. Alex Yelovatz, CRD IRSU
Judy D'Gal, RoadSafetyBC
Jill Blackwell, ICBC

Regrets: Cpl. Tom Brannigan, EK IRSU

Old Business:

1. Turning at Intersection: s. 165 MVA – Unclear as to which lane vehicle is required to turn into. Sgt. Lecker advises this was brought forward by a JJP to table. Images in the ICBC Driver Handbook indicate turn into nearest lane of travel direction, but MVA is unclear. It was decided to leave the language as is. Phil Easton motioned that JJPs should be provided training by Crown. Ferguson seconded it.
2. Jaywalking: s. 65(1) MVA – Sgt. Lecker identified an issue with the current prescribed fine in BC = \$109 as it provides little deterrence. Problem – statute requires the jaywalking to have an effect on something. Surrey bylaw cited as quite fulsome and effective. Victoria treats skateboards as pedestrians. Education of public is critical. Decision was that 65(1) works sufficiently.
3. s.13
4. s.13

Update: Special Provincial Constable Designation can be sought via Ms. Corinne Alexander at PSB.

5. Vehicle (Motorcycle) Noise: (Motion #1-2011) subcommittee discussed the SAE J825 test equipment noting that conditions at the roadside are not always ideal to use this type of testing; it was suggested that an information package be created outlining how to deal with vehicle noise under the current legislation.

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3. School Bus Safety: This issue was forwarded on from the Admin Training Recognition Subcommittee noting that the Enforcement Subcommittee will continue to monitor fines and penalty points.

School Buses: On UBCM's Agenda. Issue is ongoing but fine amount is not substantive (second lowest in Canada):

PEI: \$1000 - \$5000

SK: \$360

NFLD: 6 Pts, 1stx \$115; 2ndx \$230	AB: \$543
NS: \$394.50	YT: \$230
NB: \$1050 + No DL	BC: \$167
MB: \$557 + up	NWT: \$115

Motion: Passing school bus in BC currently carries 2nd lowest fine in country at \$167, needs to be put in line with other jurisdictions. (SC is monitoring MVA Fine Review currently ongoing to see if this one is raised).

New Business:

1. For consideration when drafting the 2017 Provincial Enforcement Campaign Schedule:
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As a compromise, I proposed that since pedestrian crashes are primarily an urban phenomenon and because the same seasonal changes affect both Pedestrian Safety and Speed Relative to Conditions, perhaps both should occur simultaneously with enforcement responsibility divided along provincial (speeding) and municipal (pedestrian) enforcement lines.

In lieu of the ideas discussed on this topic, I think it should be revisited at our Fall 2016 subcommittee meeting to seek member input; then, if supported there, we could advance a motion to the general TSC.

2. s.15,s.16

3. Smoking in Cars (Sgt. Lecker)

MVA s. 231.1(1) prohibits smoking of tobacco ONLY in vehicles occupied by persons under 16 yrs old. Sgt. Lecker recommends that^{s.13}

s.13

s.13

Motion by Lecker, Seconded by Graham.

Motion forwarded to TSC General Meeting where it was carried per formal Motion.

4. Electronic Devices Enforcement (Sgt. Lecker)

s.13

Decision: Due to ongoing fines review by RSBC, issue will be tabled until Fall 2016 E-SC meeting.
- Attachment

5. Logs (CVSE) Hours of Service (Cpl. Graham)

- For awareness and discussion only;
- Legislation requires Log to be signed with signature;
- National push in Canada and USA toward electronic logs;
- Some truckers utilizing log book within their encrypted access PDAs and when ordered to produce by officer, they flash it up then close it preventing opportunity for officer to properly inspect it.
- Electronic platform must meet all elements required in statute, e.g., on the vehicle.
- If encountered, police should strictly/thoroughly examine log and charge if it does not meet all elements.
- Perry Dennis advises that members should alert CVSE of any cases where access is not provided as outlined above.

6. Excessive Speeding (Insp. Dey)

- For awareness and discussion only;
- VI administrative process (Threshold is Reasonable Probability), VT issued (MVA threshold – beyond reasonable doubt);
- Judy to take back to RoadSafetyBC

7. ICBC System Changes BN (Clayton Steiro)

Clayton alerted E-SC to ICBC Systems Upgrade and produced a BN for reference that highlights changes that will minimally impact police.
- Attachment

Steiro also advised that he has been reassigned and will no longer be attending as ICBC representative to E-SC. Thanks to Clayton for his participation and input on the E-SC. Clayton introduced Jill Blacklock as his replacement. Jill has sat on the E-SC previously.

8. Justin Scheduling Issues at EKTS (Sgt. Erichsen)

- For awareness and discussion only;
- Months in advance, EKTS members blocked themselves as unavailable for court in JUSTIN the week prior to 2016 May Long Weekend to ensure member availability for enforcement scheduling;
- Notwithstanding, EKTS members have been scheduled for traffic court that week, which renders them unavailable for adjusted shifts;
- Discussion – Isolated to EKTS, possibly based on availability or previous blocking of dates by other units.
- Ferguson alerted LP&T-SC member Alvin Lau of Criminal Justice Branch to look into this matter.

Page 74 to/à Page 77

Withheld pursuant to/removed as

s.15

Lorne LECKER - Originally sent 2015-06-05

From: Lorne LECKER
To: DEY, Martin
Date: 2015/06/17 4:28 AM
Subject: Originally sent 2015-06-05
CC: Boucher, Denis; FERGUSON, Douglas; LABOSSIERE, Michael; SHEA, Leisa
Attachments: BC Reg 308 2009 cell phones_1.pdf; leckerdrivethru_1.png

Originally sent 2015-06-05

Please note the updates to my suggested charges (in green)

As any officer that has every worked a Counterattack roadblock or seatbelt check is well aware the number of vehicles that roll up with the driver having an electronic device on their lap, in their cup holder, on the dash, or in their close proximity is epidemic in scope.

Earlier this week I had the pleasure to assist Tim Hortons' in their charity day to raise money for sending lower income children to summer camp. The first position I was assigned was handing out the coffee from the drive through window. (See attached photo).

I found this to be a frustrating task as I counted well over 80 per cent of the drivers coming through the drive thru with an electronic device on their laps, in the cup holders, or on the seat next to them. The majority of these phones had not yet timed out and the screens were displaying either text bubbles, apps or other screens to show that the devices were being used while driving.

In a majority of traffic stops the member will observe an electronic device in a similar position indicating it is being used while driving but the member, without observing the offence red handed, can not lay a charge.

I am proposing that when the BCACP Traffic Enforcement Sub Committee meets again in November we consider the following changes to the Motor Vehicle Act electronic device legislation. (Proposed changes are in RED.)

214.1 *In this Part:*

"electronic device" means

(a) a hand-held cellular telephone or another hand-held electronic device that includes a telephone function,

(b) a hand-held electronic device that is capable of transmitting or receiving electronic mail or other text-based messages, or

(c) a prescribed class or type of electronic device;

"use", in relation to an electronic device, means one or more of the following actions:

- (a) holding the device in a position in which it may be used;**
- (b) operating one or more of the device's functions;**
- (c) communicating orally by means of the device with another person or another device;**
- (d) taking another action that is set out in the regulations by means of, with or in relation to an electronic device.**
- (e) having an electronic device readily available. Readily available does not include:**
 - (i) being located inside a closed storage compartment , or closed personal handheld baggage.**
 - (ii) Installed so that it is securely fixed to the motor vehicle in a manner that does not obstruct the driver's view of the front or sides of the motor vehicle or interfere with the safety or operating equipment of the motor vehicle.**
 - (iii) worn securely on the person's body**
 - (iv) an electronic device that is under the direct care and control of another person seated in the front seat of the motor vehicle.**

214.2 (1) *A person must not use an electronic device while driving or operating a motor vehicle on a highway.*

(2) Without limiting subsection (1), a person must not communicate by means of an electronic device with another person or another device by electronic mail or other text-based message.

Please note that the terminology used to describe the electronic device worn securely on the person or affixed to the vehicle is taken from the existing BC MVA Regulation 308/ 2009 attached.

I feel that this would give BC enforcement officers the tool they need to enforce the law as it exists with only a minimal change to the definition section. The remainder of the electronic device section would not change.

Drivers could still have access to their phones while driving however the phones must be worn in pouch on their person, in a purse or briefcase etc., in a windshield mount, or inside a closed centre console or glove compartment.

This addition would also help clarify such controversial terms such as "holding" a device. This would be a very simple concept for ICBC, police and media to get across to drivers. If a driver has access to a phone, other than in the conditions laid out in the new 214.1(e) section they are committing an offence.

Sgt. / Serg. Lorne E. LECKER
Detachment Commander / Chef de Detachement

RCMP / GRC
Deas Island Detachment / Detachement Deas Island

Lower Mainland District Traffic Services

Unit 104- 14245 56 Avenue, Surrey, BC
Desk: (778) 290-2405
Office (778) 290-2400
Fax (604) 598-1447
Cell (604) 833-4724

Ad Astra Per Aspera

Impoundment of motor vehicle

251 (1) If a peace officer has reasonable grounds to believe that a person

(a) has driven or operated a motor vehicle on a highway while the person is prohibited from driving a motor vehicle under

- (i) this Act, or
- (ii) the *Youth Justice Act*, the *Youth Criminal Justice Act (Canada)* or the *Criminal Code*,

(b) has driven or operated a motor vehicle on a highway while the person's driver's licence and his or her right to apply for or obtain a driver's licence are suspended under section 89 (1) (b) or (c), 232 or 233,

(c) has driven or operated a motor vehicle on a highway while

- (i) the person did not hold a subsisting driver's licence issued under this Act and was not exempt under section 34 from holding a driver's licence issued under this Act, and
- (ii) a notice under section 252 was in place on the driving record of the person,

(d) has committed an offence under section 148,

(e) has driven or operated a motor vehicle on a highway ^{Excessive Spdy.} in a race or in a stunt and the peace officer intends to charge the person with a motor vehicle related *Criminal Code* offence or an offence under section 144 (1), 146 or 148 of this Act, or ^{See Case/Alcohol}

(f) has committed an offence under

- (i) section 194 (1) or (2), or ^{MC not seated}
- (ii) section 25 (15) by violating a requirement, restriction or condition prescribed under section 25

in relation to a driver's licence that allows the person to drive or operate a motorcycle, which requirement, restriction or condition is specified in the regulations for the purposes of this provision,

VERSION 1

(g) has committed an offence under section 214.2 or, if the driver is the holder of a class 7 or 8 drivers licence, under section 25(15) in regards to using an electronic device.

VERSION 2

(g)(i) has committed an offence under section 214.2 or, if the driver is the holder of a class 7 or 8 drivers licence, under section 25(15) in regards to using an electronic device and

(ii)) a notice under section XXX was in place on the driving record of the person (flag to be put on drivers licence only after prior conviction for electronic device offence)

the peace officer or another peace officer must

(g) cause the motor vehicle to be taken to and impounded at a place directed by the peace officer, and

(h) if paragraph (c) of this subsection applies, serve on the person a notice of driving prohibition in the form established by the superintendent.



BRIEFING NOTE

I. Prepared for: BC Association of Chiefs of Police – Traffic Safety Committee, for INFORMATION

II. Subject: ICBC Systems Upgrade

III. Background:

- ICBC is modernizing its aging legacy sales and administration infrastructure, including its insurance and vehicle registration & licensing systems. The project is the largest of its kind in the insurance industry, with multiple interfaces both inside and outside of ICBC.
- ICBC is currently testing the new system and its integrations. Implementation is anticipated in the second half of 2016.

IV. Discussion:

- The new system will include changes to some insurance data police currently view through CPIC. Based on initial consultations done with the Vancouver Police Department and RCMP, the impact is minimal.
- The changes are:
 - Policy Status and Expiry
 - ICBC understands CPIC users primarily use Policy Status (Active or Inactive) to determine coverage status and this will be unchanged.
 - However, the termination date for policies with a "terminated" status may be after today's date. If the policy is cancelled after 2PM, the termination date will show tomorrow.
 - Policy Address
 - The address returned from 1027 (Driver Licence Inquiry) is the driver's residential address from their driver license.
 - The address returned from 1028, 1068, 1048 is the address as it would be on the policy/certificate, and may not be the residential address. Currently "M/A" is used to signify mailing address on first address line. After implementation "M/A" will no longer be used. This is expected to impact approximately 9% of insurance policies.
 - Format of the Date Capture ID (DCID) on Policy Certificate
 - Will change from the current Julian date (JJJHHMMSS) to a more standard date form (YYMMDDHHMMSS). This will improve ease of interpretation
- ICBC will be developing materials to share with police and will distribute them closer to the implementation date.