

# ***Missing Persons Act Fact Sheet***

## **What is the *Missing Persons Act*?**

The *Missing Persons Act* will help the RCMP to locate a person quickly when they are reported missing. It allows fast access to important personal information that can help locate a person, such as their telecommunications, financial and health records. The information collected may only be used to locate the missing person. Sharing of any information by the RCMP is strictly limited, and may only occur in the situations that are well defined in the Act and Regulations. Several checks and balances are built into the Act to ensure that Yukoners' privacy rights are respected.

## **Why now?**

Missing persons legislation is now in force in many Canadian provinces and is expected take effect across the country in the next few years.<sup>1</sup> The Yukon's *Missing Persons Act* came into force on October 16, 2023.

## **How does the Act work?**

The Act expands the tools available to the RCMP when attempting to locate missing individuals. A "missing person" is defined as:

- an individual whose whereabouts are unknown and who has not been in contact with people who they would likely be in contact with; or
- an individual for whom there is a reasonable fear for their safety, taking into account the circumstances surrounding their absence.

If a person fits this description and cannot be located after making reasonable efforts to do so, they are considered a missing person. Tools the Act provides include:

### **Orders for access to the missing person's personal information**

RCMP members can apply to the Territorial Court for orders allowing them access to personal information and records belonging to the missing person. This includes records such as the person's texts, cell phone, banking, travel, internet browsing and health records that will help them to locate the missing person.

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<sup>1</sup> Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan each have a *Missing Persons Act* similar to the Yukon's.



### **Third party record access orders and search orders**

If the missing person is under 19, is a vulnerable person, or is at a high risk of harm, there are provisions in the Act that allow the RCMP to obtain records of a third party who is believed to be with the missing person. The RCMP may also apply for an order to search that person's residence or other premises. In these situations, access can only be granted if the RCMP member can show a judge that there are reasonable grounds to believe the missing person is with the third party or on their property, and that they made reasonable efforts to obtain the property owner's consent to enter the premises or view their records.

### **Emergency demands for records**

When there is an imminent risk of serious harm to a missing person, or a concern that important records will be destroyed, the Act authorizes officers to make an Emergency Demand for Records without going through the court. The Emergency Demand for Records must be in writing and the RCMP member must file a written notice with the commanding officer every time an Emergency Demand for Records is made. The RCMP must also publicly report each year on the number and types of emergency demands made under the Act.

## **Are there checks and balances in the Act?**

The Act is designed to strike the right balance between police powers and maintaining privacy safeguards. This is done in several ways:

### **Limits on use of information and records**

The RCMP may only use information gathered to locate the missing person. The information cannot be used for any other purpose, except for a criminal investigation of the person's disappearance. Once the person is found, records collected must be destroyed within 90 days.

### **Oversight by courts**

All orders must be granted by the Territorial Court. This is possible only once the judge is satisfied that the record may help to locate the person. Judges can impose restrictions or limits on the order as appropriate, including the timing and type of records that can be accessed.



### **Limits on disclosure**

Information collected is confidential and cannot be released publicly, unless a release is needed to locate the person. In those cases, the information must be limited to the person's name, age, physical description, vehicle information, medical condition (if it threatens their immediate health), location they were last seen and circumstances surrounding their absence. If the person is found, the RCMP may announce that they were located, but no further information can be shared (including their location) without the person's consent.

In cases where a located missing person is a minor or a vulnerable person, the Regulation allows the RCMP to disclose information to parents, guardians, and people responsible for the missing person's care if the disclosure will help to protect the missing person's safety.

### **Reporting and review requirements**

The RCMP must report to the Minister of Justice and publicly publish statistics on their use of orders and Emergency Demands for Records each year. The statistics will not contain any information that can identify a missing person. A review of the Act and its use will occur every five years.

