

April 2014

Privacy Commissioner's Report on Police Information Checks Released

[Nicole Skuggedal](#)

On April 15, 2014, the Office of the Information and Privacy Commissioner for British Columbia (the "Privacy Commissioner") issued a report regarding the use of police information checks in British Columbia (the "Report").

The main focus of the Report is the scope of information provided in police information checks. Currently police information checks include information about prior convictions, outstanding charges, and non-conviction information such as adverse police contact, investigations that did not result in charges and apprehensions under the [Mental Health Act](#). Police agencies no longer provide criminal record checks which are restricted to information on prior criminal convictions.

The Privacy Commissioner's recommendations include that government and police boards should cease providing mental health information in all circumstances and should only provide non-conviction information for positions working in the vulnerable sector, i.e. with children and at vulnerable adults.

At this stage these are only recommendations. However, it is likely that police agencies will be more cautious with the information they disclose in police information checks. The Attorney General has also stated that she will consider whether legislation should be enacted limiting the scope of information disclosed in police information checks as recommended by the Privacy Commissioner.

From an employer's perspective, a key aspect of the Report is the Privacy Commissioner's discussion regarding collecting personal information via police information checks. Even if an individual consents to an employer or prospective employer collecting their personal information via police information checks, the collection still needs to be "reasonable" for private sector employers and "necessary" for public sector employers. The Privacy Commissioner noted that whether the collection is reasonable or necessary is a contextual analysis that will depend on the specific position the police information check is requested for and the scope of information provided.

Employers should exercise caution when requiring police information checks. Police information checks should only be required where they are necessary for the position. Such caution is warranted given the broad scope of information currently disclosed by police agencies and the fact that we



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anticipate the Privacy Commissioner will be taking a keen interest in privacy complaints involving police information checks going forward.

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