

MEMORANDUM TO: All Chiefs of Police and
Commissioner Thomas Carrique
Chairs, Police Services Boards

FROM: Stephen Beckett
Assistant Deputy Minister
Public Safety Division and Public Safety Training Division

SUBJECT: *Missing Persons Act, 2018*

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I am writing to inform you that the *Missing Persons Act, 2018* (the act) will come into force on **July 1, 2019**. A regulation under the act has been filed. The act and regulation will be available online through Ontario's e-Laws website in the coming days.

Overview of the Act

The act will help police officers respond to missing persons occurrences by providing them with the ability, in certain circumstances, to:

- Obtain a court order for a person or entity to produce records that would assist in locating a missing person;
- Obtain a search warrant to allow entry onto a premises to locate a missing person; and
- Make an urgent demand for records without judicial authorization.

The act also sets out tests to obtain judicial authorization to access records and search premises, and to execute urgent demands for records.

Overview of the Regulation

The regulation provides operational clarity regarding urgent demands for records and annual reports.

Urgent Demands for Records

Under section 5 of the act, an officer who makes an urgent demand for records is required to:

- Provide a written report to a member of the police service, designated by the chief of police, which outlines the records that were demanded, and how the requirements under the act for an urgent demand for records were met; and
- Make reasonable efforts to provide notice to a person whose information has been produced from an urgent demand for records.

The regulation specifies:

- The time period within which an officer is required to provide a written report to the designated member of the police service, which is within 30 days of making an urgent demand for records; and
- The protocol for providing notice to a person whose information has been produced pursuant to an urgent demand, which includes:
 - That the notice must include a description of the information the officer accessed, and contact information for a member of the police service;
 - That the notice may be provided verbally or in writing; andIf notice is provided verbally, the officer shall provide a written copy of the notice upon the person's request.

Annual Reports

Under section 8 of the act, police services are required to report annually on the use of urgent demands for records by members of the police service. This includes:

- The total number of urgent demands made that year and the number of missing persons investigations to which they related; and,
- A description of the types of records specified in the urgent demands for records made in that year.

The regulation specifies:

- The date by which the annual report must be prepared by the chief of police or Commissioner of the Ontario Provincial Police, as applicable, and a copy provided to the appropriate entity (police services board, entity, or Minister), which is by April 1 in a format approved by the Minister;
- The date by which the board, entity, or Minister that receives the report shall make the report available to the public by posting it on a website, which is by June 1 in the year the report is received;
- In addition to the contents required under subsection 8(4) of the act, the annual report must also contain:
 - The total number of times that different types of records listed in subsection 4(2) of the act were specified in the urgent demands made in that year; and if applicable, a description of any types of records not listed in subsection 4(2) of the act.

Forms and Templates

The ministry has developed forms and templates to access the powers afforded by the act and to assist in meeting reporting requirements. For example, the legislation requires that applications for production orders and search warrants are made in a form approved by the Solicitor General, and the regulation requires that the annual report is prepared in a format approved by the Solicitor General.

The forms include:

- Form 1: Information to Obtain a Warrant Authorizing Entry (0260)
- Form 2: Warrant Authorizing Entry, issued by the Justice (0261)
- Form 3: Information to Obtain an Order for the Production of Records (0262)
- Form 4: Order for the Production of Records, issued by the Justice (0263)
- Form 5: Urgent Demands for Records, issued by the officer to demand records from a person or entity (0264)

The templates include:

- Form 6: Urgent Demand for Records – Internal Reporting Template
 - To assist in meeting the reporting requirement under section 5 of the act.
 - Use is optional.
- Form 6A: Urgent Demand for Records Report – Appendix
 - Includes fields of information that are not required by the act, but could be used by the police service to track information about the investigation if the police service would like to do so.
 - Use is optional.
- Form 7: Annual Report Template
 - Includes fields of information that chiefs of police are required to report on.
 - Use is a regulatory requirement.

Forms 1 through 5 are publicly available through Ontario's Central Forms Repository and can be accessed by typing "missing persons" into the search tool at this link: [Ontario's Central Forms Repository](#). The forms can also be searched by form name or form number.

Accessing the forms through the Repository will ensure that any new versions that may be created will be readily available to police services and court staff.

Prior to July 1, 2019, the templates will also be made available through Ontario's Central Forms Repository.

Sealing of Court Documents

The ministry recognizes that there may be a need to request judicial authorization to seal information related to a production order or search warrant issued under this act, similar to the process in the criminal context. However, section 487.3 of the Criminal Code and the existing form to issue the sealing order does not apply within the missing persons context, where there is no evidence of criminal activity.

If a sealing order is required within the missing persons context, an officer may ask the court to issue it based on a common law test. Officers should speak to their legal counsel or Crown counsel regarding this ability, should it be necessary.

Next Steps

Training materials are in development and will be shared through the Ontario Police College Virtual Academy in the near future, for police services that may wish to access them.

Should you have any questions, please feel free to contact Ady Ibarguchi, Director, Community Safety and Corrections Policy Branch at Adriana.Ibarguchi@ontario.ca or 416-212-4025, or Nicole Peckham, Manager, Community Safety and Corrections Policy Branch at Nicole.Peckham@ontario.ca or 416-212-3556.

Thank you for your continued support and collaboration to bring this important legislation into force.

Sincerely,

A handwritten signature in cursive script, appearing to read "S. Beckett".

Stephen Beckett
Assistant Deputy Minister
Public Safety Division and Public Safety Training Division