



## Section 43 Review – Public Notifications of High-Risk Offenders

Prepared by Policing and Security Branch

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## Executive Summary

On February 9, 2024, Taylor Dueck, a repeat sex offender out on court-ordered probation, was arrested on charges of sexual interference and invitation to sexual touching of a minor. Following this incident, the Minister of Public Safety and Solicitor General (PSSG) requested that the Director of Police Services use their authority under Section 43 of the *Police Act* to inquire into current public notification policies of high-risk offenders (HRO) utilized by police agencies and make recommendations for potential reform pertaining to public notification policies and procedures.

This review identified four major policy gaps in BC's HRO public notification process (also known as "public interest disclosures"):

s. 13, s. 16, s. 17

Other jurisdictions, like Alberta and Manitoba, have implemented high-risk offender protocols, committees, and in some instances, public-facing websites that house the public notifications. s. 13

s. 13

There are five recommendations for the Minister of Public Safety and Solicitor General and the policy area responsible for this work in PSSG:

s. 13

This report provides an overview of BC's public notification process and policies; a jurisdictional scan comparing processes, policies, and protocols across Canada; and recommendations for public notification

policy reform in BC. Scope is limited to public notifications, and the report will not make recommendations related to the supervision of HROs or comment on the effectiveness of the current risk assessments.

## Introduction

On February 9, 2024, while on court ordered supervision for committing a sexual offence, Taylor Dueck was arrested for another sexual offence. As such, on April 16, 2024, the Minister of Public Safety and Solicitor General requested that the Director of Police Services, under Section 43 of the *Police Act*, inquire into current public notification policies of high-risk offenders, and to make recommendations pertaining to policies and procedures of public notification for potential reform.

Two reports will be completed for the Minister. The first, ***Inquiry into February 9, 2024, Incident pursuant to s. 43 of the Police Act***, details the specific findings related to the aforementioned incident. This second report includes a broader investigation into current public notification policies of high-risk offenders utilized by police agencies and recommendations pertaining to policies and procedures of public notifications for potential reform.

In addition, the Ministry of Attorney General Investigation and Standards Office is conducting a concurrent investigation into the community supervision of Dueck and notification practices under section 28(2)(b) of the *Correction Act*.

To assist with the development of the report, Policing and Security Branch (PSB) requested and reviewed police policies and procedures related to public notifications of high-risk offenders. Interviews were also conducted with various stakeholders, including the Royal Canadian Mounted Police (RCMP), municipal police agencies and BC Corrections. PSB also completed a review of relevant legislation, existing protocols and MOUs, and conducted a jurisdictional scan to better understand practices across Canada.

It is important to note that the scope of this report is limited to public notifications, and it will not make recommendations related to the supervision or risk assessments of high-risk offenders in BC. It is intended to make recommendations related to public notifications about a specific, known individual who poses a risk to the public at large or an identified group.

## Background

### High-Risk Offender

One of the challenges the report faced was consensus on the term “high-risk offender.” Various definitions are used in policies, MOUs, protocols, and other guiding documentation. Without a legal definition, the report relies on a vague interpretation that a high-risk offender is someone assessed as being high-risk to re-offend by the primary agency.

Section 753, Part XXIV, of the *Criminal Code* classifies offences, establishes court processes, and sentencing provisions for individuals designated as *long-term* and *dangerous offenders*. Not all prolific, violent, or sexual offenders will meet this established threshold so the criteria for designation does not assist with providing a broader definition of “high-risk. As such, since there is no formal definition of “high-risk

offender” it is recommended that a threshold be determined for police and BC Corrections to consider, as well as the offending characteristics of the individual, before issuing a public notification.

## Public Notifications

Public notifications are used with the intent of increasing public safety and awareness. The notifications are typically released by police agencies or BC Corrections to warn the public of a high-risk offender re-entering the community. Public notifications usually occur through media releases and often include basic information on the offender, including a picture, a summary of their criminal history, and any restrictions (i.e., court conditions) placed on the offender. These alerts are intended to raise awareness in a community to allow the public to take necessary precautions where warranted.

Ensuring that the public notification warning is received by the target audience is important for its intended purpose and effectiveness. Public notifications are sometimes addressed to particular groups who may not be reached through traditional media outlets (e.g., marginalized individuals) so police agencies often utilize specialized units (e.g., Sex Worker Liaisons) or community agencies to assist with disseminating information.

Police agencies and BC Corrections use various risk assessment tools to evaluate offenders' potential to reoffend or pose a risk to the community. These tools may include structured professional judgment, actuarial risk assessments, and dynamic risk assessment instruments. Information is gathered about the offender's criminal history, behaviour patterns, psychological assessments, and any other relevant information from various sources such as court records, probation or parole reports, victim statements, mental health evaluations, and interviews. The collected information is then analyzed to identify risk factors associated with the offender, such as the nature and severity of past offenses, history of violence or sexual misconduct, substance abuse issues, mental health problems, and lack of remorse or insight. If either agency assesses that the offender is likely to pose a high risk to the community, correctional services or police agencies may consider a public notification. For police, the final decision to perform public notifications is typically made by senior police leaders (e.g., Chief Constables or Officers in Charges), and when BC Corrections pursues a public notification, the Deputy Minister authorizes the final decision.

Overall, the decision-making process as to whether a public notification should be issued is complex, as all involved agencies must balance the public's need for safety, the offender's reintegration into society, as well as their right to privacy.

## Privacy Legislation - Freedom of Information and Protection Privacy Act (FOIPPA)

In BC, the FOIPPA governs both the duty to protect and to disclose personal information in BC. FOIPPA mandates that the head of a public body disclose information in the public interest under s. 25(1) if they have deemed a risk of significant harm to people or the environment or where public disclosure is clearly in the public interest. The heads of public bodies are to weigh each case on its own merits and assess:

- The level of harm anticipated;
- The degree of risk that the harm will occur;
- The immediacy of the harm; and
- The right of the public to make informed choices about the risks to which they are exposed.

The RCMP apply for public interest disclosures (public notifications) under Section 8(2)(m) of the federal *Privacy Act*. The *Privacy Act* requires that personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be disclosed by the institution unless:

- the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure, or disclosure would clearly benefit the individual to whom the information relates.

The RCMP detachment where the individual is residing will make every reasonable effort to notify the individual of the pending *Public Interest Notification* and to confirm with (not seek approval from) them that their biographical information, photograph and other details are current and accurate.

## Police Policies and Findings s. 15

The Director of Police Services requested policies from the RCMP, and all municipal police agencies related to public notifications for high-risk sexual offenders.

Specific to BC police agencies' policies, the following high-level observations were made:

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s. 15

s. 15

Prior to any public disclosure or notification, as above, there is a rigorous test to determine a) is the public notification process the appropriate process; and b) whether the circumstances warrant the extraordinary use of the public notification process. Any RCMP public notification would also be subject to additional scrutiny by the

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<sup>1</sup> Duty to Warn Notification occurs when police provide a warning to a person who is the subject of a Credible Threat to their life or safety.

RCMP's Access to Information and Protection of Privacy (ATIP) Branch and the Federal Privacy Commissioner, although the RCMP requires the approval of neither before using an emergency PID.

The RCMP provided the Office of the DPS with a copy of the assessment they use when seeking approval for a public notification. The Commanding Officer of E-Division is ultimately responsible for approving the application which includes an assessment of:

s. 15

While there are not currently any specific details or mandatory requirements outlined by the Ministry of Public Safety and Solicitor General regarding public notifications, the BC Association of Chiefs of Police (BCACP) created a Best Practices Guide in 2017. Although the purpose of the guide was broader than public notifications as defined by this report, it does speak to some of the criteria police agencies should consider and referenced the existing protocols in BC.

## Existing Protocols in BC

One of the objectives of the review was to examine existing protocols guiding information-sharing and decision-making processes related to public notifications. The policy scan revealed two reports authored by the BCACP related to the topic and flagged the existence of a provincial committee that consult regarding community release conditions and supervision planning for high-risk individuals serving a federal jail sentence. The documents outline best practices and are not binding for police agencies. Various police agencies have implemented the processes to different degrees, resulting in inconsistent practices. The two reports are outlined below.

### ***“BCACP Missing Women Commission of Inquiry Advisory Committee - Police Warnings: A Best Practices Guide”*** s. 15

In June 2017, through the BCACP Missing Women Commission of Inquiry Advisory Committee, the Police Warnings: A Best Practices Guide (“the Guide”) was prepared. The Guide is intended to assist police agency decision-makers responsible for issuing various types of warnings to individuals and to the public.

With respect to public notifications, the Guide provides an overview of the flow of information, primarily focusing on the process related to federal offenders who have completed their entire sentence because they were deemed too dangerous for release on parole or statutory release. These processes are legislated through the [Corrections and Conditional Release Act](#).

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<sup>2</sup> An 810.1 is an order where there is reasonable fear that sexual offences will take place.

## ***“High Risk Offenders Protocol: Police Information Sharing & Offender Management Strategies” s. 15***

In June 2019, a related document was developed for the BCACP MWCI Special Purpose Committee titled *High Risk Offenders Protocol: Police Information Sharing & Offender Management Strategies* (the “Protocol”). The Protocol provides an inventory of police best practices regarding information sharing across police jurisdictions when investigating offences committed by predatory offenders, particularly those who offend in multiple jurisdictions. It also outlines strategies to manage high risk offenders when they are released into the community.

There is limited information in the Protocol or the Guide about the role of BC Corrections and how police can best liaise with the organization regarding these provincial offenders

### ***High-Risk Recognizance Advisory Committee (HRRAC)***

The High-Risk Recognizance Advisory Committee (HRRAC) was referred to throughout various policy and open-source documents. HRRAC consults regarding community release conditions and supervision planning for high-risk individuals serving a federal jail sentence that are detained to their warrant expiry and are the subject of court proceedings in relation to an application for:

- a section 810.1 recognizance order due to risk posed for committing a sexual offence against a child under 16, or
- a section 810.2 recognizance order due to risk posed for committing a serious personal injury offence, which can include violent and/or sexual offences.

The committee is chaired by BC Corrections and receives stakeholder input from:

- [Correctional Service Canada](#);
- [Criminal Justice Branch](#),
- BC Prosecution Service;
- [Royal Canadian Mounted Police](#);
- [Vancouver Police Department](#) (or other [municipal police detachments](#));
- [Victim Safety Unit](#); and
- Other agencies as needed

## **Information-Sharing for Public Notifications**

s. 13, s. 16, s. 17

Correctional Services Canada does have a [Commissioner’s directive \(701\) on information sharing](#) which applies to staff sharing offender information in various contexts. The directive outlines requirements under

the *Correctional Services Act* and general considerations when sharing information with the public and police agencies.

## Flow of Information

Both on a federal and provincial level, in Canada, assessing whether an offender is high risk and deciding whether to issue a public notification typically involves a multi-step process and collaboration between law enforcement agencies, correctional services, and other relevant authorities.

The federal public notification process is initiated by Correctional Services Canada (CSC). The CSC notifies police of the release, and it is up to the police agency to decide if a PID is warranted. [s. 13](#)

[s. 13](#)

[s. 13](#)

This report determined that there seems to be an informal, three-step process for determining whether to issue a “limited” or “full public” notification about offenders under community supervision with BC Corrections:

[s. 15](#)

Two infographics have been completed to describe the provincial and federal public notification processes [s. 15](#) [s. 15](#)

[s. 13](#)

## Centralized Record Keeping

s. 13, s. 16, s. 17

## Jurisdictional Scan s. 15

A jurisdictional scan was completed to compare how other Canadian provinces and territories manage high-risk offender public notifications.

Manitoba was the first province in Canada to set up a Community Notification Advisory Committee that accesses cases brought forward from police. Manitoba is also unique in that the province has different levels and types of public notifications. Since the implementation of the program, three other Canadian provinces mirrored Manitoba's approach. To enhance information sharing, Alberta developed a MOU between government and police agencies and utilizes a publicly accessible offender website to monitor public notifications/media releases.

Adapting a similar model as Manitoba, with the use of a Notification Advisory Committee and a formal MOU like Alberta, would need to involve the provincial government in some way to help manage or coordinate the process related to public notifications.

## Recommendations

The following recommendations and the content in this report are submitted to the Minister of Public Safety and Solicitor General for consideration:

s. 13

## Conclusion

Public notifications are intended to give the public the ability to protect themselves and their families from high-risk offenders. Media releases may assist with developing deeper connections between police agencies and the communities they serve. s. 16

s. 16

s. 16 Six recommendations were put forward for consideration and can be actioned once an area in the Ministry of Public Safety and Solicitor General is identified to monitor and lead this work.