



**NEWS RELEASE**  
**For Immediate Release**  
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**B.C. government must change employee criminal record check policy, Privacy Commissioner finds**

**VICTORIA** — In an investigation report released today, Privacy Commissioner Elizabeth Denham is recommending changes to the B.C. government’s use of criminal record checks to vet current and future employees.

“Criminal record checks are important tools to assess a person’s character and suitability for certain positions, such as working with children and vulnerable adults, persons with significant expense authority or unrestricted access to sensitive data and information systems,” said Commissioner Denham.

“However, not every hiring decision needs a record check, and I am concerned about the societal trend towards increased employment-related records checks without clear evidence as to their benefit in safeguarding the workplace.

“Because of the sensitive personal information contained in record checks, there must be a balance between the needs of the employer to collect this information and the privacy rights of the employee.”

Since announcing her investigation into employment-related record checks in March 2011, Denham opted to focus her report on the B.C. government – the province’s largest employer – due to a recent expansion of its security screening policy and the number of criminal records checks it requests from current and prospective employees.

The Commissioner found that several of government’s ‘designated position’ categories requiring criminal record checks were overly broad or otherwise not compliant with the *Freedom of Information and Protection of Privacy Act* (“FIPPA”).

In some instances, government is also unnecessarily conducting ongoing or multiple criminal record checks on the same employee. “Government should not be undertaking regular updates on current employees’ criminal record history without a justifiable reason for an additional check,” said Denham.

Finally, the Commissioner recommended that government report publicly on its use of criminal record checks for employees – including aggregate data on numbers, results and appeals – on an annual basis.

The report includes 16 best practices for employment-based record checks by B.C. public agencies. Best practices for employment record checks by private-sector employers will be issued at a later date.

### **Summary of Findings and Recommendations**

“The current policy of the government of British Columbia with respect to criminal record checks contravenes FIPPA. It fails to achieve the balance required between its business needs as an employer and the privacy rights of employees. The policy should be rectified in accordance with my recommendations.” (Investigation Report F12-03, page 6)

- Government is collecting more information than is necessary to perform a criminal record check on its prospective and current employees and is not in compliance with FIPPA [s. 26(c)].
- Government’s collection of criminal record history for some of its prospective and current employees contravenes FIPPA and it should revise its policy to reduce the number of positions that will require criminal record checks [s. 26(c)].
- Government unnecessarily conducts multiple checks on some employees; for example, on a transfer to a similar position, contrary to FIPPA [s. 26(c)].
- Government does not have authority to re-administer criminal record checks to employees a minimum of every five years. Government should perform ongoing checks not more frequently than every five years and only where an employee exercises a particularly sensitive function that requires ongoing scrutiny.
- Government does not meet the requirements in FIPPA to notify prospective and current employees of the collection of their personal information. It does not clearly set out the information it is collecting and there is no statement regarding the contact information of a government employee who can answer questions from concerned individuals [s. 27(2)].
- Government’s retention of the personal information it collects contravenes s. 31 of FIPPA. I recommend that government retain criminal record checks for one year.
- When government makes substantive changes to its criminal record check policy, it should update its privacy impact assessment and provide my office with the opportunity to review and comment on the changes.

- In order to promote openness and transparency, I recommend that government collect statistics and publish an annual report on its practices in relation to criminal record checks.

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Media Contact:

Cara McGregor  
Manager of Communications and Public Education  
Office of the B.C. Information and Privacy Commissioner  
250 217-5535