



October 17, 2024

Jason Pedlar
Information and Privacy Commissioner
3162 Third Ave, Main Floor
Whitehorse, YT Y1A 1G3

Re: Bill No. 44 (Traffic Safety Act)

Dear Mr. Pedlar,

Thank you for the opportunity to meet with the Deputy Information and Privacy Commissioner on October 16 to discuss the use of facial recognition software within the scope of Bill No. 44, the Traffic Safety Act (TSA), which is currently before the Yukon Legislative Assembly. I look forward to continuing our relationship as we work to implement section 215 of the Act.

Based on the discussions to date, the TSA team worked to finalize a draft amendment to section 215 that I believe will address your concerns. You can find the proposed amendment below. Should you wish to review a version with the changes tracked, please reference the attached appendix.

215 Facial recognition to verify identity

(1) In this section

“facial recognition software” means software that measures the unique invariable characteristics of a person’s face and compares them with other such measurements of the same person or other persons. « *logiciel de reconnaissance faciale* »

(2) In accordance with the regulations, the registrar may, only in exercising their powers and performing their duties and functions under this Act, use facial recognition software for the following purposes:

- (a) to verify or confirm the identity of a person who applies for or holds
 - (i) a driver’s licence, or
 - (ii) a general identification card;
- (b) to maintain the integrity of the registry or prevent abuse of the registry;
- (c) to contribute to the prevention of identity theft and fraud.



(3) For the purposes set out in subsection (2), the registrar may compare the photograph of a person who applies for or holds a driver's licence or identification card to

- (a) other photographs of the person that are contained in the registry; or
- (b) the photographs of other persons that are contained in the registry.

(4) The Commissioner in Executive Council may make regulations

- (a) prescribing administrative, technical and physical safeguards that the registrar must adopt
 - (i) to protect the confidentiality, security, accuracy and integrity of information about persons obtained by facial recognition software, and
 - (ii) to protect the privacy of persons to whom the information referred to in subparagraph (i) relates; and
- (b) authorizing the registrar to make facial recognition software available to issuers as defined in section 210.

In addition, I have provided explanations for each clause in section 215 of the Act:

Subsection (1):

- No change from existing.

Subsection (2):

- The use of facial recognition software for the purposes listed in paragraphs (a) to (c) is now limited to the registrar's exercise of powers and performance of functions and duties under this Act only.
- This clarification now provides that authorized use of facial recognition software does not extend beyond the Traffic Safety Act.
- Paragraph (c) is added in response to feedback from the OIPC, in accordance with the advice received from our legislative drafters.

Subsection (3):

- We have broken out this subsection into paragraphs to clearly convey the intent of the previous version; the facial recognition software can only compare another photograph of a person to other photographs already contained in the registry.



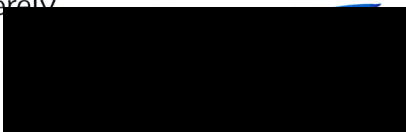
Subsection (4):

- We have rearranged existing paragraph (e) to paragraph (a) to convey the importance of prescribing safeguards to protect this personal information.
- We have edited paragraph (b) to prescribe regulations to now authorize the sharing of facial recognition software only with issuers.
- An issuer is defined in section 210 of the Act, and includes a contractor that would produce a physical driver's licence or general identification card on behalf of the registrar.
- A number of contractors that issue driver's licences and general identification cards on behalf of other jurisdictions provide facial recognition screening as a component of their services; the amended paragraph (b) provides transparency for the potential for the registrar to consider engaging a contractor to provide facial recognition services at some point in the future.
- We have removed all other existing regulation-making powers in the spirit of increased protection of privacy and negating any unauthorized use of facial recognition software.

Thank you again for meeting with us. On behalf of Highways and Public Works, I would like to once again commit to providing you with a Privacy Impact Assessment for your comment before implementing section 215.

I hope that our discussions with the Deputy Information and Privacy Commissioner, in combination with the proposed amendments to section 215 of the Traffic Safety Act, will address your concerns and allow you to support this proposed change. I look forward to your response on whether or not these changes have addressed your concerns.

Sincerely,



Tracy Allen
Deputy Minister of Highways and Public Works

Attachments (1)