

PRIVACY FACT SHEET

Release of personal information to police: your privacy rights

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This fact sheet describes the key situations where institutions can share your personal information with a law enforcement agency. For information on disclosure of your personal information to police by a private organization, such as a cellphone company, contact the Office of the Privacy Commissioner of Canada, which oversees the rules for how businesses handle personal information.

WHAT IS PERSONAL INFORMATION?

Under Ontario's access and privacy laws, personal information means, "recorded information about an identifiable individual." For a full explanation of the definition, see our fact sheet ***What is Personal Information?***



Information and Privacy
Commissioner of Ontario

Commissaire à l'information et à la
protection de la vie privée de l'Ontario

WHAT IS A LAW ENFORCEMENT AGENCY?

A law enforcement agency is an organization that is engaged in policing or conducting investigations that could result in a trial or hearing where penalties may be imposed. Its primary role must be law enforcement. Other organizations that conduct investigations, such as insurance companies and private security firms, are not law enforcement agencies.

CAN A GOVERNMENT ORGANIZATION RELEASE MY PERSONAL INFORMATION TO THE POLICE WITHOUT A WARRANT OR COURT ORDER?

Generally, institutions should disclose your personal information to a law enforcement agency *only* when required by law, such as in response to a court order.

However, they can disclose in other situations, including where the disclosure is to aid an investigation, and for health or safety reasons.

In all cases, an institution must carefully assess the circumstances before deciding whether to disclose your personal information.

IN WHAT CIRCUMSTANCES CAN AN ORGANIZATION RELEASE MY PERSONAL INFORMATION TO THE POLICE?

1. When legally required

An institution may be required by law to disclose your personal information if the law enforcement agency produces a court order (search warrant or production order). Unless the court order is successfully challenged in court, the institution must release the information.

2. To aid a law enforcement investigation

An institution can disclose your personal information to a law enforcement agency, without a court order, to aid an investigation. In this situation, the law enforcement agency might ask for the information, or the institution might decide to disclose it on its own initiative.

On request of a law enforcement agency

A law enforcement agency can't just ask for all the information the institution has about you and reasonably expect to get it.

When a law enforcement agency requests your personal information, the institution must carefully consider the request before deciding whether to release any information.

The institution must be satisfied that the request is for specific information and is related to a specific investigation.

The institution must then determine whether releasing the information could intrude on a reasonable expectation of privacy.

It should consider:

- the nature of the investigation
- the relevance of the information to the investigation
- the sensitivity of the information
- number of individuals the information relates to
- period of time covered by the request
- number of events the information relates to

If the institution determines disclosing the information would intrude on a reasonable expectation of privacy, then they should not disclose without a court order.

The only exception to this is where there are *urgent circumstances* that do not allow the time to seek a court order. In these cases, the institution should ask the law enforcement agency to explain why it is not possible to get a court order. Urgent circumstances may include cases involving kidnapping, an escaped violent offender, or a missing vulnerable person.

In cases where it does not appear likely that disclosing the information will intrude on a reasonable expectation of privacy, the institution may disclose some or all of the requested information.

On the institution's initiative

Under the law, an institution can share your personal information with law enforcement if it reasonably believes that an offence has occurred. However, it should disclose only the information that appears to be relevant and necessary for a potential investigation. For example, if an institution captures an assault on its video surveillance system, it can disclose the video capturing the event, but should generally not disclose all the footage from that day.

3. For health or safety reasons

An institution can also disclose your information to a law enforcement agency for health or safety reasons. In this situation, the institution must be satisfied that:

- there are compelling concerns about someone's health or safety, having considered:
 - the likelihood of the harm occurring
 - the severity of the harm
 - how soon the harm might occur, and

- the disclosure is reasonably likely to reduce the risk of harm to the individual

If the institution decides to disclose your information in this situation, it must only disclose enough information to reduce the risk.

HOW WILL I KNOW IF AN INSTITUTION HAS DISCLOSED MY PERSONAL INFORMATION TO A LAW ENFORCEMENT AGENCY?

If an institution discloses your information for health or safety reasons, it *must* make reasonable efforts to notify you, in writing, that your information was disclosed.

In all other cases, the institution *should* consider notifying you. It is unlikely to inform you if doing so could interfere with the investigation or otherwise cause significant harm.

I BELIEVE MY PERSONAL INFORMATION HAS BEEN IMPROPERLY DISCLOSED BY AN INSTITUTION. WHAT CAN I DO?

The IPC's role is to ensure that Ontario public institutions and health information custodians abide by privacy laws and principles. The IPC can assist you in resolving privacy complaints and has broader powers to investigate privacy issues.

If you believe your information has been improperly disclosed, you can file a complaint with our office. The complaint process is described in the IPC's *Filing a Privacy Complaint*.

For any questions or concerns about the disclosure of personal information to law enforcement agencies or the duties and obligations of institutions, contact the IPC at info@ipc.on.ca or 1-800-387-0073.

About the IPC

The role of the Information and Privacy Commissioner is set out in the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*. The commissioner is appointed by the Legislative Assembly of Ontario and is independent of the government of the day.

