

Law Enforcement Request for Personal Information Procedures - What to do When a Police Officer Asks for Information

**Procedure Number: CIMS-P001
Version Number: 1.0
Approval Date: December 16, 2015**

City Clerk's Office

Table of Contents

Law Enforcement Request for Personal Information Procedures -	1
1. Introduction	3
1.1 How to Use this Document	3
1.2 Personal Information	3
2. Law Enforcement Request for Personal Information Form	4
3. Law Enforcement Information Request Procedure	5
3.1 Procedure.....	5
4. Subpoena Assessment Procedure.....	7
5. Emergency Law Enforcement Disclosure Procedure	8
6. Guidance for City Staff Regarding Contacting a Law Enforcement Agency.....	8
7. Frequently Asked Questions	9
7.1. What is considered a law enforcement agency?	9
7.2. Are requests by City by-law enforcement officers considered law enforcement requests?.....	9
7.3. Should I ask the officer to file a Freedom of Information (FOI) Request to get information?	10
7.4. Don't the Police need a warrant or subpoena?	10
7.5. Can any staff use these forms?	10
7.6. What if the request is an emergency? Do I still have to have them fill out the law enforcement form?	10
7.7. What if the officer refuses to fill out the form?	10
7.8. What if they are asking for original documents instead of copies?.....	10

1. Introduction

1.1 How to Use this Document

City staff must follow the steps in these procedures when completing the [Law Enforcement Request for Personal Information Form](#). This [form](#) is used to provide access to records containing personal information to law enforcement agencies, while still protecting the rights of our clients.

This document contains three procedures and a form.

- i. Law Enforcement Request for Personal Information Procedure
- ii. [Subpoena Assessment Procedure](#)
- iii. [Emergency Law Enforcement Disclosure Procedure](#)
- iv. [Law Enforcement Request for Personal Information Form](#)

Records containing personal information may be disclosed to police officers or other law enforcement agents under Section 32 (g) of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

1.2 Personal Information

Personal information means recorded information about an identifiable individual. Examples of personal information are:

- i. home address, personal email address, home phone number, identification numbers e.g. Social Insurance Number
- ii. personal emails, forms or correspondence between the individual and the City
- iii. ethnic origin, religion, age, gender, sexual orientation, marital status
- iv. educational, medical, criminal or employment history, or personal financial transactions
- v. the individual's name when connected to any of the above

To qualify as personal information:

- i. it must be about an individual in a personal capacity;
- ii. it is reasonable to expect an individual may be identified if the information is disclosed.

As a general rule, information associated with an individual in a professional, business or official capacity is not personal information.

2. Law Enforcement Request for Personal Information Form



City Clerk's Office
Corporate Information Management
Services

Consent

Law Enforcement Request for Personal Information

The following information is being requested under section 32(g) of the Municipal Freedom of Information and Protection of Privacy Act which allows for the disclosure of records containing personal information for the purposes of aiding a law enforcement investigation.

A separate form must be completed for each City of Toronto division contacted for records. (i.e. Shelters, Children's Services- 2 forms)

Part 1: This section to be completed by the attending Law Enforcement Officer

Information Requested			
Investigation Number			
<input type="checkbox"/> Yes <input type="checkbox"/> No Review Original Documents <input type="checkbox"/> Yes <input type="checkbox"/> No Copies Requested <input type="checkbox"/> Yes <input type="checkbox"/> No Original Requested (Requires subpoena: Contact Legal Services for direction)			
I, _____ (Officer Name - First, Last) request the above personal information in aid of an investigation undertaken by _____ (Law Enforcement Institution) with view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.			
Investigating Officer Signature	Badge ID Number	Business Telephone Number	Date (yy-mm-dd)

Part 2: This section to be completed by City Staff

Description of Records Disclosed		
Client/Employee Name (First, Last)	City of Toronto Division	
File Location (Area/District)		
File/Record Title(s)		
Form Completed by Privacy Officer Only		
City Staff Contact Name (First, Last)	City Staff Signature	
Date (yyyy-mm-dd)	Business Telephone Number	Referred to Senior Management <input type="checkbox"/> Yes <input type="checkbox"/> No

Place the original form in the file relating to the requested information and send a **copy of this form** to:
City Hall, 13th Floor, West Tower, 100 Queen Street West, Toronto, Ontario and M5H 2N2, Attn: Privacy & Open Information.

Should you have any questions regarding the use of this form, please contact City Clerk's Office, Privacy & Open Information at privacy@toronto.ca.

07-0168 2017-10

3. Law Enforcement Information Request Procedure

The disclosure of records containing personal information is restricted under Part II of MFIPPA. Section 32 (g) of MFIPPA permits the disclosure of personal information by the City to a law enforcement agency in Canada for the purpose of aiding an investigation undertaken with a view to a law enforcement proceeding.

City staff should provide law enforcement officers with full cooperation regarding this type of request when presented with the completed [form](#). Disclosure should be made by either a manager or a supervisor.

The process detailed in this procedure is sufficient for disclosure under normal circumstances. However, the manager/supervisor who receives the request may require a subpoena or warrant from the agency prior to disclosing especially sensitive or private material. In these cases, the manager/supervisor should follow the [Subpoena Assessment Procedure](#). In the case of a police emergency, refer to the [Emergency Law Enforcement Disclosure Procedure](#).

3.1 Procedure

1. All disclosures of City records containing personal information require a completed [Law Enforcement Request for Personal Information Form](#).
2. The law enforcement officer must identify the City division that holds the requested information and go to them directly. Police may contact 311 for assistance in determining the division that holds the responsive records.
3. Law enforcement officers must complete part 1 of the [form](#). This must include:
 - i. badge number (or equivalent identifier) of the requesting law enforcement officer;
 - ii. Investigation number (or equivalent identifier such as occurrence number or warrant number)
 - iii. confirmation that the information is being sought for an ongoing law enforcement investigation; and
 - iv. signature of the requesting law enforcement officer.
4. The law enforcement officer must identify, in detail, the information requested.
5. Staff must ensure that the officer has completed all of part 1 of the [form](#).
6. Staff must complete part 2 of the [form](#). This includes the City's description of the records disclosed to the law enforcement agency.
7. Staff must sign and date the [form](#).

8. Staff must ensure that only the specific information requested for the investigation is disclosed to the law enforcement officer.
9. Staff must ensure that the original copy of the "[Law Enforcement Request for Personal Information Form](#)" is stored of the requested records, if the record is electronic, please scan the completed [form](#) and include in the file.
10. Staff must ensure that a copy of the completed "[Law Enforcement Request for Personal Information Form](#)" is provided to Corporate Information Management Services (CIMS), City Clerk's Office, as soon as possible.
11. Requests for large numbers of records, access to City electronic data systems, or original records should be referred to the Director level in the Division, using the Subpoena Assessment Procedure.
12. Emergency requests should follow the Emergency Law Enforcement Disclosure Procedure.
13. Requests that cannot be completed, such as requests where an investigation number, badge number, or equivalent identifier is not provided, should be referred to the Director level in the Division for review.

A copy of the "[Law Enforcement Request for Personal Information Form](#)" is attached to this procedure and is available online at

<https://www.toronto.ca/wp-content/uploads/2018/02/8eca-Law-Enforcement-Request-for-Personal-Information.pdf>

Any questions related to this procedure can be directed to the Senior Information Analyst or Senior Records and Information Analyst at privacy@toronto.ca.

4. Subpoena Assessment Procedure

If the law enforcement officer presents a warrant or subpoena the manager/supervisor must contact his or her Director. The Director should consult the division's assigned solicitor in Legal Services, prior to any disclosure.

Warrants or subpoenas should not be required to obtain basic information that relates to a formal investigation by a law enforcement agency; however, divisional management may determine that a subpoena or warrant is required prior to disclosing specific information to the law enforcement agency.

The Director should review the information request and consider the following questions. If the answer to any of these questions is yes, the Director should consult with Legal Services to determine next steps.

- Is the request for original records, not copies?
- Is the request for access to large numbers of records about multiple different individuals or circumstances?
- Does the request ask for direct access to City databases or information storage systems?
- Does the request ask for copies of multiple entries in City databases or information storage systems?
- Is the information requested currently under litigation or prosecution by Legal Services?
- Is the request for a medical record relating to an individual held by a Health Information Custodian?
- Will providing the records without a warrant prevent the lawful activity of the division or otherwise gravely interfere with the division's ability to complete its duties? (For example: Would providing information to Canada Border Services without a warrant reasonably cause undocumented families to avoid receiving required health treatment?)

In any of the above cases, disclosure of information to a law enforcement agency must be approved by Legal Services and the Director. The manager/supervisor needs to complete the section of the "[Law Enforcement Request for Personal Information Form](#)" "Referred to Senior Management". Disclosure is deferred until the consultation and approval are completed.

5. Emergency Law Enforcement Disclosure Procedure

This procedure should only be used in circumstances where a law enforcement officer, either in person or over the telephone, requests information on an emergency basis (i.e. hot pursuit).

1. If possible, the request should be escalated immediately to the onsite supervisor or manager.
2. In an emergency situation, staff should not delay the disclosure to wait for offsite approval. The most senior staff member of the business unit is responsible for responding to the request.
3. Staff receiving the request must confirm that the request is being made in a "hot pursuit" or emergency circumstances by the officer.
4. Staff must obtain the name and the badge number of the officer if possible and record it on the "[Law Enforcement Request for Personal information Form](#)."
5. Staff must record their name in the "Form Completed by Proxy" section in part 2 of the [form](#).
6. Staff should then disclose the information verbally over the telephone or in person.
7. Staff must then complete the rest of the [form](#) as per the [Law Enforcement Request for Personal Information Procedure](#).

6. Guidance for City Staff Regarding Contacting a Law Enforcement Agency

In the course of their work, City staff may become aware of information that they believe should be reported to the Police or another law enforcement agency. This guideline is to inform city staff on how to report incidents that they become aware of on the job, to an appropriate agency.

All staff, including City by-law enforcement officers, **except in an emergency situation**, must always immediately communicate the information to their manager and should not report the information themselves, unless authorized by their manager to do so.

An "emergency situation" is any circumstance where the law enforcement agency needs the information in order to prevent imminent harm to property or persons, and if any delay would reasonably contribute to harm to property or persons, or where an obligation to report such information exists.

In an emergency situation, staff should, as soon as possible after the disclosure, advise their manager of the relevant particulars of the emergency, and the information disclosed to the law enforcement agency.

IMPORTANT: An obligation for individuals to directly report any incident or evidence of the physical, emotional or psychological abuse of a child to law enforcement is required by section 72 of the *Child and Family Services Act*. Upon informing their manager of the occurrence, the individual must report the information to law enforcement.

Please contact Legal Services or Corporate Information Management Services if any clarification of this requirement is needed.

The divisional manager should determine whether the information should be communicated to the police. In all cases, the manager should seek out advice from Legal Services and Corporate Information Management Services, City Clerk's Office prior to disclosure. The following are considerations for the manager to determine whether the information should be reported in the absence of a law enforcement request:

- An individual is determined to be an imminent threat to either staff, or other individuals, and/or City staff are aware of an arrest warrant for the individual.
- The individual has committed an act of violence against staff or other individuals.
- The individual has threatened to commit an act of violence against staff or other individuals.
- The individual has been seen by staff conducting activities which staff believe are damaging, stealing or defacing a City facility or otherwise in violation of the Criminal Code.
- Any other reason that can be reasonably demonstrated to adversely affect the health, safety and welfare of staff or clients, or the proper administration of the unit or facility.

Note: The disclosure of information to Canada Border Services by staff, including by-law enforcement officers, is only permitted and is to be conducted by divisional senior management in consultation with Legal Services.

7. Frequently Asked Questions

7.1. What is considered a law enforcement agency?

Law enforcement agencies are those agencies that have been granted the powers to conduct law enforcement investigations. This includes Toronto Police Service, Ontario Provincial Police, RCMP, police services officers from other municipalities, Correctional Services of Canada, Ontario Ministry of Correctional Services, and special investigators for a provincial Ministry or Federal Department.

7.2. Are requests by City by-law enforcement officers considered law enforcement requests?

Yes. The privacy law does not differentiate between police investigations and by-law enforcement investigations, including by-law enforcement from other municipalities.

7.3. Should I ask the officer to file a Freedom of Information (FOI) Request to get information?

No. You must use the [Law Enforcement Request for Personal Information form](#) in this document.

7.4. Don't the Police need a warrant or subpoena?

In most cases, they do not.

There may be some cases where your division may wish to require a subpoena in order to disclose information. This decision will need to be made by your divisional senior management in consultation with your divisional legal representative.

7.5. Can any staff use these forms?

Disclosure of information to law enforcement should be done by a manager or supervisor. In emergency situations any staff can complete the [form](#) and disclose the information.

7.6. What if the request is an emergency? Do I still have to have them fill out the law enforcement form?

Emergency requests for information should follow the [Emergency Law Enforcement Disclosure Procedure](#).

7.7. What if the officer refuses to fill out the form?

Refer the request to your senior management. Do not disclose information without the completed [form](#) except in situations detailed in the [Emergency Law Enforcement Disclosure Procedure](#).

7.8. What if they are asking for original documents instead of copies?

Refer to the [Subpoena Assessment Procedure](#)