



VICTORIA POLICE

VICTORIA POLICE HEALTH RECORDS STATEMENT

Victoria Police is bound by the ***Health Records Act 2001*** (the Act) in how it collects and handles personal information that is also health information. Victoria Police is committed to protecting the health information of those persons with whom it interacts in the course of its functions and activities.

Victoria Police is defined under section 3 “*Definitions*” of the Act as a “*law enforcement agency*”. Victoria Police has a primary role in society to protect life and property, detect and apprehend offenders and help those in need of assistance. In addition it is defined under the Act s.3 “*Definitions*”, law enforcement functions or activities. Law enforcement functions or activities include:

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- the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction for a breach; or
- the enforcement of laws relating to the confiscation of the proceeds of crime; or
- activities in connection with the conduct of proceedings commenced, or about to be commenced in any court or tribunal.

Community policing relates to those normal policing activities undertaken by Victoria Police which do not come under the banner of law enforcement. Community policing includes, but is not restricted to:

- co-ordination of emergency management;
- location of missing persons;
- death investigation and other activities on behalf of the Coroner;
- involvement in family violence situations;
- location of next of kin; and
- roles as licensing investigations and the operation of liquor forums.

This document outlines the Victoria Police policy regarding the collection and handling of health information by Victoria Police.

WHAT IS HEALTH INFORMATION ?

In broad terms, “health information” is personal information about the individual’s health and/or health services. The Act describes four types of information (summarised at (a) – (d) below) that is health information.

(a) Information about –

- an individual’s physical, mental or psychological health;

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- a disability of an individual;
- an individual's expressed wishes about the future provision of health services to him or her; or
- a health service provided to the individual.

- (b) Personal information that is collected to provide a "health service" to an individual.
- (c) Personal information that is collected in connection with the donation of body parts, organs or body substances, or an intended donation.
- (d) Personal information that is genetic information in a form that is, or could be, predictive of the health of an individual or any descendants.

Examples of health information include:

- personal details, such as a name, address, admission and discharge dates and medicare card number when collected in conjunction with the provision of a health service;
- information about physical or biological samples, where it can be linked to an individual;
- genetic information; and
- any personal information held by a health service provider in relation to health services.

Health information must relate to a natural person, however, the protection of health information continues for thirty (30) years after a person dies.

Personal information that does not fall within the definition of health information may need to be handled and managed in accordance with the Information Privacy Principles in the *Privacy and Data Protection Act 2014*.

HEALTH PRINCIPLE - COLLECTION

Health information is generally collected as a consequence of Victoria Police's policing functions or activities or in furtherance of its administrative functions and is usually recorded in either paper or electronic form.

Victoria Police collects health information from many sources, including:

- victims of crime and individuals involved in accidents (details of injuries sustained);
- witnesses (in relation to injuries sustained by other individuals);
- individuals in police custody (medication requirements); and
- individuals wishing to join Victoria Police (routine medical assessments).

There are some circumstances whereby Victoria Police may collect health information **without the consent of the individual**, for example:

- where the collection is reasonably necessary for a law enforcement function of Victoria Police **and** the disclosure would not be a breach of confidence (the question of a breach of confidence is entirely within the decision of the health service provider).
- where the collection is reasonably necessary for a law enforcement function of Victoria Police (for example, collecting an offenders medical file under warrant from his/her GP if relevant to an investigation);

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- where the collection is required by law (for example, mandatory medical checks for Airwing pilots); or
- where the collection is necessary to prevent or lessen a serious and imminent threat to the life, health, safety or welfare of the public or any individual (for example, if a missing person had expressed suicidal tendencies then contact may need to be made with his/her GP to assess the level of the threat).

Victoria Police must collect health information only by lawful and fair means and not in an unreasonably intrusive way, unless in accordance with relevant legislation.

HEALTH PRINCIPLE - USE AND DISCLOSURE

Health information must not be used or disclosed other than for the main purpose for which the information was collected, except where allowed. Circumstances allowed include:

- the individual has consented;
- the use or disclosure is required by law (for example, s.127(1) of the *Transport Accident Act 1986* imposes a mandatory obligation upon the Chief Commissioner to furnish to the Commission any information relating to a transport accident in the possession or under the control of the Chief Commissioner upon the request of the Commission);
- the use or disclosure is necessary for research, or for the compilation of statistics in the public interest. However, generally the information would be de-identified prior to disclosure.
- Victoria Police reasonably believes that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the life, health, safety or welfare of the public or any individual (for example, disclosure of health information to Crisis Assessment Treatment teams);
- Victoria Police suspects that unlawful activity has been, is being or may be engaged in and uses or discloses the health information as a necessary part of its investigation or in reporting its concerns to relevant persons or authorities (for example, offences by professional persons during professional duties may be reported to the relevant regulatory authority); or
- Victoria Police reasonably believes the use or disclosure is reasonably necessary for one of its law enforcement functions (for example, the prosecution of an offence).

Victoria Police can also use or disclose health information to identify an individual or a relative of the individual where it is known or suspected that the individual is deceased or missing or has been involved in an accident and is incapable of consenting to the use or disclosure (so long as the use or disclosure is not contrary to the wishes of the individual before he or she went missing or became incapable of consenting).

HEALTH PRINCIPLE - ACCURACY & SECURITY

Victoria Police must take reasonable steps to ensure that the health information it collects, uses, or discloses is accurate, complete and up to date. All personal health information kept by the Victoria Police is kept in a secure environment.

For example, Victoria Police has implemented computer firewalls to protect electronic information, screening for unauthorised access, use of restricted access databases and strict disclosure policies to protect hard copy information. These and other measures help protect the health information held by Victoria Police from misuse, loss, and from unauthorised access, modification, or disclosure.

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Health information retained by Victoria Police is made available only to authorised personnel who have a demonstrated need to access the information.

Certain classes of information are held in accordance with specific legal requirements, for example, s.101 of the *Accident Compensation Act 1985* (employer keeping a register of injuries).

Where health information is disclosed or made available to contractors, Victoria Police ensures that the contract requires confidentiality and restricts the use of the health information to the purposes of the contract. Where contractors are involved in the delivery of core services to Victoria Police, the contractors are required to comply with the health privacy principles. This means that the same level of protection of health information privacy is maintained by Victoria Police and by other agencies acting on behalf of Victoria Police.

ANONYMITY

If it is lawful and practicable, a person must have the option of not identifying themselves when entering into transactions with Victoria Police.

There are situations where individuals are required by law to identify themselves to Victoria Police when providing health information to the police, for example, where the individual provides a DNA sample. There are also situations where individuals need to identify themselves for practical reasons, for example, where an individual reports an assault committed against him/her the individual will need to provide personal health information to Victoria Police to enable the police to investigate the offence.

HEALTH PRINCIPLE - TRANSBORDER DATA FLOWS

Pursuant to the *Health Records Act 2001*, if Victoria Police transfers health information to another organisation outside of Victoria, it must ensure that the recipient of the health information has equivalent privacy protection and that the information transferred will be protected. Otherwise, the persons' consent must be obtained.

HEALTH PRINCIPLE - ACCESS AND CORRECTION

Individuals can request access to the personal health information Victoria Police holds about them. If individuals believe the personal health information is inaccurate, incomplete or out of date the individual is entitled to request that it be corrected. There may be circumstances where access to information cannot be granted as it may compromise the privacy of another individual. All access should be sought through the *Freedom of Information Act 1982* by contacting the Freedom of Information Unit at Victoria Police at or by writing to:

Victoria Police Freedom of Information Unit
Box 913
DOCKLANDS
VICTORIA 3008.
PH: 9247 6801

Alternatively, requests may be made online by accessing the Department of Justice Freedom of Information Online website at www.foi.vic.gov.au

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COMPLAINTS

In compliance with the Act, Victoria Police has established a complaints handling procedure to deal with any personal health information privacy complaints that may arise.

Any complaint or query regarding a breach of privacy should be directed in the first instance to the Victoria Police Privacy Unit. In the case of a complaint a full investigation will be undertaken or coordinated. A Victoria Police Privacy Complaint Form is available for download to detail an individual's complaint.

This office can be contacted as follows:

The Victoria Police Privacy Unit

Victoria Police Centre

637 Flinders Street

DOCKLANDS 3008

DX 210096

Or

Box 913

DOCKLANDS 3008

Or

Telephone: (03) 9626 7349 or 9628 7347

Or

Email: privacy@police.vic.gov.au

Alternatively, written complaints can be lodged with the Health Services Commissioner as follows:

Health Services Commissioner

Level 26

570 Bourke Street

Melbourne. 3000.

Telephone: 1300 582 113

Fax No.: (61 3) 9032 3111

E-mail: hsc@health.vic.gov.au