

Revised October 2017



VICTORIA POLICE

INFORMATION PRIVACY STATEMENT

Victoria Police is bound by the [*Privacy and Data Protection Act 2014*](#) and values the privacy of every individual with whom it interacts in the course of its functions and activities. Victoria Police is committed to protect against the misuse, loss or unauthorised access and disclosure of personal information in accordance with the Information Privacy Principles under this Act.

Police Officers, Protective Services Officers (PSOs) and Police Custody Officers (PCOs) are supported in their roles by Victorian Public Service employees who work as administrators, managers and specialists in a range of functions such as administrative support, legal services, accounting, psychology and forensic sciences. Victoria Police uses the information it collects to carry out its functions and activities under the [*Victoria Police Act 2013*](#).

Victoria Police is defined as a “*law enforcement agency*” under section 3 “*Definitions*” of the [*Privacy and Data Protection Act 2014*](#). Victoria Police’s role is to serve the Victorian community and uphold the law so as to promote a safe, secure and orderly society. Victoria Police achieves this by:

- preserving the peace
- protecting life and property
- preventing offences
- detecting and apprehending offenders
- helping those in need of assistance.

For further information about Victoria Police services visit www.police.vic.gov.au, particularly ‘About Victoria Police’ which details the organisational values that underpin Victoria Police’s policies, procedures and practices and how Victoria Police interacts with the community, including its employees.

PERSONAL INFORMATION

Personal information means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include health information.

Health information is governed by the [*Health Records Act 2001*](#). For further information about Victoria Police’s policy associated with health information, refer to the Victoria Police Health Records Statement.

The sort of personal information Victoria Police collects includes names, date of birth, addresses, contact details, sex, photographic images, audio visual material, criminal history, fingerprints, licence and motor vehicle registration details. This information is generally collected as a consequence of Victoria Police’s law enforcement or community policing

Revised October 2017

functions and is recorded in either paper or electronic form.

Victoria Police supports the regulation of personal information privacy, however, there will be situations where to meet the needs of the community, police collect, use and/or disclose personal information without the consent of the individual involved.

Victoria Police works together with many people, including those from government and non-government agencies to ensure individuals and the community are safe. Pro-active crime prevention programs and initiatives are a key focus for Victoria Police.

This involves Victoria Police sharing personal information for legitimate business and law enforcement purposes. Victoria Police has a responsibility to prevent the commission of offences, and expose the public to the realities of police enforcement across the State, thereby deterring unlawful activity in the community. This is a law enforcement function. Any of Victoria Police's programs and initiatives are community policing functions, as they expose the community to the effectiveness of policing in many facets, (*i.e.* road policing and family violence issues) and involve members of the public interacting and offering their involvement with police as an example to others.

Victoria Police is required to comply with the Information Privacy Principles (IPPs) unless it is reasonably necessary not to. **Section 15, *Privacy and Data Protection Act 2014*** creates an exemption provision for Victoria Police whereby it is not necessary to comply with some IPPs if it believes on reasonable grounds that non-compliance is necessary for its law enforcement or community policing functions.

For example, it would defeat the purpose of covert surveillance if Victoria Police were to inform an individual that their personal information is being collected.

Law enforcement functions or activities include:

- 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 functions include, but are 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.

The IPPs may not apply if there is a specific provision in another Act that applies to the handling of information which conflicts with the IPPs. If there is a conflict, then the specific provision takes precedence. For example, the mandatory reporting provisions of section 184 of the *Children, Youth and Families Act 2005* override the disclosure provisions in the *Privacy and Data Protection Act 2014*.

Victoria Police is also bound by the *Victoria Police Act 2013*. This Act empowers the Chief

Note: 2 This document does not encompass the full requirements of the *Privacy and Data Protection Act 2014*. For full text, reference should be made to the Act and the Explanatory Memorandum for the Act.

Revised October 2017

Commissioner of Police with the responsibility for the superintendence and control of the Force, and imposes a highly prescriptive disciplinary regime. The *Victoria Police Act 2013* also makes it an offence for a member or staff (and ex members and staff) of Victoria Police to disclose any fact or document without authorisation which comes into his or her knowledge by virtue of his or her office or position.

The *Privacy and Data Protection Act 2014* consists of ten IPPs. In accordance with section 20 of the *Privacy and Data Protection Act 2014*, Victoria Police must not do an act, or engage in a practice, that contravenes an IPP in respect of personal information collected, held, managed, used, disclosed or transferred by it.

The following is a summary of how Victoria Police manages your personal information.

PRINCIPLE 1 - COLLECTION

It is necessary for Victoria Police to collect personal information in order to carry out its functions and activities. Victoria Police will only collect personal information by lawful and fair means.

Where Victoria Police collects personal information for reasons other than law enforcement or community policing functions or activities, persons from whom information is collected will be notified how their information will be used and/or disclosed, and how they can gain access to their information. For law enforcement and community policing functions Victoria Police is exempt from this requirement if it believes on reasonable grounds that the non-compliance is necessary.

PRINCIPLE 2 - USE AND DISCLOSURE

The *Privacy and Data Protection Act 2014* provides that personal information should only be used or disclosed for the primary purpose for which it was collected. It should only be used or disclosed for a secondary purpose that would be reasonably expected or if consent has been obtained. On some occasions where Victoria Police believes on reasonable grounds that it is necessary, it can use or disclose personal information for reasons other than that for which it was collected. The *Privacy and Data Protection Act 2014* provides exemption provisions in situations where this is necessary.

In general, Victoria Police only uses or discloses personal information in order to carry out its policing functions. This includes photographic images and audio visual material which may include personal information gathered (*i.e.* collected) through surveillance activities during law enforcement and/or community policing functions and activities. However, Victoria Police may where it is reasonably believed to be necessary, use or disclose the personal information it collects for a purpose that is different from the main reason it originally collected the information. This may include in the following situations:

- Victoria Police reasonably believes that the use or disclosure is necessary to lessen or prevent:
 - i. a serious and imminent threat to an individual's life, health, safety or welfare; or
 - ii. a serious threat to public health, public safety or public welfare;

or
- Victoria Police has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities; or

Revised October 2017

- The use or disclosure is required or authorised by or under law; or
- The organisation reasonably believes that the use or the disclosure is reasonably necessary for one or more of the following by or on behalf of a law enforcement agency-
 - i. the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction; or
 - ii. the enforcement of laws relating to the confiscation of the proceeds of crime; or
 - iii. the protection of the public revenue; or
 - iv. the prevention, detection, investigation or remedying of seriously improper conduct; or
 - v. the preparation for or conduct of, proceedings before any court or tribunal, or implementation or the orders of a court or tribunal.

Victoria Police may also use and disclose personal information under the new provisions outlined under section 20(3) of the *Privacy and Data Protection Act 2014*, an act or practice is permitted under:

- (a) public interest determination or a temporary public interest determination;
- (b) an approved information usage arrangement; or
- (c) a current certificate.

An example of this use may be for an emergency disaster situation requiring the urgent sharing of personal information to manage the situation.

The following examples are areas in which Victoria Police has policies dealing with specific types of information use and disclosure:

Media

Victoria Police employees have strict guidelines regarding the type of information that may be disclosed to the media. Items such as film (*i.e.* audio visual material), photographs, computer generated images, or descriptions may be released if there is a law enforcement or community policing purpose for disclosure. Release of information identifying escapees may be published in certain circumstances. Names or photographs of missing persons or individuals whose whereabouts or identity is sought to assist with police investigations, may also be released.

LEAP and related information

The LEAP (Law Enforcement Assistance Program) system has been established to collect and store information to assist Victoria Police to carry out its law enforcement and community policing responsibilities. LEAP contains confidential and personal information which must be used, disclosed and managed sensitively and appropriately. To ensure this occurs:

- Employees who need to have access to LEAP to perform their duties will be given access.
- Authorised users of LEAP:
 - may access and use LEAP information where there is a demonstrable, legitimate business need, which is directly related to the performance of their duties with Victoria Police;

Revised October 2017

- have a public responsibility to protect and keep information they have access to confidential. Information must not be accessed for personal reasons; and
- are responsible for the security of the information that they access. They must treat any information copied, deleted, added, used or disposed of sensitively and professionally with regard to individuals' right to privacy.

Police records and criminal histories

Victoria Police provide criminal history checks in the following circumstances:

- with the consent of the individual before such a check is undertaken; or
- to organisations with law enforcement or administration of justice functions (*e.g.* Dept of Immigration and Border Protection or Environmental Protection Authority) with a legislated responsibility to make decisions regarding individuals within their care or responsibility; or
- where there is a legal requirement to do so (for example. s.36 of the *Prostitution Control Act 1994*).

Accident and property records

Personal information contained in motor vehicle accident reports may be disclosed to certain persons as prescribed in the *Victoria Police Act 2013*. This includes a person:

- who is injured as a result of a vehicle accident ; or
- whose property is damaged or destroyed as a result of a vehicle accident; or
- who is a personal representative of a person who dies or is injured, or whose property is damaged or destroyed, as a result of a vehicle accident; or
- who is an authorised representative of a person referred to above?

Access will be granted to the owner or authorised representative (including loss assessors and insurers) of any lost, stolen or damaged property reported to police.

Notification to employers of offences by employees

Where it is in the public interest, Victoria Police may notify the relevant employer or regulatory body when an individual comes under notice of police. For example, the Australian Health Practitioner Regulation Agency (AHPRA) <https://www.ahpra.gov.au/> who oversee the licensing of health professionals, *i.e.* Medical Practitioners and Victorian Institute of Teaching (VIT) <http://www.vit.vic.edu.au/> who oversee the accreditation and registration of teachers in government, Catholic and independent schools who may have been charged with serious offences including a sexual offence, violent offence or drug offence. Generally, this would be to lessen or prevent:

- a serious and imminent threat to an individual's life, health, safety or welfare; or
- a serious threat to public health, public safety or public welfare.

Consideration will be given to:

- the nature and seriousness of the charge; the mere fact that the person has been charged is not enough to justify notification;
- the duties performed by the person;
- the nature of the charge as it relates to the business of the employer or regulatory authority; and

Revised October 2017

- the potential for the notification to harm the interests of the person.

Electoral Roll and other public registers

Information contained within the Electoral Roll is governed by the Commonwealth Electoral Act 1918. Victoria Police has access to personal information from the electoral roll and other public registers. This information is used for law enforcement and community policing purposes. Victoria Police handles such information in accordance with its legislative obligations under the Victoria Police Act 2013 and relevant privacy legislation.

Unsolicited personal information

Victoria Police often receives information from individuals in the form of letters, e-mails and phone calls that mention other individuals. Such information may refer to another person's welfare or conduct. Where this information relates to law enforcement and community policing matters, Victoria Police is not obliged to notify the individual that their personal information has been collected if they believe it is reasonable not to in the circumstances. However there are occasions where the information received does not relate to law enforcement or community policing matters. On these occasions Victoria Police will take reasonable steps to notify the individual that their personal information has been collected and what it will be used for. There may be times where Victoria Police considers that it is not reasonable or appropriate to notify the individual of these matters. Even if Victoria Police does not notify the individual, the information will be protected in accordance with the relevant privacy principles and Victoria Police policies and guidelines.

PRINCIPLE 3 - DATA QUALITY

Victoria Police takes reasonable steps to ensure that the personal information it collects, uses or discloses is accurate, complete and up to date.

PRINCIPLE 4 - DATA SECURITY

Personal information held by Victoria Police must be protected from misuse, loss, unauthorised access, modification and disclosure. All personal information held by the Victoria Police is kept in a secure environment and made available only to authorised personnel who have a demonstrated need to access the information.

PRINCIPLE 5 - OPENNESS

Victoria Police has clearly expressed, publicly available, policies on the way it manages personal information. This statement provides an overview of Victoria Police policies regarding the management of personal information.

PRINCIPLE 6 - ACCESS AND CORRECTION

Individuals can request access to personal information about themselves held by Victoria Police. If individuals believe their personal 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. Section 33 of the Freedom of Information Act 1982 exempts from release any information which relates to the personal affairs of any person. There are also exemptions for

Revised October 2017

certain law enforcement documents. All access should be sought through the *Freedom of Information Act 1982* by contacting the Freedom of Information Division at Victoria Police at:

Freedom of Information Office
Victoria Police
GPO Box 913
Melbourne 3001
Telephone 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.

PRINCIPLE 7 - UNIQUE IDENTIFIERS

Unique identifiers, usually a number, are utilised by Victoria Police to enable the organisation to carry out its functions efficiently.

PRINCIPLE 8 - ANONYMITY

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

However there are many situations where individuals are required by law to identify themselves to the police. For example, an individual driving a motor car on a highway is required to state his or her name and address when requested to do so by a police officer. An individual suspected of committing an offence or being able to assist an investigation is required to state his or her name and address.

There are many practical reasons why individuals need to identify themselves when interacting with Victoria Police. For example, an individual reporting an offence needs to provide personal information to Victoria Police to enable the police to investigate the offence.

PRINCIPLE 9 - TRANSBORDER DATA FLOWS

Pursuant to the *Privacy and Data Protection 2014*, an organisation that is transferring personal information to another organisation outside of Victoria must ensure that the receiving organisation has equivalent privacy protection, and that the information transferred will be protected.

Where it is reasonably believed necessary, Victoria Police is exempt under section 15 of the *Privacy and Data Protection 2014* from this obligation in respect of its law enforcement functions and activities. However, precautions related to the security of personal information are undertaken in all transborder data exchanges by Victoria Police.

PRINCIPLE 10 - SENSITIVE INFORMATION

This includes racial or ethnic origin, political views, religious beliefs, and sexual preferences, memberships of groups or criminal record. There are special restrictions on the collection of this information. Where it is reasonably believed necessary, Victoria Police is exempt from those restrictions where the information is collected for a law enforcement or community policing purpose.

COMPLAINTS

In compliance with the *Privacy and Data Protection 2014*, Victoria Police has established a complaint handling procedure to deal with any personal information privacy issue that may arise.

Revised October 2017

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.

This office can be contacted as follows:

Victoria Police Privacy Unit
GPO Box 913
Melbourne 3005
DX 210096
Or
Telephone: (03) 9628 8446 or 9628 7347
Or
Email: privacy@police.vic.gov.au

Alternatively, written complaints or queries can be lodged with:

Office of the Victorian Information Commissioner
Level 6
121 Exhibition Street
Melbourne Victoria 3000
GPO Box 5057
Melbourne Victoria 3001
DX 210643
Telephone: 1300 666 444