



COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION IN LICENSING CONTEXT

PRIVACY RULES & CONSIDERATIONS

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TOPICS

1. Rules for Collection of Personal Information (“PI”) Under MFIPPA
2. Steps taken by City of Ottawa in response to IPC Order MO-2225
3. Video surveillance cameras/systems – some privacy considerations

Rules for Collection of Personal Information (P.I.)

- Collection rules under MFIPPA in licensing context clarified by:
 - ☞ Court of Appeal in Cash Converters
 - ☞ IPC in Order MO-2225
- Consent not enough to collect personal information
- 3 factors in s.28(2) MFIPPA for collection, as follows:

COLLECTION - Continued

Under s.28(2) MFIPPA, municipalities can only collect PI if:

1. Collection expressly authorized by Statute
 - ☞ Statute or regulation must expressly permit it
 - ☞ Types of PI should be specified

2. PI used for law enforcement:
 - ☞ Must be true law enforcement need for PI
 - ☞ Actual law enforcement “issue” must be present

COLLECTION - Continued

3. PI necessary for legally-authorized activity:
 - Must establish legal authority/mandate for activity in the first place
 - PI must be necessary = can't conduct activity without it
 - Must justify collection of each type of PI

IPC ORDER MO-2225 CITY OF OTTAWA'S RESPONSE:

1. Order to cease collection:
 - Mailed notice to all licensees telling them to stop collecting PI under By-law
 - Licensees may choose to continue collecting for own business/legal reasons (but get own advice)
 - Notified police to stop collecting PI under By-law and received confirmation
 - Repealed sections of By-law that required collection of seller's PI

MO-2225 – City's Response:

2. Order to destroy PI already collected under By-law:
 - Notified licensees to locate PI collected under By-law
 - Directed licensees to securely destroy all paper and electronic records
 - Provided IPC's "Fact Sheet – Secure Disposal of Personal Information"
 - Told them not to throw PI in garbage
 - Told them to keep record of destruction
 - Option to keep bare contact information for own business or other reasons – their decision

Video Surveillance Cameras & Systems: Privacy Considerations

- Video technology increasingly popular
 - ☞ Public safety
 - ☞ Investigation of crime
- If PI captured by camera or system
 - ☞ MFIPPA triggered
 - ☞ Rules for collection, use, disclosure, retention and disposal of PI



Video Systems – continued:

- **References:**

- Guidelines for the Use of Video Surveillance Cameras in Public Places, IPC (Sept 2007)
- IPC Privacy Investigation Report MC07-68 (March 2008) - TTC

- **Basic Principles:**

- Video surveillance system as last resort
- Justify system/placement of each camera
- Minimize privacy intrusion to what is essential
- Follow collection, use and disclosure rules of MFIPPA
- Address privacy considerations in policy, guidelines and/or By-law *before* system in place

Privacy Considerations for Video Systems:

- One or more collection criteria in s.28(2) must be present to collect PI – ties into uses
- Define and set objectives and reasoning for system
- Define and set uses that will be made of PI that is collected
 - ☞ Legal authority for uses must be considered
 - ☞ *All* uses considered (no new uses mid-way)
- Provide notification in accordance with s.29 MFIPPA

Parameters of Video System:

- Scope of collection – what PI is being captured?
- Triggers or criteria for collection and downloading must be defined
- Establish (and justify) retention periods
 - ☞ For PI that is not viewed/used (camera looping)
 - ☞ For PI once viewed and used

Control and Use of System:

- Determine who will download and use PI
 - ☞ Identify authorized personnel and 3rd parties who will have access
(e.g. police)
 - ☞ Establish downloading protocols to ensure control, integrity and security of information
(e.g. download/access logs, approvals system)
 - ☞ Establish measures to safeguard PI once downloaded
 - secure storage
- Train staff and/or contractors & update training as industry/standards change
- Consider non-disclosure agreements

Disclosure of PI:

- Internally, disclosure must be:
 - ☞ to officer/employee who needs PI in performance of duty
 - ☞ Proper and necessary
- Externally, disclosure must meet requirements of s.32 MFIPPA, such as:
 - ☞ required under an Act or Regulation (Ont. / Fed)
 - ☞ to law enforcement (consider MOU)

OTHER CONSIDERATIONS:

- Secure disposal of PI
- Audit of video system – periodic
- Consider how to respond to access requests for PI within video system
- Public consultation prior to installation & as system expands
- Consult IPC