

News Release

April 14, 2014

Commissioner Cavoukian calls for Ontario Police Services to stop the indiscriminate disclosure of attempted suicide information

TORONTO, ON (April 14, 2014) – Ontario’s Information and Privacy Commissioner Dr. Ann Cavoukian has released the findings of her Special Investigation into sensitive information about attempted suicides by Ontarians being shared with U.S. border officials. The Report, “[*Crossing the Line: The Indiscriminate Disclosure of Attempted Suicide Information to U.S. Border Officials via CPIC*](#),” recommends that Ontario police services cease the routine disclosure of suicide-related information via CPIC.

The investigation was initiated by the Commissioner upon hearing a number of stories of Ontarians being denied entry into the U.S., apparently on the basis of their mental health history. Upon ruling out the possibility of the information being disclosed by the Ministry of Health and Long-Term Care, the investigation focused on the personal information collected by the police as a consequence of interactions with individuals who had threatened or attempted suicide. This information is recorded by police services and, in the case of the Toronto Police Services, is routinely uploaded into the Canadian Police Information Centre (CPIC) database, specifically into the Special Interest Police (SIP) repository. Maintained by the Royal Canadian Mounted Police (RCMP), CPIC contains a vast array of law enforcement and public safety information and is available to Canadian law enforcement agencies and to U.S. border officials through an information sharing agreement with the U.S. Federal Bureau of Investigation.

As part of the investigation, the Commissioner consulted with several Ontario Police Services, the Ontario Provincial Police, and the RCMP. In addition, interviews and consultations were conducted with several leading mental health organizations and the Canadian Civil Liberties Association. Although there is no legal requirement that information related to a suicide attempt must be recorded on CPIC, significant variations were found in the way that different police services treated this information.

The Commissioner found that the indiscriminate disclosure of information relating to all suicide attempts was not in compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, and its provincial equivalent. As a result, she has identified a set of four circumstances, referred to as the Mental Health Disclosure Test (MHDT), where the disclosure of suicide-related personal information to law enforcement agencies within Canada and to U.S. border officials, would be permissible. By applying this test, police services will ensure that incidents of attempted suicide are only disclosed to CPIC in limited and justifiable circumstances.

Commissioner Cavoukian's recommendations for Ontario police services are:

1. Immediately cease the practice of automatically uploading or disclosing personal information relating to threats of suicide or attempted suicide via CPIC, by default. Before disclosing personal information to CPIC relating to a threatened suicide or attempted suicide, the Mental Health Disclosure Test (MHDT) must be met. This test requires that one of the following four circumstances exist before any suicide-related information is recorded:
 1. the suicide attempt involved the threat of serious violence or harm, or the actual use of serious violence or harm directed at other individuals;
 2. the suicide attempt could reasonably be considered to be an intentional provocation of a lethal response by police;
 3. the individual involved had a history of serious violence or harm to others;
or
 4. the suicide attempt occurred while an individual was in police custody.
2. Base any consideration as to the renewal of a SIP entry on the MHDT.
3. Develop a clear and transparent process to enable individuals to seek to have any information on CPIC related to a threat of suicide or attempted suicide removed.
4. Conduct an audit of CPIC to identify all current suicide-related SIP entries that originated with the service involved. Entries not meeting the MHDT should be removed.
5. Conduct a review of CPIC entries for specific individuals whose names will be provided by my office. In conducting this review, consideration should be given to the unique circumstances of the individual and the MHDT.

Quotes:

"The untenable practice of automatic or blanket sharing of police information related to suicide threats or attempts simply cannot continue," said Commissioner Cavoukian. "I am confident that with the implementation of the Mental Health Disclosure Test, police services will be in a position to perform their vital functions **and** protect the privacy of Ontarians."

"The record of a person's suicide attempt is personal health information that should be protected to the greatest extent possible," said Dr. Peter Voore, Medical Director at the Centre for Addiction and Mental Health (CAMH). "CAMH is in full agreement with the findings of this investigation and we strongly support the recommendations that the Commissioner has put forward."

About the Information and Privacy Commissioner of Ontario

The Information and Privacy Commissioner is appointed by and reports to the Ontario Legislative Assembly, and is independent of the government of the day. The Commissioner's mandate includes overseeing the access and privacy provisions of the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, as well as the *Personal Health Information Protection Act*, which applies to both public and private sector health information custodians. A vital component of the Commissioner's mandate is to help educate the public about access and privacy issues.

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Fact Sheet

Crossing the Line: The Indiscriminate Disclosure of Attempted Suicide Information to U.S. Border Officials via CPIC

Investigation Process

- A number of Ontarians (including Ellen Richardson and Lois Kamenitz) were interviewed about their experience of being turned away by U.S. border officials.
- The Minister of Health and Long-Term Care, Deb Matthews, provided the IPC with a sworn affidavit that the personal health information of Ontarians was not being provided to U.S. border officials by the Ministry of Health and Long-Term Care, pursuant to any past, or existing, arrangement or agreement.
- Interviews and consultations were completed with police services in Toronto, the Region of Waterloo, Hamilton and Ottawa, as well as the Ontario Provincial Police (OPP), and the Royal Canadian Mounted Police (RCMP).
- Interviews and consultations were conducted with leading mental health professionals and organizations, including the Centre for Addiction and Mental Health, the Mental Health Commission of Canada, and the Canadian Mental Health Association – Ontario.
- The Canadian Civil Liberties Association also submitted representations on the issues under investigation.

Key Findings:

- When police in Ontario respond to a 911 call for assistance, they collect personal information about the incident and record it in police databases, even where no charges are laid.
- Depending on the practices of individual police services, information relating to suicide attempts may be uploaded in the Special Interest Police (SIP) repository of the Canadian Police Information Centre (CPIC) database.
- CPIC is available to Canadian law enforcement agencies and to U.S. border officials, via the Department of Homeland Security (DHS), through an information sharing agreement with the U.S. Federal Bureau of Investigations (FBI).
- There is significant variation in the ways that police in Ontario treat this information. Police services in Hamilton, the Region of Waterloo, Ottawa, and the OPP all exercise some discretion in determining whether to include such information on CPIC.
- The Toronto Police Service, on the other hand, has a policy requiring that their police officers automatically disclose information related to every threat of suicide and suicide attempt via CPIC, by default.

Conclusions:

- The indiscriminate disclosure of all personal information relating to suicide attempts or threats is not in compliance with section 32 of the *Municipal Freedom of Information and Protection of Privacy Act*, and its provincial equivalent.

- In her recommendations, the Commissioner has identified a set of four circumstances, referred to as the Mental Health Disclosure Test (MHDT), where the disclosure of suicide-related personal information to law enforcement agencies within Canada and to U.S. border officials, would be permissible.
- By applying the MHDT, police services will ensure that incidents of attempted suicide are only disclosed to CPIC in limited and justifiable circumstances.