



Australian Government

Office of the Privacy Commissioner

LEA confidential

What Law Enforcement Agencies need to know about privacy

24 October 2007

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Deputy Privacy Commissioner

Law enforcement and privacy

With extra collection powers comes added responsibility to handle personal information sensitively.

Good information handling supports good decision-making

Presentation

1. Outline of coverage of the *Privacy Act 1988*
2. Information Privacy Principles – best practice in information handling
3. New developments and initiatives in law enforcement and their privacy impacts

The *Privacy Act 1988 (Cth)*

- Covers:
 - Australian and ACT Government agencies
 - credit providers and reporters
 - health service providers and
 - business with a turnover of more than \$3 million
 - **federal law enforcement agencies**
- Doesn't cover:
 - state and territory law enforcement agencies
 - intelligence agencies

Information Privacy Principles

- 11 rules that Australian and ACT Government agencies must comply with when it comes to the handling of personal information
- IPPs relate to collection, use, disclosure, access to, correction of, and storage of personal information
- IPPs contain some exceptions for law enforcement

Data quality

- only use accurate, up to date, and complete information
- The more serious the consequences of the personal information being inaccurate the more reasonable it is for the agency to check the information before using it.
- The accuracy of the information should travel with the information

Storage and security

Unauthorised access or modification can render information useless for purposes of investigation so...

- Secure databases and check security systems regularly
- Train up staff
- Remember that just because your agency has specific legal authority to collect certain sensitive information, other agencies you work with may not, so take care when sharing information

Collection

Law enforcement agencies don't always have to know exactly what they will use personal information for when they collect it.

However they must have good grounds for believing that this kind of information will help them in their intelligence functions.

So...

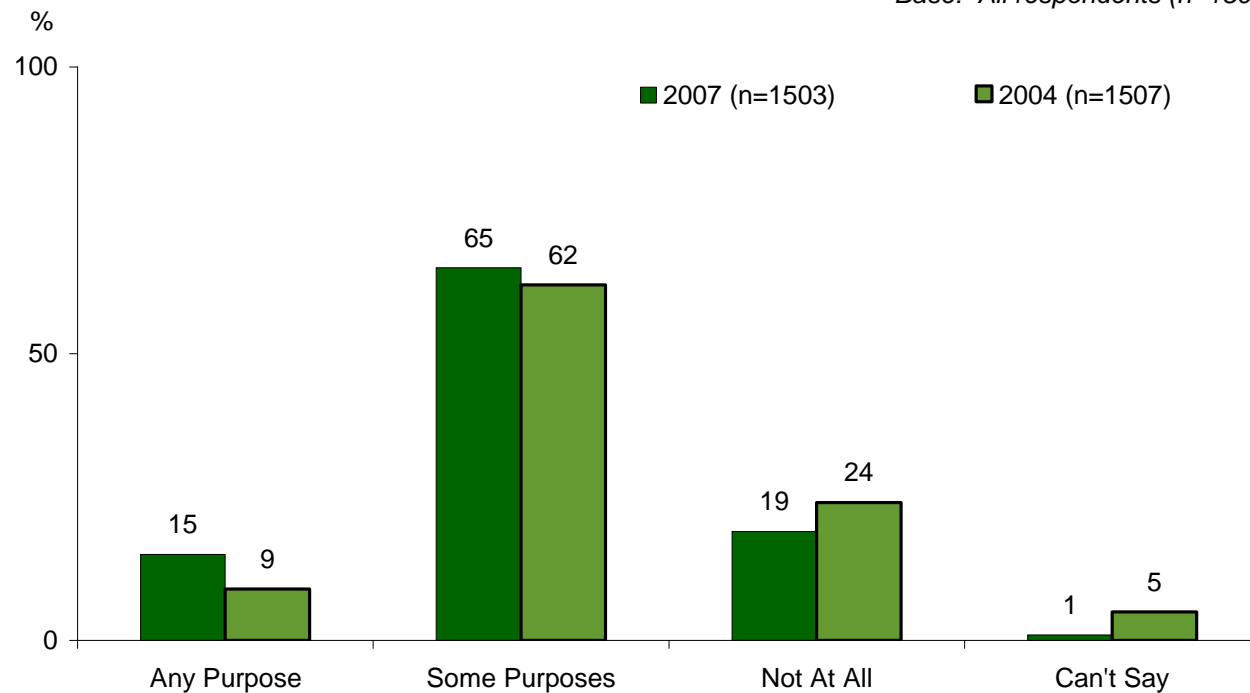
- Collect information in a fair and lawful manner and only collect the information that you need
- Develop guidelines for staff

Use and disclosure

Results of community attitudes research:

Q. Do you believe Government departments should be able to cross-reference or share information in their databases about you and other Australians for any purpose, some purposes or not at all?

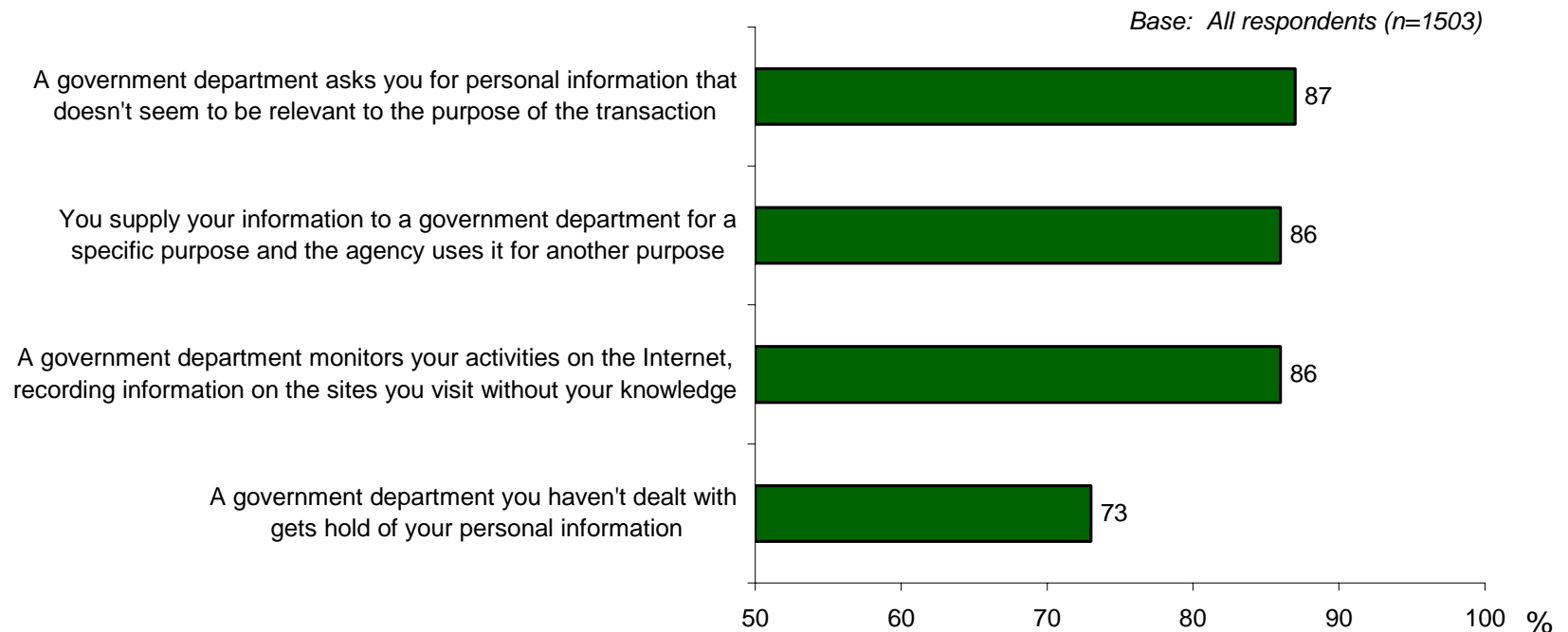
Base: All respondents (n=1503)



Use and disclosure

Results of community attitudes research:

Q. Which of the following instances would you regard to be a misuse of your personal information?



Use and disclosure

- If you are unable to notify the individual of collection of their personal information (IPP 2) then it's doubly important to only use personal information for well-defined purposes
- Exception: agencies shall not disclose personal information unless 'required or authorised by or under law' (IPP 11.1(d))

However, consider how such uses / disclosures may detract from the spirit / intent of the Privacy Act

- Information-sharing should be covered by agreements between agencies that incorporate privacy principles

CrimTrac

“CrimTrac will take a leadership role in generating national approaches to information sharing solutions for law enforcement agencies, for a safer Australia”

CrimTrac Strategic Plan, 2007-10

Crimtrac

Issues to consider:

- Data accuracy?
- Risk of function creep?
- Data security?
- What privacy laws apply?

CrimTrac privacy policy

“There is a convergence between the interests of Australian police services and adherence to the IPPs. Police services need to be confident that:

- the information held on CrimTrac systems is secure and not open to unauthorised access, use or tampering;*
- the information that they are accessing is accurate and up to date;*
- their officers are using the information provided through the CrimTrac Agency for the purpose of law enforcement; and*
- the systems, policies and procedures that the CrimTrac Agency is implementing will assist in achieving the twin goals of personal information privacy and good policing”*

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Issues to consider:

- New collection requirements for organisations:
 - Are these organisations covered by privacy laws?
 - How will data quality be ensured?
- Are there any risks of function creep?
- What will happen to information that is no longer needed?

For further information:

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