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| **Notification of Privacy Complaints and/or Alleged Privacy Incidents** |
| **Section** | 1. Security and Control |
| **CR Number** | 1.3.5 | **Current Issue Date** | September 2020 |
| **Legislation & Policy**  | Corrections Act 1986Privacy and Data Protection Act 2014Health Records Act 2001Charter of Human Rights and Responsibilities Act 2006 |
| **Standard** | Prisoner Administration Services - Requests and Complaints |
| **Attachments** | Nil |
| **Forms** | Nil |

1. **PURPOSE**

This requirement ensures that staff working in the Victorian corrections system establish and maintain consistent practice in relation to the reporting of privacy complaints and potential or substantiated privacy breaches. This ensures information is handled in accordance with the *Privacy and Data Protection Act* 2014(PDPA).

1. **REQUIREMENT**

Prisons must have processes in place to ensure that privacy complaints and potential or actual privacy incidents are reported in a timely way.

1. **GUIDING PRINCIPLE**
	1. An individual’s privacy is a fundamental human right and all staff must properly consider all human rights, including s13 privacy and reputation. Section 13 of the *Charter of Human Rights and Responsibilities Act* (the Charter) 2016 protects an individual’s right not to have their **privacy**, family, home or correspondence interfered with. It also gives individual’s the right to not have their **reputation** unlawfully attacked.
	2. The Office of the Victorian Information Commissioner (OVIC) oversees the Victorian public sector’s compliance with the *Privacy and Data Protection Act 2014 (Vic)* (PDPA). The PDPA provides for the responsible, transparent and secure handling of personal information and protects privacy through enforceable privacy principles. Any individual may complain to the OVIC, or by referral to the Victorian Civil and Administrative Tribunal, about a breach of one or more of these principles. Similar protection is provided for health information under the *Health Records Act* 2001.
	3. Privacy complaints and breaches may have adverse reputational and financial consequences for Corrections Victoria, including private prisons, in addition to risks to individual privacy and security. Therefore, it is important to prevent and manage privacy related incidents and allegations appropriately.
2. **CONTEXT**

The disclosure of information relating to prisoners and offenders is legislated by the *Corrections Act* 1986 and the PDPA*.*  A privacy incident occurs when personal information is collected, accessed, used, or disclosed in ways that are not in accordance with the provisions of the PDPA or the *Corrections Act* 1986.

1. **INSTRUCTION**

**5.1 Protocol**

Privacy incidents include, but are not limited to:

* the loss of documents/files containing personal and sensitive information; or
* inappropriate/unauthorised access to, or disclosure from:
	+ E\*Justice
	+ Prisoner Information Management System (PIMS)
	+ Centurion
	+ other databases containing personal information
* other inappropriate disclosures of prisoner/offender or staff information, or
* the opening of exempt prisoner mail
* misdirected emails that contain personal and sensitive information.
	1. **Staff responsibilities – Incidents**

In the event of a privacy incident, staff/contractors must:

* notify their immediate line manager who must report the matter as per Commissioner’s Requirement 1.3.1 – Incident Reporting;
* the staff/contractor is to provide a report that sets out:
	+ a summary of the incident
	+ actions taken.
	1. **Reporting requirement by Managers**
		1. Managers are to be guided by Commissioner’s Requirement 1.3.1 – Incident Reporting, to ensure that the incident is managed and reported appropriately.
		2. If it is a notifiable incident, the incident must be reported within 30 minutes and if reportable, within 24 hours.
		3. In addition to the relevant prison and Corrections Victoria notifications, a privacy incident is to be reported to the Information Privacy Unit (IPU) by email at privacy@justice.vic.gov.au with a courtesy copy emailed to DJCS-CV-Prison Incidents and the Manager, Operations Directorate.
		4. The IPU may provide advice around how to contain the breach if no initial action has been taken and where appropriate, any preventative measures that should be put into place to avoid the breaches occurring in future. Preventative measures may include more training and awareness activities for staff and/or change to practice and policies.

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| Larissa Strong**Acting Commissioner** |

**Information below this point is administrative supporting detail**

**only and not subject to Commissioner’s review or approval.**

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| **Acronyms** |
| CCS | Community Correctional Services |
| IPU | Information Privacy Unit |
| OVIC | Office of the Victorian Information Commissioner |
| OCPDP | Office of the Commissioner for Privacy and Data Protection |
| PDPA | Privacy and Data Protection Act 2014 |
| PIMS | Prisoner Information Management System |

| **Definitions** |
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| **Associated Commissioner’s Requirements** |
| 1.3.1 - Incident Reporting1.3.4 - Information Management and Security1.4.4 - Access to and Security of Corrections Victoria data for Research and Evaluation Purposes1.4.8 - Conduct and Ethics2.4.3 - Disclosure of Prisoner/Offender Information |

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| Title: | Notification of Privacy Complaints and/or Alleged Privacy Incidents |
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| V5 | Sep-20 | Update |
| V4 | Dec-17 | Update  |
| V3 | Oct-15 | Update |
| V2 | Aug-14 | Update |
| V1 | Nov-07 | First Issue |