

MINISTRY OF ATTORNEY GENERAL

TERMS AND CONDITIONS

RELATING TO

THE DISCLOSURE OF PERSONAL INFORMATION FOR RESEARCH OR STATISTICAL PURPOSES

Contents

General Information: Introduction; Personal Information; Disclosure for Research or Statistical Purposes.

Application and Agreement: Part A - Identification of researcher
Part B - Description of research project
Part C - Records requested
Part D - Agreement - terms and conditions of access
Part E - Approval of terms and conditions

General Information

Section 35 of the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165 (the Act), provides that British Columbia public bodies may disclose personal information in their custody or control for research or statistical purposes.

Research use of records containing personal information in the custody or under the control of the Ministry of Attorney General must be conducted according to the provisions of the Act. The Act both guarantees public access to government records and protects the privacy of individuals identified in these records.

For the Ministry of Attorney General, this means reviewing public requests for access to government records in order to determine whether records contain personal information that may be restricted. For the research public requesting access to this type of record, Section 35 of the Act provides an option for the researcher to access restricted material by entering into a legal research agreement which governs the conditions of use of such government records.

A research agreement, once approved, gives the researcher timely access to the desired records, and it permits the Ministry of Attorney General to make materials

available to the researcher without substantial costs and possible delays caused by the need to examine and sever personal information from large numbers of documents.

Research agreements can only be granted for a bona fide research project therefore, it is important that the applicant carefully complete a research proposal that responds in substantial detail to all elements in Part B of the application. The applicant must provide a curriculum vita and three references.

A research agreement is a binding legal document, granting access only to those records specified in Part C of the agreement to those individuals noted in Parts A, B, and D of the agreement. Any changes or additions to the agreement must be made in writing and be approved in writing by the Ministry of Attorney General.

The Ministry of Attorney General will consider the date when the complete research agreement is received as the date of receipt of request. Proper completion of the form will hasten the process by which access to the records can be granted.

Under the Act, **personal information** may not be disclosed to any person other than the individual to whom it relates except in certain limited circumstances:

"Personal information" is defined in Schedule 1 of the Act as follows:

"personal information" means recorded information about an identifiable individual other than business contact information;

Personal information does not include business contact information but may include information similar to the partial list below:

- (a) the individual's name, address or telephone number,
- (b) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,
- (c) the individual's age, sex, sexual orientation, marital status or family status,
- (d) an identifying number, symbol or other particular assigned to the individual,
- (e) the individual's fingerprints, blood type or inheritable characteristics,
- (f) information about the individual's health care history, including a physical or mental disability,
- (g) information about the individual's educational, financial, criminal or employment history,
- (h) anyone else's opinions about the individual, and
- (i) the individual's personal views or opinions, except if they are about someone else.

Disclosure for research or statistical purposes is one of the circumstances in which personal information may be accessed by another person. At the Ministry of Attorney General, approval is given by the Deputy Attorney General under the terms prescribed in Section 35 of the Act:

“Disclosure for research or statistical purposes

35 (1) A public body may disclose personal information or may cause personal information in its custody or under its control to be disclosed for a research purpose, including statistical research, only if

(a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form or the research purpose has been approved by the commissioner,

(a.1) subject to subsection (2), the information is disclosed on condition that it not be used for the purpose of contacting a person to participate in the research,

(b) any record linkage is not harmful to the individuals that information is about and the benefits to be derived from the record linkage are clearly in the public interest,

(c) the head of the public body concerned has approved conditions relating to the following:

(i) security and confidentiality;

(ii) the removal or destruction of individual identifiers at the earliest reasonable time;

(iii) the prohibition of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of that public body, and

(d) the person to whom that information is disclosed has signed an agreement to comply with the approved conditions, this Act and any of the public body's policies and procedures relating to the confidentiality of personal information.

(2) Subsection (1) (a.1) does not apply in respect of research in relation to health issues if the commissioner approves

(a) the research purpose,

(b) the use of disclosed information for the purpose of contacting a person to participate in the research, and

(c) the manner in which contact is to be made, including the information to be made available to persons contacted.”

MINISTRY OF ATTORNEY GENERAL

**APPLICATION AND AGREEMENT
FOR**

**ACCESS TO PERSONAL INFORMATION
FOR
RESEARCH OR STATISICAL PURPOSES**

Purpose: This form is for use in requesting access, for research or statistical purposes, to personal information found in records covered by the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165 (the Act). Once the researcher has signed this form and the terms and conditions of access have been approved by the Ministry of Attorney General, it becomes a legal agreement between the researcher and the Ministry of Attorney General.

Collection of the information which the applicant provides on this form, and the conditions of access described, are authorized by Sections 26 and 35 of the Act. Any questions about this form may be directed to Knowledge and Information Services through the OCIO Privacy Help Line at 250-356-1851 or by email to CPIAdmin@gov.bc.ca.

PART A - Identification of Researcher

Name (last name/first name/initials)

Registration number
(if applicable)

Please provide the following additional information if applicable:

Institutional Affiliation: University of Alberta

Position:

PART B - Description of Research Project

Please attach the following information:

- 1) A general description of the research project (include the objectives of the project and the proposed method(s) of analysis).
- 2) An explanation of why the research project cannot reasonably be accomplished without access to personal information in individually identifiable forms (i.e., personal information about named or identifiable individuals).
- 3) An explanation of how the personal information will be used, including a description of any proposed linkages to be made between personal information in the records requested and any other personal information.
- 4) The expected period of time during which access to these records may be required.
- 5) The benefits to be derived from the research project.

Please also provide a curriculum vitae including the following information: education; research experience; knowledge of subject and proposed methodology; three references.

PART C - Records Requested (Use additional sheets as required)

Please list **all** records containing personal information to which access is requested. Access will be given **only** to records listed below. Any changes or additions to this list after the application is submitted should be made in writing and will require approval in writing from the Ministry of Attorney General.

In each case, please provide the following: Ministry of Attorney General identifying number of requested records, if known (e.g. file, box, volume or reel number(s)); title; outside dates. If access to less than an entire box is requested, please also provide the number(s) and title(s) of the file(s) requested.

Example: 40380-20 Student award case files (Part-time assistance), 1988-1989.

All records relating to the B.C. Human Rights Commission and Branch before 1985. For example: boards of inquiry decisions and related documents; correspondence; reports and research documents; memorandums; and lists of staff and appointments.

Originals may be consulted only at the Ministry of Attorney General. Will you require that the above records be copied (at your expense) for viewing elsewhere?

Yes ___ No ___

PART D - Agreement on Terms and Conditions of Access

If I am granted access to the records listed in Part C, I understand and will abide by the following terms and conditions:

Security and Confidentiality

- 1) I understand that I am responsible for maintaining the security and confidentiality of all personal information found in or taken from these records.
- 2) Apart from myself, only the following persons will have access to this personal information in a form which identifies or could be used to identify the individual(s) to whom it relates:

N/A

Before any personal information is disclosed to these persons, I will obtain a written undertaking from each of them to ensure that they will not disclose that information to any other person and that they will be bound by all terms and conditions of the present agreement. I will maintain a copy of each such guarantee, and will provide the Ministry of Attorney General with a photocopy.

- 3) None of these records (including copies of them or notes containing personal information taken from them) will be left unattended at any time, except under the conditions described in Paragraphs 4, 5 and 6, below. If I am using these records on the premises of Ministry of Attorney General, I will comply with the Ministry of Attorney General's security procedures.
- 4) Any copies of the requested records and any notes which contain personal information taken from them will be kept, in a secure manner, at the following address(es):

They will not be removed from the above premises without the prior written consent of the Ministry of Attorney General.

- 5) Physical security at the above premises will be maintained by ensuring that the premises are securely locked, except when one or more of the individuals named in paragraph 2) are present, as well as by the following additional measures (e.g. locked filing cabinet):

Locked filing cabinet in a secure and private office.

- 6) Individually identifiable information from the requested records will be maintained on a computer system to which users other than those listed in

paragraph 2) have access.

Yes____ **No**

If yes, access to the information will be restricted through the use of passwords and by other computer security measures that prevents unauthorized access or that trace such unauthorized access, including the following methods:

Use of Personal Information

- 7) Personal information contained in the records described in Part C of this form will **not** be used or disclosed for any purpose other than as described in Part B (including additional linkages between sources of personal information), nor for any subsequent purpose, without the express written permission of the Ministry of Attorney General.
- 8) Reports, papers or any other works which describe the results of the research undertaken will be written and/or presented in such a way that no individuals in the requested records can be identified and no linkages can be made between any personal information found in the requested records and personal information that is publicly available from other sources. There will be **no** exceptions to this rule without prior and specific written permission from the Ministry of Attorney General.
- 9) Any case file numbers or other individual identifiers to be recorded on computer will be created by myself or one of the persons listed in paragraph 2) and will not relate to any real case numbers found in the records. Any such identifiers are to be used for statistical purposes only.
- 10) No case file numbers or other individual identifiers assigned for the purposes of the research project described in Part B will appear in any other work.
- 11) It is preferred that, no personal information which identifies or could be used to identify the individual(s) to whom it relates will be transmitted by means of any telecommunications device, **including** telephone, fax or modem. If personal information is transferred by modem, the personal information will be encrypted or a dedicated line will be used. In addition, if facsimile (fax) is used, it will be a secure fax.
- 12) Unless expressly authorized in writing by the Ministry of Attorney General, no direct or indirect contact will be made with the individuals to whom the personal information relates.

13) Individual identifiers associated with the records described in Part C, or contained in copies of them, will be removed or destroyed at the earliest time at which removal or destruction can be accomplished consistent with the research purpose described in Part B. At the latest (maximum 2 years), this will occur by: **[date]**

Any extension to this time limit must be approved in writing by the Ministry of Attorney General. The removal of individual identifiers will be done in a manner that ensures that remaining personal information (including any found in research notes) cannot be used to identify the individual to whom it relates. **If necessary, this will be done by destroying copies of requested records or pages of notes in their entirety.** All destruction or removal of individual identifiers will be confidential and complete in order to prevent access by any unauthorized persons.

Audit and Inspection

14) The Ministry of Attorney General may determine it is necessary to carry out on-site visits and such other inspection or investigations that it deems necessary to ensure compliance with the conditions of this agreement. Such measures may include, but are not limited to:

- on-site inspection of premises or computer databases to confirm that stated security precautions are in effect;
- receipt upon request of a copy of any written or published work based on research carried out under the terms of this agreement;
- written verification from the researcher that the destruction of all information about identifiable individuals has been carried out by the date specified in this agreement.

Agreement to the Terms and Conditions

15) I understand that I am responsible for ensuring complete compliance with these terms and conditions. In the event that I become aware of a breach of any of the conditions of this agreement, I will immediately notify the Ministry of Attorney General in writing. Contravention of the terms and conditions of this agreement may lead to the withdrawal of research privileges; the Ministry of Attorney General may also take legal action to prevent any further disclosure of the personal information concerned.

The Ministry of Attorney General reserves the right to demand the immediate return of all records and to withdraw access to records without prior notice if this becomes necessary under the Act.

I accept that the expiry date for access to the records in Part C is the date as listed by Ministry of Attorney General below.

Signed at _____, this _____ day of _____, 20____.

Signature of Researcher

Signature of Witness

Name and Position of Witness

PART E - Approval of Terms and Conditions (to be completed by Ministry of Attorney General staff)

The Ministry of Attorney General approves the terms and conditions of this agreement under which the Ministry of Attorney General grants access to the researcher.

The expiry date for access to the records listed in Part C is:

[date]

Signature

Deputy Attorney General

Date