



## VICTORIAN INSTITUTE OF FORENSIC MEDICINE (VIFM) INFORMATION PRIVACY STATEMENT

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### Information Context

The Victorian Institute of Forensic Medicine (VIFM) deals with identified personal and health information in accordance with the relevant provisions of the *Victorian Institute of Forensic Medicine Act 1985 (Vic)* ('the VIFM Act'), the *Human Tissue Act 1982* and both the *Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001 (Vic)*. The VIFM also follows the Coroners Court Rules in relation to distribution of reports provided to the coroner.

Adhering to these legislative provisions and rules ensures that VIFM has the ability to perform its statutory functions and objects, and also to properly respect the privacy of individuals whose personal and health information we handle.

### Legislative Framework

#### Victorian Institute of Forensic Medicine Act 1985 (VIC)

The Victorian Institute of Forensic Medicine is a statutory authority established as a body corporate under the VIFM Act. The Institute's principal functions are to:

- Receive reports of death and gather and disclose information to support the Coroner's investigation of those deaths;
- Provide forensic pathology and related scientific services;
- Ensure provision of clinical forensic medicine to the police force of Victoria and other government agencies;
- Investigate and instigate appropriate responses to support the health and safety of siblings and parents where multiple children have died in one family (reviewable deaths); and
- To undertake tissue banking activities, this is done through the Donor Tissue Bank of Victoria, a service division within the Institute.

The Institute also has objects in relation to research and education in forensic medicine and science and related areas, which it achieves through its dual existence as the Department of Forensic Medicine of Monash University. In addition, the VIFM's objects include contributing to the reduction of preventable deaths and promoting public health and safety and the administration of justice.



The VIFM Act provides for VIFM to, on behalf of the Coroner, collect and disclose information to assist the Coroner to identify deceased persons and in the investigation of reported deaths. The Act also empowers VIFM to collect use and disclose personal and health information for the purposes of performing its objects and functions. It also empowers people or agencies from whom VIFM requests personal or health information in relation to deaths reported to the coroner, and reviewable deaths to provide it, despite any other Act or law. 'Personal information' and 'health information' are defined to have the same meanings as in the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*.

## **Human Tissue Act 1982 (VIC)**

The *Human Tissue Act 1982* also specifically empowers VIFM to collect, use and disclose personal and health information for the purposes of locating the senior next of kin of deceased people who may be tissue donors and for assessing the suitability of donors and tissue for donation. A further provision allows for individuals and agencies to comply with requests from VIFM for this information, despite restrictions in the *Health Records Act*, *Privacy and Data Protection Act* or other legislation.

## **Privacy and Data Protection Act 2014 (VIC) and the Health Records Act 2001 (VIC)**

Beyond the power to collect use and disclose personal and health information in the VIFM Act and the Human Tissue Act, the VIFM must comply with the Privacy and Data Protection Act and the Health Records Act, as they relate to the 'health information' and 'personal information' handled by the Institute.

'Health information' is defined to include:

- Information or opinion about an individual's physical, mental or psychological health;
- Information collected to provide a health service or collected in connection with the donation of body parts;
- A health service provided or to be provided to an individual;
- Genetic information predictive of the health of an individual or any descendants.

This will include information collected or produced by the Institute about most deaths reported to the Coroner, as the Health Records Act applies in relation to living and deceased individuals who have been dead for 30 years or less, so far as it is capable of doing so.

'Personal information' is defined to include recorded information or opinion, whether true or not, about a readily identifiable individual. It does not include health information.

## **Coroners Court Rules 2009**

In relation to the reports VIFM provides to the coroner, there are also Coroners Court Rules that require VIFM not to provide copies of these reports to anyone else, unless a coroner orders otherwise. VIFM refers all requests for these reports to the Coroners Court.

## **What information the VIFM collects and produces and why it collects and produces it**

Areas of the Institute that collect or produce personal or health information:

- Coronial Admissions and Enquiries



- Forensic Pathology and related scientific services
- Clinical Forensic Medicine services
- DNA testing services
- The Department of Forensic Medicine, Monash University
- Donor Tissue Bank of Victoria

## Coronial Admissions and Enquiries

The nurses and administrative officers, who work in VIFM's Coronal Admissions and Enquiries (CA&E) unit, assist the Coroner by receiving reports of deaths and fires, and requesting and receiving information about those deaths and fires. The staff in the CA&E also provides assistance and guidance about whether a death is reportable; gather information to assist the Coroner with identifying the deceased and help family members with information about the coronial process including the decision-making involved in the medical examination.

The CA&E staff collects the deceased's medical records and may speak with the deceased's treating doctors to inform the medical investigation. Copies may be taken of parts of the record that are then retained as part of the VIFM case file. The VIFM returns the medical records to the deceased's medical practitioner or hospital.

Our staff collects the details of the deceased's next-of-kin from police, for the purpose of contacting them to gather relevant information about the deceased person to assist in the investigation and to support the family with information about the coronial process.

Personal information about the deceased's next-of-kin may also be collected by VIFM staff if it is relevant to the medical investigation of the death. In some cases, a bodily sample may be collected from a member of the deceased person's family and DNA testing may be performed to assist in identifying the deceased.

## Forensic Pathology and Related Scientific Services

VIFM forensic pathologists and scientists assist the Coroner by investigating the medical aspects of reported deaths. Their reports may have a bearing on findings related to:

- The cause of death;
- Factors that may have contributed to the death;
- Circumstances of the death; and
- The identity of the deceased person.

VIFM pathologists may also consult with other medical or scientific specialists for the purpose of the medical investigation of a death. Notes or reports may be produced from these consultations. Autopsies performed by forensic pathologists will reveal information about the deceased's health during life and may also reveal health information of relevance to family members, for example, the detection of an inheritable disease.

## Clinical Forensic Medicine and Traffic Medicine Services

VIFM Forensic physicians and forensic nurses examine adult victims of physical and sexual assault, and children suspected to be victims of physical or sexual abuse or neglect. The Institute also provides traffic medicine services for police and conducts fitness for interview examinations.



This involves the assessment of drivers suspected to be affected by drug or alcohol consumption, the assessment of suspected offenders and others who may be impaired or incompetent to be interviewed by police. VIFM staff collects personal and health information in the provision of these services.

## **DNA Testing Services**

The Molecular Biology laboratory at the Institute undertakes a range of DNA testing for forensic purposes at the request of government and law enforcement agencies, medical and legal representatives. This includes:

- The identification of human remains
- Missing Persons investigations and
- Other matters that require DNA analysis.

Personal and health information may be collected in the provision of this service.

## **The Department of Forensic Medicine, Monash University**

The Institute, as the Department of Forensic Medicine at Monash University, collects personal information about students to enable courses to be administered and teaching materials to be disseminated.

## **The Donor Tissue Bank of Victoria (DTBV)**

The DTBV collects personal and health information when assessing the suitability of donors and tissue for donation. The information is collected from VIFM's Coronial Admissions and Enquiries unit; Victoria Police; directly from living donors and deceased donors' next of kin; from medical records and where relevant, from an autopsy. The DTBV undertakes testing that may produce further health information about a donor.

Personal details of family members of deceased donors are collected to compile a mailing list for follow up contact and to enable a newsletter to be circulated if families wish. Families may choose not to be contacted further by the DTBV.

### **What the VIFM does with personal and health information it collects and produces**

As noted above, the VIFM Act allows the VIFM to collect use and disclose personal or health information for the purposes of assisting the Coroner and for performing its other objects and functions. VIFM does not otherwise disclose personal and health information to third parties without the consent of the person concerned, unless required, authorised or permitted to do so by another law or regulation.

## **Coronial Admissions and Enquiries**

As described above, the CA&E unit collects personal and health information about deceased persons and their family members, for the purposes of assisting the Coroner to investigate the cause and circumstances of deaths reported to the Coroner, including confirming the identity of the deceased. The CA&E enter information into the VIFM's electronic case management system for use by medical and scientific practitioners at VIFM who are involved in the medical examinations as part of the investigation. The information is also passed to the Coroners Court of Victoria. Where required for criminal investigations, information may be passed to Victoria Police.



Information required for funeral purposes is passed on to funeral directors and authorised by the deceased's senior next of kin.

## **Forensic Pathology and Related Scientific Services**

VIFM pathologists provide the Coroner with a report detailing medical causes of deaths and the findings and results of medical investigations and examinations. According to the Coroners Court Rules (Rs.30, 32 & 34) these reports are provided only to the Coroner, unless the Coroner makes an order otherwise. This generally means that third parties need to apply to the Coroners Court to obtain a copy of a medical report from VIFM that has been provided to a Coroner.

Records of all forensic pathology and related services are kept by the Institute as required by the VIFM Act.

Information about the deceased is disclosed to the next of kin for the purposes of VIFM's functions and in line with the objective in the Coroners Act 2008 (Vic) to keep family members informed of the particulars and progress of an investigation.

Personal and health information may be disclosed to police and lawyers for the purposes of investigating or prosecuting/defending a case; to government agencies for their statutory functions and to ethically approved researchers.

Personal and health information may be disclosed to the DTBV as part of the Institute's tissue banking activities.

Health information about the deceased may come to light during a medical investigation, such as the identification of a disease with genetic components, which may have health implications for family members. In such circumstances, VIFM staff, makes contact with family members to ask whether they wish to learn of this information and whether they wish to be referred to the relevant specialist health and support services.

In accordance with s72 of the Public Health and Wellbeing Regulations 2009 (Vic), personal and health information may be disclosed to the Secretary of Department of Human Services, as notification of a communicable disease identified during the medical investigation is required.

## **Clinical Forensic Medicine and Traffic Medicine Services**

Forensic physicians and nurses make notes and compile written reports and expert medical opinions based on personal and health information collected about the people they have examined. These are provided to investigating officials and those in the justice system that are legally entitled to them (police, lawyers and the courts). Forensic physicians and nurses have a dual forensic and therapeutic role and take care to respect the medical confidentiality of their patients as far as possible in the context of their forensic role.

## **DNA Testing Services**

Results of DNA testing performed by the VIFM are only issued to and discussed with:

- the agency representatives who have commissioned the testing
- individuals who are the subjects of the DNA testing; and
- a third party only where authorised by the client(s).



## **The Department of Forensic Medicine, Monash University**

Personal information collected relating to students is used for administration and may be shared with Monash University administration, where necessary.

## **The Donor Tissue Bank of Victoria (DTBV)**

The DTBV uses and discloses personal and health information when organizing the donation, storage and transplant of donated tissue.

Relevant health information about the donor is provided to surgeons performing the transplant procedure to ensure that risks to the recipient patient are minimised.

The DTBV stores personal information about the recipients of donated tissues, which is required for the purposes of traceability, particularly in the event of an adverse reaction to the tissue transplant.

If a recipient chooses to write to his or her donor family, the DTBV stores a copy of the letter and other personal details supplied by the recipient. The donor family may choose not to receive the letter, in which case it is stored by the DTBV.

## **Research Activities**

Researchers from within VIFM or from external institutions may apply to have access to personal and health information held by VIFM for the purposes of research projects. Access and use for research purposes is subject to review and approval by the VIFM Ethics Committee which applies the guidelines of the National Health and Medical Research Council (NHMRC), 'National Statement on Ethical Conduct involving Humans'. Where relevant, the Ethics Committee also apply the Health Services Commissioner's Statutory Guidelines on Research issued under the Health Records Act, which set out additional criteria to follow, to ensure that privacy issues are taken into account when considering research proposals.

Wherever possible, de-identified information is used by researchers. Where disclosure of identified information is essential to the research purpose, the Ethics Committee will consider if obtaining consent is practical and ethical. In all instances where identified information is provided to researchers, they must use the information for only approved research and must agree to strict security precautions to protect the information from unauthorised access or disclosure.

## **How the Institute ensures that health and personal information is accurate and up to date**

The Institute takes all reasonable steps to ensure that the personal and health information it handles is accurate at the time it is collected, complete, and relevant to its functions and activities. In some cases the Institute relies upon the relevant individuals to provide accurate and current information at first instance, and to inform the Institute when any changes to that information are necessary.

## **How the Institute protects, stores and destroys health and personal information**

All VIFM employees, contractors and visitors are required to sign a confidentiality undertaking which obliges them to exercise a high standard of confidentiality over information at VIFM and to observe VIFM's statutory obligations regarding privacy and data security. Secure electronic and physical storage practices are in place to protect against the misuse, loss, unauthorised access or unauthorised disclosure of personal and health information.



The VIFM takes reasonable steps to destroy or permanently de-identify personal and health information that is no longer required to be stored, subject to obligations under the VIFM Act, relevant accreditation requirements and the *Public Records Act 1973*.

### **How Individuals can access health and personal information held by the VIFM**

Individuals have the right to access personal and health information the VIFM holds in relation to them or; if they are the legal representative of a deceased person who has died within the last 30 years; to information about that person and subject to the requirements of the Coroner.

The Institute takes reasonable steps to ensure that personal and health information held is accurate and complete. In many instances, the Institute relies on individuals to provide accurate and current information to the Institute in the first instance, and to notify when circumstances or details may change.

To access, update or amend information held by the VIFM that relates to you or to seek additional information about the VIFM's information management practices, please contact the VIFM Privacy Officer.

#### **Privacy Officer**

**Victorian Institute of Forensic Medicine**

**65 Kavanagh Street**

**Southbank, VIC 3006**

**Ph: 9684 4444**

**Email: [privacy.officer@vifm.org](mailto:privacy.officer@vifm.org)**

## **References**

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Victorian Institute of Forensic Medicine Act 1985 (VIC)

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Human Tissue Act 1982

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Privacy and Data Protection Act 2014 (VIC)

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Health Records Act 2001 (Vic)

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Coroners Court Rules 2009

## **Related documents**

<b>Document ID</b>	<b>Document Name</b>
FR-04-0194	VIFM Core Training Requirement

## **Changes since last revision**

<b>Section</b>	<b>Changes</b>
How individuals can access	Street address update.