



CRIMINAL LAWYERS' ASSOCIATION  
189 Queen Street East, Suite 1  
Toronto, ON M5A 1S2  
Tel: 416-214-9875  
Fax: 416-968-6818

[www.criminallawyers.ca](http://www.criminallawyers.ca)  
[ed@criminallawyers.ca](mailto:ed@criminallawyers.ca)

Monday, April 27, 2020

Solicitor General Sylvia Jones  
Ministry of the Solicitor General  
18<sup>th</sup> Floor, 25 Grosvenor Street  
Toronto, ON M7A 1Y6  
[sylvia.jones@pc.ola.org](mailto:sylvia.jones@pc.ola.org)

Dear Solicitor General Jones

I am writing on behalf of the Criminal Lawyers' Association (CLA) to echo the concerns raised in the letter written to you on April 23, 2020 by the Canadian Civil Liberties Association, the HIV & AIDS Legal Clinic Ontario, the Black Legal Action Centre, and Aboriginal Legal Services.

The CLA is a 1,650-member organization representing and advocating for criminal defence lawyers and the law enforcement and criminal justice issues that matter to us and our clients. Our members have front-line experience with police interactions with civilians, and in the trenches litigating the consequences of these interactions.

Our organization, grounded in the collective weight of our members' experience, is concerned about the government's decision to provide police services with the names, addresses, and dates of birth of individuals who have tested positive for COVID-19.

The problems outlined in the April 23, 2020 letter give rise to serious questions about the utility, let alone the necessity, of providing infection status information to police. For this reason, we call upon the government to explain and justify the extraordinary privacy violations occasioned by O. Reg. 120/20's authorization of disclosure of personal health information directly to law enforcement.

Accordingly, we lend our voice to that of the organizations listed above, in asking for responses to the following questions:

- (i) What is the intended purpose or objective of providing first responders in general, and police and fire services in particular, with the COVID-19 diagnosis information?
- (ii) What information from any database used to store COVID-19 diagnosis information will be available to first responders, including police services?
- (iii) How will the COVID-19 diagnosis be used by first responders in the execution of their duties? In particular, what additional precautions is it anticipated that police and firefighters will take upon receipt of the information?
- (iv) What measures will be taken to ensure that the intrusion upon the privacy of people diagnosed with COVID-19 will be as minimal and constrained as possible?
- (v) Will first responder access to this data be contingent upon local policies and procedures that adequately protect individual privacy? If so, please address the standards that local policies and procedures must meet, including:



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a. Safeguards to ensure there are no secondary uses of personal medical information; b. safeguards to ensure that personal medical information is only accessed by first responders when they are encountering or are about to encounter individuals (for example for the purpose of making a lawful arrest) and not in the course of investigations at large where there is no possibility of immediate first respondent contact with the individual in person; c. Limitations on who within police, fire and paramedic services will have access to this information; d. safeguards around the storage of health data, and limitation of, or prohibition against, secondary recording of this data in other databases that first responders may maintain or have access to; e. prohibition against continued access to this database once the emergency measures are lifted and/or a time-limit on the period for which this emergency measure remains in place; and f. safeguards to ensure the deletion of personal health information from policing and other first responder databases or other databases accessible to first responders once emergency measures are lifted.

(vi) What oversight and complaint measures have been put in place? Specifically: a. Is the province tracking use of this data, for example through a log kept each time a first responder accesses the data regarding COVID status, including when the information was requested, why and by whom? b. Will there be an audit process at the conclusion of the emergency to ensure no data is inappropriately retained? c. What recourse will individuals have if they believe their health status was inappropriately or illegally accessed, disclosed, or used?

Thank you for your anticipated response. We look forward to hearing from you.

Yours truly

Handwritten signature of John Struthers in black ink.

John Struthers  
CLA President

Handwritten signature of Lisa Jorgensen in black ink.

Lisa Jorgensen  
CLA Women's Director

Handwritten signature of Jill R. Presser in black ink.

Jill R. Presser  
Co-Chair,  
CLA Criminal Law and  
Technology Committee

cc. Mario Di Tommaso, Deputy Solicitor General, Community Safety  
[mario.ditommaso@ontario.ca](mailto:mario.ditommaso@ontario.ca)

Stephen Warner, Solicitor General's Office  
[Stephen.warner@ontario.ca](mailto:Stephen.warner@ontario.ca)

Abby Deshman, Director, Criminal Justice Program, Canadian Civil Liberties Association  
[adeshman@ccla.org](mailto:adeshman@ccla.org)

Ryan Peck, Executive Director, HIV & AIDS Legal Clinic Ontario  
[peckr@lao.on.ca](mailto:peckr@lao.on.ca)

Ruth Goba  
Executive Director, Black Legal Action Centre  
[ruthgoba@rogers.com](mailto:ruthgoba@rogers.com)

Christa Big Canoe, Legal Advocacy Director, Aboriginal Legal Services