

Edmonton Chapter ACFE Conference 2022

Handout for presentation of Cpl Sean Milne, Alberta RCMP

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“Sharing is Caring. When a bank went the extra mile and how you can too”

Sharing information of potential offences quickly with law enforcement can assist in the prevention of further offences or victimization.

Legal provisions exist for sharing private information with law enforcement **without** the consent of the subject in cases where the sharing organization has reasonable grounds to suspect or believe that the information relates to the commission of an offence:

Section 462.47 Criminal Code:

“For greater certainty but subject to section 241 of the *Income Tax Act*, a person is justified in disclosing to a peace officer or the Attorney General any facts on the basis of which that person **reasonably suspects** that any property is proceeds of crime or that any person has committed or is about to commit a designated offence.”

Section 7(3)(d) Personal Information Protection and Electronic Documents Act (PIPEDA):

(7)(3) For the purpose of clause 4.3 of Schedule 1, and despite the note that accompanies that clause, an organization may disclose personal information without the knowledge or consent of the individual only if the disclosure is ...

(d) made on the initiative of the organization to a government institution or a part of a government institution and the organization

(i) has **reasonable grounds to believe** that the information relates to a contravention of the laws of Canada, a province or a foreign jurisdiction that has been, is being or is about to be committed, or

(ii) suspects that the information relates to national security, the defence of Canada or the conduct of international affairs;

Section 20(f) Personal Information Protection Act (PIPA) – Alberta:

(20) An organization may disclose personal information about an individual without the consent of the individual but only if one or more of the following are applicable:

(f) the disclosure of the information is to a public body or a law enforcement agency in Canada to assist in an investigation

(i) undertaken with a view to a law enforcement proceeding, or

(ii) from which a law enforcement proceeding is likely to result

*(note: PIPA does not stipulate what threshold of belief should exist, but following the example of PIPEDA, reasonable grounds to **believe** would likely be applicable)*

This is not legal advice nor the official opinion of the Royal Canadian Mounted Police

The difference between reasonable grounds to suspect and reasonable grounds to believe is not a firm standard:

“Thus, while reasonable grounds to suspect and reasonable and probable grounds to believe are similar in that they both must be grounded in objective facts, reasonable suspicion is a lower standard, as it engages the reasonable possibility, rather than probability, of crime. As a result, when applying the reasonable suspicion standard, reviewing judges must be cautious not to conflate it with the more demanding reasonable and probable grounds standard.”

R v Chehil 2013 SCC 49

Considerations

- I am not aware, nor were the lawyers I spoke to, of any case law for these provisions, and they appear untested in the courts.
- The amount of information that would be required for police to initiate investigation may not be extensive.
- A good working relationship between police and the disclosing organization can facilitate a level of trust in making the disclosure.