

To: Metrolinx Board of Directors
From: Alba SandreTaylor
Sr. Legal Counsel
Date: February 20, 2020
Re: 2019 PRESTO Law Enforcement Requests Data Transparency Report

Executive Summary

Metrolinx has established a process to facilitate access to PRESTO information by law enforcement agencies or entities in very limited circumstances. That process includes logging and verifying the authority of the requestor, the purpose of the request, and the reasonableness of the kind and amount of information requested vis-a-vis the stated purpose. Metrolinx's process is rigorously managed and monitored by Metrolinx's Privacy Office staff, follows the requirements of the *Freedom of Information and Protection of Privacy Act*, and incorporates best practices as recommended by Ontario's Information and Privacy Commissioner. Annually Metrolinx reports on requests received and information released through this process.

For 2019 Metrolinx received 154 requests from law enforcement for PRESTO customer data. This represents an increase of 64% over 2018, when 94 law enforcement requests were received. Notably, the number of PRESTO cards also increased from 2018 to 2019, by 41%. Information relating to 238 unique cards or accounts was disclosed through this process - or, comparatively speaking, less than 0.006% of all cards/accounts in circulation.

Metrolinx provided some or all of the information requested 38% of the time (58 instances -- only one percentage point higher than 2018, where Metrolinx released information only 37% of the time). Just over half of the requests (52%, or 80 instances) related to law enforcement investigations (such as criminal offences), and approximately 40% (62 instances) of the requests related to emergencies or compassionate circumstances, such as locating missing persons in circumstances where there were concerns for their health or safety and other methods to locate them had been unsuccessful. In about 8% of cases (12 instances), the law enforcement requests related to missing or found PRESTO cards -- and in each of these cases, no cardholder information was disclosed. Instead, the cardholder was contacted by Metrolinx and advised to contact the relevant law enforcement entity.

Based on these numbers, Metrolinx staff believes that the current process and policy continues to provide an appropriate level of oversight and rigour to ensure that Metrolinx responds to law enforcement requests in a compliant and transparent

manner, balancing Metrolinx's commitment to protecting the privacy of PRESTO card users and the safety and security of the transit system and its passengers.

Background

In December 2017, Metrolinx committed to reporting annually on how it receives and responds to law enforcement requests for PRESTO card information. Metrolinx started tracking these requests in January 2017 and released its first report in March 2018. The second report was released in February 2019. Attached is Metrolinx's third annual report. This annual analysis provides Metrolinx with an opportunity to review and improve our processes and policies over time.

Grounded in a commitment to public safety and the safety and security of the region's transit system, Metrolinx's policy stipulates that, in certain circumstances, a court order will not be required to disclose certain PRESTO information to law enforcement. These situations include:

- where there are immediate concerns for a person's health and safety, such as a lost or missing person;
- in emergencies, such as where a person has been injured or is ill;
- where Metrolinx or another PRESTO transit operator is investigating a safety or security incident, such as theft or vandalism, or for the prevention or detection of crime on or in relation to a transit operator's property or services.

A court order is generally required in cases where the information related to a crime or incident committed outside of a transit system. These situations are described in PRESTO's privacy policy.

Metrolinx requires that all such requests be made through a specific law enforcement request form. This form requires a rationale for why the information is being sought, what it will be used for, and whether Metrolinx can notify the individual of the request. Metrolinx also requires an additional layer of oversight on these requests by requiring the requestor to obtain signed approval from their supervisor. Each form is reviewed by Privacy Office staff before requests are processed and any information is disclosed.

To provide additional transparency into its processes, Metrolinx annually publishes a transparency report on the number of law enforcement requests it receives and responds to. For these purposes, Metrolinx logs the following information:

- how many requests were received;
- how many disclosures were made, with and without a court order;
- how many requests were contested or rejected, including those modified by Metrolinx (these are treated as partial disclosures);

- a description of the types of information disclosed;
- what law enforcement agencies have issued requests to Metrolinx; and
- a summary of reasons why requests were rejected or modified (by disclosing less information than requested and available).

The 2019 PRESTO Law Enforcement Request Data Transparency Report is attached as Schedule "A" to this Report.

Respectfully submitted,

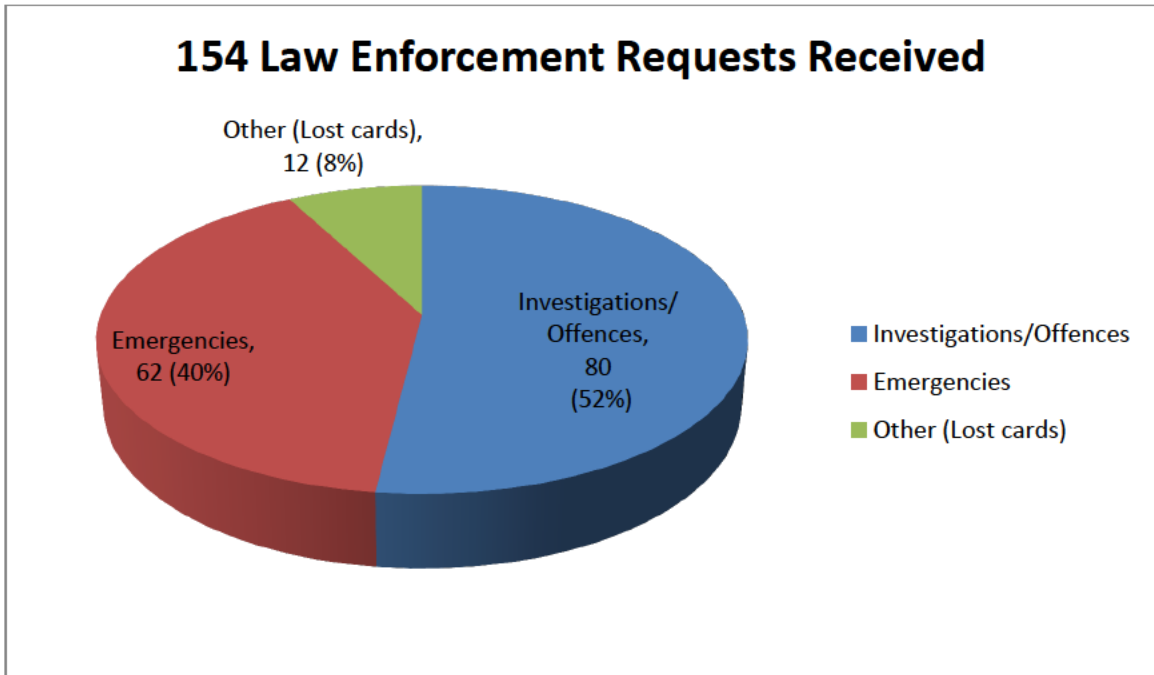
Alba Sandre Taylor

Attachments:

Appendix A 2019 PRESTO Law Enforcement Request Data

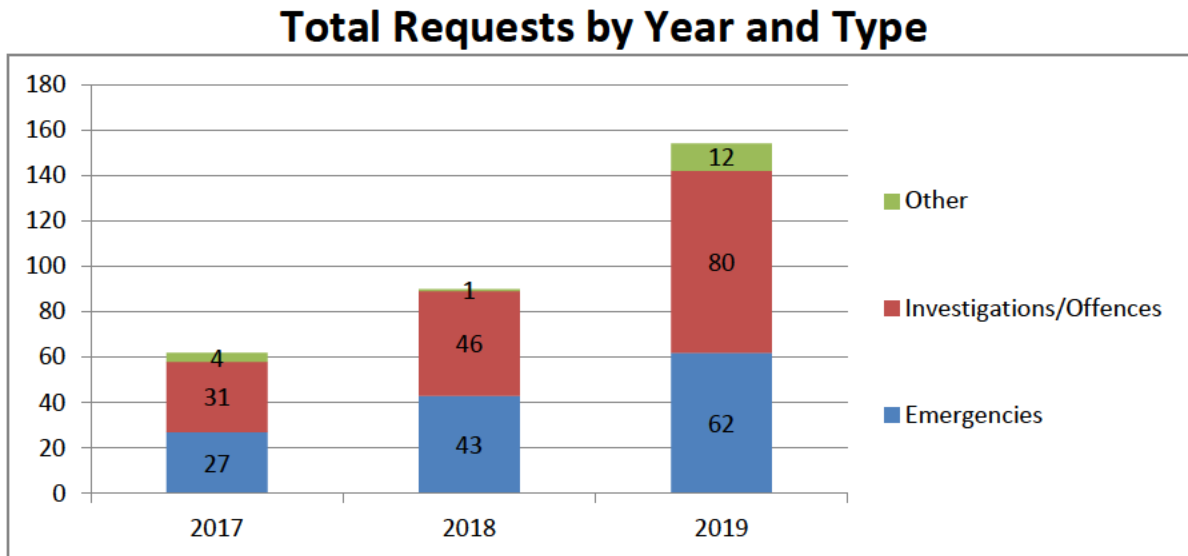
Appendix "A"

2019 PRESTO Law Enforcement Request Data

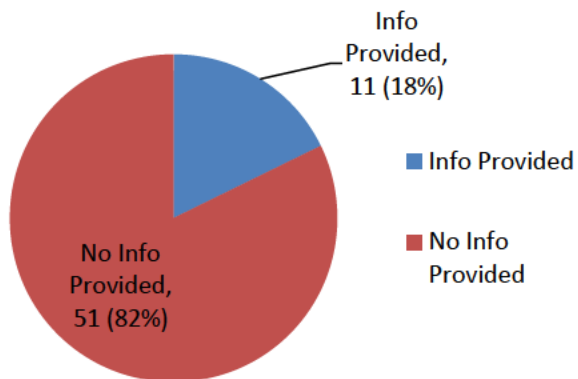


Total PRESTO Cardholders	
2017:	2,024,036
2018:	3,017,290
2019:	4,249,129

% of Requests based on Cards in Circulation	
2017:	0.003%
2018:	0.003%
2019:	0.004%



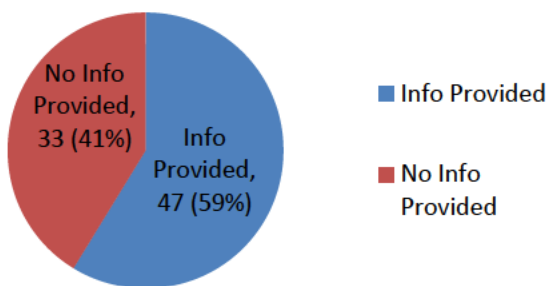
62 Emergency Requests



Emergency Requests

- Includes requests for information relating to missing persons where there are immediate and compelling concerns about their health and safety, as well as compassionate requests relating to injuries, illnesses or fatalities
- Some or all of the requested information was disclosed in 11 instances (18%)
- For requests relating to missing persons, travel information is typically provided only from the date that the person is reported missing

80 Law Enforcement Investigations/Offences



Investigations/Offences

- Of the 80 requests received, full information was provided in 31 instances (39%) and partial information in 16 instances (20%)
- In 6 cases (approx. 13%) information was provided in response to a court order
- 33 (41%) of the requests came from Metrolinx Transit Safety
- Requests were also received from Mississauga Transit Enforcement Services, the RCMP and OPP, McMaster Special Constables and Police forces in Toronto, Halton, Hamilton, Peel, York Region, Waterloo, Ottawa and New York

Additional information:

- 12 of the 154 (8%) requests received related to found PRESTO cards. In each of these cases no cardholder information was disclosed; instead, the customer was contacted by Metrolinx and advised to contact the relevant law enforcement entity.
- Registered cardholder personal information, such as name and address, was disclosed 29 times (19%); 3 of those instances related to emergency circumstances.
- Travel information was disclosed 46 times (30%); 9 of those instances related to emergency circumstances.
- Financial transaction information was disclosed 4 times; in 2 of those instances a court order was required; in the other 2 instances the request was from internal Transit Safety & Security.
- Court orders were also obtained in relation to 4 other instances prior to disclosure of travel or personal information. Therefore, a total of 6 court orders were received over

the year - representing approximately 13% of all instances where Metrolinx disclosed information.

- 15 (19%) of the Law Enforcement Investigation/Offences requests related to fraud or suspected fraud; in 5 of those cases, multiple cards were involved (a total of 119 cards involved across the 5 cases)
- In one other instance relating to a criminal investigation into an incident that occurred off a transit property/system, information relating to 62 cards/accounts was disclosed pursuant to court order
- Law enforcement requests were denied or modified for the following reasons:
 - the request was too broad (for example, seeking travel information beyond that necessary to substantiate the incident at issue, or identify the last location of the missing individual)
 - the request sought information about an offence not committed on a transit operator's property; in these cases officers were asked to obtain a court order
 - the request sought financial transaction information; in these cases officers were asked to obtain a court order
 - an alternative approach to contact the customer was agreed upon, such as Metrolinx contacting the customer and asking them to contact the relevant law enforcement entity