

COUNTY OF ERIE  
LOCAL LAW NO. 7  
1984

A LOCAL LAW implementing the New York State  
Personal Privacy Protection Law in the County of Erie.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE, AS  
FOLLOWS:

Personal Privacy Protection Law.

Section 1. General Policy.

Section 2. Definitions.

Section 3. Powers and Duties of the Committee.

Section 4. Agency Obligations.

Section 5. Access to Records.

Section 6. Disclosure of Records.

Section 7. Civil Remedies.

Section 8. No Waiver.

Section 9. Severability.

Section 10. Effective Date.

SECTION 1. General Policy.

The County Legislature hereby finds that County government collects much information on many private citizens. The existence of data banks and information systems and the increasingly sophisticated technology which makes them possible pose a potential threat to the right of privacy. The Legislature seeks to regulate the creation, maintenance and use of these systems by the County of Erie.

SECTION 2. Definitions.

(a) Agency. The term "agency" means the County Legislature or any County department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the County, except the offices of District Attorney, Sheriff, County Attorney, Probation and the Department of Central Police Services.

(b) Committee. The term "committee" means the Committee on Open Government as hereinafter constituted.

(c) Citizen. The term "citizen" means any natural person about whom personal information has been collected by any agency.

(d) Disclose. The term "disclose" means to reveal, release, transfer, disseminate or otherwise communicate personal information or records orally, in writing or by electronic or any other means other than to the citizen.

(e) Governmental Unit. The term "governmental unit" means any governmental entity performing a governmental or proprietary function for the federal government or for any state or any municipality thereof.

(f) Law. The term "law" means local, state or federal statute, rule regulation or ordinance.

(g) Personal Information. The term "personal information" means any information concerning a citizen which, because of name, number, symbol, mark or other identifier can be used to identify that citizen.

(h) Public Safety Agency Record. The term "public safety agency record" means a record of any agency or component of County government thereof whose primary function is the enforcement of civil or criminal statutes if such record pertains to investigation, law enforcement, confinement of persons in correctional facilities or supervision of persons pursuant to criminal conviction or court order, including but not limited to, records maintained by the Sheriff, County Attorney, the Department of Central Police Services, Probation, the Office of Criminal Justice or any other like agency.

(i) Record. The term "record" means any item, collection or grouping of personal information about a citizen which is maintained and retrievable by use of the name or other identifier of the citizen. The term "record" shall not include personal information which is not used to make a determination about the citizen if it is:

1. A telephone book or directory which is used exclusively for telephone and directory information;
2. Any card catalogue, book or other resource material in any library;
3. Any compilation of information containing names and addresses only which is used exclusively for the purpose of mailing agency information;
4. Personal information required by law to

be maintained and required by law to be used, only for statistical research or reporting purposes;

5. Information requested by the agency which is necessary for the agency to answer unsolicited requests by the citizen for information; or
6. Correspondence files.

(j) Routine Use. The term "routine use" means with respect to the disclosure of a record or personal information, any use of such record or personal information relevant to the purpose for which it is collected, and which use is necessary to the statutory duties of the agency that collected or obtained the record or personal information or necessary for that agency to operate a program specifically authorized by law.

(k) System of Records. The term "system of records" means any group of records under the actual or constructive control of any agency pertaining to one or more data subjects and from which personal information is retrievable by use of the name or other identifier of a citizen.

### SECTION 3.

1. Committee on Open Government constituted.

There is hereby created a committee on open government to be composed of a county official designated by the County Executive, a county official designated by the chairman of

the County Legislature and a third person selected by the other two. The third person shall not be a member or employee of any county agency.

2. The committee may, upon request of a citizen eligible to make a request, pursuant to §5 of this local law, investigate, make findings and furnish an advisory opinion in connection with the requirements of §5 of this law. Prior to the issuance of an advisory opinion, the committee may require an agency to provide additional information which the committee deems necessary to render an opinion. However, no system of records exempt from the provisions of §5 of this local law shall be subject to the provisions of this subdivision.

3. Within thirty (30) business days of the receipt of a privacy impact statement or a supplemental statement by an agency, the committee shall review such statements to determine whether the maintenance of a system is within the lawful authority of the agency and to determine whether there has been established rules and procedures as required by §4 of this law. However, such review by the committee shall not include examination of personal information or records collected or maintained by such agency. After review of such information, the committee may notify the agency of the result of its review. Such notification and result shall not constitute an advisory opinion and shall not be reported as such by the committee and there

shall be no obligation upon the agency to respond to such notification or result.

4. The committee shall report its activities and findings, including recommendations for changes in the law, to the County Executive and the County Legislature annually on or before December 15.

SECTION 4. Agency Obligations.

1. Each agency that maintains a system of records shall:

(a) Except when a citizen provides an agency with unsolicited personal information, maintain in its records only such personal information which is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute, executive order, local law, resolution, or to implement a program specifically authorized by law, resolution or ordinance;

(b) Consistent with the standards of paragraph (a) of this subdivision, maintain all records used by the agency to make any determination about any data subject with accuracy, relevance, timeliness and completeness, provided, however, that personal information or records received by an agency from another

governmental unit for inclusion in public safety agency records shall be presumed to be accurate;

- (c) Collect personal information directly from the citizen whenever practical except when collected for the purpose of making quasi-judicial determinations;
- (d) Provide each citizen whom it requests to supply information to be maintained in a record, at the time of the initial request, with notification as provided in this paragraph. Where such notification has been provided, subsequent requests for information from the citizen to be maintained in the same record need not be accompanied by notification unless the initial notification is not applicable to the subsequent request. Notification shall include:
  - i. The name of the agency and any subdivision within the agency that is requesting the personal information and the name or title of the system of records in which such information will be maintained;
  - ii. The title, business address and

telephone number of the agency  
official who is responsible for the  
system of records;

- iii. The authority granted by law, which  
authorizes the collection and  
maintenance of the information;
  - iv. The effect upon such citizen,  
if any, of not providing all or any  
part of the requested information;
  - v. The principal purpose or purposes  
for which the information is to be  
collected;
  - vi. The use which may be made of the  
information pursuant to paragraphs  
(b), (c) and (f) of subdivision 1  
of §6 of this local law.
- (e) Insure that no record pertaining to a  
citizen shall be modified or  
destroyed to avoid the provision of this  
local law;
  - (f) Cause the requirements of this law to be  
applied to any contract it executes for  
the operation of a system of records, or  
for research, evaluation reporting, by  
the agency or on its behalf;
  - (g) Establish written policies in accordance  
with the law governing the responsibili-



ties of persons pertaining to their involvement in the design, development, operation or maintenance of any system of records, and instruct each such person with respect to such policies and requirements of this local law, including any other rules and regulations and procedures adopted pursuant to this local law and the penalties for noncompliance;

- (h) Establish appropriate administrative, technical and physical safeguards to insure the security of the records;
- (i) Establish rules governing retention and timely disposal of records in accordance with the law;
- (j) Designate an agency employee who shall be responsible for insuring that the agency complies with all of the provisions of this local law;
- (k) Whenever a citizen is entitled under this local law to gain access to a record, disclose such a record at the agency's office or by mail;
- (l) Upon denial of a request under subdivision 1 or 2 of §5 of this law, inform the citizen of its procedure for review of initial determination and

the name and business address of the reviewing officials.

(m) Maintain a reasonably detailed current list of all systems of records it maintains. The list shall include the name of each system of records subject to the provisions of this law, the name and subdivision of the agency maintaining it, the title and business address of the person responsible therefor, the approximate number of data subjects and the categories of information collected. This list shall be known as the "departmental system of records list" of each agency. A copy of this list shall be filed with the Deputy County Executive. The list is to be updated semi-annually and the date of the most recent updating shall appear on the first page of the list.

(n) File a privacy impact statement with the Deputy County Executive and the Committee. Such privacy impact statement shall include the following information on a form to be promulgated by the Deputy County Executive:

(a) The name of the agency and the sub-

division within the agency that will maintain the system of records, and the name or title of the system of records in which such information will be maintained;

- (b) The title and business address of the official within the agency responsible for the system of records;
- (c) Where applicable, the procedure by which a citizen may gain access to personal information pertaining to such citizen and the system of records and the procedures by which a citizen may seek to amend or correct its contents;
- (d) The categories and approximate number of persons on whom records will be maintained in the system of records;
- (e) The categories of information which will be collected and maintained in the system of records;
- (f) The purpose for which each category of information within the system of records will be collected and maintained.

- (g) The disclosure of personal information within the system of records that the agency will regularly make for each category of information and the authority for such disclosure;
- (h) The general or specific statutory authority for the collection, maintenance and disclosure of such category of information within the system of records;
- (i) Policies governing retention and timely disposal of information within the system of records in accordance with the law;
- (j) Each and every source for each category of information within the system of records;
- (k) A statement indicating whether the system of records will be maintained manually, by automated data system, or both.

2. In order to carry out the provisions of this local law, the Deputy County Executive shall promulgate rules which shall set forth the following:

- (a) Procedures by which a citizen can learn if a system of records contain any

- records pertaining to him or her;
- (b) Reasonable times, places and means for verifying the identity of a citizen to request access to his or her record;
  - (c) Procedures for providing access, upon the data subject's request, to the data subject's record;
  - (d) Procedures for reviewing a request from a citizen for access to, and for correction or amendment of his or her record, for making a determination on such request, and for an appeal within the agency of an initial adverse agency determination.

3. Each agency, for disclosure made pursuant to paragraphs (3), (1), and (1) of subdivision 1 of Section 6 of this local law, except for disclosures made for inclusion in public safety agency records when such record is requested for the purposes of obtaining information required for the investigation of a violation of civil or criminal statutes within the disclosing agency, shall:

- (a) Keep an accurate accounting of the date, nature and purpose of each disclosure of a record or personal information, and the name and address of the person or governmental unit to whom the disclosure is made;

- (b) Retain the accounting made under paragraph (a) of this subdivision as part of said record for at least five years after disclosure for which the accounting is made, or for the life of the record disclosed, whichever is longer;
- (c) At the request of the citizen, inform any person or other governmental unit to which a disclosure has been or is made of any correction, amendment or notation of dispute made by the agency provided that an accounting of the prior disclosure was made or that the citizen to whom the record pertains provides the name of such person or governmental unit;
- (d) With respect to a disclosure made for inclusion in a public safety agency record or to a governmental unit or component thereof whose primary function is the enforcement of civil or criminal statutes, notify the receiving governmental unit that an accounting of such disclosure is being made pursuant to this subdivision and that such accounting will be accessible to the

citizen upon his or her request unless otherwise specified by the receiving governmental unit pursuant to paragraph (e) of this subdivision;

- (e) With respect to a disclosure made for inclusion in a public safety agency record or to a governmental unit or component thereof whose primary function is the enforcement of civil or criminal statute, if in its request for the record the receiving governmental unit states that it has determined that access by the citizen to the accounting of such disclosure would impede criminal investigations and specifies the approximate date on which such determination will no longer be applicable, "refuse the citizen access to such accounting or information that such accounting has been made, except upon court ordered subpoena, during the applicable time period. Upon the expiration of said time period, the disclosing agency shall inquire of the receiving governmental unit as to the continued relevancy of the initial determination and, unless requested in

writing by the receiving governmental unit to extend the determination for a specified period of time, shall make available to the citizen an accounting of said disclosure;

(f) In making a disclosure pursuant to subdivision 1 of Section 6 of this local law, an agency shall make such disclosure pursuant to paragraphs (d), (i) or (l) of said subdivision only when said disclosure cannot be made pursuant to any other paragraph of said subdivision.

4(a) Any agency which has established a system of records shall file notice of the establishment of such a system with the Deputy County Executive within thirty business days of the effective date of this local law.

(b) Any agency which seeks to establish a system of records subsequent to the effective date of this local law shall file with the Deputy County Executive and the Committee a privacy impact statement as prescribed by sub-division 1(n) of Section 4 of this local law. Any agency which seeks to modify a system of records in a way which will render inaccurate any information set



forth in the privacy impact statement, and the notice described in paragraph (a) of this subdivision shall file with the committee a supplemental statement to conform the privacy impact statement or notice to the proposed modification. Unless the date by which such proposed system or modification required by law to be instituted is less than thirty business days from the date of the filing of the privacy impact statement, no such proposed system or modification shall be instituted until the completion of the procedures set forth in subdivision (3) of Section 3 of this local law.

5. Each agency shall, within fifteen business days of the receipt of an advisory opinion issued by the committee, respond in writing to the committee as to the following:

- (a) The action it has taken, or will take, to comply with the advisory opinion; or
- (b) The reason for disagreement and non-compliance with the advisory opinion.

6. On or before the first day of September of each year, each agency shall submit a report covering the preceding year to the Deputy County Executive. The report shall include with respect to requests for access to records

and with respect to requests for correction or amendment of records pursuant to subdivisions 1 and 2 of Section 5 of this local law respectively, the following information:

- (a) The number of determinations made to grant such requests; and
- (b) The number of determinations made to deny such requests, in whole or in part, respectively.

7. The provisions of paragraph (c) and (d) of subdivision 1 of this section shall not apply to the following:

- (a) Personal information that is collected for inclusion in a public safety agency record;
- (b) Personal information solicited from a citizen receiving services at a treatment facility, provided that each such citizen shall, as soon as practicable, be provided a notification including information specified in subparagraphs (i), (ii), (iii), (iv), (v) and (vi) of paragraph (b) of subdivision 1 of this section describing systems of records concerning the citizen maintained at the treatment facility.

8. The provisions of subdivision 2, 3 and 6 of this section shall not apply to public safety agency records.

9. Nothing in this local law shall abrogate in any way any obligation regarding the maintenance of records otherwise imposed on an agency at law or in equity.

SECTION 5. Access to Records.

(1) (a) Each agency subject to the provisions of this local law, within five business days of the receipt of a written request from a citizen for a record reasonably described pertaining to that citizen, shall make such record available to the citizen, deny such request in whole or in part and provide the reasons therefor in writing, or furnish a written acknowledgment of the receipt of such request and a statement of the approximate date when such request will be granted or denied, which date shall not exceed thirty days from the date of the acknowledgment.

(b) An agency shall not be required to provide a citizen with access to the record pursuant to this section if:

(i) The agency does not have possession of such record;

(ii) Such record cannot be retrieved by

use of the data subject's description thereof, or by use of the name or other identifier of the citizen, without extraordinary search methods being employed by the agency; or

(iii) Access to such record is required to be provided pursuant to subdivisions 5, 6 or 7 of this section.

(c) Upon payment of or offer to pay, the fee prescribed by Local Law No. 8 - 1978, Section 7, sub-paragraph (i), the agency shall provide a copy of the record requested and certify to the correctness of such copy if so requested. The record shall be made available in a print form without any codes or symbols unless accompanied by a document fully explaining such code or symbols. Upon a data subject's voluntary request, the agency shall permit a person of the data subject's choosing to accompany the citizen when reviewing and obtaining a copy of a record, provided that the agency may require the data subject to furnish a written statement

authorizing discussion of the record  
in the accompanying person's presence.

2. Each agency shall, within thirty days of receipt of a written request from a citizen for correction or amendment of a record or personal information, reasonably described, pertaining to that citizen, which he or she believes is not accurate, relevant, timely or complete, either:

- (a) Make the correction or amendment in whole or in part, and inform the citizen that upon his or her request such a correction or amendment will be provided to any and all persons or governmental units to which the record or personal information has been disclosed, pursuant to paragraph (c) of subdivision 3 of Section 4 of this local law; or
- (b) Inform the citizen of its refusal to correct or amend the record and its reasons therefor.

3. Any citizen whose request under subdivision 1 or 2 of this section is denied in whole or in part, may within thirty business days, appeal such denial in writing to the Deputy County Executive on a form prescribed by the Deputy County Executive, except that as regards the Comptroller's office, the County Clerk's office, the District Attorney's office and the Sheriff's office, the appeal

shall be to the head of the agency or to a person designated by the head of that agency. In the case of the County Legislature, the appeal shall be to a person designated by the Chairman of the Legislature. Such official shall within seven business days of the receipt of an appeal concerning denial of access, or within thirty business days of the receipt of an appeal concerning denial of correction or amendment, either provide access to or correction or amendment of the record sought and inform the citizen that, upon his or her request, such correction or amendment will be provided to any and all persons or governmental units to which the record or personal information has been or is disclosed, pursuant to paragraph (c) of subdivision 3 of Section 4 of this local law, or fully explain in writing to the citizen the factual and statutory reasons for further denial. Each agency shall immediately forward to the committee a copy of such appeal, the determination thereof and the reasons therefor.

4. If correction or amendment of a record or personal information is denied in whole or part upon appeal, the agency shall inform the citizen of the right to file with the agency a statement of reasonable length setting forth the reasons for disagreement with the agency's determination and that, upon request, his or her statement of disagreement will be provided to any and all persons or governmental units to which the record has been or is disclosed, pursuant to paragraph (c) of subdivision 3 of

Section 4 of this local law. With regard to any personal information about which a citizen has filed a statement of disagreement, the agency shall clearly note any portion of the record which is disputed, and shall attach the data subject's statement of disagreement as part of the record. When providing the data subject's statement of disagreement to other persons or governmental units pursuant to paragraph (c) of subdivision 3 of Section 4 of this local law, the agency may, if it deems appropriate, also include in the record a concise statement of the agency's reason for not making the requested amendment.

5. Any agency which may not otherwise exempt personal information from the operation of this section may do so, unless access by the citizen is otherwise authorized or required by law, if such information is compiled with for law enforcement purposes and would, if disclosed:

- (i) Interfere with law enforcement investigation or judicial proceedings;
- (ii) Deprive a person of the right to a fair trial or an impartial adjudication;
- (iii) Identify a confidential source or disclose confidential information relating to a criminal

investigation; or

- (iv) Reveal criminal investigative techniques or procedures, except routine techniques and procedures.

6. Nothing in this section shall require an agency to provide a citizen with access to:

- (a) Personal information to which he or she is specifically prohibited by statute from gaining access;
- (b) Patient records regarding mental disability or medical records where such access is not otherwise required by law;
- (c) Personal information pertaining to the incarceration of an inmate at a county correctional facility or holding center which is evaluative in nature and which, if such access is provided, would endanger the life or safety of any person, unless such access is otherwise permitted by law or by court order;
- (d) Attorney's work product or material prepared for litigation before judicial, quasi-judicial or administrative tribunals, as described in subdivision (c) and (d)



of Section 3101 of the Civil Practice Law and Rules, except pursuant to statute, subpoena issued in the course of a criminal action or proceeding, court order or Grand Jury subpoena, search warrant or other court ordered disclosure.

7. This section shall not apply to public safety agency records.

8. Nothing in this section shall limit, restrict, abrogate or deny any right a person may otherwise have, including rights granted pursuant to the state or federal constitution, law or court order.

SECTION 6. Disclosure of Records.

(1) No agency may disclose any record or personal information unless such disclosure is:

(a) Pursuant to a written request by or the voluntary written consent of the data subject, provided that such request or consent by its terms limits and specifically describes:

- (i) The personal information which is requested to be disclosed;
- (ii) The person or identity to whom such personal information is requested to be disclosed; and

- (iii) The uses which will be made of such personal information by the person or entity receiving it; or
- (b) To those officers and employees of and to those who contract with, the agency that maintains the record if such disclosure is necessary to the performance of their official duties pursuant to a purpose of the agency required to be accomplished by statute, executive order, local law, resolution, ordinance or necessary to operate a program specifically authorized by law; or
- (c) Subject to disclosure under Local Law No. 8 of 1978, unless disclosure of such information would constitute an unwarranted invasion of personal privacy as defined in paragraph (b) of Section 6 of Local Law No. 8 of 1978; or
- (d) To officers or employees of another governmental unit if each category of information sought to be disclosed is necessary for the receiving governmental unit to operate a program specifically authorized by statute and if the use for which the information is requested is not relevant to the purpose for which it was collected; or

- (e) For a routine use as defined in subdivision 10 of Section 2 of this local law; or
- (f) Specifically authorized by statute or federal rule or regulations; or
- (g) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity pursuant to provisions of Title XIII of the United States Code; or
- (h) To a person who has provided the agency with advanced written assurance that the record will be used solely for the purpose of statistical research or reporting, but only if it is to be transferred in a form that does not reveal the identity of any citizen; or
- (i) Pursuant to a showing of compelling circumstances affecting the health or safety of the citizen, if upon such disclosure, notification is transmitted to the citizen at his or her last known address; or
- (j) To a public archival facility as a record which has sufficient historical or other value to warrant its continued preservation by the county or for

evaluation by the head of the archival facility or his or her designee to determine whether the record has such value; or

- (k) To any person, pursuant to a court ordered subpoena or other compulsory legal process; or
- (l) For inclusion in a public safety agency record or to any governmental unit or component thereof which performs as one of its principal functions any activity pertaining to the enforcement of criminal laws, provided that, such record is reasonably described and is requested solely for a law enforcement function; or
- (m) Pursuant to a search warrant; or
- (n) To officers or employees of another agency if the records sought to be disclosed is necessary for the receiving agency to comply with the mandate of an executive order, but only if such records are to be used only for statistical research, evaluation reporting and are not used for making any determination about the citizen.

2. Nothing in this section shall require disclosure of:

- (a) Personal information which is otherwise prohibited by law from being disclosed;
- (b) Patient records concerning mental disability or medical records where such disclosure is not otherwise required by law;
- (c) Personal information pertaining to the incarceration of an inmate at a county correctional facility or holding center which is evaluative in nature or which, if disclosed, would endanger the life or safety of any person, unless such disclosure is otherwise permitted by law;
- (d) Attorney's work product or material prepared for litigation before judicial, quasi-judicial or administrative tribunals, as described in subdivisions (c) and (d) of Section 3101 of the Civil Practice Law and Rules, except pursuant to statute, subpoena issued in the course of a criminal action or proceeding, court ordered or Grand Jury subpoena, search warrant or other court ordered disclosure.

SECTION 7. Civil Remedies.

- (1) Any citizen aggrieved by any action taken under this article may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules.
- (2) In any proceeding brought under subdivision 1 of this section, the party defending the action shall bear the burden of proof.
- (3) Nothing in this local law shall be construed to limit or abridge the right of any person to obtain judicial review or pecuniary or other relief, in any other form or upon any other basis, otherwise available to a person aggrieved by any agency action under this local law.

SECTION 8. No Waiver.

Any agreement purporting to waive a data subject's right under this local law is hereby declared to be void as against public policy.

SECTION 9. Severability.

If any provision of this local law or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of such article or the application thereof to other persons and circumstances.

SECTION 10. Effective Date. This local law shall take effect on the first day of September, 1984; provided, however, that agency action necessary for the functioning of this local law on such date shall be taken prior thereto.