



TO: Members of the House Human Services Committee
FROM: Allen Gilbert, executive director, ACLU-Vermont
DATE: Jan. 4, 2012
SUBJECT: Law enforcement access to state prescription drug database

The Vermont prescription drug monitoring database was created in 2006. Its purpose was for health, not law enforcement, reasons. Allowing police warrantless access to the database would break a promise the legislature made in establishing the database. The promise to Vermonters was that the records would be private.

The prohibition against police access to the database was spelled out in 18 VSA 4218, to prevent the easy warrantless access police already enjoyed to records held by pharmacies. It was felt such easy access should not be granted to a centralized Health Department database accessible at the click of a mouse.

Even private records can be the objects of search warrants. However, we know of no time when police have asked for a warrant to search for anyone's prescriptions in the drug monitoring program database and been turned down. In fact, we know of no such warrant requests ever having been made. We must therefore question the claim that police have no access to the database. We believe they have access, if they first obtain a search warrant from a judge.

The implications of granting warrantless access to the prescription drug database go beyond this one issue. Will police someday ask for access to personal medical records, even though the state has assured the public that information in an e-medical records system will be strictly private?

The ACLU hopes this committee will make sure that Vermonters' medical privacy will not be compromised in the name of punishing the few who exploit the trust of doctors and pharmacists. The confidentiality of personal information should be protected; law enforcement should have access only upon presentation of a search warrant obtained from a judge.