

Myspace.com

Law Enforcement Guide

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I. Myspace and Law Enforcement

[Myspace](#) is a technology company connecting people through personal expression, content, and culture. Myspace empowers its global community to experience the Internet through a social lens by integrating personal profiles, photos, videos, mobile, messaging, games, and the world's largest music community. Myspace is owned by Viant Technology Inc., and is located in California.

Myspace users have extensive control over their own accounts, including with regard to the registration information and profile content they provide, the profile content they choose to make publicly available, and their ability to retain or delete information stored in their profiles. The purpose of this guide is to familiarize law enforcement agencies with the categories of information available on Myspace and the specific legal process necessary to obtain that information.

Myspace is committed to assisting law enforcement investigations to the fullest extent allowed by applicable law. In addition to this guide, Myspace also provides fax and email support to law enforcement agencies for both emergency and non-emergency inquiries. Contact information for law enforcement support is listed on the cover of this guide.

The primary set of laws governing Myspace's ability to disclose user information is found in the Electronic Communications Privacy Act, 18 U.S.C. § 2701, et seq. ("ECPA"). ECPA mandates that Myspace may disclose certain user information to law enforcement only in response to specific types of legal process, including subpoenas, court orders, and search warrants. Generally speaking, ECPA permits the disclosure of basic user identity information, log-in information, profile content, and private messages over 180 days old (definitions provided in Section III of this guide) in response to a subpoena, but requires a court order under § 2703(d) to disclose additional user records (such as message headers), or a search warrant to authorize disclosure of private messages that are up to 180 days old. Should you seek further clarification about ECPA's restrictions on providers like Myspace, we suggest you contact the Department of Justice's Computer Crime and Intellectual Property Section (CCIPS) at 202-514-1026.

Myspace also complies with the California Electronic Communications Privacy Act ("CalECPA"), which extends the due process requirements and privacy protections under the California Constitution to electronic devices and digitally stored information, including both content and metadata. In contrast to ECPA, CalECPA requires California government entities to obtain a search warrant for all private messages, detailed location information generated by electronic devices (i.e., GPS), and IP addresses. Note that CalECPA does not impact *federal* law enforcement demands for user information; ECPA alone governs demands from federal law enforcement. Additionally, CalECPA does not prohibit Myspace's voluntary disclosure of electronic information that is not otherwise prohibited by state or federal law.

II. Locating a Myspace Profile and Identifying the Friend ID

a. Locating a Myspace profile

To locate a particular Myspace user, please go to www.Myspace.com and enter the name or email address of the person you are trying to locate into the search bar located at the top left of the page. If the full name of the party you are trying to locate is unknown, or if it is likely that a nickname has been used, you may enter limited information into the search field.

b. Identifying the “User ID”

Myspace allows only one active account for an individual email address at any given time. Because a user can reestablish an account with an email address after the previous account has been deleted, however, Myspace requires that law enforcement provide the publicly available User ID (also known as the Friend ID) or vanity URL on each legal request to ensure that a specific profile is identified. The User ID for each Myspace profile is located in the publicly available web address of the profile in question. For example, if the web address appears as <http://www.Myspace.com/6221>, the User ID is ‘6221,’ and providing this information identifies the profile. If the web address appears as ‘<http://www.Myspace.com/Myspaceleoguide>,’ the vanity URL ‘Myspaceleoguide’ is sufficient to identify the profile.

Legal requests that contain only an email address, proper name or any nickname that appears on the user’s profile will be returned with a letter stating that the information provided is not sufficient to identify the profile. If you require assistance locating a User ID or vanity URL, please contact the Law Enforcement Team using the contact information provided on the cover of this guide.

Please note that if a user has elected to display a vanity URL, Myspace will also assign that profile a numerical User ID that is not publicly displayed. When results are returned in response to a legal request, Myspace’s legal process tool converts the vanity URL into the User ID, and this information will be listed on all returned results.

c. Public vs. Friends Only Profiles

Myspace users over 18 choose whether to make profile content (e.g., their “about me” details, blogs, and friends list) visible to anyone visiting their profile or to keep this information limited only to Myspace friends.¹

For public profiles, law enforcement may access and save screenshots of publicly available information without contacting Myspace. Because users can change the content on their profile and change the status from public to friends at any time, Myspace encourages law enforcement to preserve content on public profiles themselves by using screen shots (preserving electronic copies of html files). Please note

¹ Myspace users aged 18 and under are assigned friends only profiles upon registration. Users may change this default setting to public.

that only information currently appearing on the Myspace profile is available. Previous versions of a particular profile are not recoverable, and changes to profile content are not cataloged by Myspace.

Friends only profiles will display only limited information (profile picture, User ID or vanity URL, stated location, gender, display name, and real name if provided) to visitors who are not on the user's friends list. Legal process is required for Myspace to release private profile content. The required process for obtaining this information is outlined below.

III. User Records Maintained by Myspace and the Process Required to Obtain Those Records

Myspace retains four basic categories of information that may be helpful in a criminal investigation: basic subscriber information, IP account creation log, profile content, and private communications. Each category is described in detail below. Please note: Myspace is consistently updating with new features to improve the user's experience on the site.

For a request to release account records on a non-emergency basis, Myspace requires proper legal process in order to produce records. The required legal process for information is described below in detail.

In addition to including the Myspace Friend ID or vanity URL on each request, please also indicate if results must be returned before a specific date and where results should be returned. ***Myspace strongly prefers to return results in an Excel spreadsheet via email. Please provide an official agency email address for return of all results.*** At your request, Myspace will also provide a signed authentication letter for the production by PDF.

Myspace accepts service and will produce documents in response to out-of-state domesticated third-party subpoenas, court orders, emergency requests, consent letters and search warrants. Process will be accepted by fax (310-362-8854), by email to compliance@support.myspace.com or by mail (at the address on the cover of this Guide).

Note that under CalECPA, any search warrant issued to Myspace for request of electronic information must be accompanied by an order requiring Myspace to provide an affidavit that verifies the authenticity of such information.

a. Subscriber information

Subscriber information is collected when a user creates a new Myspace account, or alters information at a later date. Please note that not all listed information is required, and that user provided subscriber information is not independently verified by Myspace. Subscriber information includes:

- Myspace User ID
- First and Last Name
- Gender

- Birth date
- Age
- Occupation
- Country
- City
- Zip Code
- State
- Email address
- Vanity URL
- Sign up date and IP
- Account deletion date

Please note that some basic profile information is always publically viewable, even if a profile has a friends only status.

Federal:

Process required for subscriber information excluding date of birth, gender, age and occupation: Grand jury subpoena, administrative subpoena or civil investigative demand pursuant to 18 U.S.C. § 2703(c)(2); or court order; or search warrant; or user consent.

Process required for subscriber information including date of birth, gender, age and occupation: Court order under 18 U.S.C. § 2703(d); or search warrant; or user consent.

CA:

Process required for subscriber information excluding date of birth, gender, age and occupation: Grand jury, trial, administrative, or civil discovery subpoena; or search warrant; or user consent.

Process required for subscriber information including date of birth, gender, age and occupation: Search warrant or user consent.

b. IP logs

Myspace captures a user's IP address at initial account creation. This data cannot be modified by the user once it is recorded. Myspace may also have additional user-related IP logs depending on several factors including an individual's date of account creation and specific account activity.

Federal:

Process required for historical IP records - grand jury subpoena, administrative subpoena or civil investigative demand under 18 U.S.C. § 2703(c)(2); or court order; or search warrant; or user consent.

Process required for real time IP records- a Pen Register/Trap and Trace Order in connection with an ongoing criminal investigation under 18 U.S.C. § 3121.

CA:

Process required for IP records (whether historical or real-time): search warrant; or wiretap order; or user consent.

c. Profile Content (non-public)

Profile content includes:

- Photos and IP address associated with the photo upload
- Information appearing on a user's profile page (such as the "about me" and "interests")
- Videos
- Blog entries
- Comments, both received and created by the user
- Friends list
- Status Updates

Federal:

Process required for profile content: A grand jury or administrative subpoena, or civil investigative demand; or court order where the government provides prior notice to the subscriber (or delays notice under 18 U.S.C. § 2705), 18 U.S.C. § 2703(b)(2); or search warrant; or user consent.

CA:

Process required for profile content requested in connection with a criminal investigation: search warrant; or wiretap order; or user consent.

Process required for profile content requested in response to a civil investigation: grand jury, trial, administrative, or civil discovery subpoena; or search warrant; or wiretap order; or user consent.

d. Private Messages

Myspace retains Private Messages in a user's inbox dating back one year or until the user removes them. Myspace does not maintain copies of messages marked for deletion by a user and cannot recover deleted messages. Private messages in a user's sent box are retained for 14 days unless the user has manually deleted them.

Federal:

Process required for private messages up to 180 days old: Search warrant or user consent.

Process required for private messages older than 180 days old: subpoena; or search warrant; or user consent.

Process required for message headers (excluding subject line and message content): Court order under 18 U.S.C. § 2703(d); or search warrant; or user consent.

CA:

Process required for all private messages (no matter how old such messages are), including message headers: search warrant; wiretap order; or user consent.

IV. Preservation Requests

Myspace honors requests from law enforcement to preserve information in accordance with 18 U.S.C. § 2703(f). Upon receiving a preservation request, Myspace will preserve all available account information associated with the User ID listed in the request in an offline excel file for up to 180 days and will extend the preservation as necessary at your request.

Myspace will only preserve information for active accounts. If a request to preserve information is received after a profile has been deleted, Myspace is not able to honor the request. If the account is deleted after the receipt of the preservation request, however, all account information present on the date your preservation letter was received will be available upon receipt of proper legal process.

Please note: If Myspace discovers material during the course of preservation that violates Myspace Terms of Use or requires reporting to the National Center for Missing and Exploited Children, we reserve the right to remove the profile from the site following preservation.

a. Note regarding all legal requests following preservations

When serving follow-up legal process for information that was previously the subject of a preservation request, please specify that the request seeks **both** the information preserved and any updated user profile information. Please also reference any prior preservation requests by date so that we may respond to your legal process more efficiently.

V. Emergency Requests for Myspace Account Records

Under 18 U.S.C. §§ 2702(b)(8) and 2702(c)(4), Myspace is permitted to disclose information, including basic subscriber information, IP log-in, profile content and private email messages voluntarily when Myspace believes in good faith that an emergency involving danger of death or serious physical injury to any person requires the immediate disclosure of this information.

You may provide a written request for the release of user records on an emergency basis and email (compliance@support.myspace.com) or fax the request to 310-362-8854. A sample Emergency Disclosure form is provided in Part VIII(e) of this guide. When drafting your emergency disclosure request, please describe the nature of the emergency as specifically as possible and request all information that you require to resolve the emergency situation.

VI. User Consent

Myspace will disclose information based on user consent obtained by law enforcement where sufficient information is provided to verify that the person providing the consent is the actual creator of the profile, and where law enforcement endorses the authenticity of the consent.

A sample consent form is located in Section VIII (d) of this guide. Each consent letter must contain the following information:

- Myspace Friend ID or vanity URL
- Email address associated with the account
- Account password
- Date of birth provided to Myspace
- Zip Code provided to Myspace

Myspace will not release information if the user is unable or unwilling to provide registration information that correlates to the information on record with Myspace. In the event that the information provided by the user does not match the information retained by Myspace, proper legal process will be required before any information is released.

VII. Myspace Retention Periods

The retention periods identified below reflect Myspace's retention of user data in the ordinary course of business. Myspace honors all law enforcement preservation requests made during the period the data is available.

a. Active Accounts

Subscriber information and profile content: The basic identity information entered by a user in creating a profile, and all content displayed on the profile (blog entries, about me information, images and videos, etc.) are maintained as long as the user has not edited the data or removed the content from the profile. Once a change is made by the user, the previously existing information is overwritten. Upon receipt of a preservation request, however, Myspace will capture all user data available at that time, and future actions by the user will not affect the preserved data.

IP address logs: Myspace maintains IP log-in history for the initial account creation. This data cannot be modified by the user once it is recorded. Myspace may also have additional user-related IP logs depending on several factors including an individual's date of account creation and specific account activity.

Private messages: Myspace maintains private messages for one year or until the user deletes a message. Myspace does not maintain copies of messages marked for deletion by a user and cannot recover deleted messages.

VIII. Sample Language and Forms

This section provides sample language that law enforcement may use to complete the section of their legal process identifying the information they seek from Myspace. These are examples of the most commonly requested information from Myspace. It is important to be as specific as possible when identifying the information you are requesting from Myspace.

A. Sample Subpoena Language for Basic Subscriber Information and IP logs:

“Records concerning the identity of the user with the FriendID ##### consisting of name, postal code, country, e-mail address, date of account creation, and available IP address logs.”

B. Sample Subpoena Language for Basic Subscriber Information, IP logs and profile content:

“Records concerning the identity of the user with the FriendID ##### consisting of name, postal code, country, e-mail address, date of account creation, and available IP address logs. All profile content associated with Friend ID #####.”

C. Sample Search Warrant Language for User Information Including Profile Content and Private Email Messages:

“Records concerning the identity of the user with the FriendID ##### consisting of name, postal code, country, e-mail address, date of account creation, available IP address logs, all profile content and the contents of email messages in the user’s inbox, and sent mail folders.”

D. Sample Preservation Request Letter

(Must be on law enforcement department letterhead)

Dear Custodian of Records:

The below listed profile is the subject of an ongoing criminal investigation at this agency, and it is requested pursuant to 18 U.S.C. § 2703(f) that the following information associated with said profile be preserved pending the issuance of a search warrant or other legal process seeking disclosure of such information: [Specify Friend ID or vanity URL to be preserved].

Please note, Myspace reserves the right to delete any account that violates Terms of Service.

If you have any questions concerning this request please contact me at [insert e-mail address and phone contact].

Thank you for your assistance in this matter.

Sincerely,
(Your Signature)
(Your Name Typed)
(Your Title Typed)

E. Sample Consent Form

(Must be on the investigating agency or department letterhead)

I, "XYZ", being duly sworn, on this [insert date] do hereby state the following:

I have one or more profiles on Myspace.com.

The URLs / FriendIDs are:

I understand that the "XXXX" agency is conducting an official criminal investigation and has requested that I grant my consent to authorize the "XXXX" agency to access, request, receive, review, copy and otherwise utilize, as they deem appropriate, the following information from the above profiles: [specify information sought]

I hereby authorize Myspace.com to provide to any agent of the above referenced agency, the above-specified information associated with my identified Myspace.com profiles/accounts.

The following information should be used to verify my identity:

Email address for account: _____

Password for account: _____

Date of birth for account: _____

Zip Code for account: _____

Pursuant to this Consent, I waive any claims against, indemnify and hold harmless Myspace.com, its affiliates, and their respective directors, officers, agents, and employees from and against any claims, damages or expenses relating to or arising from, in whole or in part, the disclosure of such information, records and data.

I have not been promised anything in exchange for providing this consent and authorization.

In witness whereof, the undersigned makes the above statements under penalty of perjury.

Member Signature

Date

Printed Name

Law Enforcement Witness Signature

Date

Printed name and title

F. Sample Emergency Disclosure Form

(Must be on the investigating agency or department letterhead)

Dear Custodian of Records:

I request release of records for Friend ID XXXXXX on an emergency basis pursuant to 18 U.S.C. § 2702(b)(7) and § 2702(c).

(Please answer the following questions in enough detail to provide a good faith basis for release of records on an emergency basis)

What is the nature of the emergency involving death or serious physical injury?

Whose death or serious physical injury is threatened?

What specific information in Myspace's possession related to the emergency do you need?

Signature of Officer

Printed Name of Law Enforcement Officer

Date