

IPC Comment on the Proposed Timeline for Urgent Requests for Lawful Disclosure of Nonpublic Registration Data

The IPC appreciates the opportunity to comment on the report of the Implementation Review Team charged by the Board with developing appropriate timelines for Urgent Requests for Lawful Disclosure published for comment on October 22, 2025.

IPC comments are set forth below with reference to headings and section numbers contained in the report.

Definitions and Interpretation

3.8 and 3.9 - The IPC believes that an agreed definition for “Urgent Requests” already exists based on policy previously adopted. The addition of a capitalized reference to “Authenticated Requestor” appears to require new Consensus Policy work which the IPC believes entails unnecessary delay in responding to legitimate requests that are established by the requestor to involve the limited fact situations of “circumstances that pose an imminent threat to human life, of serious bodily injury, to critical infrastructure, or of child exploitation” where disclosure is necessary to combat or address the threat.

The IPC notes that the ICANN Board initiated discussions with the GAC and the GNSO Council regarding the need to revisit its adoption of Recommendation 18 of the EPDP Phase 1 Final Report due to the Board’s determination that the Recommendation was not fit for purpose. In the meeting held February 12, 2025 among the members of the Board, GAC Leadership, and the GNSO Council, all three groups acknowledged that two separate parallel processes should be pursued to address this topic, namely that the IRT should be reconvened by ICANN Org for the purpose of developing implementation timelines for responding to Urgent Requests and that the GAC Public Safety Working Group would proceed to develop methods for authentication of Law Enforcement Agency requests.

In the February 12, 2025 Zoom session, the ICANN Board endorsed and the GNSO Council and the GAC agreed to the parallel track approach to implementation of Urgent Requests policy. GAC Leadership also acknowledged its understanding that (1) GNSO participants, including Councilors, would be free to participate in the PSWG meetings and that (2) the authentication process would not be sufficient to establish that the

requestor would be entitled to receive disclosure of the registration data. In the context of these parallel proceedings, the IPC notes that the proposed requirement of additional Consensus Policy work to define “Authenticated Requestor” appears to be beyond the scope of the work assigned to the reconvened IRT. In addition, the proposal for new policy work will cause undue delay in responses to Urgent Requests in the system as it stands, a result which is counter to the intent of the policy that was endorsed by the Council and adopted by the Board. In this regard, the IPC’s understanding of the reconvened IRT work is that the IRT was asked to address the Board’s concern that a timeline based on “business days” was not fit for purpose.

The IPC also notes that in the context of its Board Resolution regarding the RDRS pilot program on October 30, 2025, the Board resolved as follows:

Resolved (2025.10.30.16), the ICANN Board encourages the ICANN President and CEO, or his designee(s), to continue to collaborate with the GAC PSWG on possible law enforcement authentication mechanisms.

Accordingly, the IPC believes that the best way forward would be for the community to cooperate on a pilot program for authentication of law enforcement agencies based on the work currently being done in the GAC Public Safety Working Group. This pilot could, for example, be included in the expansion of the RDRS that is currently under community consultation as part of the RDRS Alignment analysis. Specifically, Recommendation 2 of the EPDP Phase 2 Final Report contains detailed policy recommendations for accrediting governmental entities, including eligibility requirements, accreditation procedures and implementation guidelines. Since these policy recommendations already reflect community consensus, ICANN could commence an RFI (Request for Information) and a pilot program to implement Recommendation 2.

Disclosure Requests

The IPC supports all of the IRT’s proposals contained in Section 10 regarding the requirements applicable to Disclosure Requests, both on the part of the Contracted Party and on the part of the requestor and specifically notes its support of 10.8 concerning the Registry Operator or Registrar’s right to take corrective action to address abusive requests and/or abuse requestors, along with the requirement that such corrective actions be communicated to the requestor.

Implementation Notes

As stated above, the IPC believes that the IRT was reconvened for the purpose of developing implementation guidelines and therefore none of the guidelines issued for public comment in the report constitute policy. Policy is outside the scope of work assigned to Implementation Review Teams. The IPC affirms its belief that sufficient policy work was already done by the EPDP to permit the Urgent Requests timelines and authentication process tracks to move forward. Accordingly, a reference to “Implementation Notes” seems out of place since such notes apply in the case of new policy and neither the Board nor the GNSO Council initiated any new policy work in connection with Urgent Requests. Having said that the IPC has the following comments:

K. a. - This note contains another reference to a requirement for Consensus Policy work that “established a process for authentication of a requestor”. As stated above, the IPC believes this requirement is inconsistent with the agreed approach of parallel tracks and also involves undue delay with respect to matters of urgency.

K. b. - The IPC supports the implementation language noting that additional factors beyond the authentication process and the definition of Urgent Requests, could affect the Contracted Party’s ability to respond to a particular request for disclosure. In this regard, in its meeting with the GAC at ICANN 84 in Dublin, the GNSO Council Liaison to the IRT explained that Contracted Parties may have jurisdictional considerations that pose a barrier to disclosure and/or leave the decision regarding jurisdiction to the Contracted Party. The IPC acknowledges that ultimately, the risk of disclosure rests with the Contracted Party and that the associated risks are not insubstantial, depending on the governing law of the governing jurisdiction. However, a requirement that the Contracted Party respond to the requestor with respect to factors considered in its review of the request if any such factor contributed to the denial of a disclosure request is appropriate and the IPC supports this Implementation guideline.

Respectfully submitted,

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on behalf of the
Intellectual Property Constituency