



IAPP CANADA  
**Privacy Symposium 2017**

# THREE REGULATORS: TACKLING THE ROUGE VALLEY HOSPITAL PRIVACY BREACH

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Canada

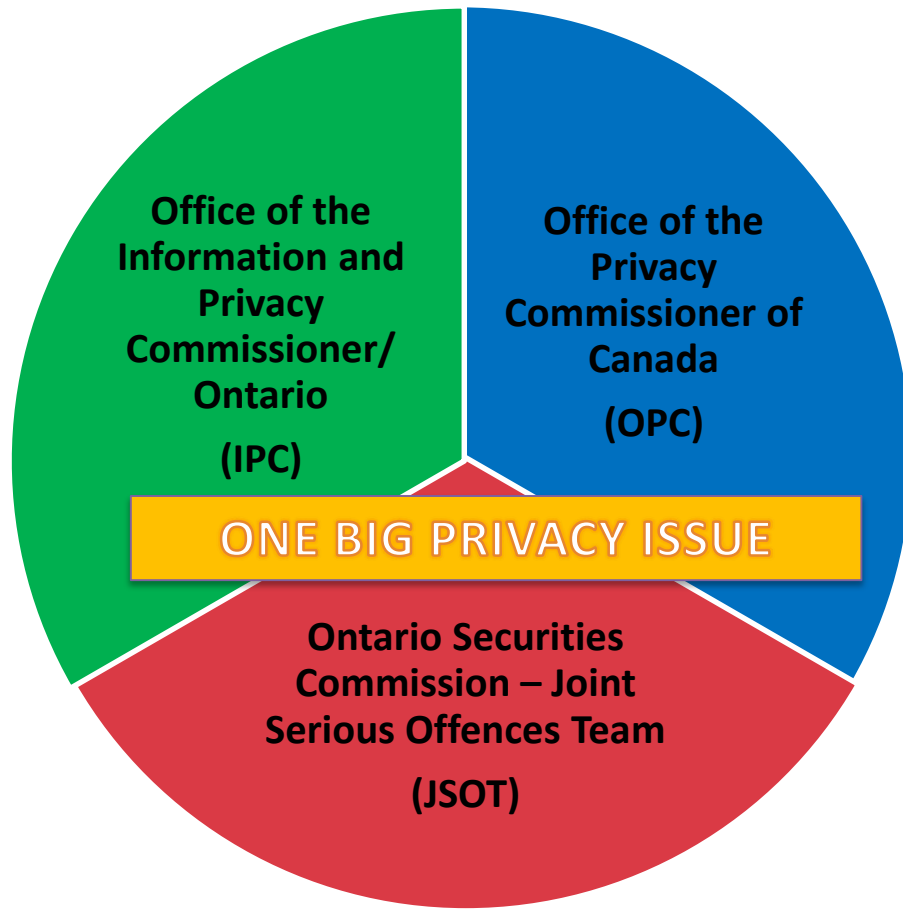
#CPS17



**ONE BIG  
PRIVACY ISSUE**

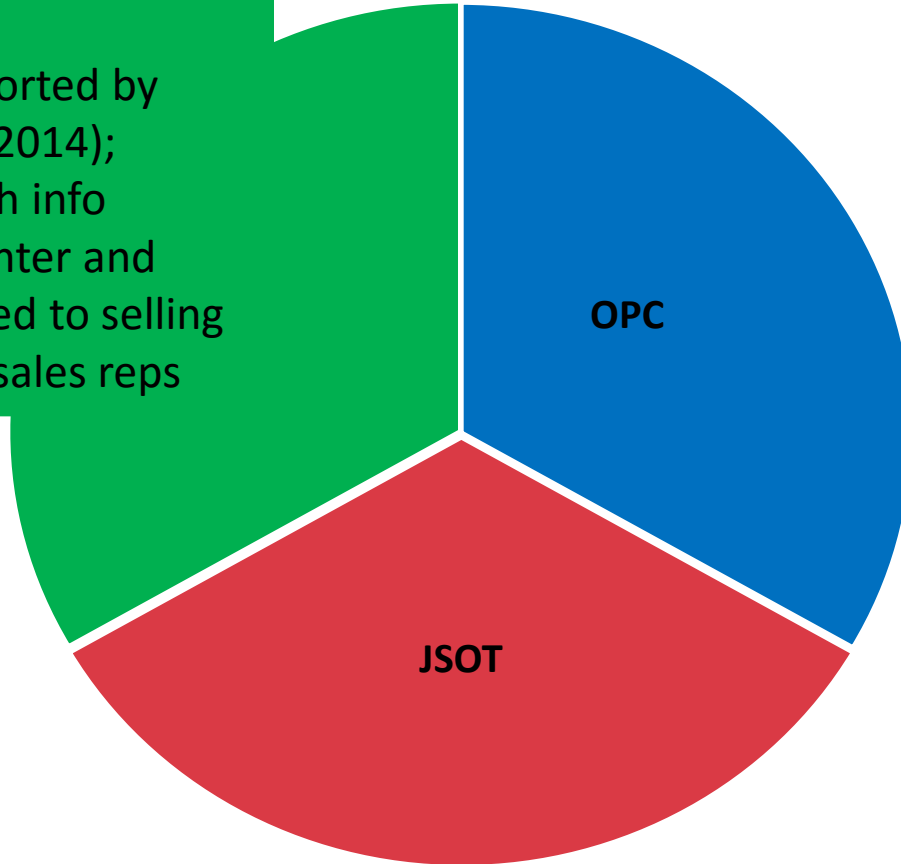
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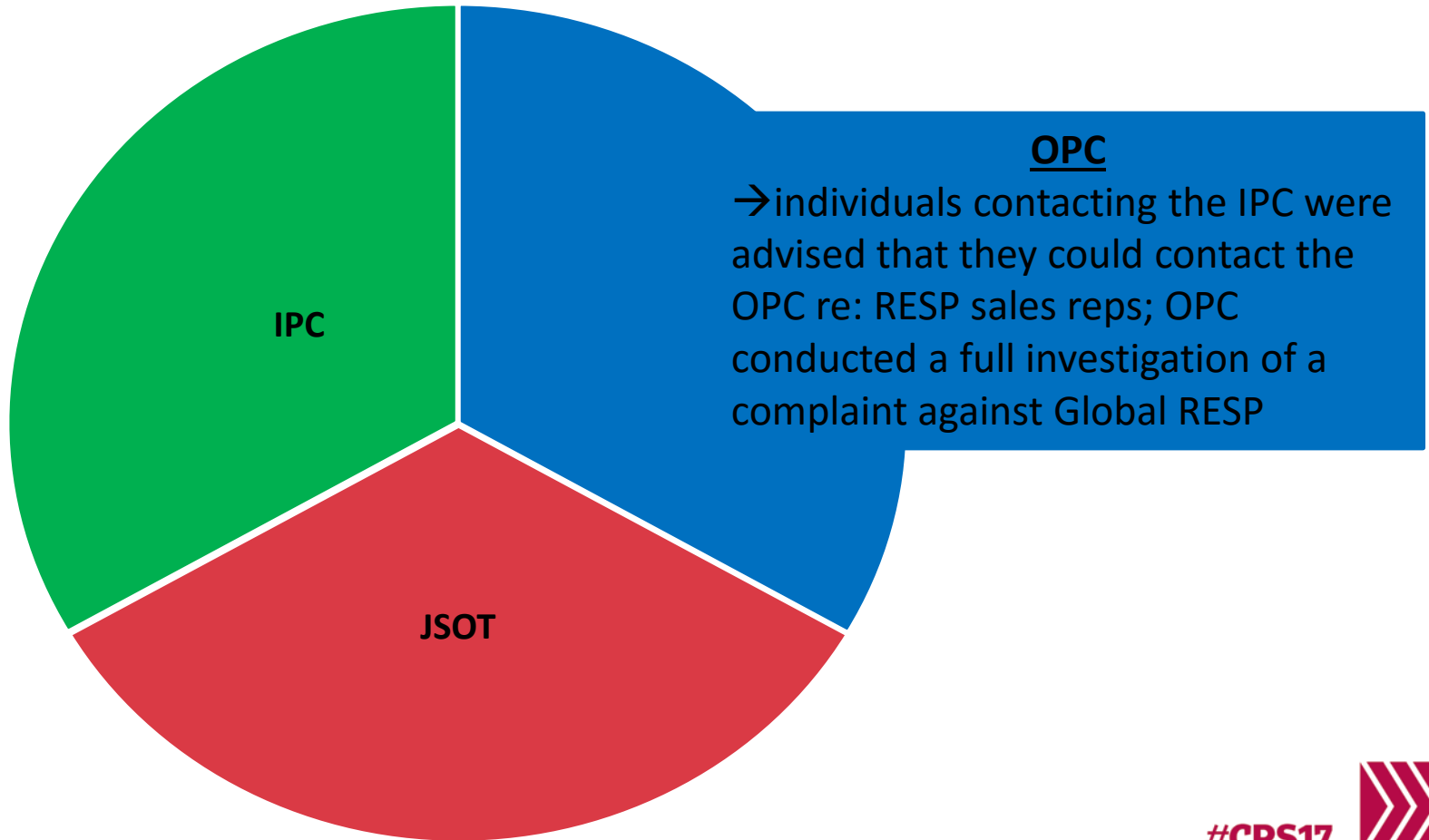


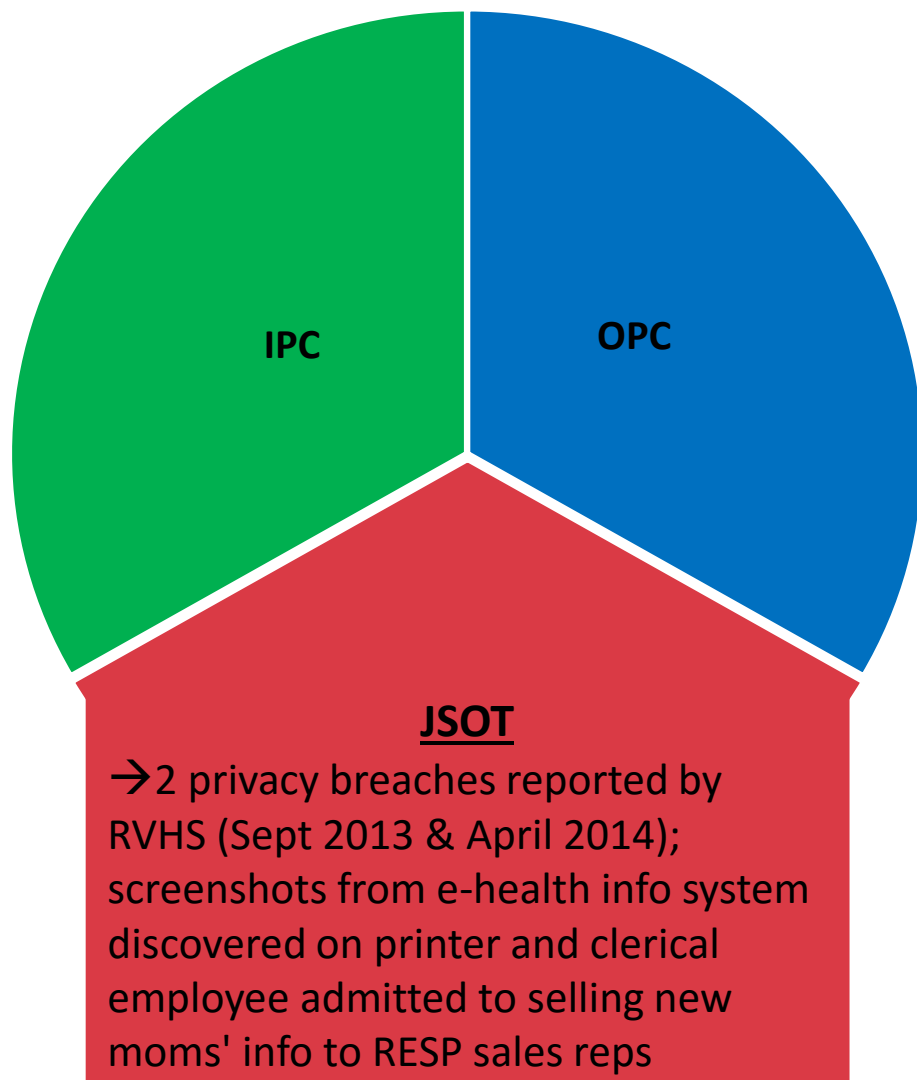


## IPC

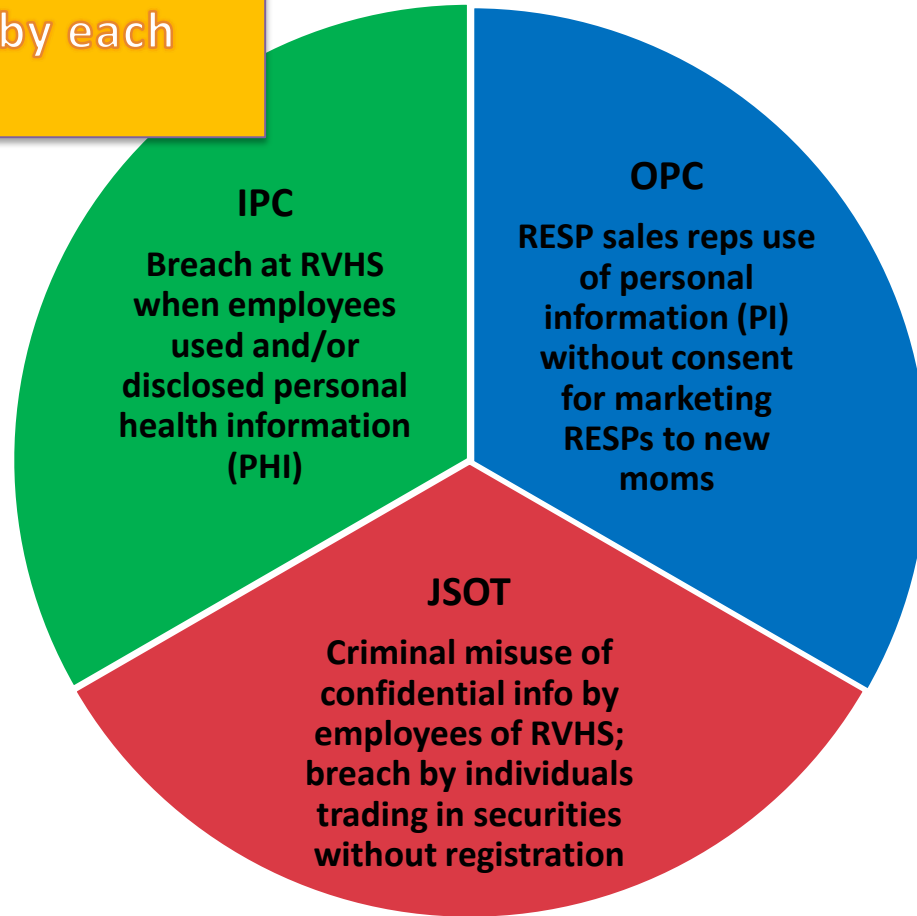
→ 2 privacy breaches reported by RVHS (Sept 2013 & April 2014); screenshots from e-health info system discovered on printer and clerical employee admitted to selling new moms' info to RESP sales reps







**ONE BIG PRIVACY ISSUE –  
Issue Investigated by each  
Regulator**





# OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER/ONTARIO (IPC)

# IPC MANDATE UNDER PHIPA

- Investigate complaints related to personal health information under the *Personal Health Information Protection Act* (PHIPA)
- Review practices of health information custodians in regard to personal health information
- Review and approve the practices and procedures for protecting privacy of prescribed entities and persons



# GOALS IN INVESTIGATING PRIVACY BREACHES

- Determine what occurred, whether changes are needed to better protect patient privacy
- Notification to patients
- Systemic issues:
  - Auditing/logging
  - Training
  - Confidentiality agreements
  - Privacy warnings on electronic systems
- Determine whether to refer to Attorney General for prosecution



# IPC FINDINGS IN ORDER HO-013

- Employees used and/or disclosed PHI in contravention of the act
- RVHS did not take steps that were reasonable in the circumstances to ensure PHI in its custody or control was protected (audit and logging capabilities)



# IPC ORDERS

- IPC made several orders, one directed at the ability to audit accesses to PHI
- The hospital appealed HO-013 to the Divisional Court
- After discussions between the hospital and the IPC, the hospital withdrew its appeal
- Hospital and IPC agreed on a plan for compliance



# IPC ORDERS (CONT...)

- The hospital identified electronic systems containing personal health information.
- The IPC and the hospital agreed on the systems that will be covered by the software.
- The software will not be deployed to systems, for example, that are due to retire soon, to which limited staff have access, or which only conduct real-time monitoring and do not record personal health information.
- A schedule was developed for deployment



# OFFICE OF THE PRIVACY COMMISSIONER OF CANADA (OPC)

# OPC REGULATORY INTEREST

- Large scale breach affecting many individuals
- Private sector organizations obtaining PI without consent for the purpose of marketing RESPs to new mothers
- Receipt of 3 complaints (2 withdrawn and 1 investigated)





# OPC INVESTIGATION

- One of Global's sales reps admitted to buying maternity patient information from a RVHS employee for use as sales leads
- Global had no reliable system in place to document how PI of prospective clients is obtained and used by its sales reps
- Site visit conducted with Global



# OPC FINDINGS

- Global was responsible and accountable under the PIPEDA for the actions of its sales reps
- Global did not appear to have any policies, procedures or training in place to ensure that its employees and contractors understood their PIPEDA obligations
- Global had not obtained the complainant's consent for the collection and use of her PI



# OPC RECOMMENDATIONS/OUTCOMES

- Develop & implement policies and procedures to identify source of prospective & actual client's PI
- Develop and implement measures (for example, audits and investigations) to ensure sales reps collect & use PI with consent
- Ensure sales reps receive training on policies and procedures
- Obtain 3P audit to certify accountability measures
- Review [Getting Accountability Right with a Privacy Management Program](#)



# ONTARIO SECURITIES COMMISSION - JOINT SERIOUS OFFENCES TEAM (OSC - JSOT)

#CPS17



# JSOT REGULATORY INTEREST

- JSOT's mandate is to investigate recidivists and serious fraudulent securities related activity using provisions of the *Criminal Code* and OSA
- JSOT is a partnership of OSC / OPP and RCMP staff
- Investigation involving possible OSC registrants and/or the sale of securities without registration
- Hospital employee # 1 admits to selling information from maternity records to an RESP dealer, but refuses to identify the dealer
- Hospital employee # 2 leaves maternity patient information on the printer, possibly intended for sale to RESP dealers
- RESP dealers registered under the *Ontario Securities Act* ("OSA")
- Other police agencies declined to investigate



# JSOT INVESTIGATION

- Identify registrants involved, determine breaches/charges and gather supporting evidence
- In excess of 50 interviews
- 30+ Judicial Authorizations
- Analysis of bank and telephone records and personal daytimers
- Discovery of second hospital involved - The Scarborough Hospital
- Undercover Operation
- Prepare court cases

# JSOT INVESTIGATION OUTCOME

- Charges - June 2015:
  - Acar / Cruz - arrested - 11 x Criminal Code charges
  - Bandali / Subramanian / Edry / Edry - 5 x OSA charges
- 5 guilty pleas, one withdrawal
- Sentences included: Conditional Sentence Order, fines, restitution, house arrest, probation, registration bans, volunteer work

# CO-OPERATION BETWEEN REGULATORS

- *On what basis or under what authority(ies) were you able to co-operate with each other?*
- *In what ways did you collaborate or co-operate?*
- *What were the limits or “no-go” zones of collaboration?*
- *To the extent there was collaboration or co-operation, what were the benefits to the investigation’s objectives?*





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