

Reflections on the past 5 years

Brian Beamish

Information and Privacy Commissioner
of Ontario



Information and Privacy
Commissioner of Ontario

Commissaire à l'information et à la
protection de la vie privée de l'Ontario

AMCTO Municipal
Information Access
and Privacy Forum

November 15, 2019

OHIP Billings

“...the concept of transparency, and in particular, the closely related goal of accountability, requires the identification of parties who receive substantial payments from the public purse...”

IPC Order PO-3617

☰ TORONTO STAR

Opinion · Editorials


Let the light shine on top-billing doctors in Ontario

By **STAR EDITORIAL BOARD**
Tues., Aug. 7, 2018

f t ✉ ...

If Ontario doctors were playing a baseball game, rather than fighting for the right to keep the names of the highest-billing doctors a secret, they would have struck out by now.

They lost their argument before an adjudicator of Ontario's information and privacy laws, and at the Ontario Divisional Court and, on Friday, at the Ontario Court of Appeal.



“There is a lot of interest on the part of the public to have a health-care system that is open and transparent. Physicians’ billings are part of that.”

— Ontario Health Minister, Christine Elliot,
Toronto Star, November 4, 2019.

Toronto Edition
CHANGE LOCATION

TORONTO STAR

LOCAL CANADA POLITICS WORLD OPINION LIFE SPORTS ENTERTAINMENT BUSINESS STAR INVESTIGATIONS

Ontario government to publish doctors’ billings as part of proposed changes to OHIP oversight

By **Theresa Boyle** Health Reporter
Mon., Nov. 4, 2019 7 min. read



The provincial government plans to improve oversight of the Ontario Health Insurance Plan, Health Minister Christine Elliott says.

To be unveiled Wednesday as part of the fall economic statement, the OHIP overhaul would see proactive disclosure of physician billings and tougher audits, she told the Star in an exclusive interview Friday.

Focus on Public Interest

- **Order MO-3295** - Algoma Public Health (APH) received a request for final report of 2015 KPMG forensic review
- Report relates to whether conflict of interest regarding appointment of APH's former interim CFO, and whether any funds were subsequently misappropriated or lost by APH
- APH decides personal privacy exemption applies, but decides full report should still be disclosed on basis of **public interest override (first time ever!)**
- IPC upholds APH decision to disclose
- April 2019: Ontario Court of Appeal affirms APH/IPC decision

Data Integration

- Sharing, linking, analyzing data across agencies can result in new insights for:
 - policy development
 - system planning
 - resource allocation
 - performance monitoring
- *FIPPA/MFIPPA* does not permit disclosure for these purposes

FIPPA Part III.1 – Data Integration

- Schedule 31 of 2019 budget bill amends *FIPPA* to include Part III.1 (Data Integration)
- Part III.1 sets out privacy-protective framework to enable data integration:
 - designated units within ministries may indirectly collect PI from service providers and funded agencies
 - special “inter-ministerial” units may collect from other ministries
 - units may link PI but must then de-identify
 - responsible minister to establish data standards approved by IPC
 - IPC may conduct reviews of units, new **order-making powers**

Part X of the *Child, Youth and Family Services Act*: A Guide to Access and Privacy for Service Providers

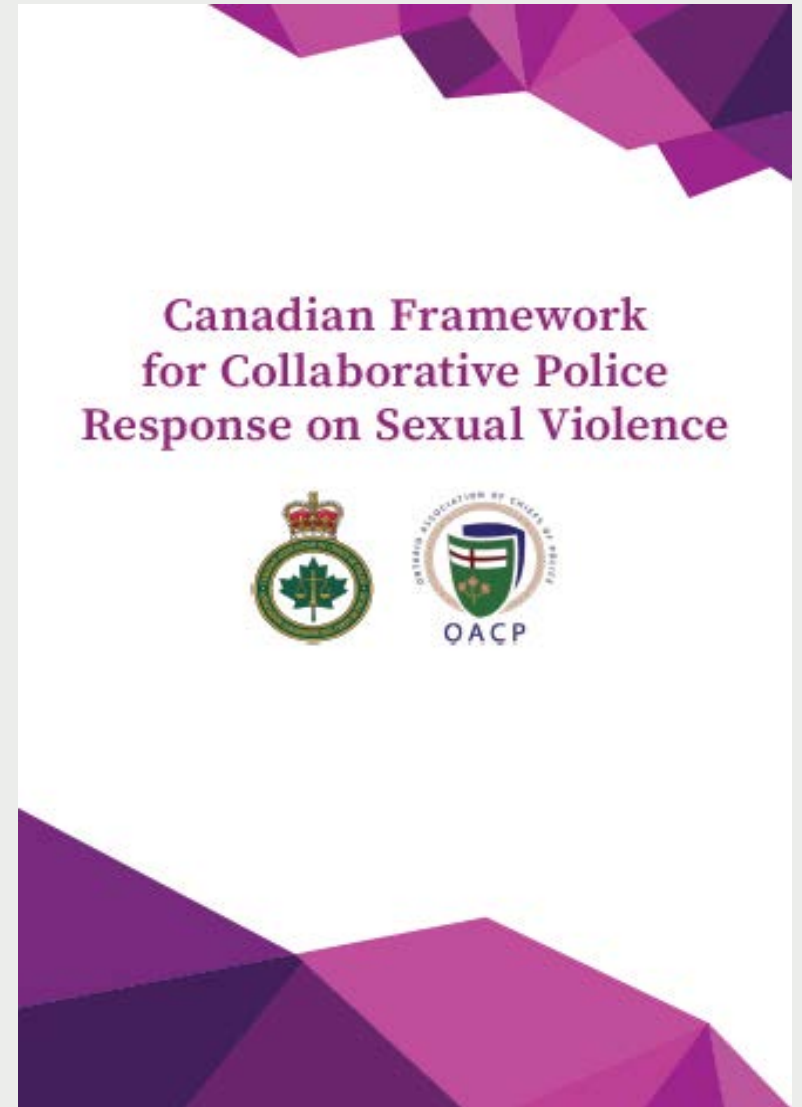
- The *CYFSA* received Royal Assent on June 1, 2017
- Part X of the *CYFSA* was proclaimed along with the rest of the *CYFSA* on April 30, 2018, but will come into effect on January 1, 2020
- Part X of the *CYFSA* represents a big step forward for Ontario's child and youth sectors:
 - closes a legislative gap for access and privacy
 - promotes transparency and accountability

Part X of the *Child, Youth and Family Services Act*: A Guide to Access and Privacy for Service Providers



Philadelphia Model: Response to Sexual Violence

- Endorsed by Ontario Association of Chiefs of Police and the Canadian Association of Chiefs of Police, in consultation with our office
- Purpose is to provide police services with a framework of leading practices to address sexual violence
- Encourages evidence-based trauma informed investigations while improving support for victims/survivors of sexual violence
- Will continue to evolve and provide ongoing development of best and appropriate practices



Mandatory *PHIPA* Breach Reporting

- As of October 1, 2017, health information custodians must notify IPC of certain privacy breaches
 - use or disclosure without authorization
 - stolen information
 - further use or disclosure
 - breaches occurring as part of a pattern
 - breaches related to a disciplinary action against a college or non-college member
 - significant breaches
- Custodians began collecting breach statistics in January 2018 for reporting in March 2019

Reporting a Privacy Breach to the Commissioner

To strengthen the privacy protection of personal health information, the Ontario government has amended the *Personal Health Information Protection Act* (the act). Under section 12(3) of the act and its related regulation, custodians must notify the Information and Privacy Commissioner of Ontario (the Commissioner) about certain privacy breaches. This law takes effect **October 1, 2017**.

As a custodian, you must report breaches to the Commissioner in seven categories described in the regulation and summarized below. The categories are not mutually exclusive; more than one can apply to a single privacy breach. If at least one of the situations applies, you must report it. The following is a summary—for the complete wording of the regulation, see the appendix at the end of this document.

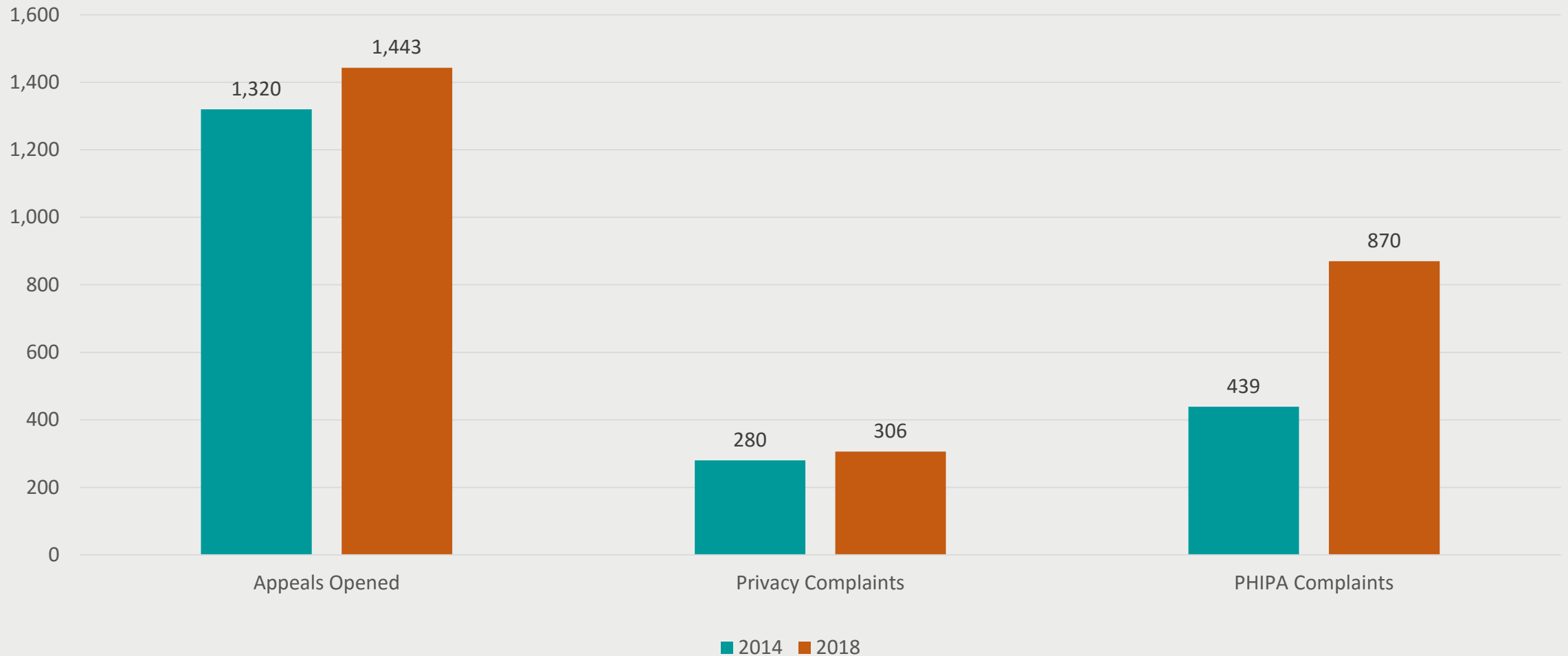
It is important to remember that even if you do not need to notify the Commissioner, you have a separate duty to notify individuals whose privacy has been breached under section 12(2) of the act.

SITUATIONS WHERE YOU MUST NOTIFY THE COMMISSIONER OF A PRIVACY BREACH

1. Use or disclosure without authority

This category covers situations where the person committing the breach knew or ought to have known that their actions are not permitted either by the act or the responsible custodian. An example would be where a

Appeals and Complaints: Getting Busier



What Smart Cities May Offer

A community that uses connected technologies to collect and analyze data to improve services for citizens:

- less congestion and traffic accidents
- increased safety for cyclists and pedestrians
- better environment
- efficient use of public resources
- better informed citizens



Privacy Risks of Smart Cities

- Privacy not barrier to smart cities, but they require strong **privacy protections**
- Without adequate safeguards, excessive **personal information** may be collected, used, disclosed
- Potential hazards:
 - tracking individuals as they go about their daily activities (surveillance)
 - use/disclosure for other purposes without consent (function creep)
 - security breaches (cyberattacks)

Keep in Mind

- Smart City issue far more than Sidewalk Toronto
- These are CITIES
- The private sector needs to realize that involvement with public sector changes the rules

Councillor Records

The Oshawa Express
"WELL WRITTEN. WELL READ" Oshawa's Community Newspaper

HOME NEWS LIFESTYLES SPORTS POLICE BRIEFS COLUMNISTS


BREAKING NEWS March 24, 2016 in Lifestyles: **Night with The Boss**

Home » News » Commissioner orders release of emails

Commissioner orders release of emails

Messages between councillor, lawyer to be made public; city can still file appeal

Posted on January 27, 2016 in News




The province's Information and Privacy Commissioner has ruled that email correspondence between Councillor Nancy Diamond and municipal lawyer George Rust-D'Eye be released. The two exchanged emails prior to Rust-D'Eye being brought in by the city to investigate the findings in AG-13-09, the report by former auditor general Ron Foster detailing the purchase of 199 Wentworth St. E., now the city's consolidated operations depot.

By Joel Wittnebel/The Oshawa Express

For more than two years, Rob Vella has been at war.

It's not a battle fought with bullets and manpower, but one with paperwork, appeals and patience.

In 2013, the Oshawa resident filed a Freedom of Information request with city hall. Vella was looking to get his hands on a key piece of correspondence that, he figures, could shine a spotlight on the circumstances behind one of the most controversial decisions made by Oshawa councillors in recent memory; the hiring of municipal lawyer George Rust-D'Eye to look into the allegations made by former city auditor general Ron Foster in AG-13-09. In this report,



Information and Privacy
Commissioner of Ontario
Commissaire à l'information et à la
protection de la vie privée de l'Ontario

FOI Fact Sheet 1

The Municipal Freedom of Information and Protection of Privacy Act and Councillors' records

April 2016

INTRODUCTION

The Information and Privacy Commissioner of Ontario (IPC) sometimes decides appeals relating to requests for access to records created or held by municipal councillors. The *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* does not expressly refer to records of municipal councillors and, therefore, before a determination can be made on access to those records, the IPC must decide whether *MFIPPA* applies. In making this decision, the IPC examines the specific facts of each case in light of a number of principles.

The IPC has been calling for amendments to *MFIPPA* to clarify when it applies to these records, including in August 2015, when the IPC wrote to the Minister of Municipal Affairs and Housing setting out proposed amendments (this letter is available on the IPC's [website](#)).

In the absence of amendments, however, the IPC is issuing this fact sheet, which explains when and how councillors' records are subject to *MFIPPA*.

WHEN ARE COUNCILLORS' RECORDS SUBJECT TO MFIPPA?

Councillors' records are subject to *MFIPPA* where:

1. a councillor is acting as an officer or employee of the municipality, or performs a duty assigned by council, such that they might be considered part of the institution, or
2. the records are in the custody or control of the municipality.

WHEN IS A COUNCILLOR AN OFFICER OR EMPLOYEE OF A MUNICIPALITY?

A councillor is likely to have several roles, such as an individual constituent representative, a politician, or a head or member of a municipal committee or board, such as a transit corporation. Some of these roles may entail the councillor acting as an officer or employee, while others do not.



Instant Messaging and Personal Email Accounts: Meeting Your Access and Privacy Obligations

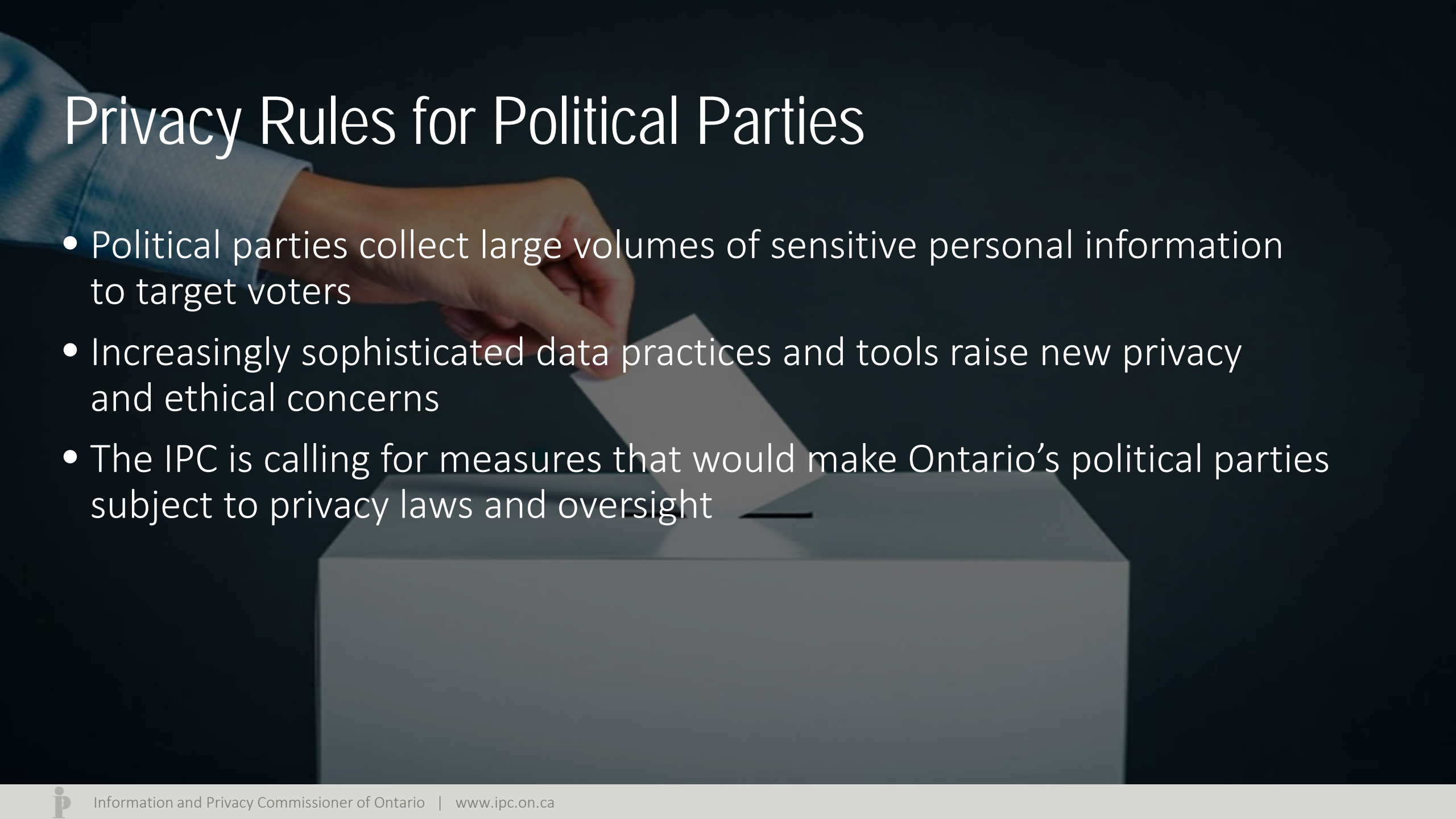
June 2016



Information and Privacy
Commissioner of Ontario
Commissaire à l'information et à la
protection de la vie privée de l'Ontario



Privacy Rules for Political Parties

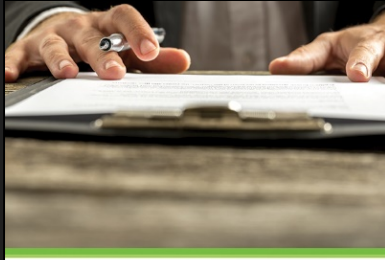
A hand in a blue shirt sleeve is shown dropping a white ballot into a grey ballot box. The background is dark, and the scene is lit from the side, creating a dramatic effect.

- Political parties collect large volumes of sensitive personal information to target voters
- Increasingly sophisticated data practices and tools raise new privacy and ethical concerns
- The IPC is calling for measures that would make Ontario's political parties subject to privacy laws and oversight



IPC Resources

IPC Publications



Online Educational Services
What Educators Need to Know

The Municipal Freedom of Information and Protection of Privacy Act and Councillors' records
April 2016

Release of personal information to police: your privacy rights

Ontario public sector organizations, such as provincial ministries and agencies, municipalities, schools, and transit systems, are required by law to protect your personal information and to follow certain rules when collecting, using, and disclosing your personal information.

WHAT IS PERSONAL INFORMATION?
Under Ontario's access and privacy laws, personal information means, "recorded information about an identifiable individual." For a full explanation of the definition, see our fact sheet *What is Personal Information?*

Detecting and Detering Unauthorized Access to Personal Health Information

Planning for Success: Privacy Impact Assessment Guide

Open Contracting: Proactive Disclosure Of Procurement Records
September 2015

TECHNOLOGY
MAY 2017
Big Data Guidelines

Guidelines for the Use of Video Surveillance
October 2015

Smart Cities and Your Privacy Rights

TECHNOLOGY FACT SHEET
APRIL 2016
This fact sheet was

Reporting a Privacy Breach to the Commissioner

GUIDELINES FOR THE HEALTH SECTOR

De-identification Guidelines for Structured Data
June 2016

EDUCATION
A Guide to Privacy and Access to Information in Ontario Schools

PRIVACY
Privacy Breaches Guidelines for Public Sector Organizations

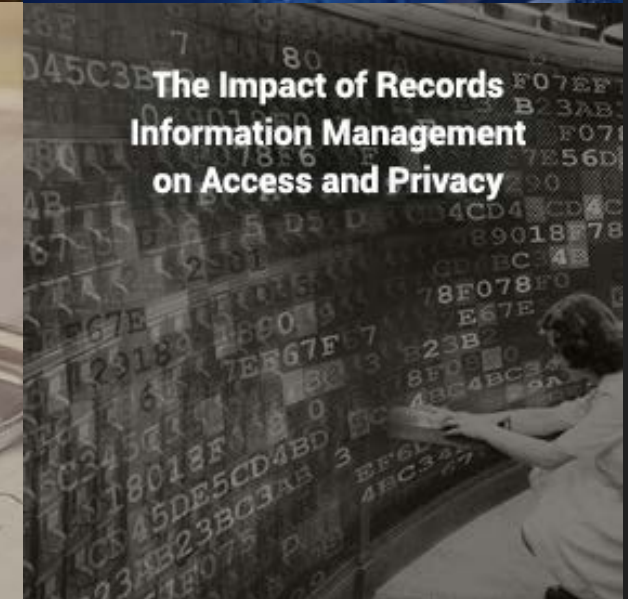
SITUATIONS WHERE YOU MUST NOTIFY THE COMMISSIONER OF A PRIVACY BREACH

PRIVACY
MAY 2019
Part X of the Child, Youth and Family Services Act: A Guide to Access and Privacy for Service Providers

Frequently Asked Questions Personal Health Information Protection Act
September 2015

IPC Webinars

- The webinar series has helped us to overcome geographical barriers and engage with Ontarians, regardless of where they live or work
- Registrants watch a live presentation and participate in a QA session
- Past webinar presentations on our website



REACHING OUT TO ONTARIO

ROTO is an ongoing program where we visit communities across Ontario and host events to discuss the latest developments in access and privacy with stakeholders and the public



- St. Catharines
- Ottawa
- Sault Ste. Marie
- Kingston
- Barrie
- London
- Thunder Bay
- Windsor
- Hamilton
- Waterloo
- Sudbury

CONTACT US

Information and Privacy Commissioner of Ontario

2 Bloor Street East, Suite 1400

Toronto, Ontario, Canada M4W 1A8

Phone: (416) 326-3333 / 1-800-387-0073

TDD/TTY: 416-325-7539

Web: www.ipc.on.ca

E-mail: info@ipc.on.ca

Media: media@ipc.on.ca / 416-326-3965