



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

July 30, 2020

Michael Maddock
Assistant Deputy Minister, Digital
Ontario Digital Service
595 Bay Street, 10th Floor, Suite 1002
Toronto, ON M7A 2C7

Dear Mr. Maddock:

Re: IPC Recommendations to the Government of Ontario regarding COVID Alert

On May 17, 2020, the Government of Ontario informed the Office of the Information and Privacy Commissioner of Ontario (IPC) that it was developing an exposure notification app (known at that time as COVID Shield) for use by Ontarians as a digital tool to help contain the spread of COVID-19. The IPC engaged in consultation with Ontario Digital Service (ODS) regarding the potential privacy implications of the proposed app. On June 17, 2020, ODS informed the IPC that instead of an Ontario-specific app, there would be a single exposure notification app intended to be rolled out nationwide. The development of the exposure notification app was announced by the Prime Minister the following day. This pan-Canadian app, called COVID Alert, is being spearheaded by the federal government, in coordination with provincial and territorial governments. Ontario will be the first among them to launch the COVID Alert app.

Although COVID Alert is supported by a federally-developed infrastructure, some aspects of the COVID Alert initiative are particular to the province or territory in which it is used. For example, in Ontario, these province-specific aspects include how a user receives the validation code that they may enter into the app in the case of a positive COVID-19 diagnosis, as well as the links the app provides to provincial public health resources.

Since the June 2020 announcement, the IPC has continued to consult with ODS regarding the COVID Alert initiative. At the same time, the Office of the Privacy Commissioner of Canada (OPC) has been consulted by the federal government regarding the same initiative. The IPC and the OPC have coordinated our respective reviews of the privacy-related aspects of the COVID Alert app, each from our respective perspectives and jurisdictions. Both of our reviews have been guided by the privacy principles enunciated in the [Joint Statement by Federal, Provincial and Territorial Privacy Commissioners on Supporting public health, building public trust: Privacy principles for contact tracing and similar apps](#), dated May 7, 2020.

The IPC's review has been informed by a number of key documents including the provincial privacy impact assessment (PIA) [version 1.06 dated July 24, 2020] and the final Memorandum



2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel/Tél: (416) 326-3333
1 (800) 387-0073
Fax/Télé: (416) 325-9195
TTY/ATS: (416) 325-7539
Web: www.ipc.on.ca

of Understanding (MOU) between the federal and Ontario governments, signed and executed July 30, 2020.

Based on this information provided to date, the IPC is making a number of final recommendations which the province of Ontario has already committed to addressing. These recommendations are consistent with the recommendations the OPC is making to the federal government. Some of the IPC's recommendations are specific to the Ontario components of the COVID Alert app, whereas some of the OPC's recommendations are specific to the federal aspects of the initiative.

Overall, the IPC commends the robust measures which the COVID Alert initiative has already taken to protect privacy and security. To further enhance the privacy and security protections associated with the roll out of the COVID Alert app in Ontario, the Government of Ontario has committed to implementing the following IPC recommendations:

Privacy Impact Assessment

1. Implement all of the recommendations made in the provincial PIA. Many of these recommendations relate to ensuring the security of information contained in the COVID Alert app and mitigating any risk of identifiability to very low.
2. Ensure that the PIA is updated accordingly and made available to the public, subject to any redactions necessary so as not to compromise the security of COVID Alert and any related federal or provincial systems.

Voluntariness

3. Ensure that strong messages are clearly and explicitly delivered to businesses and employers to encourage them to respect the voluntary nature of COVID Alert by not compelling individuals to use the app or disclose information about their use of COVID Alert.

Independent Oversight

4. Commit to keeping the IPC informed of any changes to COVID Alert, or any provincial or federal systems that support COVID Alert, that deviate from its currently intended purpose, or may otherwise impact the privacy of individuals or the security of the app as originally described to us in the PIA [version 1.06] dated July 24, 2020.

While the Government of Canada will be primarily responsible for monitoring and assessing the ongoing operation and effectiveness of COVID Alert, the Government of Ontario, to the extent reasonably practicable, has further committed to working cooperatively with the federal government in implementing the following recommendations:

Necessity, Proportionality and Effectiveness

5. Continually monitor and assess the effectiveness of COVID Alert in light of evolving scientific evidence to ensure that its use continues to be necessary and proportionate in helping curtail the spread of COVID-19 in the province of Ontario and elsewhere.
6. To the extent that any data analytics are being contemplated as a means of assessing ongoing effectiveness, perform a new PIA of such plans and disclose them to the relevant privacy oversight body for review to ensure such analytics do not raise the risk of re-identification beyond the very low risk that has been currently established and mitigated accordingly.
7. Should the prevailing scientific evidence indicate that the COVID Alert app is not, or is no longer, effective in achieving its intended purpose, ensure that the COVID Alert app is decommissioned and that all data collected through the app is deleted accordingly.
8. Make all reports on the effectiveness of COVID Alert available to the public.

Monitoring of Third Party Components

9. Continually monitor all components of COVID Alert that are operated or controlled by third parties, such as the Google Apple Exposure Notification System, to identify any changes that may alter the level of privacy risk and impact the implementation of COVID Alert in Ontario.

In addition to the above, the Ontario government has, as per our recommendations, included key provisions in the MOU executed between the provincial and federal governments. These provisions:

- A. explicitly set out the safeguards that must be put in place to protect the privacy of individuals and the security of personal health information contained in any provincial system that interacts with COVID Alert and/or the federal infrastructure that supports COVID Alert;
- B. prohibit the federal government and any third party service provider from using the information received from any provincial system to identify -- or attempt to re-identify -- an individual, except as necessary for security purposes or as required by law;
- C. require the federal government to decommission COVID Alert and delete the data collected through COVID Alert once the pandemic is officially declared to be over by the Chief Public Health Officer of Canada;
- D. contain an express commitment on the part of the federal government and the province to review the MOU, at a minimum on an annual basis, to ensure the ongoing relevance and appropriateness of its terms and conditions in light of evolving knowledge about the spread of COVID-19 and the effectiveness of COVID Alert; and,

E. require that the following information about the COVID Alert app be made available to the public:

- a general description of any provincial system that will interact with COVID Alert and/or the federal servers that support COVID Alert;
- a general description of the safeguards in place to protect the privacy of individuals with respect to any information exchanged between any provincial system and COVID Alert and/or the federal infrastructure that supports COVID Alert;
- that use of COVID Alert is voluntary and that no one should require the use of COVID Alert;
- a notice that although no personal information will be collected while using COVID Alert, the user should be made clearly aware that if they choose to navigate to other applications and services linked to COVID Alert (e.g., contact tracing applications or forms provided by local public health officials) that their personal information *may be* collected, used, and disclosed from that point forward;
- a notice that COVID Alert should not be used as a sole means to replace other public health measures and advice from health professionals or public health officials;
- an explanation of how the individual can make an inquiry about COVID Alert;
- a link to information about COVID Alert made available by the federal government; and,
- the possibility for individual users from Ontario to file a complaint about COVID Alert, and an explanation of how they may file such a complaint, including a complaint to the IPC if they believe there has been a privacy or security breach related to COVID Alert or any provincial system that supports COVID Alert.

We are pleased to see that the final executed MOU bearing today's date includes all of the above provisions A to E. The inclusion of these provisions will protect not only the privacy interests of Ontarians, but ultimately, all Canadians to the extent this MOU serves as a blueprint for other provinces and territories.

Please confirm when each of the above recommendations has been implemented and provide us with any updates to the PIA [version 1.06]. We would also expect to be kept informed of any significant technical or operational changes (including the introduction of any alternative means for obtaining one-time keys) that may detract from, or otherwise alter, our views and recommendations above.

Please note that it is our intention to make this letter publicly available on our website at the appropriate time. For this reason, we would appreciate being kept informed of any changes to the targeted launch date.

We appreciate the opportunity we have had to consult with you to date and for your notable collaboration throughout. We look forward to continued consultations as COVID Alert is further developed and used.

Sincerely,

Patricia Kosseim
Commissioner