

2020 ANNUAL REPORT

A YEAR LIKE NO OTHER

Championing Access
and Privacy in Times of
Uncertainty



Information and Privacy
Commissioner of Ontario

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



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June 24, 2021

The Honourable Ted Arnott
Speaker of the Legislative Assembly of Ontario

Dear Speaker,

I am pleased to provide this first annual report since my appointment as Information and Privacy Commissioner of Ontario on July 1, 2020. Despite the grave health, social, and economic toll the global pandemic has had on Ontarians this past year, it has also been a sobering opportunity for us to reflect upon the fundamental values that are dearest to us as a society. I would count privacy and transparency among the highest of those values.

It is my great honour and privilege to have the opportunity to serve Ontarians at a time when their privacy and access rights matter the most. As the COVID-19 pandemic has shown, citizens rely on their public institutions to protect them more than ever in times of crisis. With that increased sense of need and dependence comes great human vulnerability that can only be tempered by trust — trust that public institutions will collect and use sensitive personal information in fair, lawful, and appropriate ways for the common good; and trust that these same institutions will be open and transparent about the decisions and actions they take as part of their social covenant with the people they serve.

I am immensely grateful to my predecessor, Brian Beamish, who handed me the keys to a smooth-running office of stellar reputation with excellent stakeholder relations, which he so genuinely nurtured during his tenure. I would also like to extend my sincere appreciation to Assistant Commissioners Sherry Liang and David Goodis for their support during this period of transition and to all the IPC staff for their exceptional professionalism, spirit of collaboration, and ongoing commitment to protect and promote Ontarians' access and privacy rights during what has been a truly remarkable year.

I am pleased to share with you the IPC's annual report for 2020. It contains an overview of the most significant developments that shaped our efforts, along with notable activities and initiatives that marked the past year.

A full report, including statistics and supporting documents, is available at <https://www.ipc.on.ca/about-us/annual-reports/>.

Yours sincerely,

A handwritten signature in black ink, reading 'Patricia Kosseim'.

Patricia Kosseim
Information and Privacy Commissioner of Ontario



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COMMISSIONER'S MESSAGE

A year like no other

When I began my term as Ontario's Information and Privacy Commissioner, the IPC was at the halfway point of an exceptionally busy and productive year, made even more challenging by COVID-19. In addition to our work resolving appeals and complaints, several projects and initiatives were underway to support our mandate of advancing Ontarians' access and privacy rights.

Like many government organizations and businesses in Ontario and around the world, our physical offices closed abruptly in March 2020, and we began working from home. With necessary adjustments, we continued to provide services to the public and consult with stakeholders remotely. Despite the interruptions and delays due to the pandemic, the IPC resolved 1,136 access appeals, over 200 privacy complaints, and more than 600 health privacy files in 2020. The ability of my staff to adapt to the new working conditions and continue operations in these unprecedented times is a testament to the IPC's unwavering commitment to serve the people of Ontario.

Of course, we were not alone in facing these challenges and rising to them. I am pleased to report that based on the 2020 statistics submitted to my office, institutions we oversee were also able, for the most part, to overcome the disruptive operational effects of the pandemic. For some institutions, pivoting to new work regimes and protocols made it difficult to meet the 30-day deadline for responding to freedom of information requests.



However, public sector organizations across the province made great strides to ensure that Ontarians' access rights continued to be upheld in a timely manner. Compliance rates for provincial and municipal institutions dipped slightly by around 8 per cent, while the health sector maintained an impressive 96 per cent compliance rate. This is an especially striking accomplishment given the overall pressures on the health sector and the 25 per cent *increase* in requests for access to and correction of personal health information.

As of January 1, 2020, children's aid societies and service providers in Ontario's child and family services sector were, for the first time, subject to access and privacy provisions under Part X of the *Child, Youth and Family Services Act* and oversight by my office. They, too, overcame the operational challenges of an unprecedented year. Of the 7,037 access requests they received in 2020, nearly three-quarters were responded to within the 30-day time limit. I also want to commend the sector for its diligence in responding to the new reporting requirements under Part X despite the difficult circumstances.

Admitting for the necessary adjustments of working from home, the obligation to comply with Ontario's access and privacy laws does not change, even during a global pandemic. In fact, this past year has shown that upholding people's access and privacy rights is more important than ever during times of great uncertainty.

In response to the new reality, the IPC quickly pivoted to develop a number of resources to advise public sector organizations on the privacy, access, and accountability issues that arise in a work-from-home environment. We published a **fact sheet** outlining practical steps organizations can take to mitigate the risks to privacy, security, and access to information when their employees work remotely. We developed answers to **frequently asked questions** and posted them on our website to explain what individuals and institutions could expect in terms of their ongoing rights and obligations and statutory timelines. We also re-launched our phishing **guidance** to help organizations and their employees recognize — and protect against — phishing and other social engineering attempts that can significantly compromise sensitive data. According to the **Canadian Centre for Cyber Security**, this past year saw a significant rise in the number, and gravity, of cyberattacks as criminals preyed on vulnerabilities of people during a time of widespread disruption.

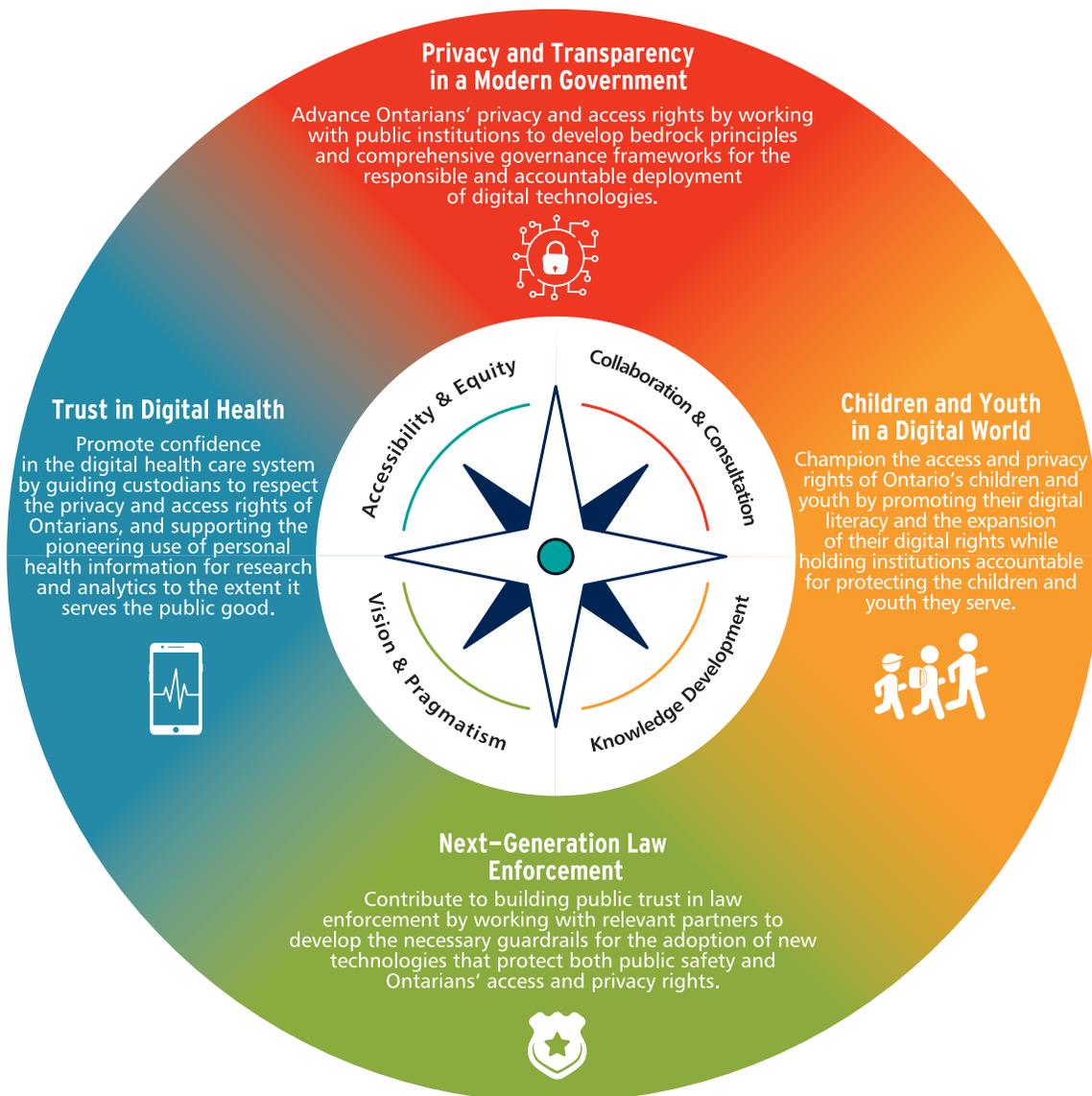
Together with our federal, territorial, and provincial counterparts, we issued a joint statement on **privacy principles for contact tracing and similar apps**. Ontario would be the first Canadian province to launch the COVID Alert app to help control the spread of COVID-19. **Working with the federal privacy commissioner's office**, we reviewed and advised on the privacy and security safeguards of this new smartphone-based technology. From the outset, we made it clear that only non-identifying information should be used to operate the app and all the necessary privacy and security protections had to be implemented to mitigate against risks of unauthorized re-identification. In addition, use of the app should be entirely voluntary; its effectiveness should be continually monitored to justify its ongoing use; and it should be decommissioned if evidence indicates it is not, or is no longer, effective in achieving its intended purpose.

In times of crisis, transparency, too, must be held up as a cherished value. It is essential to inform citizens about the public health risks of COVID-19 as the evidence evolves, and to establish confidence in the government decisions and actions affecting them and their loved ones. Our office received many media and public enquiries about the level of information public institutions could or should release to keep Ontarians safe during the pandemic. The direction from my office on this matter has been consistent — Ontario privacy laws do not prevent health authorities from sharing as much non-personal information as is necessary to protect public health, without identifying individuals. Public health units and government organizations should provide as much non-identifying information as possible to explain the risk profile of community spread and protect public health. Depending on the context, this information could include numbers of affected individuals, demographic data about infected or deceased individuals, and in some cases, even names and locations of organizations experiencing outbreaks.

Setting the blueprint

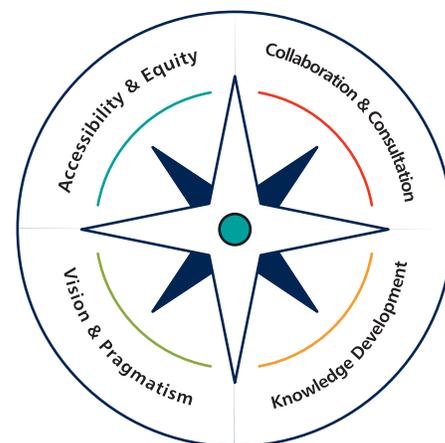
Upon my arrival at the IPC, we initiated a process to identify the priority areas in which our office would be most likely to have significant and positive impact for the benefit of Ontarians, today and in the future. These strategic priorities would help us focus our efforts to advance Ontarians’ access and privacy rights in an increasingly data-driven world where organizations are accelerating their use of new digital technologies and artificial intelligence. With this purpose in mind, we created and sought advice from an interdisciplinary **ad hoc strategic advisory committee**. At the end of 2020, we launched a **broad public consultation** to seek input from stakeholders and the public at large on what our strategic priorities should be for 2021-2025.

After reviewing nearly 60 written submissions from a broad range of stakeholders, (including advocacy groups, children’s aid societies, Crown corporations, health institutions, individuals, law enforcement agencies, municipalities, private sector organizations, provincial institutions, researchers, think tanks, and universities), we ultimately selected the following strategic priorities and related goals as described in our **final report**:



We also identified four cross-cutting approaches that we have committed to adopting across all strategic priority areas as we work to achieve our stated goals:

1. We will consider accessibility and equity issues to help reduce disparate outcomes on marginalized communities.
2. We will be bold and aspirational in our vision but also stay grounded in pragmatism.
3. We will strive to be consultative and collaborative with relevant partners and stakeholders.
4. We will develop the knowledge, skills and capacity needed, both internally and externally, to advance these strategic priorities.



Much of the work to support these strategic priorities for 2021-2025 was already well underway in 2020. For example:

PRIVACY AND TRANSPARENCY IN A MODERN GOVERNMENT



Throughout 2020, the IPC actively engaged with the Ministry of Government and Consumer Services to provide detailed comments and recommendations on the development of data standards needed to implement the government’s new data integration scheme. Ontario’s provincial access and privacy law was amended in 2019 and 2020 to enable data integration units to indirectly collect and link personal information — within and across ministries, and even with designated external entities — for the purpose of analyzing, managing, planning and evaluating government programs and services. After much collaborative work, these **data standards**, which cover collection, use, and disclosure, secure retention, transfer and destruction, de-identification and linkage, among other requirements, were finalized and **approved** by my office in April 2021, allowing this novel and modern government scheme to move forward.

Our office continued to support the child and family services sector in their efforts to implement Part X of the *Child, Youth and Family Services Act (CYFSA)*, which came into force on January 1, 2020. We issued an educational **brochure** and participated in a number of events and webinars to raise awareness about new rights and obligations arising under Part X of the *CYFSA*. We also created online forms for filing **privacy complaints** and **access and correction requests** and published a ***CYFSA addendum*** to our *Manual for the Review and Approval of Prescribed Persons and Prescribed Entities*.

CHILDREN AND YOUTH IN A DIGITAL WORLD



NEXT- GENERATION LAW ENFORCEMENT



In 2020, our office consulted with the Toronto Police Services Board and the Toronto Police Service in the development of their policy and procedures governing the use of body-worn cameras (BWCs) for all their front-line uniformed officers. The IPC called for 26 privacy, security, access, and accountability measures to be built into a robust governance framework prior to full deployment of the cameras. The board and the service fully or substantially addressed the large majority of our **recommendations** and agreed to follow up on the remaining items. The framework that has emerged from our work in Toronto will help ensure that the public's needs for transparency and accountability are met while also respecting their reasonable expectation of privacy. Building on this experience and the input of other key stakeholders, the IPC is developing comprehensive BWC governance framework, which could serve as a model for all other police services that are using or considering using BWC programs in Ontario, helping ensure consistency across the province.

Given the accelerated uptake of digital services spurred on by COVID, my office developed guidance to help health information custodians navigate this new digital terrain. *Privacy and Security Considerations for Virtual Health Care Visits* provides custodians with information about privacy and security best practices as they adopt new platforms and technologies, including videoconferencing, to replace the more traditional face-to-face encounters in the delivery of health care.

The IPC also filed a **submission** to the government outlining our recommendations on the regulation pertaining to certain disclosures of personal health information for the purposes of researching, analyzing, investigating, preventing, responding to or alleviating COVID-19 using the Ontario Health Data Platform (OHDP). Our recommendations included making information about the OHDP available to the public and ensuring any personal health information on the OHDP is securely disposed of or de-identified after a predetermined time frame. I also recommended that the Ministry of Health continue to engage with its OHDP partners and with my office to address the privacy and security implications of this new platform.

TRUST IN DIGITAL HEALTH



Reaching out to Ontarians

During my first 100 days as Commissioner, the IPC team helpfully arranged for me to meet and greet many of our stakeholders across all relevant sectors by way of letter, telephone, and videoconference. This allowed me to personally introduce myself to various public institutions and associations, invite collaboration with stakeholders, and continue the excellent relationships forged by my predecessor.

Building upon the IPC's strong legacy of education and outreach, my staff and I actively participated in a steady stream of online conferences and webinars throughout the year, making presentations to various audiences on privacy and access rights and obligations and raising awareness about our office's mandate. A full listing of these events is included below.

I also continued the commissioner's successful **blog series**, finding my own voice through this proactive medium to speak directly to stakeholders and express my thoughts and opinions about relevant and timely issues of privacy and access to information.

Unfortunately, the conditions of this pandemic year did not allow me to travel to various communities across the province to continue the IPC's tradition of public outreach through its Reaching out to Ontario (ROTO) program. Although I was not able to meet Ontarians in person, my office found other virtual ways of reaching out to the broader community, including Franco-Ontarians.

During the last quarter of 2020, my communications team was hard at work developing a new podcast series called **Info Matters**, and organizing a line-up of interesting and informative guests. This new podcast series, launched in February 2021, is about people, privacy, and access to information issues that matter most to Ontarians. The selection of episodes is intended to reach different pockets of Ontario's population, including seniors, parents, teachers, children, patients and healthcare workers, Franco-Ontarians, and First Nations communities, among others.

Legislative reforms

The past year saw a number of important legislative initiatives affecting, or potentially affecting, Ontarians' access and privacy rights and the mandate of our office.

Electronic health record and other amendments to *PHIPA*

Twenty-twenty saw many **incremental, but consequential** changes to Ontario's health privacy law, the *Personal Health Information Protection Act, 2004 (PHIPA)*. New regulations designated Ontario Health as the prescribed organization responsible for the province's long-awaited electronic health record, subject to oversight by my office. One of the main goals of the provincial electronic health record is to bring together Ontarians' health information in a consistent format, making it readily accessible to health care providers across a broad spectrum of health care settings to improve the quality, efficiency and integration of care.

The amendments to *PHIPA* establish a comprehensive privacy and accountability framework for the provincial electronic health record, allocating shared responsibilities among multiple custodians using the record. These

amendments govern the collection, use, and disclosure of personal health information and establish rules for individuals to exercise their rights through consent directives. They also include rules for breach notification, tailored specifically to the provincial electronic health record. Regulations prescribing when my office must be notified of unauthorized collections from the electronic health record, among other things, came into force October 1, 2020.

There are new rules allowing coroners, medical officers of health, and the Ministry of Health's data integration unit to collect personal health information from the electronic health record. The minister of health may also direct personal health information from the electronic health record to be disclosed, on request, to other parties, such as researchers. This is subject to consultation with a yet-to-be-established advisory committee, yet another interesting new aspect of *PHIPA*.

“““

This past year has shown that upholding people's access and privacy rights is more important than ever during times of great uncertainty.

PATRICIA KOSSEIM
INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO

Other *PHIPA* amendments recognize the rapid pace of digitization and growing use of web-based solutions in the health care sector. When they take effect, these other amendments will include the right of individuals to access their personal health information electronically in formats that meet specific requirements. Providers of health apps and patient portals will also have to comply with requirements to be made by regulations. Other amendments will, when in force, require custodians to meet explicit obligations to log, audit, and monitor electronic record systems.

Further, amendments to *PHIPA* have doubled the maximum fines for offences to \$1 million for corporations and \$200,000 for individuals and have added the possibility of imprisonment for offences.

In addition, once regulations are in place, my office will have the power to levy administrative monetary penalties directly against those who contravene *PHIPA* for the purpose of encouraging compliance and preventing persons from profiting from contraventions of the act. Privacy commissioners across the country have been calling for administrative penalties for some time, and Ontario is the first to enshrine these into law. I urge government to adopt these regulations as soon as possible to provide Ontarians with confidence that their personal health information is being protected through effective incentives to comply with the law and meaningful oversight by my office.

Made-in-Ontario private sector privacy law

Unlike some provinces, Ontario does not have its own private sector privacy law. Businesses here are subject to a decades-old federal law, the *Personal Information Protection and Electronic Documents Act (PIPEDA)*.

I was encouraged when the government launched a **public consultation** on the proposed development of a made-in-Ontario private sector privacy law to address the gaps in the federal privacy framework.

In October, the IPC presented its **submission** identifying a range of opportunities and highlighting the key elements of a modern private sector privacy framework capable of rising to the challenges of a digital age and tailored to meet the needs of the people and businesses of Ontario. These included enhanced transparency and accountability, an emphasis on individual privacy rights, an agile regulator with the modern tools needed to support responsible innovation, and a broad range of compliance incentives and enforcement mechanisms.

While there has been talk of a private sector privacy law in Ontario over the years, the timing of this initiative is not coincidental. There is a wave of legislative reforms happening across the country and around the world. On the heels of the General Data Protection Regulation of the European Union (GDPR), Quebec tabled **Bill 64** that would overhaul its private sector privacy law, B.C. announced the creation of a **special committee** to review its equivalent law, and in November, the federal government tabled the *Digital Charter Implementation Act, 2020* as part of long-awaited *PIPEDA* reform.

These developments have prompted serious consideration of whether the time for a **new privacy law for Ontario** has finally come. My office remains committed to working collaboratively with the government as it continues to reflect upon the possibility of introducing a next-generation private sector privacy law for Ontario.

Other significant activities in 2020

THREE-YEAR REVIEW OF PRESCRIBED PERSONS AND PRESCRIBED ENTITIES UNDER *PHIPA*

Every three years, my office reviews the practices and procedures of prescribed entities and prescribed persons. The purpose of the review and approval process is to ensure their practices and procedures protect the privacy of individuals whose personal health information they receive and maintain the confidentiality of that information.

This year, we reviewed the following prescribed persons and prescribed entities:

PRESCRIBED PERSONS AND THEIR REGISTRIES	PRESCRIBED ENTITIES
<ul style="list-style-type: none"> • Children’s Hospital of Eastern Ontario – Ottawa Children’s Treatment Centre’s Better Outcomes Registry and Network • CorHealth Ontario’s (formerly Cardiac Care Network of Ontario) Cardiac and Vascular Services Registry • Hamilton Health Sciences Corporation’s Critical Care Information System • INSCYTE Corporation’s CytoBase • Ontario Health’s (formerly Cancer Care Ontario)* Ontario Cancer Screening Registry • Ontario Institute for Cancer Research’s Ontario Tumour Bank 	<ul style="list-style-type: none"> • The Canadian Institute for Health Information • Ontario Health (formerly Cancer Care Ontario)* • The Institute for Clinical Evaluative Sciences • The Pediatric Oncology Group of Ontario

* Cancer Care Ontario is now part of Ontario Health

My office is pleased to confirm that all prescribed entities and prescribed persons continue to employ practices and procedures to protect the privacy of Ontarians and maintain the confidentiality of their personal health information. I commend the entities and persons we reviewed for meeting the required deadlines and for their flexibility and cooperation in working with IPC reviewers during what was already a very challenging year.

Also in 2020, IPC staff undertook work to develop a new *Manual for the Review and Approval of Prescribed Organizations* under Part V.1 of *PHIPA*. As of 2020, Ontario Health is the designated prescribed organization under this part of Ontario’s health privacy law, charged with developing and maintaining the provincial electronic health record. The review and approval by the IPC of Ontario Health’s practices and procedures must be completed by October 1, 2021.

International resolution on artificial intelligence accountability

Artificial intelligence systems now drive and support many aspects of our daily lives, across every sector of Ontario's economy, including our access to services and interactions with government.

In 2020, the IPC co-sponsored a Global Privacy Assembly **resolution** urging organizations developing or using artificial intelligence systems to put in place instrumental accountability measures. These measures include robust testing before deployment and ongoing monitoring to identify and address any potential bias; assessment of risks to human rights; intervention by accountable human actors; audits of artificial intelligence systems; whistleblower mechanisms; and multi-stakeholder consultations to identify broader socio-economic impacts and ensure algorithmic vigilance.

By co-sponsoring the resolution, the IPC supports the development of a comprehensive and harmonized approach to addressing the risks inherent with artificial intelligence systems. Participation in the assembly provides an excellent opportunity to learn and contribute on the global stage while informing our work here in Ontario.

Key tribunal decisions and developments

LIFELABS INVESTIGATION

The IPC concluded a joint investigation with the Information and Privacy Commissioner for B.C. into a cyberattack on the computer systems of LifeLabs, Canada's largest provider of general diagnostic and specialty laboratory testing services.

We **found** that LifeLabs failed to take reasonable steps to protect the personal health information of millions of Canadians, in violation of applicable privacy laws. Our offices issued several orders and a recommendation, which the company agreed to implement within specified timelines. We are pleased to report that they have now fully complied with our orders and recommendation.

However, LifeLabs has pursued a court order preventing the public release of our joint investigation report. They claim that some of the information provided to our offices during the investigation is privileged or otherwise confidential. We disagree with the scope of their claim and maintain that this report is vital for bringing to light the underlying causes of the privacy breach and providing a transparent account of our investigation and findings. The matter is currently before the courts.

ONTARIO GOVERNMENT MANDATE LETTERS

Ontario's freedom of information laws are based on the principle that every person has a right to access government information. This right exists to ensure the public has the information it needs to participate meaningfully in the democratic process and that politicians and bureaucrats remain accountable to the people they serve.

In 2019, Cabinet Office denied a freedom of information request made by a media outlet for the mandate letters issued by the premier to all Ontario government ministers. The reason given was that they were exempt from disclosure as cabinet records. Following a review of the parties' submissions, former commissioner Brian

Beamish **ordered** the release of the letters, finding they did not reveal the substance of deliberations of the Premier or cabinet.

This year, the Divisional Court upheld the IPC's decision on judicial review. The government has appealed the decision to the Court of Appeal. At this time, the matter remains before the courts.

HEALTH PRIVACY BREACHES IN 2020

In reviewing the statistical data reported to our office regarding health privacy breaches in 2020, we found that, as in 2019, about 58 per cent of breaches experienced by health information custodians were caused by misdirected faxes.

The fax machine has long overstayed its welcome. It's time to trade in the past and embrace the future, and that includes phasing out fax machines and relying on more secure ways to share and receive information. I would echo my predecessor's call for a strategy to eliminate or reduce dependence on fax machines in the delivery of health care.

In early March of 2021, the government of Ontario announced it would phase out its use of all fax machines by the end of the year. This is good news that is long overdue. Hopefully, the government's decision to phase out their use of fax machines will encourage Ontario's health sector to do the same.

The year ahead

As we close the books on 2020, the year ahead already holds significant promise for rejuvenation and renewal.

The world looks forward with hope and optimism to finally putting the pandemic behind us and gradually resuming social activity, work, school, and travel. There will be important privacy and access to information issues to address through Ontario's recovery efforts as governments look to safely reopen public and private organizations and establish more sustainable solutions for adapting to the new normal. Digital life will almost certainly look different than it did pre-pandemic and our office stands ready to advise on these and other recovery efforts.

In 2021, we can expect the government of Ontario to flesh out more details of its digital and data strategy *Building a Digital Ontario*, which includes plans to accelerate open data initiatives, create a new provincial data authority, and develop an online portal and other educational guidance on online data rights. As the regulator responsible for oversight of the province's access and privacy laws, I invite the government to work closely with my office as it crystallizes the details and moves forward to implement this strategy.

Twenty twenty-one will be the first full year of implementation of IPC's strategic priorities as we prepare to hit the ground running. We look forward to collaborating with many stakeholders as we concretise plans to advance our access and privacy goals related to modern government, digital health, children and youth privacy, and next generation law enforcement.

Finally, 2021 will be a year of continued reflection on law reform initiatives that could put Ontario on the world map as a leader of modern and innovative privacy and access to information regimes. These have the potential of enhancing Ontarians' trust by soundly protecting their most fundamental rights, while enabling responsible innovation in accordance with our province's unique circumstances and economic reality. The IPC looks forward to participating actively in these law reform discussions and contributing its views and perspectives based on in-depth expertise and practical experience on the ground.

IPC BY THE NUMBERS

FIPPA and MFIPPA



815

Provincial access appeals opened



579

Municipal access appeals opened



113

Provincial privacy complaints and self-reported breaches opened



201

FIPPA/MFIPPA privacy complaints and breaches resolved at intake/early resolution



153

FIPPA/MFIPPA access appeals resolved at intake/early resolution



696

FIPPA/MFIPPA access appeals resolved at mediation



195

Municipal privacy complaints and self-reported breaches opened



3

FIPPA/MFIPPA privacy complaints and breaches resolved at investigation

Communications and Stakeholder Outreach



287

FIPPA/MFIPPA access appeals resolved at adjudication



145

Media statements



584

Media mentions



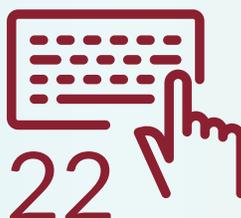
41

Presentations to external stakeholders



5

Media interviews



22

Blogs

PHIPA



939

PHIPA files opened



74

PHIPA files resolved at mediation/investigation



57

PHIPA files resolved at adjudication



32

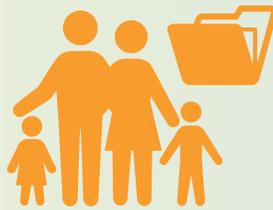
PHIPA decisions issued



497

PHIPA files resolved at intake/early resolution

CYFSA



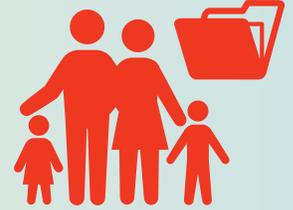
153

CYFSA files opened



54

CYFSA files resolved at intake/early resolution



1

CYFSA file resolved at mediation

Policy/Health Policy



4

Guidance materials released



48

Consultations with stakeholders

Legal



2

Court hearings



5

Judicial reviews closed or heard in 2020

People



125

IPC staff

“”

There will be important privacy and access to information issues to address through Ontario's recovery efforts as governments look to safely reopen public and private organizations and establish more sustainable solutions for adapting to the new normal. Digital life will almost certainly look different than it did pre-pandemic and our office stands ready to advise on these and other recovery efforts.

PATRICIA KOSSEIM
INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO

TRIBUNAL SELECT EXAMPLES

Intake and early resolution

HI19-00047

A student member of a university's emergency first response team informed the IPC that personal health information was at risk of unauthorized use or disclosure. The university reviewed and updated its confidentiality agreements, privacy training program, paper file storage procedures, and electronic file storage procedures. The IPC and the concerned student were satisfied with the robust review and the changes made.

A municipality contacted our office about equipment and documents containing personal health information left behind in the former offices of a health unit. The IPC worked with the health unit to ensure it took reasonable steps to contain the privacy breach, notify the people affected, and prevent future occurrences. The health unit developed a new digital media handling policy to regulate the custody, encryption, storage, reuse, disposal, and destruction of digital media.

HI20-00020

HR20-00195

A series of audits at a hospital found that numerous staff members, including two physicians, inappropriately accessed multiple records of patients with COVID-19. The hospital initiated a series of communications to all staff reminding them of their privacy responsibilities. The hospital committed to installing new auditing software and strengthening its privacy training for all staff members, including physicians. A follow-up audit found no further unauthorized accesses by staff to COVID-19 patient records.

A student with a disability wanted to apply for funding through the Ontario Student Assistance Program for post-secondary education. She had already submitted medical evidence to receive a disability tax credit and asked whether it was necessary for her doctor to fill out this form again. After discussions with the ministry, it acknowledged a separate form was unnecessary. The ministry agreed to accept the student's form, and streamlined the process for future applicants.

PC19-00076

FR20-00028

A children's aid society worker accidentally posted a video to their professional social media account that contained images of two youth who received support from the office. In addition to providing additional privacy training to the worker, the children's aid society committed to developing a new social media policy that reflects best practices for instant messaging, as set out in IPC guidance materials.

Mediation resolutions

EXAMPLE

1

The media reported a ministry's decision to grant partial access to business names and registration numbers for all active farm businesses in Ontario for a one-year period. More than 300 affected parties, many represented by industry associations, appealed the ministry's decision on the basis the information should be protected as third party information. The mediator facilitated confidential settlement discussions between the requester and an association representing many of the affected parties, resulting in a resolution of all the third party appeals.

EXAMPLE

2

A requester wanted access to all the proposals submitted in response to a request for proposal issued by a hospital. The hospital decided to grant partial access to records, which resulted in appeals from some of the third parties who objected to disclosure, and an appeal from the requester. Through mediation, the hospital disclosed additional information with the consent of the third parties, and the appeals were resolved to the satisfaction of all parties.

EXAMPLE

3

A media outlet requested records created over a 28-day period from Ontario Power Generation (OPG). After an initial search for records generated over the 28-day period, OPG advised the cost could be \$60,130. During mediation, OPG advised the requestor that most of the records they were seeking were from a set time frame, and if they narrowed their request, the fee estimate would be reduced to \$160. The media outlet agreed to OPG's suggestion, and the appeal was resolved.

EXAMPLE

4

A conservation authority denied access to an investigation report about a code of conduct complaint, relying on several exemptions, including solicitor-client privilege and personal privacy. During mediation, the authority agreed to provide the requestor with a general report on newly approved guidelines on its code of conduct procedure, which resolved the appeal.

EXAMPLE

5

An individual made an access request and obtained partial access to records relating to the municipal licensing inspections of a particular residence. During mediation, the individual raised questions about the city's search and records management procedures. The city conducted another search but still failed to locate the records. City staff followed up by explaining key parts of the municipal code concerning records retention and providing sworn affidavits. The individual was satisfied all avenues had been explored, and the appeal was resolved.

Select access to information orders

MO-3887 Durham Regional Police Service

The police refused to confirm or deny the existence of responsive records related to the use of Stingray technology, citing the law enforcement exemption under *MFIPPA*. The adjudicator decided that merely disclosing the existence or non-existence of records would not harm law enforcement interests, and ordered the police to issue an access decision.

PO-4066 Laurentian University

Laurentian denied a request relating to the salary and benefits of the presidents of Laurentian's three federated universities on the basis the records were not in its custody and control. The adjudicator decided the employment contracts for the presidents are not in Laurentian's custody or control. However, some salary and benefit information was found in other records that were in the university's custody or control. Laurentian was ordered to issue an access decision for the records.

MO-3894 City of Greater Sudbury

The city received a request for records covering an eleven-year period. The adjudicator found the information from the city's discontinued backup system did not fit within the definition of a

record under Ontario's municipal access/privacy law because the city did not have the necessary software and hardware to process that information.

PO-4063 Cabinet Office

A requester was denied a record relating to monthly polling of Ontarians' attitudes, opinions, and perceptions of the Government of Ontario. The adjudicator decided the requested record is not exempt under the cabinet records exemption in the provincial access/privacy law.

Select public sector and health sector privacy complaints

Privacy Complaint Report MC18-39

A parent complained that a supply teacher had inappropriately collected his child's personal information by video recording him without his consent. An investigation found the collection of a child's personal information in the video was a breach of Ontario's access/privacy law. The IPC also found the school board did not respond adequately. Our office recommended the school board take steps to ensure parties affected by a breach are notified, in accordance with the IPC's guidelines.

Privacy Complaint Report PR17-23

The Ministry of Community and Social Services reported that a Family Responsibility Office employee inappropriately accessed the case files of multiple clients and disclosed the personal information of some of them to an unauthorized individual. The IPC found the ministry did not have reasonable measures in place to prevent unauthorized access. The ministry took steps to improve protections for personal information against unauthorized uses or disclosures.

PHIPA Decision 110

Trillium Health Partners (THP) reported privacy breach incidents that involved remote access to its electronic medical records system from the private practice offices of two physicians. The adjudicator found many of the accesses were not authorized and concluded that THP and the physicians since took reasonable steps to contain and respond to the privacy breaches and upgrade their information practices.

PHIPA Decision 123

An individual sought access to video surveillance footage taken during the two days he was a patient at a hospital. The adjudicator decided the video contains the patient's personal health information as defined under *PHIPA*. The hospital was ordered to grant access to portions of videos that contained the individual's personal health information. The IPC also confirmed the hospital may charge a fee for a third-party service provider to edit the video, provided if it

“

Despite the interruptions and delays due to the pandemic, the IPC resolved 1,136 access appeals, over 200 privacy complaints, and more than 600 health privacy files in 2020.

PATRICIA KOSSEIM
INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO

provides a fee estimate first, and the fee is reasonable.

PHIPA Decision 126

A complainant sought records related to the co-parenting services received from a social worker. The IPC decided a social worker is not a health information custodian in relation to providing co-parenting counselling services because these services are not considered health care under *PHIPA*.

PHIPA Decision 136

A complainant had a long history of filing complaints with the IPC under *PHIPA*. Their various complaints had no apparent basis, revisited matters previously addressed by the IPC, and were repetitive and incoherent. The IPC declared the complainant vexatious and their complaints were dismissed as being frivolous, vexatious, and an abuse of process.

The individual is not permitted to file any new complaint without first seeking written confirmation from the IPC that, among other things, the complaint is intended as a legitimate assertion of rights under *PHIPA*, is not frivolous or vexatious, and will not result in an abuse of process.

OUTREACH HIGHLIGHTS

Kenora Rainy River District Human Services & Justice Coordinating Committee, *Privacy, Mental Health and Information Sharing in a Correctional Setting*, January 14, 2020

Osgoode Certificate in Privacy Law and Information Management in Healthcare, *The Role of the Information and Privacy Commissioner of Ontario*, January 20, 2020

Seneca College of Applied Arts and Technology, Meeting of Ontario College Privacy Officers and Records Management Managers, January 27, 2020

Women's College Hospital and Toronto City Hall, *Privacy Day 2020*, January 28, 2020

University of Toronto Faculty of Law, *Smart Cities Seminar*, February 6, 2020

Ontario Ombudsman, Child and Youth Unit, Part X of the *CYFSA*, February 7, 2020

University of Toronto, Master of Information Privacy Studies, *Access and Privacy and the Role of the IPC*, February 11, 2020

Osgoode Professional Development, *Understanding Privacy Obligations in the Education Setting*, February 11, 2020

Osgoode Hall Law School, Osgoode Hall Student Podcast regarding *Smart Cities*, February 13, 2020

Communitech, *Privacy 101*, February 17, 2020

Borden Ladner Gervais LLP, *Future of Mobility: Autonomous Vehicles Legal Summit*, February 20, 2020

Canadian Bar Association, *An In-House Guide to Privacy and Access Law*, February 20, 2020

Law Society of Ontario's Six-Minute Administrative Law and Practice, *The Relationship between the Courts and Tribunals re: Vavilov decision*, March 3, 2020

The Sedona Conference, 14th Annual Sedona Conference Institute, *eDiscovery, Data Privacy, and Security*, March 5, 2020

Osgoode Hall Law School, *Electronic Health Record Systems*, May 1, 2020

Seneca at York, *Freedom of Information and Privacy at the IPC*, June 2, 2020

The Canadian Institute, 5th Annual GovConnect Ontario, June 17, 2020

The Canadian Mental Health Association, Kenora Branch, *Personal Health Information and Mental Health Care*, June 23, 2020

University of Toronto Faculty of Law, *Privacy in the Digital Age*

LLM course, *The IPC: Mandate, Functions and Recent Activity*, July 3, 2020

The United Counties of Prescott and Russell, *Personal Health Information and PHIPA* July 16, 2020

Alliance for Healthier Communities, *Recent PHIPA Amendments and Privacy/Security Considerations for Virtual Care*, September 22, 2020

Osgoode Hall Law School, *Certificate in Online Dispute Resolution*, Osgoode Professional Development, October 8, 2020

Verney Conference Management, 2020 Ontario Connections, *Open Government, Access, Privacy, Security, & Information Management*, October 20, 2020

Organization of Counsel for Children's Aid Societies, *Updates from the First Year of Implementation of Part X of the CYFSA*, October 22, 2020

York University, Professional Practice in Computing, *Privacy Fundamentals: Technology, Public Policy, and Privacy Law in Canada*, October 22, 2020

Drawbridge Consulting, *Practicing Privacy During and After the Pandemic*, October 22, 2020

20th Annual Healthcare Summit, *The Future of Innovation, Personalized Medicine and Genomics*, October 27, 2020

Osgoode Professional Development, *Health Privacy Law in Schools*, October 29, 2020

Canadian Bar Association, *CBA Access to Information and Privacy Symposium 2020*, October 30, 2020

Canadian Dental Protective Association, *Personal Health Information and PHIPA* November 4, 2020

Canadian Bar Association Symposium, *Fireside Chat with Commissioner Kosseim*, November 13, 2020

Osgoode Hall Law School, *The Practice of Judicial Review*, November 16, 2020

Ontario Association of Committees of Adjustment & Consent Authorities, *Privacy Breaches and the Protection of Personal Information*, November 17, 2020

Spark Conferences Cyber Security in Health Care, *Mandatory Reporting Obligations, Best Practices and Tribunal Processes of the IPC*, November 18, 2020

The Canadian Institute, 26th Annual Regulatory Compliance for Financial Institutions Conference, *Clarity at a Time of Regulatory Complexity and Digital Transformation*, November 18, 2020

Infonex, *Keynote address by Commissioner Kosseim*, November 18, 2020

Children's Treatment Network, *Recent Amendments to the Personal*

Health Information Protection Act, November 23, 2020

Osgoode Hall Law School, *Data Breaches & Cybersecurity Incidents: The Legal Guide to Preparedness and Response*, November 27, 2020

Ontario Bar Association, *Virtual chat with Commissioner Kosseim*, November 27, 2020

Council on Governmental Ethics Laws, *Freedom of Information Update*, December 1, 2020

Canadian Association of Chiefs of Police, *Implementing the Canadian Framework for Collaborative Police Response on Sexual Violence*, December 15, 2020

Consultations & engagements

Better Outcomes Registry and Network (BORN)

- Initiative to create a synthetic version of its dataset

Canada Health Infoway Privacy Forum

- IPC is an ongoing participant

City of Toronto

- Automated Vehicle Tactical Plan

College of Physicians and Surgeons of Ontario

- Professional Responsibilities in Medical Education policy
- Third Party Medical Reports policy
- Delegation of Controlled Acts policy

- Telemedicine policy

Global Privacy Assembly COVID-19 Working Group

- IPC participating as a working group member

Hamilton Community Research Partnership

- Information sharing across organizations

Hypercare

- Privacy implications regarding care coordination services app development

Indian Institutes of Technology Alumni

- Privacy implications regarding COVID-related app development

InputHealth

- Responsibilities under *PHIPA* as an agent and health information network provider

Institute for Clinical Evaluative Sciences

- Patient contact studies
- De-identification Protocol for Risk-Reduced Coded Data

Metrolinx

- Customer Wi-Fi services on GO Transit trains and buses

Ministry of Children, Community and Social Services

- Implementation of Part X of the *Child, Youth and Family Services Act*

Ministry of the Environment, Conservation and Parks

- Consultation regarding the message passing interface project

Ministry of Government and Consumer Services

- Revisions to the Archives Ontario research agreement
- *Freedom of Information and Protection of Privacy Act* and *Municipal Freedom of Information and Protection of Privacy Act*
- Development of Data Standards under Part III.1 of the *Freedom of Information and Protection of Privacy Act*
- Draft corporate policy on identity and credential assurance

Ministry of Health

- Emergency dispatch technologies
- Special Authorization Digital Information Exchange project
- Amendments to *PHIPA* and *FIPPA*, as proposed in Bill 188, *Economic and Fiscal Update Act, 2020*
- Amendments to *PHIPA* and the *Connecting Care Act, 2019*, as proposed in Bill 175, *Connecting People to Home and Community Care Act, 2020*
- Amendments to O Reg 329/04 under *PHIPA*
- Amendment to Reg 569 under the *Health Protection and Promotion Act*
- COVID-19 Case and Contact Management solution
- Ontario Health Data Platform (with Ontario Health)
- COVID-19-related emergency orders

- Health Care Navigation Service

Ministry of Natural Resources and Forestry

- Amendments to the general regulations under the *Aggregate Resources Act*

Ministry of the Solicitor General

- Use of force report and race-based data collection
- Modernizing use of force reporting
- Strategy to combat human trafficking

Office of the Independent Police Review Director

- Race-Based Data Collection Project

Ontario Association of Children’s Aid Societies

- Implementation of Part X of the *Child, Youth and Family Services Act*

Ontario Health

- Virtual Visits Verification Process
- Development of a manual for the review and approval of prescribed organizations under *PHIPA*
- Ontario Health Data Platform (with Ministry of Health)

Otekha Health Corporation

- Health data platform development

Ottawa Police Service

- Changes to the service’s collaborative, disclosure-based victim services program

Peel Regional Police

- Real Time Operations Centre

PHIPA Connections Summit 2020 (event was rescheduled to Feb 2021)

- Participation in 2020 *PHIPA* Connections Summit (Agenda Advisory Board)

Provincial Human Services and Justice Coordinating Committee

- Mobile crisis response team guidance materials framework and toolkit

Sault Ste. Marie Police Service

- Fixed camera automated licence plate recognition system

Toronto Police Services Board and Toronto Police Service

- Body-worn camera governance framework

Toronto Police Service

- Race and Identity-Based Data Collection Strategy

Toronto Police Service PACER 2.0 Committee and Know Your Rights Sub-Committee

- Providing commentary and guidance with respect to street checks and other police reform matters

Treasury Board Secretariat

- (Ontario Digital Service) COVID Alert app
- (Ontario Digital Service along with the Ministry of Government and Consumer Services) COVID digital proof of vaccination certificates

- Digital identity and related initiatives
- Update to GO-ITS 25.12 standard, Security Requirements for the Use of Cryptography

Various Children's Aid Societies

- Implementation of Part X of the *Child, Youth and Family Services Act*

ONGOING ENGAGEMENTS

Association of Native Child and Family Services Agencies of Ontario

- Implementation of Part X of the *Child, Youth and Family Services Act*

Indigenous child and family well-being societies, and other service providers

- Implementation of Part X of the *Child, Youth and Family Services Act*

Submissions & letters to government

SUBMISSIONS

- Office of the Information and Privacy Commissioner of Ontario submission on consultation paper: *Strengthening Corporate Beneficial Ownership Transparency in Canada*

- Comments of the Information and Privacy Commissioner of Ontario on proposed regulations under Part V.1 of *PHIPA*
- Comments of the Information and Privacy Commissioner of Ontario on proposed regulation under *PHIPA* with respect to the Health Data Platform
- Comments of the Information and Privacy Commissioner of Ontario on proposed interoperability regulations under *PHIPA*
- Submission of the Information and Privacy Commissioner of Ontario to the special committee to review the *Personal Information Protection Act (British Columbia)*
- IPC Comments on the Ontario government's discussion paper: *Ontario Private Sector Privacy Reform: Improving private sector privacy for Ontarians in a digital age*

LETTERS

- Letter to Toronto Police Services Board on body-worn camera program
- IPC Recommendations to the Government of Ontario regarding COVID Alert
- Letter to Toronto Police Services Board regarding approval of body-worn camera contract award and project implementation

- Letter to Mayor Tory regarding installing COVID Alert app on City of Toronto mobile devices
- Letter to Michael Maddock regarding installing COVID Alert app on OPS-issued mobile devices
- Letter to Toronto Police Services Board re: Toronto Police Services Board body-worn camera public consultation

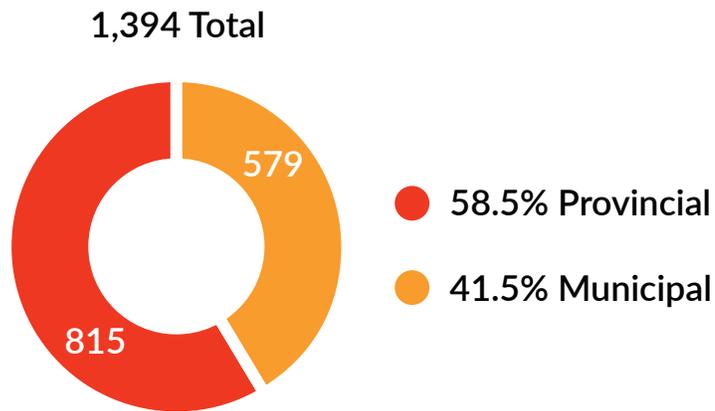
GUIDANCE

- *Child, Youth and Family Services Act* Addendum to the Manual for the Review and Approval of Prescribed Persons and Prescribed Entities
- The Labour Relations and Employment Exclusion
- IPC protocol for appeals involving solicitor-client privilege claims where the institution does not provide the records at issue to the IPC
- Working from Home During the COVID-19 Pandemic (Fact Sheet)

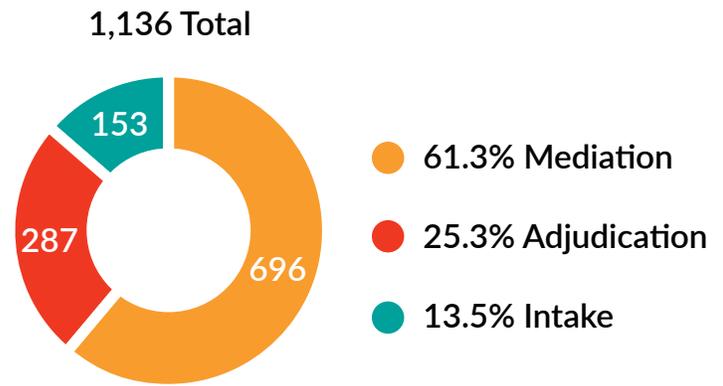
STATISTICS

FIPPA/MFIPPA FILES

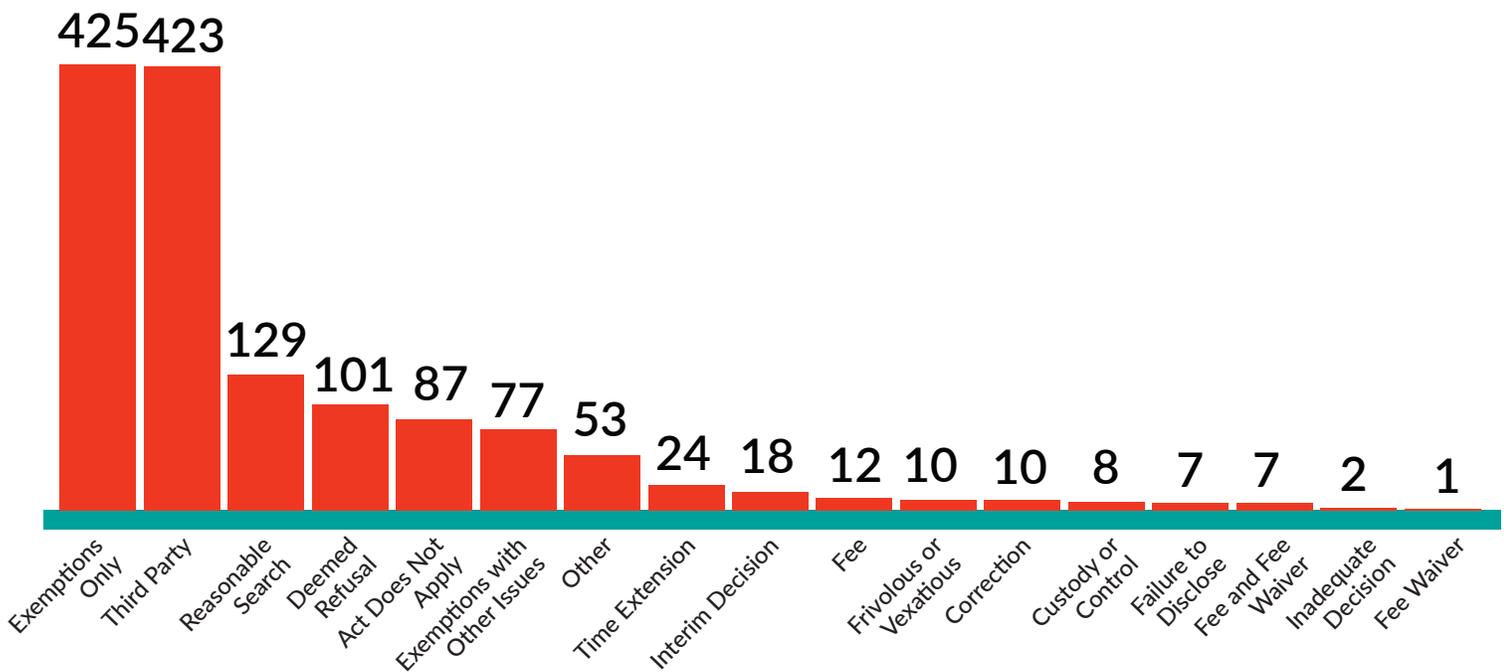
Access Appeals Opened 2020



Appeals Resolved by Stage

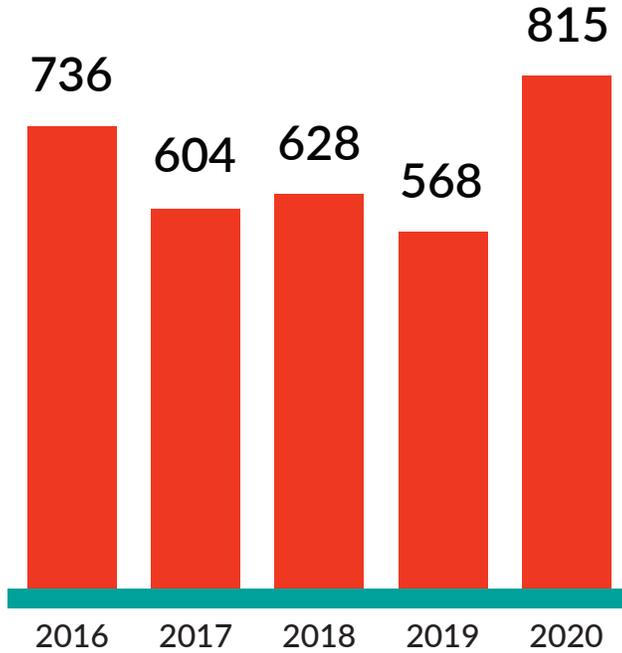


Issues in Appeals Opened in 2020

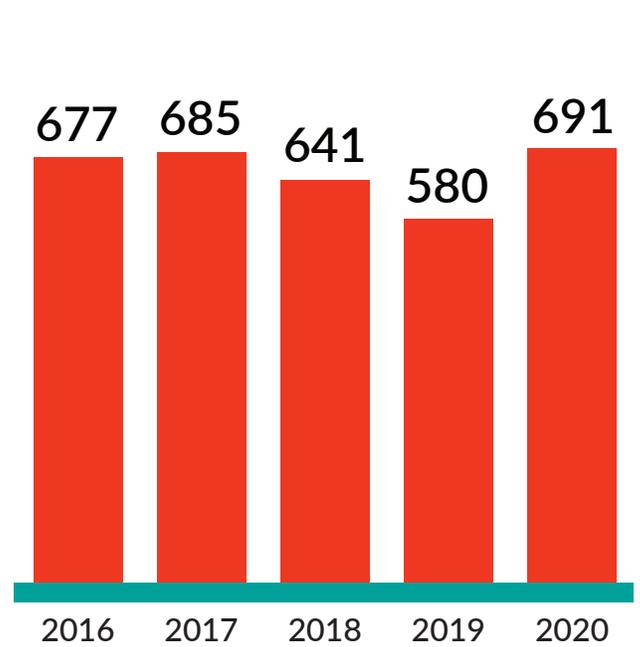


FIPPA/MFIPPA FILES

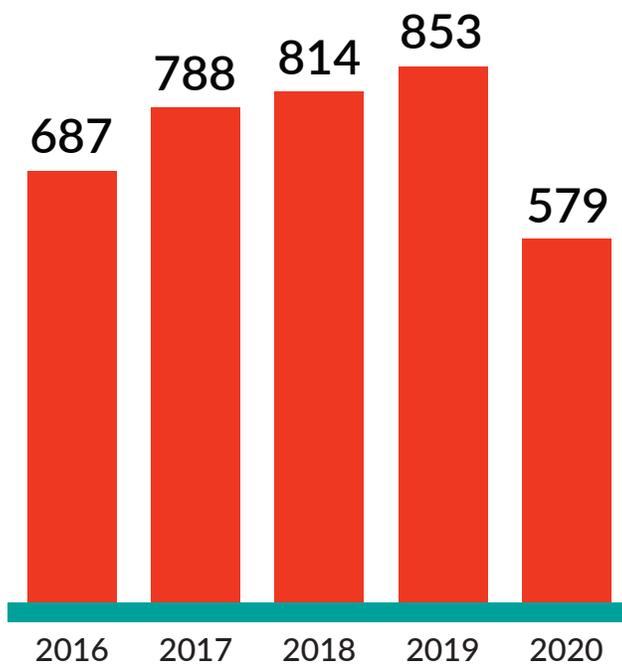
Provincial Appeals Opened
2016-2020



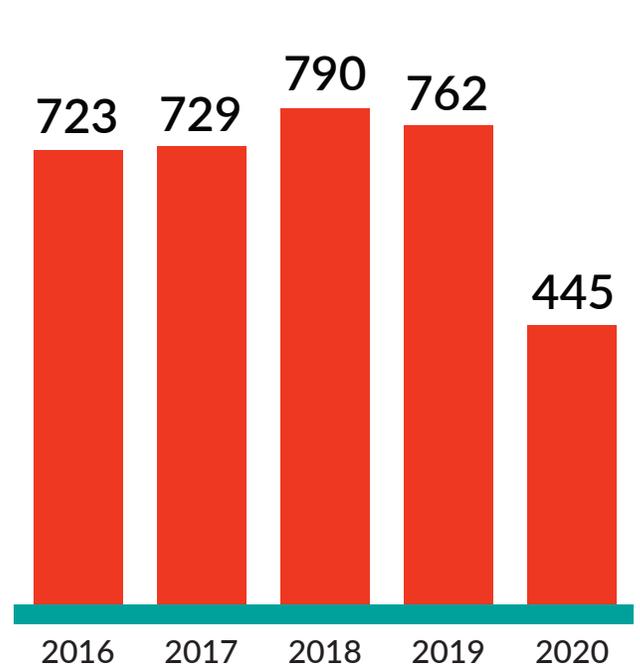
Provincial Appeals Closed
2016-2020



Municipal Appeals Opened
2016-2020



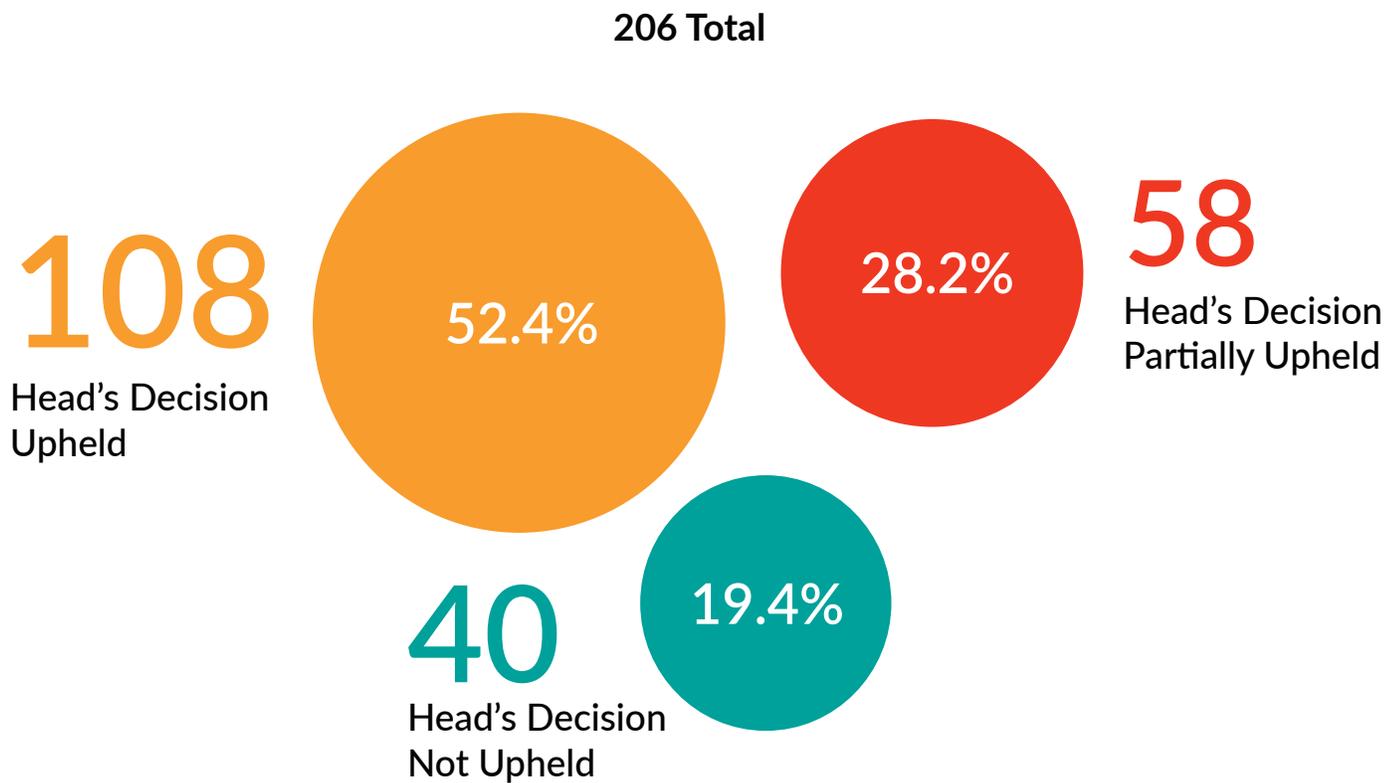
Municipal Appeals Closed
2016-2020



STATISTICS

FIPPA/MFIPPA FILES

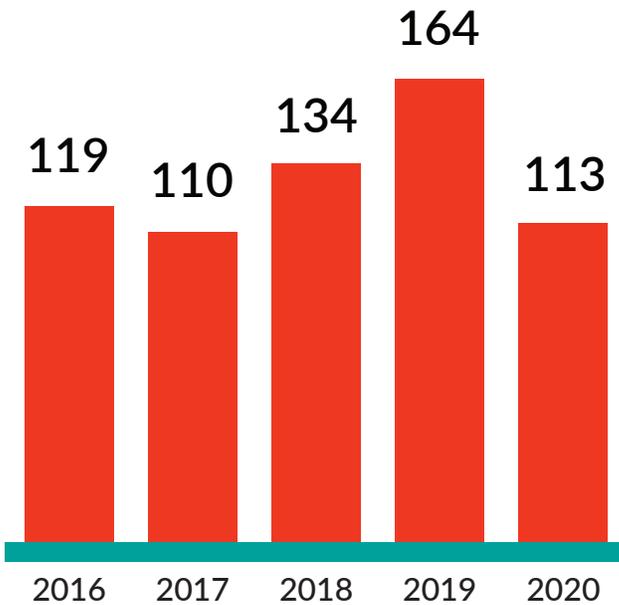
Outcome of Appeals Closed by Order
in 2020*



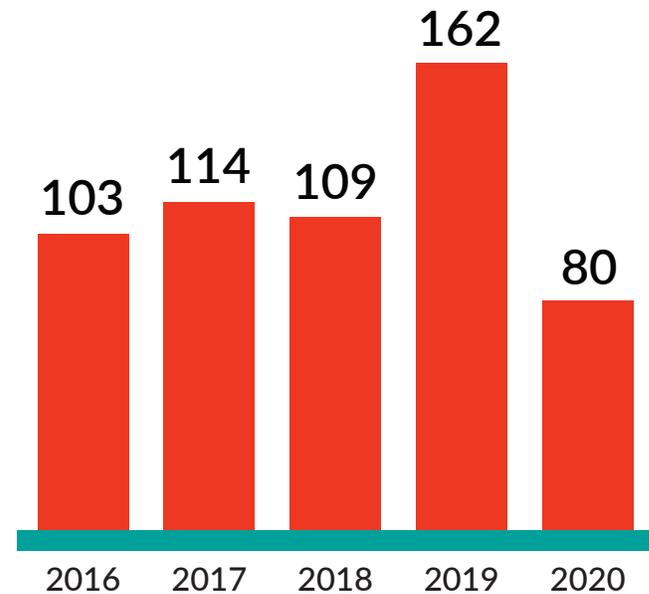
* Does not include files that were resolved, abandoned, withdrawn or dismissed without an inquiry during adjudication.

FIPPA/MFIPPA FILES

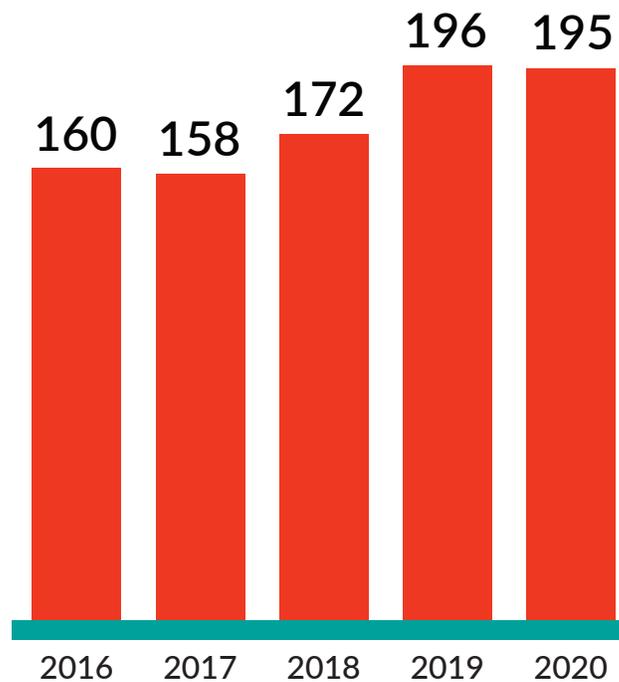
Privacy Complaints and Self-Reported Breaches Opened
Provincial 2016 - 2020



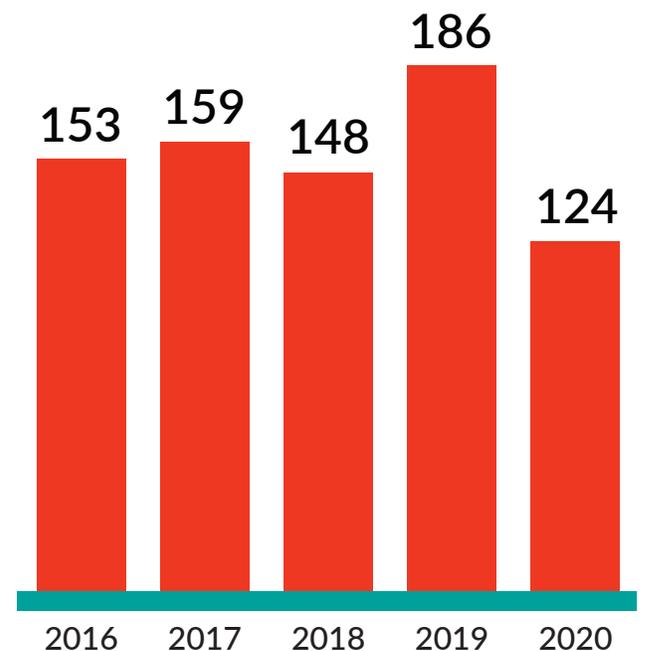
Privacy Complaints and Self-Reported Breaches Closed
Provincial 2016 - 2020



Privacy Complaints and Self-Reported Breaches Opened
Municipal 2016 - 2020



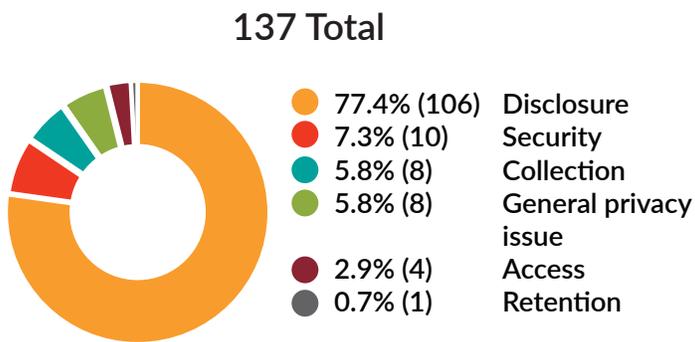
Privacy Complaints and Self-Reported Breaches Closed
Municipal 2016 - 2020



STATISTICS

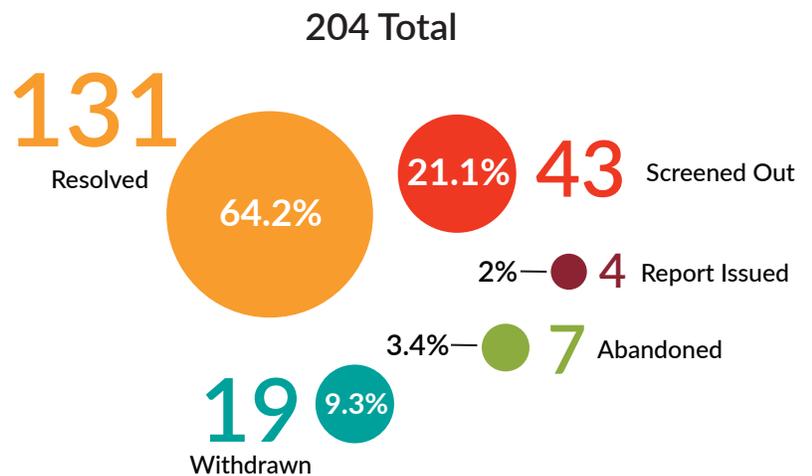
FIPPA/MFIPPA FILES

Issues in Privacy Complaints and Self-reported Breaches Closed* in 2020



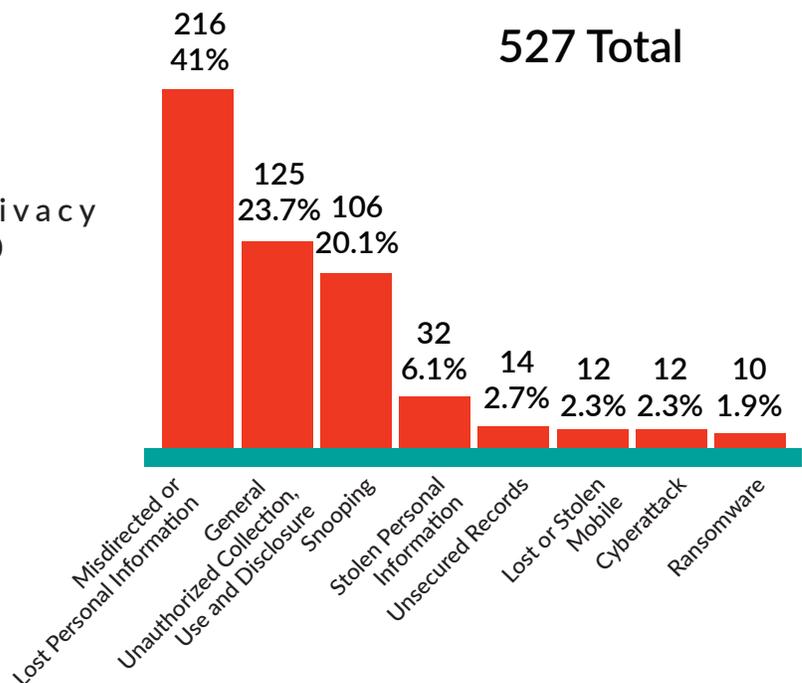
* Does not include withdrawn or abandoned complaints

Privacy complaints and self-reported breaches closed by type of resolution 2020



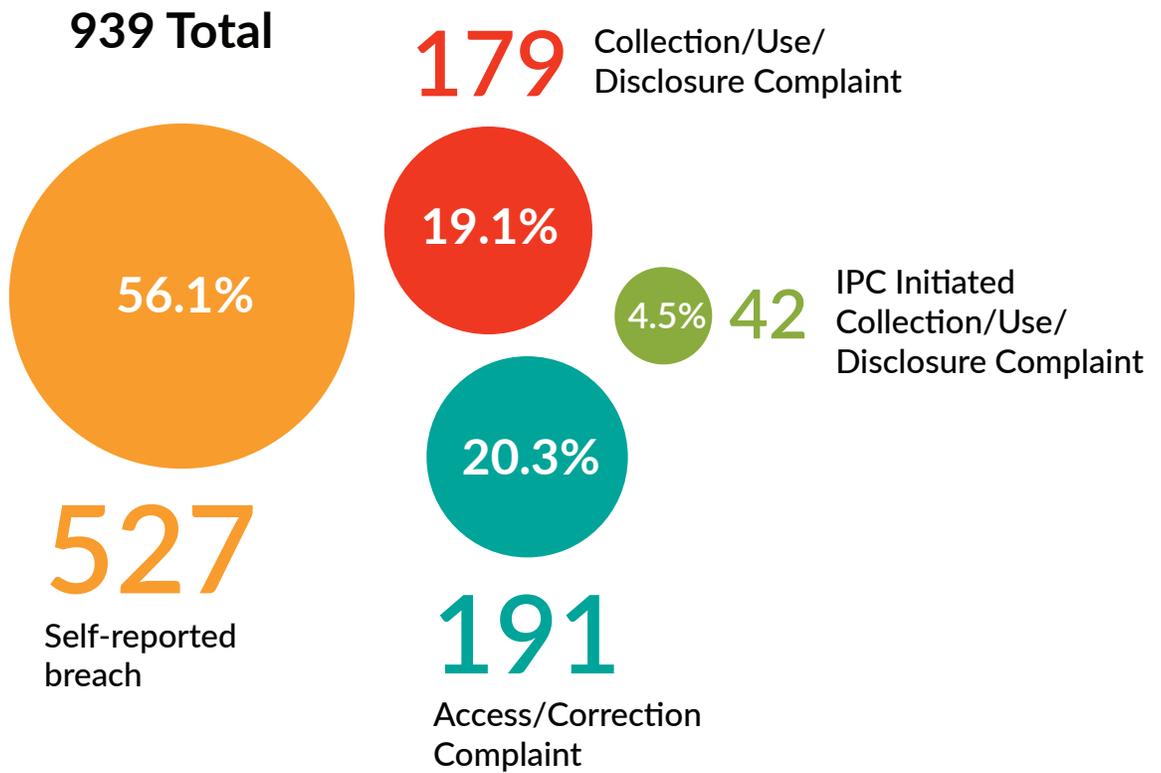
PHIPA FILES

Self-reported health privacy breaches by cause 2020

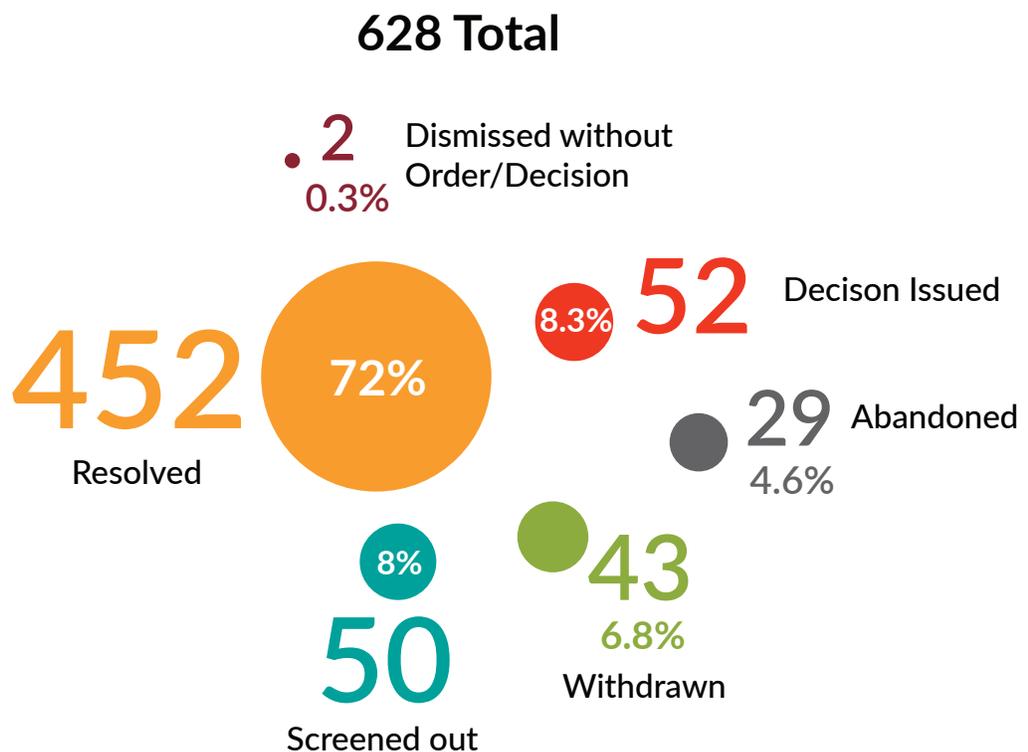


PHIPA FILES

Types of Health Privacy Files Opened 2020

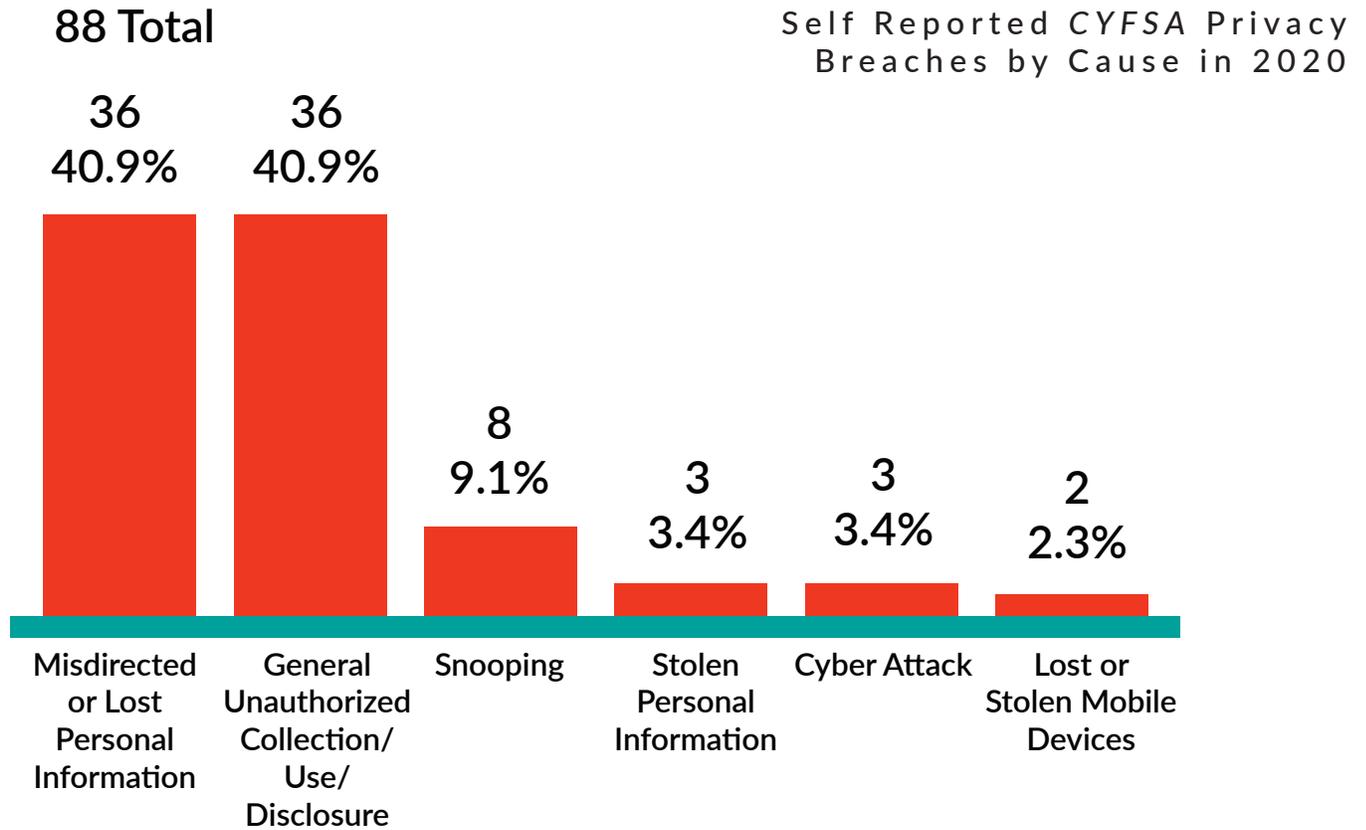


Outcome of health privacy files closed in 2020



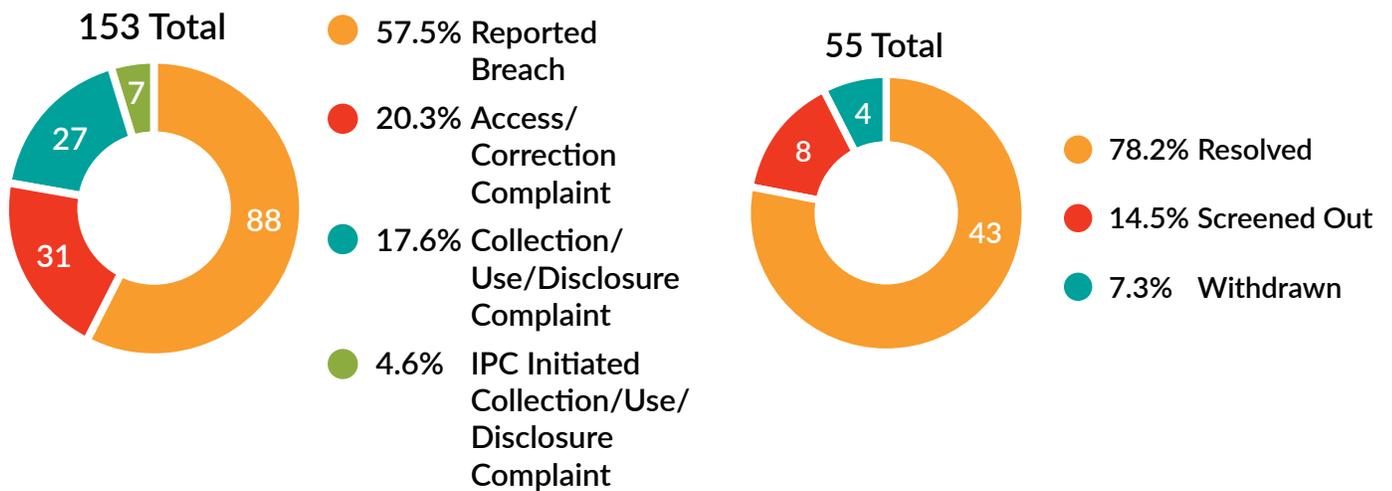
STATISTICS

CYFSA FILES



CYFSA files opened by issue 2020

Outcome of CYFSA files closed in 2020



FINANCIAL STATEMENT

	2020-2021 ESTIMATES \$	2019-2020 ESTIMATES \$	2019-2020 ACTUAL \$
Salaries and Wages	13,885,500	13,404,400	13,544,340
Employee Benefits	3,682,500	3,217,000	2,724,788
Transportation and Communications	286,700	286,700	154,332
Services	2,475,900	2,475,900	2,673,657
Supplies and Equipment	322,000	322,000	220,349
Total	20,652,600	19,706,000	19,317,466

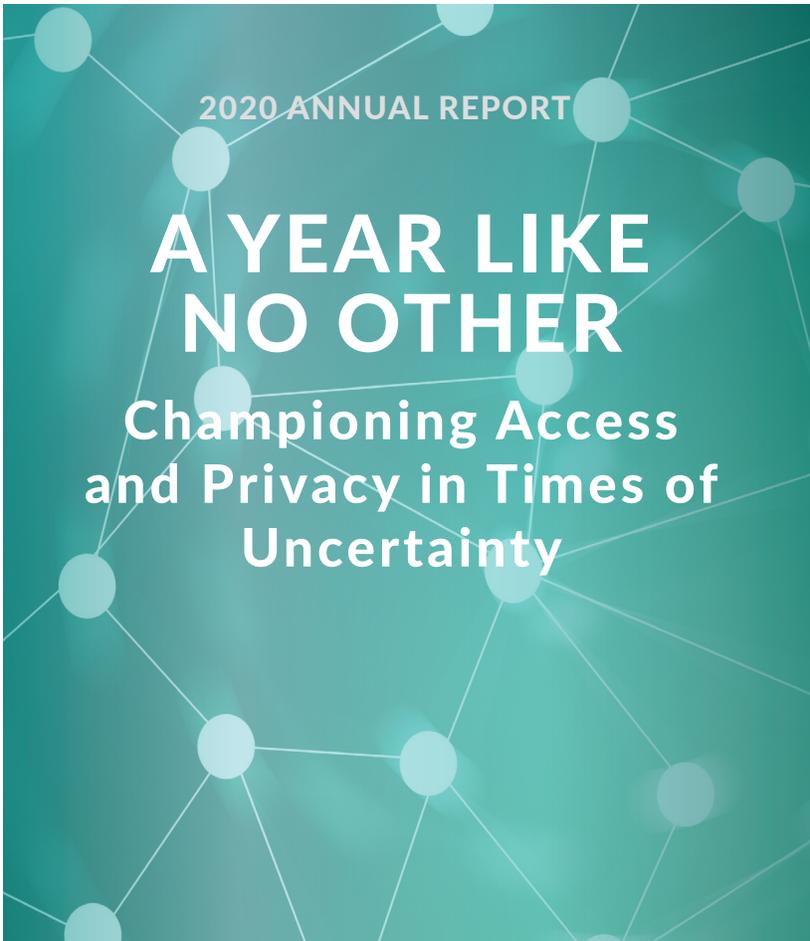
Note: The IPC's fiscal year begins April 1 and ends March 31.

The financial statement of the IPC is audited on an annual basis by the Office of the Auditor General of Ontario.

2020 APPEALS FEES DEPOSIT

(CALENDAR YEAR)

GENERAL INFORMATION	PERSONAL INFORMATION	TOTAL
\$14,589	\$2,435	\$17,024



2020 ANNUAL REPORT

A YEAR LIKE NO OTHER

Championing Access
and Privacy in Times of
Uncertainty

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