



Information and Privacy
Commissioner of Ontario

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

VIA ELECTRONIC MAIL & ONLINE SUBMISSION

September 26, 2023

Michelina Longo
Director, External Relations Branch, Public Safety Division
Ministry of the Solicitor General
25 Grosvenor Street
George Drew Building, 9th Floor
Toronto, ON M7A 1Y6

Dear Ms. Longo:

RE: Regulation Registry Proposals 23-SOLGEN020, 23-SOLGEN021, and 23-SOLGEN025

In August 2023, the Ministry of the Solicitor General (the Ministry) posted additional regulatory proposals for public comment as part of the work to bring the *Community Safety and Policing Act, 2019 (CSPA)* into force. The CSPA will repeal and replace the *Police Services Act*, the legislation currently governing the standards and framework of policing in Ontario. While the Ministry did not consult with our office on these proposals prior to them being posted, we are pleased to provide you with high-level comments on three of the proposals that, on their face, relate to the IPC's mandate:

1. [23-SOLGEN020](#) - Training under the *Community Safety and Policing Act, 2019*
2. [23-SOLGEN021](#) - Major Case Management under the *Community Safety and Policing Act, 2019*
3. [23-SOLGEN025](#) - Ontario Police Arbitration Adjudication Commission (OPAAC) under the *Community Safety and Policing Act, 2019*

As an Officer of the Legislature, the Information and Privacy Commissioner of Ontario has the mandate to protect the privacy and access to information rights of Ontarians within the public sector. The purpose of the present submission is to help ensure these regulations include modernized measures to support good governance of personal information, promote transparency, and protect the need for confidentiality of sensitive policing information. Our recommendations aim to support consistent, effective and accountable policing across the province.

1. Proposal 23-SOLGEN020 - Training under the Community Safety and Policing Act, 2019

Proposal 23-SOLGEN020 contains a description of proposed regulatory requirements relating to mandatory and additional training for police officers and special constables under the CSPA. It also prescribes specific timelines within which members of a police



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service board, Ontario Provincial Police (OPP) detachment board, First Nation OPP board, or a committee of a board must complete mandatory training.

The proposal lists a number of required training courses delivered by the Ontario Police College (OPC) and other parties including, for example, the course “Collection of Identifying Information in Certain Circumstances”. This course will likely address practices and concepts relating to the collection, use, retention and disclosure of personal information to protect public safety.

Although details about the scope and content of this and other specific training courses are not included in the proposal, we recommend that the approach to training under the *CSPA* consider and address the ways in which policing matters impact personal privacy, access to government-held information, and other information rights of Ontarians, including in relation to expanded uses of technology, digital evidence and data collection.

With a view to training the next generation of police officers and special constables, we recommend that all training courses be reviewed regularly to ensure they continue to reflect requirements and best practices related to privacy, security and information management, and incorporate necessary changes or updates that relate to the adoption of new technology and/or equipment by police services.

Finally, we request the Ministry, the OPC and other stakeholders consult with us on these training plans and materials as they relate to Ontarians’ access and privacy rights.

2. Proposal 23-SOLGEN021 - *Major Case Management under the Community Safety and Policing Act, 2019*

We understand that the Major Case Management Regulation will govern the daily operations of police services and their obligations in major case investigations, including homicide, sexual assault, abduction and trafficking, among other serious crimes. The proposed regulation includes standards for information sharing and aims to mitigate against delays of information to support the early detection of serial and predatory offenders. It also sets out requirements enforceable by law for undertaking and managing major case investigations using approved software.

We are pleased to see distinct accountabilities and responsibilities laid out for police officers and supporting roles within this proposal. Given that major case investigations work involves vast amounts of information, including the collection, retention, use and disclosure of personal information, it is fitting to require major case managers, along with any other individual to whom a related role is assigned, to have, at a minimum, the “ability to understand ethical and legal considerations”. We recommend that you also consider adding knowledge and understanding of Ontario’s access and privacy laws as they relate to both individual and collective responsibilities and requirements in major case management. This includes, but is not limited to, the responsibilities of chiefs of police, major case managers and information management-related roles, such as information coordinators and digital evidence coordinators, along with IT and cybersecurity specialists. Ensuring appropriate privacy protection, security and accountability measures

for investigative information within the provincial Major Case Management network is paramount.

Similar to our recent comments made to the Ministry on [September 1, 2023](#), related to Proposal 23-SOLGEN016 - *Adequate and Effective Policing (General) Regulation*, the IPC recommends that the regulation explicitly address having effective privacy, transparency and accountability controls in place related to the requirements for managing investigative information in major case investigations, including for approved software. This should include physical, technical and administrative safeguards to secure the information, clear retention and disposal schedules and clear data minimization requirements to guide investigators and supporting roles in disclosing no more personal information than is necessary to conduct major case investigations, without compromising their effectiveness or capability.

3. Proposal 23-SOLGEN025 - Ontario Police Arbitration Adjudication Commission (OPAAC) under the Community Safety and Policing Act, 2019

Finally, we understand that, pursuant to section 147 of the *CSPA*, the commission known as the Ontario Police Arbitration Commission is continued under the name of the Ontario Police Arbitration Adjudication Commission (OPAAC).

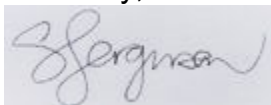
We remind the Ministry that this new entity, once established under the *CSPA*, should be made subject to the *Freedom of Information and Protection of Privacy Act (FIPPA)* without delay. We recommend that the Ministry advise the Ministry of Public and Business Service Delivery (MPBSD) of its intention to designate the proposed Ontario Police Arbitration Adjudication Commission as an institution under *FIPPA* Reg. 460 once the *CSPA* is brought into force.

In conclusion, the IPC remains committed to ongoing participation in consultations related to the *CSPA* and its associated regulations, recognizing the significant impact that the modernization of policing legislation can have not only on individuals' safety, but their access and privacy rights as well.

We look forward to continuing to engage with the Ministry on privacy and government transparency-related matters associated with bringing the *CSPA* into force. Please do not hesitate to reach out to our office with any questions or for further engagement.

In the interest of transparency, we will be making this submission available on our website.

Sincerely,



Sandra Ferguson
Director of Policy