

Privacy and Freedom of Information Law in Ontario

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Information and Privacy
Commissioner of Ontario

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

Toronto Public
Library—Gladstone
Branch

May 10, 2018

Privacy and Freedom of Information Law In Canada

- Federal
- Provincial
- Municipal
- Public Sector
- Private Sector
- Health Sector

Federal

Laws

- *Personal Information Protection and Electronic Documents Act* (PIPEDA)—Private Sector
 - *Privacy Act*
 - *Access to Information Act*
- } Public Sector

Regulators

- Privacy Commissioner of Canada (PIPEDA and *Privacy Act*)
- Information Commissioner of Canada (*Access to Information Act*)

Provincial

- Ontario

Laws

- *Freedom of Information and Protection of Privacy Act*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Personal Health Information Protection Act* –Health Sector

} Public Sector

Regulator

- Information and Privacy Commissioner of Ontario

Provincial

- **Other Provinces**

- Similar public sector access and privacy legislation
- Some have health sector privacy legislation
- BC, Alberta and Quebec have private sector privacy legislation

Ontario Acts

- *Freedom of Information and Protection of Privacy Act (FIPPA)*
 - Provides a right of access to information under the control of Ontario public sector institutions—e.g. provincial government ministries, public hospitals and universities, Ontario Provincial Police
 - Subject to exemptions and exclusions set out in the legislation—e.g. law enforcement; third-party confidential information; personal information of others.
 - Protects personal information about individuals held by Ontario public sector institutions
 - Allows individuals the right to access their own personal information held by Ontario public sector institutions
- *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*
 - Similar to FIPPA but applies to municipal public sector institutions—e.g. towns, cities, townships, Toronto police, school boards

Ontario Acts

- *Personal Health Information Protection Act (PHIPA)*
 - Establishes rules for the collection, use, disclosure and protection of personal health information by health information custodians
 - Provides individuals with a right of access to personal information about themselves held by health information custodians
 - 'Health information custodians' include health care practitioners (e.g. doctors, physiotherapists, optometrists, etc.), health care facilities and services (e.g. hospitals, long-term care homes, pharmacies, laboratories), public health units

Information and Privacy Commissioner of Ontario

- The Commissioner is an officer of the Legislature who is appointed by and reports to the Legislative Assembly of Ontario, and is independent of the government of the day.
- Commissioner: Brian Beamish



Information and Privacy Commissioner of Ontario

- The IPC's mandate:
 - resolve appeals when there is a refusal to grant access to information
 - investigate privacy complaints related to personal information
 - ensure compliance with the acts
 - review privacy policies and information practices
 - conduct research on access and privacy issues and provide comment on proposed government legislation and programs
 - reach out and educate the public, media and other stakeholders about Ontario's access and privacy laws and current issues affecting access and privacy

<https://www.ipc.on.ca/about-us/role-and-mandate/>

Decisions

- The IPC issues decisions, orders and investigation reports.

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-3830

Appeal PA16-313

The Ottawa Hospital

March 27, 2018

Summary: At issue in this appeal is a request for access to information in an Appendix to a Contract for Service and an Addendum to the Contract. The Ottawa Hospital decided to grant partial access to the information in the records. The appellant appealed the access decision asserting that certain information in the records qualified for exemption under section 17(1) (third party information) of the *Act*. The Adjudicator orders that the withheld information be disclosed to the original requester.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 17(1)(a) and 17(1)(c).

Orders Considered: Orders PO-2018, PO-2384, PO-2435, PO-2453 and PO-3311.

Cases Considered: *The Queen (Ont.) v. Ron Engineering*, [1981] 1 S.C.R. 111 and *Miller Transit Limited v. Information and Privacy Commissioner of Ontario et al.*, 2013 ONSC 7139.

OVERVIEW:

[1] The Ottawa Hospital (the hospital) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act* or *FIPPA*) for access to records relating to a Request for Proposal (RFP) pertaining to Non-Emergency Patient Transportation Services. The request was for:

- The current executed agreement/contract



Guidance Documents

- The IPC publishes guidance documents for the public, government institutions, and health information custodians

What is Personal Information?

October 2016

INTRODUCTION

The *Freedom of Information and Protection of Privacy Act (FIPPA)* and the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* (the acts) protect the privacy of personal information while providing individuals with a right of access to their own information.

In this fact sheet, we provide guidance about how the Information and Privacy Commissioner (IPC) interprets the term “personal information.”

HOW IS PERSONAL INFORMATION DEFINED IN THE ACTS?

The acts define personal information as “recorded information about an identifiable individual,” and include a list of examples of personal information (see Appendix A for the full definition).

Recorded information

Information can be recorded in any format, such as paper records, electronic records, digital photographs, videos or maps.

About an identifiable individual

Information is about an identifiable individual if:

- it is about the individual in a personal capacity; that is, it reveals something of a personal nature about the individual, and
- it is reasonable to expect that an individual can be identified from the information (either alone or by combining it with other information)

The listed examples include a person’s name when combined with other information about them, such as their address, sex, age, education, or medical history. These examples are not exhaustive and many other kinds of information may still qualify as personal information.

Privacy Breach Protocol

Guidelines for Government Organizations



www.ipc.on.ca



TECHNOLOGY FACT SHEET

Disposing of Your Electronic Media

This fact sheet provides guidance on how Ontario public institutions and health information custodians can securely destroy personal information when disposing of electronic media.

LEGAL OBLIGATIONS

Ontario's *Freedom of Information and Protection of Privacy Act (FIPPA)*, its municipal counterpart, *MFIPPA*, and the *Personal Health Information Protection Act (PHIPA)* require institutions and health information custodians ("custodians") to take reasonable steps to safeguard personal information, including personal health information, from the moment of collection to the point of destruction.

Whether the steps taken are reasonable depends on the circumstances. In every case, you must destroy information in such a way that it cannot be reconstructed or retrieved.

This guidance applies when electronic storage media containing personal information will be disposed of, recycled, reused or otherwise made available to persons outside of your organization. It covers the following media types:

- magnetic media (such as hard drives, magnetic tapes)
- electronic drives (such as solid-state drives, USB flash drives, memory cards)
- mobile devices (such as smartphones, tablets)
- optical discs (such as CDs, DVDs, Blu-ray discs)



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Media Communications

- The IPC communicates with stakeholders on important issues related to privacy and access to information.

The screenshot shows a news article from The Star. The header includes the logo 'THE STAR' and a navigation menu with 'Opinion · Editorials'. The main headline is 'Our flawed freedom-of-information system is an obstacle to monitoring power'. Below the headline is a sub-headline: 'The freedom-of-information system is too slow, too expensive and needs to be fixed.' A large photograph of Brian Beamish, Ontario's Information and Privacy Commissioner, is featured. Below the photo is a caption: 'Brian Beamish is Ontario's Information and Privacy Commissioner. (VINCE TALOTTA / TORONTO STAR)'. The article is attributed to the 'STAR EDITORIAL BOARD' and dated 'Tues., April 3, 2018'. Social media sharing icons for Facebook, Twitter, and Email are visible. The article text begins with 'They are truths so fundamental and durable they have lasted through centuries, become axiomatic, evolved even into cliché too easily taken for granted.' and continues with 'Knowledge is power. The truth shall set you free. An informed citizenry is the bulwark of democracy.' An Amazon advertisement for Dove Derma+Care Scalp Anti-dandruff shampoo is also present on the right side of the page.

THE STAR

Opinion · Editorials

Our flawed freedom-of-information system is an obstacle to monitoring power

The freedom-of-information system is too slow, too expensive and needs to be fixed.

Brian Beamish is Ontario's Information and Privacy Commissioner. (VINCE TALOTTA / TORONTO STAR)

By STAR EDITORIAL BOARD
Tues., April 3, 2018

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They are truths so fundamental and durable they have lasted through centuries, become axiomatic, evolved even into cliché too easily taken for granted.

Knowledge is power. The truth shall set you free. An informed citizenry is the bulwark of democracy.

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Review of Legislation and Regulations

- The IPC reviews and comments on proposed legislation, regulations and government programs.

Information
and Privacy
Commissioner
of Ontario

Comments of the Information and Privacy Commissioner of Ontario on Bill 160



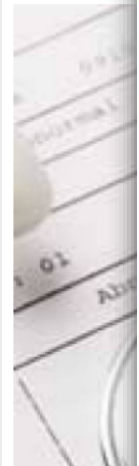
Brian Beamish
Commissioner
November 20, 2017



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Acquittal upheld for teacher who secretly videotaped female students' breasts

A high school teacher used a camera pen to secretly video female students' chest areas

The Canadian Press · Posted: Oct 12, 2017 5:14 PM ET | Last Updated: October 12, 2017



The courthouse in London, Ontario. (Andrew Lupton/CBC)

A high school teacher who used a camera pen to secretly record female students' chest areas did so for sexual purposes, but his acquittal on voyeurism charges will nevertheless stand, Ontario's top court ruled in a split decision on Thursday.

In dismissing a prosecution challenge to a lower court verdict, the Court of Appeal found the students had no reasonable expectation of privacy — a key element of the offence of voyeurism.

Up away from constant drone councillor says

against efforts to let private security cameras film people

· Posted: Feb 15, 2018 11:42 AM ET | Last Updated: February 15



law around private security cameras to allow residents to film public areas.

y they'll vote against any effort to let private security cameras
But the city is still looking into it.

r, says letting private citizens point security cameras at areas like
onstitutional rights.

HOW TO CONTACT US

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