# Charting a New Course at the IPC: Access and Privacy in the Time of COVID

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**Information and Privacy Commissioner of Ontario**

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

FOIRM

October 20, 2020

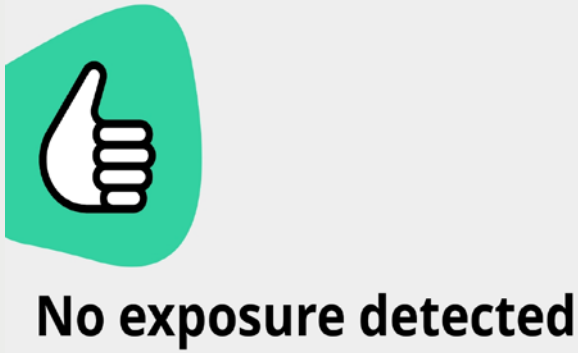
# Early Directions of the new IP Commissioner

- Focus on issues that matter most to Ontarians, informed by the broader global policy context
- Collaborate with Canadian and international counterparts on cross-jurisdictional matters
- Take a fair, practical and balanced approach to interpreting and applying new statutory provisions
  - new administrative penalties under *PHIPA*
  - data integration units under *FIPPA*
  - privacy protections in *Part X* of *CYFSA*
- Continue to build on IPC's strong legacy of public outreach and education
- Connect with as many Ontarians as possible, y compris les Franco-Ontariennes et les Franco-Ontariens

# What's Further Down On the Horizon

- IPC Strategic Priorities (Five-Year Plan)
- Ad Hoc External Advisory Board
- Open stakeholder / public consultation process
- Launch of new Strategic Priorities in early 2021

# COVID Alert App




- IPC and OPC support use of exposure notification app, conditional on its continued voluntariness and ongoing evaluation for effectiveness
- Worked closely with the Ontario government, and in collaboration with Federal Office of the Privacy Commissioner who worked closely with Health Canada
- Detailed review of the Ontario PIA and Federal-Ontario MOU based on F/P/T Joint Privacy principles for contact tracing and similar apps
- All IPC recommendations were adopted
- Government of Ontario continues to be subject to Ontario's privacy laws
- IPC continuing oversight to review any changes to the app that may affect its security safeguards and ensure that the app be decommissioned if it is no longer achieving its purpose

# Body-Worn Cameras

- Shifting values around police and BWCs
- Public wants greater police accountability and transparency
- IPC working with Toronto police services on developing policy framework and procedures for implementation of BWC program
- Hoping it will serve as useful model for other police services in Ontario

# Brockville Decision - *Brockville (City) v. IPC*

- Ontario's first FOI judicial review decision after *Canada v. Vavilov*
- Confirmed the standard of reasonableness in judicial review of IPC's decisions
- Court recognized IPC's significant experience with Ontario's access and privacy laws
- Decision could have far-reaching impact for future challenges to IPC access orders before the courts

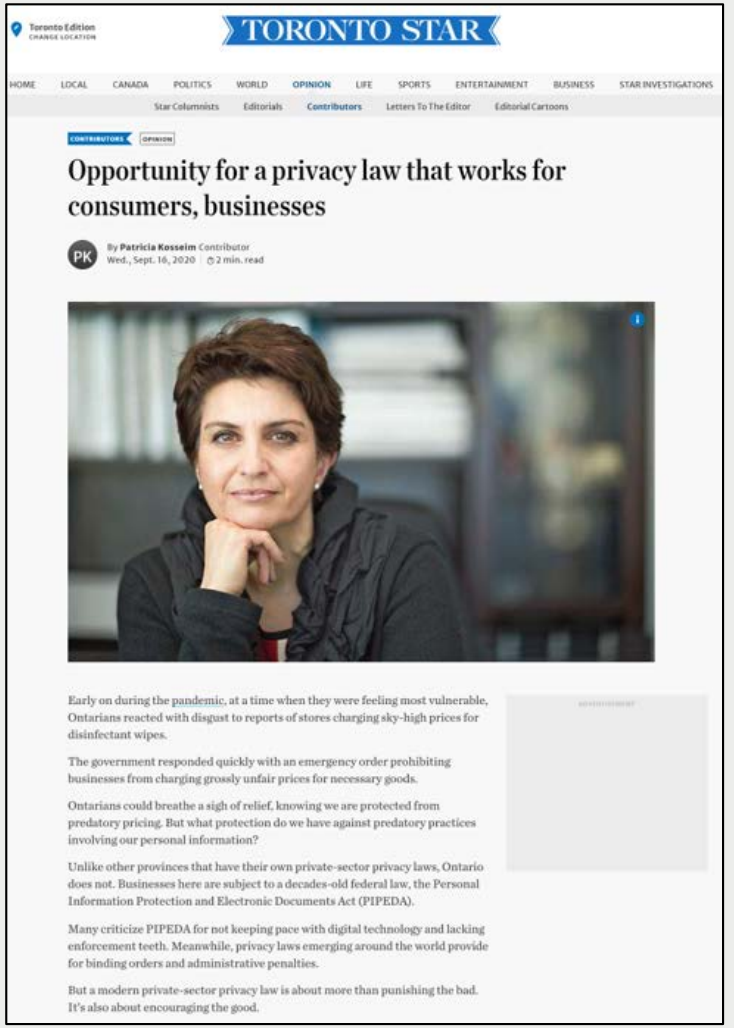
# Made-in-Ontario Private Sector Privacy Law

- August 13 – Ministry of Government and Consumer Services began a consultation regarding a made-in-Ontario private sector privacy law
- Key areas that the government is considering:
  1. increased transparency
  2. clear consent provisions
  3. right to deletion and de-indexing
  4. data portability
  5. compliance and enforcement
  6. de-identified and derived data
  7. expanded scope to include non-commercial organizations
  8. data sharing including through data trusts

# IPC Support for Private Sector Privacy Law

Key elements of a modern privacy framework:

- enhanced transparency and accountability requirements
- an emphasis on individual privacy rights, with clear rules for meaningful consent and pragmatic exceptions to consent subject to protective guardrails
- an agile regulator with the modern tools needed to support responsible innovation
- a broad range of enforcement mechanisms



Toronto Edition

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CONTRIBUTORS OPINION

**Opportunity for a privacy law that works for consumers, businesses**

By Patricia Kosseim Contributor
Wed., Sept. 16, 2020 | 2 min. read

Early on during the pandemic, at a time when they were feeling most vulnerable, Ontarians reacted with disgust to reports of stores charging sky-high prices for disinfectant wipes.

The government responded quickly with an emergency order prohibiting businesses from charging grossly unfair prices for necessary goods.

Ontarians could breathe a sigh of relief, knowing we are protected from predatory pricing. But what protection do we have against predatory practices involving our personal information?

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

Many criticize PIPEDA for not keeping pace with digital technology and lacking enforcement teeth. Meanwhile, privacy laws emerging around the world provide for binding orders and administrative penalties.

But a modern private-sector privacy law is about more than punishing the bad. It's also about encouraging the good.

- Read Op-Ed

# Fred Carter
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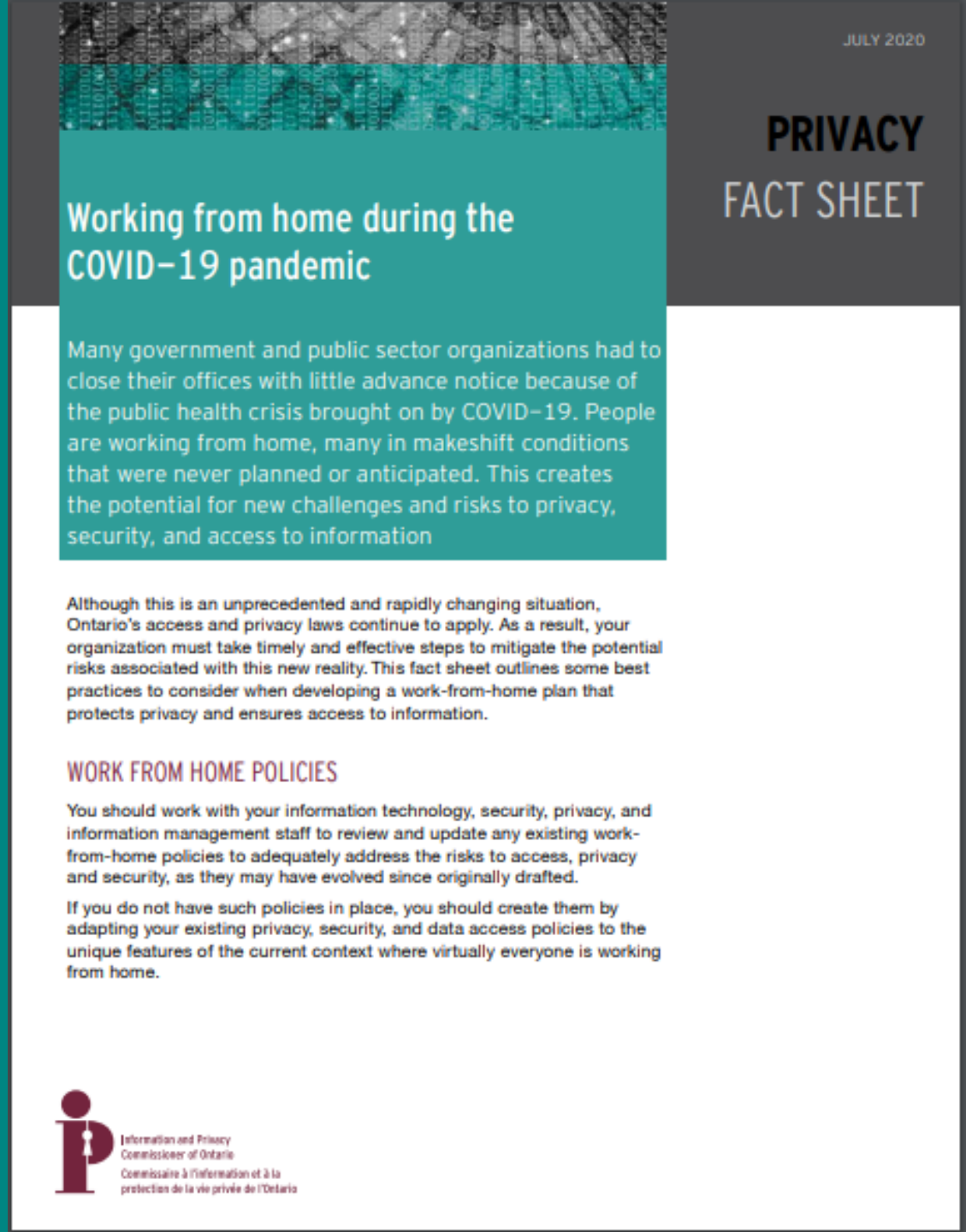
# Working from Home

Guides public institutions on home working arrangements during the pandemic

- Remote access
- Work-issued and personal devices
- Communicating by email
- Home workspaces
- Paper records
- Access to information rights



JULY 2020

PRIVACY
FACT SHEET

## Working from home during the COVID-19 pandemic

Many government and public sector organizations had to close their offices with little advance notice because of the public health crisis brought on by COVID-19. People are working from home, many in makeshift conditions that were never planned or anticipated. This creates the potential for new challenges and risks to privacy, security, and access to information

Although this is an unprecedented and rapidly changing situation, Ontario's access and privacy laws continue to apply. As a result, your organization must take timely and effective steps to mitigate the potential risks associated with this new reality. This fact sheet outlines some best practices to consider when developing a work-from-home plan that protects privacy and ensures access to information.

### WORK FROM HOME POLICIES

You should work with your information technology, security, privacy, and information management staff to review and update any existing work-from-home policies to adequately address the risks to access, privacy and security, as they may have evolved since originally drafted.

If you do not have such policies in place, you should create them by adapting your existing privacy, security, and data access policies to the unique features of the current context where virtually everyone is working from home.

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NATIONAL POST

# Ontario city of Burlington out $503,000 after staff member falls for phishing scam

*They say the staff member made a single transaction to a 'falsified bank account' after receiving an email requesting to change banking information*

# PHISHING SCAM LEADS TO SUSPENSION OF ONLINE ACCESS FOR HUNDREDS OF STAFF ACCOUNTS

February 13, 2019 | By Joshua Ambar

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Algonquin was hit with yet another cyber attack on Tuesday, Jan. 29, when hundreds of employees opened a as if President Cheryl Jensen sent it.

Canadian underwriter

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News

## Cyber attack in Canada spawns $60 million lawsuit

March 29, 2019 by By Colin Perkel - THE CANADIAN PRESS

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TORONTO – As many as 200,000 people may have had their personal information stolen i
hack on servers at one of Ontario's most popular casinos, a lawyer for the plaintiffs press
proposed class action argued on Thursday.

However, a lawyer for Casino Rama countered that, at most, 10,000 to 11,000 people were
victimized and the plaintiffs' definition of who should be included in the proposed class a
was far too broad.

news Ontario police warn of recent cyberattacks targeting local governments

Toronto

## Ontario police warn of recent cyberattacks targeting local governments

Attacks launched through direct hacking into vulnerable systems or through phishing emails, OPP said

news Eastern Ontario community hit with ransomware attack

Ottawa

## Eastern Ontario community hit with ransomware attack

The Nation, Ont., has computer networks frozen in online attack

CBC News · Posted: Jul 08, 2019 8:37 PM ET | Last Updated: July 9

The municipality had its computer networks frozen by the hack. (Brian Jackson/Shutterstock)

CBC | MENU

news Ottawa Hospital targeted by cyberattack

Ottawa

## Ottawa Hospital targeted by cyberattack

Hackers target four computers but no data compromised, says hospital

The Canadian Press · Posted: Mar 13, 2016 9:26 AM ET | Last Updated: March 13, 2016


The Ottawa Hospital on Carling Avenue on Jan. 22, 2016. (Michel Aspirot/CBC)

The Ottawa Hospital says it was the subject of a cyberattack over the past week.

The hospital issued a statement Saturday saying four of the hospital's 9,800 computers faced a hacker attempt, but no patient information was affected.

# Phishing

Guides public institutions on how to protect personal information from phishing attacks

- What is phishing
- Impacts of phishing attacks
- How to recognize phishing messages
- How to protect against phishing attacks
- How to respond to phishing attack

JULY 2019

TECHNOLOGY FACT SHEET

## Protect Against Phishing

Phishing is a common method hackers use to attack computer systems. Successful phishing attacks pose a serious threat to the security of electronic records and personal information.

Ontario's privacy laws require public and healthcare organizations to have reasonable measures in place to protect personal information in their custody or control.

Phishing attacks pose a serious threat to the security of electronic records and personal information

### WHAT IS PHISHING?

Phishing is a type of online attack in which an attacker — using both technological and psychological tactics — sends one or more individuals an unsolicited email, social media post, or instant message designed to trick the recipient into revealing sensitive information or downloading malware.

Malware (malicious software) is any software intentionally designed to disrupt, damage, or gain unauthorized access to a computer system.

Phishing attacks can be generic or customized, and can target both individuals and entire organizations. Attacks that target a specific individual or organization are commonly referred to as spear phishing attacks.

The main goal of a phishing attack is to get the individual to do something that compromises the security of their organization. Attackers achieve this when recipients:

- reply to phishing emails with confidential information

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# Suzanne Brocklehurst
# Registrar

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# Challenges in Processing Access Requests amidst COVID-19 Climate

**Deemed Refusals**

- The expectation to comply with Ontario's access laws remains in effect.
- Given current climate, we understand that organizations may be unable to meet the 30-day response requirement.
- We have started processing Deemed Refusal appeals and will take into consideration the challenges facing the institution.

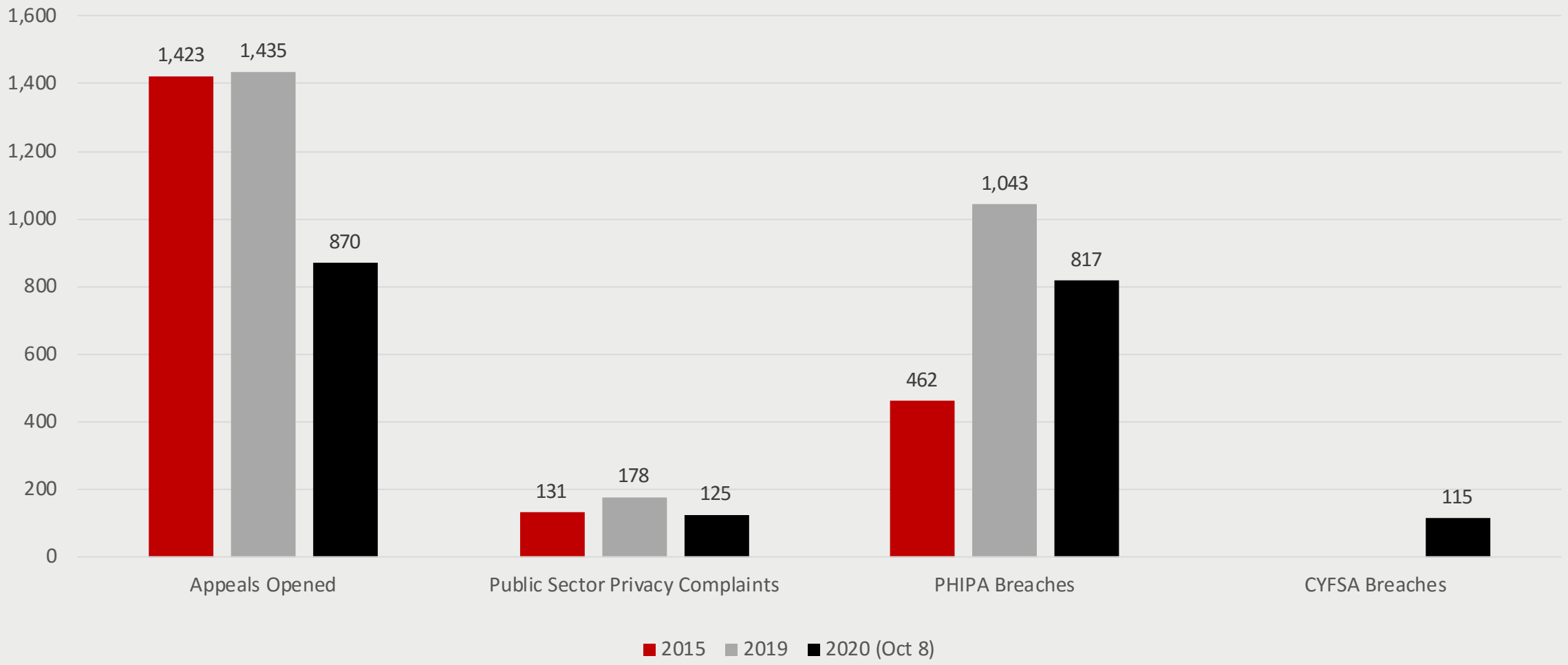
**Third Party Appeals**

- It's important to note that the suspension order, under the *Emergency Management and Civil Protection Act* that 'froze' the time limits for initiating complaints or appeals to the IPC, expired on September 14, 2020.
- The time limits for initiating complaints or appeals, as set out in the *Acts*, have resumed.

# Challenges facing IPC amidst COVID-19 Climate

- IPC physical office closed in March, 2020
- Most tribunal services were not operating as usual
- We have now transitioned from a paper-based office to an electronic one
- All staff are now fully equipped to work from home
- Receiving mail and couriers remains an issue. The following are options for communicating with our office:
  - regular mail
  - Canada Post Expresspost
  - encrypted CD or USB
  - secure link
- Please visit our Impact of COVID-19 FAQs on our website

# Appeals, Complaints and Breaches



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