

# Sharing Information in Situations Involving Intimate Partner Violence: Guidance for Professionals

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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

**Victims and  
Survivors of  
Crime Week**

**May 17, 2024**

# AGENDA

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3	Ontario's Privacy Laws: Consent-Based Practices	Karishma Firdausi
4	Sharing Without Consent: Risk of Serious Harm <ul style="list-style-type: none"><li>• <i>Freedom of Information and Protection of Privacy Act</i></li><li>• <i>Municipal Freedom of Information and Protection of Privacy Act</i></li><li>• <i>Child, Youth and Family Services Act</i></li><li>• <i>Personal Health Information Protection Act</i></li></ul>	Andrea Ramsarran Karishma Firdausi
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# INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO



The Information and Privacy Commissioner, Patricia Kosseim, is an officer of the Legislature who is:

- appointed by, and reports to the Legislative Assembly of Ontario
- independent of the government of the day




The IPC oversees compliance with:

- the *Freedom of Information and Protection of Privacy Act* (FIPPA)
- the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA)
- the *Personal Health Information Protection Act* (PHIPA)
- Part X of the *Child, Youth and Family Services Act* (CYFSA)
- the *Anti-Racism Act* (ARA)

# BACKGROUND

- In 2022, the Office of the Chief Coroner of Ontario issued its verdict on the deaths of Carol Culleton, Anastasia Kuzyk, and Nathalie Warmerdam due to intimate partner violence (IPV) in Renfrew County.
- Jury recommendation 78 called on the IPC to develop guidance to empower professionals to make informed decisions about [privacy](#), [confidentiality](#), and [public safety](#).
- The IPC readily [accepted the recommendation](#) and consulted with:
  - Justice sector (e.g., Crown and police officers)
  - Children and family services sector (e.g., Indigenous child and well-being agencies)
  - Health care sector (e.g., doctors, and social service workers)
  - IPV services sector (e.g., women’s shelter support and provincial advocates and coordinators)
  - Survivors of IPV (convened with WomanACT)

# ONTARIO'S PRIVACY LAWS: CONSENT-BASED PRACTICES

Ontario privacy statute	Generally, applies to:	Consent before sharing
FIPPA and MFIPPA	Institutions or parts of institutions, including, but not limited to, those in the justice sector	
The CYFSA	Service providers in the children and family services sector	
PHIPA	Health information custodians in the health care sector and those that act on their behalf	
No provincial privacy statute	Professionals in the IPV services sector*	Best practice

\*For the purposes of the guidance, the IPV services sector refers to community-based organizations and service providers that provide IPV-related services and are generally *not* subject to FIPPA, MFIPPA, the CYFSA, or PHIPA.



# SHARING WITHOUT CONSENT: RISK OF SERIOUS HARM (FIPPA/MFIPPA)

Provision (sharing without consent)	What does this mean?
<p><b>FIPPA s. 42(1)(h) &amp; MFIPPA s. 32(h):</b> An institution shall not disclose personal information in its custody or under its control except, in compelling circumstances affecting the health or safety of an individual if upon disclosure notification is mailed to the last known address of the individual to whom the information relates.</p>	<ul style="list-style-type: none"><li>• An institution reasonably believes there is a <b>compelling circumstance</b> affecting the health or safety of an individual.</li><li>• <b>Notify the individual</b> whose personal information was shared as soon as reasonably possible.</li></ul>

- To be a **compelling circumstance**, institutions must consider:
  - the likelihood of the harm occurring
  - the severity of the harm
  - how soon the harm might occur
  - whether sharing personal information is reasonably likely to reduce or eliminate the risk of harm to the individual
- Institutions are protected from liability if their decision to share (or not share) personal information is in **good faith** or for a failure to give a notice if **reasonable care is taken to give the required notice**.

# SHARING WITHOUT CONSENT: RISK OF SERIOUS HARM (CYFSA)

Provision (sharing without consent)	What does this mean?
<p>s. 321(1)(g): A service provider may, without the consent of the individual, disclose personal information about an individual, if the service provider believes on reasonable grounds that the disclosure is necessary to assess, reduce or eliminate a risk of serious harm to a person or group of persons.</p>	<ul style="list-style-type: none"><li>The service provider has <b>reasonable grounds to believe there is a risk of serious harm</b> and sharing is <b>necessary</b> to assess, reduce, or eliminate serious risk</li></ul>

- Before sharing personal information, service providers must take reasonable steps to ensure that the personal information is **accurate, complete, and up to date**. Otherwise, they must inform the recipient of the personal information of **any relevant limitations related to the personal information**.
- When personal information is shared, it **must be documented**.
- Members of the board of directors or an officer or an employee of a society under the CYFSA are protected from liability for any **act done in good faith** in the execution or intended execution of the person’s duty and for an alleged neglect or default in the **good faith execution of that person’s duty**.



# SHARING WITHOUT CONSENT: RISK OF SERIOUS HARM (ADAPTING THE CYFSA)

Cont'd

Provision (sharing without consent)	What does this mean?
<p>s. 321(1)(g): A service provider may, without the consent of the individual, disclose personal information about an individual, if the service provider believes on reasonable grounds that the disclosure is necessary to assess, reduce or eliminate a risk of serious harm to a person or group of persons.</p>	<ul style="list-style-type: none"><li>The service provider has <b>reasonable grounds to believe there is a risk of serious harm</b> and sharing is <i>necessary</i> to assess, reduce, or eliminate serious risk</li></ul>

- The **IPV services sector** does not have its own Ontario privacy statute.
- The IPC recommends a **consent-based approach** to sharing personal information.
- If it is not possible to seek or obtain the individuals consent, particularly of victims or survivors and their children, the IPC recommends **adapting the CYFSA's provision around risk of serious harm**.



# SHARING WITHOUT CONSENT: RISK OF SERIOUS HARM (PHIPA)

Provision (sharing without consent)	What does this mean?
<p>s. 40(1): A health information custodian may disclose personal health information about an individual if the custodian believes on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.</p>	<ul style="list-style-type: none"><li>The health information has <b>reasonable grounds to believe there is a risk of serious harm</b> and sharing the information is <b>necessary</b> to eliminate or reduce serious risk</li></ul>

- The **need to eliminate or reduce serious harm** by sharing an individual’s information outweighs an individual’s prior explicit instructions not to share it.
- Health information custodians **must fulfil their obligations**, such as limit the information shared to that necessary to eliminate or reduce a risk; and notify a recipient of any relevant limitations potentially affecting the accuracy, completeness, or currency of the personal health information.
- A health information custodian, including staff acting on their behalf, is protected from liability if they **act in good faith** and **do what is reasonable under the circumstances** when performing their duties under the law.



**CONCLUSION**

# HOW TO CONTACT US

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