



Office of the Information and
Privacy Commissioner of Alberta

**STRATEGIC
BUSINESS PLAN**

2019-22

Introduction

The mission of the Office of the Information and Privacy Commissioner (OIPC) includes:

- Advocating for the access and privacy rights of Albertans
- Ensuring public bodies, health custodians and private sector organizations uphold the access and privacy rights contained in the laws of Alberta
- Providing fair, independent and impartial reviews in a timely and efficient manner

Over the past several years, the third aspect of the OIPC's mission has become more challenging.

From 2013-14 to 2017-18, a span of five years, the OIPC saw a 72% increase in the number of cases opened. The office offset the caseload increase in part by committing to process improvements, as evidenced by a 98% increase in the number of cases closed over five years. However, the OIPC is still experiencing backlogs. A challenge over this time period has been that caseload increases were not met with commensurate increases in budget. There was a 0.4% increase in budget for staff salaries, wages and benefits during those five years.

Importantly, caseload increases over the last five years do not include new legislated requirements for health custodians to notify the Commissioner of a privacy breach when a custodian determines there is a risk of harm to the individual(s) affected by a breach under the *Health Information Act* (HIA). These amendments came into force on August 31, 2018, and the OIPC is projecting to receive 624 breach reports in 2018-19 as a result of these amendments, an increase of nearly 500, or 380%. The OIPC believes the new HIA requirements are good for the privacy of Albertans, but the changes further strain the office's ability to fulfill its mandate in a timely and efficient manner.

The OIPC is also competing with other external factors, such as heightened awareness of access to information and privacy issues in the media and online, challenges posed by electronic record keeping in access to information and health information systems, a significant increase in the number of privacy impact assessments submitted to the office for review, legal challenges (particularly involving claims of solicitor-client privilege), and hacking, malware and phishing affecting private sector organizations.

In consideration of these external factors, the office's education mandate cannot be understated. The public feels as though they have less control over their own information in the digital economy,¹ and delays in accessing information have been prevalent. Regulated stakeholders and the public expect the OIPC to take a leadership role on these issues.

The OIPC has been cognizant and respectful of budgeting pressures that the Government of Alberta has been experiencing, as evidenced by status quo or minimal budget increase requests. However, the office has reached a breaking point in fulfilling its role and responsibilities in a timely and efficient manner under Alberta's three access and privacy laws – the *Freedom of Information and Protection of Privacy Act*, HIA and *Personal Information Protection Act*.

This business plan attempts to fulfill the OIPC's mission by focusing on the following three goals:

- Enhance access to information and protection of personal and health information by government and other regulated stakeholders
- Increase Albertans' awareness of access and privacy rights and issues
- Fulfill the OIPC's legislated mandate efficiently, effectively and fairly

¹ OIPC news release, "Survey: Access to Information and Privacy Rights Matter to Albertans", is available at www.oipc.ab.ca.

Goal 1: Enhance access to information and protection of personal and health information by government and other regulated stakeholders

The OIPC recognizes its role in providing guidance to regulated stakeholders through its education mandate.

The access and privacy landscape is constantly shifting. Whether enhanced regulatory frameworks are being introduced globally that affect how business is done in Alberta, new ways to collect, use or disclose personal or health information using technology are introduced, or events in the media raise citizens' awareness of access and privacy laws, government and other regulated stakeholders want direction from the OIPC to help ensure they are effectively navigating access and privacy issues.

To assist government and other regulated stakeholders in enhancing access to information and protection of personal and health information, the OIPC is committed to:

1.1 Advocating for open, transparent and accountable government through legislative reform, compliance reviews and promotion of proactive disclosure of government records.

- The OIPC is committed to advocating for the modernization of Alberta's access to information and privacy laws.

In September 2018, Canada's Information and Privacy Commissioners and Ombudspersons called on governments to pass legislation requiring political parties to comply with globally recognized privacy principles, to provide Canadians access to the personal information they hold about them, and to provide for independent oversight to verify and enforce privacy compliance.

In April 2017, the Commissioner requested that the FOIP Act be amended to give the Commissioner the power to require public bodies to produce records over which solicitor-client privilege and other similar privileges are claimed, when necessary. In October 2017, this request was echoed by Canada's Information and Privacy Commissioners and Ombudspersons in a joint resolution. These requests were in response to a November 2017 Supreme Court of Canada decision, finding that the Alberta Legislature did not use the right words in the *Freedom of Information and Protection of Privacy Act* (FOIP Act) to give the Commissioner this power. At the time of writing, the OIPC has 22 active judicial reviews before the courts, 16 of which involve records claimed to be subject to solicitor-client privilege.²

The OIPC also continues to promote recommendations made in previous legislation reviews.

- The OIPC will continue to proactively investigate matters that are of public interest and submit recommendations to government and other regulated stakeholders.

For example, in November 2017 and October 2018, the OIPC released two separate investigation reports which found that Alberta Health Services (AHS) was responsible for employees who improperly accessed health records, after it was determined that AHS had not properly implemented reasonable safeguards, such as effective and documented access and privacy training for employees or ensuring employees adhered to organizational policies meant to protect patient privacy.

² All 16 cases involve public bodies, with the majority being provincial government departments.

- The OIPC will continue to follow up on past recommendations made to government and other regulated stakeholders by monitoring implementation.
- The OIPC will continue to support a thoughtful approach to proactive disclosure of certain types of government records.

1.2 Implementing a plan to help stakeholders mitigate the risks of privacy breaches and offences occurring in Alberta.

- The OIPC will continue to provide guidance to public bodies, health custodians and private sector organizations for responding to and reporting breaches.

In August 2018, the OIPC published a new privacy breach report form and guidance for reporting privacy breaches to the Commissioner. In addition, the OIPC updated its “Key Steps in Responding to Privacy Breaches” guidance, as well as other privacy breach documents.

- In 2019, the OIPC intends to update its 2012 publication “Two Years of Mandatory Breach Reporting: A Snapshot” to share the learnings from mandatory breach reporting under PIPA.

1.3 Providing guidance on access and privacy implications of information sharing initiatives.

- Privacy laws are often seen as a barrier to information sharing for effective service delivery among the public, health and private sectors. The OIPC is committed to exploring opportunities with stakeholders to ensure information sharing initiatives respect the privacy and access to information rights of Albertans while allowing for effective service delivery.

For example, the OIPC is participating in the current review of the *Police Act*.

1.4 Providing training, education and guidance to government and other regulated stakeholders on responsibilities to ensure compliance with access and privacy laws.

- The OIPC will continue to provide workshops on topics of importance, such as privacy breach response and reporting and privacy impact assessments.
- The OIPC continues to review and update published resources.

Goal 2: Increase awareness of access and privacy rights through engagement with Albertans

Access and privacy issues that the office analyzes daily – from hacking, malware and phishing, to access to government information – remain very important to the public.³ However, citizens often struggle to understand how these issues impact their lives, or how they can exercise their legal rights under Alberta’s access and privacy laws.

The office will continue to advocate for the access and privacy rights of Albertans, and search for opportunities to educate the public on emerging trends and issues.

To enhance Albertans’ awareness of access and privacy rights, the OIPC is committed to:

2.1 Implementing a strategy to improve awareness of the OIPC’s role and responsibilities.

- Focused communications efforts to target certain audiences on topical access and privacy issues is integral for the OIPC, considering limited resources and burgeoning caseloads. Improving communication of the office’s role and responsibilities is an ongoing endeavour.

2.2 Continuing to identify, facilitate and support opportunities to enhance access and privacy education for children and youth.

- The OIPC continues to support The eQuality Project. The eQuality Project is a seven-year research project with a number of objectives, including to create new knowledge about commercial data practices and their impact on youth as well as the ways in which young people conceptualize privacy, to share this new knowledge with policymakers and the public,

and to create educational materials to help young Canadians make the most of their digital media experiences.

Official partners in The eQuality Project include the Alberta Teachers’ Association and Alberta Status of Women, among several scholars, research and policy institutes, policymakers, educators, community organizations and youth.

- Alberta Education is undertaking a curriculum review and the Commissioner has been advocating for the inclusion of access and privacy education as a learning component in the new curriculum.

As part of this advocacy, the Commissioner has made several presentations to education groups and associations in Alberta, wrote a letter to and met with the Minister of Education, and promoted the International Privacy Competency Framework for School Students.⁴

- The OIPC will promote the International Conference of Data Protection and Privacy Commissioners resolution on educational online apps and tools for student learning, which was passed in October 2018.⁵

The purpose of the resolution is to provide educational authorities and e-learning platform providers with recommendations to embed privacy principles in the development, implementation and use of apps and tools for student learning.

- The OIPC will continue to collaborate with federal, provincial and territorial Information and Privacy Commissioners and Ombudspersons

3 Results of the OIPC’s Public Awareness Surveys are available at www.oipc.ab.ca.

4 The “International Privacy Competency Framework for School Students” is available at www.oipc.ab.ca.

5 The “Resolution on E-Learning Platforms” was co-authored by the OIPC, Office of the Information and Privacy Commissioner of Ontario and the Office of the Privacy Commissioner of Canada. It is available at www.icdppc.org.

to promote the importance of information and privacy education in the digital economy, such as a joint letter written to the Council of Ministers of Education, Canada to prioritize privacy education and support the inclusion of privacy education in provincial curricula. The letter was sent in November 2017.

2.3 Informing Albertans about emerging access and privacy issues, such as the impacts of new technologies.

- To effectively respond to public concerns about access and privacy issues, the OIPC recognizes

its role in providing guidance about how technology impacts access and privacy rights, where possible.

In November 2017, the OIPC released results of a public opinion survey it commissioned that identified the access and privacy issues of most importance to Albertans. The top five issues were: identity theft and fraud; hacking, malware, ransomware and phishing; inappropriate employee access (also referred to as employee “snooping”); mobile device security; and child and youth privacy.

Goal 3: Fulfill the legislated mandate of the office effectively, efficiently and fairly

The majority of the OIPC's time and resources is spent on complaint investigations, requests for review and inquiries. Burgeoning caseloads and status quo resources have been the reality, impacting the office's ability to fulfill its legislated mandate in a timely manner.

Improving processes internally helps to ensure the office can fulfill its legislated mandate effectively, efficiently and fairly, and continued staff education is essential in the dynamic and complex access and privacy environment.

To improve the effectiveness and efficiency of office functions, the OIPC is committed to:

3.1 Facilitating opportunities for staff learning, collaboration and knowledge sharing.

- The OIPC is committed to ensuring staff are aware of and can respond effectively to emerging access and privacy issues, such as the impact of new technologies.
- The OIPC recognizes the need for collaboration and knowledge sharing to enhance understanding of staff roles and responsibilities.

In February 2017, the OIPC invited the Foundation of Administrative Justice to facilitate a two-day workshop on conducting effective investigations.

Staff also participate in professional development opportunities related to their job responsibilities.

3.2 Continuing internal business process review.

- The OIPC is committed to continuous process improvement. Examples of this work include reviews and updates of internal policies and procedures, and process mapping and review.

3.3 Implementing a new records management program to reduce the reliance on paper records.

- The OIPC is entering the implementation phase of a project to update its records management program, after undertaking a review of how records management was being administered. One of the goals of the project is to reduce reliance on paper records for certain types of files, in order to maximize the office's efficiency and to more effectively respond to regulated stakeholders and Albertans.

Summary: Strategic Business Plan 2018-21

Goal 1: Enhance access to information and protection of personal and health information by government and other regulated stakeholders

- 1.1 Advocating for open, transparent and accountable government through legislative reform, compliance reviews and promotion of proactive disclosure of government records.
- 1.2 Implementing a plan to help stakeholders mitigate the risks of privacy breaches and offences occurring in Alberta.
- 1.3 Providing guidance on access and privacy implications of information sharing initiatives.
- 1.4 Providing training, education and guidance to government and other regulated stakeholders on responsibilities to ensure compliance with access and privacy laws.

Goal 2: Increase awareness of access and privacy rights through engagement with Albertans

- 2.1 Implementing a strategy to improve awareness of the OIPC's role and responsibilities.
- 2.2 Continuing to identify, facilitate and support opportunities to enhance access and privacy education for children and youth.
- 2.3 Informing Albertans about emerging access and privacy issues, such as the impacts of new technologies.

Goal 3: Fulfill the legislated mandate of the office effectively, efficiently and fairly

- 3.1 Facilitating opportunities for staff learning, collaboration and knowledge sharing.
- 3.2 Continuing internal business process review.
- 3.3 Implementing a new records management program to reduce the reliance on paper records.