



**PERSONAL INFORMATION PROTECTION ACT**  
**Breach Notification Decision**

<b>Organization providing notice under section 34.1 of PIPA</b>	Salta Gymnastics Club (Organization)
<b>Decision number (file number)</b>	P2021-ND-108 (File #015902)
<b>Date notice received by OIPC</b>	May 14, 2020
<b>Date Organization last provided information</b>	December 14, 2020
<b>Date of decision</b>	March 31, 2021
<b>Summary of decision</b>	There is a real risk of significant harm to the individuals affected by this incident. The Organization is required to notify those individuals pursuant to section 37.1 of the <i>Personal Information Protection Act</i> (PIPA).
<b>JURISDICTION</b>	
<b>Section 1(1)(i) of PIPA “organization”</b>	<p>The Organization reported that it is incorporated under Alberta’s <i>Societies Act</i> and therefore is a “non-profit organization” as defined in section 56(1)(b)(i) of PIPA.</p> <p>Pursuant to section 56(2), PIPA “does not apply to a non-profit organization or any personal information that is in the custody of or under the control of a non-profit organization”, except in the case of personal information that is collected, used or disclosed in connection with any commercial activity.</p> <p>In this case, the Organization operates a gymnastics club, collects membership fees, and provides programs and services.</p> <p>In my view, the Organization is engaging in commercial activities. To the extent the personal information at issue in this matter was collected, used and disclosed by the Organization in connection with these activities, PIPA applies.</p>
<b>section 1(1)(k) of PIPA “personal information”</b>	<p>The incident involved the following information:</p> <ul style="list-style-type: none"><li>• recorded voices,</li><li>• discussions about staff members and prospective Executive Directors, and</li><li>• interview questions and answers given.</li></ul>

	This information is about identifiable individuals and is “personal information” as defined in section 1(1)(k) of PIPA. To the extent this information was collected in Alberta, PIPA applies.
<b>DESCRIPTION OF INCIDENT</b>	
<input type="checkbox"/> loss <input checked="" type="checkbox"/> unauthorized access <input type="checkbox"/> unauthorized disclosure	
<b>Description of incident</b>	<ul style="list-style-type: none"> <li>• On March 7, 2020, the Organization found a hidden audio device behind a picture frame in the Organization’s staff room.</li> <li>• The device recorded an ‘in camera’ board meeting, staff interviews, and private conversations of staff.</li> <li>• The Organization reported that it does not know when the audio recording started.</li> <li>• The Organization reported that it does not know whether this incident is connected to another incident of an unauthorized audio recording the Organization experienced earlier in the year.</li> </ul>
<b>Affected individuals</b>	The incident affected five (5) individuals in Alberta.
<b>Steps taken to reduce risk of harm to individuals</b>	<ul style="list-style-type: none"> <li>• Confirmed that the recording is in the possession of the Organization’s legal team.</li> <li>• Working on policy development and staff education.</li> <li>• Dismissed employee “who performed and owned the recording device”.</li> <li>• Reported the incident to the Medicine Hat Police Service.</li> </ul>
<b>Steps taken to notify individuals of the incident</b>	Affected individuals were notified by mail on April 30, 2020.
<b>REAL RISK OF SIGNIFICANT HARM ANALYSIS</b>	
<b>Harm</b> Some damage or detriment or injury that could be caused to affected individuals as a result of the incident. The harm must also be “significant.” It must be important, meaningful, and with non-trivial consequences or effects.	<p>The Organization reported the harms that could be caused to affected individuals as a result of the incident are “Erosion of trust of current employees, undermining Board activities (sabotage-type behaviour), illegally recording private, closed and sensitive meetings and material.”</p> <p>In my view, a reasonable person would consider the identity of the individual being recorded combined with human resource information and private, verbal discussions could be used to cause the significant harms of hurt, embarrassment and humiliation.</p>

<p><b>Real Risk</b></p> <p>The likelihood that the significant harm will result must be more than mere speculation or conjecture. There must be a cause and effect relationship between the incident and the possible harm.</p>	<p>The Organization reported that the likelihood that significant harm will result is “high... based on illegally recording other staff, board meetings in camera and potential newly hired staff.”</p> <p>In my view, a reasonable person would consider that the likelihood of harm resulting from this incident is increased as the breach resulted from malicious intent (covert surveillance by hidden recording device). The Organization does not know when the hidden device started recording individuals’ discussions, nor whether the recording was further distributed outside the Organization.</p>
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**DECISION UNDER SECTION 37.1(1) OF PIPA**

Based on the information provided by the Organization and given the circumstances of the incident, I have decided that there is a real risk of significant harm to the affected individuals.

A reasonable person would consider the identity of the individual being recorded combined with human resource information and private, verbal discussions could be used to cause the significant harms of hurt, embarrassment and humiliation.

The likelihood of harm resulting from this incident is increased as the breach resulted from malicious intent (covert surveillance by hidden recording device). The Organization does not know when the hidden device started recording individuals’ discussions, nor whether the recording was further distributed outside the Organization.

I require the Organization to notify the affected individuals in Alberta in accordance with section 19.1 of the *Personal Information Protection Act Regulation* (Regulation).

I understand the Organization notified affected individuals by letter on April 30, 2020 in accordance with the Regulation. The Organization is not required to notify the affected individuals again.

Jill Clayton  
Information and Privacy Commissioner