Office of the Information and Privacy Commissioner of Alberta

PERSONAL INFORMATION PROTECTION ACT
Breach Notification Decision

Organization providing notice under section 34.1 of PIPA	Legal Aid Alberta (Organization)
Decision number (file number)	P2019-ND-075 (File #012011)
Date notice received by OIPC	February 12, 2019
Date Organization last provided information	February 12, 2019
Date of decision	June 4, 2019
Summary of decision	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 *Personal Information Protection Act* (PIPA).
JURISDICTION	
Section 1(1)(i) of PIPA "organization"	The Organization is incorporated under Alberta's *Societies Act* and is a "non-profit organization" as defined in section 56(1)(b)(i) of PIPA. Under sections 56(2) and (3), PIPA only applies to personal information that is collected, used or disclosed by non-profit organizations in connection with a commercial activity. Pursuant to section 56(1)(a) of PIPA, a commercial activity is any transaction, act, conduct or regular course of conduct that is of a commercial character. In Decision P2013-D-01, an Adjudicator with my Office found [at paragraph 37] that the Organization "…carries out a commercial activity when it assesses individuals for legal aid coverage, arranges for legal aid services to be provided by lawyers in private practice, and provides legal aid services through its staff lawyers. Further, this is the case whether or not the individual pays or partly pays for the services." PIPA applies in this matter because the information at issue was collected in connection with a commercial activity, as contemplated in section 56(3) of PIPA.

Section 1(1)(k) of PIPA "personal information"	The following information is at issue for various affected individuals: • name, • address, • date of birth, • social insurance number, • parenting application, • source and amount of income, • income tax information returns and assessments (including social insurance number, contact information, marital status), • education information (student aid documentation, including student ID number and amount of assistance), • employment information (including paystubs with employee number, job applications), • invoices and receipts related to day care and schools (with children's names and amounts owing), • health/medical information (psychological assessment), • financial information (interac e-transfers, no bank account information), • child support guideline calculation including names and income of parents. This information is about identifiable individuals and is "personal information" as defined in section 1(1)(k) of PIPA.
DESCRIPTION OF INCIDENT	
❑ loss ❑ unauthorized access ☒ unauthorized disclosure	
Description of incident	• On September 27, 2018, a legal assistant with the Organization emailed documentation to the opposing party in a legal proceeding. Inadvertently, the email was also sent to another client who was not a party to the legal proceeding. • Subsequent emails were sent using 'reply all', such that the unauthorized recipient continued to be copied on correspondence. • On October 27, 2018, the unintended recipient contacted the lawyer on the file to ask that he not be included on these emails. The lawyer believed that the unintended recipient must be mistaken as she had not directly contacted him nor was he a party to any matter that she was working on. • On January 11, 2019 the lawyer was reviewing her file and noticed the emails sent by her assistant. Recalling the email she had received in October 2018 from the unintended recipient she realized that her assistant had inadvertently copied the unintended recipient on the noted emails.

Affected individuals	The incident affected 2 individuals.
Steps taken to reduce risk of harm to individuals	Provided privacy training, and discussed the risks of breach by email as part of that training
Steps taken to notify individuals of the incident	One affected individual was notified by letter on February 11, 2019. The Organization reported the other affected individual will be notified in person and/or by letter.
REAL RISK OF SIGNIFICANT HARM ANALYSIS	
Harm 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.	The Organization reported that the possible harms that may occur as a result of the breach include "Fraud/ identity theft", due to the disclosure of contact, identity and employment information, and "Reputational harm/humiliation", due to the disclosure of information related to personal relationships. I agree with the Organization's assessment. A reasonable person would consider that the contact, identity, financial, employment and educational information at issue could be used to cause the significant harms of identity theft and fraud, as well as reputational harm, hurt, humiliation and embarrassment.
Real Risk 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.	The Organization reported that "There was no malicious intent and the disclosure was limited to one individual who contacted [the Organization] to ask that these documents stop being sent to him which would lead one to conclude that the unintended recipient had no intention of defrauding or reading these documents. However, the documentation included an unredacted SIN number coupled with significant amounts of other personal information that could be used to defraud [one of the affected individuals]. Additionally, [the Organization] reached out to the unintended recipient of these emails and asked that he confirm deletion. To date we have not received a response. On balance, it is possible that the information disclosed could result in harm". I agree with the Organization's assessment. The likelihood of harm resulting from this incident is decreased because it did not result from malicious intent, but rather a transmission error. The unintended recipient reported the incident to the Organization. However, the information could be used to cause significant harm, and the Organization has not been able to confirm that it has been deleted and will not be used or disclosed further.
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 that the contact, identity, financial, employment and educational information at issue could be used to cause the significant harms of identity theft and fraud, as well as reputational harm, hurt, humiliation and embarrassment. The likelihood of harm is decreased because the breach did not result from malicious intent, but rather a transmission error. The unintended recipient reported the incident to the Organization. However, the information could be used to cause significant harm, and the Organization has not been able to confirm that it has been deleted and will not be used or disclosed further.

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 that one affected individual was notified by letter on February 11, 2019. The Organization reported the other affected individual will be notified in person and/or by letter. **The Organization is required to confirm to my office in writing, within 10 days of the date of this decision, that the affected individuals have been notified.**

Jill Clayton
Information and Privacy Commissioner