



**Yukon Information and Privacy Commissioner**

**Commentary**

**Access and Privacy Implications of Yukon Teleradiology Project**

**June 30, 2010**

## Introduction

The Yukon Information and Privacy Commissioner (IPC) is responsible for monitoring how the *Access to Information and Protection of Privacy (ATIPP) Act* is administered to ensure that its purposes are achieved. These responsibilities are carried out in many ways which include providing “comment on the implications for access to information or for protection of privacy of existing or proposed legislative schemes or programs of public bodies” (ATIPP Act section 42(c)).

All proposed legislative schemes, programs, or projects where records are in the custody or under the control of a public body must be structured to comply with the access and privacy provisions of the ATIPP Act. This Commentary is an analysis of the access and privacy implications of the Yukon Teleradiology Project being implemented by Health and Social Services (H&SS) and the Yukon Hospital Corporation (YHC), both of which are public bodies subject to the ATIPP Act.

To guide us in our assessment of the access and privacy implications of the Yukon Teleradiology Project we developed a set of comprehensive questions based on the *Privacy Impact Assessment Guidelines for the Ontario Personal Health Information Protection Act* and the recent *Privacy Impact Assessment Requirements* issued by the Office of the Information and Privacy Commissioner of Alberta which are both specific to personal health information, on which to base our analysis. These very helpful tools can be found at: [http://www.ipc.on.ca/images/Resources/up-phipa\\_pia\\_e.pdf](http://www.ipc.on.ca/images/Resources/up-phipa_pia_e.pdf) and [http://www.oipc.ab.ca/Content\\_Files/Files/News/Apr\\_15\\_PIA\\_Requirements.pdf](http://www.oipc.ab.ca/Content_Files/Files/News/Apr_15_PIA_Requirements.pdf), respectively.

The following comments are the result of analysis we conducted utilizing the information contained in the following documents, provided by H&SS and YHC to review the access and privacy implications and the Project’s compliance with the law:

- Draft Information Management and Sharing Agreement (IMSA), dated April 2010 between YHC and H&SS;
- Yukon Teleradiology Project Privacy Impact (PIA V1.3) Assessment V1.3, dated April 16, 2010, completed by H&SS; and
- Privacy and Security Architecture V1.3 dated April 9, 2010 authored by H&SS and Whitehorse General Hospital.

The Information and Privacy Commissioner recommends that the following issues be addressed, by H&SS and YHC prior to implementation of the Yukon Teleradiology Project.

## **Completed Information Management and Sharing Agreement**

1. A signed Information Management and Sharing Agreement (IMSA) is required by law for YHC and H&SS to have authority to collect and disclose the Teleradiology Personal Information that is integral to this Project.

## **Privacy Impact Assessment**

2. There must be confirmation that YHC's Picture Archiving Computerized System (PACS) and Meditech Technology complies with the ATIPP Act. The most efficient way of providing this confirmation would be to complete a Privacy Impact Assessment (PIA) in relation to those systems.
3. A PIA is evidence of due diligence and, as such, should be completed by authorized representatives of both H&SS and YHC. Completing a Privacy Impact Assessment assists a public body to consider the impact a project may have on individual access and privacy. It will also help a public body ensure that it has assessed the project's compliance with relevant legislation.
4. A completed PIA must clearly identify the access and privacy roles of H&SS and YHC in relation to the Yukon Teleradiology Project. It should specifically address how each public body will comply with the ATIPP Act's requirements to provide individuals with the right of access and the ability to request correction of their personal information. It should also explain how each public body will collect (specifying whether direct or indirect), use, disclose, protect and retain Teleradiology Personal Information.
5. The PIA must clearly state the anticipated date of implementation.
6. A description of how each public body is complying with sections 29, 30(1) and 30(2) of the ATIPP Act must be included in the PIA.
7. The PIA should contain more information about employee training, awareness and sanctions which may be imposed in relation to this Project.
8. The PIA should include an explanation of how a patient will be advised of their ability to request masking and how such a request is to be made and will be dealt with by each public body.
9. The PIA helps public bodies identify the privacy risks associated with a project. It must also include an action plan for how those risks will be mitigated.
10. H&SS and YHC must describe how they will enforce their privacy rules and monitor compliance with the statements made in the IMSA and PIA. They must

also describe under what circumstances they will periodically review the PIA and will provide updates or revisions of the PIA to the IPC.

### **IMSA and PIA**

11. Data linking or matching of Teleradiology Personal Information between H&SS and YHC must be more clearly explained in both the IMSA and PIA.
12. The relationship between YHC and Whitehorse General Hospital (WGH) in relation to Picture Archiving Computerized System (PACS) and/or Meditech Technology and any professional services agreements, contracts or arrangements that relate to Teleradiology Personal Information must be disclosed in the IMSA and PIA.
13. The IMSA and PIA must include information about the purpose for which the Teleradiology Personal Information is being collected, used, disclosed or retained by each of H&SS and YHC and confirm that any use is consistent with the stated purposes.
14. In the event that H&SS is utilizing section 4.1 of the *Health Act* for the collection or disclosure of personal health information in the Yukon Teleradiology Project appropriate reference to those provisions must be included in the IMSA and PIA for this Project.

### **Access Requests**

15. An access or correction request is made to a particular public body, not to an electronic information system used by one or more public bodies. A public body with either custody or control of the information has the responsibility to respond to such a request. It is necessary for H&SS and YHC to provide the IPC with information about how each public body intends to comply with this requirement of the ATIPP Act.

### **Definitions**

16. H&SS and YHC should review its definition of Teleradiology Personal Information to ensure that it encompasses all personal information collected about the individual, including anyone's opinions about the individual. A comprehensive list of Teleradiology Personal Information data elements should be provided to the IPC and individuals delegated within each public body to respond to individuals' access or correction requests and privacy concerns.

17. User access must be clarified and explained in relation to Teleradiology Personal Information, Program Records, and PACS and/or Meditech records as they relate to H&SS employees, YHC employees and any other third parties, such as physicians.
18. Privacy best practices for electronic information systems require an extensive logging audit capability to monitor system access. H&SS and YHC must provide more detailed information of the logging audit system that will be employed in the Yukon Teleradiology Project and how it will be utilized to monitor unauthorized uses.

### **Policy Development**

19. Access and privacy risk management policy development provide the tools necessary for good administration and indicate a public bodies' intent to meet the objectives stated in the IMSA and PIA. Such policies and procedures being developed by H&SS and YHC must be stated in the PIA and copies attached. The following are standard privacy risk management policies:

- privacy accountability,
- access to personal information,
- correction requests,
- masking requests,
- training, awareness & sanctions,
- collection of health information & notice,
- use of health information,
- disclosure of health information,
- research,
- third-parties,
- Privacy Impact Assessments,
- records retention & disposition,
- information classification,
- risk assessment,
- physical security of data & equipment against theft, loss, unauthorized use or disclosure and unauthorized copying, modification or disposal,
- network & communications security,
- access controls,
- monitoring & audit,
- breach notification,
- incident response,
- business continuity,
- change control.

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