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07 August 2020

Jennifer P Saville
Associate
St Lawrence Barristers
144 King St. East
Toronto, ON
M5C 1G8

Dear Ms Saville,

Re: Ont. Reg. 120/20

Please see below in response to your letter of July 21, 2020.

1. Confirmation that Ont. Reg. 120/20 will be revoked prior to Bill 195, Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, coming into force;

O. Reg. 120/20 was revoked on Wednesday, July 22, 2020.

Bill 195, *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, received Royal Assent on Tuesday, July 21 and came into force on Friday, July 24, 2020.

2. How the COVID-19 Status Information was housed and disclosed. For example, whether a database or dataset was created;

COVID-19 status information, as defined in Ont. Reg. 120/20, was housed at the Ministry of the Solicitor General and made available to police services through an online platform with a search function ("the portal").

For the police services that requested COVID-19 status information, access to the portal was only granted to "authorized users". Authorized users only consisted of certain members of police services who perform communications and dispatch functions.

Authorized users were responsible for disclosing the relevant COVID-19 status information to frontline policing personnel, in relation to individuals they would

encounter or had encountered as a result of responding to calls for service, in order to make informed decisions about whether they needed to take additional precautions to prevent the spread of COVID-19.

3. A list of the police services that requested and were provided access to the COVID-19 Status Information;

The attached Chart indicates that forty police services were provided access to the portal which includes the Ontario Provincial Police, two First Nation police services and 37 municipal police services.

4. The number of times COVID-19 Status Information was accessed and by which service, or, alternatively, confirmation that that this information was not tracked.

Please find attached a Chart setting out the name of each police service and the number of searches of the portal from that police service.

5. Confirmation that the database, or its equivalent, will be immediately deleted and that all COVID-19 Status Information will be immediately destroyed.

Immediate destruction of the COVID-19 status information is prohibited by law. Subsection 7.0.2 (7) of the *Emergency Management and Civil Protection Act* provides, in part:

(7) The following rules apply with respect to an order under paragraph 13 of subsection (4):

...

2. Information that is subject to the order that is personal information within the meaning of the *Freedom of Information and Protection of Privacy Act* is subject to any law with respect to the privacy and confidentiality of personal information when the declared emergency is terminated.

Ont. Reg. 120/20 was an order made under paragraph 13 of subsection 7.0.2 (4), among other paragraphs of that subsection, and COVID-19 status information is personal information within the meaning of the *Freedom of Information and Protection of Privacy Act (FIPPA)*. As a result, the COVID-19 status information that was made accessible through the portal is subject to provincial privacy legislation, including minimum periods for which the information must be retained before it can be disposed of in accordance with provincial law.

Specifically, the Ministry of the Solicitor General is an “institution” subject to *FIPPA*. Pursuant to subsection 40(1) of *FIPPA* and subsection 5(1) of R.R.O. 1990, Reg. 460 under *FIPPA*, the Ministry of the Solicitor General is required to retain personal information for at least one year after use. The purpose of the minimum retention period, as stated in subsection 40 (1) of *FIPPA*, is to ensure that individuals have a reasonable opportunity to obtain access to personal

information that relates to them, such as by making an access request under *FIPPA*.

Access to the portal was shut down completely on Monday, July 20, 2020. I am advised that the portal information is being retained at the Ministry of the Solicitor General in accordance with applicable law and is only accessible by three employees in the IT department. Should there be, for example, a court or IPC order compelling disclosure of information contained therein, these individuals have the capacity to retrieve it during the retention period.

We trust that this information addresses the five matters raised in your letter of July 21, 2020.

Sincerely,

"Hart Schwartz"

Hart Schwartz
General Counsel

cc. Hera Evans
Sean Hanley

**List of Police Services and Total Number of Searches Conducted
(April 17, 2020 to July 20, 2020)**

#	Police Services	Total Number of Searches
1	Akwesasne Mohawk Police Service	None
2	Barrie Police Service	966
3	Belleville Police Service	342
4	Brantford Police Service	2,089
5	Brockville Police Service	286
6	Chatham-Kent Police Service	108
7	Cornwall Police Service	116
8	Durham Regional Police Service	24,623
9	Gananoque Police Service	116
10	Greater Sudbury Police Service	799
11	Guelph Police Service	4,057
12	Halton Regional Police Service	201
13	Hamilton Police Service	10,293
14	Kawartha Lakes Police Service	1,015
15	Kingston Police	126
16	LaSalle Police Service	29
17	London Police Service	10,475
18	Niagara Regional Police Service	8
19	North Bay Police Service	383
20	Ontario Provincial Police	3,692
21	Orangeville Police Service	48
22	Ottawa Police Service	1,240
23	Owen Sound Police Service	156
24	Peel Regional Police	2,805
25	Peterborough Police Service	22
26	Sarnia Police Service	57
27	Sault Ste. Marie Police Service	179
28	Smiths Falls Police Service	133
29	South Simcoe Police Service	53
30	St. Thomas Police Service	45
31	Stratford Police Service	407
32	Strathroy Caradoc Police Service	14
33	Thunder Bay Police Service	14,831
34	Timmins Police Service	167
35	Toronto Police Service	None
36	Treaty Three Police Service	None

37	Waterloo Regional Police Service	1,180
38	Windsor Police Service	1,841
39	Woodstock Police Service	17
40	York Regional Police	13,551
TOTAL		<u>96,815*</u>
UNDEFINED SEARCHES		<u>50**</u>

Disclaimer:

***Total:** 345 searches were conducted by authorized users that had the same name (first and last) in two different police services. As such, these searches were not attributed to any single police service but were included in the total of 96,815 searches.

****Undefined searches:** Due to temporary technical errors, it is not clear whether these searches were conducted by an authorized user from a police service as opposed to an authorized user from a fire service. As a result, these searches were not included in the total of 96,815 searches.