



Information and Privacy
Commissioner of Ontario
Commissaire à l'information et à la
protection de la vie privée de l'Ontario



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
FOR BRITISH COLUMBIA

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LifeLabs to appeal court's decision to release Ontario IPC and BC OIPC breach investigation report

LifeLabs has announced that it is seeking leave to appeal a court [ruling](#) upholding the decision of the Information and Privacy Commissioner of Ontario (IPC) and the Office of the Information and Privacy Commissioner for British Columbia (OIPC) to make public their joint investigation report concerning the 2019 cyberattack on LifeLabs' computer systems.

The IPC and the OIPC conducted a joint investigation into the cyberattack that affected over eight million of the company's customers spanning both provinces. The joint investigation report was completed in June 2020.

The investigation revealed that LifeLabs failed to comply with its obligations under Ontario's *Personal Health Information Protection Act* (PHIPA) and BC's *Personal Information Protection Act* (PIPA), including its duty to take reasonable steps to safeguard the personal information and personal health information of those affected by the breach.

The joint investigation report contains important findings and lessons learned not only for LifeLabs, but for many other health information custodians facing ever-escalating cybersecurity risks. It provides transparency around the cause of the breach and sets out remedial steps to help mitigate the risks of such a breach reoccurring.

Although LifeLabs complied with the orders and recommendations set out in the joint investigation report, the company claimed the report should not be released to the public as it contained solicitor-client and litigation-privileged information. LifeLabs brought an application for judicial review of the IPC and OIPC's decision to dismiss LifeLabs' claims and to proceed with publication of the report.

In April 2024, the Divisional Court of Ontario unanimously upheld the IPC and OIPC's decision to publish the investigation report. The court held that health information custodians cannot evade their responsibilities under Ontario's health privacy law by categorizing facts about privacy breaches as privileged information.

Given that the company has announced its intention to appeal the court's decision to the Ontario Court of Appeal, the IPC and OIPC still cannot publish their joint investigation report into the cybersecurity attack despite its significant public education value.

The IPC and OIPC must wait for a ruling from the Court of Appeal for Ontario on whether any information in the investigation report is privileged or confidential before publishing the report.

As this matter remains before the courts, the offices will not be providing further comment at this time.

Resources:

[Backgrounder on LifeLabs privacy breach, December 17, 2019](#)

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