

PHIPA: A Prescription for Privacy

Brian Beamish

**Information and Privacy Commissioner
of Ontario (Acting)**

*International Privacy Day
January 28, 2015*

The Road to *PHIPA*

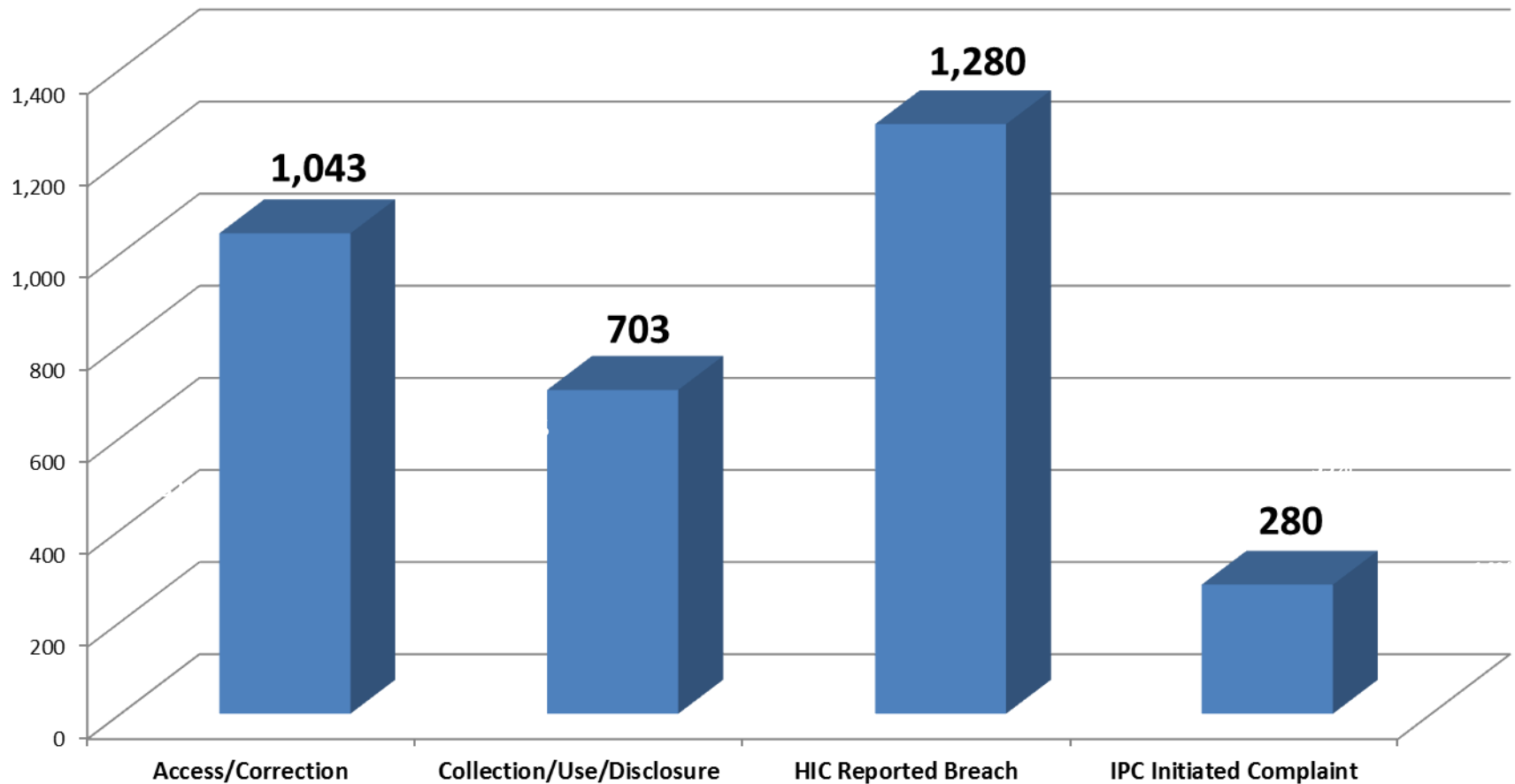
- 1980 Krever Commission – 170 recommendations.
- Served as the impetus for *PHIPA*.
- *PHIPA* is now recognized across Canada and the United States as a benchmark for health privacy legislation.

Unique Characteristics of Personal Health Information

- Highly sensitive and personal in nature.
- Yet, must be shared seamlessly among a range of health care providers to deliver timely, efficient and effective health care to the individual.
- This dual nature of personal health information (PHI) is recognized in *PHIPA*.

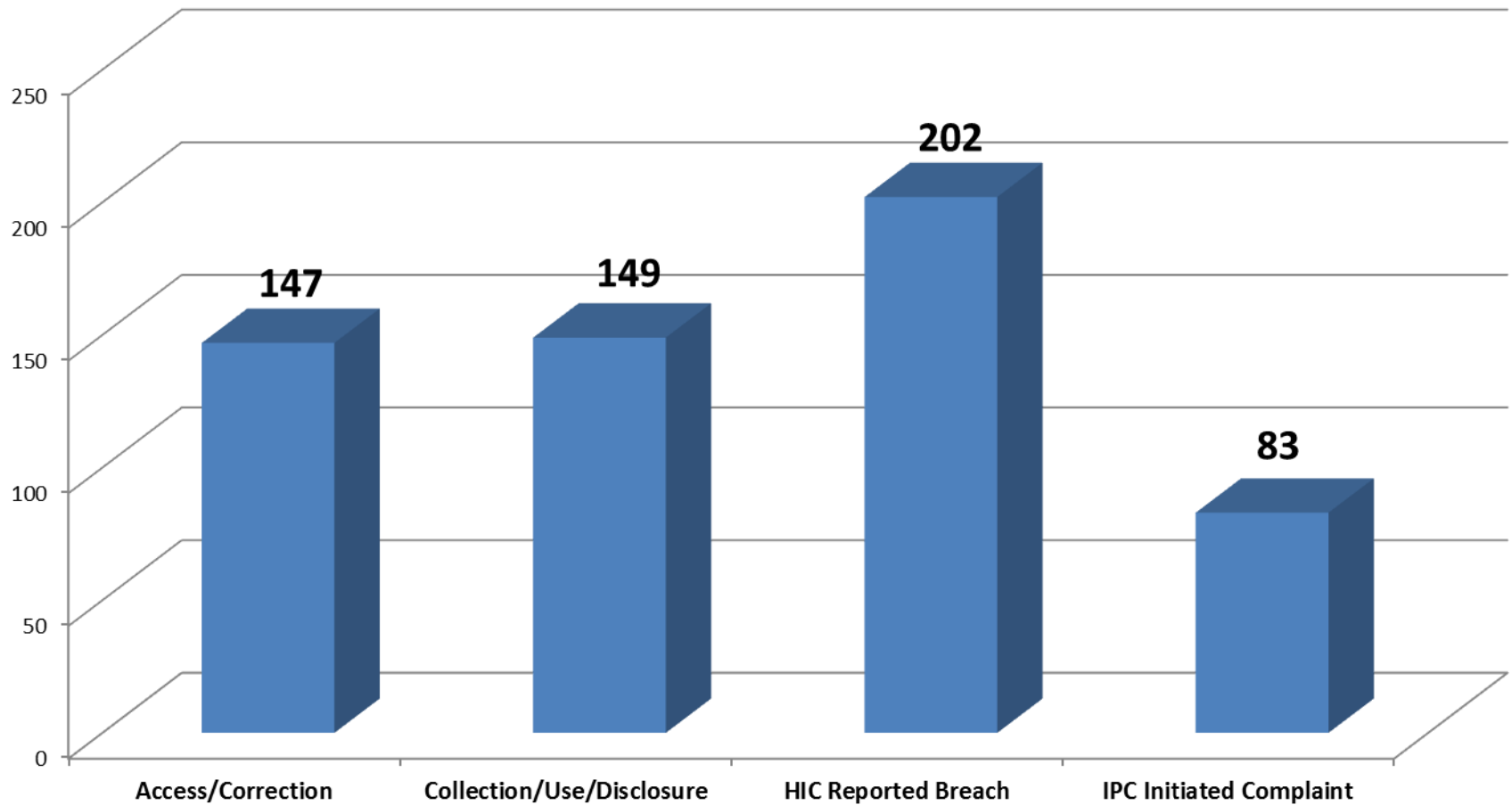
PHIPA Complaints 2004-2014

Open and Closed



PHIPA Complaints 2014

Open and Closed



The Meaning of “Unauthorized Access”

- There have consistently been cases of “unauthorized access” in Ontario where health records have been accessed without consent and for purposes not permitted by *PHIPA*.
- Unauthorized access includes viewing PHI.
- This problem becomes more acute with the growth of electronic health records.


Consequences of Unauthorized Access

- Unauthorized access to PHI can have significant consequences for all involved.
 - Individuals
 - Health Information Custodians
 - Employees/Agents

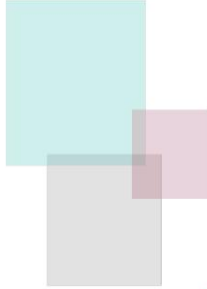
Health Orders We Have Issued in Response to Unauthorized Access

Information and Privacy Commissioner/
Ontario

ORDER HO-002




Ann Cavoukian, Ph.D.
Commissioner
July 2006




PHIPA Order
HO-010

December 31, 2010




Information & Privacy Commissioner,
Ontario, Canada

Ann Cavoukian, Ph.D.
Commissioner



PHIPA Order
HO-013

December 16, 2014



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Prosecution for Offences

- *PHIPA* creates offences for contraventions.
- It is an offence to willfully collect, use or disclose PHI in contravention of *PHIPA*.
- The Attorney General is responsible for commencing prosecutions under *PHIPA*.
- On conviction, an individual may be liable for a fine of up to \$50,000 and an organization up to \$250,000.

Educational Outreach: New Guidance Document



Detecting and Deterring
Unauthorized Access to
Personal Health Information



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- **Benefits and Risks of Electronic Records**
- **Impact of Unauthorized Access**
- **Preventing or Reducing the Risk of Unauthorized Access**



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“Is It Worth It?” Campaign

<https://www.youtube.com/watch?v=tgB7yu7zXAogB7yu7zXAo>

Detecting, Deterring and Reducing the Risk of Unauthorized Access

Everyone has a role to play:

- **Health Information Custodians**
- **IPC**
- **Employees/Agents**
- **Regulatory Colleges**
- **MOHLTC/Attorney General**

Build A Culture of Privacy

- Build a culture of privacy from the top down.
- Ensure your staff know how to apply privacy policies and procedures in their day-to-day work.
- Provide on-going privacy training.
- Use multiple means to communicate privacy messages.
- Regularly assess the effectiveness of your privacy program.

How to Contact Us

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