

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

CYFSA DECISION 23

Complaint FA20-00019

Children's Aid Society of Toronto

March 19, 2025

Summary: A mother and her family received services from the Children's Aid Society of Toronto (CAST), including in relation to an incident that occurred in 2012. Later, under the *Child, Youth and Family Services Act, 2017 (CYFSA)*, the mother asked CAST for information in her CAST file about the incident, which she describes as an assault of one of the children by the children's father. She specifically seeks any statements made by the children's father and the children about the incident. The mother complained to the IPC after CAST released a number of records to her but withheld others in part or in full, including on the basis it could not release additional information about other individuals without their consent, or a court order.

During the IPC review, some of the family members consented to the release of their personal information to the mother, and CAST released additional portions of the records on this basis. Two family members did not consent to the release of their personal information to the mother.

In this decision, the adjudicator upholds CAST's decision to withhold the remaining portions of the records from the mother. These include discrete portions consisting of the personal information of family members who do not consent to its release, which are contained in records that are not dedicated primarily to the provision of services solely to the mother. The withheld portions also contain information that post-dates and does not relate to the incident in question, and so is not responsive to the request. The adjudicator finds that CAST released to the mother all the information to which she is entitled under the *CYFSA*. The adjudicator dismisses the complaint.

Statutes Considered: *Child, Youth and Family Services Act, 2017*, c 14, Sch 1, sections 2 and 281 (definitions), 312(1) and (3); *Freedom of Information and Protection of Privacy Act*, RSO

1990, c F.31, section 2 (definitions); *Personal Health Information Protection Act, 2004*, SO 2004, c 3, Sch A, section 52(3).

Decisions Considered: PHIPA Decision 17; CYFSA Decisions 11, 12, and 20.

OVERVIEW:

[1] This decision addresses a mother's entitlement under the *Child, Youth and Family Services Act, 2017 (CYFSA)* to records relating to services the mother and her family received under the *CYFSA*. The mother made a request to the Children's Aid Society of Toronto (CAST) for information in her CAST file about an incident that occurred in 2012, which she describes as an assault of one of her children by the children's father. The mother reports that the incident also involved another children's aid society. The request to CAST was signed by the mother and by the child who was involved in the incident.

[2] In response to the request, CAST gave the mother a large number of records and parts of records. However, it withheld other records in full or in part, on the ground these records are not dedicated primarily to the provision of a service to the mother or to the child whose consent she provided. CAST's position is that the mother is not entitled under the *CYFSA* to the personal information of other individuals contained in the records without those individuals' consent, or a court order requiring CAST to provide her with their information. CAST also withheld other records and parts of records on the basis they were created after, and do not relate to, the 2012 incident.

[3] The mother was dissatisfied with CAST's decision to withhold records and parts of records in its custody or control,¹ and filed a complaint with the Office of the Information and Privacy Commissioner of Ontario (IPC).

[4] As the matter could not be resolved through mediation, it proceeded to the adjudication stage of the complaint process, where the IPC began a review of the matter under the *CYFSA*.² The file was later transferred to me to continue the review.

[5] During the review, the mother and CAST provided representations on the issues, which the IPC shared in accordance with its document *CYFSA Complaint Procedure at Adjudication*. In these representations, the mother clarified that she seeks only the statements made by the children's father and the four children about the 2012 incident. She explains that obtaining this information will provide her with clarity about the incident.

¹ In its decision, CAST also advised the mother to make a separate request to the other children's aid society for responsive records in the other society's custody or control. I do not understand this aspect of the decision to be at issue in this complaint, and I will not address it further in this decision.

² Under section 317(3) of the *CYFSA*, which states: "If the Commissioner does not take an action described in clause (1) (b) or (c) [which relate to attempts at settlement] or if the Commissioner takes an action described in one of those clauses but no settlement is effected within the time period specified, the Commissioner may review the subject-matter of a complaint made under this Part if satisfied that there are reasonable grounds to do so."

She confirms that she does not seek any other personal information held by CAST about herself, the children, or the children's father.

[6] The file was then placed on several holds at the mother's request. After the file was reactivated, I decided to notify the children's father and three of the four children (i.e., the family members who had not already consented to the mother's request) of this complaint. These individuals are affected persons in this review because their interests may be affected by the subject-matter of the complaint. I wrote to all four affected persons to explain the nature of the complaint, and to invite their representations on the issues under review.³

[7] Two of the affected persons consented to the release of their personal information to the mother. After I shared the relevant consents with CAST, CAST issued a supplemental decision giving the mother additional parts of the records containing the personal information of the two consenting affected persons. CAST maintains its decision to withhold other records and parts of records containing the personal information of the two affected persons who did not give their consent, and other records and parts of records that post-date the 2012 incident.

[8] In this decision, I uphold CAST's decision to withhold the remaining records in full or in part. I find that some of the withheld portions consist of the personal information of individuals who have not consented to the release of their information to the mother. This withheld information is contained in records that are not dedicated primarily to the provision of a service to the mother.⁴ In these records, the mother has already received all the reasonably severable personal information to which she is entitled. Other withheld information post-dates the incident in question, and is not responsive to the mother's request. In the result, I dismiss the complaint.

RECORDS:

[9] The information at issue in this complaint is contained in records relating to CAST's provision of services to the family. These records fall into the following broad categories:

- The family service file;
- Handwritten case notes; and
- "Person records" for each of the mother, the four children, and the children's father.

³ Under section 320(18) of the *CYFSA*, which states: "The Commissioner shall give the person who made the complaint, the person about whom the complaint is made and any other affected person an opportunity to make representations to the Commissioner."

⁴ Or to the provision of a service to the child who signed the request, as I explain further below.

DISCUSSION:

[10] Part X of the *CYFSA* grants an individual a right of access to a record of his or her own "personal information" that is in the custody or control of a "service provider" and that relates to the provision of a "service" to the individual. Part X also contains provisions that permit or require a service provider to "disclose" personal information in some circumstances. As I explain, most of these are defined terms in the *CYFSA*.

[11] In this case, there is no dispute that CAST, a children's aid society, is a "service provider" within the meaning of the *CYFSA*,⁵ or that the information at issue in this complaint is contained in records in CAST's custody or control.⁶

[12] "Personal information" is defined in section 2 of the *CYFSA* to have the same meaning as in the *Freedom of Information and Protection of Privacy Act (FIPPA)*. Section 2(1) of *FIPPA* defines "personal information" to mean recorded information about an identifiable individual, including, among other things: information relating to the individual's race, age, sex, or marital or family status (at paragraph (a) of the definition); the individual's address or telephone number [paragraph (d)]; the views or opinions of another individual about the individual [paragraph (g)]; and the individual's name where it appears with other personal information relating to the individual [paragraph (h)].

[13] The information at issue in this complaint is contained in the withheld portions of CAST's family service file, handwritten case notes, and "person records" for each of the mother, the children's father, and the four children. I have examined the records, including the withheld portions, and I am satisfied they contain the personal information of all these individuals. This personal information includes their dates of birth, their addresses and telephone numbers, and details of their interactions with CAST and other service providers. In some cases, the personal information of each individual stands alone. In others, as I explain further below, the personal information of one individual is intermingled with the personal information of one or more other individuals, or is information about the family as a whole, rather than about any one member of the family.

[14] I am also satisfied that the personal information at issue "relates to the provision of a service" under the *CYFSA*. "Service" is defined in Part X to mean a service or program provided or funded under the *CYFSA* or provided under the authority of a licence (section 281). Section 2 of the *CYFSA* cites examples of services including, among others, a service for a child who is or may be in need of protection or the child's family [paragraph (d)], and a service for a child or the child's family that is in the nature of support or prevention and that is provided in the community [paragraph (g)]. The records arise from services the family received from CAST and other service providers under the *CYFSA*, including in

⁵ The term "service provider" is defined in section 2 of the *CYFSA* to include a person or entity, including a "society," that provides a service funded under the *CYFSA*. "Society" is defined to mean an agency designated as a children's aid society under section 34(1) of the *CYFSA*. "Service" is also a defined term, as discussed further below.

⁶ See footnote 1. For discussion of the concepts of custody or control in the *CYFSA*, see *CYFSA* Decision 4.

relation to the 2012 incident that is identified in the mother's request.

[15] Having found that the records at issue contain the personal information of each of the family members, and of the family as a whole, that relates to the provision of a service under the *CYFSA*, I will consider below the mother's entitlement under the *CYFSA* to the information she seeks about the 2012 incident. First, I will briefly address two additional issues that arose during the review.

[16] At the outset of the review, an IPC adjudicator raised as an issue the question of whether the mother's request to CAST, signed by one of the children, is a request for "access" to, or a request for "disclosure"⁷ of, the mother's and that child's personal information to the mother. This distinction can be relevant because different sections of the *CYFSA* govern an individual's right of **access** to her own personal information,⁸ and a service provider's **disclosure** of personal information in accordance with the *CYFSA*.

[17] Some of this confusion appears to have arisen from the wording of the mother's request to CAST. In asking CAST to give her the information she seeks, the mother asked for "disclosure of my file from [CAST]..." The IPC asked the parties to address the legal meaning of the mother's request, and of the child's signature on the request. Among other things, the IPC asked whether the child's signature on the mother's request ought to be interpreted as the child's consent to the mother's making an access request on his behalf, or as his consent to CAST's disclosure of his personal information to the mother.

[18] I have considered the mother's request and the circumstances of the complaint. I place no legal significance on the mother's having characterized her request to CAST as a request for disclosure rather than as a request for access to her personal information under the *CYFSA*.

[19] It would in my view generally be reasonable to characterize an individual's request for her own personal information from a service provider as a request for access under the *CYFSA*. An access request is subject to the rules and protections in the *CYFSA* governing, among other things, the contents and timelines of a service provider's response, and the limited and specific grounds on which the service provider can refuse the request. By contrast, the *CYFSA* permits or requires the disclosure of personal information only in narrow circumstances, and does not impose the same kind of obligations on a service provider in response to a disclosure request.⁹ More broadly, I agree with the general principle advanced by the IPC that in interpreting a request, the

⁷ While "disclosure" is not a defined term in the *CYFSA*, the IPC has defined the term to mean releasing information or making the information available to another person or organization: *CYFSA* Decision 19, followed in *CYFSA* Decision 21.

⁸ Or to the personal information of another individual for whom the requesting individual is a lawfully authorized "substitute decision-maker" under the *CYFSA* (sections 281 and 303). See the discussion further below.

⁹ For more discussion on the distinction between access and disclosure under the *CYFSA*, see *CYFSA* Decision 4.

form of the request should not eclipse its substance—particularly where, as here, the legal distinction between “access” and “disclosure” under the *CYFSA* is not one that I would expect to be readily apparent to most people.¹⁰

[20] With respect to the signature of the child on the mother’s request, because of my findings below, it is irrelevant whether the child’s consent is treated as a consent to the mother’s making an access request on his behalf, or as a consent to the service provider’s disclosure of his personal information to his mother. In either case, I find the service provider gave the mother all the consenting child’s personal information to which she is entitled under the *CYFSA*.

[21] The other issue has to do with CAST’s withholding of certain records and parts of records, including in the family service file and individual “person” records, on the basis they were “not in existence” at the relevant times. I have examined the information withheld on this basis, and I confirm for the mother’s benefit that this information post-dates and does not relate to the 2012 incident described in her request. The mother has made clear through this review that she seeks only statements from family members about the 2012 incident, and that she does not seek any other personal information about them in the records. As these particular records and parts of records do not reasonably relate to the 2012 incident, I uphold CAST’s decision to withhold these portions on the ground they are not responsive to the request. I will not further address this non-responsive information in this decision.

[22] I will now turn to consider the main issue in this review, which is whether the mother is entitled under the *CYFSA* to the remaining information at issue in the records.

Is the mother entitled under the *CYFSA* to the withheld personal information of affected persons in the records?

[23] I found above that the mother’s request to CAST is a request for access under the *CYFSA* to her own personal information, and to the personal information of her family members, about the 2012 incident. The right of access is set out in section 312(1) of the *CYFSA*, which states:

An individual has a right of access to a record of personal information about the individual that is in a service provider’s custody or control and that relates to the provision of a service to the individual unless [...]

[24] Section 312(1) makes clear that the right of access in Part X belongs only to the individual to whom the personal information relates. (This right of access may be exercised by a lawfully authorized substitute decision-maker for an individual, on the individual’s behalf.) Part X does not grant a general right of access to a record of another individual’s personal information.

¹⁰ The IPC applied similar reasoning in PHIPA Decision 17 (see para 83). See also PHIPA Decision 239.

[25] The right of access in section 312(1) is subject to certain limited and specific exceptions, which I do not set out here as they are not relevant in this complaint.

[26] The extent of an individual's right of access to a record also depends on whether the record is or is not a record "dedicated primarily" to the provision of a service to that individual. Section 312(3) of the *CYFSA* states:

Despite subsection (1), if a record is not a record dedicated primarily to the provision of a service to the individual requesting access, the individual has a right of access only to the personal information about the individual in the record that can reasonably be severed from the record.

[27] Thus, if a record of personal information about an individual is not "dedicated primarily" to the provision of a service to that individual, the individual has a right of access only to any of her personal information that can reasonably be severed from the record. By contrast, if the record of the individual's personal information *is* "dedicated primarily" to the provision of a service to her, then she has a right of access to the entire record—even if the record incidentally contains information about other matters or other parties.¹¹ In both cases, the right of access remains subject to any applicable exceptions in section 312(1) of the *CYFSA*.

[28] As noted above, in addition to the mother, one of the children signed the access request to CAST. CAST understood this to mean this child consents to the release of his personal information to the mother. Accordingly, CAST's initial release of records to the mother included the personal information of the mother and of the child who signed her request. Later, after receiving consents from two more affected persons during the review, CAST issued a supplemental decision providing the mother with additional records and parts of records containing the personal information of the two consenting affected persons.

[29] CAST continues to withhold records and parts of records containing the personal information of the two affected persons who do not consent to the release of their personal information to the mother. This information is found in the withheld portions of CAST's family service file, some handwritten case notes, and "person records" for the two non-consenting affected persons.¹²

[30] To decide whether the mother is entitled under the *CYFSA* to the withheld information in these records, I must first determine the extent of her right of access to the records, by deciding whether they are or are not "dedicated primarily to the provision

¹¹ This approach to the interpretation of sections 312(1) and (3) of the *CYFSA* was first set out in *CYFSA* Decisions 11 and 12. As discussed further below, the IPC's interpretation of these sections of the *CYFSA* adopts and applies the IPC's analysis (first set out in PHIPA Decision 17) of similarly worded sections of the *Personal Health Information Protection Act, 2004*.

¹² CAST also appears to have withheld discrete portions of the "person record" of the mother and of the child who signed her request. I address this briefly further below.

of a service to” the individual requesting access. Then I can determine whether the mother is entitled under the *CYFSA* to additional information in the records.

The remaining information at issue is not contained in records “dedicated primarily to the provision of a service to the individual requesting access,” within the meaning of section 312(3)

CAST has released to the mother all the personal information to which she is entitled in the records

[31] In *CYFSA* Decisions 11 and 12, released on the same date, the IPC considered for the first time the meaning of the phrase “dedicated primarily to the provision of a service to the individual requesting access” in section 312(3) of the *CYFSA*. In these decisions, the IPC found relevant and instructive the IPC’s interpretation of the identical phrase “dedicated primarily” in section 52(3) of the *Personal Health Information Protection Act, 2004 (PHIPA)*. Like the *CYFSA*, *PHIPA* confers a right of access only to the individual to whom the requested information relates, or to a lawfully authorized substitute decision-maker for that individual. And like the *CYFSA*, *PHIPA* limits the extent of that right of access where the record being requested is not “dedicated primarily” to relevant information about that individual.

[32] In *CYFSA* Decisions 11 and 12, the IPC adopted the qualitative approach applied by the IPC under *PHIPA* in determining whether a record is or is not “dedicated primarily” to the personal health information of an individual requesting access under *PHIPA*. Under the qualitative approach, the IPC takes into consideration various factors beyond the quantity of a requester’s own information in the record. These include: the purpose of that information in the record; whether that information is central to the purpose for which the record exists; whether the record would exist “but for” that information in the record; the reason for creation of the record; and whether there is information of individuals other than the requester in the record. This list is not exhaustive.¹³

[33] I agree with and adopt this qualitative approach to the interpretation of the identical phrase in section 312(3) of the *CYFSA*. Applying this approach, I conclude that none of the records remaining at issue in this complaint is “dedicated primarily to the provision of a service to the individual requesting access.”

[34] The records remaining at issue fall into the following broad categories: the family service file; handwritten case notes; and “person records” for the two affected persons who do not consent to the release of their personal information to the mother. I accept *CAST*’s evidence that the records at issue in the family service file and the handwritten case notes document various services, including investigation services, provided to four children in the family in 2012. This is supported by my own examination of the records. I agree with *CAST*’s assessment that these particular records are “dedicated primarily to

¹³ *PHIPA* Decision 17.

the provision of a service” to all members of the family, as a whole, rather than to any individual member of the family. More specifically, I find that none of the records at issue in the family service file and the handwritten case notes is dedicated primarily to the provision of a service to the mother alone.

[35] I have also considered whether these records are dedicated primarily to the provision of a service to the child who signed the mother’s request, in the event treating the request as an access request made by a lawfully authorized substitute decision-maker for the child would yield different results. I confirm that none of the records is dedicated primarily to the provision of a service to that child, and that the mother would not have additional access under this scenario.

[36] The result of this finding is that the mother has a right of access, under section 312(3), only to any of her own personal information that can reasonably be severed from each of these records. I have examined the records, and (subject to a caveat set out further below) I am satisfied that CAST provided the mother with all the reasonably severable personal information to which she is entitled in these records. CAST has given the mother all her own reasonably severable personal information in the records. It has also given the mother any reasonably severable personal information belonging to the child who signed her request, and of the two affected persons, based on their consent. The information that CAST continues to withhold in these records is the personal information of the non-consenting affected persons, or of the family as a whole, and is not information to which the mother has a right of access under section 312(3).

[37] The final category of records consists of “person records.” CAST explains that a person record is created for each recipient of services from a service provider. The person record for a particular recipient can include demographic information about the recipient, the recipient’s contact information, and the recipient’s medical and educational history. When a service provider provides a service to one or more recipients, it creates case records to document the provision of services, and attaches the case records to the relevant person record(s).

[38] The information remaining at issue in this complaint is contained in the person records of the two affected persons who do not consent to sharing their personal information with the mother. I agree with CAST that these person records, which compile the personal information of each of these affected persons as a recipient of services under the *CYFSA*, are not “dedicated primarily to the provision of a service” to the mother.¹⁴ (Subject to a caveat set out below, I note that CAST has already released to the mother all the information to which she is entitled from her own person record, and from the person records of the child who signed her request and the two consenting affected persons.)

¹⁴ I have also considered whether these records are dedicated primarily to the provision of a service to the child who signed the mother’s request, and found they are not. See para 35, above.

[39] As above, in these records (i.e., the person records of non-consenting affected persons), the mother has a right of access, under section 312(3), only to any reasonably severable personal information belonging to herself. I have examined the person records at issue, and I am satisfied that CAST provided the mother with her own personal information to which she is entitled under section 312(3). CAST also gave the mother any reasonably severable personal information in these records belonging to the child who signed her request, and the two consenting affected persons.

[40] The remainder of these person records consists of personal information about the non-consenting affected persons, or about the family as a whole, which is not personal information about any individual family member to which the mother is entitled under the *CYFSA*. In some instances, the personal information of any individual family member to which the mother would otherwise be entitled (i.e., the personal information of the mother, the child who signed the request, or the two consenting affected persons) is so intertwined with personal information to which she is not entitled (i.e., the personal information of a non-consenting affected person) that it is not "reasonably severable" within the meaning of section 312(3). CAST is not required under the *CYFSA* to release such information to the mother.¹⁵

[41] In the result, I uphold CAST's decision to withhold all the remaining information at issue in the records.

[42] Before concluding, I make two observations. In examining the records at issue, I noted some minor inconsistencies in CAST's severances to identical or near-identical narrative portions duplicated across numerous records. As one example, there are minor differences in the severances made to near-identical narrative texts appearing (in slightly different contexts) on the pages numbered 4-5 and 8-9 of CAST's 144-page release. I attribute these inconsistencies to human error in making severances across a large number of pages, and it does not appear to me that they have impeded the mother's access rights in any meaningful way. I trust the parties will be able to address between themselves any questions that may arise about these kinds of small inconsistencies in severances appearing in different parts of the records.

[43] Second, I note that CAST has severed from the person records of the mother and of the child who signed the mother's request certain family members' names, where the surrounding context (i.e., the parts of the records already released to the mother) makes clear what name has been severed. CAST has not claimed any exemptions in the *CYFSA* in respect of these severances. It is not obvious to me that the mother wishes to pursue

¹⁵ The concept of the reasonable severability of records has been judicially considered and applied by the IPC to find that information that would, if released, comprise only disconnected or meaningless snippets is not reasonably severable, and is not required to be released. The IPC has applied this approach in interpreting severance provisions in the public sector access and privacy legislation it administers (see Orders PO-1735 and PO-1663, among others) and in *PHIPA* (see, among others, *PHIPA* Decisions 17 and 27). The IPC applied the same concept of reasonable severability in the context of the *CYFSA* in *CYFSA* Decision 20.

access to these withheld portions of the person records. In the event she does, the mother should contact CAST directly with her request. In responding to any such request, CAST should have regard to the discussion above in deciding the extent of the mother's right of access to such severances in her own person record, and in the person record of the child who signed her request.

[44] I conclude the review without issuing an order.

NO ORDER:

For the foregoing reasons, I dismiss the complaint and issue no order.

Original Signed by: _____
Jenny Ryu
Adjudicator

_____ March 19, 2025