

Information and Privacy Commissioner,
Ontario, Canada



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

CYFSA DECISION 31

Complaint FC21-00011

An Indigenous child well-being society

July 22, 2025

Summary: The complainant is a mother who was involved in various court proceedings with an Indigenous child well-being society (the society). One of these proceedings arose from a child protection application commenced by the society in relation to one of her children. The mother complained that in the course of this proceeding, the society improperly disclosed her personal information and the personal information of her child, in contravention of the *Child, Youth and Family Services Act, 2017* (the *CYFSA*). Specifically, the mother alleged that the society's service on a First Nation of a court order made in that proceeding violated her privacy and the privacy of her child, and was done contrary to her wishes and the wishes of the First Nation.

The adjudicator declines to conduct a review of the matter under the *CYFSA*. In the absence of evidence to rebut her preliminary assessment that the society's service of a court order on the First Nation (a party to the proceeding to which the court order relates) did not contravene the *CYFSA*, she finds no reasonable grounds to review the complaint about the disclosure. She dismisses the complaint.

Statutes Considered: *Child, Youth and Family Services Act, 2017*, SO 2017, c 14, Sch 1, sections 2 (definitions), 79(1), 90(2), 281, 286, 292(1)(h), and 317(3) and (4); *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31, section 2 (definitions); *Family Law Rules*, O Reg 114/99, made under the *Courts of Justice Act*, RSO 1990, c C.43, rr. 1(2)(a)(ii) and 25(13).

Cases Considered: *Sarnia-Lambton Children's Aid Society v. B.L.G.*, 2023 ONCJ 126.

OVERVIEW:

[1] This decision addresses a mother's complaint to the Office of the Information and Privacy Commissioner of Ontario (IPC) about the disclosure of her and her child's personal information through the service of documents in a court proceeding. For reasons set out below, I find that the service of these documents by one party to a proceeding on another party to the proceeding did not contravene the *Child, Youth and Family Services Act, 2017* (the *CYFSA*). As a result, I find no reasonable grounds to conduct a review of the mother's complaint about this disclosure.

[2] This matter arises from a child protection application commenced by an Indigenous child well-being society (the society) in relation to one of the mother's children. In her complaint to the IPC, the mother alleged that the society improperly identified a specific First Nation as a party to the child protection proceeding, and as a result improperly disclosed to the First Nation court documents relating to the proceeding. She took particular issue with a letter sent by the society to various parties, including the First Nation, enclosing a copy of a court order issued in that proceeding.

[3] The mother says the society's identification of the First Nation as a party to the child protection proceeding is an error, given that neither she nor the child is a member of that First Nation. She provided the IPC with evidence to show that both she and the First Nation made attempts to ask the society to stop sending the First Nation court documents about her and her children.

[4] The society acknowledges that it treated the First Nation as a party to the child protection proceeding involving the child. The society's position is that the First Nation was a proper statutory party to the proceeding under Part V of the *CYFSA*, which concerns child protection matters. The society says that its service of court documents, including the court order, on the First Nation is an authorized disclosure of personal information under section 292(1)(h) of the *CYFSA*, which permits the disclosure of certain personal information where that disclosure is permitted or required by law.

[5] At the mother's request, this file was placed on hold for various periods of time at earlier stages of the IPC process. The mediators involved in this complaint shared the society's position on the issues with counsel for the mother. The file then moved to the adjudication stage for a determination of the issues.

[6] At the adjudication stage, I formed the preliminary view that there are no reasonable grounds to review this matter under the *CYFSA*. I informed the mother, through her counsel, of the reasons for my preliminary assessment, and I invited her submissions for my consideration before making a final decision on the matter. Counsel did not provide submissions. However, in arriving at my decision, I have considered the extensive submissions made on the mother's behalf at earlier stages of the IPC process.

[7] In the discussion that follows, I explain why I have decided this matter does not

warrant a review under the *CFYSA*. I dismiss the complaint on this basis.

DISCUSSION:

[8] One of the purposes of Part X of the *CYFSA* is to protect the privacy of individuals with respect to their personal information collected to provide a service under the *CYFSA*. Part X achieves this purpose by, among other things, setting out rules for any collection, use, or disclosure of personal information by service providers.

[9] It is not in dispute that the society is a “service provider” within the meaning of the *CYFSA*,¹ and that the information at issue in this complaint was collected by the society for the purpose of providing a “service” to the mother and to the child within the meaning of the *CYFSA*.²

[10] “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 race, national or ethnic origin, or marital or family status of an individual (at paragraph (a) of the definition), the individual’s address and telephone number [paragraph (d)], and the individual’s name where it appears with other personal information relating to the individual [paragraph (h)].

[11] The information at issue in this complaint includes a court order and covering letter sent by the society to the parties in a proceeding involving the mother and her child, and others. This information includes the mother’s address and family status, the child’s date of birth and affiliation with a First Nation, and details of the mother’s and the child’s involvement in a child protection application. All this information is “personal information” of the mother and the child, within the meaning of that term in the *CYFSA*, and was collected by the society for the purpose of providing services to them both.

[12] As a result, Part X of the *CYFSA* applies to the society’s collection, use, and disclosure of the personal information at issue in this complaint. The complaint before me is an allegation that the society disclosed this personal information in contravention of the *CYFSA*.

¹ The term “service provider” is defined in section 2 of the *CYFSA* to include a person or entity that provides a service funded under the *CYFSA*. “Service” is also a defined term (see footnote 2, below). Children’s aid societies, including Indigenous child well-being societies, are examples of service providers under this definition.

² “Service” is defined in section 2 of the *CYFSA* to include, among other things, a service for a child who is or may be in need of protection or the child’s family (paragraph (d) of the definition), and, at section 281, to mean “a service or program that is provided or funded under this Act or provided under the authority of a licence.”

Should the complaint proceed to a review under the *CYFSA*?

[13] Sections 317(3) and (4) of the *CYFSA* set out the IPC's authority to review or not to review a complaint. These sections state, in part:

(3) 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 Act if satisfied that there are reasonable grounds to do so.

(4) The Commissioner may decide not to review the subject-matter of the complaint for whatever reason the Commissioner considers proper, including if satisfied that,

(a) the person about which the complaint is made has responded adequately to the complaint[.]

[14] Having considered all the circumstances of the complaint, I decline to conduct a review of this matter. This is because I find the society's service of court documents on the First Nation was required by law, and thus an authorized disclosure under the *CYFSA*. I also find the society has responded adequately to the complaint, and that no purpose would be served by conducting a review in the circumstances.

The disclosure at issue complied with the CYFSA

[15] While the term "disclose" is not defined in the *CYFSA*, the IPC has defined the term to mean to release information or to make the information available to another person or organization.³ I find that the society's service on the First Nation of records containing the mother's and the child's personal information was a "disclosure" of that information within the meaning of the *CYFSA*.

[16] Section 286 of the *CYFSA* addresses the collection, use, and disclosure of personal information collected by a service provider for the purpose of providing a service to an individual. It states:

A service provider shall not collect personal information about an individual for the purpose of providing a service or use or disclose that information unless,

³ *CYFSA* Decision 19, followed in *CYFSA* Decisions 21 and 23.

(a) the service provider has the individual's consent under this Act and the collection, use or disclosure, to the best of the service provider's knowledge, is necessary for a lawful purpose; or

(b) the collection, use or disclosure without the individual's consent is permitted or required by this Act.

[17] Thus, to be an authorized disclosure under the *CYFSA*, the disclosure must be made with the appropriate consent [and meet the other conditions in paragraph (a)], or be permitted or required under the *CYFSA* to be made without consent. There is no claim here that the disclosure was made with consent.

[18] The society says its disclosure to the First Nation of the mother's and child's personal information was authorized to be made under section 292(1)(h) of the *CYFSA*. This section states:

A service provider may, without the consent of the individual, disclose personal information about an individual that has been collected for the purpose of providing a service [...] if permitted or required by law or by a treaty, agreement or arrangement made under an Act or an Act of Canada, subject to the requirements and restrictions, if any, that are prescribed.

[19] The society cites as the legal authorities for its disclosure certain sections of the *CYFSA* and the *Family Law Rules*, made under the *Courts of Justice Act*,⁴ which govern family law cases including those under Part V of the *CYFSA*.⁵ The society also directs the IPC and counsel for the mother to a decision of the Ontario Court of Justice, *Sarnia-Lambton Children's Aid Society v. B.L.G.*,⁶ addressing some principles around the identification of parties in child protection proceedings involving a First Nations child. I have considered the statutory references and the decision cited by the society, and find them relevant to my analysis, as I explain.

[20] First, it is not in dispute that the proceeding to which the records at issue relate is a child protection proceeding under Part V of the *CYFSA*, and thus a proceeding governed by the *Family Law Rules*.

[21] Party status in child protection proceedings is governed by section 79(1) of the *CYFSA*, which states:

The following are parties to a proceeding under this Part:

1. The applicant.

⁴ *Family Law Rules*, O Reg 114/99, made under the *Courts of Justice Act*, RSO 1990, c C.43.

⁵ *Family Law Rules*, r. 1(2)(a)(ii).

⁶ 2023 ONCJ 126.

2. The society having jurisdiction in the matter.
3. The child's parent.
4. In the case of a First Nations, Inuk or Métis child, the persons described in paragraphs 1, 2 and 3 and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

[22] To address party status under paragraph 4 of section 79(1), a court must make findings about whether a child is a First Nations, Inuk or Métis child, and, if so, about the child's bands and First Nations, Inuit or Métis communities (section 90(2) of the *CYFSA*).

[23] As the court in *Sarnia-Lambton Children's Aid Society v. B.L.G.* observed, the language of section 79(1)4 of the *CYFSA* is mandatory. Once a child has been identified as a First Nations, Inuk or Métis child, and the child's band or community identified, there is no discretion: the child's band or community becomes a statutory party to the proceeding.⁷

[24] The society explains how it identified the First Nation addressed in its correspondence as the child's First Nation for the purposes of the child protection proceeding giving rise to this complaint.⁸ It considered the First Nation's previous acknowledgment of its connection with the mother and her children, and the First Nation's participation as a party in a previous proceeding involving the mother and the same child who is the subject of the proceeding at issue. The society notes that in that previous proceeding involving the same child, the First Nation attended court and took a position on the child's best interests. The society also notes that the mother provided a sworn affidavit in which she attested to her eligibility for membership with the First Nation. The society says that it understood from these circumstances that the child is also eligible for membership with the First Nation, based on his maternal grandfather's registration as a member.

[25] In this context, the court made certain "identification" findings (pursuant to section 90(2) of the *CYFSA*) for the child for the purposes of the child protection proceeding. Specifically, and as confirmed in the court order at issue in this complaint, the court found that the child is a First Nations child, and that the child is affiliated with the specific First Nation to whom the society addressed its correspondence.

[26] Accordingly, under section 79(1)4 of the *CYFSA*, the First Nation was a statutory party to the child protection proceeding in respect of which the court order was made. In the court order, that First Nation is identified as a party to the proceeding, in the role of a respondent. The society served the court order on the First Nation (and on other parties

⁷ *Sarnia-Lambton Children's Aid Society v. B.L.G.*, cited above, at paras 54-56.

⁸ In this context, the society also cites sections of the *CYFSA* that do not directly address the issue of party status in a child protection proceeding, but that mandate a society's consultation with a child's band or First Nations, Inuit, or Métis community as appropriate: sections 72(d) and 73 of the *CYFSA*.

to the proceeding) when it sent them the correspondence at issue enclosing the court order.

[27] Rule 25(13) of the *Family Law Rules* states:

Unless the court orders otherwise, the person who prepared an order shall serve it,

- (a) on every other party, including a party to whom paragraph 1 of subrule 1 (8.4) (no notice to party) applies;
- (b) if a child involved in the case has a lawyer, on the lawyer; and
- (c) on any other person named by the court.

[28] There is no evidence before me that the mother, or the First Nation, or any other party brought a motion to remove or to otherwise challenge in court the First Nation's status as a statutory party to the child protection proceeding. While the mother provided copies of correspondence to show that she and the First Nation tried to tell the society that they did not want the First Nation to receive court documents about her case, this does not establish that the First Nation was not a party to the proceeding at the time of service. There is also no evidence of a court order relieving the society of its statutory obligation to serve the court order on the First Nation, as a party to the proceeding.

[29] I understand the mother to be asserting that the society's failure to remove the First Nation as a party to the proceeding, and its continued service of court documents on the First Nation, were done in breach of the *CYFSA* because the society knew (or should have known) about the mother's and the First Nation's objections to the First Nation's having party status in the proceeding. However, the mother has cited no statutory authority or other basis for a claim that the society was empowered to remove the First Nation as a party to the proceeding or to discontinue service of court documents on the First Nation in the absence of a court order, and I am not aware of any such authority.

[30] In these circumstances, it is my view that the society's disclosure to the First Nation (a statutory party to the child protection proceeding) of the mother's and the child's personal information (in the form of correspondence enclosing a court order made in that proceeding) was authorized to be made without consent under section 292(1)(h) of the *CYFSA*. More specifically, it is my view that the disclosure at issue was required to be made under provisions of the *CYFSA* and the *Family Law Rules* addressing service of a court order on parties to a child protection proceeding.

[31] As a result, I find that the disclosure at issue complied with the *CYFSA*, and that the complaint about the disclosure does not warrant a review under the *CYFSA*.

The society has responded adequately to the complaint about unauthorized disclosure

[32] It is also my view that the society has responded adequately to the complaint about the disclosure, and that no purpose would be served by conducting a review of the matter.

[33] It is my understanding that through this complaint, the society has acknowledged that the mother and the First Nation do not want the society to send the First Nation court documents relating to the mother's case. Above I explained why I conclude that the disclosure at issue in this complaint complied with the *CYFSA*. With respect to any future court orders that may be issued in this matter, the society has said that it will seek direction from the court on its service obligations, in view of the mother's and the First Nation's objections to any service on the First Nation.

[34] I understand that the child at the centre of the child protection proceeding underlying this complaint is now an adult. It is thus unclear to me whether this proceeding is ongoing. If the proceeding is concluded, then the issue of any future disclosures to the First Nation in connection with this matter may be moot. If the proceeding is ongoing, then it remains open to the mother and/or the First Nation to raise their concerns about the First Nation's party status to the court. In either event, it is my view that the society's proposal to seek the court's guidance on any future service obligations in connection with this proceeding is an adequate response to the complaint.

[35] In these circumstances, I see no purpose in proceeding to a review of this matter.

NO REVIEW:

For the foregoing reasons, no review of this matter will be conducted under Part X of the *CYFSA*.

Original Signed by: _____

Jenny Ryu
Adjudicator

July 22, 2025