



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## **INVESTIGATION REPORT 145-2023, 147-2023**

### **Saskatchewan Health Authority, Prince Albert Co-operative Health Centre**

**November 21, 2023**

**Summary:**

The Saskatchewan Health Authority (SHA) and Prince Albert Co-operative Health Centre (Health Centre) proactively reported separate privacy breach incidents after a third-party courier vehicle containing approximately 15 totes of blood and pathology samples was stolen. The Commissioner found that SHA and the Health Centre each responded appropriately to the privacy breach. However, the Commissioner recommended both the SHA and the Health Centre ensure their notification letters contain all the recommended elements. The Commissioner also made recommendations for both SHA and the Health Centre regarding changes needed to its written agreements with the third-party courier

## **I BACKGROUND**

- [1] Between 4:30 p.m. to 5:00 p.m. on June 6, 2023, Warren's Parcel Express (Courier) picked up totes containing lab samples and requisitions from the Prince Albert Co-operative Health Centre (Health Centre). In the early morning hours of June 7, 2023, the same Courier picked up totes from the laboratory at the Victoria Hospital (located in Prince Albert). The totes contained blood and pathology samples. The SHA indicated the samples within the totes came from various locations to be packaged and shipped by the Courier. This affected patients from locations including La Ronge, Prince Albert, Big River, Shellbrook and Spiritwood. The totes also included private physical and correctional facility samples.

- [2] After leaving the Victoria Hospital, the Courier made a stop at their company warehouse at around 3:00 a.m. During this stop, the Courier's van was stolen. The Saskatchewan Health Authority (SHA) reported there were approximately 15 totes of SHA and non-SHA samples and requisitions in the van. The Health Centre reported that three of the totes provided to the Courier were from its location.
- [3] On June 7, 2023, the Saskatchewan Health Authority (SHA) proactively reported the incident (IPC File 145-2023) involving totes originating from the Victoria Hospital to my office. The Health Centre (IPC File 147-2023) proactively reported the incident involving its totes to my office on June 9, 2023.
- [4] My office notified the SHA on June 14, 2023 and the Health Centre on June 16, 2023 that my office would be conducting an investigation. The Health Centre provided its response to my office on June 22, 2023, and the SHA provided its response on August 2, 2023.
- [5] As this Investigation Report deals with totes taken during the same theft of the Courier's van, I have decided to issue one report on the matter.

## II DISCUSSION OF THE ISSUES

### 1. Do I have jurisdiction?

- [6] *The Health Information Protection Act* (HIPA) is engaged when three elements are present: 1) there is a trustee; 2) there is personal health information; and 3) the personal health information is in the custody or control of the trustee.
- [7] First, subsection 2(1)(t)(ii) of HIPA defines "trustee" as follows:

**2(1)** In this Act:

...

(t) "**trustee**" means any of the following that have custody or control of personal health information:

...

(ii) the provincial health authority or a health care organization;

...

(xiv) a person, other than an employee of a trustee, who or body that provides a health service pursuant to an agreement with another trustee;

[8] Victoria Hospital appears to be a facility managed by the SHA. The SHA qualifies as a trustee pursuant to subsection 2(1)(t)(ii) of HIPA. In [Investigation Report 239-2017](#), my office found that the Health Centre qualifies as a trustee pursuant to subsection 2(1)(t)(xiv) of HIPA. Therefore, I find both are trustees for purposes of HIPA.

[9] Second, I need to consider if personal health information is involved. The SHA indicated that the samples from the Victoria Hospital included each patient's first and last name, date of birth and Health Services Number (HSN). The samples also included requisitions; some requisitions included diagnoses, which may disclose sensitive information such as testing information for sexually transmitted infections. The Health Centre indicated that its samples included name, HSN, address, postal code, medical history (in some cases), and tests ordered or results. This information would qualify as personal health information as defined by subsections 2(1)(m)(i), (ii), (iii), (iv) (A), (B) and (v) of HIPA as follows:

**2(1) In this Act:**

...

(m) **"personal health information"** means, with respect to an individual, whether living or deceased:

(i) information with respect to the physical or mental health of the individual;

(ii) information with respect to any health service provided to the individual;

(iii) information with respect to the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;

(iv) information that is collected:

(A) in the course of providing health services to the individual; or

(B) incidentally to the provision of health services to the individual; or

(v) registration information;

[10] As such, there is personal health information involved in this incident.

[11] Third, while the breach occurred while being transported by the courier on behalf of the SHA and the Health Centre, I need to consider who has custody or control of the personal health information. “Custody” is the physical possession of a record by a trustee with a measure of control. “Control” means having authority over a record. Even though the totes were in the possession of the courier at the time of the incident, the SHA and the Health Centre as the trustees, continued to have responsibility/authority over the personal health information and were responsible to ensure it was properly safeguarded in transit. As such, the personal health information remained under the control of the trustees.

[12] As all three elements are present, I find that HIPA is engaged and that I have jurisdiction to undertake this investigation.

**2. Did the SHA and the Health Centre respond appropriately to this privacy breach?**

[13] In circumstances where there is no dispute that a privacy breach has occurred, my office’s investigation focuses on whether the trustee has appropriately handled the breach.

[14] The SHA indicated that the samples and requisitions at issue in this privacy breach were to be transported by the Courier to the Roy Romanow Provincial Lab, Regina General Hospital in Regina and the Royal University Hospital in Saskatoon. The Health Centre indicated its samples and requisitions were to be transported by the Courier to Victoria Hospital in Prince Albert, Roy Romanow Provincial Lab in Regina and St. Paul’s Hospital in Saskatoon. As stated in the Background, the samples and requisitions were contained in approximately 15 totes that were stolen along with the Courier’s van.

[15] When a privacy breach occurs, my office will assess how the breach was managed including how or if the trustee:

- Contained the breach (as soon as possible);
- Notified affected individuals (as soon as possible);
- Investigated the breach; and
- Prevented future breaches.

[16] I will consider how the SHA and the Health Centre addressed each of these steps.

***Contained the breach***

[17] It is important to contain the breach immediately. In other words, ensure that personal health information is no longer at risk. This may involve:

- Stopping the unauthorized practice;
- Recovering the records;
- Shutting down the system that was breached;
- Revoking access to personal health information; and
- Correcting weaknesses in physical security.

[18] In my office's [Investigation Report 197-2022, 215-2022](#), I stated that in assessing an institution's steps to contain the breach, my office applies a reasonableness standard. We want to have some reassurance that the institution has reduced the magnitude of the breach and the risk to affected individuals.

***a. SHA***

[19] On the date the breach occurred (June 7, 2023), the Courier's van and one tote were recovered. Approximately two weeks later (June 19, 2023), the remaining totes were recovered. However, the SHA noted that not all had their security tags in place.

[20] The SHA advised that “once recovered, the lab had ensured proper disposal of the sample and/or requisition in order to maintain patient confidentiality and safety.” The SHA further clarified that disposal was completed according to lab protocol for both SHA and non-SHA samples and requisitions.

[21] On June 9, 2023, the SHA issued a news release advising the public of the privacy breach and seeking public’s assistance in the search for the missing totes.

***b. The Health Centre***

[22] The Health Centre noted that as this breach was a result of theft, it was relying on the police to recover the stolen items. On June 14, 2023, the Health Centre shared the SHA’s media release in a Facebook post and posted a notification on its website. The Health Centre provided the following details regarding totes picked up from their location:

- 1 green tote for RRPL tests, 1 Burgundy tote for RQH tests and 1 small TDG box for Saskatoon tests, total of 3 totes were provided for the courier for transport.
- The green and burgundy totes were secured with plastic ties and the TDG box was sealed with cello tape.

[23] The Health Centre indicated that on June 28, 2023, they were advised by the SHA that some of the missing lab samples and requisition were recovered, along with a list of patients that were affected.

[24] SHA noted that while all totes were eventually recovered, some did not have their security tags in place. Because of this, there was not full containment, although ensuring the proper disposal of the sample and/or requisition to maintain patient confidentiality and safety was a positive step taken by the SHA. I find that SHA and the Health Centre each took appropriate steps to contain the privacy breach.

*Notified affected individuals*

[25] It is important to notify affected individuals for several reasons. Affected individuals have a right and need to know to protect themselves from any harm that may result. Trustees may also want to notify organizations, such as my office, law enforcement or other regulatory bodies that oversee professions.

[26] Notifications to affected individuals should include the following:

- A description of the breach (a general description of what happened);
- A detailed description of the personal health information involved (e.g., name, medical record, etc.);
- A description of possible types of harm that may come to them as a result of the privacy breach;
- Steps taken and planned to mitigate the harm and to prevent future breaches;
- If necessary, advice on actions the individual can take to further mitigate the risk of harm and protect themselves;
- Contact information of an individual within your organization who can answer questions and provide further information;
- A notice that individuals have a right to complain to the IPC (provide contact information); and
- Recognition of the impacts of the breach on affected individuals and an apology.

[27] The Prince Albert Police Service were notified by the Courier driver immediately upon becoming aware of the theft of the vehicle.

***a. SHA***

- [28] Based on the information known at the time of the breach, SHA identified 117 affected individuals. The SHA sent letters to them on June 9 and 10, 2023 notifying them of the breach. The SHA also sent letters to physicians (private clinics) notifying them of the breach and advising them to review patients who had samples collected within that timeframe so that affected individuals could be notified.
- [29] As noted earlier, the SHA also issued a media release informing the public of the privacy breach.
- [30] When the remaining missing totes were found on June 19, 2023, the SHA identified an additional 152 affected individuals. The SHA also sent notification letters to these individuals. As well, the SHA sent a second notification letter to the initial 117 affected individuals that were identified advising that the samples were found. The SHA advised that it sent notification letters to both SHA and non-SHA patients.
- [31] The SHA indicated that “unfortunately, not all totes were received back with the security tag in place.”
- [32] I find that SHA provided notification to the affected individuals. I note, however, its letters did not notify the individuals of their right to make a complaint to my office. In the future, I recommend SHA ensure its notification letters to affected individuals include their right to make a complaint to my office along with contact information for my office.

***b. The Health Centre***

- [33] As stated earlier in this Investigation Report, the Health Centre shared a Facebook post containing the SHA’s media release and also posted a notification on its website.



- [34] Regarding the number of affected individuals, the Health Centre traced the number through its lab registry, lab requisition records and lab appointment schedules. The Health Centre identified 117 affected individuals and attempted to contact them by telephone on June 7 and 8, 2023. The Health Centre also sent letters to the affected individuals on June 14, 2023 notifying them of the breach.
- [35] I find the Health Centre provided notification but note that its letters did not identify the specific data elements involved for each individual. In the future, I recommend the Health Centre ensure it provides such details to affected individuals if a breach such as this ever occurs again.

***Investigated the breach***

- [36] Investigating the privacy breach to identify the root cause is key to understanding what happened. Identifying the root cause will help prevent similar breaches in the future. The internal investigation should also consider whether the safeguards that were in place at the time of the incident were adequate.
- [37] SHA and the Health Centre both acknowledge that the privacy breach resulted from the theft of the Courier's van.
- [38] In an email to my office from the SHA on September 25, 2023, the SHA indicated that the lab incident report provided the following regarding the theft of the Courier's vehicle:

As is routine, the courier when to their shop (which is located in their yard, van was not parked on public street) and unloaded the blood product and other items to transfer to another driver. At this time the van was running for temperature control and unlocked as the driver was actively going between van and shop.

...

The vendor has provided service to that area for almost 40 years as well as provides service for Canadian blood services. We have looked for a service agreement but nothing could be located. Contrats [sic] is working on having updated services agreements with them as well as all other vendors that provide services to the SHA.

- [39] The SHA also noted most of the other sites rely on SHA couriers and “piggy back” their sample with SHA’s and do not have independent contracts. The Health Centre indicated that it had its own “existing historic agreement with Warrens Courier going back 30+ years.” However, it was not able to locate a copy of the agreement to provide to my office to review.
- [40] The Health Centre indicated that the breach occurred due to weakness in physical and administrative safeguards. The Health Centre stated the vehicle was not locked, and that it could not locate the agreement that was in place between itself and the Courier. The Health Centre stated that without an agreement, there was no clarification or administrative requirements to ensure the security and privacy of any information or samples that are being transported from the Health Centre.
- [41] “Administrative safeguards” are controls that focus on internal organization policies, procedures, and maintenance of security measures that protect personal health information. Examples include written policies and procedures, annual training for employees, confidentiality agreements, agreements with information management services providers, auditing programs, records retention and destruction schedules and access restrictions.
- [42] “Physical safeguards” are physical measures that protect personal health information and related buildings and equipment, from unauthorized intrusion and natural and environment hazards. Examples include locked filing cabinets, offices and storage rooms, alarm systems and clean desk approaches.
- [43] My office’s [Investigation Report 033-2023, 042-2023](#), concerned the theft of student records from the local post office. In that report, I acknowledged that no one anticipates such a theft to occur, and typically necessitates the need for police involvement. I am of the same opinion in this matter in that certainly no one would anticipate the theft of the Courier’s van. I am satisfied, then, that both SHA and the Health Centre understood there were deficiencies in its safeguards.

***Prevented future breaches***

- [44] Once you contain a breach and identify a root cause, you want to recommend and implement solutions that help towards preventing the same type of breach from occurring again. Prevention is one of the most important steps. A privacy breach cannot be undone but a trustee can learn from one and take steps to help ensure that it does not happen in the future. To avoid future breaches, trustees should make a prevention plan.

***a. SHA***

- [45] In July 2023, SHA noted it was conducting a review to assess current processes and safeguards as well as security and tracking measures of laboratory totes. On September 25, 2023, the SHA provided the following update on the recommendations that were made and target dates for completion:

Action Item	Target Date	Status
Review current couriers to determine if they have tote tracking capabilities that can be implemented	November 30, 2023	Current vendor does not have automated system to allow tracking. We are looking at current route and what options are available with other existing service providers and if any options to change
Develop documentation outlining community response to scenarios of found samples for those other than ERAP	December 31, 2023	
Messaging to be developed for external partners for requirements of sample tracking when using our transportation	October 31, 2023	
Develop standardized contract language for courier services for security of samples, sign off of SHA confidentiality agreements, etc.	TBD	In progress

Determine process for monitoring or auditing TDG training of contracted vendors/courier services	TBD	
Conduct an audit to confirm important samples are being tracked by lab and external partners	TBD	

- [46] I am satisfied that the SHA is undertaking steps to ensure it has a written agreement in place, but recommend that it has a written agreement in place within 30 days of the issuance of this Investigation Report. The agreement needs to include a provision that courier vehicles be locked and not running when unattended.

***b. The Health Centre***

- [47] The Health Centre advised that as a result of this incident, it has advised the Courier of its requirement to keep all totes, samples and/or specimens secure when they are in the Courier's possession. This includes ensuring any vehicles used to transport the samples and specimens are locked and secure, and that the totes containing the samples are not left unattended for any reason. The Health Centre further advised that as of June 23, 2023, lab samples that are picked up by the courier at the end of the day are now to be held at the Victoria hospital overnight instead of being held by the Courier.
- [48] In an email dated September 19, 2023, the Health Centre noted that it was "completing a solo effort to draft & implement a new services contract for [their] third party courier company." On November 14, 2023, the Health Centre forwarded my office a copy of its signed agreement with the Courier. This agreement included the following provision:

**17. Care and Control**

17.1 Warren's Parcel Express hereby agrees that once items are picked up from the Prince Albert Co-operative Health Centre, that Warren's Parcel Express will ensure security and control of all items picked up. Warren's Parcel Express will ensure that all

items to be delivered will not be left unsecured or unattended at any time, prior to them fulfilling the delivery of the requested items.

- [49] I am also satisfied that the Health Centre is undertaking adequate steps to prevent similar breaches from occurring in the future. I note, however, that its agreement does not speak specifically to unattended vehicles being locked. I recommend, then, that within 30 days of the issuance of this Report, the Health Centre amends its agreement to require unattended vehicles to be locked and not running.

### **III FINDINGS**

- [50] I find that I have jurisdiction to conduct this review.
- [51] I find that the SHA and the Health Centre took appropriate steps to contain the privacy breach.
- [52] I find that the SHA and the Health Centre provided notice to the affected individuals.
- [53] I find that the SHA and the Health Centre conducted an adequate investigation.
- [54] I find that the SHA and the Health Centre undertook adequate steps to prevent future breaches from occurring.

### **IV RECOMMENDATIONS**

- [55] I recommend the SHA ensure its notification letters to affected individuals include their right to complain to my office and contact information for my office.
- [56] I recommend the Health Centre ensure it provides details on the type of personal health information involved in its notification letters to affected individuals when a breach occurs.

[57] I recommend that within 30 days of the issuance of this Investigation Report, the SHA ensure a written agreement is in place with its third-party couriers, including clear provisions regarding vehicles being locked when unattended.

[58] I recommend that within 30 days of the issuance of this Investigation Report, the Health Centre amends its agreement to require unattended vehicles to be locked and not running.

Dated at Regina, in the Province of Saskatchewan, this 21st day of November, 2023.

Ronald J. Kruzeniski, K.C.  
Saskatchewan Information and Privacy  
Commissioner