

# CANADIAN PRIVACY BREACH NOTIFICATION REQUIREMENTS<sup>1</sup>

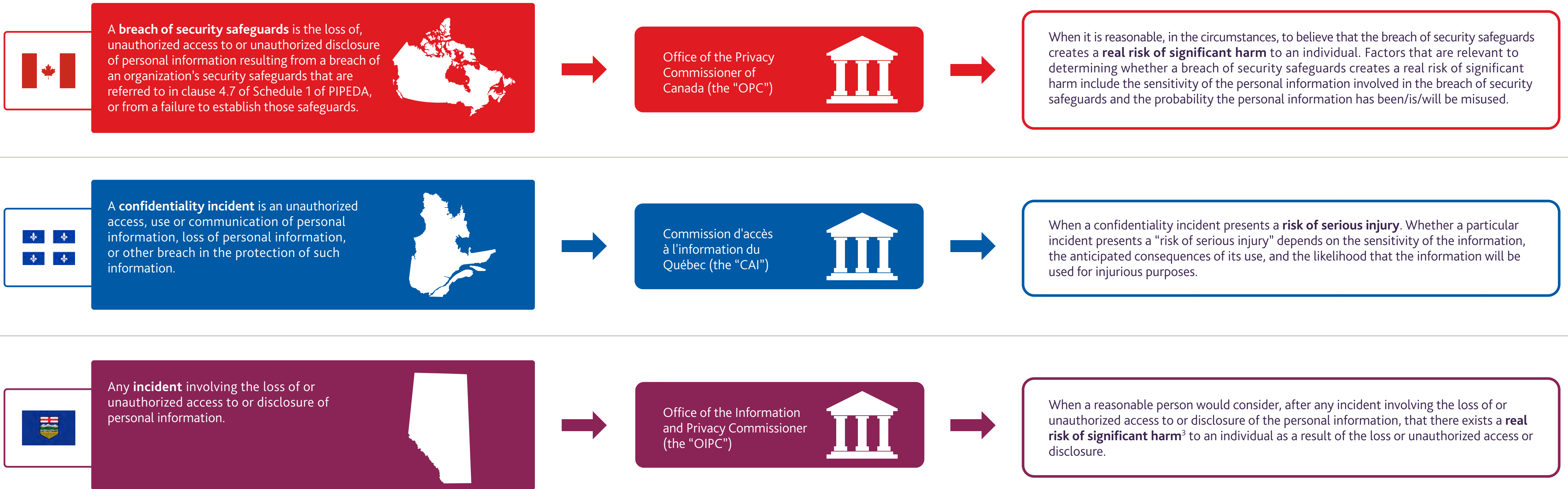
- 🇨🇦 Federal privacy legislation is the Personal Information Protection and Electronic Documents Act (“PIPEDA”)
- 🇧🇪 Québec’s privacy legislation is the Act to modernize legislative provisions respecting the protection of personal information (“Québec Act”)
- 🇦🇧 Alberta’s privacy legislation is the Personal Information Protection Act (“PIPA AB”)<sup>2</sup>

## WHAT IS A PRIVACY BREACH?

## WHO NEEDS TO NOTIFY WHOM?

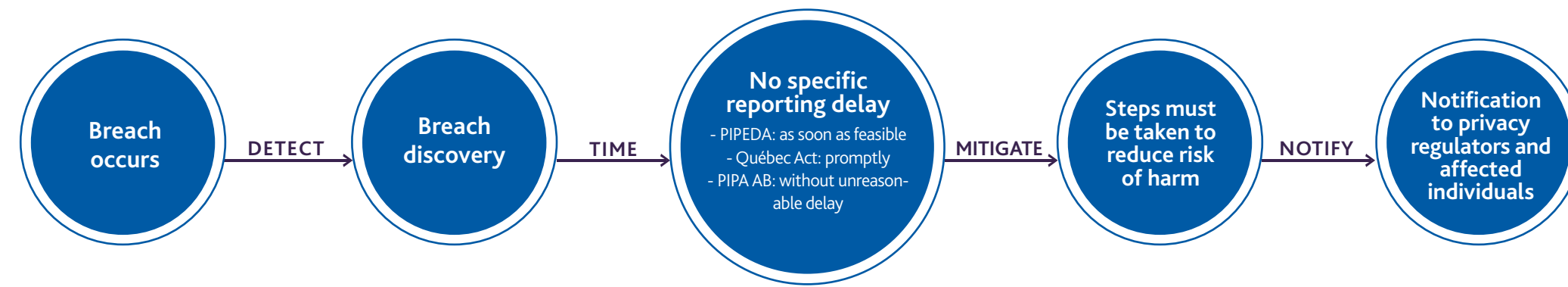
## WHEN IS NOTIFICATION MANDATORY?

The principal organization having control of the personal information must notify the affected individuals and the relevant privacy regulators



<sup>1</sup>Please note that this document does NOT touch on notification/reporting requirements under privacy public sector and health information laws. <sup>2</sup>Although not addressed in this document, please note that other Canadian jurisdictions may "effectively" mandate notification, even if not statutorily required, because failure to notify the individual may be considered a contravention of other privacy requirements or against other rules or laws. <sup>3</sup>It is worth noting that, in practice, Alberta's "real risk of significant harm" threshold has been set very low.

## NOTIFICATION PROCESS



## NOTIFICATION REQUIREMENTS TO PRIVACY REGULATORS: REQUIREMENTS BY JURISDICTION



Information about the organization			
Name of the organization	●	●	●
Contact information of a person within the organization who can answer questions about the breach	●	●	●
Breach description			
Description of the circumstances of the breach	●	●	●
Description of the cause of the breach, if known	●	●	●
Date or period during which the breach occurred (or approximate if unknown)	●	●	●
Date on which the organization became aware of the incident	●	●	●
Description of the personal information that is the subject of the breach if known. If unknown, the reasons why it is impossible to provide such description.	●	●	●
Number of individuals affected by the breach (or approximate if unknown)	●	●	●
Number of individuals affected by the breach in Québec (or approximate if unknown)		●	
Number of individuals affected by the breach in Alberta (or approximate if unknown)			●
Description of risk mitigation steps			
Assessment of the risk of harm to individuals			●
Description of the elements that led the organization to conclude that there is a risk of serious injury to affected individuals		●	
Steps the organization has taken to reduce/mitigate the risk of harm to affected individuals	●	●	●
Steps the organization has taken or intends to take to notify affected individuals of the breach	●	●	●
Steps taken or planned, including those to prevent new incidents of the same nature (with timeline)		●	●
Other			
Updates to be provided to the CAI as soon as possible when known by the organization		●	
Other organizations (e.g. regulators) informed about the incident (if applicable)	●	●	●

## NOTIFYING AFFECTED INDIVIDUALS: REQUIREMENTS BY JURISDICTION



Direct Notice			
Notice must be given directly to the affected individuals, unless prescribed circumstances for indirect notices are otherwise legislatively provided	●	●	●
Breach description			
Description of the circumstances of the breach	●	●	●
Date or period during which the breach occurred (or approximate if unknown)	●	●	●
Description of the personal information that is the subject of the breach if known. If unknown, the reasons why it is impossible to provide such description.	●	●	●
Description of risk mitigation steps			
Steps the organization has taken to reduce/mitigate the risk of harm to affected individuals	●	●	●
Steps affected individuals could take to reduce/mitigate the risk of harm	●	●	
Contact information of a person who can answer for the organization questions about the breach	●	●	●

## RECORD-KEEPING OBLIGATIONS



Breach description		
Description of the circumstances of the breach	●	●
Date or period during which the breach occurred (or approximate if unknown)	●	●
Number of individuals impacted by the breach and the number of individuals residing in Québec (or approximate, if unknown)		●
Description of the personal information that is the subject of the breach if known. If unknown, the reasons why it is impossible to provide such description.	●	●
Description of risk mitigation steps		
Description of the elements that led to conclude that there is a risk of serious injury to affected individuals		●
Assessment of the risk of harm to individuals	●	
If the incident presents a risk of serious injury/real risk of significant harm, the dates of transmission of the notices to the privacy regulator and to the persons concerned. If indirect notification, the rationale justifying it	●	●
Steps the organization has taken to reduce the risk of harm to affected individuals		●
Other		
Date on which the organization became aware of the incident		●
Minimum duration for which the breach record is kept	2 years	5 years

# CONTACTS

Our team is at your disposal to help review your practices and processes. Please do not hesitate to contact us at any time.



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