

# Information Management in an Electronic Age

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ACTION for Health

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# Information Management in an Electronic Age



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# Overview



- Duty of Confidentiality: Law and Ethics
- Right of Access
- Consensual Release
- Non-Consensual Release
- Electronic Patient Records
  - Better protection
  - Worse protection
  - Loss of privacy

# Nature of Personal Health Information

- Worthy of highest protection
- Varying degrees of sensitivity
- Sensitivity context-specific



# Duty of Confidentiality: Ethics



- American Dental Association:

“Dentists are obliged to safeguard the confidentiality of patient records.”

- Canadian Dental Association:

“Patient information acquired in the practice of dentistry, shall be kept in strict confidence except as required by law.”

# Duty of Confidentiality: Law

- “Nobody would dispute that a secret...is the secret of the patient, and, normally, is under his control, and not under that of the doctor. Prima facie, the patient has the right to require that the secret shall not be divulged; and that right is absolute, unless there is some paramount reason which overrides it.”

Supreme Court of Canada 1928

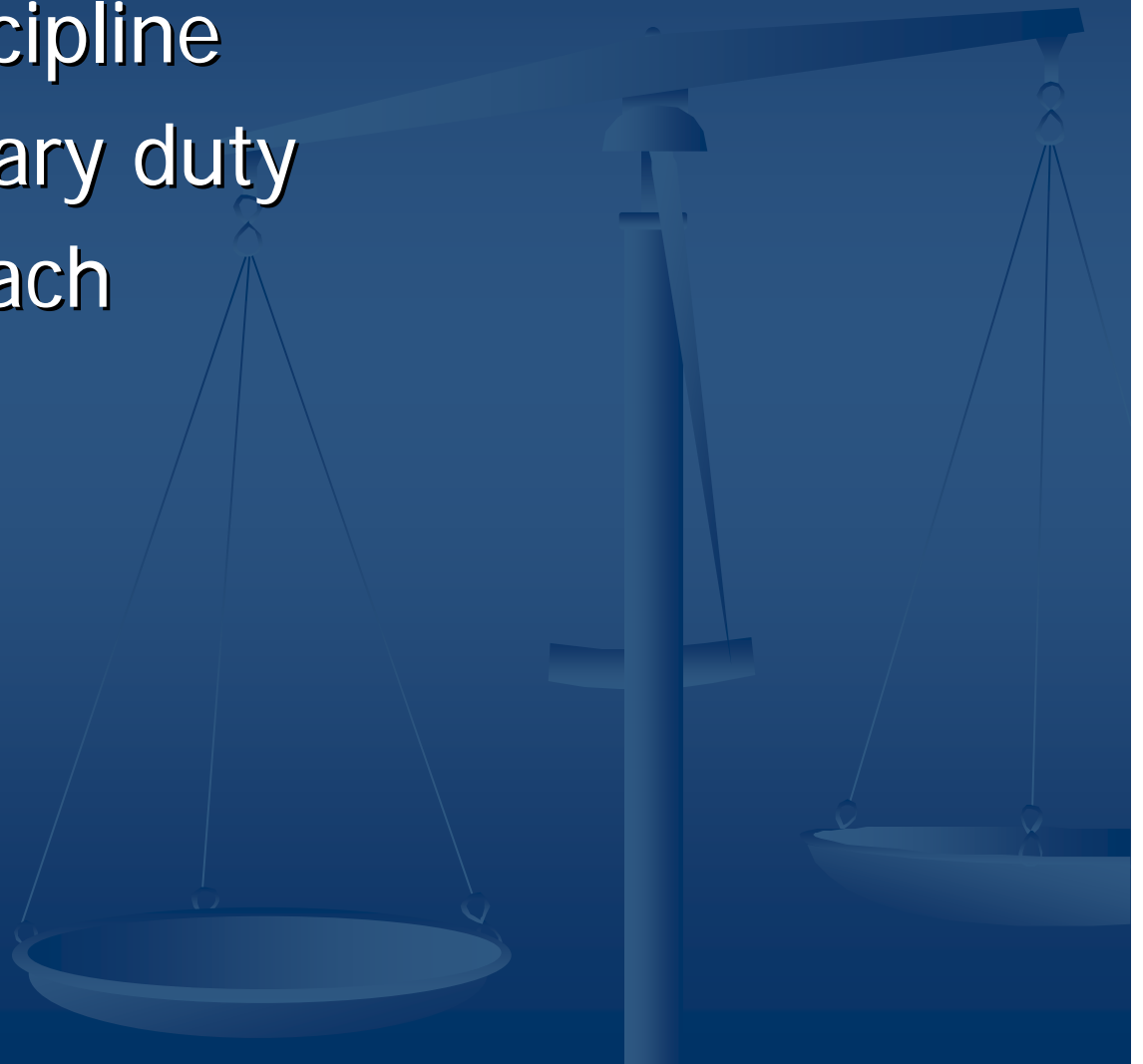
# Duty of Confidentiality: Law

- "Information provided by a patient to a dentist can be every bit as sensitive as that provided to a physician. In my opinion, the same principles apply to the treatment of dental charts and records as apply to the treatment of medical records of physicians."

Ontario Court (General Division) 1993

# Recourse in Law

- Professional discipline
- Breach of fiduciary duty
- Contractual breach
- Legislation



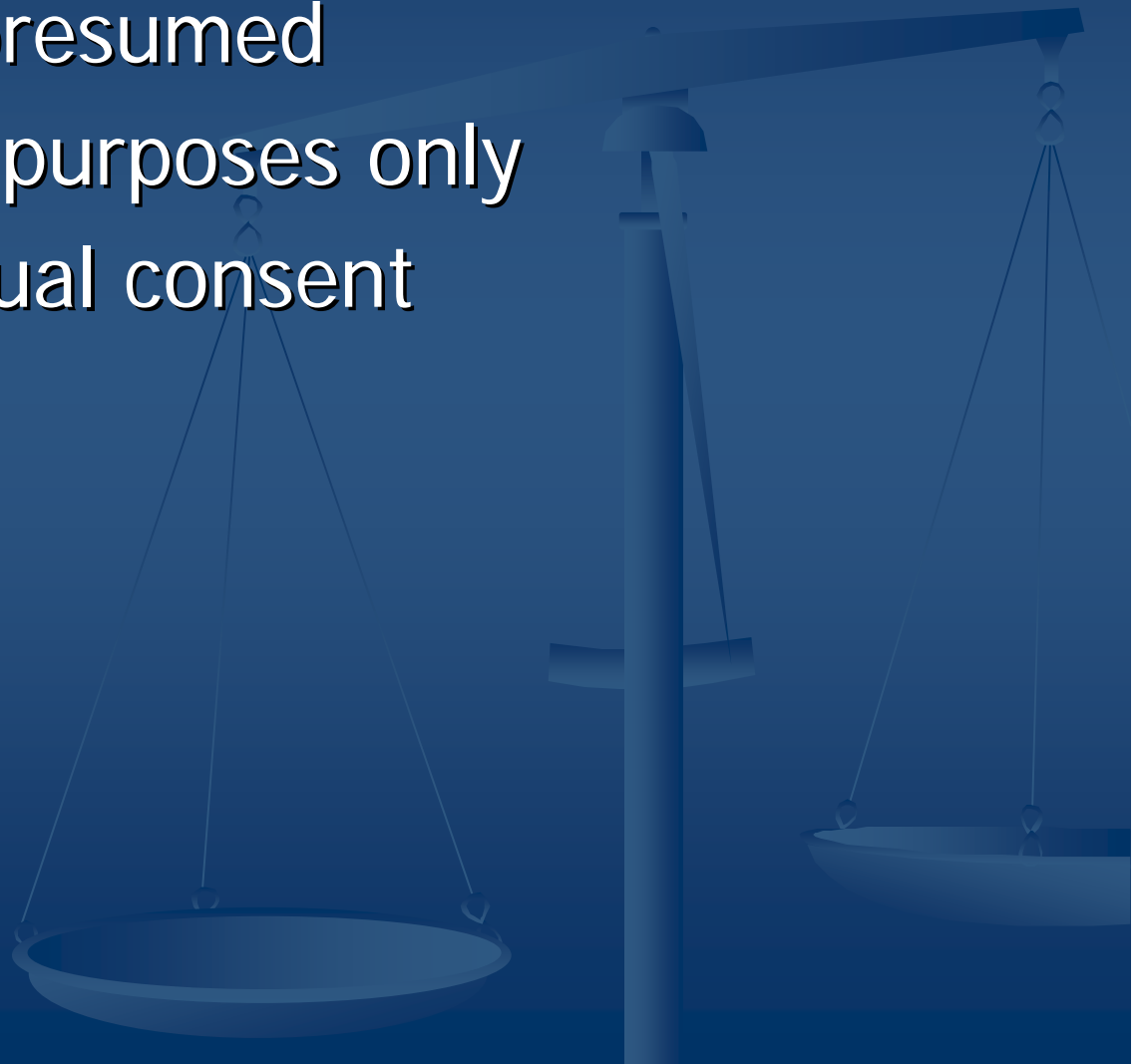


# Consensual Release: Patient's Right of Access

- Dental Board of Queensland:  
“Patients have a general right of access to their own health records.”
- Canadian Dental Association:  
“Such records or reports of clinical information must be released to the patient or to whomever the patient directs, when requested by the patient.”

# Consensual Release: To Other Healthcare Providers

- Consent often presumed
- For therapeutic purposes only
- Safer to get actual consent



# Consensual Release: To Surrogate Decision-Maker

- Steps into shoes of patient
- Only in case of incapacity



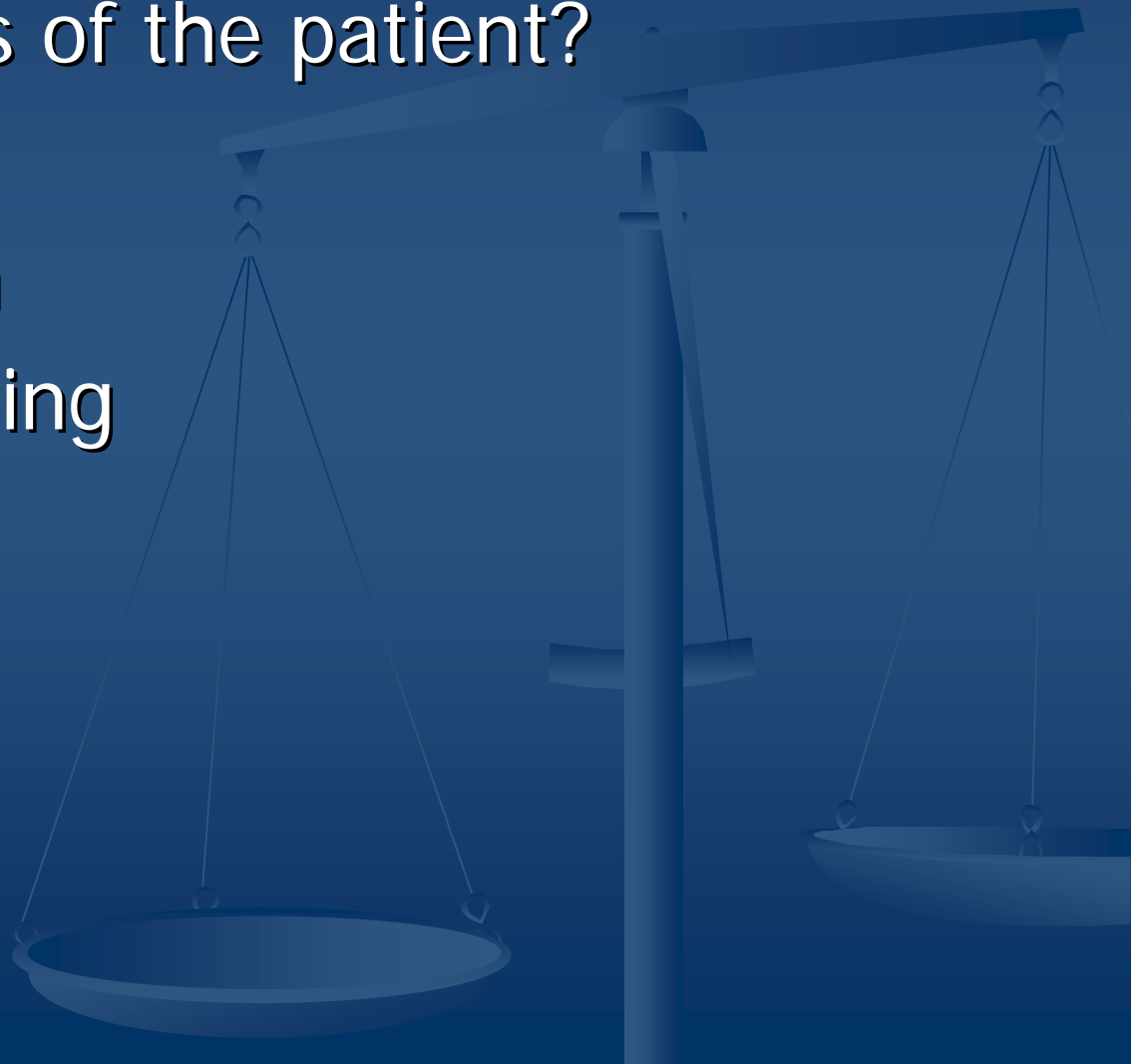
# Consensual Release: To Other Third Parties

- With consent of patient/surrogate
- Preferably in writing



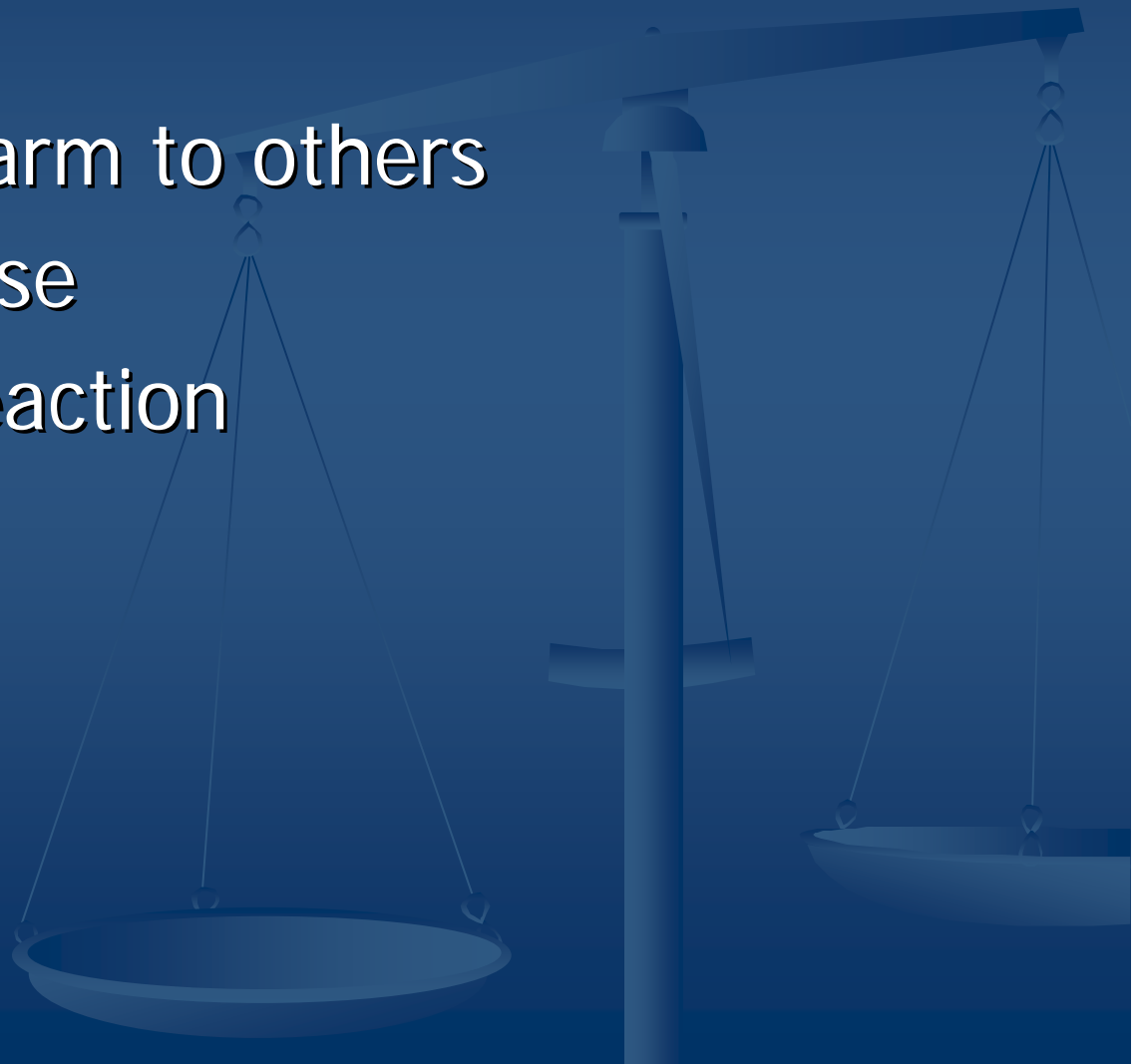
# Non-Consensual Release for the Patient's Sake

- In best interests of the patient?
- Emergency
- Adult protection
- Narcotics reporting



# Non-Consensual Release in Others' Interest

- Child abuse
- Prevention of harm to others
- Infectious disease
- Adverse drug reaction



# Release for Legal Proceedings

- Civil action
- Subpoena
- Search warrant
- Discipline
- Bankruptcy



# Electronic Health Records

- Better protection
- Worse protection
- Loss of privacy



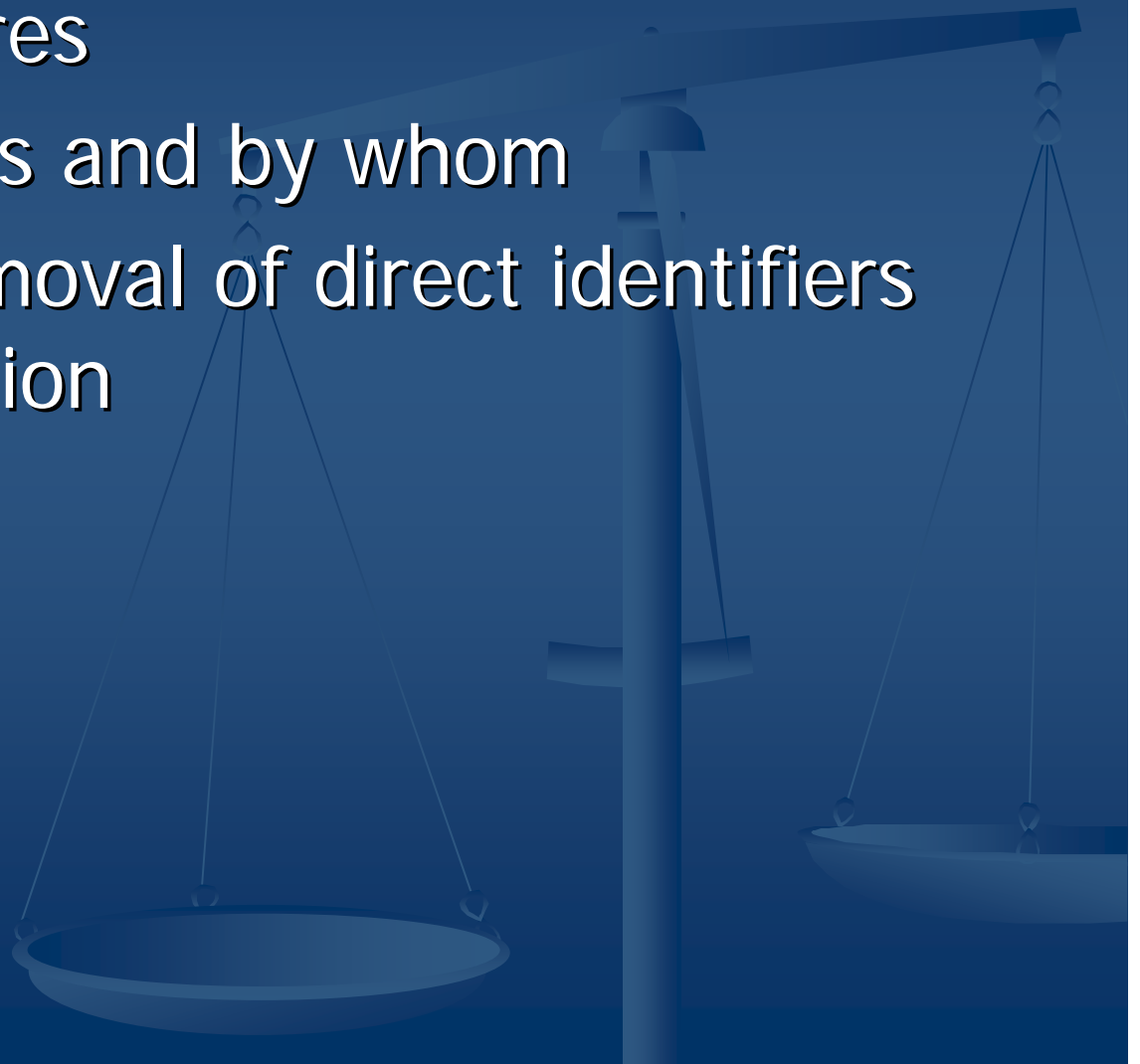


# Electronic Health Records: Definition

- “An electronic health record provides a ‘collection of personal health information of a single individual, entered or accepted by health care providers and stored electronically.’ Data are entered on individuals’ personal health records every time they visit their physician, have a prescription filled, have a lab test, or go to the hospital.”  
Romanow Commission

# Better Protection

- Security measures
- Record of access and by whom
- Potential for removal of direct identifiers and anonymization



**THE GLOBE AND MAIL**

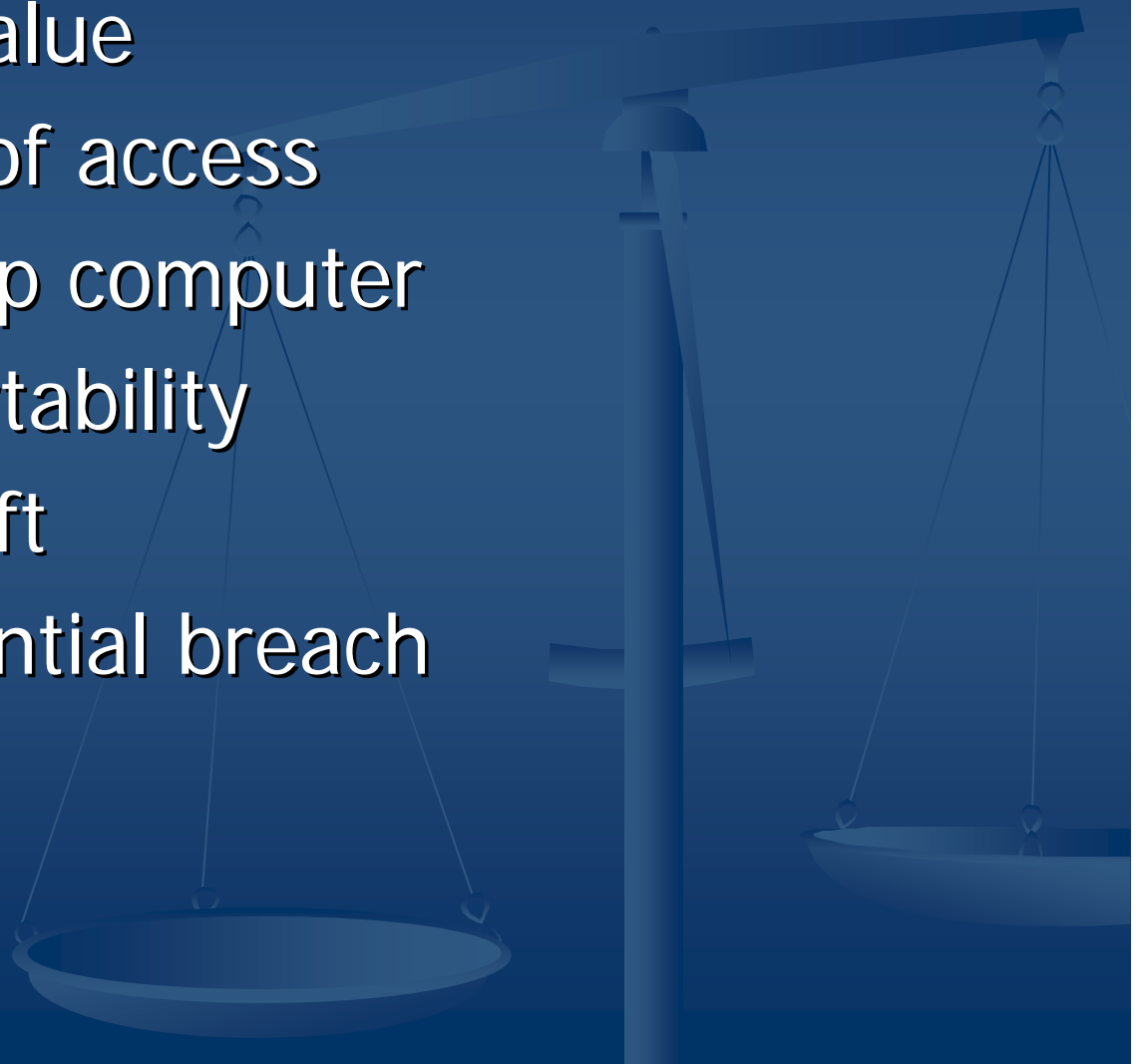
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**REGINA POLICE LAUNCH DATA  
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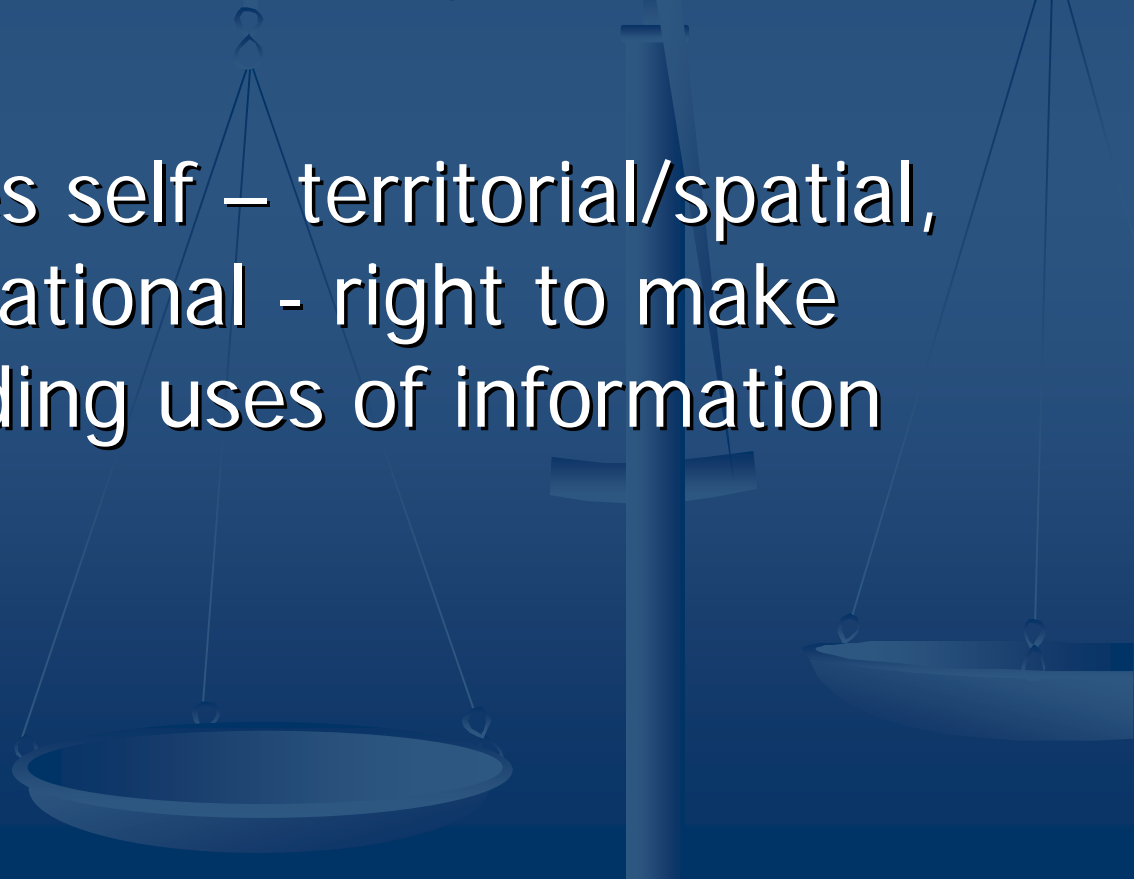
# Worse Protection

- Informational value
- Multiple points of access
- Views of desktop computer
- Laptop transportability
- Information theft
- Breadth of potential breach



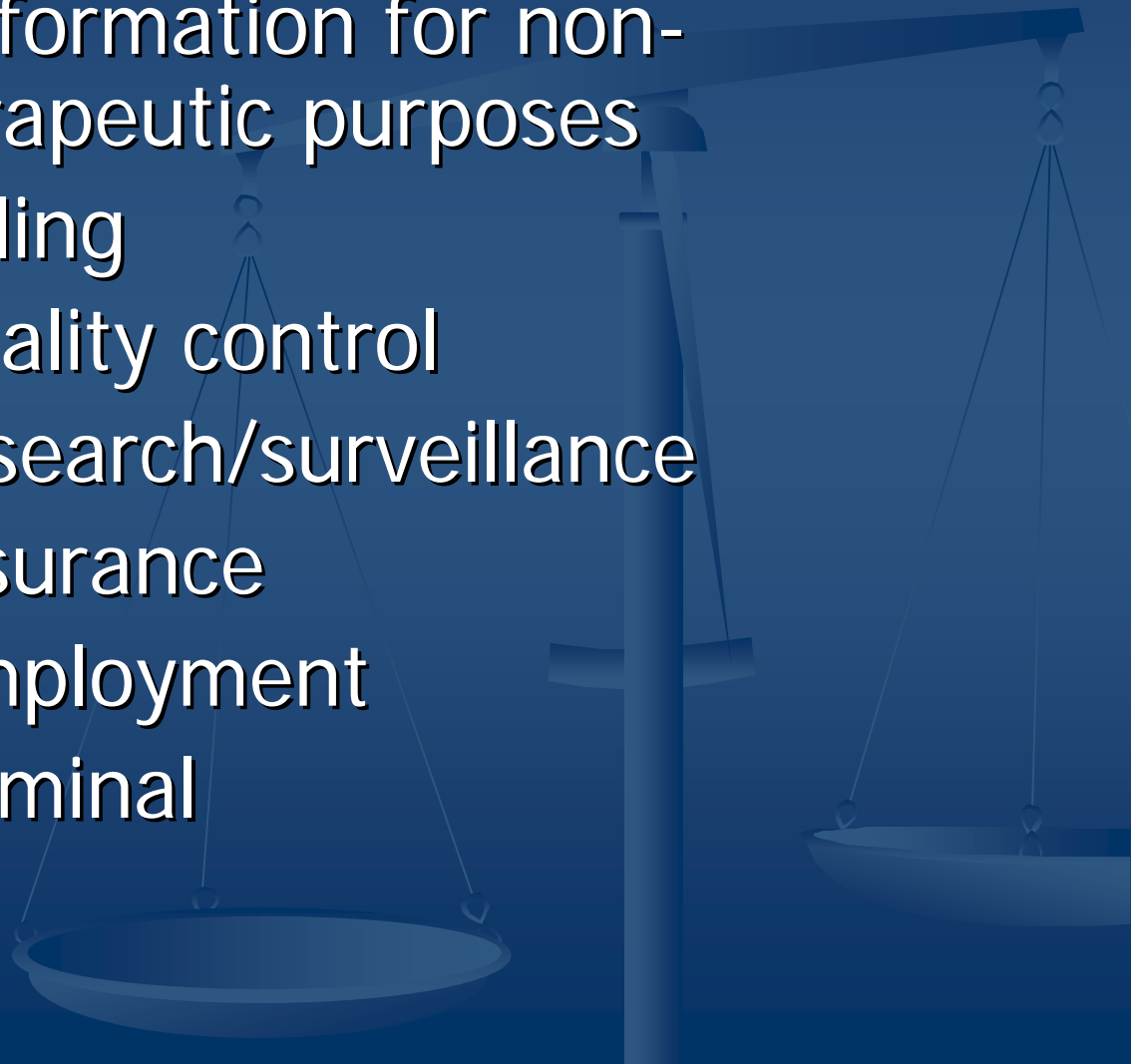
# Loss of Privacy

- Confidentiality: Responsibility to safeguard the information entrusted by another
- Privacy: Involves self – territorial/spatial, physical, informational - right to make decisions regarding uses of information



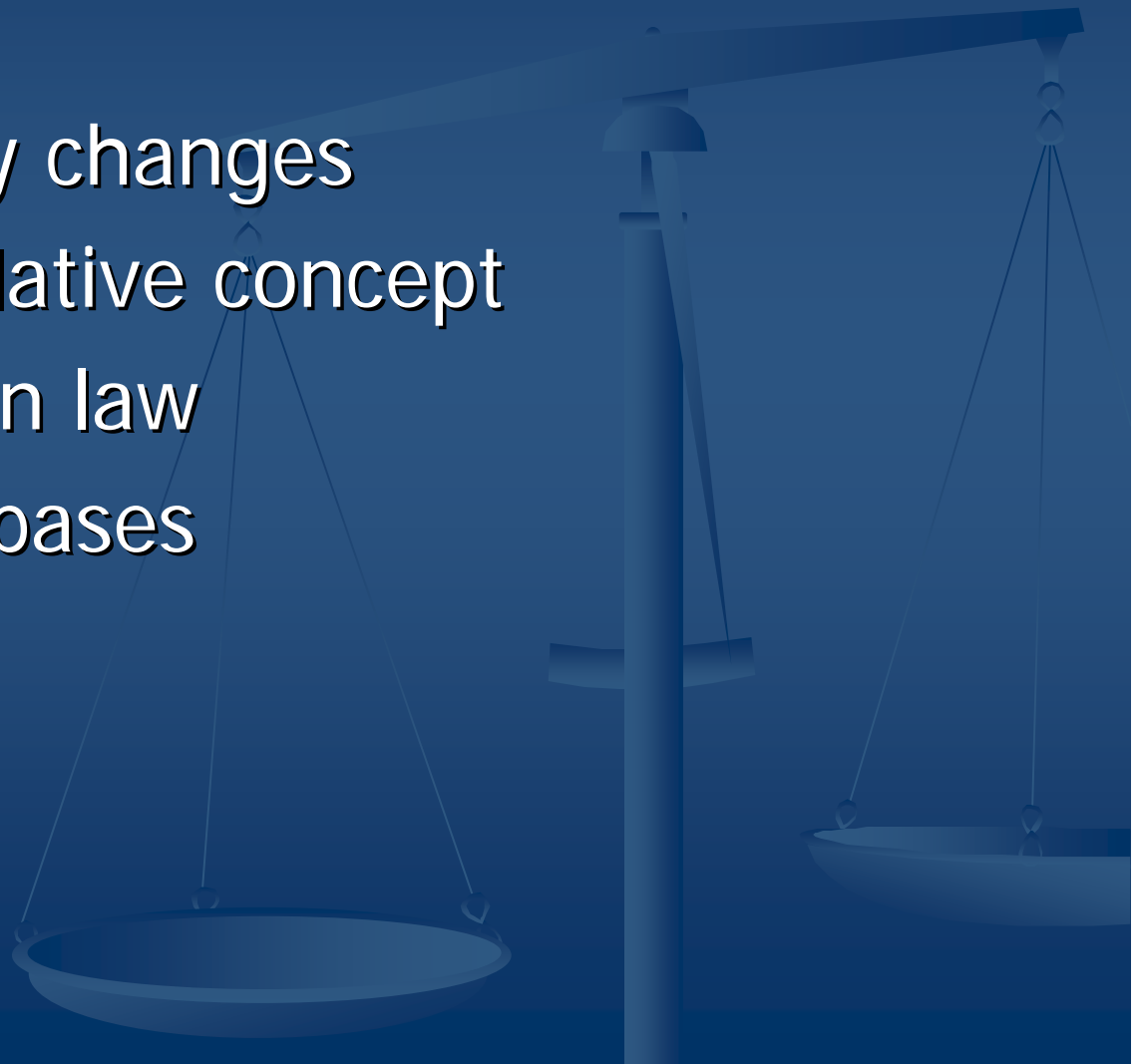
# Secondary Uses

- Use of health information for non-individually-therapeutic purposes
- Examples:     billing  
                  quality control  
                  research/surveillance  
                  insurance  
                  employment  
                  criminal

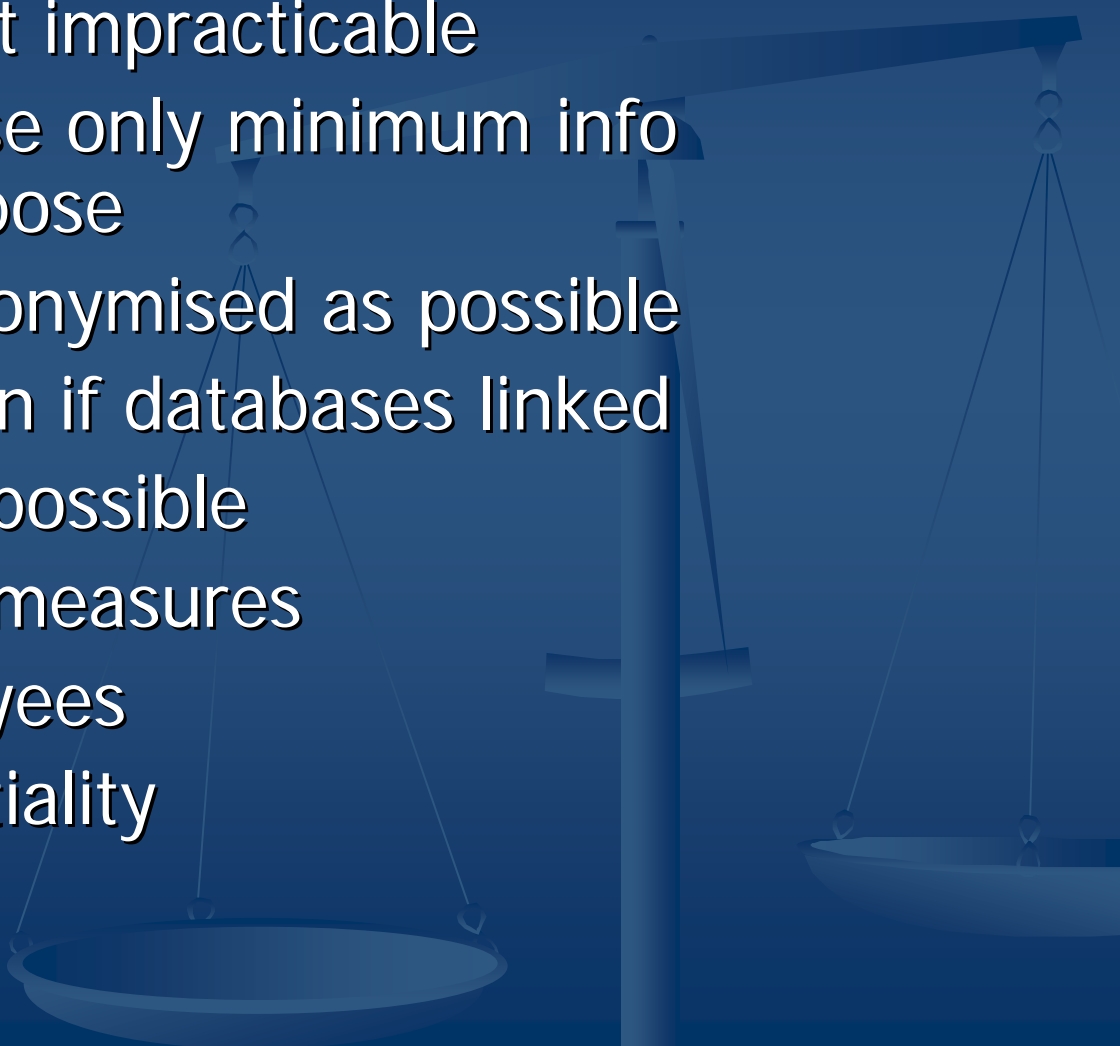


# Secondary Uses

- Standard rapidly changes
- Anonymity is relative concept
- Little guidance in law
- Linkage of databases



# Practical Measures

- Consent where not impracticable
  - Collect/use/disclose only minimum info necessary for purpose
  - Information as anonymised as possible
  - Heightened caution if databases linked
  - Aggregate where possible
  - Rigorous security measures
  - Training of employees
  - Oaths of confidentiality
- 



Quaere: Are electronic health records a positive step? At what cost?





Questions/Comments?

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