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IPC PERSPECTIVES

INFORMATION AND PRIVACY COMMISSIONER / ONTARIO

TOM WRIGHT, COMMISSIONER

Workshop '92 **Access & Privacy: Making It Work**

THIS YEAR'S ACCESS AND PRIVACY WORKSHOP, held in Toronto on November 9 and 10, offered hands-on sessions designed to increase skills as well as provide helpful information on the access and privacy field. Over 400 participants gathered to discuss key topics and share ideas with colleagues from a wide range of organizations including municipalities, police forces, school boards, public utility commissions, ministries, community colleges and library boards.

This workshop was co-sponsored by the Office of the Information and Privacy Commissioner/Ontario (IPC), the Freedom of

Information and Privacy Branch, Management Board Secretariat (MBS) and the Association of Municipal Clerks and Treasurers of Ontario.

"Access & Privacy: Making It Work" was the workshop theme. Individual panel and round table sessions addressed topics ranging from the electronic office to information and records management and human resource issues. Customer service was also a focus.

At a session chaired by Jan Ruby, Assistant Deputy Minister, Management and Policy Division of MBS, panellists discussed how

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Workshop registrants share ideas during "round table" sessions.



B.C.'s Bill 50

The B.C. Act has been influenced by and is similar to Ontario's scheme.

CANADA'S PROVINCES HAVE TAKEN VARYING approaches to freedom of information and protection of privacy legislation. This article briefly describes British Columbia's latest legislative developments in access and privacy. For further details, refer to B.C.'s *Freedom of Information and Protection of Privacy Act* (Bill 50).

B.C.'s Bill 50 received third reading on June 23, 1992. It will come into effect in the fall of 1993 and will apply to records in the custody or control of provincial government bodies. The B.C. government has made public its intention to introduce "a legislative initiative" in the 1993 spring session to cover local government and other public bodies.

The B.C. Act has been influenced by and is similar to Ontario's scheme. However, overall, Bill 50 appears to go further than Ontario's legislation in four areas:

- it broadens the amount of information government organizations must release to the public;
- it augments the amount of personal information government institutions must release to individuals to whom the information relates;
- it goes further in protecting the personal privacy of individuals; and
- it gives more independence and authority to the Information and Privacy Commissioner.

The following are a few examples of how B.C.'s legislation differs from Ontario's legislation.

On the access side:

- the exemptions to the right of access in the B.C. statute are more limited in scope than in Ontario's legislation. There are fewer class exemptions and more exemptions where access must be given unless harm to a government organization or a third party can be shown.

- Routine disclosure is encouraged by statute. This means that government organizations have the authority to identify records that the public can access without making a formal access request.

On the privacy side:

- The B.C. legislation provides that disclosure by a public body of an individual's personal information – for use in mailing lists or telephone solicitation – would be an unreasonable invasion of privacy.

For further information, see the IPC paper, "Recent Developments in Canadian Freedom of Information Law – Survey of Canadian Jurisdictions" prepared for the Council on Governmental Ethics Laws (COGEL) last September. A copy may be obtained from the IPC Communications department.

Upcoming Conference

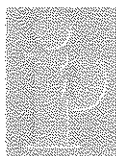
Privacy and Technology – a one day training session

February 22, 1993

Mariott Hotel (Toronto Eaton Centre)

This one day session will review how information technology has changed the ways in which personal information is handled. It will also discuss whether current government laws are sufficient to protect the privacy of individuals.

For further information or registration contact: Tom Riley, Riley Information Services Inc., 633 Bay Street, Suite 2207, Toronto, Ontario M5G 2G4; telephone (416) 593-7352; fax: (416) 593-0249.



WORKSHOP '92

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*Ruth Grier –
Minister of the
Environment and
Minister responsible for the Greater
Toronto Area –
opened workshop
proceedings.*

customer service can be successfully incorporated into the access and privacy field.

Panellist Irwin Glasberg, Director of Appeals at the IPC addressed the IPC's initiatives to streamline the appeal process to meet the needs of the office's two major client groups – appellants and government organizations.

Robin Keirstead, Manager of Corporate Records for the Municipality of Waterloo and Fred Jones, FOIP Co-ordinator at the Ministry of Revenue focused on staff training as the basic ingredient for excellent customer service. As Robin advised, "Customer service means a lot more than responding to requests ... it requires proper staff training". Fred Jones agreed and went on to suggest that "customer service" is not in itself a satisfactory goal. We must reach for "customer satisfaction".

Information and Privacy Commissioner Tom Wright also discussed customer service. The following comments are from Commissioner Wright's keynote address on November 10:

"... if we want to make more significant improvements to customer service and efficiency, I believe that we need to focus on the front end of the process and the role that government organizations can play.

In particular, I continue to encourage the routine disclosure of general records by governments at all levels. This means auto-

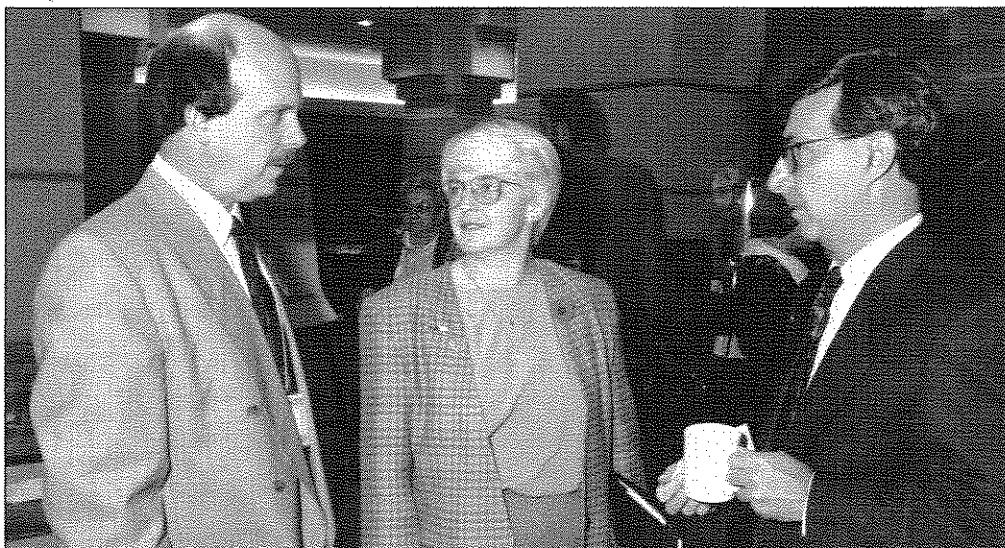
matically disclosing information that the public has a right to know – as part of a government organization's regular practice, not just in response to access requests...

If routine disclosure of general records were practised more regularly, the public would not only be better informed but would avoid the request process entirely. In addition to creating greater public satisfaction, routine disclosure would lead to a more open relationship between governments and the publics they serve ...

On the privacy side ... government organizations must work to improve privacy protection before breaches occur. Continuing staff education is essential to ensure that all employees are aware of how the *Acts* relate to their work. Privacy protection measures and considerations need to be incorporated into the daily business practices of government organizations...

Although access and privacy are in their early stages in Ontario, they are developing rapidly. Our challenge is to work to ensure that the fields of access and privacy continue to develop in a manner that respects the rights of the people of this province and protects individual dignity. We need to continually strive to make access and privacy work better. The people of Ontario deserve our continued best efforts."

Discussing workshop
highlights are, from left to
right: Tom Wright, The Hon.
Ruth Grier and Frank White.



The Year 1992 in Review

The following are some of the main events of 1992, as they relate to freedom of information and protection of privacy.

JANUARY – The Ministry of Municipal Affairs releases an “Open Local Government” draft legislation package “designed to enhance accountability and openness of local government.”

FEBRUARY 27 – The federal government announces plans to merge the federal information and privacy offices.

MARCH 29 – Ontario’s Information and Privacy Commissioner Tom Wright discusses access and privacy at the “B.C. FOI and Privacy Week” conference.

APRIL 1 – Saskatchewan proclaims Bill 70, *The Freedom of Information and Protection of Privacy Act* in force.

MAY 6 – A CRTC decision requires phone companies to provide “per call automated blocking free of charge” to those subscribers who request it.

MAY 27 – Federal Privacy Commissioner Bruce Phillips releases a report entitled “Genetic Testing and Privacy”.

JUNE 23 – British Columbia’s *Freedom of Information and Protection of Privacy Act* receives third reading.

JUNE 30 – Federal Communications Minister Perrin Beatty unveils draft plans to protect consumer privacy in the area of telecommunications goods and services.

JULY – The IPC makes a submission to the Ontario Telephone Service Commission (OTSC) addressing call management services.

AUGUST 21 – An Ontario Court judge rules that under the municipal *Act*, a list of names of welfare recipients should not be released to a local council.

SEPTEMBER – The IPC makes a submission to the Ontario Law Reform Commission on genetic testing.

SEPTEMBER – The IPC makes a submission to the OTSC entitled “Privacy and Telecommunications”.

SEPTEMBER – The Ontario Law Reform Commission releases its report on drug and alcohol testing in the workplace.

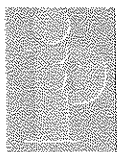
SEPTEMBER 21 – The IPC releases “Submission on Privacy and Telecommunications – Discussion Paper and Proposed Principles” to the Federal Department of Communications.

OCTOBER 27 - 29 – Information and Privacy Commissioner Tom Wright makes a presentation at the 14th International Data Protection & Privacy Commissioners Conference in Sydney, Australia.

NOVEMBER – La Commission d’accès à l’information du Québec rules that unless a crime is being committed, police surveillance through videotaping pedestrians is not authorized under Quebec’s FOIP legislation.

NOVEMBER 19 – The Federal Court of Canada rules that the government did not have reasonable grounds to withhold disclosure of government commissioned public opinion polls on national unity and constitutional reform.

DECEMBER 7 – In the IPC annual report, Commissioner Wright calls on the Ontario government to introduce amendments to the provincial *Act* recommended by the Standing Committee on the Legislative Assembly after its three-year review of the legislation.



Verbatim Reporters

*A practical
resource for
government
organizations.*

THE IPC HAS RECENTLY UPDATED ITS GUIDELINES on the use of "Verbatim Reporters at Administrative Hearings". After surveying the use of verbatim reporters by government organizations, the IPC concluded that the original guidelines, issued in April 1991, should be updated to include the following recommendations. Government organizations should:

- develop internal policies and procedures to ensure that privacy considerations are addressed;
- have formal contracts or agreements with the reporting services they use; and
- conduct an on-site visit to reporting services prior to entering into an agreement. They

should follow-up with visits at reasonable intervals to ensure that the reporting service is complying with the terms of the agreement.

A number of government organizations use the services of verbatim reporters to record proceedings of administrative hearings and inquiries. The records generated by these verbatim reporters may contain personal information, and consequently may fall under the privacy provisions of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*.

The guidelines are a practical resource to assist government organizations in addressing privacy issues. A copy may be requested from the IPC Communications department.

Telecommunications Initiatives

LAST SUMMER, THE ADVISORY COMMITTEE ON A Telecommunications Strategy for the Province of Ontario submitted its report to the Minister of Culture and Communications. In a recent letter to the Minister of Culture and Communications, the IPC commended the efforts of the Advisory Committee for preparing a framework for new initiatives in the area of telecommunications.

The IPC is particularly pleased to see that the Advisory Committee's Report contains a recommendation that guidelines be developed to enhance the protection of personal privacy in the face of the new technologies. This is particularly relevant with regard to the European Commission's Directive on Data Protection. When this comes into effect it may prevent the transfer of information from EC countries to countries where data protection standards are not "adequate".

The IPC believes the Advisory Committee must consider the significant impact of the implementation of a telecommunications strategy on access to information and the protection of privacy.

Anyone who wishes a copy of the Advisory Committee's report may contact the Ministry of Culture and Communications at 77 Bloor Street West, 6th floor, Toronto, Ontario M7A 2R9; telephone (416) 326-9600.

Q&A

Q & A is a regular column featuring topical questions directed to the IPC.

Q: *I represent a local school board and would like to know whether I should release a record.*

A: The Freedom of Information Branch at Management Board Secretariat can provide you with the assistance you need. Simply contact a policy advisor at the FOI branch. The branch helps organizations that are covered by the *Acts* by providing training, legal, policy and operational advice.

The Freedom of Information Branch may be contacted at:

56 Wellesley Street West
18th Floor
Toronto, Ontario
M7A 1Z6

phone: (416) 327-2187

fax: (416) 327-2190

IPC Summary of Statistics

TO KEEP READERS INFORMED ON THE VOLUME of appeals and compliance investigations processed each quarter, the IPC is publishing relevant statistics in each issue of *IPC Précis*. For your convenience, *Perspectives* presents the following breakdown:

Summary of Appeal-related Statistics, January 1 - September 30, 1992

At the end of the third quarter, a total of 855 active appeal files were opened – 505 provincial files, and 350 municipal files. For the same time period, a total of 826 active appeal files were closed – 517 provincial files, and 309 municipal files.

Of the 517 provincial appeal files closed, 103 were resolved by order and 414 were resolved by a method other than by order. Of the 309 municipal appeal files closed, 42 were

closed by order and 267 were closed other than by order.

Summary of Compliance Investigation Statistics, January 1 - September 30, 1992

At the end of the third quarter, a total of 130 compliance investigation files were opened – 61 provincial files, and 69 municipal files. For the same time period, a total of 158 compliance investigation files were closed – 81 provincial files, and 77 municipal files.

IPC

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If you have any comments regarding this newsletter, wish to advise of a change of address or be added to the mailing list, contact:

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