IPC
PERSPECTIVES
INFORMATION AND PRIVACY COMMISSIONER / ONTARIO

VOLUME 3
ISSUE 3
FALL 1994

TOM WRIGHT, COMMISSIONER

Consumer Tips and Business Practices Suggested to Protect Privacy in Marketplace

AS CONSUMERS GO ABOUT A HOST OF DAY-TO-day tasks like withdrawing money from a bank machine, shopping with a credit card or applying for insurance, they leave a data trail. Using computers, businesses can compile this scattered information into personal profiles that make it possible to target marketing campaigns – an approach increasingly more profitable than conventional mass marketing.

But the collection and transfer of personal data through modern technology is creating an unprecedented threat to individual privacy. Opinion polls show this issue is moving up the public agenda: one recent nationwide survey ranked privacy as high as the environment and unemployment as items of public concern.

The IPC has mounted a two-pronged response by developing some practical

CONTINUED ON PAGE 6

Consumers leave a data trail when they carry out day-to-day tasks and can often contribute unknowingly to their own loss of privacy.

Milestones Reached as IPC Records 1000th Order and 2500th Mediation

ONTARIO'S FREEDOM OF INFORMATION SYSTEM attained two significant milestones in May 1994 as the IPC issued its 1000th order and completed its 2500th mediation case. Orders and mediation are used to resolve appeals filed when government organizations refuse to release information, or when other aspects of the handling of an information request are at issue.

The provincial *Act* has been in force for nearly seven years and the municipal for nearly four – so as might be expected more than half of both orders and mediation cases involve provincial government organizations. Users of the system span an extraordinary range of interests – from newspaper reporters to business firms to academic researchers to parents of school children.

Mediation is by far the most frequent way of resolving an appeal, accounting for more than half of all cases settled each year under both *Acts*. Statistics indicate the number of mediated appeals is even higher over the past two years. The results show that convincing the parties to negotiate a mutually satisfactory outcome is an effective dispute resolution technique and one which the IPC will continue to advocate.

In recent years the number of IPC decision-makers has grown from the original two – the Commissioner and the Assistant Commissioner-Access – to seven, with five Inquiry Officers now having order-making powers.

This change, coupled with reforms to streamline operations, has translated into a substantial boost in the number of orders: the 378 orders issued in 1993 represent nearly seven times the 1991 volume.

Orders are also becoming more user-friendly. The long and legalistic documents of the IPC's early days have been supplanted by shorter orders that provide more background on the case and are written in plainer language. These improvements reflect feedback from surveys conducted by the IPC of appellants and the government organizations involved.

Together, the IPC orders comprise a substantial body of legal interpretation that provides guidance for future decisions. Some examples of significant rulings are the following:

· Regarding workplace harassment investigations, the IPC has stressed that those accused of misconduct must be apprised of the identity of the complainant and substance of the allegation, in order to respond. In addition, the parties to the complaint (ie. the complainant and the alleged harasser) should be given access to the basis of the investigator's decision.

· In a leading case we found that government records available, for a price, through a commercial vendor did not qualify as "currently available to the public", and so had to be disclosed to a requester through the freedom of information system.

· In exploring access to severance clauses in termination agreements between government organizations and departing employees, the IPC has held that a key factor to be weighed is whether disclosure is desirable to subject government activities to public scrutiny.

· We have examined the status of petitions and firmly stated that by their very nature petitions are not documents that have an aura of confidentiality.

The next thousand orders will likely be just as challenging as the IPC works to apply access and privacy principles in a rapidly evolving and increasingly complex Information Society.

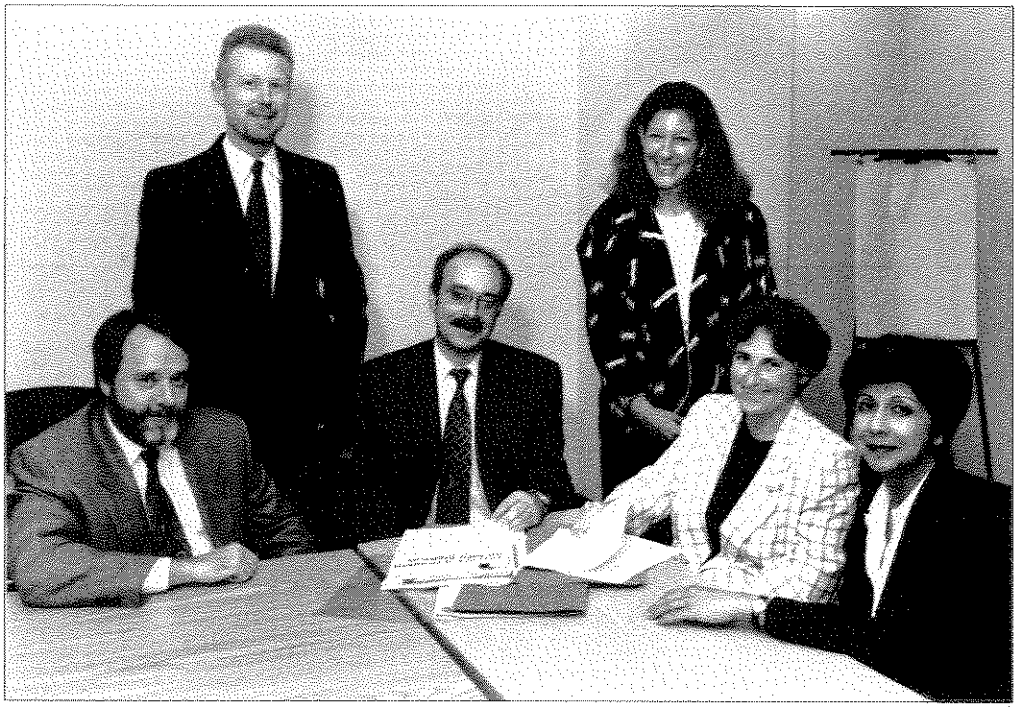
Computer Matching: Safeguards Improved

THE FIRST MANAGEMENT BOARD DIRECTIVE on Computer Matching has been released. Computer matching is already used by some ministries to test the accuracy of their databases. By uncovering discrepancies, ministries believe they can reduce fraud, and improve the efficiency of their systems.

The Directive was developed to balance the need for administrative efficiency with the need for individual privacy. It will regulate all new matches between government databases.

Key safeguards require ministries and agencies to:

- Perform an assessment to justify a proposed computer match before it takes place, and send that assessment to the IPC for comment.
- Notify an individual if they plan to use information generated by a computer match, and give that person the chance to verify his or her records.
- Publicize all computer matching activities in the Directory of Records.



The IPC now has five Inquiry Officers with order-making powers. From left to right: Donald Hale, John Higgins, Assistant Commissioner Irwin Glasberg, Anita Fineberg, Laurel Cropley and Mumtaz Jiwan.

IPC Redesigns Communications Package after Readership Survey

THIS ISSUE OF *PERSPECTIVES* IS PART OF A REvamped communications package the IPC is sending on a regular basis to interested parties in the information and privacy field. Impetus for the redesign came from a readership survey conducted this January, as well as from the IPC's own assessment of communications priorities in a tight fiscal climate.

Our sincere thanks to the nearly 400 readers who replied to the survey. Your input has helped us target our efforts to meet your needs as cost-effectively as possible.

Readers will notice a new feature in this edition of *Perspectives* – an informative column highlighting and briefly summarizing significant access orders and privacy investigation reports. We have also enclosed in this package a more detailed subject index than we have produced in the past. This useful research tool will be updated three times a year, instead of once a year as was the case with our previous indices. The new column in *Perspectives* and the enlarged index replace the former IPC publication *Précis.*

Otherwise we are keeping *Perspectives* just as it is – since you've told us you like it that way. We'll continue to present current news about the IPC's activities, procedures and research and policy initiatives.

Readers should also be aware that Ontario's Management Board Secretariat publishes *An Annotation to Ontario's Access and Privacy Legislation,* which annotates all sections of both the provincial and municipal Acts with references to pertinent IPC orders and investigation reports. The full text of IPC decisions can be purchased from Publications Ontario on an annual subscription or per item basis. The Management Board annotation, which is revised annually, is also available through Publications Ontario.

The IPC would be interested in your reaction to the new communications package as well as any suggestions for further changes or refinements. Please call Lisa in our Communications Department at 416-326-3952 or write to the address on the back page of this newsletter.

As a final step in our communications streamlining, we are updating our mailing list. If you would like to continue receiving mailings from the IPC, please be sure to complete the enclosed postcard and return it to us.

Fast Forward: 1994 Access and Privacy Workshop

Fast Forward, this year's access and privacy workshop, has been designed with your needs in mind.

Last year's workshop survey indicated you wanted more round tables, more chances to share your ideas with FOIP colleagues from across the province and a greater variety of topics geared to your individual needs.

Fast Forward features six case studies and 16 round table discussions, with topics ranging from tenders and how to set up records systems to issues for new municipal councillors and what to expect in a privacy investigation.

Don't miss this opportunity to hear about the latest key issues from specialists and leaders in FOIP community.

Space is limited and the deadline for registering is November 15, 1994.

Registration forms are available from the IPC. Please call Clare at (416) 326-3333 or 1-800-387-0073.

Summaries

In this issue, IPC Perspectives *introduces "Summaries", a new column highlighting significant orders and compliance investigations issued by the IPC in recent months.*

Order P-736

The IPC ordered substantial disclosure of an audit report prepared by the Ministry of the Solicitor General and Correctional Services. The audit investigation related to a youth residence which, although publicly funded, is not a public agency. The audit sought to determine whether the residence was adequately managed and whether its programs met the Ministry's Residential Service and Standards Guidelines.

The report contained personal information. The IPC found that the desirability of subjecting the Ministry's activities to public scrutiny was a significant factor favouring disclosure. In a recessionary environment, it is essential to ensure that tax dollars are spent wisely. This applies not only to internal programs carried out by government organizations, but also to contracts for services with third parties.

Where a publicly funded program is administered by a third party under contract, the public must be satisfied that the program is properly carried out, and that the Ministry is monitoring its operation in an appropriate manner.

Investigation I94-030M

An individual made an access request to a school board's Freedom of Information and Privacy Co-ordinator under the municipal *Act.* The request was for general records. In responding to the request, the Co-ordinator disclosed the individual's name, address, and unlisted telephone number of the requester to the principal of the high school where the records were held.

While the principal's duties included assisting in processing access requests, the IPC found it was not necessary for him to have the personal information of the requester to perform this duty.

Institutions should not disclose the names of requesters, and any other personal information, except in accordance with sections 32/42 of the municipal/provincial *Acts.*

• • •

Orders and Compliance Investigations Available

Full texts of orders and compliance investigations reports are available from Publications Ontario.

· Publications Ontario makes subscriptions of all orders and compliance investigation reports available at an annual cost of $350 plus GST (a 20% surcharge will be added to orders from outside Ontario). At the end of each month they will mail subscribers all the orders issued that month.

· If you have an urgent request, Publications Ontario will arrange to have an order sent by courier at your expense. You will receive the order within two working days.

· Regular requests for individual orders will be mailed out within 10 working days.

· If you have any further questions about the distribution of IPC orders, please contact Julie Andradi at Publications Ontario in Toronto. You may call (416) 326-5312 or 1-800-668-9938. Personal shopping can be done at the Publications Ontario Bookstore, 880 Bay Street, Toronto, Ontario M7A 1N8.

Consumer Tips

CONTINUED FROM
PAGE 1

suggestions for both consumers and businesses, which appear in two new publications – *Privacy Alert: A Consumer's Guide to Privacy in the Marketplace* and *Privacy Protection Makes Good Business Sense.*

As *Privacy Alert* indicates, consumers themselves often contribute unknowingly to their own loss of privacy. Many of us readily reveal personal information – telephone number, address, occupation, income, age – that is not necessary for the transaction at hand.

Sometimes the information is relevant, such as financial data required for a loan application. But it's a different story if you are asked to supply personal details when renting a video game or filling out a warranty card. Often such information is being collected for a different purpose, such as for sale to other organizations.

The IPC developed 18 consumer tips to make vigilance about privacy a regular part of smart shopping. These common-sense tips range from asking questions about the need for and purpose of the information requested, to checking your file at the credit bureau annually, to using your health card only for health services. The IPC publication stresses that it's important to challenge a request for information, and to say no if you're not satisfied with the answer.

In today's economy, leading businesses strive to meet and surpass customer expectations – and one thing customers are beginning to expect more of is privacy. In this climate it simply makes good business sense for companies to make privacy protection a standard operating procedure.

The IPC business paper, *Privacy Protection Makes Good Business Sense*, underlines that while privacy protection is not in conflict with legitimate commercial needs for information, personal data must be viewed as more than a commodity. The publication lists a series of best practices to help businesses approach personal information with heightened sensitivity.

Underlying the suggestions are the principles that businesses should collect only accurate and relevant information, grant people access to their own personal records and limit access by unauthorized third parties. Consumers should be seen as partners to be treated with respect and consulted when an organization devises policies and practices affecting privacy. Businesses that implement these fair information practices will build customer loyalty – and gain an edge on the competition.

At present, Quebec is the only Canadian jurisdiction with a comprehensive data protection scheme covering the private sector. Elsewhere, the solution for safeguarding privacy in the marketplace rests entirely with alert consumers and responsive businesses.

Erratum

An application for judicial review was made in March 1993 with respect to Order M-82. However, this information was omitted on page 12 of the Information and Privacy Commissioner's 1993 Annual Report. The IPC apologizes for any inconvenience this may have caused.

IPC
PERSPECTIVES
is published by the **Office of the Information and Privacy Commissioner.**

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

Communications Branch
Information and Privacy Commissioner/Ontario
80 Bloor Street West, Suite 1700
Toronto, Ontario M5S 2V1

Telephone: (416) 326-3333 • 1-800-387-0073
Facsimile: (416) 325-9195
TTY (Teletypewriter): (416) 325-7539

Cette publication, intitulée «Perspectives», est également disponible en français.

55% recycled paper, including 10% post-consumer fiber

ISSN 1188-2999