



IPC Perspectives - Challenges of Change

IPC PERSPECTIVES - Fall, 1996

Challenges of Change

"The challenges ... of change point to a whole new role for freedom of information and privacy co-ordinators," advised Commissioner Wright at the annual access and privacy workshop held at the Macdonald Block in Toronto on September 26 and 27.

The workshop was Tom Wright's sixth in his role as Ontario's Information and Privacy Commissioner. Over 300 participants joined him to share ideas and get advice on meeting the challenges ahead.

Commissioner Wright took the opportunity to praise co-ordinators on the fine work accomplished over the eight years since Ontario's access and privacy legislation came into effect. He also touched on some of the key challenges to come:

"At the top of the list I would place rising public expectations for open government and privacy protection. These expectations are both driving the growing utilization of the *Acts* and creating demands that transcend the bounds of the current access and privacy system...

The information highway is a powerful force for change and predictions about reinventing government through technology are beginning to come true. Increasingly, government organizations are deploying technology to achieve their strategic goals -- to provide better customer service -- to operate more efficiently -- and to form new links between the governors and the governed. I say, full speed ahead on the information highway. But I also say, let's watch where we're going. There are bumps on the road, from both access and privacy vantage points.

The information highway, for example, can facilitate routine disclosure and active dissemination. It can provide the tools -- Web sites, faxback services, automated voice messages and so forth -- for a more proactive approach to the release of information to the public. Exploiting these innovative channels of communication can lead to a fuller and more participatory democracy.

The pitfall is the danger of financial toll booths on the information highway. It is imperative to avoid establishing financial barriers to access that could ultimately create a new social division between information haves and have-nots...

On the privacy side, we used to think of informational privacy and information technology as an either/or proposition. But practical experience has taught us that privacy and technology can be allies rather than enemies.

For example, Health Net -- the Ministry of Health computer system linking Ontario pharmacies -- warns the pharmacist of dangerous drug combinations and possible over-prescribing, without revealing a profile of the patient's medication history. And Highway 407 -- slated to open later this year north of Metro -- will collect tolls electronically while offering an anonymous payment option. To safeguard privacy, the key is to ensure that data protection principles are incorporated in the design of information systems from the ground floor up."

In closing, Commissioner Wright advised co-ordinators:

"Be an advocate for active disclosure through a new Web site. See that privacy is placed on the agenda when new information systems are in the design stage. Advise your organization on the balance between universal access to

information and the need to recover costs and generate revenue. And as alternative service delivery models are implemented, identify the access and privacy issues involved and provide leadership to deal with them."

New Web Site For IPC

News gets around fast. The Information and Privacy Commissioner/Ontario has opened its own web site and it's already received over 1600 "hits". An impressive start for a program that is about to celebrate its first birthday. "We started simply last November, and have been upgrading ever since," says IPC Policy, Research and Information Systems Manager David Duncan.

The website augments the IPC's traditional forms of communication. Useful to both the casual browser as well as the seasoned researcher, the site has just about everything you might want to know about access and privacy. You'll find information on:

- your rights under Ontario's access and privacy legislation;
- orders and selected compliance investigations from the IPC;
- research and policy matters in the areas of access and privacy;
- the Information and Privacy Commissioner's 1995 Annual Report; and
- full text of Ontario's access and privacy legislation and plain language guides of the *Acts*.

Development of the website began in June 1995, when the IPC assembled a working group to chart its direction. The group, made-up of network experts, policy, research as well as communications specialists, established priorities for the site. It had to be informative, flexible, easy to use, and cost effective.

During the site's design process, one of the most challenging aspects was how to ensure its "accessibility" to the customer. Accessibility, meaning both ease of use and "readability" for various technological levels of browser. For example, some sites have all sorts of complex graphics and features but not all computers can properly view these kinds of materials. Systems that aren't as technically advanced may be able to view text but not graphics or tables. The IPC has attempted to resolve this by keeping its site relatively basic. "Basic but not boring," assures Duncan. "The group had some difficulty working this one out, but the results are gratifying. We've come up with a user-friendly site that most people can appreciate and find interesting."

Finally, the team had to deal with the large number of documents the IPC could make available. It was found that some were quite short and could be easily converted to HTML. Others were lengthy and contained complex document elements such as tables. It was decided to make certain documents – the orders, investigation reports and policy papers – down-loadable through File Transfer Protocol (FTP) to save on conversion costs. The documents are stored in WordPerfect 6.1 format. As time permits, these documents will be converted to HTML and indexed to permit on-line searches.

The feedback has been encouraging. Users like what they see and often make suggestions. Such responses are important, as evaluation is ongoing. The original working group still meets to discuss how the site is working -- to make sure its original priorities remain valid and the materials on it continue to be appropriate. "It's absolutely essential that the site remain user-friendly and the information useful," says Duncan. With this in mind, the group has just expanded the 'What's New' section of its home page. It now includes the agency's most recent efforts including: news releases, policy papers, speeches and other new developments in access and privacy.

The IPC considers the Internet, and its own web site, an opportunity to enhance the public's access to information. Enhance is the key word. The web site doesn't replace existing ways to get information on or about access and privacy legislation in Ontario. Instead, it offers a choice. Brochures, newsletters, policy papers, speeches and annual reports still exist in printed form.

However, by creating its own web site on the Internet, the IPC can provide more information to more people more quickly.

So, has the IPC's venture into the realm of the Information Highway been a success? Information and Privacy Commissioner Tom Wright thinks so. "After all, government-held information really belongs to the citizenry; government is merely the custodian."

The IPC web site can be reached at: <http://www.ipc.on.ca>

Q & A

Q: *How much does it cost to make an information request under the Freedom of Information and Protection of Privacy Act?*

A: Requests:

You must pay a \$5 application fee to the government organization when you make your request for access to information. Cheques or money orders to provincial organizations (ministries, provincial agencies, boards and commissions) are payable to the Minister of Finance. Cheques or money orders to local government organizations (municipalities, school boards, police commissions, etc) are payable to the government organization e.g., City of Toronto, London Board of Education, etc.

No fees are charged for the time required to locate and prepare records containing your personal information. However, you may be charged for photocopying costs. For all other records, you may be charged for photocopying, shipping costs, the time required to locate and prepare the records you've requested or any other costs associated with replying to your request.

Appeals:

You must pay an application fee to the Information and Privacy Commissioner when making your appeal.

Appeal fees:

\$10 for requests related to access to or correction of your personal information. \$25 for requests related to access to general records. The fee must accompany your appeal and may be paid by cheque or money order payable to "THE MINISTER OF FINANCE".

Work on your request or appeal will not begin until the fee is received.

Q: *Can the application fee for an information request or an appeal be waived?*

A: No, these fees are required by law. There are no provisions for waiving the application fees for an information request or an appeal under the *Acts*.

For information on your rights under the *Acts* see the IPC web site [Acts](#) area or contact the IPC for the following brochures:

Access to Information under Ontario's Information and Privacy Acts;

The Appeal Process and Ontario's Information and Privacy Acts;

Your Privacy and Ontario's Information and Privacy Acts.

SUMMARIES:

"Summaries" is a regular column highlighting significant orders and compliance investigations.

Orders P-1258 and M-830

The municipal and provincial *Acts* were both amended by what is known as "Bill 7" (the *Labour Relations and Employment Statute Law Amendment Act, 1995*), which came into force on November 10, 1995. The new provisions deal with records which are collected, prepared, maintained or used in the context of certain labour relations or employment matters. If records fall under these sections, and none of the exceptions are present, then they are excluded from the scope of the *Acts* and are therefore not subject to the Commissioner's jurisdiction.

In Orders P-1258 and M-830, the issue was whether job competition records are excluded because they relate to "meetings, consultations, discussions or communications about labour relations or employment-related matters in which the institution has an interest".

It is clear that records normally contained in a job competition file, such as selection criteria, interview questions, marking sheets, resumes, etc., are either "collected, prepared, maintained or used" by the employer. It is also evident that employment interviews, deliberations about the competition, application forms, and reference letters are "meetings, discussions or communications", and that they are about "employment-related matters".

The only real issue in these appeals was whether a job competition is a matter in which an institution "has an interest". The IPC found that:

... an "interest" is more than mere curiosity or concern. An "interest" must be a legal interest in the sense that the matter in which the Ministry has an interest must have the capacity to affect the Ministry's legal rights or obligations.

In the context of a job competition, an employer is bound by the provisions of the *Ontario Human Rights Code*. If an employer engages in discrimination in selecting an employee in a job competition, the employer has breached the *Code* and could be liable for damages. For this reason, the IPC held that a job competition process involves legal obligations which an employer must meet, and the competition is properly characterized as a matter "in which the institution has an interest".

Both of these orders found that job competition records fell within the new "Bill 7" provisions (sections 65(6)3/52(3)3), and were therefore excluded from the scope of the *Acts*.

Investigation I96-001M

A person complained that a Town had improperly released her personal information to the public and the press. During an open meeting, a Town official read a letter containing the complainant's personal information to one of the Town's Committees. In addition, copies of the letter were distributed to the press.

The Town stated that disclosure was in compliance with section 32(d) of the municipal *Act* since it was to an officer or an employee of the Town who needed the personal information in the performance of his duties. The IPC accepted that the committee's members needed to know about the complainant's concerns. However, as disclosure took place at an open meeting attended by the public and press, it was not in compliance with the *Act*.

The IPC recommended that the Town 1) take steps to ensure that personal information is disclosed only in compliance with section 32 of the *Act*, and 2) amend the minutes of the Committee meeting in question by removing the complainant's name

Charting the Future of *Perspectives*

Perceptive readers of this issue will note that several of the articles focus on the theme of a new way of doing business using the new technologies. To quote the Commissioner in his remarks to the recent Access and Privacy Workshop: "...government organizations are deploying technology to achieve their strategic goals -- to provide better customer service -- to operate more efficiently."

The IPC is certainly one of the organizations wanting to explore the capabilities of the new technology, and nowhere is this more evident than in our efforts to chart the future of this newsletter. As we have done in the past, future issues will look at the implications of the information highway for access and privacy in Ontario.

The information highway also offers some opportunities to revisit the way in which *Perspectives* provides those stories to its readers. Last year the IPC launched its own web site and we have found it enhances our ability to provide information to the public -- in fact, one of the regular features on the site is the most recent edition of *Perspectives*.

Now we want to hear from our readers. We want to know about your preferences for future issues: what do you want to read about in *Perspectives* and how do you want to receive that information? Please take five minutes to complete our [readership survey](#) and let us know your thoughts. We'll share the results of the survey in a future issue.

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