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# IPC PERSPECTIVES

INFORMATION AND PRIVACY COMMISSIONER / ONTARIO

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## E-commerce hobbled until privacy issues are resolved

THE FULL POTENTIAL OF ELECTRONIC COMMERCE will never be reached until the privacy issues are resolved, Information and Privacy Commissioner Ann Cavoukian told the annual access and privacy conference hosted by Management Board Secretariat.

The sold-out conference, *Access & Privacy: Best Practices for the Best Solutions*, was held Oct. 1 and 2 in the Macdonald Block at Queen's Park. Organized by the Corporate Freedom of Information & Privacy Office of MBS,

it featured a variety of speakers, workshops and round-table discussions. As well as speakers, the IPC provided discussion leaders for a number of the workshops and round-table sessions.

The opening keynote speaker, Commissioner Cavoukian praised the efforts of freedom of information and protection of privacy co-ordinators, then offered an overview of an issue that is attracting a great deal of attention around the world — how to protect the privacy of online consumers.

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Commissioner Ann Cavoukian was a keynote speaker at the 1998 access and privacy workshop at Queen's Park in early October.





# Early results from Tribunal re-organization very positive

IN THE SPRING ISSUE OF *IPC PERSPECTIVES*, we reported significant organizational and procedural changes in Tribunal Services, which is responsible for both access appeals and privacy investigations. These changes were implemented last May 1 and have generated some exciting results.

In the first four months, our newly created Intake team responded to 592 contacts from members of the public regarding access to information or privacy complaints. During this period, 102 files were streamed directly to Mediation (which is the IPC's preferred method of resolution) and eight were sent directly to Adjudication. Over those four months, 48% of appeals and 56% of complaints were resolved at Intake. And significantly, 70% of these files were resolved within 21 days of the file being opened.

Another of the keys to the new Tribunal structure is our enhanced focus on mediation, which has resulted in a system that includes:

- *Regular mediation*, which captures the majority of our files.
- *Straightforward appeals*, where the sole issue is either a deemed refusal, time extension, transfer of the request or inadequate decision letter. These appeals are now being mediated and adjudicated by a single Mediator within a shortened time period. Most of these appeals have been resolved through mediation. In the past, these

types of appeals would have gone through the same process as more complex files, likely taking more time to resolve.

- *Reasonable search appeals*, where the sole issue is whether records exist or additional records exist. Two Mediators are assigned to these types of files, one as Mediator, the other as an acting Adjudicator who may conduct an oral inquiry and issue an order. The appeal proceeds immediately to inquiry, with the option of mediation before and/or at the inquiry. We have had several of these cases, most of which have been mediated before the oral inquiry.

Another aspect of Tribunal Services is our institutional relations program, which is now under way with two provincial institutions and one municipal institution participating. This program helps IPC staff gain a better understanding of the way institutions operate.

In our commitment to continuously refine our processes, the IPC will be implementing additional changes, including:

- Developing performance measures for our Tribunal programs;
- Improving the inquiry process;
- Improving the privacy complaint process;
- Developing an access and privacy educational program for schools.



From the left, Commissioner Ann Cavoukian, MBS Deputy Minister Michele Noble, and Assistant Commissioner Tom Mitchinson, just prior to the opening session of the access and privacy workshop.



## E-commerce hobbled until privacy issues resolved

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Among the points she stressed in her address, *Privacy and Electronic Commerce: You Can't Have One Without the Other*, is that online sales are far below much-hyped original projections because of consumers' privacy and security concerns. The Commissioner, citing numbers quoted by *Computer World* in March, 1998, said that online sales in 1997 were estimated at \$2 billion, compared to \$78.6 billion in catalogue sales and \$2.5 **trillion** in retail sales.

Many Web sites do not provide any information about their privacy policies, she said, pointing to a June 1998 report to the U.S. Congress on privacy online. In that report, the Federal Trade Commission said that of 1,400 Web sites surveyed, 92% of the commercial sites collected personal information from consumers, but only 14% provided any notice regarding their information practices and only 2% had a comprehensive privacy policy.

Public opinion polls, said Commissioner Cavoukian, show that the public is concerned about privacy on the Net. In one 1997 poll, 80% of the respondents said they were apprehensive about using the Net because of security and privacy concerns.

In the absence of trust over how their personal information would be used, some Web consumers have resorted to providing false information. In May, 1998, *Wired Magazine* reported that 40% of Web consumers had taken the time to make up data when filling out Web forms.

The Commissioner stressed that security alone does not equal privacy. While authentication, data-integrity, confidentiality, and non-repudiation are all important security issues, they do not equal privacy protection. Privacy and data protection issues go beyond security and include:

- Why is the information being collected?
- How will the information be used?
- Who will have access to it?
- Will there be any secondary uses?
- Is the collection process open and transparent?
- Will the individuals providing the information have access to their information and the right to correct their personal information?

Privacy is a real and growing concern among online users that must be fully addressed before e-commerce can flourish, said Commissioner Cavoukian: "You ignore privacy at your own peril."



# Looking at the Internet in an access and privacy context

THE INTERNET, BY SOME ESTIMATES, IS GAINING a thousand new Web sites every day. The number of documents and other information being posted to the Net each day would reach well past the moon if ever piled in one stack.

The Net offers great potential for access to government information but a number of privacy safeguards also need to be considered.

“The Internet is an essential component of any access and privacy program,” stresses a joint paper issued recently by Ontario’s Information and Privacy Commissioner and Management Board Secretariat (MBS), entitled *The Internet: A Guide for Ontario Government Organizations*.

The paper, designed to serve as a useful handbook for Freedom of Information and Privacy Co-ordinators working in government organizations in Ontario, points out that more and more government-held information is being transferred to the Net. And while making information accessible in this way may enhance citizens’ access rights, government organizations still need to be mindful of citizens’ privacy rights.

“This paper has been written to help government organizations tap the full potential of increased access through the Internet, while helping to avoid threats to privacy,” said Ann Cavoukian, Ontario’s Information and Privacy Commissioner. “For example, if you offer individuals online access to their own information, is there adequate protection from unauthorized access, manipulation, and disclosure of that information?”

Access and privacy issues covered in the paper include: the collection, use and disclosure of personal information; the monitoring or tracking of use and users; e-mail, usergroups and chat-lines; and policy issues.

As well, there is a section devoted to the benefits of using the Net to assist in fulfilling the statutory requirements of Ontario’s access and privacy legislation.

*The Internet: A Guide for Ontario Government Organizations* is more than an access and privacy guide. There are sections designed to help co-ordinators use the Net — even if they have never been on it before. The paper explains how you connect to the Net, how to “surf” it with your browser, how to search for material, and even how to save, print or e-mail material.

One of the most interesting sections for co-ordinators may be the section that provides an extensive listing of access and privacy sites on the Net.

Staff at MBS and the IPC, as well as co-ordinators from the Workers Compensation Board, Toronto Board of Education, Toronto Police, the City of Toronto and the Ministry of Community and Social Services compiled the information for the paper. Their goal was to produce a simple and useful Net handbook for Ontario’s Freedom of Information and Protection of Privacy Co-ordinators.

The paper is available on the Web site of the Information and Privacy Commissioner/Ontario (<http://www.ipc.on.ca>). If you do not have access to the Web, call the IPC’s communications department at 416-326-3333, or 800-387-0073.



# Practices updated, re-released

EACH YEAR, THE INFORMATION AND PRIVACY Commissioner receives requests for thousands of copies of IPC publications — in some cases, for papers published years earlier.

One of the IPC's key publications is *Practices*, a series of short newsletters addressing specific access and privacy issues or processes. This series, aimed primarily at provincial and municipal government organizations, was launched in June 1992 and there have been new *Practices* issued each year. This fall, to reflect changes in process and to add

additional information to a number of these editions, the IPC has updated and re-released its core series of *Practices*.

The new series of 29 *Practices*, which replaces the old series of *Appeals* and *Compliance Practices*, has been posted to the IPC Web site ([www.ipc.on.ca](http://www.ipc.on.ca)). You can find this series in the Code of Procedures section of the Web site. For anyone without Web access, *Practices* can be ordered free of charge by calling the IPC at 416-326-3333.

The updated series of *Practices* includes:

Number 1	Drafting a Letter Refusing Access to a Record
Number 2	Copying Information to Individuals Inside and Outside an Institution
Number 3	Providing Records to the IPC
Number 4	Mediation: What an Institution Can Expect
Number 5	Third Party Information at the Request Stage
Number 6	Raising Discretionary Exemptions During an Appeal
Number 7	The Collection and Use of the Social Insurance Number
Number 8	Providing Notice of Collection
Number 9	Responding to Requests for Personal Information
Number 10	Video Surveillance: The Privacy Implications
Number 11	Audits and the Collection of Personal Information
Number 12	Increasing the Effectiveness of Representations
Number 13	Affidavit Evidence
Number 14	The Indirect Collection of Personal Information
Number 15	Clarifying Access Requests
Number 16	Maintaining the Confidentiality of Requesters and Privacy Complainants
Number 17	Processing Privacy Complaints
Number 18	How to Protect Personal Information in the Custody of a Third Party
Number 19	Tips on Protecting Privacy
Number 20	Privacy and Confidentiality When Working Outside the Office
Number 21	Privacy of Personnel Files
Number 22	Routine Disclosure/Active Dissemination (RD/AD) of Government Information
Number 23	Preparing the Records Package for an Appeal
Number 24	Q's and A's for Managing Electronic Mail Systems
Number 25	You and Your Personal Information at the Ministry of Transportation
Number 26	Safe and Secure Disposal Procedures for Municipal Institutions
Number 27	Appeals Involving Third Party Commercial, Financial and Related Information
Number 28	Reconsideration of Appeal Decisions
Number 29	Appeals Involving Personal (Third Party) Information



# Summaries

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

## Order M-1154

The County of Prince Edward received a request for access to information about contributions to candidates for municipal office in the 1997 election. The information was included in forms filed with the County Clerk under the *Municipal Elections Act, 1996* (the *MEA*). Section 88(5) of the *MEA* states that these records are “public.”

The County denied access, citing section 88(10) of the *MEA*, which states that no person shall use information obtained from public records described in subsection (5), except for election purposes. The County explained that section 88(10) applied because the appellant was intending to use the information for non-election purposes.

During mediation, the appellant narrowed his request to include only information relating to mayoral candidates, and clarified that he was seeking the names and addresses of all individual contributors, and amounts contributed where they exceeded \$100. The County later issued a revised decision in compliance with section 22(1)(b) of the *Municipal Freedom of Information and Protection of Privacy Act*, citing the section 14 personal privacy exemption. The County also said the appellant’s request should be limited to names only, based on the wording of his original request.

The IPC found that, because the request did not sufficiently describe the records sought, under section 17(2), the County should have informed the appellant of the defect and offered assistance in reformulating the request by identifying responsive records. Because the County failed to do so, and because the initial decision letter was not in compliance with section 22(1)(b) and “effectively foreclosed the prospect of clarification,” the IPC found it was reasonable to accept the appellant’s request clarification.

The IPC found that all of the information sought was “personal information.” Further, the IPC found that disclosure of information about the “over \$100” contributors was expressly authorized by section 88(5) of the *MEA* and thus the section 14(1)(d) exception applied. Accordingly, the IPC ordered the County to disclose this information.

The IPC found that since the information about the “\$100 or under” contributors was not required to be included in the records, section 14(1)(d) did not apply to it. The IPC also found that disclosure of this information was presumed to be an unjustified invasion of personal privacy under sections 14(1)(f) and 14(3)(f). Since no other exception in section 14(1) was found to apply, the IPC upheld the County’s decision to withhold this information.

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