



# Opening the door: Access to government records

A primer for Journalism Students  
at Ryerson  
March 3, 2006

**Bob Spence**

Communications Co-ordinator  
Office of the Information and Privacy  
Commissioner/Ontario



# Overview

- I. Introduction to the IPC/Ontario
- II. Relevant legislation
- III. Access and appeals
- IV. Privacy



# Mandate and role

- The IPC provides an independent review of government decisions and practices.
- The Commissioner is appointed by and reports to the legislative assembly; she remains independent of the government of the day to ensure impartiality.



# Mandate and role (Cont'd)

- **The IPC has five key roles:**
  - Ensure that government organizations comply with access and privacy laws;
  - Resolve appeals;
  - Investigate privacy complaints;
  - Research and provide advice on proposed legislation and policy;
  - Promote public education.



# The Acts

- The *Freedom of Information and Protection of Privacy Act (1988)*;
- The *Municipal Freedom of Information and Protection of Privacy Act (1991)*; and
- The *Personal Health Information Protection Act (2004)*.



# What do the *Acts* cover?

- The two public sector *Acts* provide the public with a right of access to information held by the government in accordance with the following principles:
  - Information should be available to the public;
  - Exemptions to the right to access should be **limited** and **specific**.



# What do the *Acts* cover? (Cont'd)

- The other key purposes of these two *Acts* are to protect the personal information held by government organizations and to provide individuals with a right of access to their own personal information.

*(I will discuss the third Act, PHIPA, later in this presentation.)*



# What organizations are covered by the public-sector *Acts*?

- ***FIPPA (the provincial Act)***
  - Provincial ministries;
  - Most provincial agencies, boards and commissions;
  - Community colleges;
  - Universities **(as of June 10)**.
- ***MFIPPA (the municipal Act)***
  - Boards of health;
  - Police boards;
  - School boards;
  - Transit commissions and most other local boards.





# Requests and Appeals

- There were a record 33,557 requests filed in 2004;
- There were 827 appeals opened in 2004 (less than 3% of requests).



# Access fees

- **In addition to the \$5 request fee, there can be a number of other administrative fees:**
  - Photocopying (20 cents/page);
  - Floppy disks (\$10/disk);
  - Manually searching for a record (\$7.50/15 minutes);
  - Preparing a record for disclosure (\$7.50/15 minutes);
  - Developing a computer program or other method of producing a record from machine readable record (\$15/15 minutes).



# What information is exempt?

- Cabinet records;
- Draft bylaws, records of closed meetings;
- Defence;
- Advice or recommendations;
- Law enforcement;
- Relations with governments;
- Third party business information;
- Solicitor-client privilege;
- Economic and other interests of a gov't organization;
- Danger to safety or health;
- Personal information;
- Information soon to be published;
- Limitations on access to own personal information;
- Fish and wildlife species at risk.



# Making your request

- Determine which government organization has the information you want;
- Send a written request to that organization's Freedom of Information Co-ordinator;
- Include the \$5 application fee.



# Pistol or shotgun?

- Reporters who are looking for very specific information will usually end up waiting for a longer period, and paying more money, if they submit a rambling request that asks for far more than the reporter is actually looking for.
- You need to choose between the pistol approach – seeking very specific information – and the shotgun approach – where you are trolling for revealing facts buried somewhere in a large number of records.



# Pistol

- If you know exactly what you are looking for (ie: a report of X committee on Y date), then you should use the pistol approach. Don't make a vague, wide-sweeping request.



# Shotgun: When looking for an edge

- Some reporters use FOI to try to get an edge on the competition. This is often where the shotgun approach comes in. A reporter looks at everything that is known about a particular story, then files a wide-sweeping FOI request trying to find records that would help him or her break new ground.



# Not taking things for granted

- Another common use of the shotgun approach is using FOI to collect seemingly routine government records. Then you go through the records looking for a lead that may end up as a front page story.





# Call first

- If you are not sure what you want, or you would like a general idea of what the scope would be if you file a very general request, consider calling the gov't organization's freedom of information co-ordinator first.





# Consider size and time

- If you need extensive information, you may have to make a request that covers many topics, sources or years. But before putting in such a request, consider breaking it into several requests (organized by priority).





# How should the government organization respond?

- Government organizations must respond within 30 days, unless:
  - A large number of records have been requested;
  - A search through a large number of records is necessary; or
  - Consultations with a person outside that organization are deemed necessary.



# If they say no....

**Call the freedom of information  
co-ordinator:**



- Would it make a difference if you rephrased your request?
- Does he or she have any suggestions?



# *APPEALS*



# Appeals

- If you are not satisfied with a government organization's response, you can appeal this decision to the IPC.
- The IPC first attempts to settle appeals informally. If all issues cannot be resolved within a reasonable period, the IPC conducts an inquiry and (after most inquiries) issues a binding order – which can include requiring a government organization to release all or part of the information sought.



# Reasons to file an appeal

- You were denied access to some or all of the information sought;
- You disagree with the fee being charged;
- You did not receive a response within 30 days and/or disagree with the reason given for a time extension;
- Your request to have personal information corrected was denied.



# How to lodge an appeal

- ***Within 30 days of receiving the decision you must:***
  - Write a letter to the IPC explaining why you disagree with the decision;
  - Include a copy of your original request, and the response; and
  - Include the appeal fee (\$10 if the appeal relates to personal information; \$25 if it concerns general information);
- There is an appeal form on the IPC website ([www.ipc.on.ca](http://www.ipc.on.ca)) that can be used. (This is not mandatory).





# ***PRIVACY***



# What is personal information?

- Recorded information about an identifiable individual.
- Government organizations often need to ask for individuals':
  - Name;
  - Address;
  - Banking information;
  - Sex;
  - Marital status, etc.
- Both public sector *Acts* require that the government protect the privacy of the individuals whose information it holds.



# The IPC's involvement

- In 2004, the IPC opened 128 privacy investigation files.
- Privacy complaints follow a similar procedure to that of FOI appeals. Mediators investigate complaints and propose solutions.



# Examples of IPC privacy investigations

- A film company purchased personal health records from a recycling company, then spread these on Toronto streets as a backdrop for a film shoot. (These could have been your personal health records.)
- The IPC investigated a complaint that an Ontario city was ignoring IPC guidelines re the use of public surveillance cameras.



# *Personal Health Information Protection Act, 2004*

- This is Ontario's new health privacy legislation;
- It governs the manner in which personal health information may be collected, used and disclosed within the health care system;
- The IPC has been designated as the oversight body responsible for administering and enforcing *PHIPA*.



# *PHIPA's* underlying principles

- *PHIPA* is guided by the 10 principles set out in the Canadian Standards Association's Model Code for the Protection of Personal Information:

Accountability;

**Consent;**

Accuracy;

Openness;

Challenging Compliance;

Limiting Use, Disclosure & Retention;

Identifying Purposes;

Limiting Collection;

Safeguards;

Access;



# Contact Information

*Bob Spence*

Office of the Information and Privacy  
Commissioner/Ontario

[bob.spence@ipc.on.ca](mailto:bob.spence@ipc.on.ca)

416-326-3939

[www.ipc.on.ca](http://www.ipc.on.ca)