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IPC PERSPECTIVES

INFORMATION AND PRIVACY COMMISSIONER / ONTARIO

TOM WRIGHT, COMMISSIONER

Customer Service: Focus of Changes to the Appeal Process

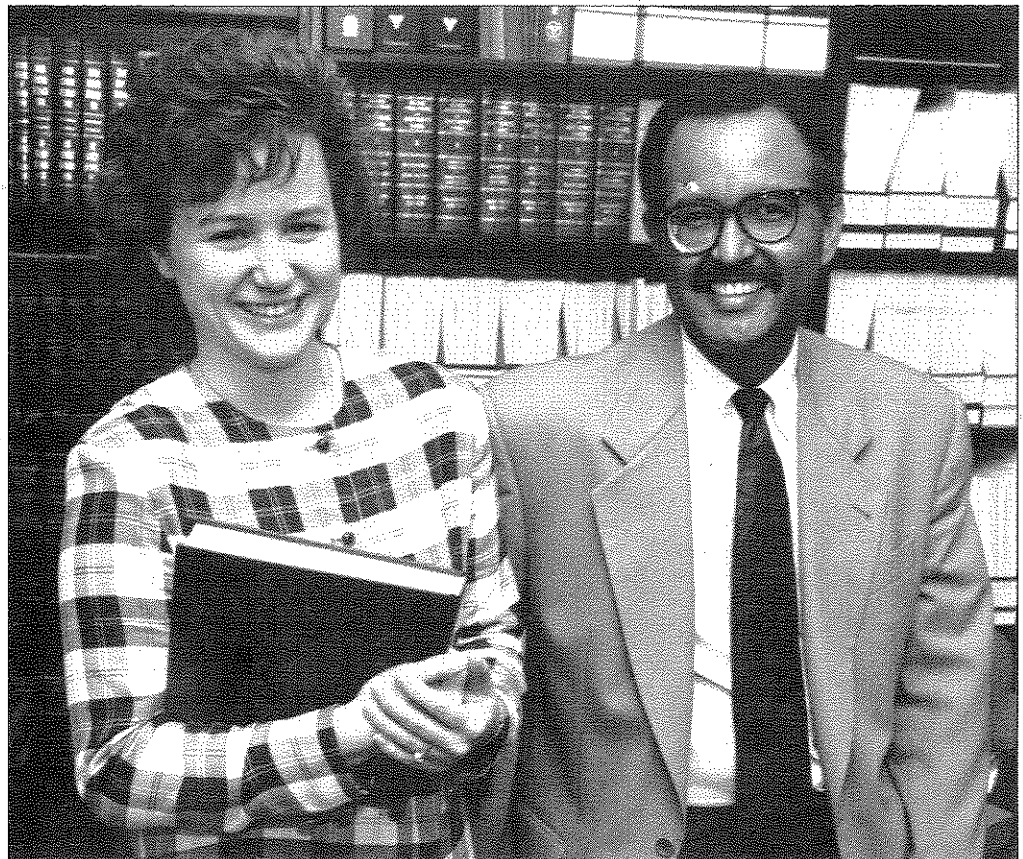
SINCE THE INTRODUCTION OF FREEDOM OF information legislation, the people of Ontario have shown that they value the right to request government-held information. Responding to the public desire for high quality service is a significant challenge which requires con-

tinuous review and reassessment to ensure excellent client service.

The IPC has listened to the comments and suggestions of institutions and appellants and has completed a review of the appeal process.

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The IPC's first Inquiry Officers: Holly Big Canoe and Asfaw Seife



The Appeal Process: Orders only tip of iceberg

Though the most visible outcome of an appeal is the order, relatively few cases are settled in this manner.

UNDER THE ACTS, A PERSON MAY REQUEST: access to general records and his or her own personal information; or correction of his/her own personal information from a government organization. Anyone who is not satisfied with the government's response to a request has the right to appeal the decision to the Information and Privacy Commissioner/Ontario (IPC).

The Appeals Officer assigned to the appeal reviews the circumstances of the case and verifies the government organization's position. Acting as a go-between, he or she will also try to settle the appeal or simplify the issues, based on discussions with the appellant and the government organization. The Office of the Information and Privacy Commissioner tries to settle the issues at appeal, before resorting to an order.

Though the most visible outcome of an appeal is the order, relatively few cases are settled in this manner. The conclusion of an appeal can be determined through mediation;

an order from the Commissioner, Assistant Commissioner or designated decision maker; or it can be abandoned or withdrawn.

The following statistics give a breakdown on how active appeals are closed. Of the 437 appeals closed in 1991, only 79 (18 per cent) were resolved through the issuance of an order. Of the remaining 358 appeals, 344 (79 per cent) were settled through mediation or were withdrawn. The remaining 14 (3 per cent) were either abandoned or found to be beyond the jurisdiction of the Commissioner's office.

Clearly, the large proportion of appeals are resolved by means other than by issuing orders. To keep readers regularly informed on the volume of appeals processed each quarter, the IPC will publish appeals-related statistics in each issue of *IPC Précis*. Also, every second issue of *IPC Perspectives* will briefly discuss the most recent statistics as they pertain to the number of appeal files opened and closed.

A Global Perspective

FREEDOM OF INFORMATION AND PROTECTION of privacy are not new concepts, either in Ontario or worldwide.

The first country to introduce a formalized system of access to government information was Sweden, in 1766. Today, most countries in the European Community have data protection legislation that applies to both the public and private sectors. However, apart from Sweden, most European countries do not have access legislation. The United States and other countries such as Australia and New Zealand have both access and privacy laws that apply to the public sector only.

Within Canada, access and privacy legislation currently applies to the public sector. The federal government introduced separate access and privacy acts in 1983. On the provincial level, all provinces, save Alberta and Prince Edward Island, have freedom of information acts. Four of these – Quebec, Ontario, Saskatchewan and British Columbia – include privacy protection in their legislation. Quebec's new *Civil Code*, when it comes into effect, will extend an individual's right to privacy to the private sector.



Personal Information, Privacy and the Preparation of Priority Briefing Notes at the Ministry of Health

A copy of the report is available from the IPC Communications Department.

IN 1991 THE IPC INVESTIGATED THE DISCLOSURE by a former Minister of Health of an individual's personal information. The IPC's findings were outlined in a report tabled in the Legislative Assembly on June 20, 1991.

Recently, the IPC completed a follow-up to the investigation, reviewing the personal information practices of the Ministry of Health. The IPC report, "Personal Information, Privacy and the Preparation of Priority Briefing Notes at the Ministry of Health" dated July 1992, focused on the procedures the Ministry follows when preparing briefing notes.

It was decided to conduct a review of these procedures because they played a significant role in the events leading to the disclosure by the former Minister. In addition, as briefing notes are central to the flow of information within many ministries, it was felt that the knowledge gained from the review might prove helpful to other government organizations.

The purpose of the IPC review was twofold:

- to identify privacy issues relating to the

procedures followed by the Ministry of Health when preparing Minister's briefing notes; and

- to comment on the general level of privacy awareness within the Ministry.

Highlights of The IPC's report include the following recommendations:

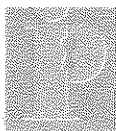
- The Ministry of Health's guidelines ("Priority Briefings Guideline Booklet") should be changed to state that, where possible, the identity of individuals involved in contentious issues should be kept anonymous.
- An education program on privacy concerns generally, as well as on the intent and meaning of the *Act's* privacy provisions, should be introduced by the Ministry for all of its employees.
- Senior managers at the Ministry of Health should have compliance with the privacy provisions of the *Act* included as part of their performance contracts.

The IPC identified a need for more privacy awareness within the Ministry of Health, and offered to work with the Ministry to find ways to achieve this objective. In a response to the report by the Deputy Minister the IPC was pleased to learn that the Ministry had already taken steps to increase the level of privacy awareness. Privacy awareness sessions for ministry staff are underway and new workshops are being designed for more intensive privacy training within the Ministry. The IPC commends the Ministry for these actions.

As identified in the IPC report, there is a genuine need for every organization covered by the *Acts* to increase the level of awareness of the privacy protection principles contained within them. The IPC feels that all government organizations should work towards making privacy considerations a part of their corporate culture.

Assistant Commissioner Ann Cavoukian and Compliance Manager John Brans discuss privacy awareness.





Fall Noticeboard

*What's up for
Fall '92 ...
take note!*

Upcoming Workshops:

Access & Privacy: Making it Work*

November 9 and 10, 1992
Mariott Hotel (Eaton Centre), Toronto

If you haven't registered yet, don't delay! This year's workshop features a "hands-on" approach to freedom of information and protection of privacy.

- * Co-sponsored by:
 - Office of the Information and Privacy Commissioner/Ontario
 - Freedom of Information and Privacy Branch, Management Board Secretariat
 - Association of Municipal Clerks and Treasurers of Ontario

For more information and registration, contact Tom Riley, Riley Information Services, (416) 593-7352.

Electronic Democracy: Cultures, Values and Norms

December 1 & 2, 1992
Ottawa Congress Centre

Information technology is radically changing not only our systems of government and administration, but how we view the world. For further information and registration for this conference, please contact Tom Riley, Tom Riley Information Services Inc., 633 Bay Street, Suite 2207, Toronto M5G 2G4; telephone (416) 593-7352; fax (416) 593-0249.

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The IPC has recently released "Caller ID Guidelines" to institutions covered by freedom of information and protection of privacy legislation in Ontario. These guidelines are targeted at government organizations that currently have Caller ID, as well as those contemplating the use of the service. Their purpose is to ensure that the privacy concerns relating to this technology are recognized and consid-

ered by government organizations. If you have not received a copy of the guidelines and wish to receive one, please contact the IPC Communications Department at (416) 326-3333 or 1-800-387-0073.

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The IPC has recently made two submissions to the Ontario Telephone Service Commission (OTSC). The first, made in July of this year, addressed call management services. The second, made in September, outlined the IPC's general privacy concerns regarding telecommunications, as well as a strategy for future regulation and policy-making in this area. Anyone wishing to obtain a copy of either submission should contact the IPC Communications Department.

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The IPC recently extended the deadline for submissions to its consultation paper on workplace privacy. The agency is considering responses and will be preparing a report on the subject.

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IPC *Précis* features two new "At A Glance" columns – one for "Highlights of Orders", and one for "Highlights of Compliance Investigations". Designed to give the reader quicker access to required information, they alphabetically list institutions highlighted in each issue, followed by their appropriate order or compliance investigation number(s).

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You will be receiving three issues of IPC *Perspectives* per year – Fall, Winter and Spring/Summer. IPC *Précis* will continue to be distributed quarterly.

Q&A

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

Q: *I have received orders from the Commissioner in the past and would like to continue to do so. What should I do?*

A: Orders from the Office of the Information and Privacy Commissioner may be obtained through Publications Ontario. In addition to the sale of single copies, it also offers an annual subscription service to any customer who wishes to receive copies of all orders.

For an annual fee of \$200 (plus GST), Publications Ontario will forward on a monthly basis, all orders received over a twelve

month period (April-March) regardless of volume or individual prices. It sells back issues on an individual basis. Prepayment is required by cheque or money order made payable to the "Treasurer of Ontario". Visa and Mastercard are also accepted. For telephone purchases and inquiries, call (416) 326-5300 or toll free in Ontario, 1-800-668-9938. Personal shopping can be done at the Publications Ontario Bookstore, 880 Bay Street, Toronto, Ontario, M7A 1N8 or by writing to Mail Order at that address.

Provincial Auditor Reports on Computer Security

THE IPC MET WITH REPRESENTATIVES FROM THE Provincial Auditor's office to discuss concerns associated with computer security. They reviewed observations from the Provincial Auditor's 1991 Annual Report that addressed the security of information held by the provincial government.

Report findings indicated that the level of security of information stored on microcomputers was generally unsatisfactory and this was further compounded by the fact that "... staff were generally unaware of the confidential information stored on their microcomputers and diskettes, which required protection under the *Freedom of Information and Protection of Privacy Act*".

Accordingly, the IPC recently contacted both provincial and municipal government institutions to remind them of potential risks to the privacy of personal information stored in computers. Although most institutions strive to ensure the security of personal information in their care, it is clear that data held in computers need special attention.

The following resources can assist institutions in their continued efforts to protect personal privacy:

- Section 42(d) of the provincial *Act*, and section 32(d) of the municipal *Act*, indicate data protection requirements. Also, section 4 of Ontario regulation 516/90 (provincial) and section 3 of Ontario Regulation 517/90 (municipal) under the *Acts* cover security and protection.
- Section 6 of Management Board Secretariat's "Audit Guide" can help when assessing the necessary controls and practices as they pertain to privacy matters.

**Customer Service:
Focus of Changes
to the Appeal
Process**

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Over the past six months improvements have been introduced into the appeal system. These improvements and the hard work of staff have allowed us to significantly increase our productivity. However, despite increased productivity, the IPC has come to the conclusion that fundamental change is necessary if the agency is to continue to improve client service.

Some of the proposed changes can be introduced immediately. Others require further discussion and consultation. For this reason, the changes will be introduced in phases.

Phase One initiatives were implemented October 1, 1992. They address the short-term goal of eliminating inefficiencies in the current appeal process. Some changes are refinements to existing processes.

The Phase One initiatives include the following:

• **Appointment of Inquiry Officers**

Two of the most senior and experienced members of the Appeals department have been appointed Inquiry Officers. Holly Big Canoe and Asfaw Seife join the Commissioner and Assistant Commissioner (Access), as officers with order-signing authority.

• **Concise Orders**

The IPC will continue to streamline and simplify orders.

• **Notice of Inquiry**

A Notice of Inquiry will replace the Appeals Officer's Report. In response to comments received from institutions and appellants, the Notice will be shorter and more straightforward.

• **Completing Long-standing Appeal Files**

Long-standing appeals will be transferred to a

special team of experienced Appeals Officers for priority treatment. Specific details about the transfers will be provided to all institutions and appellants at the time of the transfer.

• **Affidavit Evidence**

The use of affidavits has historically proven to be an efficient way of verifying facts and improving the likelihood of early settlement of appeals. Thus, the IPC will be asking institutions to provide affidavit evidence more frequently in cases where factual evidence is required.

• **Reducing Time Limits for Receipt of Records**

The time limit for the receipt of records from institutions will be reduced so that the appeal process can begin without delay. When necessary, the IPC will issue an "order for the production of records".


• **Proper Decision Letters**

When a proper decision letter is issued, the appeal process may begin without delay. The IPC will seek the support and co-operation of institutions to provide proper decision letters to ensure that appeals are processed in a timely manner. When necessary, the IPC will issue an "order for a proper decision letter".

Phase Two will begin early in 1993 and will include broad measures to further simplify and streamline the process. An important part of this phase will be a pilot project and consultation with both municipal and provincial institutions and appellants to help refine the new processes. The IPC will keep readers informed about future changes as details become available.

**Coming up next
issue:**

Other provinces –
Perspectives looks
at legislative developments in the
areas of access and
privacy.

<p>IPC PERSPECTIVES is published by the Office of the Information and Privacy Commissioner.</p> <p>If you have any comments regarding this newsletter, wish to advise of a change of address or be added to the mailing list, contact:</p>	<p>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</p> <p>Cette publication est également disponible en français.</p>	 <p>100% recycled paper including 10% post-consumer waste</p>
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