



IPC PERSPECTIVES

INFORMATION AND PRIVACY COMMISSIONER / ONTARIO

TOM WRIGHT, COMMISSIONER

Managing Information in an Electronic World

"In this, the age of information technology, we move from a paper-based to an electronic-based environment. This creates both new challenges and opportunities for managing the flow of information," said John Eichmanis, special policy advisor for Ontario's Information and Privacy Commissioner, in a speech given at a meeting of the capital region chapter of ARMA (formerly, the Association of Records Managers and Administrators) held in Ottawa on March 18, 1997.

In his address, Eichmanis explained that today, with the advent of new information technologies, the variety of ways that information can be created, stored and used has increased in comparison to the days when information was produced and stored in paper form only. Now, records are not only created and stored electronically, but must also be retrieved in the same way. He reminded the audience that despite the form that a record or piece of information takes, the *Freedom of Information and the Protection of Privacy Act*, and the *Municipal Freedom of Information and the Protection of Privacy Act* still apply to information of government organizations, thus making the management of recorded electronic information integral to the *Acts*.

The presentation coincides with the release of the IPC's paper entitled, *Electronic Records: Maximizing Best Practices* and the Practice entitled *Privacy Protection. Princi-*

ples for Electronic Mail Systems. The papers outline useful practices for government organizations to consider with regard to how they currently manage information and provides discussion on how technology will affect the day-to-day operations of the records management function in the public sector. It offers suggestions for the implementation of electronic records management practices and advises that organizations consider their individual circumstances when reviewing them.

One of the benefits of new technology is that it should enhance the ability of the public to access information – a key feature in the development of the information highway. For both the purposes of the *Acts* and for the benefits to be gained by this technology, this paper suggests ways to assist organizations to maximize the potential benefits.

"The paper provides 18 practices with a discussion of the reasoning behind each," says Eichmanis. "They deal with issues of what constitutes an electronic record, anticipating future access requirements, retaining and accessing electronic records, security issues and how electronic records can assist an organization with routine disclosure and active dissemination. These are all issues that organizations consider when managing the information that they are responsible for today."

Index of *Practices*

As a result of substantial interest in *Practices* and a helpful suggestion from our readers, the IPC has developed an index of IPC *Practices* available upon request by calling the IPC Communications department at (416) 326-3333 or 1-800-387-0073 or on the IPC web site at <http://www.ipc.on.ca>

Appeals *Practices*

- Drafting a Letter Refusing Access to a Record (Appeals 1)
- Providing Records to the IPC (Appeals 2)
- Mediation: What an Institution Can Expect (Appeals 3)
- Changes to the Appeal Process – Phase I (Appeals 4)
- Providing Representations to the IPC (Appeals 5)
- Raising Discretionary Exemptions During an Appeal (Appeals 6)
- Responding to Requests for Personal Information (Appeals 7)
- Increasing the Effectiveness of Representations (Appeals 8)
- Affidavit Evidence (Appeals 9)
- Clarifying Access Requests (Appeals 10)
- The *Acts* and Investigations about Harassment and Discrimination Complaints (Appeals 11)
- Preparing the Records Package for an Appeal (Appeals 12)

Compliance *Practices*

- Copying Information to Individuals Inside and Outside an Institution (Compliance 1)
- The Collection and Use of the Social Insurance Number (Compliance 2)
- Providing Notice of Collection (Compliance 3)

- Video Surveillance: The Privacy Implications (Compliance 4)
- Audits and Collection of Personal Information (Compliance 5)
- The Indirect Collection of Personal Information (Compliance 6)
- Maintaining the Confidentiality of Requesters and Privacy Complainants (Compliance 7)
- Processing Privacy Complaints (Compliance 8)
- How to Protect Personal Information in the Custody of a Third Party (Compliance 9)
- Tips on Protecting Privacy (Compliance 10)
- Privacy and Confidentiality When Working Outside the Office (Compliance 11)
- Privacy of Personnel Files (Compliance 12)

Other *Practices*

- Third Party Information at the Request Stage
- Privacy Protection Principles for Voice Mail Systems
- Your Privacy and Call Display
- Privacy Alert: A Consumer's Guide to Privacy in the Marketplace
- Privacy Protection Makes Good Business Sense
- Privacy Protection Principles for Electronic Mail
- Routine Disclosure/Active Dissemination



Personal Information and the Ministry of Transportation

The Ministry of Transportation (MTO) in Ontario, like other provinces' transportation authorities, makes some driver and vehicle information available to the public. In response to public concern expressed to the IPC about the disclosure of personal information through this policy, the IPC has released a paper entitled *You and Your Personal Information at the Ministry of Transportation* and the *Practices*.

The papers detail the type of information contained in two databases held by the MTO – the *Driver Licence Database* and the

Vehicle Registration Database – and explain not only the type of information contained in each but outline what information is accessible to the public and what is not. The papers also list organizations that have access to information found in personal files and the reasons they are provided this access.

For copies of *You and Your Personal Information at the Ministry of Transportation* and the *Practices*, please call (416) 326-3333 or 1-800-387-0073. They are also available from the IPC's web site at <http://www.ipc.on.ca>.

Geographic Information Systems Technology

Profound technological advances are transforming the basic nature of information management as conventional paper records give way to powerful electronic databases. One type of information management system increasingly being introduced by government organizations is Geographic Information Systems (GIS) technology.

Stated simply, GIS is a computer system specifically designed to store, retrieve and analyze geographically referenced information – for example, images from aerial photographs and satellites play a significant role in GIS operations. The access and privacy issues associated with today's electronic environment, of which GIS technology is part, are complex and challenging.

The IPC has released a paper and the *Practices* entitled *Geographic Information*

Systems that discuss the nature of the technology and create an awareness of the privacy and access issues related to GIS.

The papers explain what GIS is and how it is used, and provide examples of the types of current applications of the technology, both in government and in the private sector. Finally, issues of access and privacy that arise from implementation of this technology are examined, and the IPC has offered a series of principles to be considered by government organizations for their use of GIS technology.

Copies of *Geographic Information Systems* and the *Practices* can be obtained by calling the IPC's Communications department at (416) 326-3333 or 1-800-387-0073. They are also available on the IPC's web site at <http://www.ipc.on.ca>.

1996 – The Year In Review

JANUARY

The IPC releases *Privacy Protection Models for the Private Sector*.

The *Savings and Restructuring Act 1996* (Bill 26) is passed in the Ontario Legislature. The bill includes amendments to Ontario's *Freedom of Information and Protection of Privacy Acts*, including the addition of an exemption for frivolous or vexatious requests, and the imposition of fees for requests and appeals.

FEBRUARY

Tom Wright, Ontario's Information and Privacy Commissioner, makes a presentation to the Standing Committee on Public Accounts with regard to proposed amendments to the *Audit Act*.

MARCH

As a result of the passing of the *Public Sector Salary Disclosure Act* in January, names of all public sector employees who earn salaries of \$100,000 or more are released to the public.

APRIL

The IPC, together with the Freedom of Information and Protection of Privacy Office, Management Board Secretariat (MBS), releases a joint report entitled *Enhancing Access to Information: RD/AD Success Stories*.

JUNE

The IPC tables its 1995 Annual Report in the Legislative Assembly.

AUGUST

Commissioner Tom Wright provides remarks on the Ministry of Health's recently released consultation paper *Legal Framework for Health Information*.

SEPTEMBER

Management Board Secretariat hosts the annual Access and Privacy Workshop in Toronto.

OCTOBER

Tom Wright gives a presentation at the annual Privacy and American Business Conference entitled "The European Union's Directive on Data Protection: How Will/Should the United States and Canada Respond?"

NOVEMBER

Tom Wright speaks as part of a panel on restructuring alternatives for tribunals in a presentation made to the Conference of Ontario Boards and Agencies (COBA).

DECEMBER

Tom Wright speaks at the Council of Government Ethics and Law (COGEL) conference.

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Government organizations are experiencing a period of transition as more computerization enters the workplace and electronic records replace paper. While information technology provides an additional means to provide services to the public, it also creates new challenges – in particular, how to manage information in an electronic world.

The paper, *Electronic Records: Maximizing Best Practices*, and the *Practices* entitled *Privacy Protection Principles for Electronic Mail Systems* can be obtained by calling the IPC Communications department at (416) 326-3333 or 1-800-387-0073. They are also available on the IPC web site at <http://www.ipc.on.ca>.

Summaries

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

Investigation I96-064M

The complainants were both the subjects of criminal charges and were defendants in a civil suit relating to the same incident that had led to the charges. Their complaint was that a police officer had disclosed to the plaintiff's lawyer, a written statement by one of the complainants and the videotaped statement of the other.

One of the issues raised by the complaint was whether or not section 51(1) of the *Act*, which states that "This *Act* does not impose any limitation on the information otherwise available by law to a party to litigation," applied in the circumstances.

The IPC found that, although the police officer who disclosed the complainants' personal information had been under summons to produce documents at the civil trial, his disclosure was made outside the discovery process and did not take place at the trial which was adjourned to a date after his disclosure. It was, thus, the IPC's view that the information disclosed in this context was not "available by law to a party to litigation" within the meaning of section 51(1) of the *Act*. The IPC also found that no provisions under section 32 of the *Act* applied to permit the disclosure.

The IPC recommended that the police take steps to ensure compliance with the *Act*. In response, the police informed us that one of the steps they had taken was to make certain that the police officer involved was "aware of the situation and the appropriate avenue to follow in future."

Order M-850

The Town of Midland received a request for access to the names of all members of its town Council, their secretaries, all administrative staff, as well as the names of all employees who were related to past or present Council members. The town refused to process the request because, in its view, it was frivolous or vexatious for the purposes of section 4(1)(b) of the municipal *Act*.

The town informed the IPC that the requester had followed a pattern of submitting many requests, some of which resulted in appeals to the IPC. The requester argued that there was nothing wrong with testing or examining the boundaries of the *Act* or in "having fun" filing requests.

The IPC noted that the majority of the requests involved extremely detailed subjects or identified a large number of individuals or locations that the requester believed should be examined to locate responsive records. In addition, the requests were often interrelated. The IPC also noted that since 1991, the requester had filed a total of 1131 appeals, involving both the town and other organizations.

Based on these considerations, the IPC upheld the town's argument that the requester's past and present requests, when considered together, formed a part of a pattern of conduct that amounted to an abuse of the right of access. The IPC also found that the request was made in bad faith and for a purpose other than to obtain access. The result was that the present request was determined frivolous or vexatious and that the town was not required to process it.

Q&A

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

Q: Are hospitals covered by the Acts?

A: The Acts only cover those provincial psychiatric hospitals maintained by the Ministry of Health. They do not cover other hospitals.

Charting the Future of *Perspectives*

In the Fall 1996 edition of *Perspectives*, we asked you, the reader, to respond to a survey designed to tell us about your preferences for future issues. We would like to thank each of you who replied for taking the time to provide us with many informative comments and helpful information.

The IPC is committed to exploring the capabilities offered by new technologies, including how we provide information to you. Two-hundred and twenty-one respondents told us how they felt about *Perspectives*, and other publications we produce, and gave us some interesting feedback that we would like to share.

Providing information to you in a way that meets your needs is important to the IPC. More than 80 per cent of those who responded preferred to receive *Perspectives* by mail, with an additional 20 per cent also finding the fax an acceptable method of delivery. Interestingly, 75 per cent of those who responded told us they did not have access to the Internet, and, therefore did not consider electronic delivery a convenient way to receive the information. Only 10 per cent of those who responded preferred to receive the publications we produce via the Internet.

Of those responses related to the *Subject Index*, again, 80 per cent of those who answered the survey preferred to receive it by mail and 14 per cent stated that faxing it was acceptable.

Municipalities were the overwhelming majority of those who responded to the survey with 83 per cent. Provincial organizations accounted for six per cent of the surveys returned to the IPC and the remaining surveys came from either federal organizations, from other provinces and overseas.

In terms of how often you would like to receive *Perspectives* and the *Subject Index*, 45 per cent indicated that the current distribution rate of three times per year was preferable while 43 per cent would rather receive the *Subject Index* annually, though 33 per cent felt that three times a year was acceptable.

How you use the information we make available to you is also important to the IPC. When the question was posed of how many issues of *Perspectives* and the *Subject Index* you read, you responded that 68 per cent read all or most of the issues of *Perspectives*, as compared to 36 per cent of the *Subject Index*. Fifty-eight per cent of those who responded referred back to issues of *Perspectives* and circulated 27 per cent to colleagues. The *Subject Index* was referred to by 44 per cent and was circulated 18 per cent of the time.

We also provided space for your comments on other IPC publications and for suggestions for topics for future issues of *Perspectives*. We would like to thank each of you for the enlightening ideas and for the thoughtful suggestions.

We will be taking time to consider your comments and responses and will report in the next issue how we will implement those.

IPC

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

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