

FOIP News

Issue No. 16, July 2005



“FOIP News” is an electronic newsletter produced by the Access and Privacy Branch, Alberta Government Services, to highlight news relating to Alberta’s *Freedom of Information and Protection of Privacy (FOIP) Act*. FOIP News is issued as needed. Web site links are provided to allow you to easily obtain more information on a news item.

FOIP Guidelines and Practices – 2005 Edition Now Available

The FOIP Guidelines and Practices Manual, 2005 Edition, is now available from the Alberta Queen’s Printer Bookstore for \$44.95 plus GST. The manual is also available on the FOIP web site.

The 2005 edition distills ten years of experience with Alberta’s *FOIP Act* into a single volume, combining section-by-section analysis with practical guidance on administering an access and privacy program within a public body. It includes clear explanations of the way the Information and Privacy Commissioner has interpreted the Act in Orders and Investigation Reports.

It incorporates all the recent amendments (including those in the FOIP Amendment Act, 2003), the most significant decisions of the Commissioner, and new treatments of a number of topics, such as:

- the duty to assist
- authorization to disregard a request
- requests to create electronic records

Also covered are legislative changes that affect the disclosure of personal information, including:

- disclosure to an adult interdependent partner
- disclosure to the Public Trustee
- disclosure for the purpose of maintenance enforcement

The new detailed Table of Contents and enhanced indexing make this edition of Guidelines and Practices more user-friendly.

A summary of the changes is available at http://www.gov.ab.ca/foip/guidelines_practices/2005/pdf/revisions_summary.pdf

Annual Report 2003-2004

The 2003-2004 Annual Report for the FOIP Act was tabled on March 23, 2005. Some highlights for the fiscal year include:

- The FOIP Help Desk responded to over 1,500 inquiries
- Over 650 employees of public bodies across the province completed 24 FOIP training courses
- 948 local public bodies received a total of 881 FOIP requests

A copy of the 2003-2004 Annual Report is available on the FOIP web site at http://www.gov.ab.ca/foip/annual_reports/index.cfm.

Directory of Public Bodies

The FOIP Coordinators section on the FOIP web site has been replaced with a new searchable Directory of Public Bodies. The directory may be searched by FOIP contact, public body name, location or type of public body. Please send information about any changes to your FOIP contact to the Access and Privacy Branch so the directory can remain current. Updates can be sent to Janet Cummings at janet.cummings@gov.ab.ca.

The Directory of Public Bodies can be accessed at <http://www3.gov.ab.ca/foip/pbdirectory/index.cfm>.

OIPC Orders and Investigation Reports

Since the last newsletter (March 2005), the following Orders and Investigation Reports, relating to local public bodies, have been released by the OIPC:

F2005-IR-001 Edmonton Police Service (April 27, 2005)

It was alleged that members of the Edmonton Police Service (EPS) used the service's information systems and the Canadian Police Information Centre (CPIC) in relation to two individuals in contravention of the FOIP Act. The Investigator found that EPS members had used personal information in contravention of the Act.

F2005-IR-003 City of Calgary Emergency Medical Services (May 2, 2005)

An individual wrote an email to the City of Calgary Emergency Medical Services (EMS) office to relay his concern that the EMS was supporting a program of a charitable organization using a tax-funded public service. The individual alleged that the EMS provided a copy of his email to the charitable organization in contravention of the FOIP Act. The employee who had disclosed the email had felt that the email was an "open letter" and had not been sent in confidence. The investigator disagreed and found that the City of Calgary EMS disclosed personal information in contravention of the Act.

F2004-014 Southern Alberta Institute of Technology (May 6, 2005)

The SAIT Academic Faculty Association made a request under the FOIP Act to the Southern Alberta Institute of Technology ("SAIT") for access to contracts between SAIT and its fee-for-service instructors for a specified time period. SAIT provided the documents but severed the hourly rate and related information, relying on the Act's exceptions for third party business information (s.16), third party personal information (s.17) and economic interests of a public body (s.25). The Commissioner found that section 16 did not apply because the information was negotiated, not supplied. Section 17 did not apply because the information consisted of financial details of a contract to supply services. The argument for economic harm was not persuasive. The Commissioner ordered that the records be disclosed to the Applicant.

F2003-021 University of Calgary (May 17, 2005)

The Applicant made an access request under the FOIP Act to the University of Calgary for a copy of a report written by a committee set up by one of the Deans to look into a complaint made by the Applicant. The University of Calgary provided the record after severing it extensively under the exceptions for advice from officials (s.24) and third person personal information (s.17). The Adjudicator found that the University had applied the sections correctly to most of the record. Where these sections were not properly applied, the Adjudicator ordered the University of Calgary to disclose additional records to the Applicant.

F2004-015 Medicine Hat School District #76 (May 19, 2005)

An applicant had made a request under the *FOIP Act* to the Board of Trustees of Medicine Hat School District #76 for documents relating to an incident in which their daughter had been falsely accused of writing threatening e-mails to other students, and was questioned at length about this matter by school officials. The request covered documents relating to the way this incident was investigated and dealt with by the Public Body and the teachers' professional disciplinary body. Relying on various sections of the Act, the Public Body withheld some documents, provided some in severed form, and refused to confirm or deny the existence of some documents. The Commissioner upheld some decisions of the Medicine Hat School District #76, but ordered records disclosed on others.

F2004-018 Edmonton Police Service (May 26, 2005)

An applicant made a request under the FOIP Act to the Edmonton Police Service (EPS) for access to records supplied by the RCMP regarding an altercation between the Applicant and the RCMP. The EPS cited the exceptions for privilege and intergovernmental relations in support of its decision to withhold the records. The Commissioner upheld the EPS's decision to withhold the records.

F2005-003 Parkland Regional Library (June 30, 2005)

The Parkland Regional Library installed keystroke-logging software on the computer of an employee. The employee complained to the Commissioner that the collection of information was not permitted under FOIP. The employer argued that the collection of information was permitted under section 33(c) of the Act, as it was necessary to manage the employee, based on concerns about his productivity and his use of working time. However, the Commissioner found that Parkland Regional Library had no authority to collect personal information using keystroke-logging software.

F2003-009 University of Alberta (June 28, 2005)

An applicant, a professor at the University, made two requests under the FOIP Act. The University released certain records and withheld others. The applicant disagreed with the decision to withhold some of the records. The Adjudicator found that the University had initially conducted an inadequate search for records. The Adjudicator noted that absence of an employee was not an excuse for an incomplete search. However, he felt that a proper search was conducted eventually. Further, he found that two internal complaint mechanisms did not constitute "quasi-judicial" processes and, therefore, the Act applied to the records. Some of those withheld records were found to fall within the exceptions for labour relations information and legal privilege. The University was also encouraged to provide a better explanation as to why some records were considered non-responsive.

OIPC Publications and News Releases

News Release: Commissioner Advises Albertans to be Wary of "Phishing"

On May 12, 2005, the Information and Privacy Commissioner issued a news release advising Albertans to be wary of "phishing".

For information on phishing and tips on how to protect yourself against it, go to http://www.oipc.ab.ca/ims/client/upload/Phishing_news_release.pdf.

News Release: Photocopiers and Fax Machines latest security risk

The newer generation of office equipment, such as digital photocopiers and fax machines, can pose a security risk for organizations because they may store information on their internal hard drives.

For more information, go to http://www.oipc.ab.ca/ims/client/upload/NR_03_15_2005_Residual.pdf.

SIN Tips

In April 2005, the OIPC released an information sheet on the use of Social Insurance Numbers (SINs) by private sector organizations. The tip sheet provides useful information on the use of SINs that is applicable to public bodies, as well.

For more information, go to <http://www.oipc.ab.ca/ims/client/upload/ACFE594.pdf>.

PIPA Amendment Act

On March 8, 2005, Bill 8, the Personal Information Protection Amendment Act, 2005 was tabled in the Alberta Legislative Assembly. The Act came into force on June 2, 2005. The Act made the following changes:

- Section 4(3) - Application of the Act
 - Previously, PIPA did not apply to health information as defined in the *Health Information Act (HIA)*, whether or not that Act applied. If HIA did not apply, then the health information was protected under the federal private sector privacy legislation, PIPEDA. Now the health information is protected in Alberta by PIPA.

- Section 43.1 - Commissioner's consultations
 - A new section has been added to allow the Information and Privacy Commissioner to work with his counterparts in other jurisdictions in resolving complaints.

- Section 56(1)(a)(v) - *Post-secondary Learning Act*
 - PIPA contained a reference to the *Colleges Act* in section 56. The *Colleges Act* was replaced by the *Post-secondary Learning Act* in March 2004. The amendment corrects this reference.

- Section 61(1)(d) - Exercise of rights by other persons
 - Section 61(1)(d) sets out the circumstances where an individual can act on behalf of a deceased person.

- Section 63(1) - Review of the Act
 - This provision formerly required that a review of the *Personal Information Protection Act* begin by July 1, 2005. This date has been extended by one year. The review of the Act must now begin by July 1, 2006.

For more information, go to the PIPA: Amendment Act, 2005 information sheet at <http://www.psp.gov.ab.ca/index.cfm?page=resources/AmendmentAct2005.html>. A consolidation of the Act should be available from the Alberta Queen's Printer shortly.

FOIP Training

The dates for the 2005-2006 FOIP training have been set. The training program includes three one-day sessions for employees who are responsible for FOIP and a half-day session for employees who require a basic overview of the concepts of protection of privacy and access to information. Training sessions are held in Edmonton and Calgary several times a year or arrangements can be made for delivery of training at your workplace. Arrangements may also be made for onsite delivery of a training session customized to meet the needs of your public body.

A link to the training section on the FOIP web site is now available from the main page. One click will take you to detailed course descriptions, workplace training options and the new 2005-2006 course calendar.

The first course offerings are scheduled for Edmonton on September 19-21, 2005 and in Calgary on October 26-28, 2005. We encourage you to submit your registrations as soon as possible as spaces fill quickly.

For more information, visit the training page at <http://www.gov.ab.ca/foip/training/index.cfm> or contact Janet Cummings by telephone at (780) 415-2407 or by e-mail at janet.cummings@gov.ab.ca.

Meeting Calendar

Municipal - Edmonton (RIM)	Sept 15, 2005	Strathcona
Health	Sept 19, 2005	Edmonton
Post-secondary FOIP Network	Oct 21, 2005	Calgary
School Jurisdictions FOIP Network	Oct 28, 2005	Nisku

Did You Know...

... A recent EKOS Research Associates survey commissioned by the Office of the Privacy Commissioner of Canada showed that 70 percent of Canadians surveyed express a high sense of concern about of their privacy and the protection of their personal information. The same percentage of Canadians also predict that privacy is one of the most important issues facing the country. See http://www.privcom.gc.ca/information/survey/ekos_e.asp for more information.

... On October 17-18, 2005, the Government of Alberta and the ARMA Edmonton Chapter will be presenting an exciting conference for information management practitioners in the public sector. This two-day event will be held at the Mayfield Inn and Suites in Edmonton, Alberta.

Conference updates will be posted on the Information Management web site regularly at <http://www.im.gov.ab.ca/index.cfm?page=conference/index.html>.

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