



FOIP News is an electronic newsletter produced by Access and Privacy, Service Alberta, to highlight news relating to Alberta's *Freedom of Information and Protection of Privacy Act* (the 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.

## In This Issue...

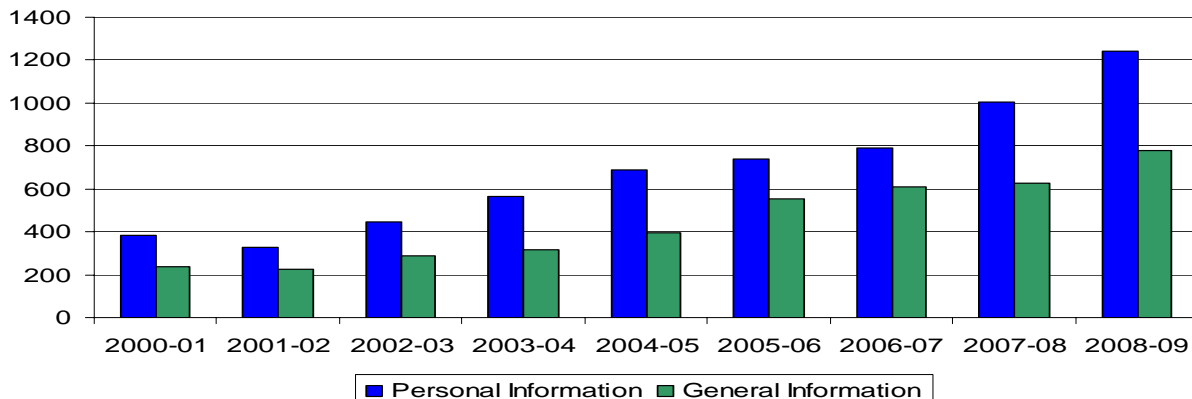
|   |   |
|---|---|
| 10 Years under FOIP .....                                       | 1 |
| FOIP Firsts .....   | 3 |
| <i>Personal Information Protection Amendment Act 2009</i> ..... | 4 |
| Update on FOIP Publications .....                               | 5 |
| OIPC Orders and Investigation Reports .....                     | 5 |
| OIPC Publications and News Releases .....                       | 7 |
| Meeting Calendar .....  | 8 |
| Training .....  | 8 |
| Upcoming Events .....   | 9 |
| Did you know? .....   | 9 |

## 10 Years under FOIP

It has been 10 years since local public bodies were brought under the FOIP Act (October 1999). To celebrate this anniversary, Access and Privacy thought it would be interesting to take a look at how local public bodies have handled requests to access information (i.e., FOIP requests) over this period.

In the course of the past 10 years, the number of FOIP requests to local public bodies has increased dramatically. In the first full year under the Act, local public bodies processed a total of 620 FOIP requests. In contrast, 2008/2009 saw local public bodies process 2,020 FOIP requests – a 226% increase (see Figure 1)!

Figure 1: FOIP Requests Made to Local Public Bodies



Impressively, local public bodies have consistently processed FOIP requests in less than 30 days (see Figure 2). Further, records were disclosed either totally or partially for the majority of requests (see Figure 3). Most requests to local public bodies were for individuals' own personal information (see Figure 1). Not surprisingly, then, most requests were made by the general public, followed by businesses and members of the media (see Figure 4).

Figure 2: Response Times for Local Public Bodies

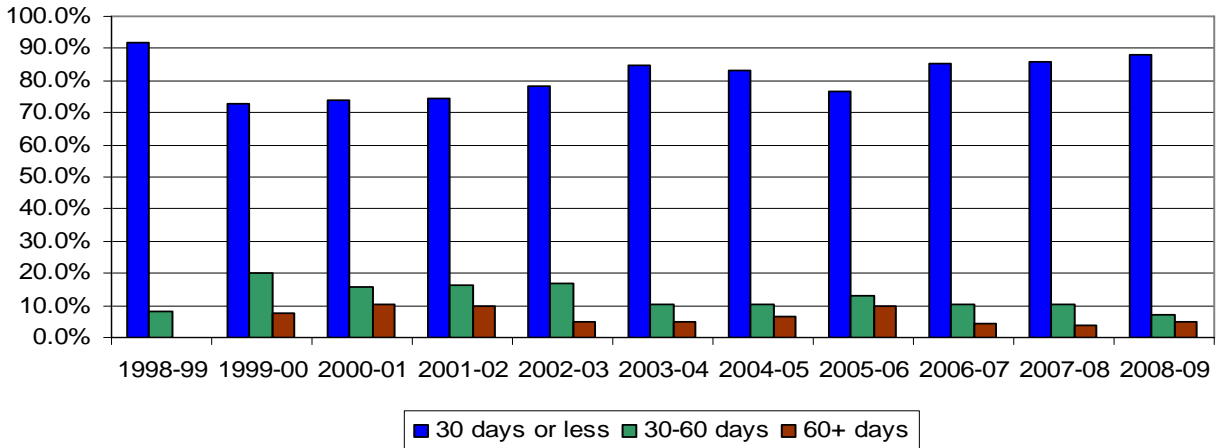


Figure 3: How Access Requests were Processed by Local Public Bodies

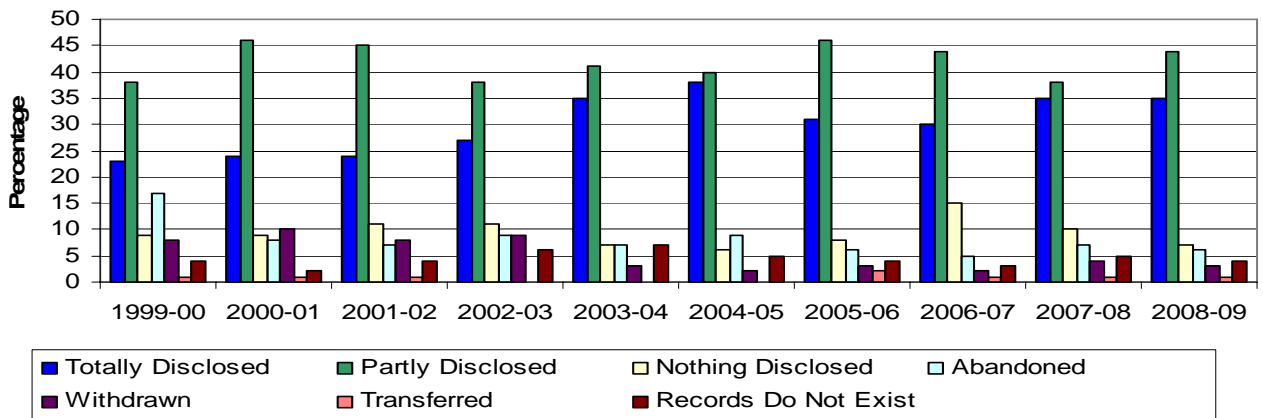
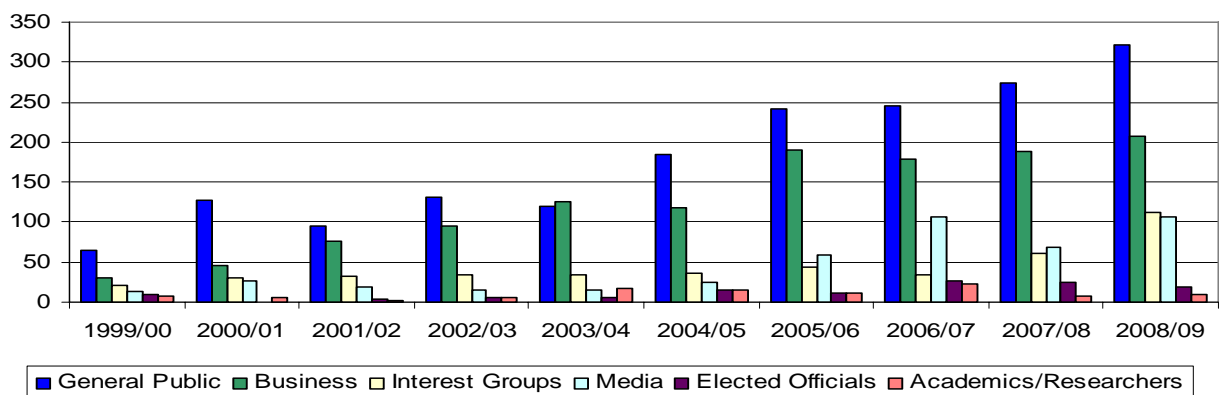


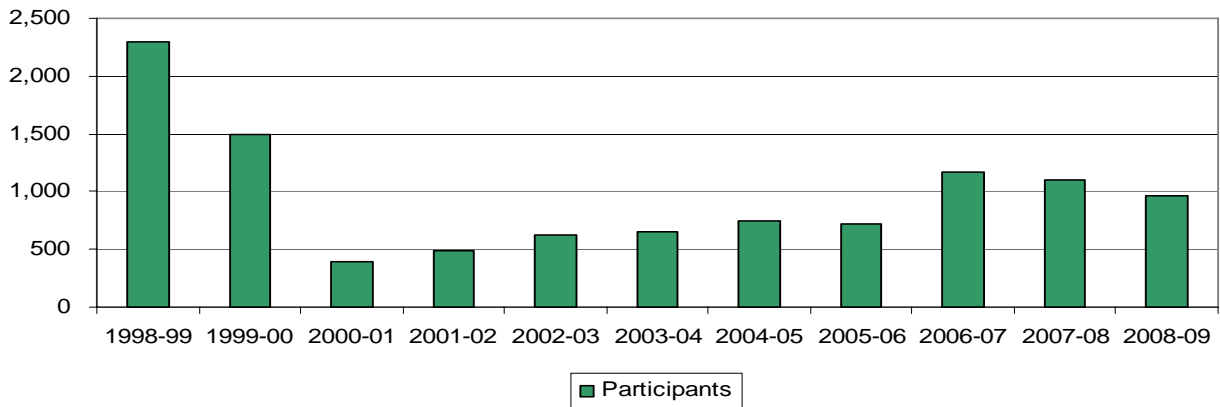
Figure 4: Who Made Access Requests



Also, over the course of the past 10 years, Access and Privacy has trained more than 11,000 public body employees through the instructor-led FOIP courses. Attendance spiked dramatically when local public bodies came under the Act, with over 1,200 participants in 1999/2000 being from those sectors (see Figure 5).

In all, the past 10 years have been a great success for both the FOIP Act and local public bodies!

Figure 5: FOIP training participants



## FOIP Firsts

For a trip down Memory Lane, here are the first OIPC decisions issued involving the various local public body sectors.

| Sector                      | Public Body                | Order/IR #                  | Release Date  | Synopsis  |
|-----------------------------|----------------------------|-----------------------------|---------------|---|
| School Jurisdictions        | Calgary Board of Education | <a href="#">99-019</a>      | July 14, 1999 | Commissioner determined he had jurisdiction to hear a complaint that the school board disclosed copies of the complainant's letters to the school board to a newspaper. |
| Post-Secondary Institutions | University of Calgary      | <a href="#">2000-003</a>    | Sept 29, 2000 | Commissioner upholds the university's decision to refuse to disclose a report prepared in response to a labour relations dispute.                                       |
| Municipalities              | County of Smoky Lake       | <a href="#">99-IR-003</a>   | Feb 11, 2000  | Investigation concludes disposal of records inappropriate but not a breach of the FOIP Act.   |
| Police Services             | Lethbridge Police Service  | <a href="#">1998-IR-011</a> | March 4, 1999 | Investigation concludes the police service was justified in releasing personal information about a sex offender through the media.                                      |

| Sector                    | Public Body                            | Order/IR #                   | Release Date  | Synopsis  |
|---------------------------|--|------------------------------|---------------|---|
| Police Commissions        | Calgary Police Commission              | <a href="#">2000-IR-002</a>  | July 7, 2000  | Investigation concludes that use of personal information by a City of Calgary Alderman in addressing correspondence to members of the Calgary Police Association was not an unreasonable invasion of privacy.         |
| Health Care               | Calgary Regional Health Authority      | <a href="#">99-022</a>       | Aug 24, 1999  | Commissioner upholds Calgary Regional Health Authority's decision to refuse access to part of lawyer's statement of account.  |
| Housing Management Bodies | Lethbridge Housing Authority           | <a href="#">2000-IR-003</a>  | Nov 1, 2000   | Investigation finds that the housing authority did not obtain valid consent to disclose some information and did not require consent to disclose other information.   |
| Libraries                 | Parkland Regional Library              | <a href="#">F2005-003</a>    | June 30, 2005 | Commissioner finds that Parkland Regional Library had no authority to monitor an employee by way of keystroke logging software.   |
| Métis Settlements         | Métis Settlement Transition Commission | <a href="#">F2002-IR-004</a> | July 26, 2002 | Commissioner finds that the Commission and Aboriginal Affairs contravened the privacy provisions of the Act by disclosing a report of an investigation into numerous allegations and concerns regarding a settlement. |

## ***Personal Information Protection Amendment Act 2009***

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The *Personal Information Protection Amendment Act, 2009* (Bill 54) received Royal Assent on November 26, 2009. The Act will come into force on proclamation. Amendments to the *Personal Information Protection Act* include:

- Requiring organizations to report significant security breaches to the Information and Privacy Commissioner as soon as possible;
- Requiring organizations to notify individuals if their personal information is processed outside of Canada;
- Ensuring consistent standards for handling the personal information of employees; and
- Streamlining the Information and Privacy Commissioner's processes.

To read the bill in its entirety, visit the Legislative Assembly Office website (<http://www.assembly.ab.ca/>) - click on Bills and Amendments and select Bill 54.

## Update on FOIP Publications

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### **FOIP Bulletin No. 9: Burden of Proof**

The FOIP publications on the FOIP website have been reviewed with respect to changes in inquiry procedures announced by the Office of the Information and Privacy Commissioner (see 'OIPC Publications and News Releases' below). As a result, *FOIP Bulletin No. 9: Burden of Proof* has been updated and is now available at <http://foip.alberta.ca/resources/publications/bulletin9.cfm>.

### **FOIP Guidelines and Practices 2009**

This is a reminder that the recently revised 2009 edition of *FOIP Guidelines and Practices* is available for purchase from the Alberta Queen's Printer. It incorporates all the recent amendments (including those in the *FOIP Amendment Act, 2006*), the most significant decisions of the Information and Privacy Commissioner and new treatments of a number of topics. An order form is available on the FOIP website at [http://foip.alberta.ca/PDF/qp\\_order\\_form.pdf](http://foip.alberta.ca/PDF/qp_order_form.pdf).

## OIPC Orders and Investigation Reports

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Since the last newsletter, the following Orders and Investigation Reports (that relate to local public bodies) have been released by the Office of the Information and Privacy Commissioner (OIPC) of Alberta. Summaries of Orders and Investigation Reports are available on the FOIP website. Where summaries are not yet available, links to the rulings are provided.

### **F2008-021 Edmonton Police Commission (released July 16, 2009)**

The OIPC ordered the Edmonton Police Commission to release information relating to the dismissal of disciplinary charges, subject to the removal of some personal information, and ordered the Commission to reconsider its decision to withhold information under section 27 (privileged information) of the FOIP Act.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2442>

### **F2009-IR-002 Southern Alberta Institute of Technology (released August 4, 2009)**

The OIPC found that the Southern Alberta Institute of Technology (SAIT) was authorized to collect the applicant's personal information under the FOIP Act and recommended changes to the forms that SAIT relies on for its Disability Management Services.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2444>

### **F2008-029 Calgary Police Service (released August 14, 2009)**

The OIPC confirmed that the Calgary Police Service (CPS) was authorized to disclose its reports relating to incidents of domestic conflict to a society assisting victims of domestic violence under section 40(1)(c) – disclosure for the purpose for which the information was collected or compiled - of the FOIP Act.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2446>

**F2009-010 Edmonton Police Service (released September 9, 2009)**

The OIPC confirmed Edmonton Police Service's decision to withhold records related to a disciplinary hearing, as disclosure would be an unreasonable invasion of the personal privacy of an individual under section 17 of the FOIP Act.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2459>

**F2009-013 Lethbridge Regional Police Service (released September 17, 2009)**

The OIPC determined that the records requested by the applicant are exempt under section 4(1)(k) of the FOIP Act because they related to an ongoing prosecution.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2463>

**F2009-012 The Board of Trustees of Edmonton School District No. 7 (released September 22, 2009)**

The OIPC found that The Board of Trustees of Edmonton School District No. 7 conducted an adequate search for records.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2464>

**F2009-014 The Board of Trustees of Edmonton School District No. 7 (released September 22, 2009)**

The OIPC found that The Board of Trustees of Edmonton School District No. 7 disclosed personal information, to another public body involved in providing services to a student, in contravention of Part 2 of the FOIP Act. The board was ordered to cease disclosing personal information in this manner.

[http://foip.alberta.ca/commissioners\\_decisions/orders/summary/2009/2009-014summary.cfm](http://foip.alberta.ca/commissioners_decisions/orders/summary/2009/2009-014summary.cfm)

**F2009-016 University of Calgary (released October 21, 2009)**

The OIPC confirmed decisions by the University of Calgary to withhold information that would be an unreasonable invasion of the privacy of a professor. The records related to an investigation into allegations the applicant had made against the professor. The university was also ordered to release other information improperly withheld under the FOIP Act.

[http://foip.alberta.ca/commissioners\\_decisions/orders/summary/2009/2009-016summary.cfm](http://foip.alberta.ca/commissioners_decisions/orders/summary/2009/2009-016summary.cfm)

**F2009-015 City of St. Albert (released November 10, 2009)**

The OIPC found that the City of St. Albert properly withheld some personal financial information of the homeowners involved in a house fire, and ordered the City to release all other records related to the fire to the applicant.

[http://foip.alberta.ca/commissioners\\_decisions/orders/summary/2009/2009-015summary.cfm](http://foip.alberta.ca/commissioners_decisions/orders/summary/2009/2009-015summary.cfm)

### Right to Know Week Workshop

On October 1, 2009, the Commissioner hosted a seminar on “routine disclosure” in celebration of *Right to Know Week*. Three FOIP Coordinators, from different public bodies, provided attendees with insight into their own experiences in dealing with routine disclosure of information within their respective organizations. About 160 access and privacy professionals were in attendance. The presentations are available on the OIPC website at <http://www.oipc.ab.ca/pages/home/default.aspx?id=3047>.

### Letter to Google Inc.

The federal, Quebec, Alberta and BC privacy commissioners recently co-signed a letter to Google with concerns about its ongoing Street View project.

See [http://www.priv.gc.ca/media/nr-c/2009/let\\_090821\\_e.cfm](http://www.priv.gc.ca/media/nr-c/2009/let_090821_e.cfm)

### Changes to Inquiry Procedures

On October 14, 2009, Information and Privacy Commissioner Frank Work announced changes to the inquiry procedures under the FOIP Act, the HIA and PIPA.

The most significant changes include:

- The OIPC will no longer circulate written inquiry submissions to the parties. Parties are now responsible for exchanging their written submissions with the other parties to the inquiry.
- Requests to extend the due date for a written inquiry submission will require the consent of all the other parties for extensions up to 30 days, and the Commissioner’s approval for extensions over 30 days or where consent cannot be obtained for extensions under 30 days.
- Requests to have the Commissioner accept in camera written inquiry submissions will now follow a process that provides greater procedural fairness. The process will require notice to all parties and reasons to be provided to all parties, as well as to the Commissioner.

These documents are posted on the OIPC website at <http://www.oipc.ab.ca/pages/home/default.aspx?id=3050>.

### Privacy In The Time Of A Pandemic: Guidance For Organizations

The Office of the Privacy Commissioner of Canada, the Office of the Information and Privacy Commissioner for British Columbia and the Office of the Information and Privacy Commissioner of Alberta, released guidance to organizations seeking clarification about how privacy laws apply in the private sector workplace during the H1N1 pandemic. While these guidelines are written for the private-sector, the principles are generally applicable to local public bodies as well.

<http://www.oipc.ab.ca/Downloads/documentloader.ashx?id=2492>

## Meeting Calendar

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| <b>Who?</b>                       | <b>When?</b>   | <b>Where?</b> |
|-----------------------------------|----------------|---------------|
| Health Network                    | March 2, 2010  | Edmonton      |
| Post-Secondary FOIP Network       | April 16, 2010 | Calgary       |
| School Jurisdictions FOIP Network | April 23, 2010 | Nisku         |
| Municipal FOIP Network (North)    | April 29, 2010 | Edmonton      |
| Municipal FOIP Network (South)    | April 30, 2010 | Airdrie       |

## Training

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Access and Privacy has contracted with Cenera Inc. to deliver the FOIP Training Program. The training calendar and registration procedures are being finalized and will be distributed the first week of January 2010. The tentative dates for the first set of scheduled courses to be offered are:

| <b>Course</b>                          | <b>Date</b>       | <b>Location</b> |
|--|-------------------|-----------------|
| Introduction and Privacy               | February 1, 2010  | Edmonton        |
| Access to Information                  | February 2, 2010  | Edmonton        |
| Managing a FOIP Program                | February 3, 2010  | Edmonton        |
| General Awareness (afternoon)          | February 4, 2010  | Calgary         |
| Managing a Contract under the FOIP Act | February 5, 2010  | Calgary         |
| General Awareness (afternoon)          | February 11, 2010 | Edmonton        |
| Managing a Contract under the FOIP Act | February 12, 2010 | Edmonton        |
| Introduction and Privacy               | February 24, 2010 | Calgary         |
| Access to Information                  | February 25, 2010 | Calgary         |
| Managing a FOIP Program                | February 26, 2010 | Calgary         |
| Introduction and Privacy               | March 8, 2010     | Edmonton        |
| Access to Information                  | March 9, 2010     | Edmonton        |
| Managing a FOIP Program                | March 10, 2010    | Edmonton        |
| General Awareness (afternoon)          | March 15, 2010    | Edmonton        |
| Managing a Contract under the FOIP Act | March 16, 2010    | Edmonton        |

FOIP training at your workplace is also available. If you are interested in having any one of the courses delivered at your workplace, contact Eileen Hendy at 780-415-6401 or [eileen.hendy@gov.ab.ca](mailto:eileen.hendy@gov.ab.ca).



## Upcoming Events

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### 11th Annual Privacy and Security Conference

February 9<sup>th</sup> to 10<sup>th</sup>, 2010 – Victoria, British Columbia

- The theme of the 2010 conference is *Navigating the Digital Ocean: Riding the Waves of Change*. This conference draws an international audience of over 1,000 delegates with an interest in cutting edge policy, programs, research and technologies aimed at the protection of privacy and security. For more information, go to <http://www.rebootconference.com/privacy2010/>.

## Did You Know...

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... The use of airport whole body imaging scanners (otherwise known as Millimetre Wave Imagers) recently received the “okay” from the Office of the Privacy Commissioner of Canada.

What is whole body imaging? When a traveler passes through the scanner, it produces a three-dimensional image of the traveler’s body...sans clothing! Think X-ray spectacles *that really work!* Objects, such as guns or knives, will show up clearly in the image. The system is currently only being used, on a test basis, at the Kelowna, BC airport.

The system has been a source of privacy debate in many countries, including Canada. In particular, concerns have been expressed over the privacy invasive nature of the scanners. In response to the privacy concerns, the Canadian Air Transport Security Authority (CATSA), the federal agency responsible for airport safety, completed a Privacy Impact Assessment of the technology in 2008 (see <http://www.catsa-acsta.gc.ca/File/Library/59/English/PIA%20summary.pdf>). Some privacy mitigation measures include having a security officer view the images in an isolated location, and giving travelers the option of using the scanner or a more traditional body pat down.

In the future, as the technology is more widely implemented, it will be interesting to see if there is a corresponding increase in the number of people flocking for gym memberships!

**Happy Holidays from Access and Privacy, Service Alberta!**

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