



# FOIP News

Issue No. 28, April 2010

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. Website links are provided to allow you to easily obtain more information on a news item.

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## Review of the FOIP Act

On April 13, 2010, the Legislative Assembly of Alberta appointed an all-party special committee to review the *Freedom of Information and Protection of Privacy Act* (the FOIP Act), as required under [section 97](#) of the Act. The committee is comprised of the members from the Standing Committee on Health. The committee must begin its review by July 1, 2010 and submit its report to the Assembly within one year.

Visit the [committee's website](#) for information such as meeting dates and transcripts, when available. The committee will likely advertise for submissions in May.

## FOIP Annual Report 2008/2009

The 2008/2009 Annual Report on the *Freedom of Information and Protection of Privacy Act* was tabled in the Legislative Assembly of Alberta on February 22, 2010. Some highlights of the FOIP program for the fiscal year include:

- Enacted a new FOIP Regulation and a Ministerial Regulation
- Reviewed over 50 resources incorporating recent guidance from Information and Privacy Commissioner decisions
- Trained more than 960 employees from government and local public bodies
- Responded to more than 1,900 questions directed to the FOIP help desk
- Received more than 1.4 million hits on the FOIP website
- Contributed to the planning and delivery of Alberta's 13th annual information and privacy conference

The report can be viewed on the FOIP website at <http://foip.alberta.ca/resources/annualreports/index.cfm>.

Summary tables of annual statistical information on FOIP requests received by local public bodies in Alberta are also available at <http://foip.alberta.ca/resources/statistics/lpb.cfm>.

Highlights for 2008-2009 include:

- 2,020 FOIP requests were received by 960 local public bodies, an increase of 24% over the previous fiscal year
  - 1,243 requests for personal information (an increase of 216 from last period)
  - 777 requests for general information (an increase of 13 from last period)
- Top users of the “access” provisions of the Act were
  - the general public (41% of requests)
  - businesses (27% of requests)
- Records were totally or partially disclosed in 78% of general information requests
- Records were totally or partially disclosed in 81% of personal information requests
- 95% of requests were completed within 60 days

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

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On April 15, 2010, the [Personal Information Protection Amendment Act, 2009](#) and [Personal Information Protection Act Amendment Regulation](#) were proclaimed into force, effective May 1, 2010.

Most of the PIPA Information Sheets, as well as the PIPA FAQs, are being revised to reflect the recent amendments. As well, several new sheets are available to explain the new provisions, such as security breach notification.

The new publications are available on the [PIPA website](#). Updates of other publications will be posted in May.

## ***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. Links to the decisions on the OIPC website are provided.

### **F2009-020 & F2009-019 City of Edmonton (released February 4, 2010)**

The OIPC found that the City had not conducted an adequate search of records when it limited its search to one City department. The OIPC also found that the City contravened Part 2 of the FOIP Act when it disclosed drawings of the Applicant's house to a neighbour.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2527>

### **F2009-025 University of Alberta (released March 2, 2010)**

The OIPC confirmed the University of Alberta's decision to withhold personal information of a third party (a consultant with a third party organization and an employee of the University), as the records related to activities outside the scope of the third party's employment. The university was also ordered to release other information that was originally withheld as non-responsive.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2533>

### **F2009-023 University of Alberta (released March 11, 2010)**

The OIPC determined that the University conducted an adequate search for records but did not meet its duty to assist because it did not explain its search process to the Applicant. In response to a challenge by the University, the Adjudicator also found that the Commissioner was authorized to extend the time for holding the inquiry, only the Court of Queen's Bench could "quash" a Commissioner's decision, and that the time limit for applying for a judicial review of that decision had already expired.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2543>

### **F2009-022 University of Calgary (released March 11, 2010)**

The OIPC determined that the University met its duty to assist the applicant as the University was able to demonstrate that it had not created or received any email communications about the Applicant's grant application.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2542>

### **F2009-026 Mount Royal University (released March 15, 2010)**

The OIPC ordered the University to release a report created by its security services office about the Applicant. The University argued disclosure of some of the information would be an unreasonable invasion of several employees' personal privacy. The Adjudicator found that the employees were acting in their employment capacities, so it was not an invasion of privacy to release the information. The Adjudicator also found that the University had not established that releasing the information could harm the health or safety of the employees.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2547>

### **F2009-029 Edmonton Police Service (released April 6, 2010)**

An Applicant made an access request for a copy of the records released in response to another individual's access request (both members of the Edmonton Police Service). Concerned that responding to the access request would reveal the identity of the first Applicant, the Police Service used section 12(2) of the FOIP Act to neither confirm nor deny the existence of the records. Based on the specific circumstances of the case, the OIPC determined that the Police Service must respond to the access request without relying solely on section 12(2).

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2552>

### **F2009-032 Calgary Police Service (released April 8, 2010)**

The OIPC determined that the Calgary Police Service met its duty to assist when, during the inquiry process, the Police Service provided the Applicant with information that satisfied his request.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2559>

## **F2009-034 University of Alberta (released April 13, 2010)**

The OIPC confirmed the University's decision not to grant fee waiver regarding a request for records about research involving animals. The Adjudicator found that there was insufficient evidence to show that the Applicant did not have the ability to pay, or that the particular records involved were a matter of public interest, or that the activities of the University had been called into question.

<http://www.oipc.ab.ca/downloads/documentloader.ashx?id=2561>

## **OIPC Publications and News Releases**

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### **Commissioner Work expresses grave concern over recent Court of Appeal ruling.**

The Commissioner issued a news release over concerns about a recent Alberta Court of Appeal Decision that would impose significant requirements and restrictions on the Commissioner's ability to extend timelines to complete an inquiry.

[http://www.oipc.ab.ca/Content\\_Files/Files/News/NR\\_ATArulingstatement.pdf](http://www.oipc.ab.ca/Content_Files/Files/News/NR_ATArulingstatement.pdf)

### **Commissioner comments on University of Alberta's plans to outsource its email service to Google**

The Commissioner issued a news release on a Privacy Impact Assessment (PIA) submitted to the OIPC by the University of Alberta. The University plans to "outsource" its email system (for both staff and students) to Google.

[http://www.oipc.ab.ca/Content\\_Files/Files/News/NR\\_UofA\\_Google\\_Apr\\_2010.pdf](http://www.oipc.ab.ca/Content_Files/Files/News/NR_UofA_Google_Apr_2010.pdf)

### **Privacy Commissioner issues new privacy impact assessment requirements**

New Privacy Impact Assessments (PIAs) requirements have been developed for health information custodians. While written for custodians, the new requirements provide useful guidance to local public bodies under the FOIP Act as well.

[http://www.oipc.ab.ca/Content\\_Files/Files/News/Apr\\_15\\_PIA\\_Requirements.pdf](http://www.oipc.ab.ca/Content_Files/Files/News/Apr_15_PIA_Requirements.pdf)

## FOIP Training

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Are you or any staff in your local public body in need of FOIP training this spring? If yes, there are still seats available in our upcoming FOIP courses in Edmonton.

Introduction and Privacy (Day 1), Access to Information (Day 2), Managing a FOIP Program (Day 3)\*

- Edmonton: May 10-12

A half-day General Awareness course is also available for local public body employees who are not responsible for FOIP but require a basic overview of the concepts of protection of privacy and access to information.

General Awareness (1:00 to 4:30 pm)

- Edmonton: May 3

For information on how to register, visit the "[Training for Public Bodies](#)" section on the FOIP website.

These are the last course offerings before the summer break. The 2010/11 course schedule will be published before the end of June.

Any of the instructor-led courses can also be delivered at your workplace. To discuss training at your workplace, contact the Information Coordinator, Access and Privacy, at 780-427-3950 or [karen.hesson@gov.ab.ca](mailto:karen.hesson@gov.ab.ca).

## Meeting Calendar

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Who?	When?	Where?
School Jurisdictions FOIP Network	April 23, 2010	Cancelled
Municipal FOIP Network (North)	April 29, 2010	Cancelled
Municipal FOIP Network (South)	April 30, 2010	Cancelled
HSIAPN	June 8, 2010	Edmonton

## Upcoming Events

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### Meeting Your Privacy Obligations: Protecting Against Breaches, Liability and Reputational Risks

May 12 and 13, 2010 - InterContinental Toronto Yorkville, Toronto, Ontario

- The Canadian Institute's *Meeting Your Privacy Obligations* conference includes a number of sessions that will provide insight into emerging issues in privacy, as well as regulatory and case law updates. For more information, go to <http://www.canadianinstitute.com/privacy.htm>.

## IAPP Canada Privacy Symposium 2010

May 26 to 28, 2010 - Ryerson University, Toronto, Ontario

- The International Association of Privacy Professionals (IAPP) *Canada Privacy Symposium 2010* offers thought-provoking discussion and education on the latest developments in privacy for the Canadian data protection community. For more information, go to [https://www.privacyassociation.org/events\\_and\\_programs/iapp\\_canada\\_privacy\\_symposium](https://www.privacyassociation.org/events_and_programs/iapp_canada_privacy_symposium).

## Access and Privacy Conference 2010

June 9 to 11, 2010 - Marriott River Cree Resort, Edmonton, Alberta

- *Access and Privacy Conference 2010: Changes/Challenges/Choices* is Canada's foremost information rights conference, featuring cutting-edge presentations and networking opportunities with international leaders in the field. For program and registration information, go to <http://sites.google.com/site/accessandprivacy/home>.

## Did You Know...

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... In February, the Privacy Commissioner of Canada, Jennifer Stoddart, announced that she will be consulting with Canadians on issues related to cloud computing.

Cloud computing is when file storage, email and other computer applications are managed online by third party vendors, such as [Google Docs](#). Cloud computing offers many advantages to organizations, like decreased costs; however, there are also potential privacy risks. Organizations may have less control over data processed and stored by way of cloud computing. Often the data will be stored in other countries that may not have privacy laws equal to Canada's.

The Commissioner is seeking expressions of interest from individuals, including academics, public bodies and the private-sector, wanting to take part in a formal discussion panel, to be held in Calgary in June. For more information, go to [http://www.priv.gc.ca/media/nr-c/2010/nr-c\\_100211\\_e.cfm](http://www.priv.gc.ca/media/nr-c/2010/nr-c_100211_e.cfm).

... Alberta is not the only jurisdiction holding a review of its public-sector access and privacy legislation. Since October 2009, British Columbia's *Special Committee to Review the Freedom of Information and Protection of Privacy Act* has also been reviewing BC's FOIPPA. The review is expected to conclude in May 2010. For more information, go to the committee's website at <http://www.leg.bc.ca/cmt/39thparl/session-1/foi/index.htm>.

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Service Alberta  
Access and Privacy  
3rd Floor, 10155 – 102 Street  
Edmonton, Alberta T5J 4L4  
Phone: 780-422-2657  
Fax: 780-427-1120  
Web site: <http://foip.alberta.ca>

FOIP Help Desk:  
Phone: 780-427-5848  
Toll free dial 310-0000 first  
E-mail: [foiphelpdesk@gov.ab.ca](mailto:foiphelpdesk@gov.ab.ca)

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