



FOIP News

Issue No. 2, September 2001

“FOIP News” is an electronic newsletter produced by Information Management, Access and Privacy (IMAP), to highlight news relating to Alberta’s *Freedom of Information and Protection of Privacy (FOIP) Act*. FOIP News will be issued every month or two as needed. Web site links will be provided to allow you to easily obtain more information on a news item.

FOIP Act and Regulation

The FOIP Regulation was amended on August 21, 2001. Schedule 1, the list of public bodies, was changed to reflect the current organization of government ministries. The Acts that prevail despite FOIP were revised, particularly those dealing with health information. Since the *Health Information Act* was proclaimed in April this year, many of the health legislation paramountcies over the *FOIP Act* could be removed.

A new consolidation of the *FOIP Act* and Regulation will be available from the Queen’s Printer soon.

Job Openings

IMAP is recruiting to fill two vacant positions. The FOIP Advisor position has a closing date of September 14 and the Senior Policy Analyst position closes on September 21. For more information, click on <http://www.gov.ab.ca/pao/jobs/index.html> and search Management/Administration positions.

Check Your Book Shelf

The IMAP scribes have been busy over the summer. These recent publications are available on the FOIP web site. Click on http://www.gov.ab.ca/foip/other_resources/publications_videos/index.cfm

Guide to Using Surveillance Cameras in Public Areas: Is your collection of personal information by means of a surveillance camera both lawful and justifiable? The guide reviews how privacy protection measures can be built into the use of a surveillance system.

Guide to Developing Privacy Statements for Government Web Sites: Privacy is a major concern of Internet users. Sample privacy statements are provided which you can use to build a privacy statement suited to your web site.

Bulletin No. 10 - Third Party Notice: This bulletin reviews the process for handling third party records, from identifying the third parties, to giving notice and ensuring compliance with time limit extensions.

Bulletin No. 11 - Paramountcy: Impress your colleagues by being able to explain what paramountcy is, why it may be needed, and when it applies.

Information & Privacy Commissioner Orders

The Commissioner's scribes have been busy too. Since, the last newsletter, four orders have been released:

2001-014 Alberta Government Services (August 29, 2001)
2001-020 City of Calgary (August 27, 2001)
2001-021 Alberta Community Development (August 27, 2001)
2001-023 Alberta Environment (August 28, 2001)

Here are highlights from two recent orders.

Order 2001-020, City of Calgary

This is the first Alberta Order dealing with a request for information about an employee severance package. The City of Calgary received a request for all information related to a buy-out for managers since 1999. The Information and Privacy Commissioner upheld the City's decision to release standard clauses from the severance agreements, the individuals' job title or position, and the amount of severance paid. This information could be released in accordance with section 16(2)(e) of the *Act*.

The City withheld the individuals' names and signatures (section 16(4)(g)(i)), employee numbers, and termination and retirement dates as employment history (section 16(4)(d)).

It is not clear how the Order would apply if an applicant asked for the severance package information of a named individual. However, it appears that the same considerations of sections 16(2) and 16(4) may apply and the outcome may be the same.

Order 2000-014, Alberta Human Resources and Employment

In this Order, the Information and Privacy Commissioner provided several instructions under section 30 for the guidance of public bodies. Section 30 relates to the public body's decision to provide access to records, after giving notice to a third party.

- If a public body decides to disclose records to which the exception for third party business interests (section 15) or personal privacy (section 16) applies, but
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withholds others, the public body must notify the applicant and the third party at the same time.

- A public body that has consulted a third party under section 29 must notify the applicant and the third party of its decision at the same time.
- When giving notice of a decision under section 30, public bodies should be as specific as possible about records to which they have decided to give access and those which they have decided to withhold.
- If a public body changes its position on providing access to records, it should immediately notify the applicant of that decision.
- If a time limit has been extended for consultation and a decision is reached, the extension expires and the public body must respond to the applicant immediately.

Sector Meetings

- **Health:** Next Health Network meeting is September 14, 2001 in Leduc.
- **Post-Secondary Institutions:** Next Post-Secondary FOIP Network meeting is September 21, 2001 at SAIT in Calgary.
- **Police:** Next Police Services FOIP Network meeting is September 27, 2001 in Calgary.
- **Schools:** Next School Jurisdiction FOIP Network meeting is November 2, 2001 at Black Gold Regional Division No. 18 in Nisku.

Local Elections

Elections are coming up this fall for municipalities, school boards and regional health authorities and the FOIP Help Desk is starting to get some calls. Some of the questions we have answered are repeated for your information.

Can a municipality disclose the names of individuals who have signed a candidate's nomination form?

- Section 28(3) of the *Local Authorities Election Act* provides for eligible voters to examine the nomination forms after 12 noon on nomination day. The examination may take place during regular business hours and in the presence of the returning officer, deputy or secretary.
- The disclosure would be in accordance with section 38(1)(d) of the *FOIP Act*, a disclosure for the purpose of complying with an enactment of Alberta.

Can municipalities provide a list of voters to candidates for municipal office?

- If a list of voters has been prepared in accordance with section 49(1) of the *Local Authorities Election Act*, that Act provides for the disclosure of the list to candidates under section 49(3)(a).
 - The disclosure would be in accordance with section 38(1)(d) of the *FOIP Act*, a disclosure for the purpose of complying with an enactment of Alberta.
 - If the municipality does not have a list of voters, then the municipality can provide candidates with rural maps or ward maps.
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- Contact information of property owners should not be disclosed from the assessment roll, as that would likely be viewed as an unreasonable invasion of privacy.

Can a public body disclose a list of the names and contact information of those who picked up a nomination package?

- Consider whether you have the authority to collect the names and contact information in the first place. The personal information can be collected if the information is necessary for an activity of the public body (section 32(c)).
- For example, the information could be collected if the public body anticipates a need to send updated information to candidates. If this is the case, each candidate should complete an individual form. Providing the information is voluntary. The form should contain a collection notice to comply with section 33(2) of the *FOIP Act*.
- If there is no intention to send out additional information, the names and contact information should not be collected.
- The information could not be used or disclosed for any other purpose.

The media often ask for names and phone numbers of candidates. Can a public body collect and disclose this information?

- If the public body wants to assist the media, candidates could be given the opportunity to provide the contact information the public body may disclose to the media.
- The candidates must consent in writing to the disclosure of their phone number to the media.

Training Dates

Registrations are coming in but we still have room for you! FOIP Courses will be offered on the following dates and locations:

- Access, Privacy and Administration, September 12-14, 2001, Edmonton
- Introduction and Privacy, September 28, 2001, Edmonton
- Access and Privacy, November 28-29, 2001, Edmonton

To obtain the training calendar and registration form, click on http://www.gov.ab.ca/foip/other_resources/training/index.cfm

Did You Know....

.... Dave Bell of the Office of Information and Privacy Commissioner, is Alberta's first Adjudicator. Mr. Bell will be able to conduct inquiries and will have order-making authority for the cases he reviews.

... Ontario is holding an Access and Privacy Workshop on September 13 and 14 in Toronto. For more information, click on <http://www.ellisriley.on.ca/regist.html>.

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