



# FOIP News

Issue No. 1, August 2001

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“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.

## Who is Information Management, Access and Privacy?

Information Management and Privacy Branch (IMPB) has a new name to reflect the addition of the government’s records management program to our area.

## FOIP Act Amended

The proclamation of the *Health Information Act* on April 25, 2001 resulted in some amendments to the *FOIP Act*. They include the following:

- the parts of the definition of "health care body" regarding hospitals and the Alberta Cancer Board are matched with *HIA*;
- the definition of "record" is harmonized with *HIA* and now specifically includes "notes, images, audiovisual recordings, and x-rays";
- the offence provision that prohibits a person from destroying any records with the intent to evade a request for access to the records is harmonized with *HIA*, with the addition that it is also an offence to direct another person to destroy records with the intent to evade a request for access; and
- two minor technical errors in the sections describing the adjudicator's and Commissioner's powers and duties are corrected.

A list of the amendments and the updated *FOIP Act* are available on the FOIP web site. Click to [http://www.gov.ab.ca/foip/legislation/foip\\_act/hia\\_related\\_amendments.cfm](http://www.gov.ab.ca/foip/legislation/foip_act/hia_related_amendments.cfm) and [http://www.gov.ab.ca/foip/legislation/foip\\_act/index.cfm](http://www.gov.ab.ca/foip/legislation/foip_act/index.cfm)

## FOIP Help Desk

Have you used the FOIP Help Desk? Staff are available to answer your calls and e-mails. We have access to a number of experts and resources to provide you with assistance, information, and advice. If after checking our publications and Frequently Asked Questions you are uncertain about an access or privacy issue, contact the help desk for assistance. Our motto is that no question is silly or insignificant, and if in doubt – contact the help desk.

The contact information is:

E-mail: [foiphelpdesk@gov.ab.ca](mailto:foiphelpdesk@gov.ab.ca)  
Telephone: 780-427-5848 (Toll free dial 310-0000 first)  
Fax: 780-427-1120

## Training Dates

Do you or anyone else in your organization need training? FOIP Courses will be offered on the following dates and locations:

Access, Privacy and Administration, September 12-14, 2001, Edmonton  
Access, Privacy and Administration, September 17-19, 2001, Calgary  
Introduction and Privacy, September 26, 2001, Calgary  
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](http://www.gov.ab.ca/foip/other_resources/training/index.cfm)

## FOIP Conference

The annual FOIP Conference was held June 7-8, 2001 at the Mayfield Inn in Edmonton, Alberta. The two-day conference was attended by over 350 participants and offered a variety of information sessions, interesting speakers, and great food and entertainment.

The conference opened on Thursday with The Honourable David Coumts, Minister of Government Services providing the opening remarks, and followed by a keynote address by The Honourable John Reid, Information Commissioner of Canada. Other key speakers at the conference included Mr. Robert Clark, Information and Privacy Commissioner of Alberta; Professor Reg Whitaker, Department of Political Science, York University; and, Mr. Mozelle Thompson, the Commissioner of the U.S. Federal Trade Commission. All provided excellent insights into emerging issues on the access and privacy fronts.

“Foipers” chose from a wide variety of workshops. Topics ranged from a primer on FOIP for those new to the topic, to advanced topics such as privacy in electronic service delivery, handling of electronic documents, administrative law, national trends, trends in IPC decisions, an exploration of the “duty to assist”.

As we have come to expect, the entertainment at the second day luncheon was superb. Three Dead Trolls in a Baggie performed an original song about how to protect your privacy (to the refrain of “Lie, lie, lie, lie...”) and showed a video depicting a day in the life of a “bad” and a “good” FOIP Coordinator. The bad Coordinator came to an unfortunate end, providing a clear lesson to the audience.

The conference provided an excellent venue for participants to learn, network, exchange ideas, and meet peers. The planning for the 2002 conference is now underway. If you have any suggestions for topics or speakers please contact Sue Kessler at [sue.kessler@gov.ab.ca](mailto:sue.kessler@gov.ab.ca). IMAP will notify you of the dates when they have been set.

## Commissioner Resigns

Mr. Robert Clark has announced his resignation as Information and Privacy Commissioner effective September 1, 2001. Mr. Clark will retain his position as the Ethics Commissioner. Mr. Frank Work Q.C., Assistant Commissioner, has been appointed Acting Information and Privacy Commissioner until the Legislative Assembly makes a permanent appointment.

## Information & Privacy Commissioner Orders

Since January 2001, the Office of the Information and Privacy Commissioner has released over 30 Orders and 12 Investigation Reports. We will point out some of the highlights in these orders and reports over the next few issues to assist you in understanding how they may apply to you.

Orders and Investigation Reports are available on the FOIP and OIPC web sites. Click to [http://www.gov.ab.ca/foip/commissioners\\_orders/index.cfm](http://www.gov.ab.ca/foip/commissioners_orders/index.cfm)

### **Order 2000-019 (Alberta Health and Wellness)**

[http://www.gov.ab.ca/foip/commissioners\\_orders/orders/summary/2000/2000-019summary.cfm](http://www.gov.ab.ca/foip/commissioners_orders/orders/summary/2000/2000-019summary.cfm)

The definition of law enforcement was changed in 1999. Law enforcement is defined in section 1(1)(h)(ii) to include "...administrative investigation...that leads or could lead to a penalty or sanction..." In this order, the Commissioner found that the penalty or sanction must be imposed under a statute or regulation. The department could not apply 19(1) to sever records of an investigation that led to decision to terminate employment [para. 60-69]. This is the first interpretation of the application of this section for such circumstances since the definition was amended.

This order discusses applying the provisions of section 26 (legal privilege) and the need for a public body to prove or produce evidence of seeking or giving legal advice [para. 28-59]. The provisions under section 16 (disclosure harmful to third party's personal privacy) are also discussed [para. 70-130].

### **Order 2000-023 (City of Calgary)**

[http://www.gov.ab.ca/foip/commissioners\\_orders/orders/summary/2000/2000-023summary.cfm](http://www.gov.ab.ca/foip/commissioners_orders/orders/summary/2000/2000-023summary.cfm)

The Commissioner confirmed his decision in Order 2000-019 that the penalty or sanction referred to in the definition of law enforcement must be imposed under a statute or regulation [para. 45-46].

The Commissioner interpreted the definition of personal information "to include a person's initials or handwriting, where they could reveal a person's identity" [para. 49]. When reviewing records, a public body will need to consider if the handwriting or initials on a record would reveal a person's identify and how the FOIP Act applies.

The order also discusses the need to conduct adequate searches for records responsive to a request [para. 66-67]. If records contain gaps, a public body may need to conduct a further search for missing records or provide reason for the gaps in the records.

### **2001-IR-001 (Alberta Children's Services)**

[http://www.gov.ab.ca/foip/commissioners\\_orders/reports/summary/2001/2001-IR-001summary.cfm](http://www.gov.ab.ca/foip/commissioners_orders/reports/summary/2001/2001-IR-001summary.cfm)

This investigation report discusses an e-mail error that occurred when a distribution list was used. It contains some excellent recommendations for Information Technology departments and organizations considering doing business by e-mail.

## Did You Know....

....Prince Edward Island just passed FOIP legislation modeled on the Alberta Act. The proclamation date has not been decided. Once proclaimed, all provinces and territories in Canada will have access legislation.

.... the University of Alberta offers a course related to information access and protection of privacy. Information Access and Protection of Privacy Foundations is delivered online over a 13 week period. The next course starts in September 2001. For more information contact Wayne MacDonald, Manager, IAPP Certificate Program Project at (780) 492-2862 or by e-mail at: [wayne.macdonald@ualberta.ca](mailto:wayne.macdonald@ualberta.ca) or visit the website at <http://www.extension.ualberta.ca/govstudies/>

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If you have an e-mail address, please let us know. Send an e-mail to [foiphelpdesk@gov.ab.ca](mailto:foiphelpdesk@gov.ab.ca) stating your name and organization and we will add you to our e-mail distribution list.