



# FOIP News

Issue No. 5, February 2002

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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.

## FOIP Act Review

The Select Special Freedom of Information and Protection of Privacy Act Review Committee had its first meeting on January 30, 2002. The meetings are recorded in Hansard, and transcripts are available from the Legislative Assembly web site at <http://www.assembly.ab.ca/>.

For more information watch the What’s New page of the FOIP web site.  
[http://www3.gov.ab.ca/foip/whats\\_new.cfm](http://www3.gov.ab.ca/foip/whats_new.cfm)

## Follow-up to Questions from New Councillors

In the last issue of *FOIP News* we included a discussion of providing information to council members.

The Ontario Information and Privacy Commissioner and the City of Ottawa have released a new publication on this topic. The publication, *Working with the Municipal Freedom of Information and Protection of Privacy Act – A Councillor’s Guide*, is available by clicking on <http://www.ipc.on.ca/english/whatsnew/whatsnew.htm>

The Guide also discusses whether Councillors’ records may be accessed under the Ontario *Municipal FOIP Act*. Ontario’s legislation is different than the Alberta *Act*. In Alberta’s *Act*, personal records or constituency records of an elected member of a local public body are excluded from the *Act* in section 4(1)(n). More information on this topic is available in Bulletin No. 6, Records of Elected and Appointed Officials of Local Public Bodies. Click on [http://www3.gov.ab.ca/foip/guidelines\\_practices/bulletins/bulletin6.cfm](http://www3.gov.ab.ca/foip/guidelines_practices/bulletins/bulletin6.cfm)

## FOIP Discussion Papers

Two new Discussion Papers have been prepared for school jurisdictions. The topics are "School Promotional Video Production" and "Video Yearbooks." The

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intention of FOIP Discussion Papers is to highlight how the *FOIP Act* may apply to a particular issue or situation, for the purpose of promoting discussion within interested public bodies. Click on [http://www3.gov.ab.ca/foip/other\\_resources/publications\\_videos/index.cfm](http://www3.gov.ab.ca/foip/other_resources/publications_videos/index.cfm)

## Attention Municipalities in the Lethbridge Area

The City of Lethbridge is offering to host the first Southern Alberta FOIP Regional Alliance meeting for municipal FOIP contacts. Contact Kathy Wolansky at 403-329-7383 or by e-mail ([kwolansky@city.lethbridge.ab.ca](mailto:kwolansky@city.lethbridge.ab.ca)) if you are interested in participating, want more information, or have any agenda items. Kathy will be creating an e-mail listserv that will be used to notify everyone who is interested in participating of the date and agenda for the first meeting.

This is an excellent opportunity for FOIP Contacts to share ideas, gather information, learn what others are doing, and meet fellow FOIPers.

## Information & Privacy Commissioner Orders

### Order 2001-029, Alberta Government Services

The term “registry” is defined for the first time. The Commissioner adopts the definition from Black’s Law Dictionary as a “...book authorized or recognized by law, kept for the recording or registration of facts or documents.” Section 4(l)(l)(vii) excludes certain registry records from the *FOIP Act*.

### Order 2001-040, Edmonton Police Commission

This order is the first where the Commissioner considers the application of the exception for local public body confidences, section 23 of the *FOIP Act* and section 18 of the Regulation.

## Revised Statutes of Alberta (RSA)

The RSA 2000 came into force on January 1, 2002. The RSA 2000 consolidates Alberta Acts, and amendments to them, up to December 31, 2000.

A new consolidation of the *FOIP Act* and Regulation is now available from the Queen’s Printer. Click on <http://www.gov.ab.ca/qp/> to order.

RSA 2000 is a consolidation of law, not new law, so existing delegation tables, agreements, notices, and forms referencing the old section numbers remain valid. As time permits, public bodies should revise these documents to reflect the new section numbers and new wording within a section if appropriate. In the meantime, you can attach a list of changed section numbers to an existing delegation table, agreement, brochure, or policy. As an interim measure, you can use a stamp, sticker, or general notice on a web site to update forms and notices until they can be revised.

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IMAP is updating all its own publications to reflect the new section numbers and wording changes. The FOIP web site contains a number of documents to help you work through the changes:

- Frequently Asked Questions
- A concordance (table showing old and new section numbers) and legislative history of the *FOIP Act*
- A table listing all the changes to the *FOIP Act*
- An up-to-date copy of the *FOIP Act* and Regulation
- Delegation and assignment of responsibility tables
- Model letters
- Forms (that contain references to section numbers of the *FOIP Act*)

Click on <http://www3.gov.ab.ca/foip/legislation/rsa2000/index.cfm> to access these documents.

Some additional tips to public bodies relating to RSA 2000 are:

- When a section is quoted in a publication or on a web page, check the exact wording of that section as some minor language changes may have been made
- Indicate whether the whole publication has been updated or only the section numbers because of RSA 2000
- Ensure web links to legislation are current
- Revise in-house training packages to reflect RSA 2000
- If other legislation is referenced, check that legislation for changes as a result of RSA 2000

## Who's Your Head?

Recently, IMAP contacted some public bodies to fill in the blanks on our mailing list of FOIP "Heads". Some bodies asked us what we were talking about.

Your public body should have designated a "head" for purposes of the *FOIP Act* at the time when the *Act* came into force for your sector. The head of a public body is the person who is accountable and responsible for all decisions made under the *FOIP Act*. For example, the head will authorize the release of records or portions of records to an applicant. This does not mean the head will actually manage the FOIP process – that can be, and usually is, delegated – but it does establish who has the final authority on FOIP matters. Normally the person would be a senior administrative person in the organization, such as the President or CEO (as opposed to a board member).

Section 95 of the FOIP Act (formerly s.89) says,  
"A local public body, by bylaw or other legal instrument by which the local public body acts,

(a) must designate a person or group of persons as the head of the local public body for the purposes of this Act,..."

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If you are unable to find a bylaw or resolution that does this, contact the FOIP Help Desk and copies of a sample bylaw or resolution can be provided.

If other staff members are making decisions under the *FOIP Act* besides the head, then you need a delegation instrument. Basically this sets out in writing who can make decisions under the *FOIP Act*. This requirement is in section 85 (formerly s.80) which says,

*"(1) The head of a public body may delegate to any person any duty, power or function of the head under this Act, except the power to delegate under this section.*

*(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the head of the public body considers appropriate."*

Our web site contains a delegation table you can use. Click on [http://www3.gov.ab.ca/foip/guidelines\\_practices/2002/](http://www3.gov.ab.ca/foip/guidelines_practices/2002/) and go to Appendix 2.

## Sector Notes

- **Post-Secondary Institutions:** Next Post-Secondary FOIP Network meeting is June 12, 2002 in Edmonton.
- **Schools:** Next School Jurisdiction FOIP Network meeting is May 3, 2002, in Nisku.
- **Municipalities:** Next FOIP Alliance meeting is February 21, 2002 in Sherwood Park.
- **Health:** Next Health Network meeting is March 18, 2002 in Edmonton.

## Upcoming FOIP Training

FOIP training will be offered on March 13, 14, 15, 2002 and May 1, 2, 3, 2002. Registration can now be made for any one day of training. Each day of training in the three-day course offering builds upon the previous day.

To obtain the training calendar and registration form, click on [http://www3.gov.ab.ca/foip/other\\_resources/training/index.cfm](http://www3.gov.ab.ca/foip/other_resources/training/index.cfm)

## Did You Know....

... The Privacy Commissioner of Canada's annual report to Parliament is available for 2000/01. Click on [http://www.privcom.gc.ca/information/ar/02\\_04\\_09\\_e.asp](http://www.privcom.gc.ca/information/ar/02_04_09_e.asp)

... On January 1, 2002 PIPEDA extended to health information for those provinces that did not have their own health Act.

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... A conference on privacy legislation in the private sector and health care sector, "Understanding Privacy: New Laws, New Challenges" takes place on March 11 & 12, 2002 at Hotel Vancouver, Vancouver, B.C. Click on <http://www.ellisriley.on.ca/fipa/default.htm>

... Alberta's FOIP Conference set for June 13 and 14, 2002 Mayfield Conference Centre. The programs will be available mid-March.

... B.C.'s Office of the Information and Privacy Commissioner has tentatively chosen June 14, 2002 for its *Public Sector Privacy Conference*.

... The first *Health Information Act* Conference will be held this fall in Alberta. More information will be provided as it becomes available.

... The Canadian region of ARMA (the Association of Records Managers and Administrators) will be holding its 2002 conference in Calgary from June 2-5. This is an excellent opportunity to learn more about the latest in records and information management techniques. Click on <http://www.arma2002.com>

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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.