

FOIP FOLIO

May 2004

With a Little Help from our Friends

Special thanks are due the folks at the Office of the Alberta Information and Privacy Commissioner. Diane Aldridge from our office has just spent a full week in the Alberta office to learn about their policies and procedures. Our Alberta counterparts and Commissioner Frank Work have been very generous in sharing their 9 years experience with our much smaller operation. Diane has returned with plenty of ideas we could readily adapt to the Saskatchewan OIPC.



A Cautionary Note for Pharmacists and other Trustees

Past issues of the FOIP FOLIO have highlighted interesting legal privacy cases in other parts of the country. You can now add to that list a civil action launched in the Provincial Court of Alberta in Action #PO 49010043 (Calgary). This reflects a claim for general damages by a woman who alleges that her pharmacist disclosed her personal health information to her estranged husband without her consent. The disputed claim alleges that the Defendants breached Alberta's *Health Information Act* ("HIA") including: disclosure without knowledge or consent, failure to take reasonable steps to protect privacy and confidentiality and failure to establish policies and procedures to facilitate the HIA in that province. The Plaintiff is suing for \$12,500 in general damages, special damages of \$1500, punitive and aggravated damages and costs. The original complaint was dealt with by the Alberta Information and Privacy Commissioner in his Investigation Report H2002-IR-002 available at www.oipc.ab.ca.

The message for Saskatchewan trustees is that there are real and possibly expensive consequences for a failure to establish policy and procedures for HIPA compliance.

You can now call on our dime

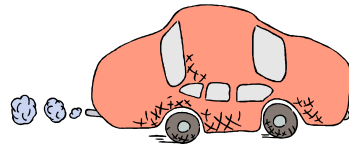
You can now telephone our office toll free from anywhere in Saskatchewan. Our toll free number is:

1-877-748- 2298



Who is Watching the Watchers?

Do you use video surveillance in your facilities? It seems that this practice is growing rapidly within Saskatchewan. Our office is in the process of completing a review of guidelines on video surveillance in Ontario, British Columbia and Alberta as well as work done by the Privacy Commissioner of Canada. We have drawn from all of those sources to prepare an advisory piece for Saskatchewan government institutions, local authorities and health trustees.



Protecting Privacy ‘on the road’

Saskatchewan is a vast province with a scattered population. For many organizations, it is common that files are taken from the office when staff must go ‘on the road’ to meet with clients in other communities. What are your responsibilities to protect the privacy of clients and the confidentiality of their personal information? Our office has adopted a set of guidelines that will shortly be available on our website under the tab “Resources”. This is very similar to a policy developed by the British Columbia OIPC. Your organization should have a policy and ensure that staff is trained accordingly. Some key considerations:

- Take out of the office only what you absolutely need
- Don’t leave records unattended in an unlocked office
- Don’t leave records unattended in a car, locked or unlocked
- Don’t leave records unattended in a hotel room
- At the end of the trip, return the records to their original storage as soon as possible.
- If a theft occurs:
 - Notify your FOIP Coordinator immediately
 - File a police report at once
 - Notify our office of the theft
 - Notify the subjects of the stolen records of the theft and the personal information about them that was stolen

Top Marks to SIAST Website

Diane Aldridge in our office has “nominated” the SIAST website as a one of the best local authority websites in the province for good, accessible access/privacy information. In preparation for a recent meeting, Diane visited the SIAST site and found, with minimal effort, a section dedicated to access and privacy. This section highlights the legislation that applies to SIAST. This includes a policy and procedure statement on confidentiality of personal information and a flowchart of the process for routing access requests. If you are looking for a format to provide user-friendly resources to the general public or clients/customers of your services, we encourage you to take a peek at www.siastr.sk.ca/siastr/campuses/. If you have a favourite Saskatchewan access/privacy site, let us know so we can share it with our subscribers.

‘Stand-alone health law club’ grows by one

Ontario’s **Personal Health Information Protection Act, 2004** has now been adopted by the Ontario Legislative Assembly. It is scheduled to go into force November 1, 2004. Ontario will then join Saskatchewan and only two other provinces with a stand-alone health information statute. The other two provinces are Manitoba (*Personal Health Information Act*) and Alberta (*Health Information Act*). Interestingly both Manitoba and Alberta are now undertaking formal reviews of their health information laws.

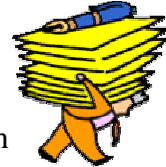
There are both similarities and differences between the Ontario legislation and the Saskatchewan *Health Information Protection Act*. Some of the differences are:

- Regulations must first be published in draft form at least 60 days before they go into force (subject to limited exceptions);
- Unlike our HIPA that makes more than 70 departments, Crown Corporations and agencies “trustees”, the Ontario law would make only the Ministry of Health and Long-Term Care a ‘health information custodian’ along with the usual list of health care providers;
- For treatment and care purposes, there is an implied consent rather than the deemed consent found in HIPA;
- Ontario has opted not to incorporate the higher standard of ‘consent to treatment’ into consent for the use and disclosure of personal health information. Saskatchewan has opted for that higher standard;
- Disclosure of personal health information for planning and management of the healthcare system requires prior approval of the Ontario Information and Privacy Commissioner.

OIPC Projects

We are completing development of *Frequently Asked Questions for Local Authorities*. Diane Aldridge has been collecting input and suggestions from the provincial government and local authorities. This builds on a presentation Diane made to a large audience of local government officials at the Annual Meeting of the Rural Municipal Administrators Association. If you have questions you want included contact Diane Aldridge at 798-1602.

Backlog of Requests for Review and Complaints



We are working hard to address a backlog of requests for review under the FOIP Act and LA FOIP Act. If you are an applicant, government institution or local authority we appreciate your patience. The backlog can be attributed to the challenge in developing systems and processes for a new office, hiring and training an Assistant to the Commissioner, several very major, time-intensive projects and developing a new template for reports and finally, responding to many requests for presentations from Saskatchewan organizations. You may be interested to know that the Manitoba office doing the same work, for a slightly larger population, has a staff of 12 persons. Our team of 3 is working as hard as we can to do more with less.

Future Events

May 31 to June 2 -- Access and Privacy hosted by the Archives Association of Ontario at Queen's University Kingston <http://aao.fis.utoronto.ca/a/whatsnew.html#conference>

June 9 & 10 -- Access and Privacy Conference 2004 - Sorting It Out hosted by University of Alberta, Faculty of Extension in Edmonton
<http://www.govsource.net/programs/iapp/conference/preconference.nclk>

June 17 & 18 – Privacy Compliance hosted by The Canadian Institute in Toronto
www.CanadianInstitute.com

June 21 -- Western Canadian Privacy Compliance hosted by The Canadian Institute in Calgary <http://www.canadianinstitute.com/frames.cfm>

July 28 to 29 -- Information Management in the Public Sector, hosted by Government Exchange in Ottawa, Ontario www.government-exchange.com

To Contact us: Saskatchewan Information and Privacy Commissioner
#100, 1230 Blackfoot Drive
Regina, Saskatchewan, S4S 7G4
Phone: (306) 787-8350 / Fax: (306) 798-1603
Email: pscott@oipc.sk.ca
Website: www.oipc.sk.ca

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