



THE CANADIAN  
BAR ASSOCIATION

# CBA ACCESS TO INFORMATION AND PRIVACY LAW SYMPOSIUM

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OCTOBER 27-28, 2017 | OTTAWA, ON

## FRIDAY, OCTOBER 27, 2017

**8:00–8:45**      **REGISTRATION AND CONTINENTAL BREAKFAST**

**8:45–9:00**      **WELCOME AND INTRODUCTION**

**Co-Chairs:**            **David Elder**, Counsel, Stikeman Elliott (*Ottawa, ON*)  
**David Loukidelis QC**, Chair, Alberta Law Enforcement Review Board (*Edmonton, AB*)

**9:00–10:45**      **INTERNATIONAL UPDATE** (*1.75 substantive hours*)

**Moderator:**            **John Beardwood**, Partner, Fasken Martineau LLP (*Toronto, ON*)

**Speakers:**            **Jade Kowalski**, DAC Beachcroft (*London, UK*)  
**Kenneth K. Dort**, DrinkerBiddle LLP (*Chicago, IL*)

This session kicks off the conference with an update from international experts on developments in public and private sector privacy law and access to information law. The focus will be on practical compliance issues and legislative developments. (This session will not cover the same ground as the EU update later in the program).

**10:45 – 11:00**      **REFRESHMENT BREAK**

**11:00–12:30**      **CANADIAN UPDATE** (*1.5 substantive hours*)

**Moderator:**            **Eloïse Gratton**, Partner, National Co-Leader, Privacy and Data Protection, Borden Ladner Gervais (*Montréal, QC*)

**Speakers:**            **Me Jean Chartier**, Président de la Commission d'accès à l'information du Québec (*Québec, QC*)  
**David Fraser**, Partner, McInnes Cooper (*Halifax, NS*)  
**Catherine Beagan Flood**, Partner, Blakes (*Toronto, ON*)  
**Sinziana Gutiu**, Associate, Dolden Wallace Folick LLP (*Vancouver, BC*)  
**Vance Lockton**, Strategic Policy & Research Analyst, Office of the Privacy Commissioner of Canada (*Toronto, ON*)

The Canadian Update is an action-packed summary of the major privacy and access developments from the last 12 months at the federal and provincial level. Panelists will provide their insights on key changes in legislation, recent regulatory decisions and guidance and court decisions you need to know about. The session will also turn a spotlight on Quebec, as one of the first privacy and access regimes in Canada refocuses its attention in the digital age. (Simultaneous translation available.)

**12:30–14:00**      **LUNCH WITH KEYNOTE SPEAKER** (*1.0 substantive hour*)

**Hon. James Cowan QC** (*Stewart McKelvey, Halifax, NS*)

Hon. James Cowan, who until earlier this year was a member of the Senate, will speak about his work over the years as a legislator fighting to protect Canadians from discrimination on the basis of genetic characteristics

**14:00–15:15** **CONCURRENT SESSIONS** (*1.25 substantive hours*)

**SESSION I: EUROPEAN DEVELOPMENTS**

**Moderator:** **Chantal Bernier**, Counsel, Dentons (*Ottawa, ON*)

**Speakers:** **Anick Forten-Cousens**, Chief Privacy Officer Canada, IBM (*Ottawa, ON*)  
**Danièle Chatelois**, Manager, Policy, Office of the Privacy Commissioner of Canada (*Gatineau, QC*)  
**Prof. Niko Härting**, Härting Law (*Berlin, DE*)

The EU's General Data Protection Regulation, in force next May, has significant implications for Canadian businesses active in the EU. It also may have implications for the EU adequacy ruling on Canadian privacy laws. These experts will discuss the implications for companies that are active in the EU and the possible implications here at home.

**SESSION II: BREACH REPORTING**

**Moderator:** **Bill Abbott**, Privacy and Data Protection Expert (*Ottawa, ON*)

**Speakers:** **David Fraser**, Partner, McInnes Cooper (*Halifax, NS*)  
**Jill Clayton**, Information and Privacy Commissioner of Alberta (*Calgary, AB*)  
**Linda Dalgetty**, Vice President (Finance), University of Calgary (*Calgary, AB*)

Amendments to the *Personal Information Protection and Electronic Documents Act* will require private sector organizations to report privacy breaches. Although this might not occur until later this year, lessons can be learned from the experience in other jurisdictions, notably Alberta. This session will discuss recent trends in breaches and breach reporting, including case-law developments, and will discuss what to expect from the new federal privacy breach requirements.

**15:15–15:30** **REFRESHMENT BREAK**

**15:30–16:45** **CONCURRENT SESSIONS** (*1.25 substantive hours*)

**SESSION I: CANADA'S ANTI-SPAM LEGISLATION—PRIVATE RIGHT OF ACTION & OTHER DEVELOPMENTS**

**Moderator:** **Shaun Brown**, Partner, nNovation LLP (*Ottawa, ON*)

**Speakers:** **Won Kim**, Principal, Kim & Orr Barristers PC (*Toronto, ON*)  
**Peter Mantas**, Partner, Fasken Martineau LLP (*Ottawa, ON*)

The private right of action under CASL has been delayed. It now will be revisited by the Parliamentary committee charged with the three-year statutory review of CASL. In this session, two experienced litigation counsel will discuss what to expect in class action litigation if the right of action goes ahead. They will also discuss how CASL's provisions may change overall as a result of the statutory review.

## **SESSION II: OPEN GOVERNMENT DEVELOPMENTS**

**Moderator:** **Suzanne Legault**, Information Commissioner of Canada (*Gatineau, QC*)

**Speakers:** **John Roberts**, Director, Open Government, Government of Ontario (*Toronto, ON*)  
**Jim Bronskill**, Journalist, The Canadian Press (*Ottawa, ON*)  
**Jordan Zed**, Director, Open Government, Chief Information Officer Branch, Treasury Board of Canada Secretariat (*Ottawa, ON*)

Governments and public bodies at all levels have in recent years launched open data initiatives. This session will examine key developments in the proactive disclosure of information, notably unstructured data, by governments and public bodies, and what has been achieved in creating an 'open by default' regime.

## **SATURDAY, OCTOBER 28, 2017**

**8:00–8:30** **CONTINENTAL BREAKFAST**

**8:30–10:00** **CONCURRENT SESSIONS** (*1.5 substantive hours*)

### **SESSION I: TECHNOLOGY & PRIVACY—LEADING ISSUES**

**Moderator:** **Howard Simkevitz**, General Counsel and Privacy Officer, Ontario Institute for Cancer Research (*Toronto, ON*)

**Speakers:** **Micheal Vonn**, Policy Director, BC Civil Liberties Association (*Vancouver, BC*)  
**Regan Morris**, Office of the Privacy Commissioner of Canada  
**Gerry Annetts**, Legal and Regulatory Services at Edmonton Police Service

Body-worn cameras and facial recognition tools are powerful tools that law enforcement can use to serve and protect, but they can also be used as a means of surveillance and chilling free speech. This panel is intended to shed light on the privacy impacts and responsibilities which come with the use of such technologies, gaining insights from law enforcement, civil liberties and regulator perspectives

### **SESSION II: UPDATE ON PRIVACY IN EMPLOYMENT LAW**

**Moderator:** **Tamara Hunter**, Associate Counsel, DLA Piper (*Vancouver, BC*)

**Speakers:** **Alexis Kerr**, General Counsel and Director, Legal Services, Fraser Health (*Surrey, BC*)  
**Avner Levin**, Professor, Ryerson University (*Toronto, ON*)  
**Charles Hofley**, Partner, Hicks Morley LLP (*Ottawa, ON*)  
**Gerry Annetts**, Executive Director, Legal and Regulatory Services of the Edmonton Police Service (*Edmonton, AB*)

The workplace has always been a fertile ground for emerging privacy and access issues. Striking the right balance between employer and employee rights, as well as privacy and security, has become an increasingly complex exercise. This panel will focus on emerging employment issues, including developments in the role that arbitrators are playing in applying (or challenging) enforcement of privacy standards; employee surveillance, workplace investigations and drug and alcohol testing; as well as the privacy and access challenges of implementing a BYOD program.

**10:00–10:15 REFRESHMENT BREAK**

**10:15–11:45 THE REGULATORS' PERSPECTIVE (1.5 substantive hours)**

**Moderator:** **Michael Geist**, Professor, University of Ottawa (*Ottawa, ON*)

**Speakers:** **Drew McArthur**, Acting Information and Privacy Commissioner for BC (*Victoria, BC*)  
**David Goodis**, Assistant Information and Privacy Commissioner of Ontario (*Toronto, ON*)  
**Jill Clayton**, Information and Privacy Commissioner of Alberta (*Edmonton, AB*)  
**Donovan Molloy QC**, Information and Privacy Commissioner of Newfoundland & Labrador (*St. John's, NL*)

A hallmark of each symposium, this panel will be a moderated discussion with regulators from across the nation, touching on key privacy and access issues.

**11:45–12:00 CLOSING PLENARY & WRAP-UP**

**Speaker:** **Suzanne Morin**, Chair, CBA National Access & Privacy Section

The incoming National Chair will review the year that has passed and the year ahead.

**Speakers:** **David Elder & David Loukidelis QC**, Symposium Co-Chairs

The Co-Chairs will close the Symposium with brief observations on key issues and themes that emerged from the event.