



Hosted by the Office of the Information Commissioner and the Canadian Bar Association

CBA 2nd Annual Privacy and Access Law Symposium & 7th International Conference of Information Commissioners (ICIC)

October 3 – 5, 2011

Westin Hotel

11 Colonel By Drive, Ottawa, ON

Evening: Sunday, October 2

CBA Welcome reception (registration required)

- The Westin Hotel, Governor General 1
- 6:30 p.m. to 8:30 p.m.

DAY 1: Monday, October 3

Registration

8:50 – 9:00

Welcome and Introduction

John Beardwood, *Fasken Martineau LLP – Conference Co-Chair*

Steven Seiferling, *McKercher LLP – Conference Co-Chair*

Allison Knight, *Counsel, Office of the Information Commissioner of Canada – Conference Co-Chair*

9:00 – 10:30

Plenary Session

Recent Developments in Privacy: A Comparative View	
<i>This session begins the conference with a unique and invaluable overview of the key developments in privacy law both in Canada, and internationally, with a focus both on the practical implications for current compliance, and on developing trends.</i>	
Moderator: John Beardwood , <i>Fasken Martineau LLP</i>	
Speakers: Alex Cameron , <i>Fasken Martineau LLP (Canada)</i> Thomas C. Bell , <i>Perkins Coie LLP (U.S.A.)</i> Christian Frank , <i>Taylor Wessing (Germany)</i> Jacqueline Peschard , <i>Information and Privacy Commissioner (Mexico)</i>	

10:30 – 10:45

Refreshment Break

10:45 – 11:45

Plenary Session:

The Internet
<i>In today's electronic and internet based culture, technology has blurred the geographical borders upon which we traditionally relied on to protect the interests and rights of people within any given nation. In the privacy sector, this has led to questions regarding the enforcement of national laws over the Internet, and the implementation and enforcement of privacy protections on a more universal basis. Many different approaches have been taken in an attempt to regulate Internet technology. However, the Internet, by and large, remains borderless and boundless, and the privacy implications are huge. The Internet panel will delve into the plethora of issues surrounding Internet Privacy, including issues such as do-not-track restrictions and legislation and the use of cookies, target marketing and information gathering techniques, different methods of obtaining consent from users, and enforcement issues regarding the protection of online privacy.</i>
Moderator: Steve Seiferling , McKercher LLP
Speaker: Catherine Crump , ACLU (U.S.A.) Justin Weiss , Yahoo Peter Schaar , Information and Data Protection Commissioner (Germany)

**11:45 – 13:00 Conference Lunch with Keynote speaker
Ian Kerr, University of Ottawa (Canada)**

13:00 – 14:00 Concurrent Sessions:

Session 1 – The future of the Electronic Health Record: Privacy and Security Concerns	Session 2 – Workplace Surveillance Issues
<i>Privacy concerns have created major hurdles for adoption of EHR systems. In the UK, development of a national EHR has been put on hold. In Canada, the CMA advises doctors to inform patients that they cannot guarantee confidentiality in an EHR system. Current initiatives focusing on regional or category-based EHR networks offer a more decentralized model than a single EHR. Can they provide greater confidence of privacy protection? Can privacy and security concerns ever be addressed satisfactorily in a single EHR? Commercial health databases such as Microsoft HealthVault offer greater user control. Can they satisfy privacy and security requirements? This panel will provide an insight into the future configuration of EHR systems, the impact that privacy and security issues will have and how, or whether, they can be addressed successfully.</i>	<i>Employers collect and use personal information of employees regularly. Is privacy in the workplace a right or a privilege? Rapidly advancing technology and the popularity of social networking sites make it easier for employers to obtain personal information of employees. This panel will examine the rapidly evolving and thought-provoking area of employee privacy and surveillance. Panelists will discuss how employers are monitoring their employees and why; the reasonable balance between the right to manage and the right to privacy; the divergence between the privacy and labour slants on the issue; and what is the reasonable expectation of privacy in the workplace, providing a national and international perspective on the myriad of issues raised.</i>
Moderator: David Young , McMillan LLP	Moderator: Mandy Woodland , Cox and Palmer
Panelists: Manuela Di Re , Health Counsel, Office of the Information and Privacy Commissioner, Ontario (Canada) Dr. Khaled El Emam , Canadian Research Chair in Electronic Health Information, Faculty of Medicine, University Of Ottawa (Canada) John Weigelt , Microsoft National Technology Officer (Canada)	Panelists: Gord Hamilton , McDougall Gauley LLP (Canada) John McMillan , Australian Information Commissioner (Australia) Catherine Boies Parker , Undigo-Boies Parker

14:00 – 14:15 Refreshment Break

14:15 – 15:45 Plenary Session:

Powers and Enforcement: A Comparative Look at the Trends
<i>There are many different legislative models of powers and enforcement for privacy obligations, both internationally and domestically. The spectrum moves from “enforcement light” models such as the pure ombudsman model where the power of moral suasion and the threat of bad publicity are used to influence the behavior of private and public sector entities alike; to “enforcement heavy” models with broad powers to investigate, enter premises, order changes to practices and even the levying of fines and payment of damages, not to mention exposure to the possibility for class action law suits. What influences the choice of particular models? Which model results in better “compliance” strictly speaking vs. its impact to truly influence change in behaviour? Are some models better at responding to and protecting the individual’s interests? Are regulators making maximum use of the powers they have before asking for more? This panel will engage in a real discussion about trends when it comes to powers and enforcement.</i>
Moderator: Suzanne Morin , Assistant General Counsel, Privacy, Research In Motion Limited
Speakers: Tara Isa Koslov , FTC Office of Policy Deputy Director (U.S.A.) Janet Lo , PIAC (Canada) Commissioner Liz Denham , PIPC (Canada) Alexander Dix , Information and Data Protection Commissioner (Berlin)

16:00 – 17:15 Plenary Session:

Security and Privacy: A Comparative Review of Developments
<i>Major political and sporting events test host countries' ability to handle a sudden influx of tens of thousands of visitors. With such events come heightened security and surveillance measures. This panel will explore the privacy implications of these security initiatives in the lead up to, during, and in the wake of major international events. Panelists from Canada, as the recent host of the Vancouver Winter Olympic Games and the G-8/G-20 meetings, and the UK, as past host of the G-8/G-20 and future host of the Summer Olympic Games, will share their experiences and lessons learned. Panelists will discuss the assessment framework for the implementation of new security initiatives; the balancing of interests involved in the deployment of security and surveillance measures; and the impacts of these initiatives on the concepts of personal information and the reasonable expectation of privacy.</i>
Moderator: Allison Knight , Counsel, Office of the Information Commissioner of Canada
Speakers: Dr. Ben Goold , UBC Faculty of Law (Canada) Supt. Kevin de Bruyckere , RCMP (Canada) Chantal Bernier , Assistant Privacy Commissioner of Canada (Canada) Graham Smith , UK Deputy Information Commissioner (United Kingdom)

17:15 – 17:30 Closing Plenary:

Lessons Learned from a Comparative Overview
<i>The closing plenary will seek to highlight and synthesize insights, observations and themes of the day's wide-ranging topics and whet appetites for the next two days. Participants are encouraged to offer suggestions for future symposium topics.</i>
Speaker: Jean Nelson , Canadian Medical Association – Past Section Chair (Canada)

17:30 Closing Remarks:

John Beardwood, *Fasken Martineau LLP – Conference Co-Chair*

Steven Seiferling, *McKercher LLP – Conference Co-Chair*

Allison Knight, *Counsel, Office of the Information Commissioner of Canada – Conference Co-Chair*

Evening, Monday, October 3

ICIC Welcome reception (registration required, business attire)

- Canadian Museum of Civilization
- 6:30 p.m. to 9:00 p.m.
- 100 Laurier Street, Gatineau, Québec (5 minute taxi from hotel or 20 minute walk)
- Presentation of the *Grace-Pépin Access to Information Award*

DAY 2: Tuesday, October 4

**On-screen presentations will be presented in the language of the presenter. Where possible, the presentation will be translated beforehand.*

7:30 – 8:30 Registration & Breakfast

8:30 – 9:00 Opening

Welcome by **Suzanne Legault**, *Information Commissioner of Canada*

Welcome by **John Beardwood**, *Fasken Martineau LLP – Conference Co-Chair*

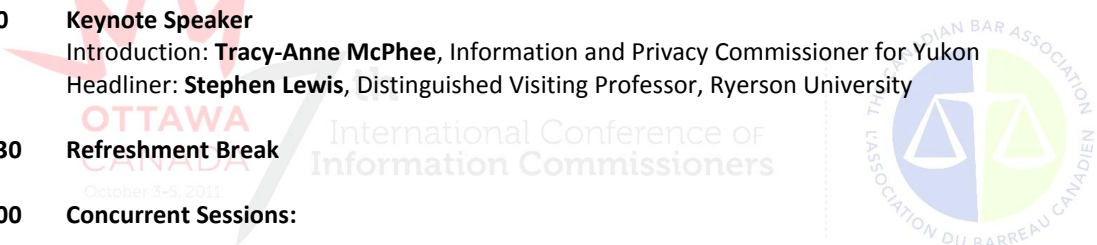
9:00 – 10:00 Keynote Speaker

Introduction: **Tracy-Anne McPhee**, *Information and Privacy Commissioner for Yukon*

Headliner: **Stephen Lewis**, *Distinguished Visiting Professor, Ryerson University*

10:00 – 10:30 Refreshment Break

10:30 – 12:00 Concurrent Sessions:



Hosted Theme A – Building Access to Information Regimes: International Benchmarking	
Session 1 – Oversight: Is there an optimal model for protecting access to information rights?	Session 2 – Freedom of information across frontiers: The lifeblood of human rights
<p><i>Oversight bodies are generally categorized as ombudsperson, order making or hybrid versions of the two. Comparative analyses of the effectiveness of these models in protecting access to information rights is challenging given the wide range of legislative, administrative and judicial frameworks in which they operate.</i></p> <p><i>Panelists representing oversight bodies, academia and access advocates will discuss the merits of the various models and their capacity to hold governments to account.</i></p>	<p><i>Freedom of information is crucial to allowing individuals to protect their rights against potential abuses and mismanagement of governments and to exercise their democratic rights. While the concept is centuries old, legislation in most countries spans only decades, years or even months.</i></p> <p><i>Panelists will describe the state of freedom of information from an international perspective and provide insight on what constitutes the most progressive standards and what achieves the most positive results.</i></p>
Moderator: John McMillan , <i>Information Commissioner, Australia</i>	Moderator: Jacqueline Peschard Mariscal , <i>Chief Commissioner, The United Mexican States</i>

<p>Panelists:</p> <p>David T S Fraser, <i>McInnes Cooper (Canada)</i></p> <p>France Houle, <i>Professor, Faculty of Law, University of Montreal (Canada)</i></p> <p>Laverne Jacobs, <i>Associate Professor, Director of Graduate Studies, University of Windsor</i></p> <p>Melanie Ann Pustay, <i>Director of the Office of Information Policy, US Department of Justice (U.S.A.)</i></p>	<p>Panelists:</p> <p>Nathalie Des Rosiers, <i>General Counsel, Canadian Civil Liberties Association (Canada)</i></p> <p>Ricardo Garcia França, <i>Deputy Ombudsman, Comptroller General's Office (Brazil)</i></p> <p>Maeve McDonagh, <i>Professor, University College Cork (Ireland)</i></p>
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12:00 – 13:00 **Lunch**
Networking

13:00 – 14:30 **Concurrent Sessions**

Theme A – Building Access to Information Regimes: International Benchmarking	
Session 3 – Access to economic growth: The business case for greater access to information	Session 4 – Accessing democracy: Freedom of information as a democratic right
<p><i>In times of global recession and budgetary restraints, there is a case to be made for more access to information and more open data initiatives. By leveraging the potential of the open government movement, governments can make the transition from service provider to providing the data and platform upon which citizens and the private sector can design and generate new services for customers.</i></p> <p><i>Representatives from both the public and private sectors will assess the business case for greater access to information and identify advantages and possible risks.</i></p>	<p><i>Freedom of information legislation is recognized as a fundamental tool for empowering citizens to hold their governments accountable. However, a sound law is only a first step on the journey to openness and transparency. What is required to ensure that access to information evolves in concert with expectations of society?</i></p> <p><i>The panel will consist of individuals from countries with a long history of freedom of information and from countries that are in the process of establishing freedom of information regimes. It will also include experts who have devised international standards by which legislations can be measured.</i></p>
Moderator: Brian Beamish , Assistant Commissioner, Office of the Information and Privacy Commissioner, Ontario	Moderator: Graham Smith , Deputy Information Commissioner, United Kingdom
<p>Panelists:</p> <p>Thomas M Susman, <i>Director, Governmental Affairs, American Bar Association (U.S.A.)</i></p> <p>Huguette Labelle, <i>Chair, Transparency International, Chancellor of the University of Ottawa</i></p> <p>Michael Geist, <i>Law Professor, Canada Research Chair in Internet and E-commerce Law, University of Ottawa</i></p>	<p>Panelists:</p> <p>Alejandro Ferreiro, <i>Counselor, Consejo para la Transparencia (Chile)</i></p> <p>Ben Leapman, <i>Deputy News Editor, The Sunday Telegraph (United Kingdom)</i></p> <p>Miriam Nisbet, <i>Director, Office of Government Information Services, National Archives and Records Administration (U.S.A.)</i></p>

14:30 – 15:00 **Refreshment Break**

15:00 – 16:30 **Concurrent Sessions:**

Theme A – Building Access to Information Regimes: International Benchmarking	
Session 5 – Radical access: The challenges and opportunities presented by WikiLeaks and the radical release of information	Session 6 – Limiting the limitations: Designing exemptions that balance both effective and accountable governance

<p><i>How does WikiLeaks intersect with the concepts of freedom of information and open government? Proponents claim it is the ultimate expression of transparency, driven by the rapidly evolving forces of technology. It is a release of information, unfettered by political or bureaucratic interpretation, which fosters self-determination. Opponents contend that, contrary to the random dissemination of information, disclosure pursuant to legislation and through official channels is critical to safeguarding the public interests of privacy and security.</i></p> <p><i>A panel of experts drawn from both sides of the argument will address the politics of openness and secrecy in the context of WikiLeaks.</i></p>	<p><i>The principles of openness and transparency inherent in access to information legislation often appear to be contrary to exemptions aimed at protecting particular public or private interests. Protection of the decision making processes of the government and bureaucracy and of national security are prime examples of this paradox. How can these divergent concepts be reconciled in legislation, in policy and in practice?</i></p> <p><i>Representatives from government and academia will explore the various exemption schemes and evaluate their effectiveness at achieving a democratic balance.</i></p>
<p>Moderator: Elizabeth Denham, Information and Privacy Commissioner, British Columbia</p>	<p>Moderator: Dulcie McCallum, Freedom of Information and Protection of Privacy Review Officer, Nova Scotia</p>
<p>Panelists: Alasdair Roberts, Rappaport Professor of Law and Public Policy, Suffolk University (U.S.A.) Jennifer Lynch, Staff Attorney, Electronic Frontier Foundation, International (U.S.A.) George A. Maclean, Associate Dean of Graduate Studies, University of Manitoba</p>	<p>Panelists: Craig Forcese, Associate Professor of Common Law, University of Ottawa (Canada) András Jóri, Parliamentary Commissioner for Data Protection and Freedom of Information (Hungary) Julie Kinross, Information Commissioner, Queensland (Australia) Muhammad Zamir, Chief Information Commissioner (Bangladesh)</p>

DAY 3: Wednesday, October 5

- 7:30 – 8:00** **Registration & Breakfast**
- 8:00 – 8:30** **Welcome**
 Hosted by the Office of the Information Commissioner and the Canadian Bar Association
Suzanne Legault, Information Commissioner of Canada
Steven Seiferling, Canadian Bar Association
The Honourable Tony Clement, Member of Parliament, President of the Treasury Board of Canada
- 8:30 – 8:40** **Special Guest**
 Introduction: **Suzanne Legault**, Information Commissioner of Canada
 Special Guest: **Jimmy Carter (via video)**, 39th President of the United States, Founder of the Carter Center
- 8:40 – 9:15** **Keynote Speaker**
 Introduction: **Elaine Keenan Bengts**, Information and Privacy Commissioner for the Northwest Territories and Nunavut
 Headliner: **Shekhar Singh**, Founder, National Campaign for People’s Right to Information
- 9:15 – 10:45** **Concurrent Sessions:**

Theme B – Beyond Access: Convergence of Freedom of Information, Proactive Disclosure and Open Government	
Session 7 – Diagnosing access: Developing tools for evaluating access to information regimes	Session 8 – Controlling access: Responding to political and administrative resistance to access
<i>Many compliance problems cannot be solved when</i>	

<p><i>treated in isolation. Some system-wide issues affect the capacity of institutions to meet their freedom of information obligations. If not addressed, these problems can undermine the system as a whole resulting in infringements of requesters' rights to information and less government accountability. By adopting a strategic and systemic approach, it is possible to find more effective solutions and achieve better results.</i></p> <p><i>Panelists will share their experiences in identifying root causes of non-compliance with fulfilling access to information responsibilities and describe tools for resolving systemic issues.</i></p>	<p><i>Political and bureaucratic cultures are not naturally attuned to openness. The worst manifestation of this can result in partisan or undue interference with the access to information process. How widespread is interference? What are the symptoms? What investigative techniques are required? What are the most effective means of deterring inference?</i></p> <p><i>Panelists representing the media, academia and oversight bodies will explore the roots of political and administrative resistance and how it can be deterred.</i></p>
<p>Moderator: Irene Hamilton, Manitoba Ombudsman</p>	<p>Moderator: Duff Conacher, Founder of Democracy Watch and Director of GoodOrg.ca Consulting</p>
<p>Panelists: Sandra Coliver, Senior Legal Officer, Open Society Justice Initiative Toby Mendel, Executive Director, Centre for Law and Democracy, International (Canada) Laura Neuman, Associate Director, America's Program, Carter Center (U.S.A.)</p>	<p>Panelists: Dean Beeby, Ottawa Deputy Bureau Chief, Canadian Press John Hinds, President and CEO, Canadian Newspapers Association Greg Michener, Professor of Political Science, co-founder Brasil Aberto, International (Brazil) Emily O'Reilly, Ombudsman and Information Commissioner (Ireland)</p>

10:45 – 11:00 Refreshment Break

11:00 – 12:30 Concurrent Sessions

Theme B – Beyond Access: Convergence of Freedom of Information, Proactive Disclosure and Open Government

<p>Session 9 – 20/20 Vision: Can freedom of information laws be future proofed?</p>	<p>Session 10 – Accessing citizens: Engaging and leveraging stakeholders in the cause of access to information</p>
<p><i>The transformation from reactive to proactive access to information and to open government has rapidly gained momentum around the world. How can stakeholders advance the convergence of access to information and open government? How can they modernize legislation to avoid moving in parallel but opposite directions? More importantly, how can they encourage the participation of citizens, especially that of the younger generation, in the process?</i></p> <p><i>Panelists will describe efforts to align access regimes with the open government movement from an international perspective.</i></p>	<p><i>The session will showcase efforts by civil society groups, media and other stakeholders to raise public awareness and influence governments on the importance of access to information. It will outline engagement models and tools that have been successfully employed to promote open government initiatives.</i></p> <p><i>Panelists from the media, academia, non-government organizations and the public service will share their views on how they can work together with information ombudspersons to influence change.</i></p>
<p>Moderator: Frank Work, Information and Privacy Commissioner, Alberta</p>	<p>Moderator: Vincent Kazmierski, Assistant Professor of Law, Carleton University, Canada</p>

<p>Panelists: Helen Darbishire, Executive Director, Access Info Europe (Spain) Kevin Dunion, Information Commissioner (Scotland) Moira Paterson, Author, Associate Professor, Monash University (Australia)</p>	<p>Panelists: Duff Conacher, Founder of Democracy Watch and Director of GoodOrg.ca Consulting Gary Dickson, Information and Privacy Commissioner, Saskatchewan (Canada) Alexander Dix, Berlin Data Protection and Information Commissioner Andrew Puddephatt, Director, Global Partners and Associates, UK</p>
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12:30 – 13:30 Lunch

13:00 – 13:30 Lunch Keynote

Introduction: **Suzanne Legault**, Information Commissioner of Canada
Headliner: **Daniel J. Caron**, Deputy Head and Librarian and Archivist of Canada

13:30 – 15:00 Concurrent Sessions:

Theme C – Impact of Technology on Freedom of Information	
Session 11 – Open data: A world of possibilities	Session 12 – The Challenge of implementing a technological platform for freedom of information
<p><i>The session will explore how open data technologies can generate innovation and economic opportunities. It will also illustrate how citizen engagement is stimulated by the availability of information and the how power of the open data movement is profoundly changing the political social-economic landscape.</i></p> <p><i>Open government advocates and those charged with implementing open government will present the case for and the impact of open data.</i></p>	<p><i>The technological infrastructure required to support official communications and information dissemination is a key issue for all countries whether they have a long history of access or are in the initial stages of launching proactive disclosure and open government schemes. The session will describe how various jurisdictions have planned and successfully implemented initiatives. It will highlight technologies available for facilitating the transition from reactive to proactive access.</i></p> <p><i>Representatives from the public and private sectors and academia will discuss how technology can be deployed in support of state of the art open government projects.</i></p>
Moderator: Maria MacDonald , Information and Privacy Commissioner for Prince Edward Island	Moderator: TBC
<p>Panelists: Nathan Cullen, Member of Parliament Chair, Standing Committee on Access to Information, Privacy, and Ethics David Eaves, Open Government Advocate (Canada) Peter Schar, Federal Commissioner, Data Protection and Freedom of Information (Germany)</p>	<p>Panelists: Corinne Charette, Chief Information Officer, Treasury Board of Canada Andrew Ecclestone, Researcher and consultant (New Zealand) Susan Infantino, Legal Director, Google Inc., Google Transparency Project Chris Moore, Chief Information Officer, City of Edmonton</p>

15:00 – 15:30 Refreshment Break

15:30 – 16:30 Keynote Address

Introduction: **Ed Ring**, Information and Privacy Commissioner, Newfoundland and Labrador

Headliner: **David Banisar**, Senior Legal Counsel, Article 19

16:30 – 17:00 Conference wrap-up

- **Steven Seiferling**, Canadian Bar Association
- **Suzanne Legault**, Information Commissioner of Canada



Hosted by the Office of the Information Commissioner and the Canadian Bar Association