



Canada sees light for private sector legislation

Last year the Justice Minister gave a green light for Federal privacy legislation in the private sector (PL&B Sept. '96 p.1). Legislation, promised by the government before the year 2000, will seal the efforts of Federal and Provincial Privacy Commissioners to extend privacy protection to the private sector. Another important step was Parliament's decision to extend the current Privacy Act of 1983 to cover all Crown corporations.

This April, the House of Commons Standing Committee on Human Rights issued a comprehensive report on privacy, entitled *Privacy Charter*. However, the Charter has not progressed due to the dissolving of the Human Rights Committee after the general election. The Privacy Commissioner's Press Officer has explained that another committee will be dealing with the development of the Charter in the future.

The Charter identifies the kind of privacy risks caused by the use of new technologies. Three issues were studied in particular: advanced video surveillance, genetic testing and smart cards.

Most importantly, the Committee proposed a Charter of Privacy Rights. If adopted, it would take precedence over Federal legislation. Proposals include replacing the current Privacy Act with a Data Protection Act which would bring Parliament and all Federal government departments under a data protection regime. The proposed Charter also covers new aspects of privacy; personal space and privacy from surveillance. It would also introduce framework data protection legislation for the private sector.

Data matching traps false claimants

Data matching operations caused serious concern last year. In order to catch individuals who make fraudulent employment insurance claims, Human Resources Information Canada started collecting data from the customs declarations of every returning air traveller. Because claimants are not supposed to be abroad while receiving benefits, matching this data with the Employment Insurance database easily revealed false claims. However, at the same time the movements of millions of innocent people were being watched. The Privacy

Commissioner is seeking to bring the matter before the courts.

Record enquiries and complaints

More than 9,600 enquiries were received last year. The Privacy Commissioner, Bruce Phillips, observes in his 1996/97 Annual Report that peaks in enquiries correspond with initiatives taken by the Government that require any collection of personal data, for example, the census.

Most enquiries deal with obligations and rights under the Privacy Act. A significant number concern issues such as direct mail, credit reporting and medical records. Complaints increased from 1,625 to a record number of 2,235. Due to the immensely increased volume of complaints, and cuts both in staffing and budget, a backlog of cases has developed.

Employees' privacy for their e-mail

The Commissioner's office had to establish a view on individuals' rights on the privacy of their e-mail messages at the workplace, when a complaint was received from an employee of Correctional Service Canada whose e-mail had been accessed without her consent while she was away. The need for access was due to an urgent request for a document that was known to be in the complainant's e-mail. The complainant's secretary, who entered the computer with a re-set access code, claimed that she had not read any other messages.

The Privacy Commissioner's investigator found that there had not been a breach of privacy, as computer passwords should be used to prevent access by outsiders who have no legitimate reason to access the files. Information prepared for government business and stored on government premises should be available to supervisors when there is a genuine need. The Commissioner recommended that access should always be controlled and authorised. He also issued a reminder that e-mail is not secure and, therefore, individuals should not store any information on e-mail that they want to keep private.

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