



OFFICE OF THE  
INFORMATION &  
PRIVACY COMMISSIONER  
for British Columbia

Protecting privacy. Promoting transparency.

## **We need to modernize B.C.'s information, privacy laws**

Oct. 4, 2013 marks the 20th anniversary of the *Freedom of Information and Protection of Privacy Act*, an important milestone in our province's history and a cornerstone of our democratic system. While the principles of the legislation have endured, we must now take steps to modernize the law to meet the challenges of the digital age.

In 1993, our elected officials recognized the need to enshrine two equally important principles in law: a person's right to privacy, and a person's right to information about the activities of government. While these principles were commonly held social values, prior to the passage of the law they were not legally enforceable rights.

B.C. lawmakers defined these two principles and explained how and when each was to apply across government and the broader public sector, including school boards, health authorities, and other public agencies. They also created an independent Commissioner to oversee and enforce the law.

These were bold steps at the time, but even with amendments to the law by successive governments, larger forces have united to outpace our legislative framework.

Technological advancements, changes to government service delivery, and citizen expectations for transparency and accountability are all game-changers. And recent revelations about government surveillance programs have heightened citizens' concerns about the erosion of our privacy rights. We must ensure B.C.'s legislation adapts to meet the challenges ahead.

Other jurisdictions have recognized the need to modernize legislation to address 21st century technologies and social trends. The Organization for Cooperative Economic Development recently revised its 33 year-old data protection principles. The European Commission is reforming the EU's 1995 data protection rules to strengthen online privacy rights for 500 million people in 28 countries. Australia recently revised its data protection law, and the Government of Canada has proposed reforms that would address the rising number of electronic data spills.

All of these jurisdictions are taking the challenges seriously. British Columbia's citizens and consumers will expect equivalent protection of their information rights. It is time for our province to follow suit and ensure that our laws remain current.

Modernization and reform is needed in three key areas:

First, we need to address growing public demand for transparency and accountability by modernizing the 1936 Document Disposal Act. A new information management law should define what information must be recorded, retained, and protected within government networks and institutions, ensuring that our information assets are secured for good governance, research and future generations. A law enacted for the management of paper records needs to be reframed for the electronic world. There should also be a requirement to expand proactive disclosure of government records, to give citizens the information they need and want.

Second, we must anticipate and respond to the opportunities and the challenges of the big data age, where the data trails we create through use of computers, smart devices, the Internet and social networking are collected, processed, and analyzed to make connections and identify patterns. Presently, the big data discussion is focused in a small number of areas, namely law enforcement, national security and the private sector. But the potential for big data and data analytics is only beginning to be discovered in the public sector in areas such as health care and social policy. We must be alive to the issues these developments present, both now and in the future, in terms of how we manage these innovations and grapple with the concerns they will present for the use of personal data.

Third, we should be more concerned with the magnitude and frequency of privacy breaches and data spills in the public and private sector. A breach of privacy is the breaking of trust with citizens. The law in Alberta requires commercial and health care organizations to report significant privacy breaches to its Commissioner and affected individuals. B.C. law does not. We require similar legal reform to raise awareness among individuals affected by future breaches, and also help organizations address and mitigate risks. Organizations should adopt comprehensive approaches to privacy to ensure personal information is properly managed.

Information and Privacy Commissioners from across the country will be meeting in Vancouver next week to discuss these issues and the way forward for access and privacy rights in the 21st century.

We will be opening up this dialogue to government, students, academics, industry and civil society at a special conference on Oct. 10-11. Privacy and access 20/20: A new vision for information rights will look back on where we've been, but also look forward to future reform.

Information and privacy rights are not a luxury; They are essential safeguards in an electronic age. On this 20th anniversary, let us resolve to redouble our efforts to modernize B.C.'s legislative framework.