

# Government and Legal Information Gathering 2009

By Percilla Groves, with notes from Chris Burns, Carla Graebner, Heather Morrison, and Carolyn Shandler.

Once considered arcane, difficult to locate, and frustrating to use, government information has become friendly, flashy, and (dare we say it?) fun. Forty-plus librarians from as far away as Prince George and Victoria gathered at SFU Vancouver in April for a day of consideration of recent developments related to access to information produced by governments and legal bodies. Thanks to the generosity of Simon Fraser University and the BCLA Information Policy Committee this annual event was once again free of charge to participants.

## Copyright

Much recent writing on copyright has focused on what cannot be done or should not be done. Meera Nair, who recently received her doctorate from the SFU School of Communication has a different approach. Nair is interested in how copyright could serve society and creators rather than in how it might protect the business interests of publishers. Dr. Nair's thesis will soon be available online through the SFU Library's institutional repository, or linked from the SFU Library catalogue. Look for it by title "From Fair Dealing to Fair Duty: The Necessary Margins of Canadian Copyright Law".

## Legal Services Society

The mission of LSS is "to provide innovative and collaborative legal aid services that enable people with low incomes to effectively address their issues within the justice system". In spite of recent budget shortfalls, the LAWLine service, including telephone interpreters, will continue to be offered, though with reduced staffing. LSS will no longer have staff lawyers, and instead clients who qualify for legal aid will be referred to private bar lawyers. Applications for legal aid continue to be accepted at all walk-in locations and through the Provincial Call Centre. Requests for assistance with immigration matters skyrocketed by 76% during the past year so stricter merit screening will be instituted. The Legal Services Society website is <http://www.lss.bc.ca>.

## ClickLaw and LawMatters

Janet Freeman, Project Coordinator, gave an update on the BC Courthouse Libraries' LawMatters project and demonstrated the website. LawMatters helps public libraries present the law to the public in several ways. It provides on in Excel file a list of titles that public libraries should own, and provides a grant with which to purchase them. LawMatters provides training in the use of QPLegaleze, and also funds public library staff for the 6 week course given by PLSB on legal resources. Even though LawMatters has been helping public libraries since 2007 as a pilot project, the official launch of LawMatters with live chat and a video on the website was this April. A list of community groups will be added to the site soon, and the next project will be a set of legal forums to enable networking and to encourage agencies which provide legal information to the public to talk to each other. The last year for LawMatters funding could be 2010, although the project is bound to be renewed by the Courthouse. See:

<http://www.bclawmatters.ca>.

Drew Jackson, Manager of Community Outreach at the Vancouver Courthouse Library, had a new website to show us. Clicklaw brings information from 24 separate legal organizations into one unified trustworthy high quality site. ClickLaw is organized from the public's point of view, and is a one-stop place to find legal resources and information. Individual organizations will be responsible for updating their own information on the site. It uses plain English language, and answers common questions from starting points. There are 4 main sections:

- 1) Solve problems
- 2) Find Help
- 3) Learn & Teach
- 4) Reform & Research.

Drew worked through three legal problems using the beta site: wills, grandparent rights, and benefits. Fall 2009 will see the official launch.

Electronic Law Library and possibly LawLink will be retired once this new site is up and running, with a redirect from those sites to ClickLaw at <http://www.clicklaw.bc.ca>.

### Freedom of Information: Highs and lows

Three presenters spoke individually and in a roundtable of their experiences using freedom of information requests to obtain information from both the federal and BC governments, and answered questions from the audience.

Stanley Tromp, FIPPA research director, shared some of the findings from his extensive research comparing FOI legislation in many jurisdictions around the world. He has found that Canada's FOI legislation is among the most restrictive and fails to meet international standards on almost all key points. Our legislation was last updated 10 years ago, and a recent bill (C-326) that made some moderate changes suggested by the Information Commissioner of Canada in 2005 has gone nowhere in the House of Commons. The trend under the Harper administration has been to reduce access to information, often invoking "Westminster-style" confidentiality provisions that are no longer supported in the UK. This contrasts sharply with Obama's move in the US toward access, not secrecy.

Provincially, Mr. Tromp has found the BC Lottery Corporation and UBC to be the most reluctant to comply with FOI requests. He has noticed a trend for public officials to conduct key business verbally, in order to avoid leaving a paper trail which could be obtained through FOI requests. Some agencies have stopped taking minutes of meetings for the same reason. He feels that BC needs a new records management act because the current situation is in disarray.

### Resources:

*Access to Information Act*, R.S.C. 1985 c. A-1. Canadian Legal Information Institute (CANLII). Retrieved April 2, 2009, from <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-a-1/latest/>

*Bill C-326, An Act to amend the Access to Information Act (open government)*, 2d Sess., 40<sup>th</sup> Parl., 2009. Retrieved April 2, 2009, from <http://www2.parl.gc.ca/HousePublications/Publicatio>

[n.aspx?Language=E&Parl=40&Ses=2&Mode=1&Pub=Bill&Doc=C-326\\_1](n.aspx?Language=E&Parl=40&Ses=2&Mode=1&Pub=Bill&Doc=C-326_1)

Office of the Information Commissioner of Canada. (2005). *Proposed Changes to the Access to Information Act: Presentation to the Committee on Access to Information, Privacy And Ethics*. Retrieved April 2, 2009, from [http://www.infocom.gc.ca/specialreports/pdf/Access to Information Act - changes Sept 28 2005E.pdf](http://www.infocom.gc.ca/specialreports/pdf/Access%20to%20Information%20Act%20-%20changes%20Sept%2028%202005E.pdf)

Tromp, S. (2008). *Fallen Behind: Canada's Access to Information Act in the World Context*. Retrieved April 2, 2009, from <http://www3.telus.net/index100/report> .

Tromp, S. (2008). *World FOI Chart*. [Excel spreadsheet]. Retrieved April 2, 2009, from <http://www3.telus.net/index100/foi>

Chad Skelton, Vancouver Sun reporter, has broken several big stories based on data obtained through FOI requests from the BC government. Many of his reports involve large-scale number crunching. He is increasingly frustrated by the reluctance of many BC ministries to release administrative databases which DO exist (and could be easily purged of legitimately confidential information), supplying instead a PDF printout of all the data. A recent example involved nursing home inspection reports. He must then re-create very large databases to extract any useful information. Given the huge resources required to do so, and the fact that only about 10% of the more than 200 FOI requests that he files each year lead to a big story, this practice has the effect of dampening public scrutiny. The BC Information and Privacy Commissioner's office has recently criticized this uncooperative practice. The BC government has recently implemented an 'expedited enquiry process' which seems to have improved the wait time for some documents.

Documents obtained through FOI requests often come with a note prohibiting further distribution of the record. All the panelists said that this violates the *Copyright Act*, and ignore the notice. In fact, the Vancouver Sun posts all of the FOI documents that it obtains on its *Paper Trail* blog: [http://communities.canada.com/vancouver\\_sun/blogs/papertrail/default.aspx](http://communities.canada.com/vancouver_sun/blogs/papertrail/default.aspx)

### Resources:

Skelton, C. (Mar. 20, 2009). Vancouver Sun wins early round in fight for electronic records. [Blog post].

*Paper Trail*. Retrieved April 2, 2009, from <http://communities.canada.com/vancouver/sun/blogs/papertrail/archive/2009/03/20/vancouver-sun-wins-early-round-in-fight-for-electronic-records.aspx>.

Mitch Anderson, former Staff Scientist and Communications Director with Sierra Legal Defense Fund, is working for the BC Freedom of Information and Privacy Association (FIPA) on an update to the 2006 report called *Access Denied*, which examined the performance of the BC government on FOI requests from 2000 to 2005. Data was obtained from the Corporate Record Tracking System database used by the BC government to track FOI requests. It records the sensitivity of every request, the turnaround time, and the eventual outcome (document disclosed, not disclosed, refused, etc.). The study found a strong relationship between these factors. Requests from members of opposition parties, the media, and interest groups were much more likely to be flagged as 'sensitive' (by the Corporate Privacy and Information Access Branch) than those from members of the public, other governments, researchers or business people. These sensitive requests typically take longer and are less successful. The average turnaround time for all requests was far longer than the mandated 30 working days. FIPA's updated report will be released this spring.

#### Resources:

BC Freedom of Information and Privacy Association (FIPA). (2006). *Access denied: An analysis of the BC Government's response to freedom of information requests, 2000-2005*. Retrieved April 2, 2009, from: [http://fipa.bc.ca/library/Reports\\_and\\_Submissions/Access\\_Denied\\_2006.pdf](http://fipa.bc.ca/library/Reports_and_Submissions/Access_Denied_2006.pdf)

Darrell Evans, Executive Director, Freedom of Information and Protection of Privacy Association, reported that FIPPA is working with the BC Civil Liberties Association and the Canadian Taxpayers Federation on a Free to Speak campaign to raise awareness of the chilling effect of Bill 42 (BC Election Act) which restricts communication about public issues for three months prior to the provincial election on May 12<sup>th</sup> by defining any message – paid or unpaid – that promotes or opposes a political party or candidate, or even takes a stand on "an issue with which a registered party or candidate is associated" as election advertising which may only be done by registered lobbyists. FIPPA asked concerned citizens to register as election advertisers and write a letter to Premier Campbell expressing their opposition to this

proposed legislation. Forms and details are available on the campaign's website [www.freetospeakbc.com](http://www.freetospeakbc.com)

On March 31<sup>st</sup> (after our gathering), the BC Supreme Court threw out the sections of Bill 42 limiting pre-election advertising by unregistered third parties. However, Wally Oppal, BC's Attorney-General at the time asked the court to suspend its ruling until after the election.

#### Resources:

*Bill 42, Election Amendment Act*. 4<sup>th</sup> Sess., 38<sup>th</sup> Parl., British Columbia, 2008. Retrieved April 2, 2009, from: [http://www.leg.bc.ca/38th4th/3rd\\_read/gov42-3.htm](http://www.leg.bc.ca/38th4th/3rd_read/gov42-3.htm)

*British Columbia Teachers' Federation v. British Columbia (Attorney General)*, 2009 BCSC 436. Retrieved April 2, 2009, from: <http://www.courts.gov.bc.ca/jdb-txt/SC/09/04/2009BCSC0436.htm>

#### Concerns, Queries, Future Actions

**Data Access.** Mary Luebbe, UBC Library reported that the four research libraries have been working on a collaborative data service, which is getting close to trial phase. Data will be downloaded and served from UBC, according to the subscriptions / licenses of each participant, using Shibboleth authentication. This will free up staff time technical matters, so that the data librarians can spend more time assisting researchers. For students, this will mean a one-stop shop for data. The dream is to eventually open this up even further.

**MARC Records.** Gail Currie, UNBC, brought forth concerns that MARC records downloading could be improved by both the DSP (where one cannot select specific records) and BC (where records can only be downloaded one at a time with no batch option). Since the meeting BCCATTS brought this issue to the attention of the Legislative Library, and through Judi Harvey of "the Leg" learned that the venerable organization has recently formed a working group called the MARC Records Export Project. The goal is to create a MARC file of BC Government Documents based on the British Columbia Government Publications Monthly Checklist that other libraries can load into their own catalogues. Harvey says: "As currently conceived our batch service would be a subset of our MARC records based on each new checklist issue, which would consist of (only) publications for which the Legislative Library has an electronic copy stored in our electronic collection."

These MARC records will then contain the library's permanent url link to the electronic document. Our staff needs time to download this material and add the permanent link into the MARC records. As such the MARC file would be more complete as a monthly product. Our plan is to make the records available for import in the third week of each month. We are currently developing policies and procedures and testing this process. When testing is further along we will create a test site on the Monthly Checklist website and gather feedback from the larger library community. " Carla Graebner, SFU, CARL Representative to the DSP Advisory Committee, reported that the DSP will be doing its own MARC records so that libraries will have access to the records more quickly than at present and will be able to choose only the desired records.

Federal Depository Services Program. Carla further reported that the DSP has a renewed mandate from the Treasury Board with the understanding that, hopefully, more governmental publications will now be sent to DSP by the various governmental departments for distribution. Agreements between the DSP and libraries are being revised. The new agreement may come in paper or CD format. In order to avoid termination of service, two signed copies of the agreement need to be returned to the DSP.

Statistics Canada. DSP policy is to retain access to original online publications even if subsequent reports indicate that the original includes problematic data. Rather than remove the bad data, a revised version and an errata sheet are added. The gathering agreed after discussion that ordinarily bad data should be removed from web sites and replaced by the correct data as researchers may not find the replacement. The DSP is interested in soliciting opinion on other options.

NRC and CISTI. Slashed budgets threaten important services and collections. Be alert to news from these quarters and to be prepared to speak with local MPs about the consequences for our researchers.

Access. The BC Intellectual Property Program has asked the Library at Kwantlen Polytechnic to pay \$51.00 for copyright clearance to print an article by two Ontario academics presently posted on a BC government web site, "Concern with Leniency: An Examination of Sentencing Patterns in British Columbia" linked at:

<http://www.criminaljusticereform.gov.bc.ca/en/reports/pdf/ConcernLeniency.pdf>

In light of the authorship of the article and considering the lack of a functioning archival program in BC this charge seems quite surprising. Please let [groves@sfu.ca](mailto:groves@sfu.ca) know of any other stories of this sort so that the BCLA Information Policy Committee can formulate a plan of action. One suggested solution was to place a notation at the front of such printouts indicating that they were printed for research purposes as per the Copyright Act.

Also Recommended:

<http://civicinfo.bc.ca> has great resources for local government information, includes a statistics-crunching machine and also supports the export of stats in manipulable fashion

<http://civicaccess.ca> has lots of interesting discussions about open government and open data.

Contact [groves@sfu.ca](mailto:groves@sfu.ca) to be added to a mail list which includes most of the participants at the Government and Legal Information Gathering.

*Percilla Groves and Carla Graebner are Liaison Librarians at Bennett Library, SFU. Chris Burns is Research Support & Data Services Librarian at Kwantlen Polytechnic. Heather Morrison is Project Coordinator with the Electronic Library Network. Carolyn Shandler is Information Services Librarian at Surry Public Library. Both Carla and Carolyn are on the DSP Advisory Committee.*