

Meeting the challenge



judgment preparation,
privacy, and the
Internet

Privacy

- Issues are everywhere
- Information technology
 - Electronic government
 - Commercial uses of information
 - Court technology

Access to the law

- A core value of democracy
 - fair and public hearing
 - freedom of expression
 - Publication is basic to judge-made law



Traditional means of access

- Clerk's office
 - inconvenient and costly
 - Law reports
 - law libraries
 - points of entry
 - Public information -- practical obscurity

The challenge

- Public access in the Internet age
- World Library
 - Courts in Canada & around the world
 - other Internet sources
- Recognize privacy requirements

What is privacy?

- The right to be let alone, and more
 - life, liberty and security of the person
 - secure against unreasonable search and seizure
- The right to control when, how and to what extent

Privacy outside the Courts

- The general rule
 - Protected by legislation
 - PRIVATE, unless...



Privacy in the Courts

- Exceptions to access to the law
 - PUBLIC, unless...
 - To protect other values of great importance

Fundamental values

- Protecting the vulnerable
- Protecting the right to a fair trial
- Protecting complainants, witnesses
- Protecting innocent persons from harm

Protecting the vulnerable

- Children
- Persons under a disability
- Health and social assistance statutes

Right to a fair trial

- Preliminary inquiry
 - Bail application
 - Voir dire
 - Transfer hearing

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Administration of justice

- Minors
 - Sexual offences
 - Any other offence
 - violence against the person
 - investigatory process, witnesses

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Values protected by

- Mandatory statutory bans
- Discretionary bans
 - statutory or common law
- Sealing orders
- Judgment writing

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Restrictions on publication

- Interim bans
- Ban regarding identity
- Total ban / confidentiality

Privacy: more than a name

- Identifying facts
 - accused's identification
 - relationship
 - school, town, birth date...
 - Cumulative
 - Initials -- or...

Meeting the challenge

- Internet vs. the law
 - Judgments reviewed
 - hold for temporary restriction
 - remove information; notice
 - Judgments on the Internet - official or not?

Meeting the challenge

– Kate Welsh
• Alberta Justice