

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
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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
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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
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Protecting the vulnerable

- Children
 - Persons under a disability
 - Health and social assistance statutes
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Right to a fair trial



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

Administration of justice

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





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
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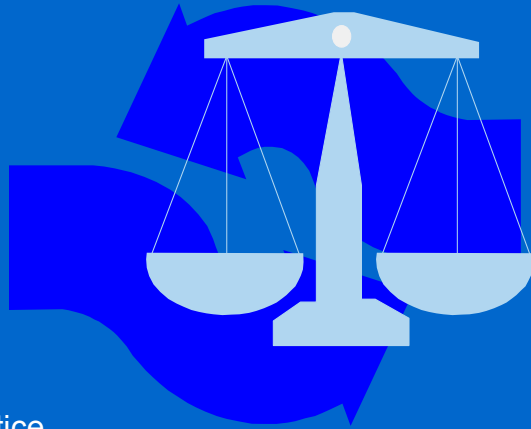
Privacy: more than a name

- 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