

Session title : L'accès aux courriels et à la communication numérique: enjeux en matière d'éthique et d'accès à l'information

Moderator/Panelists :

Camille Jobin-Davis, New York State Committee on Open Government
Suzanne M. Dugan, Special Counsel for Ethics and Fiduciary Counseling,
Cohen Milstein

Maria J. K. Everett, Executive Director of the Virginia Freedom of Information
Advisory Council

Date and time : Tuesday December 10 2013, 10:30 am

Rapporteur : Audrée Ross

Session Summary

The session focused on the issue of public access to information in relation to the use of email and text messages by representatives of the state. Technological developments may make life easier for most people, but civil servants must adapt to new communication media with regards to obligations stipulated in access to information laws.

In Canada, British Columbia, Ontario and Alberta are among the jurisdictions for which the matter is of no small concern. A text message or email can contain information that may be requested under an access to information act. Sometimes people believe that a text message has no governmental value. However, just because a text message or email isn't tangible like a paper message doesn't mean that it has no such value.

The most difficult challenge lies in regulating and supervising the preservation of public records contained in these types of digital media. The various panelists suggested that it would be a good idea to find a way to classify these e-mails by subject so as to facilitate future research. Also, it's best not to mix emails from these different inboxes.

Maria J.K Everett insisted on the fact that we should avoid using our work email to share our moods with our work-mates. It would be better to cross the hallway to do so, for during a request for access to information procedure, the authorities will hide personal comments, which can lead the public to believe that the state is withholding information. She is of the opinion that we must avoid using our inboxes as a public archive holder.

Legislation is often not enough. Courts and independent commissioners are there to investigate and rule if necessary, but a well-informed public is key. Public agencies must find ways to create public archives with their employee's emails

and texts messages. Interestingly enough, private companies are also increasingly intent on preserving information contained in their employee's emails. Another important point concerns the costs of establishing and maintaining this type of data base. Access to information has a price, and jurisdictions must take this into account.

Distinguishing what is private from what is public is a matter of ethics. Is transferring an email without its author's permission ethical? Must we keep emails that were "Bcc'd" to us? The ethical question can also be asked in reverse: How far can we venture into the personal email boxes of employees without violating their right to privacy? Can an email thread be considered as an official meeting? How long must we keep our emails and text messages?

The session provided an opportunity for panelists and convention attendees to discuss their different practices and the regulations in effect in their respective jurisdictions. They realized that obligations and practices vary greatly from one place to another.