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Commissioner determines section 25 of FIPPA does not require Ministry of Health to disclose requested COVID-19 information

Rejects argument government's emergency powers override public interest disclosure provision

VICTORIA— BC Information and Privacy Commissioner Michael McEvoy has rejected the Ministry of Health's arguments that *Public Health Act* emergency powers override its duty of public interest disclosure but determined on the facts of the case before him that section 25 of the *Freedom of Information and Protection of Privacy Act* (FIPPA) did not require the Ministry of Health to release requested COVID-19 information to the Heiltsuk Tribal Council, Tsilhqot'in National Government, and Nuu-chahnulth Tribal Council.

The three First Nations complained to the Office of the Information and Privacy Commissioner that the Ministry failed to comply with section 25 of FIPPA by not disclosing information they specified relating to cases of COVID-19 in communities outside theirs.

Section 25(1)(a) of FIPPA requires a public body to, "without delay, disclose to the public, to an affected group of people or to an applicant…information about a risk of significant harm to the environment or to the health or safety of the public or a group of people". Commissioner McEvoy determined that the *Public Health Ac*t did not override this responsibility. However, he held that, while COVID-19 creates a risk of significant harm to the public, sufficient information is already available on COVID-19 cases to enable the public, and the complainant governments, to take steps to avoid or mitigate the risks connected with COVID-19.

Order F20-57 is available here: https://www.oipc.bc.ca/rulings/orders/

Given the decision is legally binding and subject to judicial review, no further details or comments are available.

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