

**CHECK AGAINST DELIVERY**

**SPEECH TO THE  
SELECT STANDING COMMITTEE ON FINANCE &  
GOVERNMENT SERVICES**

**June 21, 2021**

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**INFORMATION AND PRIVACY COMMISSIONER/REGISTRAR OF LOBBYISTS**

Good afternoon, Honourable Chair, Deputy Chair, and Members of the Committee. I trust this afternoon finds all of you well on a day when we recognize, observe and celebrate National Indigenous People's Day, It is among other things an opportunity to reflect on actions we can take towards reconciliation in the work we do every day.

And today I would like to acknowledge that I am standing on the traditional territories of the Ləkʷəŋjɪnəŋ speaking people, also known as the Songhees and Esquimalt First Nations.

Joining me this afternoon are Deputy Commissioners oline Twiss and Jeannette Van Den Bulk. Also here as always to assist is David Van Swieten, Executive Director of Shared Services, who serves in this capacity for the four Officers of the Legislature headquartered at 947 Fort Street.

Thank you once again for the opportunity to meet and discuss the work of the Office of the Information and Privacy Commissioner and the Office of the Registrar of Lobbyists for British Columbia. The opportunity to do this in addition to the the once a year budget submission is deeply appreciated. It reflects the importance we place on our own accountability to the public through this legislative committee.

Before reviewing the recent work of our office, I want to first address your request for an update on office preparations in light of health restrictions being gradually eased. In March of 2020 our operations shifted quickly in order to adapt to the changes wrought by the COVID pandemic. The majority of our staff commenced work from home and measures were taken to ensure that was done safely and securely. This has continued to be the case to date. Looking ahead, our leadership team is assessing the short, medium and long-term operational needs of the office, in determining the shape of our workplace going forward. We will consider the views of our entire staff on matters such as office sharing and work at home options, as we assess

the best use of the dollars provided by the legislature in a considered and careful manner. It is, as you will appreciate, a work in progress, and I will be in a position to report back in more detail at our November presentation.

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I would like to now turn to some of the recent work and accomplishments of the OIPC.

I have now had the opportunity to review the preliminary numbers from the last fiscal year, and can share that overall the volume of files received by our office continued at the about the same rate as in previous years. It is a tribute to our team that we were able to maintain continuity of services to the public and process those files received commensurate with previous years despite a restructured work environment.

Our office continues to respond to the many questions by the public and media about how our privacy and access statutes apply in the pandemic. This is not surprising given that COVID-19 has generated many new issues engaging both access and privacy. At its outset the pandemic posed challenges for access to information operations for a number of public bodies. In some cases, the move to working from home for many public bodies initially made it difficult to gather hard copy records. In light of these extraordinary circumstances, as you may know, in March 2020, I provided public bodies additional time of up to 30 days to process access to information requests. This extension only applied to requests received between March 1, 2020 and May 15, 2020 – after that public bodies were expected to adjust to a new normal which included the ability to use the time extension mechanisms available under FIPPA, if appropriate.

Time extensions can support public bodies in responding to requests but they must, of course, be considered alongside the one of the Act's key purpose which is to ensure public body accountability. I am aware that some public bodies, particularly those on the front lines of responding to the pandemic, have found it challenging to meet their FOI obligations. At the same time, these are often the same bodies whose actions are of most concern to the public during the time of pandemic and therefore warrant transparency. My staff and I continue to utilize the balancing mechanisms in the legislation to support both access operations and the the Act's purposes.

COVID-19 has also, of course, touched upon issues relating to the protection of people's personal information. Vaccine passports, and related matters, have put matters of privacy protection squarely before my office as well as society as a whole.

These issues are not unique to British Columbia and in fact are in many instances linked to national and international considerations. For this reason we are deeply engaged in discussions with regulatory colleagues nationally and internationally as we consider approaches to the challenges we are commonly confronting.

Just a few weeks ago, together with our federal, provincial and territorial counterparts we released a joint resolution and statement on the issue of vaccine passports. We reinforced the fact that passports could be a very useful tool to getting our lives back on a more normal footing but that privacy needed to be front and centre if such instruments are to have the confidence and trust of Canadians. I have also had conversations with my fellow BC Officers Jay Chalke and Kasari Govender on this issue as it relates to the fairness and human rights of British Columbians. I think it is clear to all of us that based on discussions in public forums it is safe to

say British Columbians care deeply about these issues.

Our office's collaboration on these matters also extend beyond our national borders.

The relationships British Columbia has built with our counterparts in the Asia Pacific Region have proven especially important. I would like to restate our appreciation to the Committee for its continuing support of our role as Secretariat to the Asia Pacific Privacy Authorities. BC plays a prominent and respected role on this international stage.

Last week APPA held its 55th forum, hosted virtually by the Republic of Korea's Personal Information Protection Commission and assisted by our office as APPA's Secretariat. Nineteen member organizations and approximately 100 attendees participated in three days of enforcement discussions, jurisdictional updates and collaboration on some of the key privacy issues we face today including biometrics, the impact of COVID-19 on privacy issues, facial recognition technology, and how to promote global interoperability in data protection. The issue of interoperability is of particular interest to British Columbians as we find ourselves in the midst of legislative reviews of both our public and private sector legislation.

Our office was honoured to be named host of the 56th forum, to be held virtually, in December of this year.

I would also like to update the Committee on reports and guidance produced by our office, since our last appearance.

In February, we released a joint investigation report together with our colleagues in Quebec, Alberta and the Office of the Privacy Commissioner of Canada, on Clearview AI's use of facial recognition technology. The company developed technology that scraped over three billion images from the web including Canadians and children. The technology was engineered in a way that allowed law enforcement and commercial organizations to match photographs of unknown people against those images.

We found that Clearview AI's downloading of images of people from across the Internet represented mass surveillance, and was a clear violation of the privacy rights of Canadians. This mass surveillance creates unwarranted intrusion into the lives of millions of Canadians, the vast majority of whom have never been, and never will be, implicated in a crime.

While Clearview has stopped selling its product to Canadian clients, they have disagreed in part with our findings and we continue to work with our colleagues to bring the company into compliance with Canadian privacy laws.

Related to this, privacy regulators in every province and territory are working together to develop guidance for law enforcement on the use facial recognition technology. This guidance was made available for public consultation earlier this month, and we will post the finalized document on our website when complete.

In May we launched our Commissioner Speaker Series, a series of events presented virtually and that brings together experts to discuss current access and privacy issues.

I recently hosted the first event which focused on Privacy in the Age of COVID-19. The panel consisted of former BC Commissioner David Loukidelis, former Privacy Commissioner of Canada Jennifer Stoddart, and

the current Privacy Commissioner of New Zealand John Edwards. We discussed a number of issues including how the pandemic has exponentially escalated digital trends and growth... further highlighting the urgent need for privacy law reform.

We launched the Commissioner Speaker Series on May 4 during our Privacy Awareness Week celebrations. Privacy Awareness Week is a global effort coordinated by members of the Asia Pacific Privacy Authority to promote awareness of privacy issues and the importance of protecting personal information. During the week we issued guidance for organizations collecting personal information online; highlighted additional relevant guidance for individuals, organizations and public bodies; and participated in three separate speaking events, including our own panel.

I am pleased that these virtual presentations are reaching an ever wider range of stakeholders – the first Commissioner panel had almost 200 attendees with many additional views resulting from its on demand availability on our YouTube channel. I believe the link has been shared with you in advance of this presentation.

Just last week, we released a joint report with the BC Ombudsperson and Yukon Ombudsperson and Privacy Commissioner looking at the challenges of fairness and privacy arising from the use of artificial intelligence, or AI, in the public sector. The report explores the regulatory challenges that come with new and intricate technologies, and provides some best practices and general guidance for public bodies when implementing AI.

We will provide a link to the report for your perusal, and I am grateful for the opportunity to collaborate with my BC and Yukon colleagues.

Finally, tomorrow morning we will be releasing our review of private sector liquor and cannabis retailers which will focus on the privacy management practices of licensed retailers in this sector. We conduct such audits and compliance reviews from time to time to assess how effectively public bodies and private sector organizations protect personal information, and comply with access provisions under our public and private sector legislation.

This review included 30 liquor and cannabis retailers. We chose this specific sector based on the particularly sensitive personal information collected by these businesses, media stories about them and the calls our office receives regarding their collection, use, and disclosure of personal information, including driver's licenses, facial images, and (recently, due to the COVID-19 pandemic), thermal temperatures.

I will share with you a link to the report once it is released tomorrow morning.

I will now turn to some of the recent work with the Office of the Registrar of Lobbyists. As you know, the *Lobbyists Transparency Act*, or LTA, designates me as the Registrar for the ORL by virtue of my position as Information and Privacy Commissioner. My responsibilities as Registrar under the LTA include a mandate to establish and maintain a registry for lobbyists and to oversee and enforce compliance with the Act.

Over the past few months we have moved forward with the process of creating and hiring additional positions for the ORL, including a Registry and Compliance Officer and an Education and Research Analyst. I

would like to thank the Committee for recommending that government approve our 2021-22 budget request to add these positions to the ORL team. They will provide much needed support to our front line work which has seen a 300% increase in individual requests for information about the lobbying rules and the registry, and they will support our education and compliance work relating to the latest amendments to the Act.

And we continue the work to educate lobbyists and the public on those recent changes to the Act and the Lobbyists Registry. Since our February appearance, we have published three guidance documents – one is a comprehensive guide for those new to the registry, another provides information about recent updates to the registry that streamline registering funding information, and the third is guidance for those lobbying provincial entities such as government corporations.

The office has also participated in three virtual speaking events to specific sectors. These events are an important way for us to not only talk about the Act and recent amendments, but to hear from stakeholders on the questions that they have.

Our May issue of our e-newsletter, *Influencing BC*, has been included in our list of resources sent prior to our appearance today. As you peruse it you will see that we have featured information on the gift giving rules. On this topic we are focused on clarifying for lobbyists that the LTA permits only certain gifts or benefits to be given, and that all gifts must be declared in the registry when they are promised or given to public office holders.

This public education work continues, and will ramp up over the coming year as the new positions are integrated into our team. The goal continues to be ensuring that the legislation is understood so lobbyists achieve a high rate of compliance with the Act.

Our office is also slated to host the annual meeting of federal, provincial, and territorial lobbying commissioners in Victoria in the end of September. This meeting is an opportunity for me and my counterparts across the country to exchange information and best practices in education, compliance, and enforcement work that supports transparency in lobbying.

I would like to conclude my time this afternoon with a brief review of our 2020/2021 financials.

While these 2020-21 fiscal year numbers are still to be verified, we are projecting a surplus of \$276 for our operating budget of \$6,942,000.

We also spent \$27,595 of our capital budget of \$29,000, leaving \$1,405.

I look forward to presenting the final numbers when I am back before you in the fall. I wish to thank the Committee for recommending that government approve our 2021-22 budget request to cover additional service levels, and ongoing cost pressures. The additional are being put to work to support oversight of the amendments to the lobbying legislation, provide funds to contract for technical expertise on complex technology investigations, and for the office to begin to prepare for the transition to an updated case file management system.

Before I invite your questions, I want to finish where I began this presentation and that is to acknowledge the incredible work being done by everyone at the OIPC and the ORL. The work of our team has

supported the continuity of operations under the unique pressures brought on by the pandemic. In a word their service has been exemplary, and it's my privilege to work with each and every one of them.

With that Chair, I thank you and the Committee for your attention this morning. My team and I would now be pleased to answer any questions you may have.