

CHECK AGAINST DELIVERY

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

Good morning, Honourable Chair, Deputy Chair, and Members of the Committee.

I would like to acknowledge that I present to you today on the traditional territories of the Ləkʷəŋiḥən speaking people, also known as the Songhees and Esquimalt First Nations. As an Officer of this Legislature I also acknowledge that I am privileged to work with people across many traditional territories, covering all regions of our Province.

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

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. Providing this update, in addition to our yearly submission, will, I hope, give a deeper understanding of the work we do.

I would like to start this morning, Chair and honourable members, by thanking you for recommending my 2022-23 budget request to government – and, in particular, the additional resources for the adjudication division of the Office needed to address the sustained increase in demand for those services. I am pleased to report that we are now hiring additional adjudicators, and I look forward to updating you at future meetings

about how this is helping to improve our service to British Columbians.

In advance of this meeting you asked me to address any supplemental funding requests we may need. When I last appeared in November I stated that if Bill 22, the proposed legislation to amend the *Freedom of Information and Protection of Privacy Act*, were to be approved, it would have a direct impact on the staffing and resources of my office. I also said then it was premature to discern the precise impact of those changes because even if the Bill were to be passed, it was not clear when certain key provisions would be brought into force.

Bill 22 has, of course, now passed into law. However, the provisions having the greatest impact on my office are not yet in force. These are the requirements for privacy management programs, and mandatory breach reporting. We are discussing these matters with the Minister responsible and she will apprise me of the proposed details in the coming months. We will analyze them carefully and quantify their impact on our office. My expectation is that when we meet next fall I will be in a position to address what additional resources will be needed to meet the demands of the amendments.

Turning to the recent work and accomplishments of the OIPC, I have now looked at the preliminary numbers from the last fiscal year, and can report that we handled more than 10,000 files, in line with the previous year's high. This number includes a significant increase in core files received – that is access and privacy complaints together with requests by individuals to review public body decisions withholding information in response to access requests. Combined, these files really represent the bread and butter of the work we do for the public.

What we also saw in the last year fiscal year was a decrease in time extensions asked for by public bodies to respond to access requests. While I suspect this was in part due to public bodies getting over the initial jolt of the pandemic, I will have a better idea once we complete our report card on the timeliness of government responses to access requests due later this year.

What is clear now is that my staff continue to shoulder a heavy workload and have done an extraordinary job in keeping pace with the demands placed upon them.

We also remain active on the investigation front where a number of ongoing matters are utilizing the technology funds the committee previously recommended. Given the constraints put on me by the Act I can't speak to the specific nature of these files at this very moment, but I expect to be in a position to do so when we next meet in the fall.

I earlier mentioned COVID and government access to information systems -- in December, we released a report on how these systems held up in the wake of the pandemic. We reviewed a select group of public bodies over a one year period starting in March 2020. The selection was based on the higher volume of requests they handled during our review period, and included three health authorities.

Overall, I was encouraged to see that, despite an increase in both the number and complexity of requests, our access to information system maintained a relative resilience during that first year of the pandemic. The public bodies we reviewed by and large adjusted to the changing circumstances and succeeded in maintaining their access to information programs. In one example, a public body used staged releases of

information to help applicants get some records while it continued to process the remainder of the larger request. This is the kind of creative thinking I think that serves as a model for others.

This report was also a good opportunity to highlight and remind public bodies about the importance of proactively releasing records without an access request. Doing this builds public trust, negates the need for staff to spend hours responding to commonly made access requests, and provides greater transparency and accountability for the people of British Columbia.

Interestingly, this was also an issue of considerable interest to MLA's in the course of my office's last of two presentations made to the Special Committee to Review the Freedom of Information and Protection of Privacy Act.

During my first appearance in February I gave the Special Committee a brief overview of FIPPA, BC's public sector legislation, and provided some background about the role my office serves. The second appearance focused on a full set of recommendations for reform. We provided both submissions to you, Chair and committee, in advance of our meeting today. The most concise summary is this -- robust access to information and privacy laws are vital to the overall foundations of democracy, and I believe BC can put itself once again in a leadership role.

Private sector privacy reform is also a matter on my office's front burner. I reported to you about this last year, and the government side of the House now has before it the recommendations of the Special Committee to Review the Personal Information Protection Act.

One item not on the Committee's recommended list, but which has since emerged as a significant issue across many jurisdictions, is a specific set of rules, perhaps in the form of a code, focused on children and online privacy. A code of this type would help protect our children from online tracking, targeted advertising, and 'nudging', used to engage children in online behaviours not in their interests. Such a code has been adopted in the UK and a variation of it in Ireland. Others are considering it, including the state of California to the south. Its positive impact on children would be greatest if multiple jurisdictions sign on to a similar approach that allows for a broader enforcement mechanism.

That is why my office is actively looking at whether our government should consider its adoption here. I have discussed the matter with counterparts in the UK and Ireland as well as representatives of UNICEF who are helping spearhead efforts internationally in this direction.

I believe that such a code could potentially be adapted and integrated within our PIPA legislation such that we can stand together with other regulators globally to ensure our children are properly protected in the online world. We will continue to pursue this important issue.

This also serves as a reminder that our office does not operate in a jurisdictional silo, which makes coordination with fellow regulators nationally and internationally important.

Members of this Committee will know my office continues to serve as Secretariat to the Asia Pacific Privacy Authorities, and I again thank this Committee for continuing to support this role. It enables a prominent and respected place for British Columbia in a region where not only personal data flows

ubiquitously but where the Province's major trading partners reside.

Investigations, mediation, adjudication and informing legislators and the public about reform are key parts of our work - but so too are the efforts of my team to educate the public, organizations, and public bodies about their information rights and obligations. An important aspect of education is the guidance we offer.

The OIPC has published three guidance documents since we last met in November. In January we released a guide for employers to help them understand what conditions must be present before conducting random searches for drugs and alcohol in the workplace.

We receive many questions about how our private sector legislation applies to the workings of strata councils especially those related to condominiums. I know this of considerable interest to many of your constituents. With this in mind, earlier this year we updated our privacy guidance for strata corporations and strata agents in an easy to understand format for those living in strata arrangements.

Finally, in March, we released guidance to clarify the responsibilities that lie with public bodies who seek to store or allow access to British Columbians' personal information outside Canada's borders. This was largely prohibited prior to the recent amendments under Bill 22. Our guidance makes clear that despite the recent changes, public bodies are required to ensure reasonable security measures are put in place before decisions are made to disclose or store personal information outside of Canada.

Just before I turn to the work of the ORL, I would refer to one other matter that I know will be of particular interest, and for which each of your parties must be given credit.

Last month, together with my colleague Anton Boegman BC's Chief Electoral Officer, we published a campaign code of practice for political parties here in BC. The code was agreed to and signed by all three political parties represented in the Legislature. The code's principles ensure a level playing field for electoral campaigns, and balances the needs of political parties to know their voters with the need for protection of their privacy.

The code contains 10 principles, including that political parties understand their privacy obligations and apply adequate privacy protections.

The code was a result of my 2019 report that looked into how BC's political parties collect, use, and disclose voters' personal information. We wanted to ensure there was a common understanding among parties of what is and isn't allowed by BC's privacy and election legislation. We are also following up with additional guidance for political parties, and their obligations under PIPA, and we hope to have it available soon.

I strongly believe the code, and the parties' commitment to it, will enhance the public's trust and confidence in how political parties are managing the personal information of voters. All of your parties should be strongly commended for working together to enhance this part of our democratic system of government – a system which should not be taken for granted.

I now turn to the recent work of 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.

Since we last met in November, we have added new functionality to the Lobbyists Registry to improve the user experience. The new auto-complete function allows lobbyists to easily access senior public office holders from previously entered Lobbying Activity Reports. This feature is designed to save time when registering lobbying activities by providing the name and position title of senior public office holders previously entered more than three times.

And we continue to educate lobbyists and the public on those recent changes to the Act and the Lobbyists Registry. Since our November appearance, we have updated two guidance documents – one provides guidance on the term “Provincial entity” as it is used in the LTA, while the other focuses on the gift-giving prohibition and provides an update about sponsored travel.

We also have two new guidance documents that will be available in the coming weeks. The first helps members of the public understand the type of information they can find in the Lobbyists Registry, and how to search for information in the Registry.

The second helps public office holders understand what they are and are not required to do under the LTA. You will know that most requirements under the LTA fall on lobbyists themselves, but that there are some that public office holders would do well to be aware of, such as the two year cooling-off period if someone leaves a public office holder position. This guidance also outlines some best practices for public office holders to consider when engaging with lobbyists.

Our recent March 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 recent amendments to the LTA, and the *Lobbyists Transparency Regulation*, that exempts three BC regulatory authorities from the LTA or the Regulation when engaged in activities conducted under an administrative agreement with the BC government.

Our public education work continues, as we explore ways to make our resources accessible to lobbyists, public office holders, and the public. The goal continues to be to ensure that the legislation is understood so lobbyists achieve a high rate of compliance with the Act, and to make the information in the Lobbyists Registry easily accessible to the public.

Whether serving the public in the areas of lobbying, access to information, or privacy, my office is committed to developing a more inclusive, healthier workplace that builds upon continual learning, cultural agility, openness and inclusiveness. As part of that work, we created a Diversity and Inclusion Group known as DIG that is comprised of volunteer staff members committed to recommending actions for enhancing inclusiveness into our workplace, policies, procedures and services.

I want to share with you the progress we have made.

The office has integrated a number of action items recommended by the DIG team to our senior leadership over the past few years, including incorporating Indigenous Behavioral Competencies into our hiring practices; using gender neutral language in our communications and interactions; updating our Harassment, Discrimination, and Bullying policy; and providing internal training on topics ranging from building respectful and equitable workplaces, to trauma-informed dispute resolution, to having difficult conversations.

The DIG team has also recommended actions for how the OIPC and ORL can respond to the calls for action from the Truth and Reconciliation Commission and to the *Declaration on the Rights of Indigenous Peoples Act*. In addition to hiring and training, this work includes reviewing our investigation and adjudications processes.

Consistent with this, we are reviewing the *Accessible BC Act* and preparing to respond to its requirements, and in doing so will be joining many public bodies that are creating a plan, a committee, and a feedback tool that promote accessibility.

Respect is a core value of our office, and our team is committed to an inclusive and healthy environment for staff and the public.

I would like to conclude my time this morning with a brief preliminary review of our 2021/2022 financials.

These 2021/22 fiscal year numbers are still to be finalized, but at this point we are projecting just over a 2.5% surplus on our operating funds and of course will have finalized and detailed numbers for you in the fall.

Again, I wish to thank the Committee again for recommending that government approve our 2022-23 budget request.

I want to finish my presentation this morning by acknowledging the work of the OIPC and ORL teams. I am very grateful for all of the people in my office who have chosen public service as a vocation. The people of this Province are also fortunate to have them in their employ.

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.