

(NOTE: This electronic version of the Office of the Information and Privacy Commissioner's Annual Report 1995-96 includes corrections for clerical errors that exist in the printed copy.)

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May 31, 1996

The Honourable Speaker  
Legislative Assembly of British Columbia  
Victoria, British Columbia  
V8V 1X4

Dear Honourable Speaker:

Pursuant to [section 51](#) of the *Freedom of Information and Protection of Privacy Act*, I have the honour to present my third Annual Report to the Legislative Assembly. This report covers the period from April 1, 1995 to March 31, 1996.

Sincerely,

David H. Flaherty  
Commissioner

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## **I. COMMISSIONER'S MESSAGE**

Reflection on my daily work during the past year has heightened my awareness of the three main roles that I choose to

concentrate on with respect to the myriad choices before me as Information and Privacy Commissioner under [section 42](#) of the *Freedom of Information and Protection of Privacy Act*.

The first, and major, activity is to dispose of requests for review of decisions of public bodies by holding inquiries and writing orders. When applicants seek their own personal information, or general information, from the thousands of public bodies as defined in the Act, and are not satisfied with the response or with what they actually receive in the way of records, they may bring a request for review to my Office. It remains of great satisfaction to me that my colleagues mediate settlements to most of these matters. Less than 8 percent of requests for review result in an inquiry. I deal with these remaining cases by reaching a decision in a quasi-judicial proceeding, which requires me to observe the principles of natural justice and due process and to make reasonable decisions. This is work that I do by myself in the first instance, on the basis of oral or written submissions to me from parties and invited intervenors.

My second major role, as the self-proclaimed privacy watchdog for the province, is much more proactive and, indeed, aggressive than the decision-making function. I make this point to help the public distinguish between my roles as Information Commissioner and as Privacy Commissioner. Even this distinction blurs, however, in light of my efforts to promote information rights as part of the statutory goal of promoting a more open and accountable society in this province.

On the privacy side of our work, my colleagues and I investigate and respond to complaints about perceived invasions of individual privacy, offer advice to public bodies about the privacy implications of various proposals and practices, and engage in the auditing of actual information-handling practices during site visits to such diverse public bodies as Social Services offices, hospitals, municipal police departments, municipalities, colleges, government agents, and self-governing professional bodies, such as the Law Society of British Columbia. This is largely a consciousness-raising activity among the staff of these organizations about the importance of following fair information practices and ensuring appropriate security in the collection, storage, and disclosure of personal information entrusted to them.

The third major role that we play is the public education of interested persons about their rights and responsibilities under the *Freedom of Information and Protection of Privacy Act*, and about the resources and activities of my Office. We issue news releases about orders, investigative reports, and related privacy issues in particular, and speak to the media about current privacy or access issues of general concern to the public. My colleagues join with me in giving a considerable number of informal talks, speeches, and written presentations during the course of a year, and we host conferences highlighting the information and privacy issues of the day. I remain optimistic with each passing month that more and more British Columbians are becoming aware of their rights of access to general government information and to the protection of their personal privacy.

Every day brings a new challenge in my Office as specific cases come before me, as events in the news reveal privacy and access issues of concern to the public, and as technology develops and, in the name of progress, works to erode the fundamental claim we as individuals may wish to make concerning our right to have our personal privacy protected and to know what is going on in our governments. I take comfort in the hard work of my colleagues and, significantly, in the continued and growing interest of the public in keeping me poised and vigilant in my role as the information and privacy watchdog for British Columbia.

David H. Flaherty

## II. DIRECTOR'S MESSAGE

I would like to begin with the clearly stated premise that I am an advocate for the *Freedom of Information and Protection of Privacy Act*. [Section 2](#) sets out the purposes of this important legislation, which are to make public bodies more accountable to the public and to protect personal privacy. I invite everyone to reflect for a minute or two on how profound and vital these purposes are for all of us as citizens in a democratic society.

As Director of the Commissioner's Office, I have the opportunity to deal with many different public bodies on issues that arise

under the Act. Often, I am told that this Act is not part of a public body's "core programs" and is an unaffordable luxury. I strongly disagree with this notion. The rights guaranteed to all citizens under the Act are "core functions" of every public body. They are statutorily guaranteed rights of access and privacy, and as such should be safeguarded rigorously.

I have been told that we do not need this legislation, as bureaucrats can and should be the ones to decide what information an individual is entitled to receive, since they know their programs best and what should or should not be released. With the greatest respect, I think that this is a dangerous premise and shows why we do need just this kind of legislation. The Act does not allow for such arbitrary distinctions. It starts with the general principle that all information should be released, unless it falls within one or more of a narrow range of exceptions. Only three of these exceptions are mandatory and the rest are at the discretion of the head of the public body. No one need look very far to find other government regimes that carefully control and orchestrate the flow of information to their citizens in order to realize how very fortunate we are to have the rights of access that the British Columbia Act provides.

However, we must all be aware that these rights are in danger of being eroded. The contracting out and privatization of work previously done by government puts areas of information potentially outside the scope of the legislation. This also means that one's rights to privacy are not guaranteed once personal information about oneself is being collected, stored, or shared by individuals and/or groups other than public bodies. Further, the community of people committed to the principles of the Act and working in this area is shrinking as government ministries are merged or disappear. This is a concern to those of us left to uphold the principles of the Act.

I urge all of you to become part of the educated public, to be aware of your rights of access to information and to protection of privacy, and to be clear that you, too, believe that these are important democratic and human rights.

Lorraine A. Dixon

### **III. INTRODUCTION**

This is the Office of the Information and Privacy Commissioner's third Annual Report. It explains the mandate and role of the Commissioner and his Office, it provides some information about the principles and practices of the *Freedom of Information and Protection of Privacy Act*, and it sets out some examples of the Commissioner's Orders and investigations under the Act. It also includes discussion of prominent access to information and privacy issues in British Columbia over the past year.

#### **Background**

The Office of the Information and Privacy Commissioner was created to promote, uphold, and protect the information and privacy rights of individuals, as described in the *Freedom of Information and Protection of Privacy Act*.

The Act was proclaimed on October 4, 1993. At the time, it applied to government ministries, agencies, and Crown corporations. On November 2, 1994, the Act took effect to include local public bodies, such as municipalities, school boards, hospitals, municipal police departments, universities, and colleges. On November 6, 1995, the Act was expanded to include all self-governing professional bodies, such as the Law Society of British Columbia, the College of Physicians and Surgeons, and the British Columbia College of Teachers.

Currently, the Act covers over 2200 public bodies in British Columbia and 33 self-governing professional bodies.

#### **The Commissioner**

The Information and Privacy Commissioner was appointed by the government of British Columbia to monitor the administration of the *Freedom of Information and Protection of Privacy Act*. The Commissioner monitors how public bodies comply with the Act, he issues binding orders (judicial decisions) requiring public bodies to comply with the Act, and he comments on the implications for access to information or protection of privacy of any of their proposed legislative schemes or

programs. The Commissioner also promotes the principles of the Act through public education, research, and active involvement in the information and privacy community.

The Commissioner has a six-year, non-renewable term. He is an Officer of the Legislature and, like the other Officers of the Legislature, such as the Ombudsman and the Auditor General, he is independent of government. He reports to the Speaker of the House, who represents the entire Legislature. This independence is essential to the Commissioner's ability to provide an impartial review of government's compliance with the Act.

### *The Freedom of Information and Protection of Privacy Act*

The *Freedom of Information and Protection of Privacy Act* provides to individuals a general right of access to information contained in records held by public bodies. The Act also establishes a general right to the protection of personal privacy. It sets out strict standards about how public bodies collect, use, and disclose personal information. Under the Act, an individual also has the right to see his or her information and to request that it be corrected if there are mistakes.

The Act also sets out limited exceptions to the general rights of access to information and protection of privacy. Exceptions to the right of access include limits on access to information gathered during law enforcement proceedings, information protected by solicitor-client privilege, and information that, if released, would harm the business interests or personal privacy of a third party. Exceptions to the protection of personal privacy include information that may be disclosed if it is in the public interest, if there are compelling circumstances that affect anyone's health or safety, or if the information is about a person's position, function, or remuneration as an officer or employee of a public body.

The Commissioner seeks to ensure that exceptions to the right of access and privacy are applied narrowly and that the Act is interpreted in the spirit of openness. For example, if only part of a record contains information that should not be released, then the Commissioner will require the severing of the record so that other portions may still be disclosed to the applicant.

### Public Bodies

The role of public bodies under the *Freedom of Information and Protection of Privacy Act* is to apply the specific requirements of the Act to each request for information that they receive. Public bodies must also protect the privacy of the personal information that they maintain. They must comply with the fair information practices set out in Part 3 of the Act.

Public bodies also have a duty to assist applicants under [section 6](#) of the Act. However, since they are also bound by the Act's exceptions to disclosure, public bodies must weigh requests for information carefully. They must exercise their discretion to strike the correct balance between the public's general right of access to information and an individual's right to protection of personal privacy.

The Office of the Information and Privacy Commissioner seeks to ensure that information and privacy rights are interpreted consistently among public bodies, and provides an avenue of review for those individuals who are not satisfied with a public body's decision about access to records or their protection of personal privacy.

## **IV. REQUESTS FOR REVIEW**

### Introduction

Under [section 52](#) of the *Freedom of Information and Protection of Privacy Act*, the Commissioner may be asked to "review any decision, act, or failure to act" of a public body resulting from a request for information. Thus an applicant for information may request that the Commissioner review a public body's decision refusing them access to all or part of a record. The purpose of [section 52](#) is to ensure that an impartial review mechanism is in place to resolve disputes.

Under [section 4](#) of the Act, individuals have a general right of access to information in any record in the custody or under the control of a public body. This right is limited, however, by some exceptions. These exceptions are set out in sections 12 to 22 of the Act. They include restrictions on the release of certain types of information for reasons such as that it may harm law enforcement investigations or the business interests of third parties, or that the information is a Cabinet confidence or is protected under solicitor-client privilege.

Individuals who are not applicants for records, may become involved as third parties in a request for review because a public body has notified them that their information is included in records requested by an applicant. These third parties may also request a review by the Commissioner of a public body's decision if they wish to oppose a decision to disclose records.

### Requesting a Review

Under [section 53](#) of the Act, a request for review of a decision made by a public body must be delivered in writing to the Commissioner's Office within 30 days of the applicant's receipt of the decision. The request for review should include a copy of the applicant's original written request for records to the public body and the public body's written response explaining its decision to refuse to release all or part of the records.

Requests for review are received by the Office's Intake Officers. The Intake Officer reviews the request and often contacts the applicant for clarification of the facts and circumstances of the request. If the request for review can proceed, the Intake Officer assigns the request to a Portfolio Officer.

Once a case is formally opened by a Portfolio Officer, he or she has 90 days within which to review the request and resolve the dispute. Portfolio Officers have substantial delegated powers from the Commissioner to require a public body to produce the records in dispute so that they may examine what is being withheld or to be released. They also clarify the basis for the public body's decision and attempt to resolve the dispute by mediation. A Portfolio Officer will either assist the parties in reaching an agreement about the records by talking or meeting with each one separately and proposing a resolution, or by meeting with the parties jointly and assisting them to negotiate their own agreement or resolution.

Of all the requests for review that come to the Information and Privacy Commissioner's Office, over 92 percent are settled without going to a formal inquiry. The remaining cases come before the Commissioner and result in an Order.

\* For further details on inquiries and Orders, please see the chapter entitled Commissioner's Orders.

### Samples of Recent Mediated Requests

The following are samples of some recent mediated settlements achieved by Portfolio Officers in the Commissioner's Office. They represent a wide range of issues and public bodies and were chosen as samples mostly for their innovative or pragmatic solutions.

#### A. Local Public Bodies

##### College - complaint investigation

Three students applied for records about an investigation into their complaints about two instructors. The College released copies of the students' own notes but withheld other personal information supplied in confidence by the two instructors.

Through mediation, the College agreed to release further information about the students that the instructors had supplied, but refused to release the personal information of the instructors, such as evaluations. The students accepted this resolution.

##### Hospital - dismissed employee

An applicant requested information related to a dismissed administrator that included memoranda issued by the hospital board

of trustees to the administrator, memoranda issued by the administrator, and the hospital's cheques register for a specified period of time. The hospital refused to release the documents, stating that there was a reasonable likelihood that its response would be perceived as biased, since it was currently involved in litigation with the administrator. No sections of the *Freedom of Information and Protection of Privacy Act* were cited as the basis for this decision.

Through mediation, the board of trustees prepared a new response for the applicant that corresponded to the requirements of the Act. The administrator was given notice of the hospital's intent to release the information and the administrator consented. Thus, the applicant received most of the records requested and was satisfied with the outcome.

#### Municipality - letters of application

An applicant requested copies of all letters of application sent by all the successful appointees to various municipal boards, committees, and commissions. Through mediation, the applicant agreed to limit the request to a smaller number of letters, namely those which were the subject of his concerns. Since a formal inquiry would have required third party notice and the inclusion of the authors of the letters as parties to the inquiry, all these individuals were contacted as part of the mediation process to determine whether they were willing to provide written consent to the disclosure of their letters. All the parties consented and their letters were disclosed by the local public body.

#### Municipality - report

A consultant wanted a copy of a report prepared for the municipality by another consultant. The municipality refused access, since the proposed project had not been considered by Council or implemented. Mediation led to the realization that the report would likely never be put before Council. After informing the consultant who submitted the report of its intent to release the report to the requester, the municipality disclosed the entire report.

#### Municipality - legal costs

An applicant wanted to know how much a municipality had spent on lawyer's fees for a particular sewer project. The records were not maintained in a manner which made the information readily available. As a result of mediation, the public body agreed to prepare a fee estimate for the time that it would take to do a manual search of a large number of files and compile the information for the applicant. After receiving the estimate, the applicant decided not to proceed with the request.

#### Municipality - legal advice

An applicant requested a copy of a review relating to the legality of zoning actions taken by the municipality. The municipality refused to release the information on the grounds that it was subject to solicitor-client privilege.

During mediation the applicant revealed the concern that there was an apparent discrepancy between a particular bylaw and the zoning, and that a legal review of the materials would provide an answer. The municipality and applicant agreed that one of the municipality's solicitors would answer the applicant's specific question in writing.

#### Police Department (municipal) - interviews with applicant's child

An applicant requested access to a videotape of an interview between the police and his young child who had been part of an investigation. The police department denied the applicant access to the requested tape. The applicant requested a review of this decision, since he was concerned about the conduct of both the interview and the investigation. He later broadened his request to include all videotapes of interviews with his family, any transcripts of these interviews, reports, and any other paper records of the police investigation. The police denied access to all of the records, and the applicant requested a review of this decision as well.

Through mediation, the police department agreed to release severed copies of transcripts of the interviews with the two parents, along with other paper records. It also agreed to arrange for a viewing of the two videotapes. The police continued to refuse access to any interview material to do with the applicant's child. The applicant accepted this arrangement, since he had decided to pursue other avenues.

#### Regional District - local public body confidences

An applicant requested access to all records relating to the purchase of a parcel of land by the Ministry of Environment, Lands and Parks for the purposes of creating a park. The District provided partial access to the records and withheld others. The applicant requested a review of these decisions.

Through mediation, the District agreed to reconsider its position and released some records immediately. It also consulted with other bodies regarding some of the remaining records and subsequently released these records at a later stage in the review. Further, the District referred some of the records to its lawyer for an opinion on whether they should be withheld. The District subsequently released the records and the applicant was satisfied.

## B. Ministries, Crown Corporations, and Other Government Agencies

### Ministry of Forests - environmental records

An applicant acting on behalf of an environmental research and lobby group had requested environmental records contained in Cabinet documents. Through mediation, the applicant accepted the opinion of the Portfolio Officer, which agreed with the Ministry's position, that information contained in Cabinet documents was not releasable, since Cabinet records are afforded vigorous protection under the Act. The applicant reconsidered the application of the Cabinet confidences section of the Act and agreed that pursuing the records all the way to an inquiry before the Commissioner would likely be fruitless. He subsequently withdrew his request.

However, the same applicant had requested other environmental records from the Ministry pertaining to a proposed wilderness area. In this case, the Ministry had cautiously severed a considerable amount of information before releasing the records. During mediation, it became clear that the severances were based more on the sensitivity of the issue, than on the specific harm considerations set out in the Act. After discussions with this Office and further consultation with its FOI Coordinator, the Ministry released the requested information in its entirety. The applicant was pleased with the Ministry's cooperation.

### Ministry of Forests - fee waiver/public interest

An applicant requested from the Ministry all information related to the decision-making process it employed with respect to a timber supply area in the interior of British Columbia. The Ministry was prepared to release this information but notified the applicant that it would require a fee of more than \$600.00 for these records. The applicant objected to paying that fee, arguing that the information related to a significant decision with major local impacts and thus should be released in the public interest, free of charge.

Through mediation, it was clarified that there is no definition of the public interest under the fee waiver section of the Act, but rather that there is a spectrum of interests. A key factor to consider is whether the applicant represents a legitimate public interest which is shared by a number of individuals or organizations in the community. As the applicant was joined or supported by a wide variety of organizations and had pledged to make the information he received available for review by any interested party, the Ministry agreed that release of the information was in the public interest and provided the records without charge.

### Ministry of Social Services - adoption records

An applicant could not understand why the Ministry had severed information from adoption records which she already knew, such as the names of birth parents. Once the Ministry was made more aware of the specifics of the situation, it disclosed additional information to the applicant. It also disclosed further third-party personal information, since the applicant provided the birth father's written consent for the disclosure of his personal information and proof of her adoptive mother's death for the disclosure of the mother's personal information.

### Ministry of Transportation and Highways - lists of roads

Two separate applicants requested lists of roads which cross Native reserves in various areas throughout the province, as well as the status (the ownership or control) of the roads. These lists had been prepared by the Ministry for its own strategic planning and policy development purposes.

Initially, the Ministry was concerned that public release of the lists might be an invitation to confrontation. However, through mediation, the Ministry decided to release the lists of roads and their status to the applicants, on the understanding that the list was "based upon informed and educated speculation by ministry staff" and was "not to be considered final nor conclusive." The applicants were satisfied with the release under these conditions.

#### Office of the Chief Coroner - federal and foreign records held by public bodies

An applicant requested from the Chief Coroner a copy of a report prepared by a department of the Government of Canada. The Royal Canadian Mounted Police (RCMP) had provided the report to the Chief Coroner "in confidence," within the meaning of the intergovernmental relations exception in Act. Through mediation, the applicant accepted the Chief Coroner's decision to withhold the report under the Act, but was told that he/she could request the report from other sources by other means, such as from the RCMP directly or from the federal government through the federal *Access to Information Act*.

The mediation clarified for public bodies that, where they have custody of federal, other provincial, or foreign records, they must process requests for those records under the British Columbia Act. However, an applicant may also request the same records directly from the originating federal, provincial, or foreign government office, under that body's own governing access and privacy legislation.

#### Workers Compensation Board - technical data

An applicant requested the printouts of data from a gas monitoring van in which she was working on the day an explosion occurred. The WCB denied the request on the grounds that it was technical information supplied to it in confidence by the employer.

During mediation, the applicant revealed that she needed the information to prove that she was exposed to abnormally high levels of poisonous gas on the day of the explosion. The WCB subsequently decided to release the information on the grounds that it was necessary for a fair determination of the applicant's rights.

### C. More Than One Public Body

#### Ministry of Health/Municipality - information about a private hospital

A health care union applied to the Ministry of Health for information about a private hospital. Since a municipal health department had some of the records, the Ministry transferred part of the request to that department. The record amounted to over 500 pages of information and consisted of financial reporting information, quality assurance reports, records of inspections, and follow-up reports. The Ministry withheld its own portion of the records stating that release would be harmful to the business interests of the hospital.

The Municipality, however, decided that it would release portions of the records to the health care union under the Act, despite the objections it received from the hospital. The hospital requested a review of this decision by the Commissioner's Office.

Through mediation, the Municipality was encouraged to provide a comprehensive index of the records to the health care union in order to assist it in narrowing its request, thus preventing the unnecessary release of irrelevant hospital documents. The Portfolio Officer also met with representatives of the hospital, Ministry, and the Municipality to discuss the hospital's concerns and the application of the Act. As a result of the narrowing of the request and with the consent of the hospital, the Municipality subsequently released a large quantity of the records to the health care union.

## V. COMPLAINTS

### Introduction

Under [sections 42\(2\)](#) and [52](#) of the *Freedom of Information and Protection of Privacy Act*, the Commissioner may receive complaints from individuals about the access to information or protection of privacy practices of public bodies covered under the Act. If an individual feels that his or her privacy has not been adequately protected by a public body, he or she may complain to the Commissioner's Office, which will investigate the matter. If the issue is a complaint about access to records, it

usually involves access to specific records and thus is handled by the request for review process. However, an individual may make a general complaint about a lack of access to a whole category or system of records. This type of issue is handled by the complaint and investigation process.

Part 3 of the Act sets out specific protections for the privacy of personal information. Sections 26 to 36 specify that a public body may only collect, use, and disclose personal information in limited ways for particular purposes. These rules are commonly referred to as fair information practices. The Act also states that a public body must make reasonable security arrangements to protect the personal information it maintains.

If the Office receives several similar information or privacy complaints from a number of individuals, or if a complaint is of a systemic nature, affecting many departments of, or more than one, public body, then a complaint may become the subject of a larger investigation. Such an investigation may result in a formal investigation report.

### Making a Complaint

Like requests for review, complaints made to the Commissioner's Office should be in writing and set out the facts of the complaint, including the public body or bodies that are the subject of the complaint and any measures or steps that have been taken by any of the parties so far. The Office's Intake Officers will review the complaint, clarify the facts, and assign it to a Portfolio Officer.

Portfolio Officers investigating complaints have substantial delegated powers from the Commissioner to look at any records relating to the complaint and/or to ask questions clarifying the issues and circumstances of the complaint. In certain instances, a Portfolio Officer may be able to resolve a complaint after his or her investigation. If not, the matter will be concluded by the Commissioner, who will render a decision by letter, by Order, or by launching an extended investigation resulting in an investigation report.

### Samples of Recent Complaints

The following sample complaints have been chosen as examples since they are good illustrations of the complaint process and because they represent the more common types of complaint that the Office receives.

#### A. Local Public Bodies

##### Hospital - third party notice/audit trail

An applicant made a request to a hospital for access to the applicant's own personal medical records. Upon receipt of the request, in accordance with standard policy, the hospital notified all of the main medical practitioners mentioned in the file that a request for access had been made. The hospital also invited the practitioners to review the file and provide feedback if they had concerns about releasing the information. The applicant felt that this notification practice was unwarranted and was a violation of personal privacy. The hospital felt that the notification was necessary to address any safety or health issues that might be associated with release of the records.

During the investigation, the Commissioner's Office determined that the consultation process currently employed by the hospital was broader than it needed to be and did not respect the applicant's right to privacy. The Office's recommendation was that the hospital restructure its consultation process to meet the fair information practices set out in the *Freedom of Information and Protection of Privacy Act*.

The applicant also expressed concern that the hospital did not have a permanent record of who had accessed a particular medical file. Except for specialized laboratory and diagnostic services, medical files are kept in a paper format. When an individual requests a file, the identity of the requester is verified and a record is kept of the file's location. When the file is returned, this record is destroyed.

During mediation, the Commissioner's Office recommended that, in order to enhance the security of the manual file system, the hospital initiate a method of making a permanent record of the dates on which a patient file was accessed and the name of the individual who had obtained access.

## B. Ministries, Crown Corporations, and other Government Agencies

### Ministry of Attorney General - inappropriate access to CPIC

A complainant alleged that the Canadian Police Information Centre (CPIC) computer system was being inappropriately accessed within the Ministry of Attorney General. The complainant suggested that a Ministry employee was indiscreetly describing his or her ability to access the system, which is a repository of sensitive law enforcement-related personal information.

Investigation of this privacy complaint by the Commissioner's Office focused on ensuring that the data privacy and security principles and practices of the *Freedom of Information and Protection of Privacy Act* were being upheld, rather than identifying the Ministry employee whose actions prompted the complaint.

The Commissioner sent a reporting letter to the Deputy Minister to convey his concerns about access to the CPIC system, with a request that all Ministry employees with access to CPIC be provided with a copy of the letter. The letter was also sent to the Chief Constables of the twelve municipal police departments in British Columbia.

### Ministry of Social Services - complainant confidentiality

A landlord submitted a complaint that information which he had provided in confidence about a tenant to the Ministry was inappropriately disclosed by its staff to the tenant.

The Commissioner's Office discussed the complaint with the Ministry, which decided to conduct its own investigation of the matter as a preliminary step. The Ministry concluded that staff had followed correct procedures in handling the information and that no promise of confidentiality had been made. The landlord was not satisfied with the Ministry's conclusions and requested that the Commissioner's Office investigate further.

The Office addressed two issues in the investigation: whether the information the landlord gave to the Ministry was protected from disclosure under the Act, and whether the Ministry has appropriate standards, policies, and procedures in place to maintain the confidentiality of complaints. The Office found that the information that the landlord gave to the Ministry, and which subsequently was disclosed to the tenant, was information concerning their business relationship and not the personal information of the landlord which would be protected under the Act. The fact that the landlord had made a complaint about the tenant to the Ministry was also not considered to be personal information under the Act.

However, through discussions with Ministry staff, it became evident that the Ministry did not have written policies or procedures to govern how staff should handle information offered to the Ministry "in confidence." The Office concluded that the Ministry should develop confidentiality guidelines for the future, since the Commissioner has ruled on numerous occasions in past orders that public bodies should have written policies in place addressing the degree of confidentiality that they can legitimately give to complainants for varying levels of problems.

The landlord was advised of these conclusions and of the Office's recommendation to the Ministry that it review its policies and procedures with a view to ensuring the development of appropriate confidentiality standards in compliance with the Commissioner's Orders and the spirit of the *Freedom of Information and Protection of Privacy Act*. The Office also undertook to discuss the process of the Ministry in this regard with the Ministry in three months time.

## C. More Than One Public Body

### Ministries of Attorney General and Social Services - exchange of personal information between ministries during litigation

A complainant alleged that the Ministry of Social Services had inappropriately disclosed his personal information to the Ministry of Attorney General, and that the Ministry of Attorney General had inappropriately collected his personal information from the Ministry of Social Services. The complainant had commenced legal action against the Ministry of Social Services, and the Ministry of Attorney General subsequently became involved as the legal advisor to government.

The Commissioner's Office investigated the complaint and found that the collection and disclosure of the complainant's personal information was done correctly under the *Freedom of Information and Protection of Privacy Act*, since the Ministry of Attorney General is the legal advisor to all ministries, and thus is entitled to receive personal information and files from other ministries in order to respond to a legal action. Section-33 of the Act permits public bodies to disclose personal information to the Ministry of Attorney General for use in litigation involving the government.

The Commissioner also confirmed that public bodies do not need to exchange formal requests for records in order to collect or disclose personal information where such a transfer is authorized under sections 33-36 of the Act. Further, he found that the Ministry of Attorney General was not required to notify the complainant when it collected his personal information from the Ministry of Social Services, since if public bodies were required to issue notices every time personal information moved within the confines of the Act, public servants would spend all their working hours sending such notices.

### Three Public Bodies - improper collection, use, and disclosure of an employee's personal information

A former government employee submitted a complaint concerning the inappropriate collection, use, and disclosure of his personal information by three public bodies. He claimed that the public bodies had violated the privacy provisions of the *Freedom of Information and Protection of Privacy Act* during an investigation into allegations of improprieties against him when he was still employed by the government.

The Commissioner's Office conducted numerous interviews with officials of each of the public bodies regarding their actions, their authority for the investigation, and their reasoning for the use and disclosure of the former employee's personal information during the investigation. The Office concluded that the public bodies had not contravened the privacy protection provisions of the Act, since they had the appropriate authority to conduct the investigation, gather information about the employee's actions, and to use it in making decisions about the applicant's suitability for continued employment.

After considering these conclusions, the complainant decided that there were other means by which he could pursue his goals that were more appropriate, and he agreed to close the file.

## VI. STATISTICAL OVERVIEW

### Introduction

The Office of the Information and Privacy Commissioner receives numerous inquiries each day on a wide variety of information and privacy issues, most of which are resolved or addressed over the telephone. Informational inquiries or non-jurisdictional issues that are dealt with by telephone, are not logged or tracked by the Office.

Where an inquiry cannot be resolved over the telephone, the caller is invited to submit his or her complaint in writing. Written complaints or inquiries are entered into the Office's computerized tracking system by the Office's Intake Officers.

Between April 1, 1995 and March 31, 1996, the Office of the Information and Privacy Commissioner logged 1436 written requests for review, complaints, or inquiries. They have been categorized as follows:

CASE TYPE	NUMBER
Request for Review	887
Complaints	114
Public Bodies' Requests for Time Extensions	107

Investigations	8
Freedom of Information Requests	18
Non-Jurisdictional Complaints and Inquiries	213
Other Inquiries	89
Total	1436

### 1. Requests for Review

An applicant who makes a request for records or a request for correction of personal information may request a review of any decision, act, or failure to act which relates to that request. Third parties who are notified during the processing of a request may also request a review of any decision by a public body to give access.

### 2. Complaints

A complaint may be broader in scope than a request for review and does not necessarily relate to a request for records. Complaints most often concern the collection, use, retention, and disclosure of personal information or the failure of a public body to perform a particular duty imposed by the Act.

### 3. Public Bodies' Requests for Time Extensions

The Act provides 30 days or, under limited circumstances, 60 days to respond to a request. Where a public body determines that more than 60 days will be needed to respond to a request, it may request the Commissioner's permission to extend the response time.

### 4. Investigations

While investigations may be the result of a complaint, they can also be undertaken in cases where there is a perceived concern by the Commissioner, the public, or a public body about privacy or access to information issues. Investigations are different from complaints in that they usually examine systemic, rather than specific, issues, and may result in an investigation report.

### 5. Freedom of Information Requests

The Office of the Information and Privacy Commissioner, as a public body, is also responsible for responding to requests for records within its own custody or control.

### 6. Non-Jurisdictional Complaints and Inquiries

Non-jurisdictional complaints and inquiries include complaints against private sector organizations or professionals, such as doctors, dentists, lawyers, insurance companies, credit bureaus, banks, and federal government agencies. They also include complaints against public bodies over which the Office does have jurisdiction, but where the concern is not a freedom of information or protection of privacy issue.

### Comparative Statistics

Since proclamation of the Act, the cases handled by this Office have shown a steady increase. Part of the increase is due to enhanced awareness and use of the Act by the public, but it is also due to the gradual implementation of the three phases, or "tiers," of the Act. Whereas the Act only covered ministries, Crown corporations, and government agencies from October 1993 to October 1994, it took effect to include local public bodies in November 1994 and self-governing professional bodies in November 1995.

The following table and graphs illustrate the growth by fiscal year in requests for review, complaints, and requests for a time extension handled by the Office.

93-94	94-95	95-96	
82	79	114	COMPLAINTS

150	544	887	REQUESTS FOR REVIEW
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13	65	107	REQUESTS FOR TIME EXTENSION
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## Public Body Statistics

Some public bodies are the subject of requests for review or complaints at the Commissioner's Office more frequently than others. Often this is because they possess or handle more personal information than other public bodies, although sometimes it may reflect disputes about certain types of files, issues, or policies of the particular public body.

The following two tables show the numbers and percentages of requests for review and complaints that were handled by the Commissioner's Office, set out according to public body.

### Requests for Review

Received between April 1, 1995 and March 31, 1996.

PUBLIC BODY	REQUESTS FOR REVIEW	PERCENTAGE
Social Services	122	13.8%
Insurance Corporation of BC	81	9.1%
Attorney General	78	8.8%
Health	49	5.5%
Transportation and Highways	43	4.8%
Environment Land and Parks	37	4.2%
Vancouver Police Department	33	3.7%
Workers Compensation Board	33	3.7%
Forests	25	2.8%
Finance and Corporate Relations	21	2.4%
City of Vancouver	18	2.0%
University of British Columbia	15	1.7%
School District 31 (Merritt)	13	1.5%
Victoria Police Department	12	1.4%
Employment and Investment	12	1.4%
Greater Victoria Hospital Society	12	1.4%
Office of the Premier	11	1.2%
BC Hydro and Power Authority	11	1.2%
Capital Regional District	10	1.1%
*All Other Public Bodies	251	28.3%
TOTAL	887	100.0%

\*There are over 2200 public bodies covered under the Act. There have been no requests for review filed against the majority of these public bodies. The figure of 251 for "All Other Public Bodies" represents, for the most part, one or two requests for review which have been filed against each of 86 public bodies other than the ones listed below. None of these 86 public bodies received more than 9 requests for review each.

## Complaints

## Received Between April 1, 1995 and March 31, 1996

PUBLIC BODY	COMPLAINTS	PERCENTAGE
Social Services	20	17.5%
Workers Compensation Board	15	13.2%
Insurance Corporation of BC	12	10.5%
Attorney General	10	8.8%
Health	4	3.5%
Government Services	4	3.5%
Transportation and Highways	4	3.5%
*All Other Public Bodies	45	39.5%
TOTAL	114	100.0%

\*There are over 2200 public bodies covered under the Act. There have been no complaints filed against the majority of these public bodies. The figure of 45 for "All Other Public Bodies" represents, for the most part, individual complaints made against approximately 45 public bodies other than the ones specifically listed above.

## Applicant Statistics

One of the most frequently asked questions of our staff is: "Who is filing requests for review and complaints to the Commissioner's Office?" This is a difficult statistic to track accurately, since the Act does not require applicants to identify themselves as belonging to any particular group. For this reason, the category entitled "Individuals" may be artificially high, since it captures all those who did not note nor express an affiliation with any particular group or interest, even though they may in fact have been making a request or complaint on behalf of a group. Where applicants have identified themselves as belonging to a particular group, that information has been indicated below.

TYPE OF APPLICANT	NUMBER	PERCENTAGE
Individuals	767	76.6%
Media	59	5.9%
MLAs	24	2.4%
Commercial Applicants (COMM)	22	2.2%
First Nations (FN)	21	2.1%
*Special Interest Groups (SIG)	15	1.5%
**Other Organizations	93	9.3%
TOTAL	1001	100.0%

\*e.g.: environmental groups, wildlife groups, human rights groups

\*\*e.g.: unions, associations, societies, other non-commercial organizations

## Settlement of Cases

Between April 1, 1995 and March 31, 1996, the Commissioner's Office closed 841 requests for review and 98 complaints. Of the 841 requests for review closed during this period, only 60 required settlement by an Order. Thus, less than 8 percent of requests for review resulted in an inquiry before the Commissioner. This low rate of formal inquiries and orders is primarily due to the emphasis placed in the Office on mediation as a practical means of resolving disputes.

No complaints resulted in inquiries before the Commissioner. However, several complaints about one particular public body

became the subject of a lengthy investigation which concluded with an investigation report. The remaining complaints and investigations were closed in a less formal manner.

#### Requests for Review

Closed Between April 1, 1995 and March 31, 1996

TYPE OF SETTLEMENT	NUMBER	PERCENTAGE
Mediated	700	83.2%
Withdrawn	67	8.0%
Abandoned	14	1.7%
Order	60	7.1%
TOTAL	841	100.0%

#### Complaints & Investigations

Closed Between April 1, 1995 and March 31, 1996

TYPE OF SETTLEMENT	NUMBER	PERCENTAGE
Complaints and Investigations Completed	89	90.8%
Complaints Withdrawn	4	4.1%
Complaints Abandoned	4	4.1%
Investigation Report	1	1.0%
Order	0	0%
TOTAL	98	100.0%

## VII. COMMISSIONER'S ORDERS

### Introduction

Under [section 56](#) of the *Freedom of Information and Protection of Privacy Act*, if a request for review brought to the Commissioner's Office cannot be settled by mediation, the Commissioner must conduct an inquiry. Under [section 58\(1\) and \(2\)](#) of the Act, the Commissioner must dispose of the issues of the inquiry by making an Order. If the matter brought before the Commissioner is a complaint, or concerns a time extension, correction, or fee waiver, then the Commissioner may make an Order under [section 58\(3\)](#) of the Act or [section 42\(1\)\(b\)](#).

### The Inquiry Process

Prior to issuing an Order, the Commissioner conducts an inquiry. [Section 56](#) of the Act sets out the Commissioner's duties and powers in this regard. The Commissioner decides whether the inquiry will be oral or written, whether parties may have access to each other's submissions, and all questions of fact and law during the course of the inquiry. [Section 56\(6\)](#) specifies that the Commissioner has 90 days within which to conduct an inquiry dealing with a request for review. In practice, the first portion of the 90 days is allocated to Portfolio Officers who try to resolve the various disputes over records through mediation.

If it appears that a Portfolio Officer will not be able to resolve a matter within the 90-day time frame, then it is referred to the Commissioner for a formal inquiry. The Commissioner neither hears details of, nor learns about, the case until it is before him in a formal inquiry. This ensures that the Commissioner remains an impartial adjudicator of the facts and issues once the request for review comes before him.

Inquiries may be oral or written. During the course of an inquiry, the Commissioner receives submissions on the facts and issues from the applicant and the public body, and from any person or organization who may have a direct interest in the issues or whom he decides is appropriate, such as third parties and intervenors. Intervenors are invited to make submissions if the Commissioner decides that their comments or perspective may illuminate one or more of the particular issues to be resolved. The Commissioner reviews all of the submissions and the records in dispute in detail.

## Making an Order

Under [section 58\(2\)](#) of the Act, the Commissioner has the power to make Orders resolving requests for review by requiring a public body to do one or more of three things: (i) to give an applicant access to all or part of a record, (ii) to refuse an applicant access to all or part of a record, or (iii) to reconsider its decision to refuse access to the applicant.

Under [sections 58\(3\)](#) and [42\(1\)\(b\)](#) of the Act, the Commissioner may issue an Order resolving a complaint or other matter in which he: (i) confirms or denies a time extension, (ii) confirms, excuses, or reduces a fee, (iii) confirms a decision not to correct personal information or specifies how it is to be corrected, or (iv) requires a public body to stop collecting, using, or disclosing personal information in a manner that is in contravention of the Act.

Under [section 58\(4\)](#), the Commissioner may specify any terms or conditions in the Orders.

Between April 1, 1995 and March 31, 1996, the Commissioner issued 60 Orders. These were Orders No. 36 to 95.

## Compliance

The Commissioner's Orders are binding. Under [section 59](#) of the Act, the head of a public body must comply with an Order from the Commissioner within 30 days, unless the public body, applicant, or third party applies for judicial review of the Order. If an application for judicial review is made within the 30 days, then the Commissioner's Order is stayed until such time as the court orders otherwise.

## Judicial Review

Although the Commissioner's Orders are binding, applicants, public bodies, or third parties have the right to apply to the British Columbia Supreme Court for judicial review of an Order. Public bodies must apply for judicial review within 30 days from the date the Order is issued. Third parties must also make their applications within this deadline, since a public body must decide whether to comply with an order to release records by the end of the 30-day period. However, an applicant may apply for judicial review of an Order at any time.

Between April 1, 1995 to March 31, 1996, five of the Commissioner's Orders received applications to the B.C. Supreme Court for judicial review. The Orders that have been challenged are [Orders No. 36, 39, 61, 73, and 74](#). The court has not yet delivered any decisions on these Orders.

Between April 1, 1995 to March 31, 1996, the B.C. Supreme Court delivered three decisions on Commissioner's Orders that had been challenged by judicial review. These decisions were for [Orders No. 22, 29, and 56](#). [Orders 22](#) and [56](#) were upheld, and [Order 29](#) was overturned.

([Order No. 8](#) was reviewed by the court and a decision handed down in the previous fiscal year. The Order was sent back to the Commissioner for reconsideration. The Commissioner subsequently re-issued [Order No. 8](#) on July 7, 1995, as [Order No. 48](#).)

## Availability of the Orders

The Commissioner's Orders are available through:

- Crown Publications at: (604) 386-4636
- Quicklaw (for registered users)
- The Internet, via the World Wide Web, at: <http://www.cafe.net/gvc/foi/>
- Major public libraries in British Columbia.

\* A Chronological Table of Orders, a Table of Concordance and a Table of Public Bodies that were the Subject of Orders are attached to the back of this report as Appendices D, E, and F.

(Copies of judicial review decisions are available through the court registry of the British Columbia Supreme Court: Vancouver (604) 660-2845, Victoria (604) 356-1478).

## Sample Summaries of Recent Orders

The sample of Orders chosen for summary in this report represents some of the more interesting or contentious issues raised by recent requests for review. They are grouped below according to general subject matter.

### A. Records Relating to Audits, Investigations, and Reports

#### [Order No. 50](#)-1995 - an investigation into conflict of interest allegations

The applicant, a researcher, had requested access to all investigative material compiled during an investigation into conflict of interest allegations against former New Democratic Party (NDP) MLA Gordon Hanson. The Ministry withheld interview answers under [section 15](#) of the Act on the grounds that disclosing them would "harm the effectiveness of investigative techniques and procedures currently used in law enforcement." The Ministry also stated that sensitive information which individuals provide to auditors should be protected from disclosure, since receiving candid information from interviewees is the only way that auditors can do their jobs effectively.

The Commissioner ordered the Ministry of Finance and Corporate Relations to release the records, subject to the application of [section 22](#) of the Act, which protects against disclosure of information harmful to personal privacy. He stated that: "a process of relying on confidential interviews is not an investigative technique or procedure as defined in [section 15\(1\)\(c\)](#) of the Act." He also stated that: "I do not agree with the view that disclosure of the records in dispute in this case will end candour in internal audits of the type conducted in the Hanson matter. Those interviewed are under a legal obligation to respond."

In his Order, the Commissioner hailed the changes that freedom of information legislation implies for government in British Columbia: "The notion of accountability embodied in the Act has wide application for those paid from the public purse. That this requires incremental changes in ways of doing business should be celebrated as an important form of progress in creating a more open society in British Columbia rather than denigrated as some kind of egregious error...."

#### [Order No. 71](#)-1995 - records concerning allegations of sexual harassment

The applicant, a reporter, had requested records concerning allegations of sexual harassment against a former NDP Cabinet Minister stating it was a matter of public interest. The Office of the Premier's released two of the five records identified, but withheld the other three, stating that disclosure would be harmful to law enforcement proceedings under [section 15](#) of the Act, and would be an unreasonable invasion of various people's personal privacy under [section 22](#).

The Commissioner upheld the Office of the Premier's decision to refuse access to the records, stating that the records in dispute fell within the definition of law enforcement information under the *Freedom of Information and Protection of Privacy Act*, and that disclosure might jeopardize the former Cabinet Minister's right to a fair and impartial hearing. The Commissioner also agreed that release of the information would be an unreasonable invasion of the former Cabinet Minister's and complainants' personal privacy.

He stated: "The contents of the records are of a very sensitive nature and character for all of those involved. While comparable information may have to be provided in a court room or during a human rights hearing, it would not serve the public interest to order disclosure of these records under the *Freedom of Information and Protection of Privacy Act*."

[Order No. 72](#)-1995 - a report concerning document security within the Office of the Premier

A reporter for the Province had requested access to a report from the Office of the Premier entitled, "A Review of the Executive Council Documentation Process," commissioned by Cabinet and prepared by retired RCMP officer James McIlvenna after reports of security breaches of Cabinet confidences in late 1994 and early 1995. The Premier's Office responded by releasing only a severed version of the report, stating that more detailed disclosure would harm the security of a property or system and reveal policy advice or recommendations.

Commissioner Flaherty concluded that the Office of the Premier had inappropriately severed portions of the report and ordered it to disclose much more of the report to the Province than it previously had. He also ordered the public body to reconsider its decision on [section 13](#). He stated that, although some information in the report might be of some embarrassment to government, "many portions of it can indeed be disclosed to the applicant, since they contain factual or descriptive information that would neither harm security matters nor reveal confidential policy advice or recommendations."

[Order No. 56](#)-1995 - environmental test results

The Cowichan Estuary Preservation Society had requested information from the Ministry of Environment, Lands and Parks concerning environmental test results from the Swallowfield landfill site utilized by Fletcher Challenge Canada Limited. The Ministry withheld the information under [section 21](#) of the Act, stating that disclosure of the information would reveal scientific or technical information of the company that it had supplied to the Ministry in confidence. The Ministry also stated that disclosure would result in the same information no longer being supplied to the Ministry, which they argued was contrary to the public interest.

The Commissioner found that the information was not protected under [section 21](#), stating that disclosure in this case could not reasonably be expected to result in similar information no longer being supplied to the Ministry. He ordered the Ministry to disclose the information.

[Order No. 57](#)-1995 - environmental test results

The Dunbar Residents Association had requested information from the Ministry of Environment, Lands and Parks concerning the environmental test results from a former service station site in Vancouver, owned by Chevron Canada Limited. The Ministry decided it could release the information, but Chevron Canada objected to its disclosure under [section 21](#) of the Act, stating that it could reasonably be expected to harm its negotiating position with respect to sale of the site, and harm its competitive position in the retail gasoline marketplace. It also argued that disclosure could result in similar information no longer being supplied to the Ministry.

The Commissioner found that the information in dispute did not meet the criteria set out in [section 21](#) regarding disclosures harmful to the business interests of a third party. He stated that the public, especially in the form of a community group, has a right under the Act to learn what is going on at an environmental test site: "It is perfectly true, as the third party argues, that this disclosure will increase the prospects for a 'simplistic description' of 'the potential for contaminant migration' and that 'misunderstandings by members of the general public are likely.' But it is hard to argue that experts have done better than laypersons in the environmental area without public input of the type that the Act now facilitates."

## B.-Records Relating to Law Enforcement

[Order No. 58](#)-1995 - records relating to a murder investigation

The applicant, an inmate currently serving a life sentence for murder, had requested access to information about his 1978 murder investigation so that he could determine whether there were contradictions between what witnesses had said in court

and what was contained in the investigation file. The police withheld the records under [sections 15, 19, and 22](#) of the Act on the grounds that disclosing them could harm law enforcement proceedings and put the safety of witnesses at risk.

The Commissioner upheld the decision of the Victoria Police, stating that while he sympathized with the applicant's interest in the records, it had to be weighed against the exceptions in the Act, which can prevent disclosure of records in the interest of protecting third parties and law enforcement proceedings. The Commissioner stated: "I prefer to act prudently when it comes to disclosure of personal information about individuals who can reasonably be expected to be at risk of harm, now or in the future, from the disclosure."

The Commissioner further stated that the issue of discrepancies between court and investigative files would be a matter for the federal government to consider in an application for a new trial under section 690 of the Criminal Code.

### C.-Fees and Requests for Fee Waivers

#### [Order No. 51-95](#) - access to digital maps

The Western Canada Wilderness Committee (WCWC) had requested digital maps from the Surveys and Resource Mapping Branch of the Ministry of Environment, Lands and Parks, in spite of the availability of the maps to the public for purchase, contending that the fees were prohibitive. The Ministry responded by stating that [section 2\(2\)](#) of the Act specifies that the Act does not replace other procedures for access to information, and therefore that the Act does not apply to records that are already "available for purchase by the public." The Ministry also cited [section 20\(1\)\(a\)](#), which allows the head of a public body to refuse to disclose records that are available for purchase by the public.

The Ministry argued, in conclusion, that the Commissioner did not have jurisdiction to review the applicant's request for records in this case.

The Commissioner disagreed with the Ministry's interpretation of the Act and found that he did have jurisdiction to review the applicant's request. He stated that: "I am of the opinion that I have jurisdiction over the question of when a record is 'available' for purchase by the public and what availability means .... In my view, the Commissioner must have jurisdiction to determine if this exception is being properly applied."

The Commissioner further stated that: "The purpose of [section 2\(2\)](#) is simply to make sure that public bodies do not start insisting that applicants for information customarily make formal access requests for information that has traditionally been available by other means."

#### [Order No. 91-1996](#) - fees for digital maps

This Order was "part 2" of a request for review of a decision by the Ministry of Environment, Lands, and Parks' decision to refuse the Western Canada Wilderness Committee (WCWC) access to digital maps under the *Freedom of Information and Protection of Privacy Act*, dealt with in [Order No. 51](#) (see above). Since the Commissioner ruled in [Order 51](#) that he did have jurisdiction to consider a request for review on the matter, [Order 91](#) dealt with the more specific issue of fees.

The WCWC had requested the digital maps through the *Freedom of Information and Protection of Privacy Act*, since it considered the fee of approximately \$30,000 for the maps to be an effective barrier to public access. The Ministry refused to release the digital map data under [section 17](#) of the Act, stating that it would be harmful to the Ministry's financial or economic interests and that it was already available to the public for purchase.

The Commissioner upheld the Ministry's decision under a strict interpretation of the Act, but concluded that he could also consider the broader implications of the Ministry's pricing policies for digital map data in the context of his general responsibility for monitoring the administration of the Act, in order to ensure that its purposes and principles are achieved. He noted that it would cost any individual or group outside of government \$4.2 million (plus taxes) to purchase the entire series of 7000 digital maps. He also recognized public interest arguments presented by WCWC and various intervenors, as well as

the government's need to recover its costs in the development of the digital maps.

The Commissioner concluded that there is a need for a resolution which incorporates both public interest and government cost recovery goals. Although not prepared to order the Ministry to reconsider its decision, the Commissioner invited the Ministry to reconsider the matter in light of his order, suggesting a two-tiered pricing system which would recognize the potential public interest contributions of non-profit groups. He also urged the Ministry to involve the Chief Information Officer in any further discussions of the policy.

[Order No. 55-1995](#) - discretion to charge fees

The New Democrat Government Caucus (NDP) had requested information from the City of Vancouver concerning contracts awarded to Moodie Consultants. The City told the NDP that it would release the information, but that it would cost \$1,022.75 in photocopying fees. The NDP then asked the City of Vancouver to exercise its discretion to waive all fees in the public interest, but the City refused.

The NDP appealed the decision to the Information and Privacy Commissioner, arguing that the City had inappropriately limited the meaning of "public interest" when considering the NDP's request for a fee waiver. The City argued that, in order to discourage "fishing expeditions" at little or no cost, fees should be imposed on political parties seeking information from government files. It stated further that the Liberal Caucus had been charged the same amount for the same information, and that the fees simply covered photocopying costs.

The Commissioner upheld the City's decision, stating that: "Given the costs that [the public body] inevitably incurred in terms of overhead and staff time on this request, it is my view that the actual costs ultimately charged to the applicant are quite modest."

The Commissioner further found that the City of Vancouver had the authority under the *Freedom of Information and Protection of Privacy Act* to determine what is in the "public interest" with respect to the waiving of fees, "subject to my oversight of any alleged failure to act in a reasoned manner on the issue."

[Order No. 90-1996](#) - fee waiver

A consultant for the Penticton and Similkameen Indian Bands requested a fee waiver for records from the Ministry of Employment and Investment concerning the relationship between the government and various corporations involved with the Apex Ski Resort. The consultant argued that the information was a matter of the public interest, but the Ministry disagreed.

The Commissioner found that the Ministry of Employment and Investment had properly exercised its discretion and acted in good faith when it refused the fee waiver request, and concluded that the Ministry had complied with the Act in setting the fee estimate.

The Commissioner noted that although the Act does not provide specific guidance on the burden of proof with respect to a request for a waiver of fees, the burden of proof in this inquiry was on the consultant, since a fee waiver effectively amounts to a discretionary benefit. He also noted that the requested fee of \$1,450 was relatively modest compared to the Ministry's estimated total costs of approximately \$19,000, and that, although the applicant is a commercial entity, the Ministry had chosen to charge non-commercial rates.

The Commissioner ultimately concluded that the Ministry was entitled in this matter to determine what was "in the public interest" for purposes of the fee waiver.

D.-Deleted Records

[Order No. 73-1995](#) - deleted e-mail

International Helix Biotechnologies Inc. had requested access to deleted e-mail messages between the Ministry of Health and

the Ministry of Finance and Corporate Relations, potentially contained on backup tapes kept by the British Columbia Systems Corporation (BCSC). Both Ministries refused, stating that the general right of access to records in the custody or under the control of a public body does not extend to deleted e-mail on backup tapes kept by BCSC.

The Commissioner upheld the decisions, stating that, although undeleted e-mail is indeed a record under the *Freedom of Information and Protection of Privacy Act*, in principle, deleted e-mail is not such a record and cannot be reconstructed for this purpose because of the costs and burdens involved. He stated: "Under normal circumstances, my view is that such backup records as those held by BCSC on behalf of the Ministries cannot be treated as records under the Act. These backup tapes were created for the purpose of disaster recovery only; they should not be accessible under the Act in the same way as filing cabinets or computer tape records held in off-site storage." The Commissioner also commented on the issue of ensuring accountability of public bodies for proper record retention and destruction under the Act.

#### E.-Records Relating to Telephone Calls

##### [Order No. 63](#)-1995 - telephone logs

The New Democratic Party Caucus (NDP) had requested portions of fax, telephone, and cellular records of the Mayor's office from the City of Vancouver for three specific time periods between January 1993 and October 1994. The City of Vancouver refused to release the records under [sections 15](#), [17](#), and [22](#) of the Act, stating that disclosure would harm law enforcement proceedings and the financial or economic interests of the office, and would be an unreasonable invasion of the personal privacy of persons involved in the telephone transmissions. The City also argued that disclosure would be harmful to intergovernmental relations and to individual or public safety.

The Commissioner upheld the City's decision to withhold the records, stating that disclosure of the telephone logs would be an unreasonable invasion of the personal privacy of its employees and of the persons they had called. However, the Commissioner disagreed with most of the City's arguments, stating that it had not submitted sufficient evidence to support its other objections.

The Commissioner stated that: "Since persons identified as having been called by the Mayor's office may not have wanted or indeed invited such an approach, and may in fact have rejected it, I find that disclosure of the records in dispute may indeed unfairly damage the reputation of persons identified. Further, employees also could be unfairly stigmatized for calling a particular type of help line, 1-800 or 1-900 services, therapists, counselling services for alcoholism or narcotics, or employee assistance programs."

The Commissioner commented further that: "Public bodies need to develop written policies regarding the collection, disclosure, linkage, and destruction of personal information in the form of electronic prints created in the workplace. In my view, detailed telephone records should be destroyed once they are no longer needed for verification, audit, or payment purposes."

#### F. Records Under the Protection of Solicitor-Client Privilege

##### [Order No. 74](#)-1996 - legal aid payment information

A television news reporter had requested legal aid payment records concerning two defendants in two separate murder trials from the Legal Services Society, as a matter of the public's right to know how public funds are being spent. The Society refused to disclose the amounts, or even acknowledge that such records existed, stating that the information was protected by solicitor-client privilege under section 11 of the Legal Services Society Act and [section 14](#) of the *Freedom of Information and Protection of Privacy Act*. The Society argued further that the disclosure of such information, if it did exist, would be an unreasonable invasion of the personal privacy of the individuals involved.

The Commissioner disagreed with the Society and ordered it to disclose to the reporter the sum total of tariffs and disbursements made to one legal aid lawyer for defense work on behalf of the two defendants. He found that the *Freedom of Information and Protection of Privacy Act* superceded section 11 of the Legal Services Society Act, which sets out solicitor-client privileges, stating that "the Act has created a new form of accountability for the legal profession when public funds,

derived from a public body like the Legal Services Society, are being disbursed for particular purposes."

The Commissioner also found that solicitor-client privilege, as set out in the *Freedom of Information and Protection of Privacy Act* extends to "communications" between client and solicitor, and that the gross amounts of payments made to the legal aid lawyer from the Legal Services Society were not communications between the lawyer and his clients, but rather a matter of financial information between the lawyer and the Legal Services Society.

The Commissioner stated further that disclosure of the gross amounts of payments, as requested in this case, do not constitute an unreasonable invasion of the defendants personal privacy.

#### G.-Records Relating to Employment

##### [Order No. 52-1995](#) - job competition information

An applicant had requested from the Ministry of Government Services "the resumes and test responses of all candidates" for a management-level job competition. The Ministry consulted with the candidates and then responded by disclosing the resume and test paper of the successful candidate in full, and the test paper of one of the unsuccessful candidates with personal identifiers removed.

The applicant argued that the records should be disclosed as a way of subjecting the hiring practices of the Ministry to public scrutiny, especially since "out-of-service" candidates can no longer appeal the hiring decisions of the government under the Public Service Act. The Ministry refused to disclose the records of the other unsuccessful candidates, however, stating that releasing the records would be an unreasonable invasion of their privacy.

The Commissioner upheld the Ministry's decision, finding that its practice of releasing the resume and test paper of the successful candidate was sufficient public scrutiny of the government's hiring process. He further agreed with the Ministry that releasing the information of the unsuccessful candidates would be an unreasonable invasion of their personal privacy.

He stated that: "Even if the names of the unsuccessful candidates were removed from the documents, there is a significant risk that outsiders, including the applicant, with some knowledge of the subject matter of the job competition could identify them and thereby breach their fundamental right to privacy."

#### H.-Records Relating to Schools

##### [Order No. 62-1995](#) - disciplinary proceedings

A parent had requested access to information about disciplinary actions that were taken by the Delta School Board against a teacher who was involved in an altercation with the man's son. The School Board refused access to the records, stating that disclosure would be an unreasonable invasion of the teacher's privacy and would reveal the deliberations of a School Board meeting held *in camera*.

The Commissioner upheld the School Board's decision, stating that release of information from the *in camera* meeting would reveal the substance of deliberations of a meeting that was authorized by the *School Act* to be held in the absence of the public. The Commissioner further stated that the records at issue also were employment records of the teacher, which must not be disclosed without clear evidence that disclosure is in the public interest.

Although the Commissioner agreed with the applicant that there is a need for public scrutiny of disciplinary proceedings, he confirmed that the Board "in the circumstances of the present case, has met these obligations and that the privacy rights of the teacher are now paramount with respect to the specifics of the disciplinary decision."

#### I.-Records Relating to Electoral Proceedings

## [Order No. 69-1995](#) - voters lists

A candidate in a June 1995 by-election had requested a copy of the District of Squamish's complete List of Registered Electors. The District provided him with a list of the names of all registered electors, with a voter number and elector type for each. However, the District refused to provide the street addresses of the electors, stating that disclosure would be an unreasonable invasion of their personal privacy.

The Commissioner upheld the District's decision, noting that the Municipal Act was recently amended to allow a chief election officer to omit the addresses of electors in order to protect their privacy or security. It also allows a chief election officer to omit an individual address when an individual elector requests it.

The Commissioner determined that the provisions of the Municipal Act have primacy over the *Freedom of Information and Protection of Privacy Act*, but upheld the decision of the District under both pieces of legislation. He stated that: "These revisions to the Municipal Act incorporate a customized set of fair information practices in a manner that I fully support. I find that they are consistent with the provisions of the Freedom of Information and Protection of Privacy Act."

## VIII. INVESTIGATION REPORTS

### Introduction

Under [sections 42\(1\), \(2\)](#), and [44](#) of the *Freedom of Information and Protection of Privacy Act*, the Commissioner may conduct investigations on a variety of matters concerning the access to information and protection of privacy practices of public bodies covered under the Act. These investigations are often a result of a complaint, but may also be undertaken where the Commissioner perceives there are larger, systemic information or privacy issues at stake either within or across public bodies.

Investigation reports provide the opportunity for the Commissioner to examine the way in which public bodies are implementing the Act and to offer them guidance in managing difficult information and privacy issues.

### Sample Summary of a Recent Investigation Report

Investigation Report P96-006: An Investigation into the practices of the WORKERS COMPENSATION BOARD of British Columbia with respect to disclosing personal information about injured workers to employers (March 31, 1996)

Over the past two years, the Commissioner received several complaints by workers about the Workers Compensation Board (WCB)'s policy of disclosing the entire contents of a worker's claim file to the worker's employer before an appeal had been filed. The complainants' main concerns in this regard were that: (i) disclosure of the entire claim file allows information about a worker which is not directly relevant to the appeal, such as certain kinds of medical information, to be disclosed to the employer; (ii) workers only receive notification of disclosure of their files to the employer after the fact, thus giving them no opportunity to limit what is included in their files in the first place, nor to object to its disclosure; (iii) some information that workers supply to the WCB or health professionals is highly confidential and should not be released to employers at all; and (iv) employers do not exercise enough care and/or misuse a worker's personal information which has been supplied to them by the WCB.

The WCB's general position on these issues was that these disclosure policies are necessary to meet the legal standard of natural justice set out in administrative law. The WCB also argued that its disclosure policies complied with the *Freedom of Information and Protection of Privacy Act*, since [section 3\(2\)](#) of the Act does not prevent disclosure of information to "parties to a proceeding" and in the WCB claim process employers and workers become "parties to a proceeding" once a claim is made.

In June of 1994, the Commissioner's Office launched an investigation into the WCB's disclosure policies. It published its investigation report on March 31, 1996.

The Commissioner found that, while he supported the WCB's goals of administrative fairness and natural justice, he did not agree with its broad interpretation of [section 3\(2\)](#) of the Act. He stated that if workers and employers were "parties to a proceeding" from the moment a first decision is made on a claim, then the entire workers compensation system and its flow of information would essentially be exempt from the privacy protections of the Act. The Commissioner concluded that all requests for claim information should be on a need-to-know basis only, until an actual appeal has been filed. He further stated that the WCB should take steps to fully inform workers from the moment a claim is commenced, and prior to any collection of personal information, that such information may be disclosed to an employer during an actual appeal.

The Commissioner noted that the fact that personal information on a claim file may be disclosed in full during an appeal highlights the importance of the WCB collecting and disclosing only that personal information which is absolutely necessary for the adjudication of a claim. He advocated that the WCB develop a policy with respect to the sensitive information that it receives. The Commissioner also urged the WCB to work with service providers to ensure that personal information they supply to the WCB does not contain information about the worker or third parties that is irrelevant to the adjudication of the claim. The goal, he stated, must be to minimize intrusiveness in the lives of workers and third parties, and to ensure that the right information reaches the right person at the right time for the right purposes.

The Commissioner also noted that section 95 of the Workers Compensation Act sets out new legislative penalties for the misuse of a worker's personal information by an employer to whom it has been disclosed. He urged the WCB to take all complaints under this section seriously and to refer all substantiated complaints to the appropriate Crown Counsel's office for consideration.

## IX. SITE VISITS

### Introduction

Under [section 42](#) of the *Freedom of Information and Protection of Privacy Act*, the Commissioner has the power to conduct audits of the information-handling practices and procedures of the over 2200 public bodies under his jurisdiction. Over the past year, the Commissioner has continued to emphasize this aspect of his mandate as a primary means of raising the consciousness of public bodies about the importance of fair information practices. These practices are set out in Part 3 of the Act and regulate, among other things, how a public body may collect, use, and disclose personal information that it maintains as part of its operating and administrative files.

### Conducting a Site Visit

For the most part, site visits are conducted informally. Typically, the Commissioner and/or members of his staff make a pre-arranged visit to a public body to discuss freedom of information and privacy issues and to tour the facilities. The focus is on viewing and understanding the information flow processes and policies of the public body, particularly within its manual and computerized record areas.

Site visits have three primary goals:

- . To meet the head of the public body and the records and information management personnel;
- . To view how records and information management personnel collect, use, store, disseminate, and dispose of the personal information under their custody and control; and
- . To address any immediate concerns regarding the privacy, security, and accessibility of records.

The Office is pleased to report that no public body visited so far has been in serious breach of the fair information practices required under Part 3 of the Act. However, in some cases where the Commissioner and/or his staff have uncovered some specific concerns, the Office has discussed those concerns with the public body immediately. It notes where any changes are required and, at times, has conducted follow-up site visits to ensure compliance.

## Visits to Particular Public Bodies

Some of the public bodies visited this past year include: BC Women's Hospital; Children's Hospital; Lions Gate Hospital; B.C. Centre for Disease Control; Saanich Mental Health Unit; Vancouver Health Department (Burrard Unit); City of Kelowna; Corporation of Delta; City of Fort St. John; City of Prince George; Oak Bay Police Services; Saanich Police Department; New Westminster Police Service; Delta Police Department; West Vancouver Police Department; Ministry of Social Services (Fort St. John, Vernon, Penticton); Ministry of Attorney General - Protection Orders Registry; Office of the Public Trustee; B.C. Racing Commission; Ministry of Small Business, Tourism and Culture - Government Agents' Offices (Vernon, Kelowna, and Penticton); Workers Compensation Board (Richmond); British Columbia Institute of Technology; Okanagan University College; College of Physicians and Surgeons; College of Pharmacists; and the Law Society of British Columbia.

Site visits have proven to be one of the most effective and immediate approaches to raising a public body's awareness about its legislated obligation to handle records in accordance with the requirements of the Act. This is especially important with respect to public bodies that collect and store highly sensitive and potentially stigmatizing personal information.

## X. PROVIDING ADVICE

### Introduction

Under [sections 42\(1\)\(f\), \(g\), and \(h\)](#) of the *Freedom of Information and Protection of Privacy Act*, the Commissioner has a mandate to comment on the implications for access to information or the protection of privacy of: (i) proposed legislative schemes or programs of public bodies, (ii) automated systems for the collection, storage, analysis, or transfer of information, and (iii) the use or disclosure of personal information for record linkage. The Commissioner also has a general responsibility to inform the public about the Act under [section 42\(1\)\(c\)](#). This mandate includes public discussion of any major issues affecting the information and privacy rights of individuals under the Act.

The Commissioner fulfills his advisory role by consulting with a wide range of public bodies directly and commenting on proposed legislative schemes or programs, as well as by speaking publicly on issues where he feels debate is particularly warranted or advisable. At the end of the day, however, it is the Legislature that makes decisions about the enactment of particular legislative schemes or programs. The Commissioner monitors the implementation of any new legislative schemes or programs of public bodies under his jurisdiction, with respect to the impact of these programs or schemes on the information and privacy rights of British Columbians.

Under the authority of the *Freedom of Information and Protection of Privacy Act*, the Commissioner may issue orders or reports dealing with any contentious information or privacy issues or related disputes arising from the operation of public programs.

### Criminal Records Checks

One of the major privacy issues upon which the Commissioner commented publicly in the last year was the *Criminal Records Review Act*. The Act implements a system of mandatory criminal records checks for individuals who work with children. The purpose is to reduce the likelihood that children will become subjects of physical or sexual abuse at the hands of these individuals. The Act applies to all current and new employees or licencees who work with or may have unsupervised access to children in organizations that are operated or licenced by or receive operating funds from the provincial government.

In his statements about the proposed legislation, the Commissioner emphasized that he does not object to a systematic program of criminal records checks for persons who work directly with children. However, he noted three basic concerns about the legislation:

(i) its broad scope; (ii) the error rates associated with the Canadian Police Information Centre (CPIC); and (iii) the need for fair information practices.

The Commissioner consulted with the Ministry of Attorney General in the Spring of 1995, before the Bill was introduced in the Legislature, to express his concerns. He then made his views known publicly as the Bill was being considered by the Legislature. The Act received Royal Assent in June 1995 however, without significant opposition, and became law on January 1, 1996.

The Commissioner is concerned about the scope of the legislation since it targets the members of whole categories of occupations and professions for criminal records checks. This will result eventually in the collection and matching of sensitive personal information on 280,000 adult British Columbians. This is approximately one-sixth of the adult population. The Commissioner considers this breadth of coverage to be excessive and a substantial intrusion into the private lives and identities, not only of those individuals who work with children, but also of those who have no regular contact with children in the course of their employment, such as significant numbers of physicians, nurses, and dentists.

With respect to the use of the Canadian Police Information Centre (CPIC) as the database against which criminal records checks will be made, the Commissioner has three particular concerns: (i) the CPIC database has an error rate and, although the specific error rate is unknown to the public, there is significant risk that innocent people will be at least temporarily stigmatized by erroneous allegations that they have a criminal record; (ii) the CPIC database is not subject to systematic auditing by the privacy commissioners of Canada; and (iii) persons listed on the CPIC database are overwhelmingly male, while the target group of "those working with children" is largely female.

The Commissioner's third major concern is the potential for inappropriate uses of personal information -- particularly sensitive personal information -- that is collected and stored in computerized databases. However, the central agency processing the criminal records checks is operated by the Ministry of Attorney General and thus governed by the Act. The Commissioner has indicated that he will monitor and audit the operation of the criminal records check process to ensure that there is compliance with the fair information practices set out in Part 3 of the *Freedom of Information and Protection of Privacy Act*. These practices regulate the proper collection, storage, use, and disclosure of personal information in the hands of a public body.

A final concern about the approved system of criminal records checks is that it may convey a false sense of security to the public that children are indeed being protected. Studies show that perhaps 80 percent of child abuse occurs in the home and/or at the hands of individuals known to victims.

Now that the *Criminal Records Review Act* and the criminal records check program are operational, the Commissioner's advice to individuals who remain concerned about mandatory criminal records checks is to complain to their MLAs. Those who have concerns about specific inappropriate invasions of their personal privacy under the *Freedom of Information and Protection of Privacy Act* may complain directly to the Commissioner's Office.

## Identity Cards

In the spring of 1995, the Commissioner's Office became aware that the government was developing plans to introduce some type of identity card for British Columbians. The card under consideration would likely merge the separate cards currently carried by individuals such as the British Columbia driver's licence and the Care card, into one "identity card." The government's rationale, as reported in the media, was that it would reduce fraud and make the process of identifying individuals using government services more effective.

The government did not state publicly exactly what format the identity card would take nor for what specific purposes it would be used. Initial comments from officials indicated, however, that the central means of identification in the card would be a digitized photograph. Other preliminary information indicated that the ministries that were working together to develop the card were the Ministry of Transportation and Highways and the Ministry of Health.

The Commissioner's main concern with the government's consideration of an automated identity card was that there is serious potential for record linkages. Whereas now an individual's health, social services benefits, and driver's licence data are

maintained in separate databases, the technology of an identity card would allow the linking of these databases and others. This potentially would provide one entry point through which all government-held information about a particular individual may be accessed.

There are three further issues that the Commissioner commented on with respect to identification cards. In general, they: (i) facilitate the operation of a surveillance society; (ii) are eventually used for multiple purposes; and (iii) impact upon fundamental human rights and civil liberties. Resistance to such cards for these reasons has already been articulated internationally. Australian privacy advocates defeated a proposal for national identity cards in the mid-1980s and, earlier in the decade, Germans and French Socialists also defeated comparable proposals.

The Commissioner told the Ministry of Health and the Ministry of Transportation and Highways, and has stated publicly, that the need for a provincial identity card should be demonstrated empirically. He has also stated that the potential benefits should be weighed carefully against their implications for human rights and civil liberties. In other words, identity cards should not simply be a technology in search of an application.

The Commissioner has stated that he is prepared to provide the government with further details of his concerns about a proposed identity card and to comment publicly on its implications, once more details become available.

### Freedom of Information Requests and the Litigation Process

There has been a recent, significant increase in the use of the *Freedom of Information and Protection of Privacy Act* by individuals and their lawyers as an aid to civil litigation and other proceedings against public bodies. The Commissioner's Office has reviewed this issue and offers the following guidelines.

When individuals are involved in civil litigation against a public body, they have the right to receive relevant records from the public body through the discovery process of the courts. However, an increasing number of these individuals and their lawyers are using the Act as a supplement to, or even a replacement for, established disclosure processes and remedies.

Two important principles of the Act are relevant to this issue. Firstly, [section 2\(2\)](#) of the Act states that the Act does not replace other procedures for access to information. Secondly, [section 3\(2\)](#) states that the Act does not limit the information available by law to a party to a proceeding. These two principles make it clear that the Act was not intended to replace the discovery process as a means for individuals and their lawyers to obtain records and information for the purposes of civil litigation.

In general, the right of access to records in a court proceeding depends on the relevance of the records to the individual's claim or defence. By contrast, the right of access to records under the *Freedom of Information and Protection of Privacy Act* may be narrower due to the exceptions to disclosure found in sections 12 to 22 of the Act. As a result of these exceptions, individuals applying for access under the Act frequently receive fewer records and less information than they might be entitled to obtain through discovery in civil litigation.

In short, individuals should use the most cost- and time-effective methods to obtain records from public bodies. While the Act may be the best method for those individuals who are not involved in civil litigation or some other legal process, individuals who are involved in civil litigation, criminal proceedings, arbitration, or other adjudicative process would do better to make full and timely use of the disclosure processes already open to them in such proceedings. They should rely upon the Act for supplementary disclosure only and, even then, only if necessary.

The Commissioner has addressed the limits of his jurisdiction in this regard in several recent Orders:

"I would like to remind applicants that my role is simply to review requests for information under the *Freedom of Information and Protection of Privacy Act*. While applicants may have a general sense of grievance that they wish me to remedy, I am not in a position to do so under the Act. They cannot obtain the remedies from me that may be available from another venue."

[[Order No. 42](#)-1995, June-9, 1995, page-4]

"I have to remind counsel and the applicant that the focus of this inquiry is whether the applicant has a right of access to certain records in the custody and control of the Ministry. Whatever her motives for wanting the records, I can only deal with this issue of access to records under the *Freedom of Information and Protection of Privacy Act*. This venue is not a court of general jurisdiction for the righting of perceived injustices." [[Order No. 49](#)-1995, July-7, 1995, page-4]

"Some of these quasi-legal arguments may be relevant in a lawsuit against [the public body] or [a contractor] for redress of the applicant's grievances; they have nothing to do, in my view, with my decision on the current request for access. A court of law is an appropriate venue for the applicant to seek to settle his perceived ongoing disputes with [the public body] and the contractor." [[Order No. 95](#)-1996, March-21, 1996, page-3]

## **XI. INFORMING THE PUBLIC**

### Introduction

Under [section 42\(1\)\(c\)](#) of the *Freedom of Information and Protection of Privacy Act*, part of the Commissioner's mandate is to inform members of the public about their access and privacy rights under the Act and about the activities and resources of the Commissioner's Office. To fulfill this function, the Commissioner and his staff regularly promote the Act and the work of the Office through speaking engagements, conferences, interaction with the media, and involvement in the information and privacy community across British Columbia, Canada, and around the world.

This past year, the Commissioner, Director, and Portfolio Officers gave a considerable number of informal talks, speeches, and written presentations to various groups and organizations. In addition, the Office hosted its second annual information and privacy conference and participated in a number of events hosted by other agencies which highlighted information and privacy issues.

### Presentations and Contact with the Media

The Commissioner has been interviewed frequently over the past year by members of the print and electronic media, commenting on current information and privacy issues affecting British Columbians and Canadians. He also made numerous presentations to various public and private sector groups concerning general access and privacy issues, as well as provided informational sessions upon request about the work of the Office and the functioning of the Act.

Some groups that the Commissioner has spoken to recently are the Continuing Legal Education Society of British Columbia (CLE) "Freedom of Information Law - 1996 Update" seminar, broadcast journalism students at the British Columbia Institute of Technology, and medical and health practitioners at the "Med Info '95" Conference.

The Commissioner also sponsored and participated in special information and privacy events, such as the "Meet the Privacy Commissioners" evening with Bruce Phillips, Privacy Commissioner of Canada, as well as a similar event with the Information Commissioner of Canada, John Grace. He participated in the Summit of Canadian federal and provincial Information Commissioners, and was a speaker at several international conferences, such as the "17th International Conference on Data Protection" in Copenhagen and the "8th Annual Privacy Laws & Business Annual Conference" in Cambridge, England.

The Director of the Commissioner's Office also attended several speaking engagements and conferences, either with the Commissioner or in his stead. Some of the events she attended included: a conference of Western Canadian Colleges and University Ombudspople at the University of Victoria, the Annual B.C. College of Teachers Certification Conference in Vancouver, and the B.C. Supreme Court Judges' Conference in Penticton.

The Office's Portfolio Officers also make presentations or attend conferences on behalf of the Office. Events attended by Portfolio Officers this past year include: a panel presentation for the B.C. Freedom of Information and Privacy Association (FIPA) during Information Rights Week; a presentation at the 5th Annual Alternate Dispute Resolution Conference (Seattle, Washington); a presentation on "Litigation, ICBC and the *Freedom of Information and Protection of Privacy Act*" at the Continuing Legal Education (CLE) seminar in the fall of 1995; several presentations at the Freedom of Information Law - 1996 (CLE) Update in January 1996; presentations to the Canadian Bar Association (Vancouver and New Westminster); briefing sessions on the Act for UTV and Richmond School District; participation in a Burnaby Cable Television Community Focus Talk Show; and a presentation at the B.C. Association of Police Affiliated Victims-Witness Services Conference.

### Information and Privacy Conference 1995

In the fall of 1995, the Office hosted its Second Annual Freedom of Information and Protection of Privacy Conference. There were two sessions, one in Victoria and one in Vancouver. The conference was attended primarily by representatives of local and provincial public bodies who deliver information and privacy programs for their organizations. The conference was also attended by the media and the general public.

The primary focus of the conference was the daily work of the Commissioner's Office, "fair information practices" in government, and the privacy and access to information issues surrounding health, education, municipal, and police records. The conference also featured a presentation by the Commissioner on identity cards.

Planning is underway for the 3rd Annual Conference, scheduled for fall of 1996.

### New Web Site

As part of the continuing effort to increase public awareness of the Act and to make the work of the Office widely accessible to as many people as possible, the Office set up a World Wide Web site on the Internet in June 1995. Initially the site contained only the most frequently requested public documents, such as the Commissioner's Orders, but it has now grown to include a long list of research and informational materials, as well as useful links to other information and privacy sites around the world.

The web site address is: <http://www.cafe.net/gvc/foi/>

Currently, the site contains the following materials:

- the Commissioner's Orders
- the *Freedom of Information and Protection of Privacy Act*
- the Commissioner's Investigation Reports
- a Table of Concordance, which cross-references sections of the Act to the Orders
- the Commissioner's major speeches and presentations
- the Commissioner's Annual Reports: 1994-95 and 1995-96
- information about the Commissioner's Office and how to contact it
- the Office's Policies and Procedures
- announcements of current events, such as conferences and other related information and privacy events
- links to other major information and privacy Internet sites in Canada and around the world

The web site is constantly being updated and expanded to meet the informational needs of the public. New materials, such as recent Orders and presentations are added to the site within days of their official release in hard copy, and the tables are updated approximately every five orders.

## **XII. TOWARD THE FUTURE**

## *The Need for Private Sector Data Protection in British Columbia*

### The Current Reality: Lack of Sufficient Regulation

- Most private companies face no legal obligation to collect relevant personal information only, nor to limit its disclosure only to those organizations or persons that have a legitimate need to know.
- Few private organizations are obliged to ask an individual's consent before disclosing his or her personal information to third parties.
- Few private organizations grant individuals the right to access or correct their own files.
- Few private organizations are legally required to maintain appropriate security safeguards over the personal information that they hold.
- The advent of the information highway and its accompanying technology means that companies will now be able to collect personal data and profile the needs, habits, and choices of individuals and groups with greater ease than ever. This means a greater capacity for surveillance and intrusion into people's lives.
- As many as four public opinion polls in the last few years have indicated that Canadians are very concerned about their personal privacy. The latest poll from the Public Interest Advocacy Centre (PIAC) found that: (i) 76 percent of Canadians feel that they have less control over their personal information than they did 10 years ago; (ii) 94 percent believe that personal information should not be passed on to another organization without permission; and (iii) 87 percent believe that protection of personal information should be a priority of government.

### The Call for Regulation

- Some jurisdictions have already addressed private sector regulation: (i) the European Union passed a Directive in July 1995 which mandates every member country to have strong data protection rules and to prevent flows of data to those countries that do not have adequate protection. Most European countries already regulate their private sector for privacy protection; and (ii) Quebec passed legislation regulating the private sector in 1993, becoming the only jurisdiction in North America to legislate a comprehensive set of privacy safeguards for the private sector.
- The Information Highway Advisory Council (IHAC) has recently prompted the Canadian federal government to create a level playing field for the protection of personal information on the Information Highway by developing and implementing a flexible legislative framework for both public and private sectors.
- The Canadian Direct Marketing Association (CDMA) has called for formal data protection legislation. This is significant because it is not often that an industry association makes a call for more regulation.
- There is broad all-party political support for privacy legislation in Parliament, evidenced most recently by the introduction in December of a private member's Bill by Reform M.P. Phillip Mayfield proposing to restrict the use of mailing lists. Although it was voted down by government with the argument that a better and broader law would be drafted to address the issue, the bill received broad all-party support in the House.

### Interim Solutions

- The Canadian Standards Association (CSA) has negotiated a Model Code for the Protection of Personal Information, which was approved by a committee of stakeholders from government, industry, and consumer groups and officially launched on March 11, 1996. Although the Code is only voluntary and there are, as yet, no certification or registration procedures in place

and no sanctions for non-compliance, the Office of the Information and Privacy Commissioner for British Columbia strongly urges adoption of the CSA Code by the private sector in this province.

## Conclusion

· The Office of the Information and Privacy Commissioner for British Columbia supports the new CSA Code and other interim measures, such as the Canadian Bankers Association's new model privacy code, as useful means to enhance personal privacy protection of private sector clients. The Office encourages all businesses in British Columbia that collect and process personal information to adopt the CSA Model Code and to establish their own internal rules of fair information practices based on the Code.

· However, the Office calls upon the Governments of Canada and British Columbia to give privacy protection in the private sector the force of law. The Office fully supports the recommendations of Industry Canada's Information Highway Advisory Council (IHAC) and the Canadian Direct Marketing Association that national and provincial legislation is needed in order to provide uniform and consistent privacy protection for all Canadians. These legal protections would bring Canada and British Columbia into line with the privacy protection laws of its trading partners in Europe and around the industrial world.

## APPENDIX A

### BUDGET ALLOCATION FOR THE 1995/96 FISCAL YEAR

Total Salaries and Benefits \$1,877,491

Total Operating Costs \$398,268

Total Asset Acquisitions \$34,541

Total Grants and Contributions \$1,000

Total Recoveries (\$25,000)

Total Voted Expenditure\* \$2,630,000

\*The 1995/1996 voted expenditure provided for a staff of 25.

### Goals for Fiscal 1996/1997

On November 2, 1995, the Act's jurisdiction was expanded to cover self-governing professional associations. With this expansion of jurisdiction, the Office plans to:

- Develop and maintain productive working relations with such public bodies;
- Monitor, encourage and, where necessary, enforce compliance with the Act;
- Promote a wider public understanding of the Act and the Commissioner's role;
- Continue to build an integrated office that responds effectively to its increased clients' needs;
- Conduct investigations and audits to ensure compliance with a provision of the Act;
- Engage in or commission research into anything affecting the achievement of the purposes of the Act.

The Office of the Information and Privacy Commissioner's 1996/1997 Expenditure Target reflects the annual operating costs and the funding required to achieve the goals of this expanded jurisdiction.

## APPENDIX B

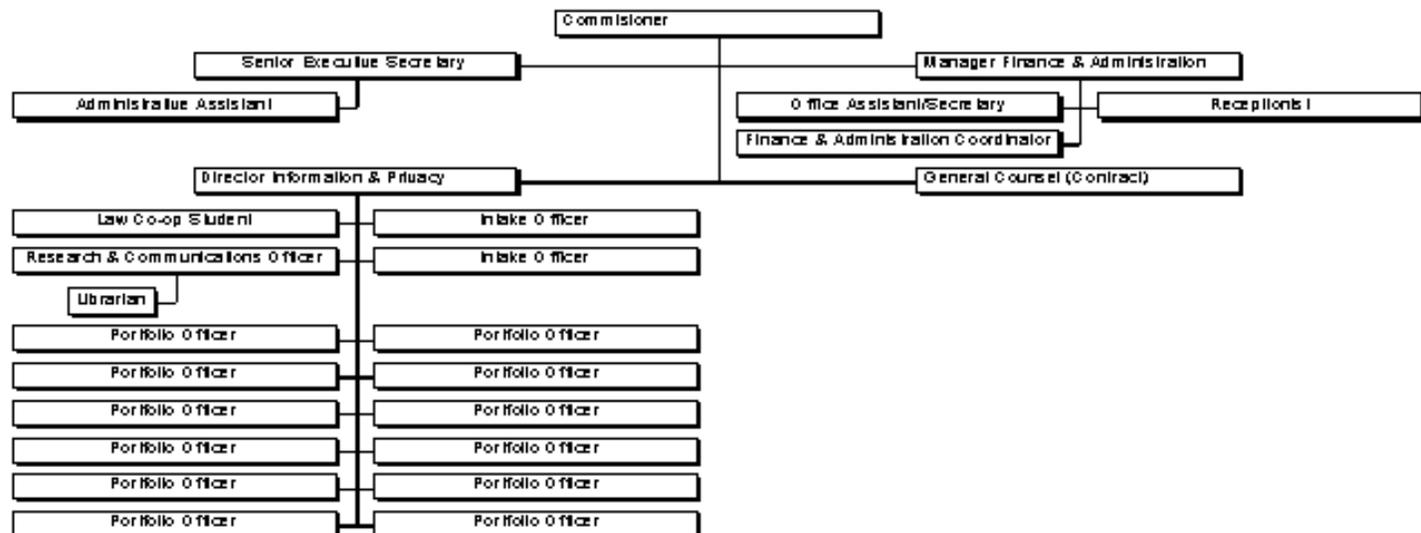
A major achievement of our Office to date has been the settlement of most cases before they had to be brought to an inquiry. This reflects the quality of the professional and administrative staff working in this Office.

The following list identifies the names and occupations of staff members for the 1995/96 fiscal year:

- Ellinore Barker Librarian
- Wendy Bernt Law Co-op (December 1, 1995-April 30, 1996)
- Darleen Blacker Human Resources Technician
- Linda Calver Finance and Administration Manager
- Mary Carlson Portfolio Officer
- Lorraine A. Dixon Director
- Betty Down Intake Officer (until November 1995)
- Helga Driedger Administration Assistant
- Judy Durrance Senior Executive Secretary
- Barbara L. Fisher Chief Counsel (contractor)
- David H. Flaherty Commissioner
- Celia Francis Portfolio Officer
- R. Kyle Friesen Portfolio Officer
- Mark Grady Portfolio Officer
- Sandra Kahale Researcher, Special Projects (June 1, 1995 - October 6, 1995)
- Barbara Jemson Office Assistant/Secretary
- Charmaine Lowe Intake Officer
- Peter Luttmer Portfolio Officer
- Gary Martin Law Co-op (September 1, 1995 - December 29, 1995)
- Maureen Meikle Portfolio Officer
- Deirdre O'Connell Law Co-op (May 8, 1995 - August 25, 1995)
- Sharon Plater Portfolio Officer
- Susan E. Ross Counsel (contractor)
- Ralph Sketchley Portfolio Officer
- Michael Skinner Portfolio Officer
- Pamela E. Smith Research and Communications Officer
- Ingrid Thorleifson Office Assistant/Secretary (until November 1995)
- Bill Trott Portfolio Officer
- Stacie Young Receptionist
- Pamela Wallace Intake Officer (from October 1995)

**APPENDIX C**

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER  
FOR THE PROVINCE OF BRITISH COLUMBIA



## APPENDIX D

### CHRONOLOGICAL TABLE OF ORDERS

ORDERS NO. 1-1994 to 95-1996

#### ORDER INQUIRY REGARDING:

1-94 Ministry of Finance and Corporate Relations / Public Service Employees Relations Commission (January 11, 1994)

2-94 A request for access to Ministry of Social Services records (February 7, 1994)

3-94 A request for review by Mr. Gordon D. Frampton for access to survey records held by the Ministry of Agriculture, Fisheries and Food (February 23, 1994)

4-94 A request for access to psychological records held by the B.C. Board of Parole, Ministry of Attorney General (March 1, 1994)

5-94 A request for a report from the Insurance Corporation of British Columbia (March 14, 1994)

6-94 A request for a report from the Insurance Corporation of British Columbia (March 31, 1994)

7-94 A request for access to records relating to the performance of abortion services for the Ministry of Health (April 11, 1994)

8-94 A request for access to records of the Ministry of Employment and Investment and the Office of the Premier (May 26, 1994)

9-94 A request for access to records of the Ministry of Finance and Corporate Relations (May 26, 1994)

10-94 A request for access to records of the Ministry of Social Services (May 27, 1994)

11-94 A request for access to records of the Ministry of Health and Dogwood Lodge (June 16, 1994)

12-94 A request for access to records of the Insurance Corporation of British Columbia (June 22, 1994)

13-94 A request for access to records of the B.C. Police Commission (June 22, 1994)

14-94 A request to review a decision of the Ministry of Aboriginal Affairs (June 24, 1994)

15-94 A request by the Wellington Insurance Company for access to records of the Insurance Corporation of British Columbia (July 7, 1994)

16-94 A request for access to records of the Insurance Corporation of British Columbia (July 8, 1994)

17-94 A decision to release records of the Ministry of Education (July 11, 1994)

18-94 A request for access to records of the Ministry of Health and Ministry Responsible for Seniors (July 21, 1994)

19-94 A request for access to records of BC Transit (July 26, 1994)

20-94 A request for access to records of the Ministry of Attorney General (August 2, 1994)

21-94 A decision to withhold records of the Ministry of Health and the Ministry Responsible for Seniors (August 15, 1994)

- 22-94 A request for access to records of the Workers' Compensation Board of British Columbia. A request to review a decision by the Workers' Compensation Board of British Columbia to disclose a record ( September 1, 1994)
- 23-94 A request for access to records of the Criminal Justice Branch of the Ministry of Attorney General (September 16, 1994)
- 24-94 A request for access to records of the Ministry of Health and the Ministry Responsible for Seniors (September 27, 1994)
- 25-94 A request for access to records of the Insurance Corporation of British Columbia (September 27, 1994)
- 26-94 A request for access to a record of the British Columbia Hydro and Power Authority (October 3, 1994)
- 27-94 A request by The Province for access to suicide records held by the Ministry of Health and the Ministry Responsible for Seniors (October 24, 1994)
- 28-94 A request for access to the identity of the author of a letter to the Motor Vehicle Branch of the Ministry of Transportation and Highways (November 8, 1994)
- 29-94 A request for access to records about Cypress Bowl Recreation Ltd., held by the Ministry of Environment, Lands and Parks and the Ministry Responsible for Human Rights and Multiculturalism (November 30, 1994)
- 30-95 A complaint from the Radio and Television News Directors Association of Canada concerning the handling of a request by the Ministry of Attorney General and the search fees that the Ministry proposed to charge (January 12, 1995)
- 31-95 A request for access to records of the Office of the Public Trustee of British Columbia (January 24, 1995)
- 32-95 A request for access to complaint records of the Employment Standards Branch of the Ministry of Skills, Training and Labour (January 26, 1995)
- 33-95 A request for access to the records about the Premier's Council on Native Affairs (February 2, 1995)
- 34-95 A request for access to a record held by the Ministry of Transportation and Highways, being a letter of complaint about the applicant, written by the applicant's neighbour (February 3, 1995)
- 35-95 A request for records about an adult adoptee held by the Ministry of Social Services (March 27, 1995)
- 36-95 A request for access to the name of a complainant in a record held by the Ministry of Environment, Land and Parks concerning the Saturna Island landfill (March 31, 1995)
- 37-95 A request for access to records held by the Labour Relations Board (The reports of an Industrial Relations Officer about an application for certification of a union) (March 31, 1995)
- 38-95 A request for access to records pertaining to Flora Island held by the Ministry of Attorney General (March 31, 1995)
- 39-95 A request for access to complaint records held by the City of Langley (April 24, 1995)
- 40-95 A request for access to a behavioural investigator's report to the Office of the Chief Coroner on the death of Patient X at the Maples Adolescent Treatment Centre (April 28, 1995)
- 41-95 A request for review of a decision by the Ministry of Social Services not to disclose to the Canada Ports Corporation the date that a third party commenced employment with the Ministry (May 29, 1995)
- 42-95 A request for access to records held by the Labour Relations Board, consisting of two Industrial Relations Officer's reports and a draft letter (June 9, 1995)

- 43-95 A request for access to a letter from a third party responding to a complaint of the Town of View Royal (June 9, 1995)
- 44-95 A request for review of a decision by the Ministry of Social Services to sever certain information from Family Services records about a child protection matter (June 13, 1995)
- 45-95 A request for review of a decision by BC Transit to release information relating to Custom Transit Service Providers, including Deltassist Community Services Society (June 13, 1995)
- 46-95 A decision by School District 68 (Nanaimo) to release records about severance settlements provided to two former employees (July 5, 1995)
- 47-95 A request for an internal audit report in the custody of the Ministry of Attorney General (July 7, 1995)
- 48-95 A request for access to records of the Ministry of Employment and Investment and the Office of the Premier (July 7, 1995) (Order 8-1994, May 26, 1994 revisited)
- 49-95 A refusal by the Ministry of Social Services to disclose an adult daughter's personal information to her mother (July 7, 1995)
- 50-95 A decision by the Ministry of Finance and Corporate Relations to refuse access to records from an internal audit concerning a conflict of interest investigation (September 13, 1995)
- 51-95 An objection raised by the Ministry of Environment, Lands and Parks with respect to the Jurisdiction of the Information and Privacy Commissioner to conduct an inquiry into fees charged by a public body for records available for purchase by the public (September 14, 1995)
- 52-95 A request for competition records held by the Ministry of Government Services (September 15, 1995)
- 53-95 A refusal by the Office of the Public Trustee to disclose information concerning the estate of an applicant's deceased mother (September 18, 1995)
- 54-95 A request for access to records of the Workers Compensation Board (September 19, 1995)
- 55-95 The City of Vancouver's denial of the New Democrat Government Caucus's request for a fee waiver (September 20, 1995)
- 56-95 A request by the Cowichan Estuary Preservation Society for environmental test results submitted to the Ministry of Environment, Lands and Parks by Fletcher Challenge Canada Limited (October 4, 1995)
- 57-95 A request by the Dunbar Residents Association for environmental test results on a Vancouver site submitted to the Ministry of Environment, Lands and Parks by Chevron Canada Limited (October 4, 1995)
- 58-95 A decision by the Victoria Police Department to sever information and withhold law enforcement records from an applicant (October 12, 1995)
- 59-95 A request by the media to the Vancouver School Board for performance evaluations of the Vancouver School Board Superintendent (October 25, 1995)
- 60-95 A refusal by the Vancouver Police Department to disclose records of registered handgun owners in the City of Vancouver to the Kitsilano News (October 31, 1995)
- 61-95 A refusal by the District of North Vancouver to disclose an interim legal bill about a current court case (November 1, 1995)

- 62-95 A request by a parent for access to records of a Delta School Board meeting relating to disciplinary action against a teacher (November 2, 1995)
- 63-95 A decision by the City of Vancouver to refuse access by the NDP Caucus to all fax, telephone, and cellular telephone logs for three separate time periods (November 21, 1995)
- 64-95 A decision by the City of Vancouver to refuse access by the Kitsilano News to records of long distance telephone calls made to four specified numbers (November 21, 1995)
- 65-95 A decision by the City of Nelson to refuse access by the media to records of long distance telephone calls made from its offices (November 21, 1995)
- 66-95 A request by Almforest Aktiengesellschaft to the Ministry of Environment, Lands and Parks for the identity of an individual who made a contamination report (November 27, 1995)
- 67-95 A request to the Ministry of Environment, Lands and Parks for reports of the North Fraser Harbour Commission concerning contamination of a Vancouver site (December 11, 1995)
- 68-95 A refusal by Islands Trust and the Saturna Island Local Trust Committee to grant access to legal opinions concerning section 992 of the Municipal Act (December 12, 1995)
- 69-95 A decision by the District of Squamish to refuse access to the addresses of electors contained in a List of Registered Electors (December 13, 1995)
- 70-95 A request for the release of all records relating to the resignation of the Executive Director of the Nanaimo Regional Hospital (December 14, 1995)
- 71-95 A decision by the Office of the Premier to refuse access to records relating to allegations of sexual harassment against a former Cabinet Minister (December 15, 1995)
- 72-95 A decision to withhold from the Vancouver Province portions of a report concerning document handling and security within the Office of the Premier (December 20, 1995)
- 73-95 A decision by the Ministries of Health and Finance and Corporate Relations to refuse access to computer backup tapes containing deleted e-mail (December 21, 1995)
- 74-95 A request for the release of records by the Legal Services Society concerning amounts paid for the criminal defense of two possible recipients of legal aid (December 22, 1995)
- 75-96 A refusal by the City of Surrey to provide bonus information about two management employees to the Canadian Union of Public Employees (CUPE) Local 402 (January 4, 1996)
- 76-96 A decision by the Ministry of Skills, Training and Labour to release a severed version of a letter of complaint against Malaspina College, despite the objections of the third party who had written it (January 5, 1996)
- 77-96 A decision by the Town of Smithers to refuse media access to financial statements for the Smithers Ski Corporation (January 8, 1996)
- 78-96 A decision by the Capital Regional District to refuse access to an investigation report regarding a complaint of harassment in the workplace (January 18, 1996)
- 79-96 A decision by the Vancouver Police Department to require a specific fee for granting access to records (January 19, 1996)
- 80-96 A decision by the Insurance Corporation of British Columbia to withhold records relating to the Motor Vehicle Registration database (January 23, 1996)

- 81-96 A decision by the Cowichan Valley Regional District to refuse the media access to records relating to a former employee (January 25, 1996)
- 82-96 A decision by the Ministry of Social Services to refuse to disclose personal information of a third party (February 9, 1996)
- 83-96 A decision by the Ministry of Health to withhold from a parent a series of interviews concerning a child's daycare (February 16, 1996)
- 84-95 The adequacy of the Vancouver Police Department's search for an Applicant's records (February 22, 1996)
- 85-96 A refusal by the Office of the Premier to disclose Cabinet records related to Roberts Bank and the Boundary Bay area (February 26, 1996)
- 86-96 A decision by the Ministry of Social Services that a request for personal information did not fall within the scope of the *Freedom of Information And Protection of Privacy Act* ( February 27, 1996)
- 87-96 A third party's request for review of a decision by the Ministry of Transportation and Highways to give an applicant access to two letters that she had written to the Ministry (February 29, 1996)
- 88-96 A request for review of a decision by the Ministry of Transportation and Highways to give partial access to a letter written by a third party (February 29, 1996)
- 89-96 Information sought by an applicant from the Motor Vehicle Branch of the Ministry of Transportation and Highways relating to the medical basis for refusal of a driving licence (March 4, 1996)
- 90-96 A request for a waiver of fees by Vanden Berg and Associates Inc., representing the Penticton and Similkameen Indian Bands, with respect to information held by the Ministry of Employment and Investment (March 8, 1996)
- 91-96 A decision by the Ministry of Environment, Lands and Parks to withhold Digital Map Data from the Western Canada Wilderness Committee (March 11, 1996)
- 92-96 A refusal by BC Hydro to grant access to records on the basis of solicitor-client privilege (March 15, 1996)
- 93-96 A decision by the Office of the Public Trustee to withhold a legal opinion from an applicant (March 19, 1996)
- 94-96 A decision by the Ministry of Social Services to withhold a series of letters (March 20, 1996)
- 95-96 Whether records relating to a subcontractor are under the control of BC Hydro (March 21, 1996)

## APPENDIX E

### TABLE OF CONCORDANCE ORDERS NO. 1-1994 TO 95-1996

NOTE: For a complete listing of sectional references included in the text of each order, please refer to the individual order.-  
The purpose of this concordance is to list references where there has been significant discussion.

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(Last revision March 21, 1996)

**APPENDIX F**
**TABLE OF PUBLIC BODIES THAT WERE THE SUBJECT OF ORDERS  
ORDERS NO. 1-1994 to 95-1996**

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Agriculture, Fisheries & Food	1	3
Attorney General	7	4, 20, 23, 30, 38, 40, 47
BC Police Commission	1	13
BC Transit	2	19, 45
BC Hydro	3	26, 92, 95
Education	1	17
Employment & Investment	3	8, 48, 90
Environment, Lands and Parks and Human Rights and Multiculturalism	8	29, 36, 51, 56, 57, 66, 67, 91
Finance & Corporate Relations	4	1, 9, 50, 73
Government Services	1	52
Health	8	7, 11, 18, 21, 4, 27, 73, 83
Hospitals	1	70
ICBC	7	5, 6, 12, 15, 16, 25, 80
Legal Services Society	1	74

Local Governments	13	39, 43, 55, 61, 63, 64, 65, 68, 69, 75, 77, 78, 81
Office of the Premier and Cabinet Office	6	8, 33, 48, 71, 72, 85
Police	4	58, 60, 79, 84
Public Trustee	3	31, 53, 93
School Boards	3	46, 59, 62
Skills, Training and Labour	4	32, 37, 42, 76
Social Services	9	2, 10, 35, 41, 44, 49, 82, 86, 94
Transportation and Highways	5	28, 34, 87, 88, 89
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## GLOSSARY

Certain words used in the text of this Report have a special meaning within the context of the *Freedom of Information and Protection of Privacy Act* (the Act). These words are defined below to assist readers:

### Applicant:

An individual who makes a formal request for access to information or a request to correct personal information in a record in the custody or under the control of a public body.

### Complaint:

A formal objection made to the Information and Privacy Commissioner with regard to the information and privacy practices of a public body.

### Head of a Public Body:

The person responsible for the administration of the Act within a public body.

### Information:

Anything contained in a record of a public body.

### Intervenor:

A person, group, or organization that has an interest in an issue being decided at an inquiry and is invited by the Information and Privacy Commissioner to present evidence or make a submission at that inquiry.

### Inquiry:

A quasi-judicial process in which the Information and Privacy Commissioner decides on the appropriate application of the law on the basis of evidence and arguments from an applicant and representatives of a public body.

### Judicial Review:

A form of appeal to the Supreme Court of British Columbia for review of the Commissioner's Order. The Court may not review the Order for factual errors, but may vary or overturn the Order for reasons such as an error in law or administrative fairness.

### Order:

A binding decision of the Information and Privacy Commissioner that resolves issues raised in an inquiry.

### Personal Information:

Recorded information about an identifiable individual.

**Public Body:**

Organizations covered by the Act including provincial ministries, municipal bodies, agencies, school boards, hospital boards, post-secondary institutions, commissions, Crown corporations, and self-governing professional bodies.

**Record:**

Includes books, documents, maps, drawings, photographs, letters, vouchers, papers, and any other thing on which information is recorded or stored by graphic, electronic, mechanical, or other means, but does not include a computer program or any other mechanism that produces records.

**Request for Review:**

A review involves an investigation by the Office of the Information and Privacy Commissioner of a decision, act or failure to act, of the head of a public body in relation to a formal request for access to information.