

(NOTE: This electronic version of the Office of the Information and Privacy Commissioner's Annual Report 1996-97 includes corrections for clerical errors that exist in the printed copy.)

July 29, 1997

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

Dear Honourable Speaker Lovick:

Pursuant to [section 51](#) of the *Freedom of Information and Protection of Privacy Act*, I have the honour to present my fourth Annual Report to the Legislative Assembly. This report covers the period from April 1, 1996 to March 31, 1997.

Sincerely,

David H. Flaherty  
Commissioner

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# I. Commissioner's Message

I recently had the extraordinary personal experience of speaking on access to government information in Canada to a group of public interest lawyers and human rights activists from Central and Eastern Europe. The location was Budapest in Hungary, a country whose strong movement away from communism since 1989 has featured the incorporation of freedom of information and privacy protection rights in the Hungarian Constitution and the enactment, in 1992, of the first law in all of Europe on "Protection of Personal Data and Disclosure of Data of Public Interest." This led to the appointment in 1995 of the first Parliamentary Commissioner (meaning Ombudsman) for Data Protection and Freedom of Information.

Coming from a privileged Western democratic background, I find it truly astonishing, and very moving, that Hungary should have launched its "Rule of Law Revolution" in this manner (reminiscent of the Glorious Revolution of 1688 in England that produced the Bill of Rights). As the first Commissioner, Laszlo Majtényi, states, the Hungarian public requires information compensation for their history of oppression by government.

My own exposure to this Hungarian "revolution" served as a wake-up call from the parochial mentality that I have sometimes brought to the politics of freedom of information in this province during the past year. My sense is that FOI has been under attack from both old and new enemies since the 1996 provincial election. The government has been regularly embarrassed, on large and small issues, when public bodies have released records in response to FOI requests. Senior government officials have complained that they were no longer free to give candid advice to their political masters, because of the risks of disclosure of what they write in briefing notes. It was almost as if democracy was being undermined by too much democracy.

I was actually told by a senior public servant that the public's right to know was limited to what they could ask for through their elected representatives. When I countered that this sounded too much like the BBC-TV series, "Yes Minister," there was unabashed acclaim for Sir Humphrey as an outstanding public servant.

Given such experiences, it is no wonder that my visit to Eastern Europe was such a bracing experience. It reminded me that open, accountable, transparent government, at all levels of society, is and should be a fundamental component of any liberal democratic government. That is what the people should demand and what the people should expect. Freedom of information should not be perceived as a gift from a passing leadership or a particular political party. Even more than that, it should not be a simple statute that a particular majority can threaten to gut at the first opportunity.

I have argued for a number of years that the right to privacy should be specifically articulated in the Canadian Charter of Rights and Freedoms. So should the public's fundamental right of access to all government information. Only the establishment of such explicit constitutional rights to these basic democratic and human values will make possible legal challenges to governmental practices that threaten our fundamental interests as citizens. What is considered essential for Hungarians in a free society should be de rigueur for Canadians as well, federally and provincially.

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## II. Director's Message

Since proclamation of the *Freedom of Information and Protection of Privacy Act*, the Office of the Information and Privacy Commissioner has become a respected centre for alternative dispute resolution. This is in large part due to the provision for mediation as a means of alternative dispute resolution in the Act and also to the efforts by the Office to make full use of this process. In brief, [section 55](#) of the Act allows for the Commissioner to delegate a request for a review of a public body's decision about records to a Portfolio Officer for resolution by mediation. Our statistics to date indicate that over 91 percent of the cases handled by the Office are settled. This is due both to the efforts and skill of the Office's Portfolio Officers in applying mediation and to the willingness of most parties to engage in cost- and time-effective alternative dispute resolution.

When a request for review cannot be settled through mediation, the applicant has the right to a formal inquiry before the Commissioner. The majority of the Office's formal inquiries are written. They are conducted over a 21-day inquiry schedule. This allows all parties to make a submission presenting their cases to the Commissioner in order that he may make a final and binding decision resolving the dispute.

We realize that, for many individuals, an inquiry before the Commissioner can seem a rather daunting process. This year, in order to minimize the difficulties for everyone involved, the Office has spent a great deal of time reworking its policies and procedures to ensure that they are as fair and user-friendly as possible. In particular, the Office has changed the submission process. Under the former policies and procedures, a party with the burden of proof made the initial written submission and the responding party had the opportunity to reply. However, the first party had no right of reply to the second party's response. This caused many individuals to feel that their case had not been fully made and that the process was not as fair as it could be.

As a result of this and other procedural issues, the Office consulted widely with affected parties and conducted an internal review of its processes. We subsequently introduced new inquiry procedures in February of 1997. These new policies and procedures are available on the Office's web site at <http://www.oipcbc.org>.

In brief, the new policies and procedures require all parties to make an initial submission, which is exchanged between the parties. Then all parties are provided with the opportunity to respond to each other's submissions. Although this now requires two submissions from each party, feedback to the Office has been very positive. Applicants now have a fuller opportunity to make their case known to the Commissioner, and public bodies, who generally have the burden of proof, are afforded the opportunity

to respond to applicants' submissions.

The Office also established the position of full-time Registrar of Inquiries, since it was clear from our caseload that this work could not be done on a part-time basis any longer. Having a full-time Registrar has permitted the Office to give formal inquiries the appropriate focus and priority they require. It also has enabled it to ensure compliance with its own policies and procedures with respect to deadlines and principles of fairness. In short, the Office has been able to improve its service to the public and to public bodies this past year, and to provide for a more efficient and fairer inquiry process.

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## III. Introduction

This is the Office of the Information and Privacy Commissioner's fourth Annual Report. It explains the mandate and role of the Commissioner and his Office, provides some information about the principles and practices of the *Freedom of Information and Protection of Privacy Act*, and gives some examples of the Commissioner's Orders and investigations under the Act. It also provides some commentary on larger information and privacy issues of concern, such as the upcoming four-year legislative review of the Act.

### Background

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

The Act was proclaimed on October 4, 1993. 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 2,200 public bodies in British Columbia and 33 self-governing professional bodies.

### The Commissioner

The Information and Privacy Commissioner is an Officer of the Legislature of British Columbia. Like other Officers of the Legislature, such as the Ombudsman and the Auditor General, the Commissioner 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 Commissioner is appointed for a six-year, non-renewable term of office.

The Commissioner conducts investigations, issues binding orders requiring a public body to comply with the Act, and comments on the implications for access to information or protection of privacy of 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 Freedom of Information and Protection of Privacy Act***

*The Freedom of Information and Protection of Privacy Act* sets out two major rights for individuals: the right of access to records in the custody or under the control of a public body, including an individual's own personal information, and the right of protection of the privacy of personal information in the custody or under the control of a public body. 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 has strict standards for the collection, use, and disclosure of personal information by public bodies. These standards are often referred to as fair information practices and comprise an individual's specific privacy rights under the Act.

The *Freedom of Information and Protection of Privacy Act* contains limited exceptions to the general information and privacy rights set out in the Act. For example, when requesting records from a public body, individuals will not be able to access Cabinet confidences, another individual's personal information, or information that could harm a third party's business interests. Individuals also will not generally be able to access records that could harm law enforcement, the economic or financial interests of a public body, other individuals, or the public. Exceptions to the protection of the privacy of personal information include information that may be disclosed if it is in the public interest, if there are compelling circumstances affecting anyone's health or safety, or for law enforcement purposes.

The Commissioner seeks to ensure that exceptions to the right of access and protection of privacy are applied narrowly and that the Act is interpreted in a spirit of openness. For example, if only part of a record contains information that should not be disclosed, then the Commissioner will require a public body to sever the record or create a summary 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 is in their custody or under their control. Further, they have a duty to assist applicants under the Act. However, since public bodies 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 an applicant's general right of access to information and the possible exceptions to its disclosure under the Act.

The Commissioner seeks to ensure that public bodies apply the Act in a consistent and thoughtful manner. His office provides an avenue of review for those individuals who are not satisfied with the decision of a public body about records or its protection of the privacy of personal information.

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## IV. Requests for Review

### Introduction

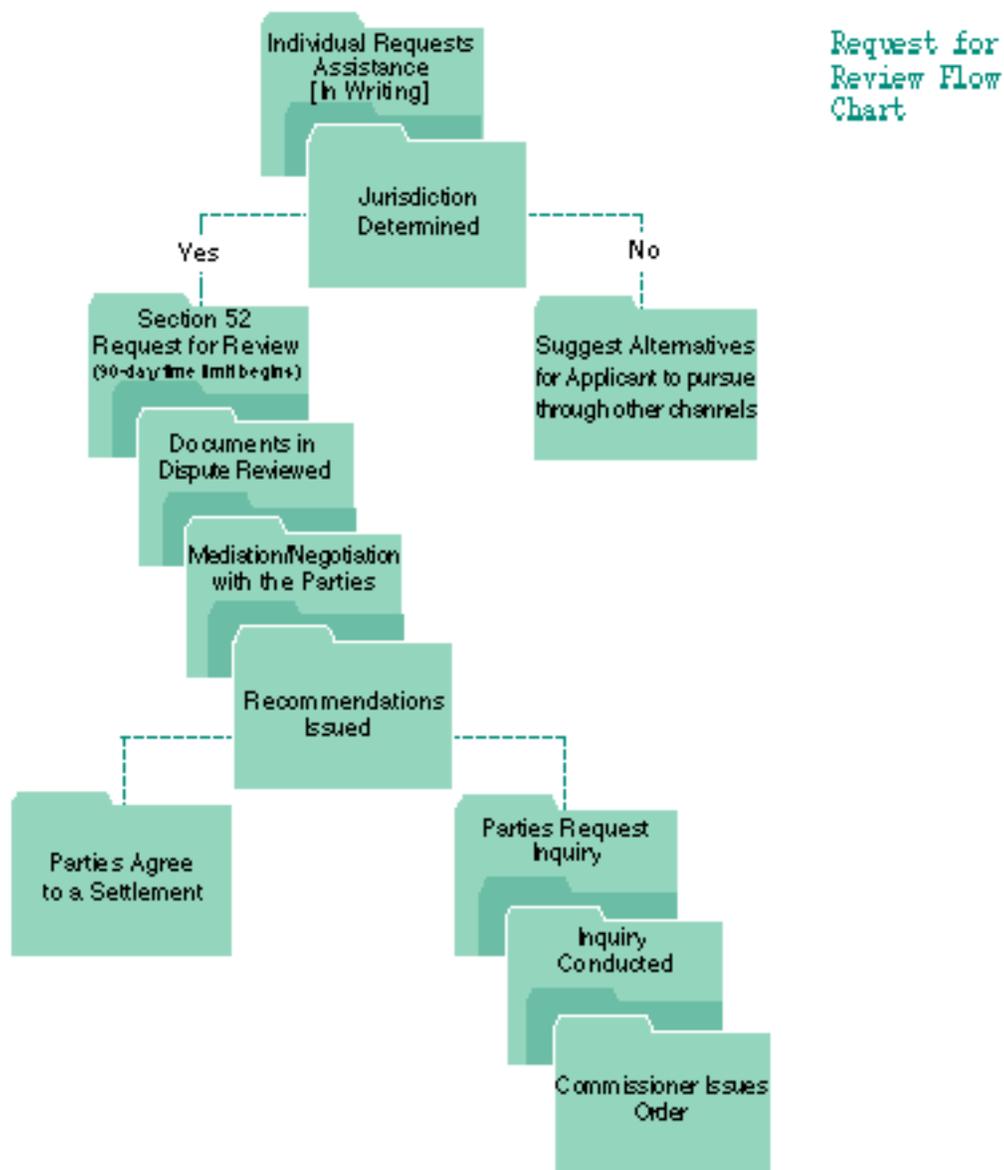
Under [section 52](#) of the Freedom of Information and Protection of Privacy Act, the Commissioner may be asked to "review any decision, act, or failure to act" of a public body resulting from a request for records. This includes decisions about the disclosure of records, corrections to records, time extensions, and fees. Thus an applicant who has requested records from a public body and who is not satisfied with its response, may request that the Commissioner review the public body's decision refusing access to all or parts of the records. The purpose of [section 52](#) is to ensure that an impartial review mechanism is in place to resolve disputes.

To request a review, an applicant must write to the Commissioner's Office within 30 days of receiving a public body's written decision about records and ask the Commissioner to review it. The applicant is required to attach a copy of the original request to the public body and a copy of the public body's response. There is no fee for requesting a review of a public body's decision about records.

Individuals who are not applicants for records may become involved as third parties in a request for review because they have been notified by a public body that their information is included in records requested by an applicant. Third parties may request a review by the Commissioner if they wish to oppose a public body's decision to release records containing their information.

### The Request for Review Process

Requests for review are received by the Office's Intake Officers, who review the request and may contact the applicant to clarify the facts or circumstances. If the request for review can proceed, the Intake Officer assigns the request to a Portfolio Officer.



Portfolio Officers have 90 days within which to investigate or mediate a request for review. A Portfolio Officer will review the public body's decision, discuss the matter with the applicant and the public body, and look at any records in dispute. Portfolio Officers have authority from the Commissioner to assist parties to resolve the dispute by mediation. If the parties are able to agree to a mediated settlement, then the request for review is closed. If not, it will proceed to a formal inquiry before the Commissioner.

Of all the requests for review that come to the Information and Privacy Commissioner's Office, over 91 percent are settled without going to a formal inquiry. The remaining cases that come before the Commissioner in a formal inquiry result in an Order.

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

## Samples of Recent Mediated

## Requests for Review

The following samples of recent mediated settlements represent a wide variety of issues and public bodies and were chosen mostly for their innovative or pragmatic solutions.

### A. MINISTRIES

#### **Ministry of Attorney General, Liquor Distribution Branch -Business Records**

A brewery requested records from the Liquor Distribution Branch relating to beer sales and minimum pricing policies in British Columbia. The Branch provided the brewery with a large number of records, but withheld information that would reveal business information of other breweries. It also withheld information relating to the Branch's negotiations with other breweries and information that could harm intergovernmental relations. The brewery requested that the Commissioner's Office review these decisions.

As part of the mediation process, the Office consulted extensively with the parties. The Office confirmed that some of the records had been appropriately withheld under the *Freedom of Information and Protection of Privacy Act*, since disclosure could harm the financial or economic interests of the Branch in its on-going negotiations with the beer industry or could reveal sensitive correspondence between the Governments of British Columbia, Canada, and the United States. The Office also determined that certain business information about other breweries was appropriate to withhold. The Office was able, however, to assist the parties to agree to a settlement whereby the Branch disclosed some records, information and explanations to the brewery in addition to what it had previously received. The brewery was satisfied with the additional information it received from the Branch relating to its business competitors.

#### **Ministry of Children and Families - Third-Party Personal Information**

An applicant applied to the Ministry of Children and Families for all records pertaining to his son, of whom he had joint custody. The applicant attached a court order to his request verifying his joint custody. The Ministry requested from the applicant verification from the court registry that the order was the last order issued. The applicant objected to this request since he no longer resided in the area of the province where the custody order was registered and because there would be difficulty and delays involved in acquiring such a document. The Ministry subsequently denied the applicant's request. The applicant then requested a review, stating that the Ministry's request for additional verification beyond the court custody document was unreasonable.

Through mediation, the Commissioner's Office clarified that the Ministry's request for the court registry document would provide only limited assurance to the Ministry of the most current custody order, since verification would come from one court registry only and would not show whether a further custody order existed in another registry office. (Registry offices are not linked.) The applicant maintained that

the Ministry would have a false sense of security around the release of information based only on a court registry document that attested to the current validity of the court order. He argued, therefore, that an additional court registry document was unreasonable and unnecessary.

The Office proposed that the applicant provide the Ministry with a sworn affidavit stating that the custody order he was providing was the most current custody order in place. All parties accepted this solution and the case was resolved.

### **Ministry of Environment, Lands and Parks - Complaint Records**

An applicant requested correspondence from the Ministry of Environment, Lands and Parks that had been written by a complainant expressing concerns about the applicant, the applicant's construction material company, and the applicant's spouse.

Pursuant to Ministry policy, the Ministry refused to confirm or deny the existence of any such correspondence in order to protect the complainant's privacy. The applicant requested a review of this decision by the Information and Privacy Commissioner.

Through mediation, the Commissioner's Office determined that the applicant's main concern was administrative fairness issues, since certain regulatory authorities appeared to have taken action against the applicant's company based solely on individual complaints, rather than conducting their own independent investigations. The Office advised the applicant about effective avenues for redress. During mediation, the applicant also received a large package of records from another public body to which she had made an information request, which confirmed many of her suspicions. She concluded she had adequate information to secure the understanding she wanted to achieve with the regulatory bodies and which would resolve the complaints about her from one particular person.

### **Ministry of Environment, Lands and Parks and Ministry of Employment and Investment, Mines Branch - Business and Technical Records**

A lawyer representing an automotive fuel company made a large cross-ministry request for any and all information held by the province relating to a certain proprietary fuel additive. The Ministries realized that disclosure of some of this information could harm the third-party business interests of certain auto manufacturers, since their technical information was on file with the Ministries and would be captured by the request. As required by the *Freedom of Information and Protection of Privacy Act*, the Ministries notified the affected manufacturers to get their position on the release of this information. A number of them strongly objected to release of their information on the grounds that it was confidential, it had been supplied to the Ministers' offices in confidence, and its release could reveal trade secrets and put the manufacturers at a competitive disadvantage. After considering the arguments and the requirements of the Act, the Ministries decided to give partial access to the records. The affected manufacturers requested a review.

During mediation, the Commissioner's Office conducted extensive negotiations with the parties to clarify what counsel for the applicant specifically required. The Office identified for the parties what information would be appropriate for disclosure. The parties were able to settle all outstanding issues and the Ministries made the appropriate severances to protect sensitive technical and commercial information.

### **Ministry of Environment, Lands and Parks - Environmental Studies**

An applicant requested from the Ministry of Environment, Lands and Parks environmental impact soil studies for a waterfront hotel project. He also asked for all documentation relating to the construction of a dike and walkway. The reports were compiled by engineering consultants for the business that was developing the hotel, but the Ministry had copies of these reports on file. The Ministry consulted with the hotel developer, who objected to disclosure, arguing that he had supplied the information to the Ministry in confidence and that release would harm his company's competitive position. The applicant requested a review of this decision.

Through mediation with the parties, the Commissioner's Office uncovered that the applicant was a resident interested in the impact of the development on future costs for his community and that he was not interested in the requested information for business or commercial purposes. The Office suggested that he provide a series of questions to the hotel developer that he wanted answered. The developer in turn agreed to provide to the applicant information from the reports that would answer his questions. The answers were reviewed by the Office to ensure that they accurately reflected the information contained in the reports. The applicant and developer were satisfied with this solution.

### **Ministry of Finance and Corporate Relations - Adequacy of Search**

A political party requested records from the Ministry of Finance and Corporate Relations relating to forest revenues and budget forecasts during the 1995-96 fiscal year. The party received approximately 1,200 pages of information, but was concerned that some information appeared to be missing. It subsequently requested a review by the Commissioner's Office of the adequacy of the Ministry's search for records.

During mediation, the Office engaged in considerable discussions with the Ministry and the political party, which resulted in recommendations by the Office that the parties meet in person to discuss the applicant's concerns. The matter was set down for an inquiry. Just before the inquiry was to take place, however, the Ministry and party agreed to a private meeting so that the Ministry could explain the search and explore the political party's other concerns. At the conclusion of the meeting, the party was satisfied that the Ministry had carried out a reasonable search and the inquiry was cancelled.

### **Ministry of Health - Fee Estimate**

The applicant requested a list of all employees that had accessed his Medical Services Plan (MSP)

records over the previous two years. The Ministry assessed a fee of \$198.00 to cover the cost of producing the requested information from a machine readable record. The applicant felt that the information should be readily available to him from audit trails within the electronic system, and requested the Commissioner's Office to review the fee estimate.

Based on the fact that there was a suspected breach of confidentiality and that numerous other individuals had made requests for the same information as well, the Ministry decided to waive the fees. It became apparent, however, that back-up tapes for the electronic data system were only available for the previous five months and no audit trail existed for non-electronic records. Given this clarification, the applicant decided that the information would not meet his needs and withdrew the request.

Despite the outcome, the mediation process revealed a number of concerns about the Ministry's ability to monitor and ensure the confidentiality of MSP records which called for change in Ministry practices. The Ministry had informed the applicant that it had been planning for some time to implement "a number of initiatives to track access by staff to claims history information." These initiatives included the elimination of the microfiche records for which no access audit trail had been available; development of time and date logging of access to the Computer Output Laser Disk (COLD); on-line history systems; and a review of who has access to these latter systems. In addition, all MSP staff members would be asked to re-sign a confidentiality agreement.

While these changes did not resolve the applicant's situation, nor provide him with the records he requested, they will help to enhance the future security, confidentiality, and privacy of MSP records. Further, the Commissioner's Office will monitor the MSP data base to ensure that privacy protection for this sensitive data is maximized.

### **Ministry of Social Services\* - Adoption Records**

Two parents wanted to review the adoption records of their adopted teenage daughter to determine if there were any hereditary health problems that they should know about. The medical records at issue were generated prior to the daughter's adoption. The Ministry agreed to allow the parents to review the records if they first obtained their daughter's consent. The parents disagreed with the Ministry's decision, claiming that a teenage daughter does not have privacy rights and that there should be no need to get her permission to review her adoption records. They requested a review by the Information and Privacy Commissioner.

After mediation, the Commissioner's Office was able to satisfy the parents that their daughter did have privacy rights under the *Freedom of Information and Protection of Privacy Act*, since the Commissioner had ruled on this issue in a previous order. The parents subsequently abandoned the request.

*\* The Ministry of Social Services no longer exists. Its primary responsibilities have been transferred to two new ministries: the Ministry of Children and Families and the Ministry of Human Resources.*

## **Ministry of Social Services - Burial Records**

A mother wanted to know the burial site of her deceased infant, who had been in the care of the Ministry of Social Services twenty-five years ago. The Ministry advised the mother that it was unable to find any records indicating that it had ever taken her child into its care. It told her that it was unlikely the baby had been in its care, since it had not left the hospital. The mother told the Ministry that she was positive that her baby had been in its care because she had been in the Ministry's care at that time also. She asked the Commissioner's Office to review the Ministry's decision.

The Commissioner's Office accessed the new on-line Vital Event Indexes to search the death registrations on behalf of the mother and locate information pertaining to her infant's death. Death registrations are publicly available on this database after twenty years have passed. The Office provided the mother with relevant information and she was able to confirm the burial site.

*\*See note above.*

## **B. CROWN CORPORATIONS**

### **Insurance Corporation of British Columbia (ICBC) - Vehicle Records**

An applicant requested information regarding the transfer history of a vehicle. He had owned the vehicle at one time and was interested to know some of the details relating to subsequent transfers. ICBC provided him with records showing the transfer history, but severed the names, addresses, and driver's licence numbers of the vehicle's subsequent owners. The records did not contain the information the applicant wanted and he requested a review by the Information and Privacy Commissioner.

Through mediation, the Commissioner's Office clarified what information the applicant wanted. ICBC then contacted one of the subsequent owners who agreed to provide some assistance to the applicant. With the owner's consent, ICBC provided the applicant with a record disclosing the owner's telephone number, which the applicant used to contact the owner to ask a specific question about the status of the vehicle. This satisfied the applicant's request.

### **Workers' Compensation Board (WCB) - Claim Records**

The applicant requested records relating to a disability claim which he had filed with the WCB. He was one of a class of individuals who had filed claims for disabilities arising from the same or a similar cause. He wanted information showing what the legal department of the WCB had done while acting on his and other claimants' behalf.

The WCB disclosed records to the applicant in the form of tabular data from which information relating to other applicants had been completely severed. The applicant was not satisfied and asked the

Commissioner's Office for a review.

After mediation, the WCB released further records to the applicant with the names and identifying information of other claimants still severed, but which showed the statistical data relating to these other claimants. This enabled the applicant to understand his relative position. The WCB also arranged to have a staff member available to answer the applicant's questions regarding the interpretation of the data, if required.

### **Workers' Compensation Board - Ergonomic Report**

An injured worker had requested from the Workers' Compensation Board a copy of a report on the working conditions at her place of employment. The report was prepared by a WCB ergonomic specialist. The WCB refused to disclose the report, stating that release would be an unreasonable invasion of another claimant's personal privacy.

During mediation, it became clear that the report was not about "working conditions," but was an ergonomic assessment of a specific employee in a specific job. The injured worker, however, worked in the same type of job and believed that the information in the report would assist her in her appeals to the Workers' Compensation Review Board. The Commissioner's Office recommended that the report could be released and personal privacy protected if all of the personal identifiers in the report were removed prior to release. The WCB agreed with this recommendation and released the report to the injured worker with all of the generic information about the ergonomic stresses of the job.

## **C. LOCAL PUBLIC BODIES**

### **Hospital - External Review Records**

A reporter requested a copy of the External Review report of a hospital department. The hospital denied access to the report under [section 22\(1\)](#) of the Act. The reporter asked the Commissioner's Office to review this decision.

Through mediation, the Office determined that the reporter wanted to know if the report covered particular information about the hospital department and its various functions. The reporter clarified that she did not want the personal information of a particular staff member's performance. The hospital disclosed information in the report responding to the narrowed request. It also identified two additional attachments to the report, which it released in keeping with the reporter's clarification. The reporter was satisfied with this response.

### **Municipality - City Manager's Contract**

A member of the media requested a copy of the contract for a municipality's most senior manager. The

municipality disclosed most of the contract, including items related to the manager's pay, benefits, and moving expenses. However, the municipality also severed and withheld several clauses related to the termination and renewal of the manager's contract.

During mediation, the Office determined that the withheld items were standard clauses that might be found in any similar contract. It considered the information to be about the senior manager's position, function, or remuneration as an officer or employee of a public body under the *Freedom of Information and Protection of Privacy Act*, and recommended that the withheld items be released. After further review, the municipality agreed.

### **Municipality - Complaint Records**

An applicant requested all records of complaints made about him to the municipality, including the identity of the complainants. The applicant believed that he was being harassed unjustly by the municipality and a neighbour, and that no substantiated complaints existed. The municipality denied the applicant access to the records on the grounds that it was protecting the identity of the complainants who feared reprisals by the applicant. The applicant requested a review by the Information and Privacy Commissioner.

Through mediation, the Commissioner's Office clarified that the applicant wanted to identify the complainants and the number of complaints made by each one against him. He also wanted to verify if there was substance to each complaint, such as whether there were witnesses and documentation to support the complaint.

The Office proposed that the municipality create a summary of the complaint records for the applicant noting the dates of each complaint and summarizing their contents. The Office also proposed that the municipality include two single figures showing the total number of complaints and the total number of complainants. Individual complainants were not identified. The summary was accepted by all parties as a reasonable solution and the case was closed.

### **Municipality - Personal Records Reviewed at *In Camera* Meeting**

An employee of a municipality had requested copies of records submitted to the mayor and council at an *in camera* meeting. The records included information relating to the personnel history of the employee, who had been recently suspended.

The municipality refused to disclose the records under the *Freedom of Information and Protection of Privacy Act*, stating that disclosure of the information would reveal the substance of the deliberations of an *in camera* meeting of its elected officials.

Through mediation, the municipality agreed to release the background material provided to the mayor and council, since these records pertained to the subject of deliberations, rather than the substance.

Furthermore, all of the background material supplied to the mayor and council was contained on the employee's personnel file.

### **Municipal Police Department - List of Employees**

An applicant requested a list of all police officers employed by a municipal police department in relation to litigation he was pursuing against the department. The department denied access to a complete list, citing possible endangerment to the lives or physical safety of the police officers. However, the department offered to confirm the employment of individual police officers upon request.

During mediation, the Commissioner's Office examined the issue of "endangerment" and reviewed a relevant order from the Ontario information and privacy jurisdiction. In the Ontario case, the order upheld the decision of a police board to withhold a list of all police personnel because disclosure of the list "could reasonably be expected to seriously threaten the safety or health of an individual." Based on the Ontario order and similar language in the British Columbia *Freedom of Information and Protection of Privacy Act*, the applicant accepted the Office's mediation recommendation to accept the department's decision.

### **Regional District - Draft Report**

An applicant requested the complete original draft of a report prepared for a regional district by an independent consulting firm. The district denied access at first because the report was information that would be released to the public within 60 days. Subsequently, however, the district indicated that the draft report was excepted from disclosure under the *Freedom of Information and Protection of Privacy Act* because it was policy advice or recommendations developed by or for the district.

The applicant was eventually provided with a copy of the final report once it was completed. However, he asked for a review by the Information and Privacy Commissioner, since he still wanted access to the draft version of the report. He also indicated that he wanted the consultant's field notes.

During mediation, the Office determined that the applicant wanted access to the draft report because he was suspicious of changes made to the report by or at the direction of the district. He explained that he was first told that he couldn't have it, and then that it didn't exist. The Office contacted the district's FOI Coordinator, as well as the individual consultant who prepared the report, and determined that the relevant field notes were retained by the consultant's employer and were not available to the district. The Office further determined that field data was incorporated into the draft report and that any changes to it were of an editorial nature only.

Specifically, the Office noted that no changes had been made to the policy advice or recommendations in the report, and that any suggestions for changes to the draft had been made by using sticky notes, which were then discarded after all copies of the draft report were returned to the consulting firm. It was not clear whether the consulting firm had kept a copy of the report in draft form.

The applicant accepted the Office's recommendation that, given the clarification regarding the development of the report, there was little to be gained by trying to determine whether the consulting firm still had a copy of the draft version of the report and, then, whether the public body wished to withhold any of it under the *Freedom of Information and Privacy Act*. In addition, the applicant considered it a useful exercise that the Office reminded the district that draft documents are subject to the same consideration as any other records in its custody or under its control.

### **Regional District - Personal Information**

An applicant requested records relating to a regional district's decision to terminate funding for the applicant's care through a program called "Choices in Support for Independent Living." He also requested copies of complaints and concerns about him received by the district. The district responded by releasing the records with the personal information of third parties severed from the correspondence. The applicant was unhappy with the severing and requested a review.

Through mediation, the Commissioner's Office discovered that the applicant could only communicate by typing on a computer and that he was greatly frustrated by the cancellation of his funding and by the complaints lodged against him. Although the Commissioner's Office could only review the severing and could not comment on the accuracy of the information or do anything about the cancellation of his funding, the Office advised him of his right to request a correction of his personal information under the *Freedom of Information and Protection of Privacy Act*, if that was a concern.

After further discussion and a meeting between the applicant, the district, and the Commissioners' Office, the applicant ultimately accepted the district's position under the Act that it could not release other individuals' personal information to him. However, the dialogue resolved most of the issues between the applicant and the regional district. Further, the Commissioner's Office advised him of additional remedies available to him in the event he felt that he had been treated in a manner which was administratively unfair, such as recourse to the Ombudsman Office.

### **Regional District - Reclassification Records**

Several employees of a regional district requested access to records related to a personnel reclassification process from 1990 to 1996. The request included the results and recommendations of a job equity/pay equity steering committee. The employees also requested access to any notes regarding a related reclassification process.

The regional district denied access, stating that disclosure of the records would harm negotiations of the current reclassification process, then still underway. The district also stated that disclosure would harm the current negotiations of a collective agreement involving, in part, the same reclassification process.

During mediation, the Office first recommended that the regional district sever the records to remove

sensitive information affecting the current negotiations and release the rest. The regional district refused to accept this recommendation, but offered to release the requested records in full if its employees ratified the collective agreement under negotiation, arguing that disclosure would then no longer be harmful to negotiations. The actual release was delayed, however, until just prior to the formal inquiry before the Commissioner, when the district disclosed all of the records in full. The inquiry was subsequently cancelled.

### **Regional District - Third-Party Personal Information**

Two dogs had an altercation and one owner asked the regional district (the licencing authority) for the name and address of the other owner. The requesting owner's dog had been injured and she wanted to ask the other owner for compensation. Although this information is often provided by a licensing body, the regional district refused to provide it in this case, stating that disclosure might be harmful to individual or public health or safety. The requesting owner asked the Commissioner's Office to review the district's decision.

During mediation, the Office discussed the issue with each of the parties to clarify their positions. The Office was able to get the parties to agree to talk to each other by telephone, with the goal of understanding their respective concerns. The parties spoke briefly, but were not able to reach a mutual understanding. The requesting owner subsequently decided not to pursue the matter any further, having decided that she had at least accomplished her goal of letting the other owner know of her concerns and that it was not worth proceeding to an inquiry.

### **School District - Administrative Records**

An applicant involved in the business of residential housing development requested a copy of the school district's Capital Plan, as approved by the Minister of Education under the School Act. The Capital Plan, among other things, sets out the district's construction goals for the near future. The school district denied access to the information on the basis that disclosure could result in land speculation, which could harm the economic interests of the school district. The school district did, however, provide the applicant with a copy of the 1996/97 Capital Plan Summary, which had been distributed to the public.

Through mediation, the school district decided to release additional relevant information to the applicant. It also confirmed for the applicant that no capital projects were planned for the area he had identified. This satisfied his request and the case was closed.

### **School District - Employment Contracts**

A local teachers' association requested copies of the employment contracts for school district administrators, including the district superintendent and school principals. The school district consulted with the administrators with respect to the requested disclosure, and some quickly consented to the release of their contracts. Other administrators refused to give their consent, considering any disclosure

to be an unreasonable invasion of their personal privacy.

Through mediation, it became clear that disclosure of the contracts would not be an unreasonable invasion of personal privacy, since the contracts only contained information about the administrators' positions, functions, and remuneration as employees of a public body. In the Act, disclosure of this information is not considered an unreasonable invasion of privacy. The administrators then agreed to disclosure and the applicant accepted that this information satisfied his request.

## **D. SELF-GOVERNING PROFESSIONAL BODIES**

### **Self-Governing Professional Body - Complaint Records**

A former client of a member of a self-governing professional body had complained about the conduct of the member to the professional body. After the professional body investigated and closed the complaint, the client made an access request for records from the professional body's complaint file. The professional body disclosed most of the records to the client but refused access to the professional member's written response to the original complaint, stating that it would be an unreasonable invasion of the professional member's privacy.

Through mediation, and with the consent of the member, the professional body agreed to disclose the entire record, since it primarily contained details of the former client's treatment and the member's opinions of the client, both of which are the client's personal information under the *Freedom of Information and Protection of Privacy Act*.

### **Self-Governing Professional Body - Complaint Records**

A member of a self-governing professional body filed a complaint with the professional body about another member. After an investigation, the professional body's ethical conduct committee concluded that there was no basis for the complaint. The professional body did not provide the complainant member with any reasons for its decision. The complainant member then requested a copy of the report that had been submitted to the committee by the investigator. The professional body refused to disclose it, stating that it was a law enforcement issue and that disclosure would breach the confidentiality sections of its governing legislation.

During mediation, the Commissioner's Office recommended to the professional body that it sever law enforcement and personal information from the records and release the report and its supporting documents. The Office pointed out that the applicant had a right to know the grounds on which the ethical conduct committee had arrived at its findings. The professional body offered to create a summary of the complaint records, including a list of documents that the investigator and a volunteer reviewer had reviewed during the investigation. The applicant agreed to accept this offer on an interim basis.

After receiving the summary and meeting with the public body, the applicant stated that he was satisfied with the summary and agreed to close the file.

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# 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 and protection of privacy practices of public bodies covered under the Act. If an individual believes 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 an individual complains about access to records, it usually involves access to specific records and thus is addressed by the request for review process. However, individuals may make general complaints about a lack of access to whole categories or systems of records. This type of issue is handled by the complaint and investigation process in the same manner as privacy complaints.

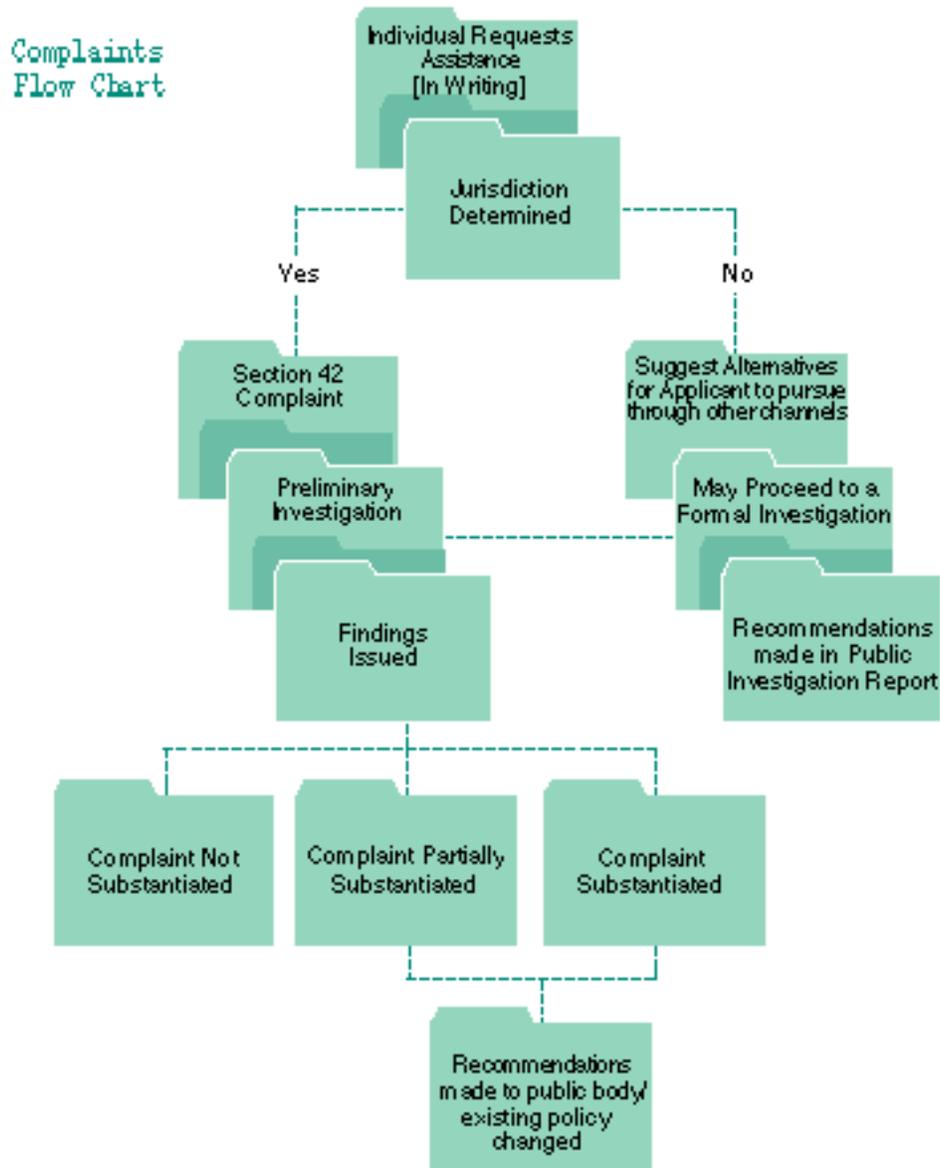
Part 3 of the *Freedom of Information and Protection of Privacy Act* sets out specific protections for the privacy of personal information in the custody or under the control of public bodies. Part 3 states that a public body may only collect, use, and disclose personal information according to the specific standards and guidelines set out in the Act. These standards are also commonly referred to as fair information practices. The Act further states that a public body must make reasonable security arrangements to protect the personal information in its custody or control.

Like requests for review, complaints made to the Commissioner's Office should be in writing. They should describe the facts of the complaint and name the public body that appears to have violated the applicant's privacy. They also should describe steps that any of the parties have taken so far as a result of the complaint. If the Commissioner's Office receives several similar complaints from a number of individuals, or if a complaint by one individual is of a significant or systemic nature, then it may become the subject of a larger investigation, which may result in a formal Investigation Report. Such reports are anonymized where appropriate to protect the privacy of individuals involved in the complaint, but are released to the public.

## The Complaint Process

When the Office receives a complaint, an Intake Officer reviews it and, if it can proceed, assigns it to a Portfolio Officer. The Portfolio Officer contacts the complainant and the public body to discuss the complaint.

Portfolio Officers have authority from the Commissioner to investigate complaints and to make recommendations to the Commissioner and the public body for a resolution. If the Portfolio Officer finds that a public body has acted in contravention of the requirements of the Act, the Commissioner may require it to change the way it collects, uses, discloses or secures personal information. If the complaint raises issues affecting a significant number of people, the Commissioner may issue a formal Investigation Report describing the public body's responsibilities under the Act. If the findings of a Portfolio Officer's investigation do not support the complaint, then the Commissioner may dismiss it. The Act does not provide for compensation for a violation of privacy rights.



## Samples of Recent Complaints

The following sample complaints were chosen for their illustration of the complaint and investigation process and as examples of the more common types of issues investigated by the Commissioner's Office.

## A. MINISTRIES

### **Ministry of Attorney General - Inappropriate Disclosure of a Custody and Access Report**

A woman complained that a family court counsellor had released a Custody and Access Report to the principal of her daughter's school without the complainant's consent or knowledge. The complainant believed that this was a violation of her privacy rights under the *Freedom of Information and Protection of Privacy Act*.

The Office's investigation of the matter involved discussions with the family court counsellor in question and the Information and Privacy staff at the Corrections Branch office of the Ministry of Attorney General. The Office discovered that the counsellor, while well-intentioned, had disclosed the custody and access report without authorization under the *Freedom of Information and Protection of Privacy Act*. However, the incident, in part, appeared to stem from the Ministry's lack of resources to provide privacy training to all of its staff. This meant that some Ministry staff, such as those in the Family Court area, were not familiar with the Act's standards and requirements for the protection of personal information from unauthorized disclosure. The Office concluded that privacy training was required to prevent a recurrence of this situation.

Meanwhile, the complainant had also complained about the inappropriate disclosure directly to the Ministry. As a result of its own investigation of the woman's complaint, the Ministry, too, had determined that it should provide privacy training to the Family Court segment of its employees. The Office confirmed the Ministry's conclusion and recommended that it ensure that the training take place in the near future. The Ministry successfully carried out the appropriate privacy training shortly thereafter and the applicant was satisfied with this result.

### **Ministry of Attorney General - Involvement of Communications Staff in the Processing of FOI Requests**

A reporter had complained about the Ministry of Attorney General's practice of disclosing the names of applicants to communications personnel during the processing of FOI Requests. The reporter believed that it was a breach of the *Freedom of Information and Protection of Privacy Act* for the Ministry's managers of information and privacy to pass along names of applicants and/or the general substance of FOI requests to the Ministry's Communications Branch, and to consult with them in processing the requests.

The Commissioner's Office investigation revealed that it was not the Ministry's practice to routinely disclose applicant's names. Further, although the Deputy Minister was routinely advised when a member of the media had made an access request, only the substance of the request was provided, not the name of applicant. The Office also found that if the Ministry considered a particular request to be sensitive or

controversial, the request, minus the name of the applicant, was also referred to the Issues Management Team within the Ministry.

The Commissioner determined that this practice was not in violation of any section of the *Freedom of Information and Protection of Privacy Act*, and that in the rare circumstances where a name was passed along, it was done on a "need-to-know" basis. The Commissioner clarified the "need-to-know" principle as involving several factors, including release to staff whose duties may be affected by disclosure, to those needed to locate the records, and to the decision-maker. He also clarified that the sensitivity or controversial nature of the request was relevant in assessing a particular employee's need to know.

### **Ministry of Education, Skills and Training (Loan Administration Section) - Inappropriate Disclosure of Personal Information**

An applicant complained to the Commissioner's Office concerning a disclosure of her personal credit history by the Loan Administration section of the Ministry of Education, Skills and Training to a Member of the Legislative Assembly (MLA). The disclosure occurred while the MLA, on behalf of the applicant, was inquiring into the applicant's husband's situation. The allegation was that Loan Administration was taking a collection action against the applicant's husband in a way that the applicant thought was unfair. Apparently, in order to give a complete factual history to the MLA, Loan Administration had released the credit history of both the husband and the wife to the MLA's representative, since each were debtors under the student loan program and were, for the purposes of the program, one economic unit.

The Commissioner's Office was able to resolve the complaint by suggesting that the Loan Administration section obtain written authorization from parties to disclose their personal information prior to disclosure in cases such as this. The Office noted, however, that Loan Administration had not breached the requirements of the *Freedom of Information and Protection of Privacy Act* by releasing the applicant's personal information to the MLA's representative. Its disclosure was consistent with its established policies for the handling of information in cases where it seeks to recover money from one or both people in a marital or common-law relationship.

## **B. CROWN CORPORATIONS**

### **Insurance Corporation of British Columbia - Consent**

The Trial Lawyers Association of British Columbia complained about the Insurance Corporation of British Columbia's practice of reviewing previous insurance claim files on claimants who have made subsequent insurance claims, without obtaining the claimants' consent to do so.

After an investigation into ICBC's practices, the Commissioner's Office concluded that when ICBC reviews previous claim files in relation to a new insurance claim, its collection, use, and disclosure of personal information is governed by the *Freedom of Information and Protection of Privacy Act*. This

means that ICBC must find a reason under the Act for accessing and using previous claim files, unless a court action has been launched. The Office concluded that ICBC has statutory authority under the Act to review previous insurance claim files when processing current claims by the same claimants. However, the Office recommended that ICBC ensure that claimants receive early notice when they give their personal information to an ICBC adjuster for the purposes of settling an insurance claim that the information may be used in subsequent insurance claims.

The Office also confirmed that when a court action has been launched, the Act does not limit the information and records available to ICBC in the course of the litigation process, since [section 3\(2\)](#) of the Act states that the Act does not limit information available to a party to a legal proceeding.

### **Workers' Compensation Board - Processing of FOI Requests**

An applicant had complained about the processing of his FOI request by the Workers' Compensation Board. The applicant had requested a copy of his claim file, but was dismayed to learn that other files existed outside of his claim file that contained his personal information which had not been disclosed to him. The applicant believed that when a request for a claim file was made, the WCB should conduct a board-wide search for any other information that may exist concerning the requester.

After an investigation, the Commissioner's Office concluded that if a request was limited to records concerning the claim file, the WCB was under no obligation to conduct a board-wide search for other information pertaining to the applicant. If, however, the request was for "any and all" information concerning the applicant, then the WCB would be obliged to conduct a board-wide search.

As a result of investigation discussions, the WCB agreed to undertake several steps to improve their ability to respond openly and completely to requests requiring "any and all" information about an applicant, including expanding the number of program areas searched, clarifying search standards and conducting further training.

## **C. LOCAL PUBLIC BODIES**

### **Hospital - Collection of Religious Information**

A chaplain at a hospital complained to the Commissioner's Office that her hospital did not ask for a patient's religion upon admission to the hospital. She wanted to know why the hospital did not follow the practice of other hospitals in her area that ask for this information. She also asked about the hospital's practice of providing the patient list to the chaplain.

The Office clarified for the chaplain that under the *Freedom of Information and Protection of Privacy Act*, a hospital is required to ensure that it complies with the privacy principles of the Act. This includes ensuring that the hospital collects, uses, discloses, stores, and secures personal information appropriately.

The Office also clarified that an individual should consent to the collection of his or her personal information and have a say in who may have access to it.

With respect to the collection of information about a patient's religion, the Office advised the chaplain that the issue for a hospital is whether the information is directly related to, and necessary for, the hospital providing health care or determining a patient's eligibility for benefits to cover the cost of the hospital stay. The Office clarified that, in the case of religious information, the purpose of the collection is for pastoral visits. In short, the hospital does not have a "need-to-know" this information, except to assist a member of the pastoral care team to visit a patient. Therefore, religious information may appropriately be collected only where a patient has clearly expressed a wish to see a member of the pastoral care team.

The Office also advised the chaplain that her right to access a hospital's list of patients was covered under the same principle. When patients provide their names and addresses to the hospital for the purpose of the provision of health care or administration of health care benefits, they would not reasonably expect that this information would be disclosed by the hospital to a member of the pastoral team when they have not indicated their desire for this to happen.

The Office emphasized that it is the Commissioner's view that when a patient indicates a desire for a pastoral visit, it is appropriate for the hospital to release the name, religion, and perhaps address (in order to determine the suitable person to visit) and location of the patient in the hospital to the appropriate member of the pastoral team. In addition, some hospitals have taken the proactive step of having cards available at bed-side for patients to request a visit.

### **Hospital - Distribution of Accident Investigation Report**

The complainant was involved in a workplace accident at a hospital. The hospital completed an Accident Investigation Report and submitted it to the Workers' Compensation Board. The eight-page report, which contained the complainant's name, medical information, and a detailed discussion of the incident, was distributed to nine senior staff at the hospital, in addition to the WCB. The complainant was unhappy that she was not given the opportunity to sign or approve the report before it was released, and that it included her name. She also objected to the extent of the distribution.

During the investigation, the hospital pointed out that the report had been prepared according to hospital policy, that the content corresponded to the requirements of the *Workers' Compensation Act*, and that distribution was necessary so that all parties, either involved with the incident or in a position to initiate remedial action, were aware of the circumstances, outcome, and recommendations.

The Commissioner's Office confirmed that, under the *Workers' Compensation Act*, an employer is required to provide specific pieces of information, including the name of the injured worker, when filing an "Accident Investigation Report." However, the Act also indicates that "names of the injured may be deleted from published reports, if desired." The Act also requires that copies of the report be sent to the

Industrial Health and Safety Committee and the nearest WCB office.

The Office concluded that, since disclosure of the complainant's personal information to the WCB was required by the Workers' Compensation Act, the disclosure was appropriate under [section 33](#) of the *Freedom of Information and Protection of Privacy Act*. However, the Office also concluded that the preparation and further distribution of the report did not take into consideration the "fair information practices" which are the fundamental privacy principles governing the collection, use, and disclosure of personal information in Part 3 of the Act. Thus the Office found that the complainant's personal privacy had been unreasonably invaded by the actions of the hospital.

The Commissioner's Office recommended that the hospital review and revise its "Incident Reporting and Review Policy" with a view to creating an anonymized workplace accident report that is distributed on a "need-to-know" basis only. An anonymized report would benefit everyone's interests, since it permits a clear understanding of the circumstances of the accident while still respecting the privacy of those involved.

### **Hospital - Emergency Room Patient Tracking System**

A complainant contacted the Commissioner's Office with a concern about patient confidentiality in the Emergency Unit of a hospital. After a member of the complainant's family had been treated in the Unit, the complainant noticed that personal information about her family member was recorded on a large white board that was visible to anyone who entered the Unit. The complainant felt that this display of patient information was an unreasonable invasion of her family member's privacy.

During the investigation, the hospital clarified that the "white board" is viewed by the Emergency Room Team as a critical tool for ensuring that proper triage and care of the patients occurs. At the time of the complaint, the policy was to include a patient's last name, diagnosis, name of physician/responsible staff, current status (for example, awaiting a bed), and laboratory tests on the board.

A survey of other hospitals revealed that unless the hospital had a sophisticated electronic data management system, which most did not, the white board was considered to be an essential element in providing effective patient care. Given the apparent necessity of having a readily-accessible patient tracking system and the fact that the current white board worked quite well, the Commissioner's Office looked to see how the board could be adapted to continue to meet the needs of hospital personnel and at the same time minimize any potential invasions of privacy.

After further consultation with hospital staff, the hospital agreed that current descriptions appearing under the Diagnosis and Laboratory Test categories would be replaced by a series of abbreviations and symbols that would be easily recognizable to staff, but not to the patients or visitors in the Emergency Unit. The Office was satisfied that these changes would resolve the complainant's privacy concerns. The Office continues, however, to review the use of white boards as patient tracking systems in all hospitals throughout the province.

## **Hospital - Identification for Tests**

The Commissioner's Office received an anonymous complaint from an individual with respect to a hospital refusing to provide AIDS tests without positive identification from the test requester. Private laboratories in Victoria have been providing anonymous AIDS testing for some time.

During an investigation by the Commissioner's Office, the hospital expressed concerns that test results might end up with the wrong patient, unless they could be positively identified. After meetings between the hospital's senior executives and the Commissioner's Office, the hospital laboratory amended its policies to accept requisitions for AIDS tests from doctors if they contain unique codes by which doctors can identify their patients, but which allow patients to remain anonymous to the hospital.

## **Regional District - Processing of Requests**

An applicant with a number of grievances against a regional district made a series of access requests by e-mail. In response to his latest e-mailed access requests, the Mayor wrote to the applicant to tell him that staff were not obligated to accept or respond to abuse and insults. The FOI coordinator for the district also wrote to the applicant to tell him that she would not respond to his requests until they were made in a proper and courteous manner. She had previously asked the applicant to use correct names for staff instead of the rude nicknames by which he had addressed some of them. The applicant complained to the Commissioner's Office that the District was unreasonable in "turning down a FOI request because it is not polite" and that the Mayor was on a campaign to portray him as a rude and obnoxious person.

The Office reviewed some of the applicant's correspondence and told the applicant that not only were his requests impolite, they were rude and obnoxious. The Office advised the applicant that, while the Commissioner had never been asked to decide whether to order a public body to reply to access requests which were not polite, he had commented unfavorably about applicants who tried to use the *Freedom of Information and Protection of Privacy Act* as a weapon against a public body. The Office stated further that public servants are not obligated to accept verbal abuse from anyone and that the applicant should make his access requests politely. The applicant complied.

## **D. SELF-GOVERNING PROFESSIONAL BODIES**

### **Self-Governing Professional Bodies - Access to Policy Manuals**

A member of a self-governing professional body complained that some information had been deleted from records he had requested about the professional body's policy on discipline matters. Since a public body must make policy manuals available under the Freedom of Information and Protection of Privacy Act without a formal FOI request, the member asked the Commissioner's Office to investigate.

The Office's investigation clarified that, under the Act, a public body has the discretion to sever certain

information from policy manuals and statements before disclosure, if the information is what a public body may normally refuse to disclose under the Act in response to a formal access request, such as personal information and legal advice. The Office found that the professional body had appropriately withheld some information under the Act, but had neglected to explain the reasons for it to the member, as required by the Act. After some discussion, the public body agreed to disclose the severed records to the member again, with the reasons for each severance clearly identified, as required. The member was satisfied by this solution and the complaint was closed.

### **Self-Governing Professional Bodies - Disclosure of a Discipline Report Under [Section 33\(p\)](#)**

Under [section 33\(p\)](#) of the *Freedom of Information and Protection of Privacy Act*, a self-governing professional body disclosed a copy of an individual's discipline hearing report to another public body in response to its request for the report. The individual learned of the disclosure when the public body notified him as required under [section 33\(p\)](#). The individual felt that the disclosure violated his privacy and requested that the Commissioner's Office determine whether the disclosure was appropriate under the requirements of the Act.

As part of its investigation, the Office reviewed the report and other relevant records, and interviewed a number of staff in both public bodies. The Office found that, although well-intentioned, the professional body that disclosed the report had not established that compelling circumstances existed to warrant its disclosure as required under [section 33\(p\)](#). The Office concluded that the professional body had failed to gather enough information for it adequately to assess the complainant's current circumstances, the urgency of the situation, and the risk that the complainant would repeat the actions which had led to the discipline hearing. The Office also found that that public body that requested the report should have provided more evidence to support its request for disclosure. All parties accepted the Office's findings.

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## VI. Statistical Overview

### Introduction

The Office of the Information and Privacy Commissioner receives numerous enquiries daily on a wide variety of information and privacy issues, most of which are settled over the telephone. Informational inquiries or non-jurisdictional issues that are concluded by telephone are not logged or tracked by the Office because of the burden involved. Where an issue cannot be resolved over the telephone, a caller is invited to submit his or her request or complaint in writing. Written enquiries are entered into the Office's computerized case-tracking system by the Office's Intake Officers.

### General Statistics

Since proclamation of the *Freedom of Information and Protection of Privacy Act*, the cases handled by the Commissioner's Office have increased. Part of the growth is due to enhanced awareness and use of the Act by the public, and part to the gradual incorporation, since October 1993, of the three tiers of public bodies covered by the Act. The Act now covers over 2,200 public bodies, including government ministries, Crown corporations, agencies, and commissions; local hospitals, municipalities, municipal police, school districts, universities, and colleges; and numerous 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.

Figure 1 below illustrates the overall growth of cases handled by the Commissioner's Office in comparison with previous fiscal years.

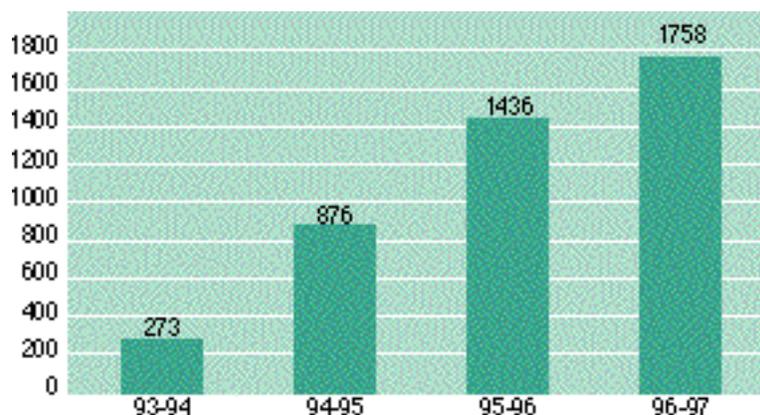


Figure 2 below illustrates the growth in caseload by case type in comparison with the 1995-96 fiscal year. As indicated, the Office logged 1,758 cases between April 1, 1996 and March 31, 1997. This figure compares to the 1,436 cases logged in 1995-96.

<b>Case Type</b>	<b>1996-1997</b>	<b>1995-1996</b>
Requests for Review	933	887
Complaints	115	114
Public Bodies' Requests for Time Extensions	85	107
Legislative or Policy Consultations	76	8
Site Visits	56	22
Freedom of Information Requests to the Commissioner's Office	47	18
Investigations	23	8
Requests for Section 43 Authorizations	8	2
Non-Jurisdictional/ No Reviewable Issue	182	213
Other	233	57
<b>Total</b>	<b>1758</b>	<b>1436</b>

**Requests for Review:** An applicant who makes a request for records or a request for correction of personal information may seek 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.

**Complaints:** 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. They also may relate to a request for records.

**Public Bodies' Requests for Time Extensions:** The Act provides 30 days or, under limited circumstances, 60 days for a public body to respond to a request. Where a public body determines that more than 60 days will be needed to respond to a request, it must request permission from the Commissioner to extend the response time.

**Legislative or Policy Consultations:** The Office is often asked to review proposed legislation or

amendments to current legislation which may affect the information or privacy rights of individuals. The Office also may review policies, procedures, and forms developed by public bodies which concern the collection, use, and disclosure of personal information.

**Site Visits:** The Commissioner has authority under the Act to audit the information-handling practices and procedures of public bodies covered under the Act. Site visits typically are conducted informally and involve a tour of the facility and records areas and discussion of various freedom of information and privacy issues and concerns.

**Freedom of Information Requests to the Commissioner's Office:** The Commissioner's Office is a public body under the Act and, like other public bodies, is required to respond to requests for records within its own custody or control. This does not include records in its possession relating to its functions under the Act, such as those concerning requests for review or complaint files.

**Investigations:** While investigations often result from a complaint, the Commissioner may initiate an investigation where there are concerns about systemic privacy or access to information issues. Investigations often result in a formal investigation report.

**Requests for [Section 43](#) Authorizations:** Under [section 43](#) of the Act, a public body may ask the Commissioner for authorization to disregard requests for records that are of a repetitious or systematic nature and would unreasonably interfere with the operations of the public body.

**Non-Jurisdictional Complaints and Inquiries and Non-Reviewable Issues:** 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. Such bodies and individuals are not covered by the Act. Non-jurisdictional complaints also include those against public bodies covered by the Act, but where the concern is not a freedom of information or protection of privacy issue.

Non-reviewable issues are different from non-jurisdictional issues in that they do pertain to freedom of information or protection of privacy concerns and involve public bodies over which the Office has jurisdiction. However, the issues are considered to be non-reviewable because the applicant has requested a review either before the public body has made a decision or has otherwise had an opportunity to make a decision.

**Other:** This includes all projects, systems reviews, and applications for time extensions by individuals who have missed the timeline for submitting requests for review to the Office. Projects and systems reviews often are initiated by the Commissioner and result from a particular systemic or public interest issue.

## A. REQUESTS FOR REVIEW

Between April 1, 1996 and March 31, 1997, the Office opened 933 requests for review. The types of decisions that the Office was asked to review are categorized in Figure 3 below.

<b>Grounds</b>	<b>Open</b>	<b>Mediated</b>	<b>Order</b>	<b>Discontinued**</b>	<b>Total</b>
Access					
Denied Access	45	98	9	14	166
Partial Access	113	217	25	24	379
Adequacy of Search	27	62	9	17	115
Correction Request	1	4	2	1	8
Deemed Refusal	21	90	0	1	112
Fees	14	18	9	2	43
Third Party Request for Review	6	20	1	3	30
Time Extensions	7	29	2	12	50
Other	2	27	1	0	30
<b>Total</b>	<b>236</b>	<b>565</b>	<b>58</b>	<b>74</b>	<b>933</b>

\* Requests for Review which contain multiple issues are only assigned to one category

\*\* Discontinued requests for review indicates those which have been abandoned or withdrawn

### ***Access:***

**Denied Access:** This is a review of a decision by a public body to deny access to all records.

**Partial Access:** This is a review of a public body's decision to sever or withhold certain records.

***Adequacy of Search:*** This is a review of whether or not further records exist. The issue is whether a public body conducted an adequate search for all relevant records.

***Correction Request:*** This is a review of a public body's decision not to correct personal information.

**Deemed Refusal:** This is a review of a public body's failure to respond to a request within the proper time-frame. The Act interprets this failure as a decision to refuse access to the record.

**Fees:** This is a review of the fees assessed by a public body for access to records, or a review of its decision not to waive fees.

**Third Party Request for Review:** This is a review of a public body's decision whether to provide an applicant with access to personal or business information of a third party.

**Time Extension:** This is a review of a public body's decision to extend the time limit for responding to a request for records.

## B. COMPLAINTS

Between April 1, 1996 and March 31, 1997, the Office opened 115 complaints, most of which pertained to inappropriate collection, use, or disclosure of personal information. Other complaints related to the failure of a public body to perform a duty imposed by the Act, such as the duty to assist an applicant. The complaints are categorized in Figure 4 below.

Grounds	Open	Fully or Partially Substantiated	Unsubstantiated	Discontinued*	Total
Failure to Perform a Duty	9	6	9	0	24
Inappropriate Collection	13	3	19	0	35
Inappropriate Disclosure	19	10	15	2	46
Inappropriate Use	2	3	4	1	10
<b>Total</b>	<b>43</b>	<b>22</b>	<b>47</b>	<b>3</b>	<b>115</b>

**Failure to Perform a Duty:** This is an investigation into an allegation that a public body has failed to perform a duty imposed by the Act, such as its duty to assist an applicant or individual.

**Inappropriate Collection:** This is an investigation into an allegation that a public body has

inappropriately collected personal information about an individual under the Act.

***Inappropriate Disclosure:*** This is an investigation into an allegation that a public body has inappropriately disclosed personal information about an individual under the Act.

***Inappropriate Use:*** This is an investigation into an allegation that a public body has inappropriately used personal information under the Act.

## Applicant Statistics

One of the most frequently asked questions 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.

When applicants do identify their affiliation, the request or complaint is categorized accordingly, as set out in Figure 5 below. If an applicant does not identify any affiliation, he or she is categorized as an individual requester. It is important to note, therefore, that the category entitled "Individuals" may be artificially high, since it captures all those who did not express affiliation with any particular group or interest, even though they might have been acting on behalf of a group.

Type of Applicant	Request for Review	Complaint	Percentage of Total
Individuals	703	92	75.8
Commercial	108	6	10.9
Media	41	2	4.1
MLA	15	2	1.6
Special Interest Groups*	15	3	1.7
First Nations Organizations	7	0	0.7
Other Organizations**	44	10	5.2
<b>Total</b>	<b>933</b>	<b>115</b>	<b>100.0</b>

## Public Body Statistics

Some public bodies are more frequently than others the subject of requests for review or complaints at

the Commissioner's Office. Often it is because they possess or handle more personal information than other public bodies. It also may reflect that there are ongoing disputes about certain types of records, issues, or policies of that particular public body.

### A. REQUESTS FOR REVIEW

Figures 6 and 7 below identify the number, status, and grounds of requests for review at the Commissioner's Office according to public body. Figure 6 shows the status or disposition of requests for review against a public body, while Figure 7 shows the grounds upon which the reviews were requested.

<b>Public Body</b>	<b>Requests for Review</b>	<b>Open</b>	<b>Mediated</b>	<b>Discontinued</b>	<b>Order</b>
Attorney General	96	18	71	0	7
Social Services*	84	2	75	4	3
Insurance Corp. of BC	83	14	61	6	2
Health	50	8	41	0	1
Vancouver Police Department	40	0	36	1	3
Workers' Comp. Board	38	6	29	1	2
Environment, Lands and Parks	37	3	29	4	1
Children and Families*	36	13	23	0	0
Forests	25	2	19	3	1
Finance and Corporate Relations	23	5	15	1	2
Transportation and Highways	21	1	14	5	1
Law Society of British Columbia	20	15	4	1	0
BC Hydro and Power Authority	16	2	14	0	0
College of Physicians and Surgeons	15	5	8	1	1
Employment and Investment	15	0	15	0	0
Capital Regional District	14	12	2	0	0
City of Vancouver	13	0	13	0	0
University of British Columbia	13	5	6	2	0
Agriculture, Fisheries and Foods	12	1	3	5	3
Education, Skills and Training*	11	2	5	3	1

City of Surrey	10	1	8	0	1
College of Dental Surgeons	10	3	7	0	0
All Other Public Bodies**	251	118	67	37	29
<b>Total</b>	<b>933</b>	<b>236</b>	<b>565</b>	<b>74</b>	<b>58</b>

	Total	Adequate Search	Correction Request	Deemed Refusal	Denied Access	Fees	Partial Access	Third Party	Time Extension	Other
Attorney General	96	16	1	12	11	6	32	3	4	11
Social Services*	84	8	2	22	9	0	43	0	0	0
Insurance Corporation of BC	83	2	0	11	11	1	53	3	1	1
Health	50	8	0	8	7	3	17	0	6	1
Vancouver Police Department	40	5	0	1	10	1	17	0	1	5
Workers' Compensation Board	38	5	3	4	9	0	15	0	2	0
Environment, Lands and Parks	37	3	0	0	8	3	18	4	1	0
Children and Families*	36	5	1	4	7	1	18	0	0	0
Forests	25	5	0	1	2	6	10	0	1	0
Finance & Corporate Relations	23	6	0	1	4	1	11	0	0	0
Transportation and Highways	21	2	0	5	3	1	6	2	2	0
Law Society of British Columbia	20	0	0	0	2	0	13	3	2	0
BC Hydro and Power Authority	16	1	0	2	2	1	7	2	1	0
College of Physicians & Surgeons	15	2	0	0	1	0	7	1	3	1
Employment and Investment	15	2	0	1	0	1	6	0	5	0
Capital Regional District	14	1	0	0	7	1	4	0	0	1
City of Vancouver	13	0	0	5	1	1	6	0	0	0
University of British Columbia	13	1	0	1	1	1	8	0	0	1
Agriculture, Fisheries and Food	12	0	0	1	0	3	1	1	6	0
Education, Skills and Training*	11	5	0	2	0	1	1	1	1	0
City of Surrey	10	1	0	1	2	3	2	0	1	0
College of Dental Surgeons	10	0	0	2	3	0	5	0	0	0
All other Public Bodies**	251	37	1	28	66	8	79	10	13	9
<b>Total</b>	<b>933</b>	<b>115</b>	<b>8</b>	<b>112</b>	<b>166</b>	<b>43</b>	<b>379</b>	<b>30</b>	<b>50</b>	<b>30</b>

\* During this fiscal year, the Ministry of Social Services ceased to exist and its responsibilities were transferred to two new ministries: the Ministry of Children and Families and the Ministry of Human Resources. Further, the Ministry of Education became the Ministry of Education, Skills and Training and the Ministry of Skills, Training and Labour became the Ministry of Labour.

\*\* There are over 2,200 public bodies covered under the Act. There have been no requests for review filed against the majority of them. The figure of 251 for "All Other Public Bodies" represents, for the most part, the one or two requests for review which have been filed against 118 public bodies other than the ones specifically listed. None of these 118 received more than 9 requests for review in total.

## B. COMPLAINTS

As noted earlier, complaints may involve such issues as the inappropriate collection, use, or disclosure of personal information by a public body and/or its failure to perform a duty imposed by the Act. Figures 8 and 9 below indicate the number, status, and grounds of complaints that were handled by the Commissioner's Office from April 1, 1996 to March 31, 1997, categorized by public body. Figure 8 indicates the status or disposition of complaints, while Figure 9 indicates the grounds under which the complaints were filed.

<b>Public Body</b>	<b>Total</b>	<b>Open</b>	<b>Fully or Partially Substantiated</b>	<b>Not Substantiated</b>	<b>Discontinued</b>	<b>Order</b>
Health	16	3	2	11	0	0
Workers' Compensation Board	7	3	2	2	0	0
Social Services*	6	0	2	4	0	0
Attorney General	5	0	2	3	0	0
Education, Skills and Training	5	1	2	2	0	0
Insurance Corp. of BC	5	2	2	1	0	0
Agriculture, Fisheries & Food	4	0	1	2	0	1
Finance & Corp. Relations	4	2	1	1	0	0
Environment, Lands and Parks	3	2	0	1	0	0
Human Resources*	3	1	0	2	0	0
Municipal Affairs	3	1	0	2	0	0
Vancouver Police Department	3	1	1	1	0	0

All Other Public Bodies**	51	27	7	14	3	0
<b>Total</b>	<b>115</b>	<b>43</b>	<b>22</b>	<b>46</b>	<b>3</b>	<b>1</b>

\*During this fiscal year, the Ministry of Social Services ceased to exist and its responsibilities were transferred to two new ministries: the Ministry of Children and Families and the Ministry of Human Resources. Further, the Ministry of Education became the Ministry of Education, Skills and Training and the Ministry of Skills, Training and Labour became the Ministry of Labour.

\*\*There are over 2,200 public bodies covered under the Act. There have been no complaints filed against the majority of them. The figure of 51 for "All Other Public Bodies" represents, for the most part, individual complaints made against approximately 43 public bodies other than the ones specifically listed.

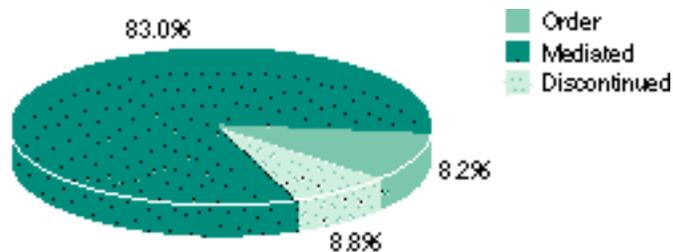
## Settlement of Cases

Between April 1, 1996 and March 31, 1997, the Commissioner's Office closed 919 requests for review, 108 complaints, and 18 investigations. These cases were settled by mediation, order, investigation report, recommendations, or by less formal means as indicated below in Figures 10 through 15.

### A. REQUESTS FOR REVIEW

Of the 919 requests for review closed during the 1996-97 fiscal year, 75 required settlement by an Order. Thus, only 8.2 percent of requests for review resulted in a formal inquiry before the Information and Privacy Commissioner. This low rate of formal inquiries and Orders is largely due to the strong emphasis the Office places on mediation as the primary practical means for resolving disputes. In fact, the Office has become a center for alternative dispute resolution. The disposition of requests for review at the Office for this fiscal year is set out in Figures 10 and 11 below.

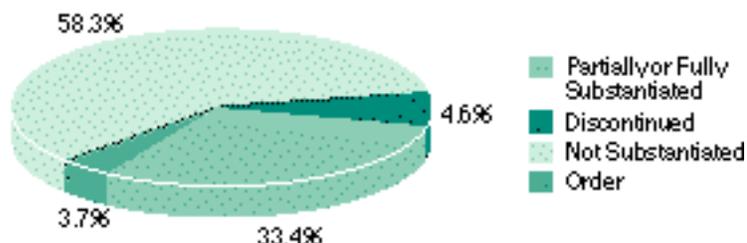
Type of Settlement	Number	Percentage
Mediated	763	83.0
Discontinued	81	8.8
Order	75	8.2
<b>Total</b>	<b>919</b>	<b>100.0</b>



### B. COMPLAINTS

Although complaints are not normally resolved through the formal inquiry process, the Office resolved four complaints by Order this year. The remaining complaints were closed in a less formal manner, such as by recommendations to public bodies for changes to their existing policies or practices. Disposition of complaints for this fiscal year is set out in Figures 12 and 13 below.

Type of Settlement	Number	Percentage
Not Substantiated	63	58.3
Partially or Fully Substantiated	36	33.4
Discontinued	5	4.6
Order	4	3.7
<b>Total</b>	<b>108</b>	<b>100.0</b>



## C. INVESTIGATIONS

Of the 18 investigations completed this year, three resulted in the release of a formal investigation report. The remainder were concluded less formally, as described above, by recommendations to public bodies for changes to their existing policies or practices. Disposition of investigations for this year is set out in Figure 14 below.

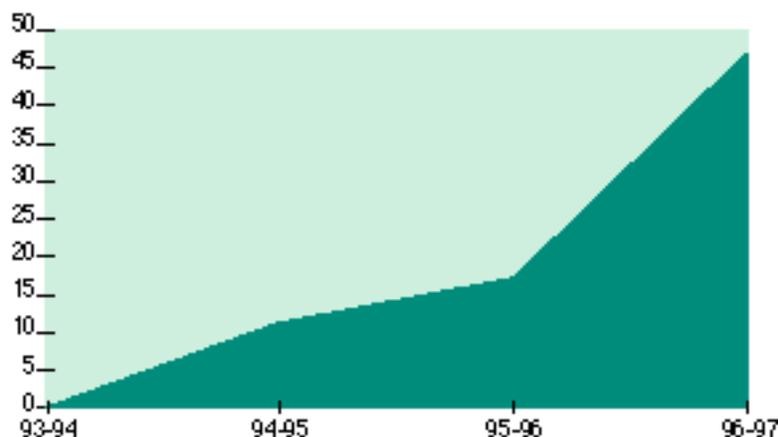
<b>Type of Settlement</b>	<b>Number</b>	<b>Percentage</b>
Completed Less Formally	15	83
Completed with Investigation Report Issued	3	17
Discontinued	0	0
<b>Total</b>	<b>18</b>	<b>100.0</b>

### Statistics of the Commissioner's Office as a Public Body

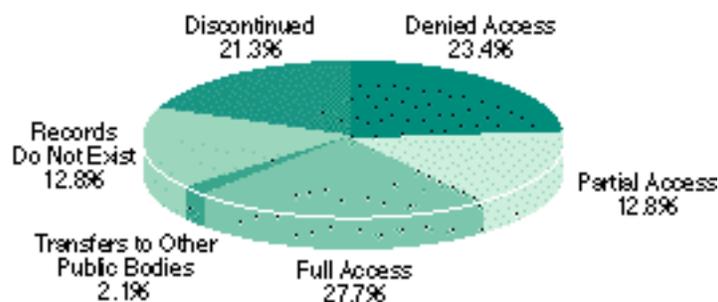
As noted earlier, the Commissioner's Office is a public body under the *Freedom of Information and Protection of Privacy Act*. Thus, like other public bodies, it is required to respond to a request for records within its own custody or control. It also may be the subject of a privacy complaint concerning its obligations under the Act.

If an applicant is not satisfied by the Office's response to his or her request or complaint, the applicant may ask the Minister responsible for the Act to designate a judge of the British Columbia Supreme Court to act as an independent adjudicator in the matter. The adjudicator has the same powers as the Commissioner to investigate and resolve requests for reviews or complaints under the Act.

From April 1, 1996 to March 31, 1997, the Office received 47 freedom of information requests for records in its custody or control. It did not receive, nor was the subject of, any privacy complaints. The 47 information requests is a substantial increase from last year's total of 18 requests. Figure 15 below illustrates the overall growth of freedom of information requests to the Office in comparison with previous fiscal years.



Of the 47 requests for information made to the Commissioner's Office this year, applicants were satisfied with its decision in 41 of them. The remaining six resulted in requests by applicants for an adjudicator. Figure 16 below sets out the disposition of requests for records to the Commissioner's Office.



The six requests for information that went to an adjudicator were the result of the Office's refusal to grant full or partial access to the records requested. In five of the six requests for an adjudicator, the original requests for records were for copies of open or closed case files. The Office refused to disclose most of these records, since they are explicitly excluded from disclosure under [section 3\(1\)\(c\)](#) of the *Freedom of Information and Protection of Privacy Act*. This section provides that the Act does not apply to a record created by or in the custody of an Officer of the Legislature that relates to the exercise of that Officer's functions under the Act.

The remaining request for an adjudicator involved an original request to the Commissioner's Office for records of the personal information of its employees, including names, ages, and educational and employment history. The Office released the names but refused to release ages, since collection of that information is not a requirement of the job. The Office also refused to release employees' educational and employment history, since it would be an unreasonable invasion of their personal privacy.

There have been no decisions on any of these adjudications as of the time of compilation of this report. However, a decision on the first request for an adjudicator in the 1995-96 fiscal year was delivered by the Supreme Court on September 6, 1996. It concerned a request for records withheld by the Office under [section 3\(1\)\(c\)](#). The court upheld the Office's decision. There have been a total of seven requests for adjudication of the Office's decisions as a public body since the Act and Office came into effect in 1993.

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(NOTE: This electronic version of the Office of the Information and Privacy Commissioner's Annual Report 1996-97 includes corrections for clerical errors that exist in the printed copy.)

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## VII. Commissioner's Orders

### Introduction

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

### The Formal Inquiry Process

A formal inquiry is similar to a court case. It is conducted by the Commissioner under [section 56](#) of the Act. The Commissioner decides whether the inquiry will be oral or written, who may make submissions, and all questions of fact and law that arise 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, but, in practice, the first portion of the 90 days is allocated to Portfolio Officers to try to resolve the dispute by mediation.

The Commissioner does not learn of any details of a request for review until it is before him in a formal inquiry. This ensures that the Commissioner remains an impartial adjudicator of the facts and issues and makes his determination independently from the mediation process.

During an inquiry, the Commissioner receives submissions on the facts and issues of a case from the applicant, the public body, and, in certain situations, third parties and intervenors. The Commissioner considers all submissions and reviews the records in dispute. He then makes an Order outlining the important issues and applicable sections of the Act, and declaring his decision whether records must be withheld or disclosed. The Commissioner also may make orders with respect to time extensions, corrections to records, and fees.

### Orders and Compliance

The Commissioner's Orders are final and binding. There is no further appeal process under the *Freedom of Information and Protection of Privacy Act*. The head of the public body must comply with the

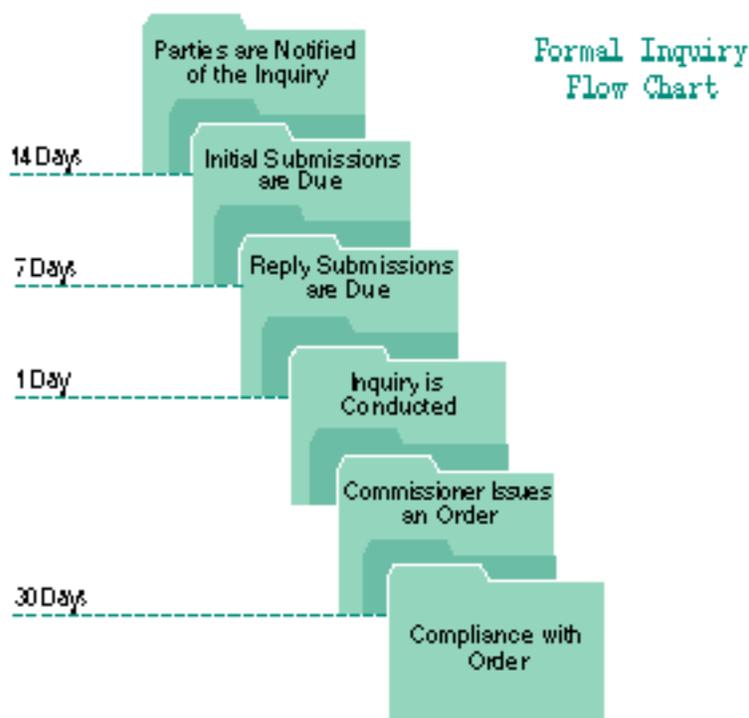
Commissioner's Order within 30 days. If the public body, applicant, or any third parties disagree with a Commissioner's Order, they may apply for judicial review of the Order in the British Columbia Supreme Court. The Commissioner's Order is then stayed until such time as the court orders otherwise. A public body or third party must apply for a judicial review within 30 days of the Order. An applicant may apply for judicial review of an Order at any time.

Between April 1, 1996 and March 31, 1997 the Commissioner issued 62 Orders. These were Orders No. 96 to 157.

## Judicial Reviews

Between April 1, 1996 and March 31, 1997 four of the Commissioner's Orders were the subject of applications to the B.C. Supreme Court for judicial review. The Orders that have been challenged are Orders No. [48](#), [108](#), [115](#), and [144](#).

Between April 1, 1996 and March 31, 1997, the B.C. Supreme Court delivered five decisions with respect to Commissioner's Orders challenged by judicial review. These decisions were for Orders No. [36](#), [48](#), [73](#), and [74](#). Orders No. [36](#) and [74](#) were overturned. [Order No. 48](#) was upheld but currently is under appeal by the applicant to the Court of Appeal. The petition for [Order No. 73](#) was dismissed. (Orders not mentioned above that were challenged in, or reviewed by, the B.C. Supreme Court in previous fiscal years include [Order No. 8](#), [22](#), [29](#), [39](#), [56](#), and [61](#)).



## Availability of Commissioner's Orders

Commissioner's Orders are available through:

- Crown Publications at: (250) 386-4636
- Quicklaw (for registered users)
- The Commissioner's Office Web Site at: <http://www.oipcbc.org>
- 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 by contacting the court registries of the British Columbia Supreme Court: Vancouver (604) 660-2845 or Victoria (250) 356-1478, or by accessing the Superior Courts website at: <http://www.courts.gov.bc.ca>. The Commissioner's Office maintains an electronic link on its web site from each order that has been judicially reviewed to the B.C. Supreme Court homepage.)

## Sample Summaries of Recent Orders

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

### A. RECORDS RELATING TO AUDITS, INVESTIGATIONS, AND REPORTS

#### **Order No. 97-1996 - A Decision by Simon Fraser University to Sever Information from a Report of a Committee**

A news editor for *The Georgia Strait* requested from Simon Fraser University the release of a 40-page report compiled by its Committee of Inquiry concerning a dispute which took place among staff and faculty members. The University released only 15 pages, stating that further disclosure would be an unreasonable invasion of the personal privacy of those involved in the inquiry.

The Commissioner found that, although small portions of the report should be withheld to protect the personal privacy of persons involved in the inquiry, the majority of the report must be released in order to comply with the accountability requirements for public bodies under the *Freedom of Information and Protection of Privacy Act*.

## **Order No. 115-1996\* - A Request for Access to a School Counsellor's Notes in School District No. 2 (Cranbrook)**

School District No. 2 (Cranbrook) refused to turn over to a parent notes taken by a counsellor at a school during interviews with the parent's two children. The District argued that, because the school counsellor refused to disclose the records to the District or the parent, it was unable to review the notes for contemplation of disclosure under the *Freedom of Information and Protection of Privacy Act*.

The Commissioner found that the counsellor's notes were records created by the counsellor in the performance of the counsellor's duties as an employee of the School District. The Commissioner therefore concluded that the notes were records "in the custody or under the control" of the District and ordered the counsellor to release them to the District.

The Commissioner emphasized that his decision that a school counsellor's notes are subject to the Act is completely separate from a decision about who can have access to the notes, whether parents or school officials, and under what circumstances.

\* This Order has been challenged by a request for judicial review in the British Columbia Supreme Court. Until the court delivers a decision, the Order is stayed.

## **Order No. 138-1996 - A Request for Review of a Decision by the Ministry of Attorney General to Refuse a Former Employee of its Corrections Branch Access to Records Pertaining to an Investigation of Workplace Harassment**

A former employee of the Corrections Branch of the Ministry of Attorney General requested records from the Ministry that had been generated during its investigation of his alleged misconduct. The request included transcripts and audio tapes of interviews with former colleagues, an investigator's handwritten notes taken during the interviews, some employees' handwritten notes, and two e-mail messages about the former employee circulated to Ministry employees.

The Ministry had already disclosed several records related to the investigation, but refused to release the remaining information to the applicant, stating that disclosure would be an unreasonable invasion of other employees' privacy and could reasonably be expected to threaten their safety or mental or physical health.

The Commissioner found that although the former employee had made submissions that there was no reason for employees to fear him, the Ministry had provided sufficient evidence of reasonable expectation of harm to employees if the contents of the records were released.

The Commissioner stated that: "I wish to be guided by the record of past performance in acting prudently in a sensitive manner, such as the present inquiry, rather than relying on promises of reformation that may not withstand the test of time. My primary concern is for the mental health and safety of the third

parties whose records have not been released to date."

## **B. RECORDS RELATING TO FINANCIAL, COMMERCIAL, OR TECHNICAL INFORMATION**

### **Order No. 104-1996 - A Request by the Media to the Ministry of Attorney General Concerning Information about Possible Sites for a Correctional Centre in the Central Okanagan**

A reporter for the Kelowna Daily Courier requested from the Ministry of Attorney General the disclosure of records containing detailed information concerning a proposed prison site in Kelowna. The applicant argued that releasing the information was in the interest of the public good, but the Ministry refused the request, stating that disclosure would be harmful to its financial or economic interests.

The Commissioner upheld the decision by the Ministry, concluding the records in question contained financial, commercial, and technical information that belonged to the Ministry and had monetary value. He also found that the release of the information could lead to premature disclosure of the prison proposals and to undue financial gain to property owners or speculators. The Commissioner further found that disclosure would reveal information about negotiations carried on by and for the Ministry.

### **Order No. 126-1996 - A Media Request for Access to All Records Concerning an Agreement Between the University of British Columbia, Coca-Cola Bottling Ltd., and other Third Parties**

A reporter from *The Ubysey* student newspaper requested all records from the University of British Columbia associated with its Cold Beverage Agreement with Coca-Cola Bottling Ltd., including contracts, negotiations, memos, reports, letters, phone conversation records, and legal advice. The University refused to disclose the 179 pages of information, stating that disclosure would be harmful to the financial or economic interests of the University and the business interests of Coca-Cola. The University also argued that some of the records were protected by solicitor-client privilege.

The Commissioner agreed with the University, finding that 173 pages of the documents were properly withheld under the financial or economic interests exceptions of the *Freedom of Information and Protection of Privacy Act*. He further found that the six remaining pages were protected from disclosure under the Act by solicitor-client privilege.

### **Order No. 142-1997 - A Refusal by the City of Victoria to Disclose Records to the Media Related to the Choice of a Contractor to Replace Memorial Arena**

A news editor from *Monday Magazine* had requested records from the City of Victoria relating to the choice of Pilot Pacific Developments Ltd. as the preferred contractor to build a new facility to replace Memorial Arena in Victoria. The requester claimed the records from the City were a matter of public interest and public accountability. The City refused to release the records, stating that disclosure would

be harmful to its financial or economic interests and the business interests of those who had submitted project proposals.

The Commissioner found that the City had inappropriately withheld a number of records from disclosure, since they contained little information about negotiations as specified in exceptions to disclosure under the Act. He further found that the City had inappropriately withheld records pertaining to the proposals by two unsuccessful firms, since they had already agreed to the release of their proposal documents.

The Commissioner ordered the City to release several of the records in full to *Monday Magazine* and to sever others for partial release. He concluded that, "the broad public interest in promoting accountability of public bodies...favour[s] disclosure in this instance, since it might reasonably be expected to protect, rather than harm, the financial or economic interests of Victoria taxpayers."

### **C. RECORDS RELATING TO HEALTH CARE**

#### **Order No. 116-1996 - A Request for Review of the College of Physicians and Surgeons of B.C.'s Decision to Refuse Access to Records Containing Information About the Accreditation of Everywoman's Health Centre**

The applicant, a pro-life activist, requested from the College of Physicians and Surgeons of British Columbia all correspondence between the College and Everywoman's Health Centre from 1990 to 1995. The College refused, stating that disclosure would be harmful to law enforcement matters, the business interests of the Centre, and individual or public safety.

The Commissioner concluded that the College's procedure for accreditation of particular bodies was not a law enforcement investigation as defined in the *Freedom of Information and Protection of Privacy Act*. He also found that disclosure of the information would not be harmful to the business interests of the Centre. The Commissioner agreed, however, that the College should withhold a few items of information from disclosure, since its release would pose a threat to the health or safety of individuals.

#### **Order No. 144-1997 - An Applicant and a Third Party's Request for a Review of Decisions Made by Greater Vancouver Mental Health Services Society with Respect to Access to a Complaint File**

The applicant, a patient, had filed a complaint with the Greater Vancouver Mental Health Services Society (GVMHS) about the treatment she received from her psychiatrist. She requested the records of the subsequent investigation of her complaint by the GVMHS in order to determine if the GVMHS had "properly and adequately" assessed her complaints and standard of care. The GVMHS disclosed some of the records to the patient, but refused to release more, stating that it would reveal policy advice and unreasonably invade the personal privacy of the psychiatrist.

The Commissioner found that some of the records in dispute should be released to the patient, including

the name of the consultant hired during the investigation. He stated: "In the present inquiry, I am persuaded that the *Freedom of Information and Protection of Privacy Act* militates in favour of disclosure of the identity of the consultant, because the personal information is relevant to a fair determination of the applicant's rights."

The Commissioner also found that the GVMHS had appropriately withheld other records under the Act, stating that: "While I have considerable sympathy with the applicant's wish to view exactly what her former psychiatrist has argued or reported with respect to this specific complaint,...the GVMHS has the basic responsibility for processing this complaint and is entitled to a considerable amount of discretion and confidentiality in the process."

#### **D. RECORDS RELATING TO LAW ENFORCEMENT**

##### **Order No. 125-1996 - A Decision of the Vancouver Police Department to Withhold Law Enforcement Records from an Applicant**

An applicant who was convicted in 1983 of multiple counts of rape, attempted rape, and indecent assault, and who is an inmate of dangerous offender status at a federal correctional facility, requested investigation records from the Vancouver Police concerning his past convictions, prosecution, and trial. He claimed that Vancouver Police and other individuals were part of a conspiracy against him.

The police refused to disclose the records, stating that disclosure would reveal law enforcement investigative techniques and would be an unreasonable invasion of the victims' personal privacy. The Commissioner agreed with police, concluding that disclosure could reasonably be expected to harm the effectiveness of police investigative techniques and would invade the personal privacy of victims.

##### **Order No. 141-1996 - A Decision of the Vancouver Police Department to Sever and Withhold Records from an Applicant Relating to a Hiring Application, and the Adequacy of its Search of Records**

The applicant, a former police officer, had requested from Vancouver Police "any and all documents regarding his past employment with the Department...including all personnel, recruiting, and internal investigations records pertaining to [his] personal conduct and work habits." Vancouver Police disclosed 632 of the 945 pages of records, arguing that the information it was withholding had been compiled as part of an "investigation into a possible violation of law." It also argued that disclosure of records about its hiring process would "result in obvious risks to public safety and public confidence in the police."

The Commissioner rejected the police department's argument, stating that the withheld records "were not even remotely compiled as part of an investigation." He also rejected the Department's submission that "the real issue in this inquiry is greater social interest in protecting the hiring process for sworn municipal constables pursuant to s.26 of the *Police Act*...as opposed to the applicant's right to access information

pursuant to the *Freedom of Information and Protection of Privacy Act*."

The Commissioner stated: "Whatever the ultimate merits of this argument, it is obviously not one that moved the Legislature in the province when it enacted the *Freedom of Information and Protection of Privacy Act*. There is no 'notwithstanding clause' in the Act that makes it subordinate to the *Police Act*."

## **E. DELETED RECORDS**

### **Order No. 121-1996 - A Decision by the Ministry of Agriculture, Fisheries and Food to Refuse Access to Computer Backup Tapes Containing Deleted E-mail**

The applicant had submitted a request to the Ministry of Agriculture, Fisheries and Food for all records in the British Columbia Systems Corporation (BCSC) which contained deleted e-mail originating from, and received by, four named individuals on various topics. The Ministry refused to disclose the records, stating that re-creating the deleted electronic files went beyond the technical capabilities of its normal hardware and software and would reasonably interfere with its operations.

The Commissioner upheld the Ministry's decision, stating that the applicant's request would have required a sizable six-month search of deleted e-mail that was beyond the normal hardware, software, and technical capabilities of the Ministry.

The Commissioner stated: "When a request for access is received, a public body has an obligation under...the Act to locate any records, manual or electronic, that are responsive to the request. For electronic records, this should include extant data that have been deleted from a system but are still readily retrievable, and records on archive or backup tapes that are also readily retrievable without excessive efforts...but I reiterate that unless a particular e-mail system in fact makes it relatively easy to retrieve deleted records from a wastebasket or archived or backup tapes, then there is no obligation on a public body to make an effort under...the Act."

## **F. FEES AND REQUESTS FOR FEE WAIVERS**

### **Order No. 154-1997 - A Decision by the Ministry of Forests to Deny a Request for a Fee Waiver from an Applicant Seeking Records Related to Clayoquot Sound**

A political science professor from the University of Victoria requested records from the Ministry of Forests related to Clayoquot Sound. He was told that he could review them for a fee of \$1410.00, a fee the Ministry stated was to account for staff time required to prepare the records and supervise their viewing. The professor requested that the Ministry waive the fee in the public interest, stating that he planned to catalogue the files for academic and archival (public) use. The Ministry refused.

The Commissioner found that the Ministry had not properly exercised its discretion to waive a fee for public interest reasons under the Act. He concluded that the applicant had succeeded in making a "reasonable and reasoned effort" in demonstrating why his request for records related to a matter of public interest and therefore justified a fee waiver.

The Commissioner stated that: "Establishing an Archive is a particularly useful way to serve the public interest, since such a variety of communities, from First Nations to local communities, and forest companies, can use it."

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## VIII. Section 43 Authorizations

### Introduction

Under [section 43](#) of the *Freedom of Information and Protection of Privacy Act*, the Commissioner may authorize a public body to disregard requests for records that, because of their repetitious or systematic nature, would unreasonably interfere with the operations of the public body.

During the past year, the Commissioner authorized five different public bodies to disregard repetitious or systematic requests from particular applicants. The public bodies that requested and were granted the Commissioner's authorization were: BC Hydro; the Ministry of Employment and Investment; the Vancouver School Board; BC Transit\*; and the Ministry of Agriculture, Fisheries, and Food. The terms of the authorizations to disregard requests for records varied in each circumstance, but the common elements were that the applicants were denied: (i) the right to responses by a public body with respect to all outstanding requests for records relating to a particular matter, and (ii) all future requests of any kind for a period of one year.

### The [Section 43](#) Authorization Process

A public body's request for a [section 43](#) authorization is processed within the Office in much the same way as a request for review, except that the Office's policy is to try to process and conclude a [section 43](#) request within 30 days instead of 90. When the Office receives a [section 43](#) request, an Intake Officer assigns it to a Portfolio Officer, who reviews it and contacts the public body and applicant to try to assist them to resolve the matter by mediation. Some [section 43](#) requests have been settled this way. If the matter cannot be settled informally, then it proceeds to a formal inquiry before the Commissioner where parties are required to make submissions and provide evidence to substantiate their respective cases. The Commissioner reviews the submissions and evidence and then issues a binding decision.

There was only one [section 43](#) authorization issued by the Commissioner in previous fiscal years. It was granted to the British Columbia Lottery Corporation in 1994.

\* The [section 43](#) authorization granted to BC Transit has been challenged by the applicants in an application to the British Columbia Supreme Court for judicial review of the authorization. As of the date of compilation of this report, the court had not delivered its decision.

## SAMPLE SECTION 43 AUTHORIZATIONS

There are three sample [section 43](#) authorizations set out below, listed by date of the authorization. The names of applicants and third parties are severed to protect their privacy. The text of all [section 43](#) authorizations issued by the Commissioner can be located on the Office's web site at: <http://www.oipcbc.org>.

August 23, 1996

**In the Case of an Application for Authorization to Disregard Requests from [a Respondent] under [Section 43](#) of the *Freedom of Information and Protection of Privacy Act* (the Act) by [the] Assistant Deputy Minister, Ministry of Employment and Investment**

I have had the opportunity of reviewing the application under [section 43](#) of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard [section 5](#) requests made by [the respondent].

[Section 43](#) gives me the power to authorize a public body to disregard requests under [section 5](#) that, because of their repetitious or systematic nature, would unreasonably interfere with the operations of the public body, in this case the Ministry of Employment and Investment (the Ministry).

Since the purpose of the Act is to make government bodies more accountable to the public by giving the public a right of access to records, authorization to disregard requests for records must be given sparingly and only in obviously meritorious cases. Granting [section 43](#) requests should be the exception to the rule and not a routine option for public bodies to avoid their obligations under the legislation.

Based on a detailed review of the submissions and the response of [the respondent], the following factors have led me to decide that [the respondent]'s access requests are repetitious, systematic, and unreasonably interfere with the operations of the Ministry:

1. The Reasons for Decision and Determination of the Chief Gold Commissioner in the dispute between [third parties] and [the respondent], dated November 25, 1994.
2. The Supreme Court of British Columbia's dismissal of [the respondent]'s petition to judicially review the order of the Chief Gold Commissioner, [date].
3. The evidence that [the respondent] is trying to use the Act to prove that the determination made against [the respondent] by the Chief Gold Commissioner was wrong and that the Chief Gold Commissioner, along with other Ministry staff, were biased and acted improperly and criminally.

4. [The respondent] has made 43 percent of the total number of requests for records to the Ministry over the last 2.5 years for a total of 145 requests up to July 25, 1996. This includes 40 requests between June 13, 1996 and July 25, 1996.
5. The Ministry conservatively estimates that it has spent 500 hours responding to [the respondent]'s requests and that to answer [the respondent]'s outstanding requests would require an additional 120 hours.
6. The evidence that [the respondent] is habitually, persistently, and in bad faith making excessive and irrational requests and demands on the Ministry.
7. The evidence that responding to [the respondent]'s requests has dramatically limited the time that the Ministry's staff can devote to requests from other applicants.
8. The evidence that [the respondent] is not using the Act for the purpose for which it was intended and that any further continuations of these actions could place the Act in great disrepute.
9. The evidence that the Ministry has exercised considerable restraint and has made every effort to assist [the respondent] and to respond without delay to [the respondent] openly, accurately, and completely.
10. Finally, I reject the submission of [the respondent] that my Office is biased against [the respondent] in any way or in some kind of conflict of interest.

Therefore, I authorize the Ministry to disregard the following:

1. All outstanding requests for records by [the respondent].
2. All future requests for records which relate to mineral claims of [the respondent], the dispute with [third parties], and the allegations of wrongdoing by the Ministry.
3. All requests for any kind for a period of one year by [the respondent]. The above apply to requests for records made by [the respondent], [four named parties associated with the respondent], or any other request in which [the respondent] is the "directing mind."

August 30, 1996

**In the Case of an Application for Authorization to Disregard Requests from [a Respondent] under Section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) by the Vancouver**

## School Board (VSB)

I have had the opportunity of reviewing the application of the Vancouver School Board under [section 43](#) of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard [section 5](#) requests made by [the respondent].

[Section 43](#) gives me the power to authorize a public body to disregard requests under [section 5](#) that, because of their repetitious or systematic nature, would unreasonably interfere with the operations of the public body, in this case the Vancouver School Board.

Since the purpose of the Act is to make government bodies more accountable to the public by giving the public a right of access to records, authorization to disregard must be given sparingly and only in obviously meritorious cases. Granting [section 43](#) requests should be the exception to the rule and not a routine option for public bodies to avoid their obligations under the legislation.

Based on a review of the submissions of the Vancouver School Board, its documentation of each access request made by [the respondent], and [the respondent]'s extensive response to the Vancouver School Board's submissions, the following factors have led me to decide that [the respondent]'s access requests are repetitious, systematic, and unreasonably interfere with the operations of the School Board:

1. The Vancouver School Board spent well over 100 hours responding to [the respondent]'s 21 requests in 1995, plus hours spent on mediation, and over 90 hours of staff time in participating in [Order No. 110](#)-1996, June 5-1996.
2. [The respondent]'s access requests comprised over 60 percent (21 of 34) of the formal requests to the Vancouver School Board in 1995 and 75 percent (9 of 12) of the requests received so far in 1996. The Vancouver School Board has already responded to 6 of the latter. Overall, [the respondent] has made 65 percent (30 out of 46) of the access requests to the Vancouver School Board in 1995-96. [The respondent] submitted another request on July 24, 1996.
3. My conclusion based on the evidence submitted by the Vancouver School Board and [the respondent] is that [the respondent] is not using the Act for the purposes for which it was intended and that [the respondent] is not, indeed, acting in good faith. (See [Order No. 110](#)-1996, June 5-1996, pp. 5-6)
4. My conclusion based on the evidence submitted by the Vancouver School Board and [the respondent] is that [the respondent] is using the Act as a weapon against the Vancouver School Board after an episode in the workplace that has left [the respondent] unhappy and preparing to arbitrate a claim of unjust dismissal.

5. The evidence submitted by the Vancouver School Board is that the systematic and repetitious nature of [the respondent]'s requests to the Vancouver School Board and of [the respondent]'s appeals at its responses is unreasonably interfering with the operations of the Vancouver School Board.

6. My conclusion based on the evidence submitted by the Vancouver School Board is that [the respondent] is habitually, persistently, and in bad faith making excessive and irrational requests and demands on the Vancouver School Board. For purposes of this conclusion, I have adopted the tests of reasonableness and abuse of process set out by Ontario Information and Privacy Commissioner, Tom Wright, in Order M-618, October 18-1995, involving the London Police Services Board.

7. The evidence submitted by the Vancouver School Board that responding to [the respondent]'s requests has dramatically limited the time that the Vancouver School Board's staff can devote to requests from other applicants under the Act.

8. My conclusion based on the evidence submitted by the Vancouver School Board and [the respondent] is that [the respondent] is not using the Act for the purpose for which it was intended and that any further continuation of these actions could place the Act in disrepute. The Act must not become a weapon for disgruntled individuals to use against a public body for reasons that have nothing to do with the Act.

9. The evidence submitted by the Vancouver School Board is that it has exercised considerable restraint and has made every effort to assist [the respondent] and to respond without delay to [the respondent] openly, accurately, and completely.

10. Finally, I reject the submission of [the respondent] that my Office has treated [the respondent] unfairly. On the basis of the materials submitted by [the respondent], I have concluded that my staff has acted appropriately and fairly in its administration of the application.

Therefore, I authorize the Vancouver School Board to disregard the following:

1. All outstanding requests for records by [the respondent].
2. All future requests for records which relate to the Carnegie Community Centre and the Carnegie Adult Learning Centre.
3. All requests of any kind by [the respondent] for a period of one year.

March 7, 1997

**In the case of an Application for Authorization to Disregard Requests from [the respondent] under [Section 43](#) of the *Freedom of Information and Protection of Privacy Act* by the Ministry of Agriculture, Fisheries and Food**

I have had the opportunity of reviewing the application of the Ministry of Agriculture, Fisheries and Food under [section 43](#) of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard requests made under [section 5](#) of the Act by [the respondent].

[Section 43](#) gives me the power to authorize a public body to disregard requests made under [section 5](#) that, because of their repetitious or systematic nature, unreasonably interfere with the operations of the public body, in this case the Ministry of Agriculture, Fisheries and Food.

Since the purpose of the Act is to make government bodies more accountable to the public by giving the public a right of access to records, authorization to disregard requests must be given sparingly and only in obviously meritorious cases. Granting [section 43](#) requests should be the exception to the rule and not a routine option for public bodies in meeting their obligations under the legislation.

Based on a review of the submissions of the Ministry of Agriculture, Fisheries and Food (the Ministry), its documentation of each access request made by [the respondent], and [the respondent's] response to the Ministry's submissions, the following factors have led me to decide that [the respondent's] access requests are repetitious, systematic, and unreasonably interfere with the operations of the Ministry:

1. During 1996 the Ministry received 68 formal requests for access under the Act, 44 of which were from [the respondent] (65 percent). Ten of these were outstanding on January 16, 1997, the date of the Ministry's application for a [section 43](#) ruling. The Ministry's conservative estimate is that in 1996 it spent more than 400 hours responding to these particular requests. (Submission of the Ministry, para. 2.16) I agree with the Ministry that [the respondent] is making excessive demands on the resources that it has decided that it can devote to implementation of the Act. (Submission of the Ministry, para. 2.16 to 2.18)
2. Since August 1994 [the respondent] has made a total of 62 requests to the Ministry. They deal with [the respondent's] perception of [the respondent's] unfair treatment, harassment, or discrimination by the Ministry. I accept the Ministry's judgment that [the respondent] "clearly appears to be fishing for records in an attempt to confirm [the respondent's] allegations or suspicions of wrongdoing." (Submission of the Ministry, para. 2.07) I further agree that these requests are repetitious in nature. See [Order No. 137-1996](#), December 17, 1996, p. 10.
3. The Ministry has worked extensively with portfolio officers from my Office in mediation with [the respondent]. These have largely proven unsuccessful. [The respondent] has apparently requested reviews or made complaints to my Office on 14 occasions, 7 of the issues which have

resulted in Orders by me and 3 of which remain open.

4. After January 16, 1997 mediation efforts of the application for the [section 43](#) ruling involving my Office, [the respondent], and the Ministry failed.

5. On February 7, 1997 [the respondent] requested the Ministry to freeze all e-mail backup tapes and any other form of record pending an investigation [the respondent] has requested into the e-mail system. I have previously issued several Orders on this type of issue, one of them involving [the respondent]. See [Order No. 121](#)-1996, September 3, 1996.

6. The evidence submitted by the Ministry that [the respondent] has made systematic requests, including directing requests be submitted under a variety of names.

7. The evidence that [the respondent] is trying to use the Act as a weapon against the Ministry in retaliation for decisions that it has made involving [the respondent]. (Submission of the Ministry, para. 2.10) See Order No. 110-1996, June 5, 1996, pp. 3, 4; [Order No. 137](#)-1996, December 17, 1996, pp. 10, 13.

8. I agree with the submission of the Ministry that it should not be required to carry out the tedious, time-consuming, and costly task of responding to [the respondent] under the Act, when it is clear that [the respondent] is habitually and persistently making excessive and irrational requests and demands on the Ministry. (Submission of the Ministry, para. 2.15)

9. I agree with the Ministry's submission that [the respondent] is not using the Act for the purposes for which it was intended and that any further continuation of these actions by [the respondent] places the Act, unequivocally, in great disrepute. (Submission of the Ministry, para. 2.10).

10. In summary, I find that the access requests of [the respondent] are repetitious, systematic, and unreasonably interfere with the operations of the Ministry.

Therefore, I authorize the Ministry to disregard the following with respect to [the respondent]:

1. All outstanding requests for records.
2. All future requests for records which relate in any way to past supervisors, co-workers, and the Personnel Branch of the Ministry.
3. All requests of any kind for a period of one year to end one year after the date of this decision.

## **Procedural Objection**

[The respondent] sought a postponement of this inquiry. I refused to do so after considering [the respondent's] reasons and the objections of the Ministry. Upon request, I expanded on my reasons for this decision in a letter to [the respondent] dated February 18, 1997. [The respondent's] view is that my decision on this matter was not fair and impartial. I disagree.

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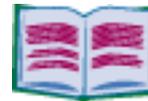
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## LEGISLATION

The *Freedom of Information and Protection of Privacy Act*, which came into effect in the British Columbia in 1993, provides specific information and privacy rights with regards to information that is collected or controlled by public bodies in British Columbia. The link below takes you to the Act.

The Act is in .pdf format and requires [Acrobat Reader](#) to view. Please download free Acrobat Reader software at this link:



- [The Act](#) (pdf)

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# IX. Investigation Reports

## Introduction

Under [sections 42\(1\)](#), 42(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 the result of complaints, 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 ways in which public bodies are implementing the Act and to offer them guidance in managing difficult information and privacy issues.

## Sample Summaries of Recent Investigation Reports

### **Investigation Report P96-007: Delay in Responding to General Requests by the (Former) Ministry of Social Services (November 6, 1996)**

In September 1995, the Commissioner received a complaint from the *Vancouver Sun* that the (former) Ministry of Social Services had not responded to its request for information within the 30-day time-frame, nor had it notified the newspaper of any extension as required by the *Freedom of Information and Protection of Privacy Act*. A review of the situation by the Commissioner's Office revealed that the *Vancouver Sun's* situation was not an isolated event. The Ministry was processing a large number of its requests for general information beyond the 30-day time-limit. The delays were attributable, in part, to the cumbersome sign-off procedure within the Ministry, which required that eight different managers review a file before the Ministry would disclose records.

The Commissioner's Office discussed the delays with the Ministry and provided recommendations to remove the procedural hurdles. The Ministry agreed to implement a number of corrective procedures, including:

- designating alternative signing authorities;

- designating follow-up responsibilities to the Manager of Executive Operations;
- allowing for a 48-hour time-frame for a member of the Executive to raise issues or concerns;
- implementing a request tracking system; and
- requiring additional training for all Executive Support Staff.

The Commissioner was satisfied with the Ministry's efforts to change its procedures and, now that its responsibilities have been transferred to the Ministry of Human Resources and the Ministry of Children and Families, expects both new ministries to meet the time requirements of the Act. With respect to the Ministry of Children and Families in particular, the Commissioner stated that he will continue to monitor its sign-off procedures in order to ensure that further difficulties do not arise from the complex sign-off structure still in place.

### **Investigation Report P97-008: Report on an Investigation by the Office of Information and Privacy Commissioner into Privacy Complaints Concerning the Career and Personal Planning (CAPP) Curriculum of the Ministry of Education, Skills and Training (March 3, 1997)**

This investigation arose due to numerous privacy complaints to the Commissioner's Office from parents who were concerned about the potential invasiveness of the Ministry of Education, Skills and Training's Career and Personal Planning (CAPP) curriculum into the personal lives of students and their families and friends.

After an investigation and discussions with the Ministry, the Commissioner concluded that the CAPP curriculum does not violate the principles and practices of the *Freedom of Information and Protection of Privacy Act*. The Commissioner suggested to the Ministry, however, that teachers and students would benefit from detailed privacy guidelines on the implementation of the CAPP curriculum, in order to ensure awareness of the standards for appropriate collection, use, and disclosure of personal information under the Act.

The Commissioner's more detailed recommendations include:

- ensuring that any personal information used in assessing students' progress in the CAPP curriculum is relevant, up-to-date, accurate, and complete;
- informing students of their right to request the correction or annotation of their personal information in records in the custody or under the control of a school;
- providing proper physical security for personal information in order to prevent unauthorized access, collection, use, disclosure, or disposal of personal information; and
- ensuring that students' personal information gathered for the CAPP curriculum is used only for activities directly associated with the CAPP curriculum.

The Ministry accepted the Commissioner's recommendation to create detailed privacy guidelines for teachers in the implementation of the CAPP curriculum. Further, some parents had also expressed particular concern about schools recording students' Personal Education Numbers (PEN) with the

apparent purpose of linking students' names to their CAPP files throughout their school years. The Ministry indicated that it was prepared to eliminate references to the PEN in all CAPP materials.

## **Investigation Report P97-008: Complaints Against the Insurance Corporation of British Columbia Concerning the Customer Satisfaction Survey (March 18, 1997)**

This investigation arose due to privacy complaints from individuals who had been contacted by a survey research company following their participation in the insurance claim process. The complainants objected to the Insurance Corporation of British Columbia's disclosure of their personal information to the company.

After an investigation and discussions with ICBC, the Commissioner concluded that ICBC's practices do not violate the *Freedom of Information and Protection of Privacy Act*. He recommended, however, that ICBC notify insured drivers that, as customers of the Crown corporation, they may be contacted by survey research companies that it contracts with to perform customer service surveys. The Commissioner also recommended that ICBC provide insured drivers with written notice of their right to "opt-out" of being contacted for survey research.

The Commissioner stated that: "The right to 'opt-out' of the survey research program gives insured drivers better control over the use of their personal information. Survey research is an important function of ICBC, as well as of many of the Crown corporations in British Columbia. I support these survey research programs, as long as they use personal information strictly within the guidelines of the Act."

The report also detailed further recommendations, such as that ICBC should not provide its survey research contractor with the licence plates numbers or insurance policy numbers of insurance claimants, or any other personal information not strictly necessary for its customer service surveys. It also called for all public bodies to incorporate the privacy provisions of the *Freedom of Information and Protection of Privacy Act* into contracts with private sector bodies.

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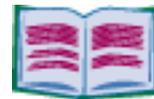
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# X. Site Visits

## 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 2,200 public bodies under his jurisdiction. The Commissioner continues 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 activities.

## Format for 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:

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

The Office can 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, where the Commissioner and/or his staff have uncovered specific concerns, the Office has discussed those concerns with the public body immediately and conducted follow-up activities to ensure compliance.

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.

## Site Visits to Particular Public Bodies

Some of the public bodies the Office visited this past year include: Malaspina College; University of Victoria; University of British Columbia; Simon Fraser University; Selkirk College; Northern Lights College; Regional District of Nanaimo; District of Sechelt; District of Port Hardy; District of Campbell River; District of Saanich; City of Courtenay; City of Parksville; City of Nanaimo; City of Victoria; City of Vancouver; Town of Qualicum Beach; Town of Port McNeil; Town of Gibsons; Esquimalt Municipal Police Department; Vancouver Police Department; Dawson Creek and District Hospital; Port Hardy Hospital; Port McNeil and District Hospital; Campbell River & District General Hospital; St. Joseph's Hospital (Comox); St. Mary's Hospital (New Westminster); Nanaimo Regional General Hospital; St. Paul's Hospital (Vancouver); Burnaby Hospital; Richmond Hospital; BC Cancer Agency; Justice Institute of B.C.; School District 68 (Nanaimo); Workers' Compensation Board; BC Transit; and the Ministries of Attorney General, Health, (the former) Social Services, and Small Business, Tourism and Culture.

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# XI. 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 access to information or the protection of privacy implications of: (i) a public body's proposed legislative schemes or programs; (ii) its automated systems for the collection, storage, analysis, or transfer of information; and (iii) its use or disclosure of personal information for record linkage. The Commissioner also has a mandate to inform the public about the Act under [section 42\(1\)\(c\)](#). Typically, the Office fulfills this advisory role by consulting directly with public bodies. However, at times, it engages in public discussion of certain issues as warranted.

## The Advice-Giving Process

Advice-giving has become one of the main activities of the Commissioner's Office with respect to both access to information and privacy issues. Public bodies regularly seek advice on large and small issues. The Office also offers advice to public and private sector organizations on adopting privacy sensitive practices, such as strong security for personal information held in automated systems. Further, the Office encourages public bodies planning various initiatives in information-handling (however peripheral to the main purpose of such an activity) to consult with the Office at an early stage in the process, so that it may provide some guidance on potential information or privacy problems. The Office especially encourages public bodies to prepare privacy-impact assessments in such circumstances.

The Office also reviews all new bills introduced in the Legislature for their implications for access to information and privacy protection. Fortunately, government ministries often consult with the Office prior to introducing such statutory or regulatory changes.

## Recent Matters for Advice

In the summer of 1996 various legislative proposals for data matching attracted the Office's attention. The Office's subsequent commentary and advice led the Ministers responsible to introduce changes to the bills and to enter into undertakings to consult with the Office before implementing certain practices, especially in Memorandums of Understanding with other governments or public bodies. The *Income Tax Amendment Act*, the *B.C. Benefits (Child Care) Act*, the *B.C. Benefits (Income Assistance) Act*, and the *Disability Benefits Program Act* were the centres of our attention in this regard.

Due to the sensitivity of health information, the Office has been especially active during the past year regarding such matters as reviewing the model bylaws for privacy protection under the *Health Professions Act*; the development of a model privacy code for physicians in their private offices; the development of information-sharing protocols within and among such ministries as the Ministry of Children and Families and the Ministry of Health; the drafting of guidelines for contractors handling personal information in the custody and control of certain Crown corporations; and advising on provisions for draft research agreements involving Simon Fraser University and certain hospitals.

The Office also reviewed and commented on other various issues, including: the federal government's creation of a permanent voters list; the *Motor Vehicle Amendment Act*; the Canadian Radio-television and Telecommunications Commission's proposed policy to disclose directory information to private directory companies and to charge subscribers for having unlisted phone numbers; inter-ministry guidelines for the residential care of children and youth; the British Columbia Colleges and Institutes Counsellors' Association's code of ethics to ensure that it reflected fair information practices; and an internal audit report concerning security at the Centre for Health Services and Policy Research at the University of British Columbia. The Office also consulted on software and security issues with organizations as diverse as St. Mary's Hospital (New Westminster), Castlegar Child and Family Court Services, the City of Burnaby, and the Canadian Association for the Advancement of Computers in Health (COACH).

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## XII. Informing the Public

### Introduction

Under [section 42\(1\)\(c\)](#) of the *Freedom of Information and Protection of Privacy Act*, the Commissioner has a mandate to inform the public about the Act. The Commissioner and staff of the Office fulfill this function through speaking engagements and participation in conferences, seminars, and workshops; interactions with the media; and by producing various public education materials, such as brochures, information kits, and research reports.

This past year, the Commissioner's Office made presentations to a variety of different groups and organizations. In addition, the Office hosted two conferences and engaged in new initiatives to encourage awareness of information and privacy rights at both the individual and community level in British Columbia. It produced a new information and privacy rights brochure and an updated information kit; coordinated two educational public forums on information and privacy rights, one for the general public and one for cultural communities; arranged a series of educational workshops; added more information to its web site, and released a research report on the information and privacy concerns of specific cultural communities.

### Conferences

The Office co-hosted an international privacy conference with the University of Victoria from May 9-11, 1996, entitled *Visions for Privacy in the 21st Century: The Search for Solutions*. The conference attracted numerous national and international experts, such as the Data Protection Registrar of the United Kingdom, the Federal Data Protection Commissioner of Germany, the Privacy Commissioners of Australia, Canada, Ontario, Quebec, and New Zealand, the Director General of Data Protection in Sweden, and many other academic specialists from around the world. The conference featured such topics as: Identity Cards: Their Challenge to Privacy; Marketing Privacy: Is Data Protection in the Interests of Business?; Surveillance by Design? Technological Imperatives and the Boundaries of Personal Privacy; and The Globalization of Privacy Solutions: The EU Directive on Data Protection and North American Responses.

The conference was attended by local, provincial, national, and international officials, members of the public, and media. Some of the best theorists and practitioners of privacy protection today were able to express and exchange views on the future of privacy in a changing world of new information

technologies and shrinking boundaries. A book of essays from the conference, edited by Professors Colin Bennett and Rebecca Grant, is in preparation for publication.

In September and October of 1996, the Office hosted its third annual information and privacy conference, entitled *Access and Privacy Conference 1996: Current Trends and Practices from a Local Public Body Perspective*. It was intended primarily for the education of all local public bodies covered by the *Freedom of Information and Protection of Privacy Act*, such as municipalities, hospitals, schools, colleges, universities, and municipal police. It also included sessions relevant to other public bodies covered by the Act, such as provincial government and self-governing professional bodies. The purpose of the conference was to re-enforce public bodies' awareness of the requirements of the *Freedom of Information and Protection of Privacy Act* and to educate them further about particular types of issues, requests, or complaints that can arise. Some of the sessions included: The Mediation and Inquiry Process; Routine Disclosure; Creating and Managing Complaint Records; FOI as a Litigation Tool; and the Information and Privacy Rights of Children. The conference also promoted awareness of global privacy issues, such as Data (Personal Information) Sharing, and Trends and Impact of Technology.

The Office held its 1996 conference in three locations: Prince George, Castlegar, and Burnaby, in an effort to reach out to local public bodies serving communities throughout the province. Planning is currently underway for the fourth annual conference, scheduled for October 8 and 9, 1997. Details of upcoming conferences are available on the Office's web site at: <http://www.oipcbc.org>. Interested individuals also may contact the Office directly using the contact information set out in Appendix G of this report.

## **Information and Privacy Rights Brochure**

This year the Office issued a new brochure, entitled: *Your Information and Privacy Rights: A Brief Guide to the Office of the Information and Privacy Commissioner and the Freedom of Information and Protection of Privacy Act*.

Its purpose is to provide individuals with an informative and easy-to-follow publication that clearly sets out their information and privacy rights under the Act, and that describes the role and mandate of the Commissioner's Office.

The brochure focuses on questions most commonly asked of the Office, such as how to request records, how to make a privacy complaint, and how to request a review of a public body's decision about records. It also explains the Office's use of mediation as the primary means of settling disputes and the Commissioner's ultimate role as a quasi-judicial decision-maker. The brochure emphasizes the general right of access to most records in the custody or under the control of public bodies and lists the central principles for the protection of the privacy of personal information. The brochure also tells readers how to contact or get more information about the Office by telephone, facsimile, mail, e-mail, or web site.

The brochure was issued in February of 1997 and is currently being disseminated to most community

law, community justice, and human rights groups, as well as to those government agencies directly serving the public. It also has been translated into Chinese and Punjabi. Any individuals or groups who would like to obtain copies of the brochure in any of these languages are invited to contact the Office by telephone, facsimile, mail, or e-mail, as set out in Appendix G of this report.

## **Research Report: Information and Privacy in Cultural Communities**

In March of 1997 the Office released a report entitled *Information and Privacy in Cultural Communities: A Report of Research into Information and Privacy Concerns in Chinese- and Indo-Canadian Communities in B.C.* The purpose of the report was to address the Office's concern that, while it has had some success in encouraging more and more British Columbians to become aware of their rights under the *Freedom of Information and Protection of Privacy Act*, it has been less successful in raising awareness about the legislation in cultural minority communities in British Columbia. The modest goal of the report was to investigate the information and privacy concerns of two of the province's largest cultural communities and to suggest how the Office could respond more effectively to those concerns.

The report focused on the Chinese- and Indo-Canadian communities, since they are the two largest cultural minorities in British Columbia, and because they have relatively well-developed media available to report on freedom of information and protection of privacy matters. The report utilized survey, interview, and other primary research methodologies and focused on interviews with service providers, community leaders, and cultural media. The report made three key recommendations based on its findings: (i) that the Office should develop culturally competent services; (ii) that it should remove barriers to accessing its services; and (iii) that it should supplement its current public education efforts.

The Office has already taken steps to address these recommendations by implementing many of the report's more specific suggestions, such as adopting a multiculturalism policy for the Office; developing resources for staff on the influence of cultural norms, traditions, and perceptions in the mediation process; translating the brochure into Chinese and Punjabi; and partnering with community agencies and cultural media to deliver information to settlement workers and community members. The Office is currently working to broaden and fulfill all of the goals of the report and welcomes requests by individuals or groups for more information about the Office or assistance. Those interested in a copy of the report itself are invited to contact the Commissioner's Office by telephone, facsimile, mail, or e-mail, as set out in Appendix G.

## **Web Site**

The Commissioner's Office continues to update its web site with new and relevant information. The purpose of the web site is to increase public awareness of the *Freedom of Information and Protection of Privacy Act* by making information about it and the Office as widely accessible as possible. This year the Office added the following new material to its web site: news releases for the Orders and Investigation Reports; updated Office Policies and Procedures; a list of [section 43](#) authorizations; and an electronic version of the new information and privacy rights brochure. The Office also regularly updates the

existing list of Orders, Investigation Report, and related reference tables each time a new Order or Investigation Report is issued.

Frequent users of the web site will know already that the Office recently changed its web site address. The new address is <http://www.oipcbc.org>. It is the acronym for the Office of the Information and Privacy Commissioner for British Columbia and thus easier to remember and access for those who found the past address (<http://www.cafe.net/gvc/foi>) confusing.

Currently the web site includes the following relevant materials:

- the *Freedom of Information and Protection of Privacy Act*
- the Commissioner's Orders
- the Commissioner's Investigation Reports
- news releases for Orders and Investigation Reports
- [section 43](#) authorizations
- a Table of Concordance cross-referencing sections of the Act with the Orders
- copies of the Commissioner's speeches and presentations
- the Office's Annual Reports: 1994-95, 1995-96, and 1996-97
- the Office's Policies and Procedures
- information about information and privacy conferences and events
- links to other major information and privacy web sites in Canada and around the world

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## **XIV Towards the Future**

### **The Four-Year Legislative Review of the *Freedom of Information and Protection of Privacy Act***

[Section 79](#) of the *Freedom of Information and Protection of Privacy Act* states that a Special Committee of the Legislative Assembly must begin a review of the Act within four years after it becomes effective. Since the Act became effective in October of 1993, the Legislature should appoint such a Committee by October of 1997. [Section 79](#) also sets out that the Committee must submit a report of its review to the Legislative Assembly one year after the commencement of the review, and that the report must include any amendments to the Act that the Committee recommends.

Once the Committee is appointed, the Commissioner's Office anticipates that it will have the opportunity to make submissions to the Committee on a variety of specific access to information and protection of privacy issues. Generally-speaking, however, the Office considers the Act to be an excellent piece of law-making that functions well in practice.

The Office's main concern is to see that the *Freedom of Information and Protection of Privacy Act* remains a strong and vibrant statement of information and privacy rights. The Office intends to remain vigilant to ensure the protection of these democratic and human rights. It has worked with government offices this year to learn of, and address, specific areas of concern in the Act and to suggest options for its more efficient implementation in government policy and practices. The Office is pleased that the government has postponed any major statutory changes to the Act until the Legislative Committee has had a chance to conduct its review and make recommendations. The Office considers the formal process of statutory legislative review laudable in that it will provide ample opportunity for proponents of open government who have an interest in the Act to make representations. The Office urges all interested parties to make full use of the process.

### **Private Sector Data Protection**

The Office continues to urge the provincial government to extend data protection to the provincially-regulated private sector. Over 2,200 public bodies currently are covered by the *Freedom of Information and Protection of Privacy Act* in British Columbia, yet a significant portion of complaints and enquiries to the Commissioner's Office pertain to issues related to the private sector. At present, these issues are outside the Office's jurisdiction.

The Office supports the voluntary privacy codes that are currently in place for the private sector, such as the Canadian Standards Association's Model Code for the Protection of Personal Information and the Canadian Bankers Association's Privacy Model Code. However, the Office believes that privacy protection in the private sector should have the force of law in British Columbia, since it is only by implementation of legal protections that British Columbians may be guaranteed their human rights. The province also would then have similar privacy protection laws to those of its trading partners in Europe and around the industrial world, including New Zealand and Hong Kong.

The federal government has already taken steps to move forward on this issue. Justice Minister Alan Rock promised in the Fall of 1996 that the government would enact legislation for the federally-regulated private sector by the year 2000. Currently, the government is coordinating efforts among Industry Canada, the Department of Justice, and the provinces to address the complex aspects of legislating in a federal system.

The Office applauds the federal government's efforts and encourages the provincial government to move forward also in implementing data protection for the provincially-regulated private sector in British Columbia. In the interim, the Office urges businesses in B.C. that collect and process personal information to adopt the Canadian Standards Association's Model Code for the Protection of Personal Information and to use it to ensure fair information practices within their organizations.

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# Appendix A

## Financial Statement

### BUDGET ALLOCATION FOR THE 1996/1997 FISCAL YEAR

Total Salaries and Benefits	\$1,877,491
Total Operating Costs	\$741,968
Total Asset Acquisitions	\$34,541
Total Grants and Contributions	\$1,000
Total Recoveries	(\$25,000)
Total Voted Expenditure*	\$2,630,000

\*The 1996/1997 voted expenditure provided for a staff of 25.

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 an expanded jurisdiction.

### ACHIEVEMENTS FOR FISCAL 1996/1997

- Increased public awareness and promoted a wider public understanding of the Act and the Commissioner's role through:
  - the preparation of a new Office brochure including the translation of the brochure into Chinese and Punjabi
  - hosting a variety of workshops
  - an annual conference
  - Frequently Asked Questions package
  - 1995/96 Annual Report Excerpts
- Ensured that information about the Office was readily available through preparation of an information kit and updating of the Office web site; and
- Engaged in or commissioned research into issues affecting the achievement of the purposes of the Act, such as: Information and Privacy in Cultural Communities; A Report of Research into Information and Privacy Concerns in Chinese- and Indo-Canadian Communities in B.C.

(December 1996).

As mandated the Office continued to:

- Develop and maintain productive working relationships with the variety of public bodies that fall under the jurisdiction of the *Freedom of Information and Protection of Privacy Act*;
- Conduct investigations and audits to ensure compliance with the Act;
- Monitor, encourage and, where necessary, enforce compliance with the Act; and
- Continue to build an integrated, competent office that responds effectively to its clients needs.

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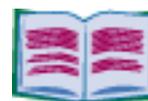
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# Appendix B

## Staff of the Office of the Information and Privacy Commissioner

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 and commitment of the operational and administrative staff working in this Office.

The following list identifies the names and occupations of staff members for the 1996/97 fiscal year:

David H. Flaherty	Commissioner
Judy Durrance	Senior Executive Administrator
Candace Tucknott	Administrative Assistant
Donna Holgerson	Administrative Assistant (August 27, 1996 - March 1, 1997)
Lorraine A. Dixon	Director
Mary Carlson	Portfolio Officer
Celia Francis	Portfolio Officer
R. Kyle Friesen	Portfolio Officer
Mark Grady	Portfolio Officer
Peter Luttmmer	Portfolio Officer
Maureen Meikle	Portfolio Officer
Sharon Plater	Portfolio Officer
Jim Sereda	Portfolio Officer
Ralph Sketchley	Portfolio Officer
Michael Skinner	Portfolio Officer
Bill Trott	Portfolio Officer
Pamela E. Smith	Research and Communications Officer
Ellinore Barker	Librarian
Charmaine Lowe	Intake Officer

Pamela Wallace	Intake Officer
Helga Driedger	Registrar
Linda Calver	Manager, Finance and Administration
Darleen Taylor	Coordinator, Finance and Administration
Barbara Haupthoff	Administrative Assistant/Director's Secretary
Stacie Young	Receptionist
Wendy Bernt	Law Co-op (December 1, 1995-April 30, 1996)
Drew Duncan	Law Co-op (May 6, 1996 - September 7, 1996)
Mokua Gichuru	Law Co-op (January 2, 1997 - May 3, 1997)
David Muha	Law Co-op (April 1, 1996 - May 3, 1996)
Monica Muller	Law Co-op (September 3, 1996 - December 31, 1996)
Kyle Robinson	Computer Support Co-op (July 4, 1996 - December 31, 1996)
Barbara L. Fisher	Legal Counsel (contractor)
Susan E. Ross	Legal Counsel (contractor)

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# Appendix D

## Chronological Table of Orders

### Orders No. 1-1994 to 157-1997

#### Order No. 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 an applicant 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 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)
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(NOTE: This electronic version of the Office of the Information and Privacy Commissioner's Annual Report 1996-97 includes corrections for clerical errors that exist in the printed copy.)

# Appendix E

## Table of Concordance

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<a href="#">22(3)(c)</a>	<a href="#">74</a> , <a href="#">82</a> , <a href="#">96</a>
<a href="#">22(3)(d)</a>	<a href="#">13</a> , <a href="#">32</a> , <a href="#">41</a> , <a href="#">52</a> , <a href="#">54</a> , <a href="#">62</a> , <a href="#">70</a> , <a href="#">71</a> , <a href="#">78</a> , <a href="#">80</a> , <a href="#">81</a> , <a href="#">97</a> , <a href="#">127</a> , <a href="#">128</a> , <a href="#">138</a> , <a href="#">139</a>
<a href="#">22(3)(f)</a>	<a href="#">24</a> , <a href="#">32</a> , <a href="#">74</a>
<a href="#">22(3)(g)</a>	<a href="#">71</a> , <a href="#">81</a> , <a href="#">97</a> , <a href="#">127</a> , <a href="#">131</a> , <a href="#">138</a>
<a href="#">22(3)(g.1)</a>	<a href="#">17</a> , <a href="#">32</a> , <a href="#">34</a> , <a href="#">52</a> , <a href="#">71</a> , <a href="#">78</a> , <a href="#">138</a> , <a href="#">153</a>
<a href="#">22(3)(h)</a>	<a href="#">64</a> , <a href="#">132</a>
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<a href="#">22(4)(b)</a>	<a href="#">4</a> , <a href="#">54</a> , <a href="#">62</a>
<a href="#">22(4)(e)</a>	<a href="#">18</a> , <a href="#">24</a> , <a href="#">41</a> , <a href="#">46</a> , <a href="#">52</a> , <a href="#">54</a> , <a href="#">62</a> , <a href="#">63</a> , <a href="#">64</a> , <a href="#">70</a> , <a href="#">71</a> , <a href="#">97</a>
<a href="#">22(4)(f)</a>	<a href="#">41</a> , <a href="#">74</a> , <a href="#">97</a> , <a href="#">100</a>
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<a href="#">22(4)(j)</a>	<a href="#">24</a> , <a href="#">70</a> , <a href="#">74</a> , <a href="#">100</a>
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<a href="#">23(1.2)</a>	<a href="#">21</a>
<a href="#">25</a>	<a href="#">4</a> , <a href="#">13</a> , <a href="#">22</a> , <a href="#">27</a> , <a href="#">32</a> , <a href="#">56</a> , <a href="#">62</a> , <a href="#">83</a> , <a href="#">116</a> , <a href="#">135</a> , <a href="#">142</a> , <a href="#">146</a>
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<a href="#">29(2)</a>	<a href="#">20</a>
<a href="#">30</a>	<a href="#">97</a>
<a href="#">32</a>	
<a href="#">32(a)</a>	<a href="#">4</a>
<a href="#">33</a>	<a href="#">127</a>
<a href="#">33(b)</a>	<a href="#">10</a>
<a href="#">33(c)</a>	<a href="#">127</a>
<a href="#">33(f)</a>	<a href="#">127</a>
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<a href="#">57(2)</a>	<a href="#">3</a> , <a href="#">4</a> , <a href="#">24</a> , <a href="#">27</a> , <a href="#">52</a> , <a href="#">54</a> , <a href="#">59</a> , <a href="#">66</a> , <a href="#">120</a>
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<a href="#">58(3)(b)</a>	<a href="#">134</a>
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<a href="#">75(5)</a>	<a href="#">30</a> , <a href="#">55</a> , <a href="#">79</a> , <a href="#">146</a> , <a href="#">147</a> , <a href="#">148</a> , <a href="#">157</a>
<a href="#">75(5)(a)</a>	<a href="#">79</a> , <a href="#">90</a> , <a href="#">156</a>
<a href="#">75(5)(b)</a>	<a href="#">13</a> , <a href="#">55</a> , <a href="#">79</a> , <a href="#">90</a> , <a href="#">98</a> , <a href="#">102</a> , <a href="#">154</a> , <a href="#">155</a> , <a href="#">157</a>
<a href="#">76</a>	
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<a href="#">78</a>	
<a href="#">78(1)</a>	<a href="#">7</a> , <a href="#">35</a> , <a href="#">37</a> , <a href="#">42</a>
<a href="#">78(2)</a>	<a href="#">115</a>
<b>Schedule 1</b>	
"aboriginal government"	<a href="#">14</a>
"exercise of prosecutorial discretion"	<a href="#">20</a> , <a href="#">23</a>
"law enforcement"	<a href="#">13</a> , <a href="#">28</a> , <a href="#">32</a> , <a href="#">34</a> , <a href="#">36</a> , <a href="#">44</a> , <a href="#">50</a> , <a href="#">71</a> , <a href="#">83</a>
"local government body"	<a href="#">77</a>
"personal information"	<a href="#">27</a> , <a href="#">43</a> , <a href="#">63</a>
"prosecution"	<a href="#">20</a>
"record"	<a href="#">63</a> , <a href="#">73</a> , <a href="#">121</a>
"trade secrets"	<a href="#">15</a> , <a href="#">61</a>
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<a href="#">Section 3(c)</a>	<a href="#">27</a> , <a href="#">31</a> , <a href="#">53</a> , <a href="#">96</a>
<b><a href="#">Section 6</a></b>	<a href="#">10</a>
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# Appendix F

## Table of Public bodies that were the Subject of Orders

Orders No. 1-1994 to 157-1997

Public Body	Times as Respondent	Order Numbers
Aboriginal Affairs	2	<a href="#">14</a> , <a href="#">155</a>
Agriculture, Fisheries & Food	4	<a href="#">3</a> , <a href="#">111</a> , <a href="#">121</a> , <a href="#">137</a>
Attorney General	15	<a href="#">4</a> , <a href="#">20</a> , <a href="#">23</a> , <a href="#">30</a> , <a href="#">38</a> , <a href="#">40</a> , <a href="#">47</a> , <a href="#">104</a> , <a href="#">105</a> , <a href="#">119</a> , <a href="#">138</a> , <a href="#">149</a> , <a href="#">152</a> , <a href="#">157</a>
BC Gaming Commission	1	<a href="#">143</a>
BC Police Commission	1	<a href="#">13</a>
Crown Corporations (except for ICBC and WCB)	9	<a href="#">19</a> , <a href="#">26</a> , <a href="#">45</a> , <a href="#">92</a> , <a href="#">95</a> , <a href="#">99</a> , <a href="#">101</a> , <a href="#">102</a> , <a href="#">122</a>
Education*	1	<a href="#">17</a>
Education, Skills and Training*	1	<a href="#">148</a>
Employment & Investment	3	<a href="#">8</a> , <a href="#">48</a> , <a href="#">90</a>
Environment, Lands and Parks, and Human Rights and Multiculturalism*	8	<a href="#">29</a> , <a href="#">36</a> , <a href="#">51</a> , <a href="#">56</a> , <a href="#">57</a> , <a href="#">66</a> , <a href="#">67</a> , <a href="#">91</a>
Finance & Corporate Relations	7	<a href="#">1</a> , <a href="#">9</a> , <a href="#">50</a> , <a href="#">73</a> , <a href="#">107</a> , <a href="#">112</a> , <a href="#">151</a> , <a href="#">154</a>
Forests	1	<a href="#">154</a>
Government Services*	1	<a href="#">52</a>

Greater Vancouver Mental Health Services Society	1	<a href="#">144</a>
Health	9	<a href="#">7</a> , <a href="#">11</a> , <a href="#">18</a> , <a href="#">21</a> , <a href="#">24</a> , <a href="#">27</a> , <a href="#">73</a> , <a href="#">83</a> , <a href="#">108</a>
Hospitals	2	<a href="#">70</a> , <a href="#">117</a>
ICBC	10	<a href="#">5</a> , <a href="#">6</a> , <a href="#">12</a> , <a href="#">15</a> , <a href="#">16</a> , <a href="#">25</a> , <a href="#">80</a> , <a href="#">109</a> , <a href="#">147</a> , <a href="#">159</a>
Labour*	1	<a href="#">128</a>
Legal Services Society	1	<a href="#">74</a>
Local Governments	19	<a href="#">39</a> , <a href="#">43</a> , <a href="#">55</a> , <a href="#">61</a> , <a href="#">63</a> , <a href="#">64</a> , <a href="#">65</a> , <a href="#">68</a> , <a href="#">69</a> , <a href="#">75</a> , <a href="#">77</a> , <a href="#">78</a> , <a href="#">81</a> , <a href="#">98</a> , <a href="#">100</a> , <a href="#">123</a> , <a href="#">127</a> , <a href="#">142</a> , <a href="#">156</a>
Municipal Affairs and Housing	2	<a href="#">146</a> , <a href="#">150</a>
Office of the Premier and Cabinet Office	5	<a href="#">33</a> , <a href="#">48</a> , <a href="#">71</a> , <a href="#">72</a> , <a href="#">85</a>
Police	7	<a href="#">58</a> , <a href="#">60</a> , <a href="#">79</a> , <a href="#">84</a> , <a href="#">125</a> , <a href="#">129</a> , <a href="#">141</a>
Public Trustee	2	<a href="#">53</a> , <a href="#">93</a>
School Boards and Districts	10	<a href="#">46</a> , <a href="#">59</a> , <a href="#">62</a> , <a href="#">106</a> , <a href="#">110</a> , <a href="#">113</a> , <a href="#">114</a> , <a href="#">115</a> , <a href="#">134</a> , <a href="#">139</a>
Skills, Training and Labour*	4	<a href="#">32</a> , <a href="#">37</a> , <a href="#">42</a> , <a href="#">76</a>
Social Services*	15	<a href="#">2</a> , <a href="#">10</a> , <a href="#">35</a> , <a href="#">41</a> , <a href="#">44</a> , <a href="#">49</a> , <a href="#">82</a> , <a href="#">86</a> , <a href="#">94</a> , <a href="#">96</a> , <a href="#">103</a> , <a href="#">105</a> , <a href="#">132</a> , <a href="#">136</a> , <a href="#">145</a>
Transportation and Highways	7	<a href="#">28</a> , <a href="#">34</a> , <a href="#">87</a> , <a href="#">88</a> , <a href="#">89</a> , <a href="#">118</a> , <a href="#">135</a>
Post Secondary Institutions	3	<a href="#">97</a> , <a href="#">126</a> , <a href="#">131</a>
WCB	3	<a href="#">22</a> , <a href="#">54</a> , <a href="#">124</a>

\* The Ministry of Education is now the Ministry of Education, Skills, and Training, and the Ministry of Skills, Training, and Labour is now the Ministry of Labour. The Ministry of Social Services no longer exists and its obligations, along with some new ones, have been transferred to two new ministries, the Ministry of Children and Families and the Ministry of Human Resources. The responsibility for Human Rights and Multiculturalism programs is now with the Ministry of Attorney General. The Ministry of Government Services no longer exists and its obligations have been transferred to the Ministry of Finance and Corporate Relations.

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# Appendix G

## How To Contact The Commissioner's Office

**By Telephone:** (250) 387-5629

Or for toll free access within British Columbia, call Enquiry BC at the number in your area below and asked to be transferred to 387-5629:

- Vancouver: 660-2421
- Victoria: 387-6121
- Elsewhere in B.C.: 1-800-663-7867

**By Facsimile:** (250) 387-1696

**By Mail:**

Office of the Information and Privacy Commissioner for British Columbia  
PO Box 9038, Stn Prov Govt. Victoria, B.C. V8W 9A4

**By E-mail:** [oipc@gems5.gov.bc.ca](mailto:oipc@gems5.gov.bc.ca)

**By Web Site:** <http://www.oipcbc.org>

**In Person:**

Office of the Information and Privacy Commissioner for British Columbia  
4th Floor, 1675 Douglas St. Victoria, B.C. V8V 1X4

(NOTE: The Office does not accept requests for review or privacy complaints by e-mail, since it is not an acceptably secure medium for this purpose. The Office accepts all other enquiries by any of the means of contact set out above.)

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# Glossary of Terms

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.

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