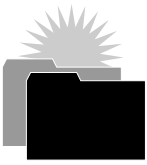
Annual Report

1998-99



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER

British Columbia
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OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
British Columbia
Canada

June 25, 1999

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

Dear Honourable Speaker Brewin:

Pursuant to section 51 of the *Freedom of Information and Protection of Privacy Act*, I have the honour to present my sixth Annual Report to the Legislative Assembly. This report covers the period from April 1, 1998 to March 31, 1999.

Sincerely,

David H. Flaherty

David H. Flaherty
Commissioner

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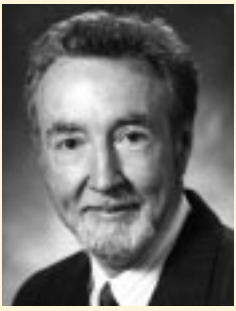
I. Commissioner's Message

Ave Atque Vale: Hail and Farewell

I leave my non-renewable term of six years as Information and Privacy Commissioner with an enormous sense of gratitude for the opportunity that I have had to serve the people of British Columbia in promoting a more open, accountable, and therefore democratic society in this province and, at the same time, one that is more privacy friendly. I have a sense of having participated, with colleagues in my own Office and in public bodies across the province, in a historic mission that has been well begun.

In the first instance, I want to pay tribute to the leadership of the politicians and public servants who have taken the lead in promoting compliance with the radical goals of the *Freedom of Information and Protection of Privacy Act* (the Act). I am thinking not only of central government, but also of Crown corporations, municipalities, hospitals, municipal police, and educational institutions from schools to universities.

I am under no illusions that the Act has been popular with senior politicians and public servants, but they are learning to live with the culture shift toward openness that it represents. Each new election or retirement brings individuals to positions of power who are more responsive to the concept of open government. I am certain that my own understanding is minimal of the games that have been played (and developed) to avoid compliance with the letter and spirit of the Act in central government in particular, but I do not regard this as grounds for total pessimism. In fact, I am encouraged by recent discussion, originating from the provincial Liberal party, that some of the exceptions to openness and accountability under the Act need to be more limited. I hope and accept that progress on this score will continue for generations in this province.



Although there is no question that the battle to preserve what is left of individual privacy and to promote more open government will become even more intense in the next century, the achievement of consciousness-raising in the broadly-defined public sector has, in my view, been considerable.

I hold the view that the most progress towards compliance in the public sector has been with respect to the privacy side of the Act, not least because its coming into effect coincided fortuitously with the explosion of the Internet. Although I regard current discussions of the 'end of privacy' as historically misinformed, they do have the very beneficial effect of encouraging each and every one of us to think daily on how we value our own personal information, that is our informational privacy, in an increasingly digital world. We are also becoming more accustomed to thinking about technologies of privacy protection that can enhance our anonymity in desired circumstances. The elements of individual choice and consent remain essential to an effective regime of fair information practices, such as we are advancing in this province, at least for the public sector.

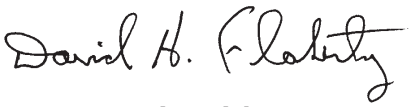
Although there is no question that the battle to preserve what is left of individual privacy and to promote more open government will become even more intense in the next century, the achievement of consciousness-raising in the broadly-defined public sector has, in my view, been considerable. I am especially admiring of the dedicated group of public servants who have made the Act their specialized preserve in the last seven years. I met individually with many of them during the first month of my appointment, in August 1993, and I am pleased to report that many of them have continued to serve as talented information and privacy managers and staff across the province. The Act could not have been as successful without their almost heroic efforts, especially on behalf of accountable and open government. The continued commitment of such dedicated persons and their successors will be essential to continued progress on this score.

I would like to claim, with considerable pride, that my own legacy to this province is the office of approximately twenty-five persons in Victoria that I have had the privilege to recruit and shape. Despite the vicissitudes of daily co-existence over the years, and the various forms of resistance that we have had to learn to overcome, I think that we have been a cohesive and effective team. My staff understands the complexities of the Act and the amount of energy and commitment required for effective implementation. Our mediation rates for requests for review under the Act continue to be above ninety percent. Thus, I claim, with considerable justification, that we have the best information and privacy office in the country, if not in the Western world. If competitors wish to assert claims to such a worthy title, the benefits will redound to the citizens of all of our respective provinces, states, and countries.

We have the best information and privacy office in the country, if not in the Western world.

I wish to close on a note of high praise for the media in this country, in at least partial response to the recurrent attacks on them by politicians in particular. I am not thinking here of the issue of trying to balance competing interests of accountability and privacy in the dozens of decisions that I have made in response to media requests for access to information. Nor am I selfishly reflecting my strong sense that the media would have had to be my ultimate defenders, as surrogates for the public, if the politicians and government of this province had chosen to turn against the Act by, for example, abolishing it. There have been times when I did not regard this as an idle threat. At the end of the day, my privileged vantage point of the past six years has fully persuaded me that a free press is absolutely fundamental to the preservation and advancement of an open and

democratic society in British Columbia and Canada as a whole. Becoming fully persuaded of what may strike some as a truism has been an added benefit and lesson from my experience of public office. It has been worth it.



David H. Flaherty

II. Executive Director's Message

Unscheduled Public Bodies: The Thin End of the Wedge

Since the adoption of the *Freedom of Information and Protection of Privacy Act* (the Act) in 1992, British Columbia has been hailed as having one of the most comprehensive freedom of information and privacy protection statutes in the world. It is a model that has been copied both in other Canadian jurisdictions and abroad.

British Columbia has been hailed as having one of the most comprehensive freedom of information and privacy protection statutes in the world.

Section 3(1) defines the scope of the Act as applying 'to all records in the custody or under the control of a public body.' Definitions in Schedule 1 and designations in Schedules 2 and 3 further define the public bodies that are subject to the Act. All ministries, Crown corporations, and most self-governing bodies of professions or occupations are either defined or designated as subject to the Act.

Our Office is pleased to see that, on occasion, amendments to Schedule 2 take place as new public bodies are created or old ones dissolved. For example, the Police Complaints Commissioner has replaced the BC Police Commission and the Medical Appeal Board was replaced by the Hospital Appeal Board. Various other bodies such as the BC Systems Corporation have been taken off Schedule 2, while others, including the Office of the Northern Development Commissioner, the Oil and Gas Commission, and the Homeowner Protection Office, have been added. We applaud these changes as recognizing the importance of maintaining and extending accountability.

Increasingly, however, we find public bodies that are not covered by the current definitions of a public body nor are they designated. We call these exceptions 'unscheduled' public bodies and they are distinct from the select few government bodies that were never intended to be covered by the Act, such as the courts or the Legislative Assembly. Mental or community health organizations in regions that do not have a regional health board, including most rural areas, are good examples of these. These public bodies are no longer covered by the Act because the current definition of a 'healthcare body' does not include them. In other cases, the problem is slightly different, as with newly created or separated public bodies which have never been added to Schedule 2 or 3 by regulation. Examples include the Forest Practices Board, Forest Renewal BC, Rapid Transit Project 2000, and some of the self-governing professional bodies. Although most are acting in the spirit of the legislation with regard to access requests, the situation still presents a dilemma.

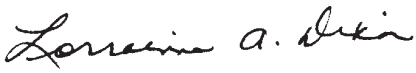
The courts have made it clear that the jurisdiction of this Office only extends to public bodies as defined in the Act.

The courts have made it clear that the jurisdiction of this Office only extends to public bodies as defined in the Act.[1] Therefore, if an unscheduled public body responds, in the spirit of the Act, to an access request, an applicant has no right at law to request a review of the decision before the Information and Privacy Commissioner. We have developed a protocol whereby the public body, which is acting in the spirit of the legislation, will inform the applicant that, if they are not satisfied, they may come to our Office for a review. Our Office then informs the individual that we will attempt mediation with the public body, but that the matter cannot go to inquiry before the Commissioner should mediation fail, as he has no

[1] *Greater Vancouver Mental Health Service Society v. British Columbia [1999] B.C.J. No. 198 (S.C.)*

jurisdiction to make an Order in such a case. Obviously, there are problems for our Office, the public body, and the applicant in these situations.

As government creates new public bodies to do its business, there should be a way to ensure that they are accountable to citizens through the Act. An amending formula, similar to that in the *Ombudsman Act*, could bring these under the scope of the Act. In order to ensure that the accountability is maintained, we recommend that the schedules and definitions of public bodies be updated and that an amending formula be added to the Act.



Lorrainne A. Dixon

III. Introduction

This is the Office of the Information and Privacy Commissioner's sixth Annual Report. It explains the legislative mandate and role of the Commissioner's Office and provides information about its activities between April 1, 1998 and March 31, 1999.

The Office's primary activity is reviewing decisions made by public bodies about an individual's right of access to records in the public bodies' custody or control.

The Office of the Information and Privacy Commissioner

The Commissioner's Office was established in July 1993 in accordance with the framework set out in British Columbia's *Freedom of Information and Protection of Privacy Act* (the Act). The Office's mandate is to monitor the access to information and protection of privacy practices of public bodies in British Columbia. Public bodies include ministries; Crown corporations; government agencies, boards, and commissions; local public bodies, such as hospitals, school districts, municipalities, colleges, universities, and self-governing professional bodies, such as the Law Society of British Columbia and the British Columbia College of Physicians and Surgeons.

The Office's primary activity is reviewing decisions made by public bodies about an individual's right of access to records in the public bodies' custody or control. Reviews occur when there is a dispute between applicants and public bodies about rights of access to records. The Office also investigates privacy complaints about public bodies' inadequate protection of personal information. The Act further authorizes the Office to comment on legislation or public policy affecting information and privacy rights, and to inform the public about these rights.

The Office is headed by the Information and Privacy Commissioner, who is an Officer of the Legislature and independent of government. This independence is essential to the Commissioner's ability to provide an impartial review of government's compliance with the Act. The Act provides that an Information and Privacy Commissioner is to be appointed for a six-year, non-renewable term of office. The present Information and Privacy Commissioner's term of office extends from August 1993 to July 31, 1999.

The Freedom of Information and Protection of Privacy Act

The *Freedom of Information and Protection of Privacy Act* provides individuals with the right of access to records in the custody or under the control of a public body in British Columbia, including the individual's own personal information. The Act also protects the privacy rights of individuals whose personal information is held by public bodies. The Act sets out further related rights, such as the right to request the correction of personal information if it is inaccurate, and the right to ask the Information and Privacy Commissioner to investigate disputes about information and privacy rights.

The overall purpose of the Act is to make public bodies more accountable for their actions and to ensure they protect the privacy of personal information entrusted to them.

General Statistics

The Office of the Information and Privacy Commissioner receives numerous enquiries daily on a wide variety of information and privacy issues. From April 1, 1998 to March 31, 1999, the Office logged over 2,400 telephone

enquiries, some dealing with non-jurisdictional issues. Where it is not possible for the Office to resolve an issue over the telephone, callers are invited to submit their requests or complaints in writing. The Office's Intake Officers enter all written correspondence into a computerized case-tracking system and assign all cases that require investigation to the Office's Portfolio Officers.

This year the Office entered 1,940 new cases and closed 2,007 cases. These figures do not include the telephone enquiries. Figure 1, below, illustrates the overall growth of cases handled by the Office in comparison with previous fiscal years.

Figure 1: Growth of Cases by Fiscal Year

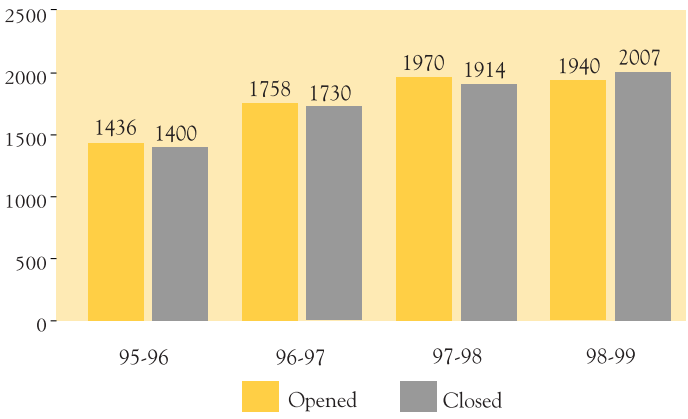


Figure 2, below, indicates the number of cases opened and closed this past fiscal year by case type.

Figure 2: Type of Cases Opened and Closed in Fiscal Year 1998-1999

Case Type	Opened	Closed
Requests for Review	867	919
Legislative or Policy Consultations	213	219
Non-Jurisdictional/Non-Reviewable Issues	199	197
Complaints and Investigations	107	109
Public Bodies' Requests for Time Extensions	86	85
Site Visits	67	68
FOI/Correction Requests to OIPC	11	11
Requests for Section 43 Authorizations	1	4
Other	389	395
Total	1,940	2,007

Definitions of Case Types

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 notified during the processing of a request may also request a review of any decision by a public body to give access.

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, or forms developed by public bodies, which concern the collection, use, and disclosure of personal information.

Complaints normally concern the collection, use, retention, and disclosure of personal information by a public body.

Non-Jurisdictional Complaints and Enquiries and Non-Reviewable Issues: Non-jurisdictional complaints and enquiries include complaints to the Office about federal government agencies and private sector organizations or professionals, such as doctors, dentists, lawyers, insurance companies, credit bureaus, and banks. Such bodies and individuals are not covered by the Act. Non-jurisdictional complaints also include complaints 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 involve freedom of information or protection of privacy concerns related to public bodies under the Act, but are determined to be 'non-reviewable' by the Office because the applicant has requested a review either before the public body has made a decision or before it has had an opportunity to make a decision.

Complaints and Investigations: Complaints normally concern the collection, use, retention, and disclosure of personal information by a public body. They may also allege the failure of a public body to perform a particular duty imposed by the Act.

Investigations may result from a complaint or series of complaints, or may be initiated by the Commissioner where there are concerns about systemic information or privacy issues.

Investigations may result in a formal Investigation Report, although many are concluded less formally.

Public Bodies' Requests for Time Extensions: The Act provides 30 days, and in some limited circumstances, 60 days, for a public body to respond to a request for records. 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.

Site Visits: The Commissioner has authority under the Act to audit the information-handling practices and procedures of public bodies covered under the Act. For the most part, site visits by the Commissioner are conducted informally and normally involve a tour of the facility and records areas, and discussion of pertinent information and privacy issues.

FOI/Correction Requests to the OIPC: The Commissioner's Office is a public body under the Act and, like other public bodies, is required to respond to requests for records and requests for correction of personal information within its custody or control. Section 3(1)(c) of the Act, however, excludes access to records in the Office's possession that relate to its functions under the Act, such as the investigation and mediation of requests for review or complaints.

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.

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

Applicant Statistics

One of the questions most frequently asked of the Office is: 'Who is submitting requests for review and complaints?' This is a difficult statistic to track accurately, since the Act does not require applicants to identify themselves as belonging to a particular group. When applicants do identify their affiliation, the request or complaint is categorized accordingly, as in Figure 3, below. If an applicant does not identify any affiliation, he or she is categorized as an individual requester. This may render the category of 'Individual' slightly higher than is actually the case.

Figure 3: Type of Applicant Submitting Requests for Review and Complaints

Type of Applicant	Complaints and Investigations	Requests for Review	Percentage of Total
Individuals	82	686	74.8
Commercial	2	86	8.6
Media	1	65	6.4
Special Interest Groups*	3	18	2.0
First Nations Organizations	1	7	0.8
MLAs	2	2	0.4
Other Organizations**	4	55	5.7
Initiated by Commissioner***	14	0	1.3
Total	109	919	100.0

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

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

*** *As indicated under the section 'General Statistics,' the Commissioner may initiate an investigation, without a complaint from the public, if he determines that the subject represents a significant or systemic information or privacy issue.*

IV. Requests for Review

Introduction

Section 52 of the *Freedom of Information and Protection of Privacy Act* (the Act) authorizes the Commissioner 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.

The Request for Review Process

Requests for review are received by the Office's Intake Officers, who review them and often contact applicants to clarify the facts or circumstances. If a request for review can proceed, one of the Intake Officers will assign it to a Portfolio Officer, who has 90 days to investigate the case and to assist the parties to resolve their dispute by mediation. If the parties can agree to a mediated settlement, the request for review is closed. If not, the review proceeds to a formal inquiry before the Information and Privacy Commissioner.

Ninety percent of requests for review that come to the Office are closed without going to a formal inquiry.

Ninety percent of requests for review that come to the Office are closed without going to a formal inquiry. Eighty-six percent of cases are mediated to completion, four percent are discontinued; the remaining cases are resolved by Orders.

Statistics for Requests for Review

From April 1, 1998 to March 31, 1999, the Office closed 919 requests for review. Ninety-four requests required settlement by Order. Thus, only 10 percent of requests for review resulted in a formal inquiry before the Information and Privacy Commissioner. This low percentage of formal

inquiries and Orders is due to the Office's strong emphasis on mediation as the primary tool for resolving disputes. In fact, the Office has worked to establish itself as a centre for alternative dispute resolution. Note that the total figure of 94 for requests for review settled by Order is not the total number of Orders (81) actually issued this past fiscal year. The difference between these totals is due to the fact that some orders dealt with more than one request for review, either because the requests were made by the same applicant or because they involved similar records and issues. For further details on orders, please see Chapter VI: Commissioner's Orders.

The grounds for these requests and their disposition are set out in Figure 4, below. Since many requests for review coming to the Commissioner's Office contain multiple issues, each review has been categorized by its predominant grounds for review only.

Figure 4: Disposition by Grounds of Requests for Review Closed Between April 1, 1998 and March 31, 1999

Grounds	Mediated	Order	Discontinued*	Total
Access:				
Denied Access	129	32	6	167
Partial Access	316	31	14	361
Adequacy of Search	71	10	1	82
Correction Request	5	1	1	7
Deemed Refusal	131	4	2	137
Fees	45	6	5	56
Third Party Request for Review	19	3	6	28
Time Extensions	24	0	1	25
Other	48	7	1	56
Total	788	94	37	919

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

Definitions of Grounds for Review

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 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 designated time frame. The Act considers 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 when requested by the applicant.

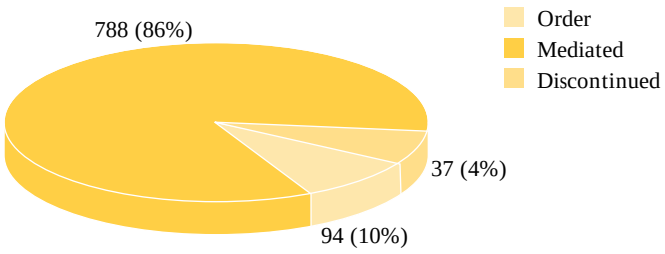
Third Party Request for Review: This is a review of a public body's decision to provide an applicant with access to personal or business information of a third party.

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

Other: This includes reviews of whether a public body has met a duty imposed by the Act and whether the requested records fall within the scope of the Act. Often these reviews concern section 6, which is the duty to assist applicants, and issues around custody or control of a record.

Figure 5, below, illustrates the disposition by percentage of requests for review closed between April 1, 1998 and March 31, 1999.

Figure 5: Disposition by Percentage of Requests for Review Closed Between April 1, 1998 and March 31, 1999



REQUEST FOR REVIEW STATISTICS BY PUBLIC BODY

Some public bodies are the subjects of requests for review to the Commissioner's Office more often than others. Normally, it is because they possess or handle more personal information than other public bodies. It also may reflect ongoing disputes about certain types of records, issues, or policies of a particular public body.

Figures 6 and 7, below, identify the number, grounds, and disposition of requests for review for the past fiscal year, categorized by public body. Figure 6 identifies the grounds upon which reviews were requested, while Figure 7 shows how they were settled.

Note that there have been no requests for review made against the majority of public bodies under the Act. The total of 321 reviews for 'All Other Public Bodies' represents, for the most part, the one or two requests for review that have been filed against 139 public bodies other than the ones

specifically listed. None of these 139 public bodies received more than nine requests for review in total.

	Total	Adequate Search	Correction Request	Deemed Refusal	Denied Access	Fees	Partial Access	Third Party	Time Extension	Other
Children and Families	93	10	1	18	3	0	60	0	0	1
Insurance Corporation of BC	92	1	0	18	5	1	61	2	0	4
Attorney General	63	11	0	5	15	1	16	0	1	14
Vancouver Police Department	48	2	0	3	19	3	16	0	0	5
Forests	38	4	0	15	4	3	4	1	4	3
Human Resources	34	0	0	21	3	0	10	0	0	0
Health	29	4	1	4	6	5	9	0	0	0
Finance and Corporate Relations	27	2	0	3	4	6	10	2	0	0
Workers' Compensation Board	27	7	3	1	4	2	5	0	1	4
University of British Columbia	26	0	0	5	8	3	6	0	2	2
Environment, Lands and Parks	24	0	0	2	5	3	8	3	2	1
College of Physicians and Surgeons	17	0	0	0	2	0	11	2	2	0
BC Hydro and Power Authority	15	0	1	2	2	0	8	0	1	1
Transportation and Highways	15	1	0	3	1	0	6	1	2	1
City of Vancouver	14	3	0	0	2	1	7	1	0	0
BC Transit	13	2	0	2	1	4	2	0	1	1
Law Society of BC	12	0	0	0	2	1	7	1	0	1
BC Assessment Authority	11	0	0	2	4	1	3	0	1	0
All other Public Bodies*	321	35	1	33	77	22	112	15	8	18
Total	919	82	7	137	167	56	361	28	25	56

** See explanation of this category and its total figure of 321 in the paragraph above.*

Figure 6: Grounds of Requests for Review, Closed Between April 1, 1998 and March 31, 1999, by Public Body

Figure 7: Disposition by Public Body of Requests for Review Closed Between April 1, 1998 and March 31, 1999

Public Body	Requests for Review	Mediated	Discontinued	Order
Children and Families	93	87	1	5
Insurance Corporation of BC	92	90	0	2
Attorney General	63	58	0	5
Vancouver Police Department	48	44	0	4
Forests	38	34	2	2
Human Resources	34	32	1	1
Health	29	21	3	5
Finance and Corporate Relations	27	23	2	2
Workers' Compensation Board	27	20	0	7
University of British Columbia	26	22	0	4
Environment, Lands and Parks	24	20	1	3
College of Physicians and Surgeons	17	11	1	5
BC Hydro and Power Authority	15	14	0	1
Transportation and Highways	15	14	1	0
City of Vancouver	14	12	1	1
BC Transit	13	8	2	3
Law Society of BC	12	7	0	5
BC Assessment Authority	11	10	0	1
All Other Public Bodies*	321	261	22	38
Total	919	788	37	94

** See explanation of this category and its total figure of 321 in the paragraph above.*

Samples of Recent Mediated Requests for Review

The following sample summaries of recent mediated requests for review represent the types of issues brought before the Commissioner's Office in the last fiscal year and the range of mediated settlements it has been able to achieve.

A. MINISTRIES, CROWN CORPORATIONS, BOARDS, AGENCIES, AND COMMISSIONS

Ministry of Finance – bid information

The applicant, a lawyer, asked the Ministry of Transportation and Highways for the names of all firms who had submitted a bid to supply pavement marking paint and thinner in response to an invitation to quote (ITQ). The applicant also requested copies of each firm's bid or, alternatively, the price per item bid. The Ministry of Finance (the Ministry), which responded on behalf of the Ministry of Transportation and Highways, provided the applicant with the names of the two bidders, one of which was the applicant's client, but withheld details from the other party's bid. The Ministry stated that disclosure of the bid information could be harmful to the business interests of the third party.

During mediation, the Commissioner's Office informed the applicant that the name of the successful bidder for each ITQ is posted for one month on the Purchasing Commission's web site, along with the bid total. The Commissioner's Office offered to ask each of the two bidders whether they were willing to disclose their own bid information to the other party, but suggested that the applicant could, with his client's consent, do so directly.

The applicant agreed to abandon the review with the Commissioner's Office.

Ministry for Children and Families – child-care records

The applicants, parents of a special-needs child who had at one time been in the care of the Ministry for Children and Families (the Ministry), requested all records in the possession of the Ministry that related to their son or themselves. The records responsive to this request were extensive and stored in several departments throughout the Ministry.

Through mediation, the Ministry agreed to investigate each item and, as a result, additional records were disclosed.

After reviewing the files, the Ministry released several boxes of records to the applicants but withheld some information on the grounds that disclosure would unreasonably invade the privacy of third parties. Believing that too much information had been severed, and that other records existed to which they were entitled, the applicants requested a review of the Ministry's decision by the Commissioner's Office.

A review of the records by the Office revealed that much of the information severed was comments made about the applicants and their child by other family members. During mediation, it became clear that the applicants were on close terms with their family and that the family members were not likely to object to their comments being released. The Ministry agreed to release the information to the parents if the family members provided written consent for their names and comments to be released.

With respect to the records believed to be missing, the advocate for the applicants was able to provide a list of all social workers and Ministry staff that the family had communicated with. The Ministry then contacted each individual on the list to clarify that all records regarding the family had been located. As well, the advocate provided information suggesting that additional reports or notes existed, and information on incidents that were likely to have generated a record. Through mediation, the Ministry agreed to investigate each item and, as a result, additional records were disclosed.

In instances where no further records existed, the Ministry was able to provide the applicants with satisfactory explanations to that effect. Resolution of these matters satisfied the applicants and the case was closed.

Ministry of Transportation and Highways – travel records

An applicant had requested the travel expenses of an employee of the Ministry of Transportation and Highways (the Ministry). The applicant and the employee were opposing parties in a civil matter. The Ministry refused access to the travel records, stating it would be an unreasonable invasion of the privacy of the employee and could prejudice the employee's position in the civil matter. The Commissioner's Office told the Ministry that employee travel records were routinely disclosed, and that the civil matter should not be a factor in its decision. The Ministry accepted the recommendations of the Office and notified the employee that it intended to release the travel records.

The employee subsequently requested a review of the decision of the Ministry to release her travel records. Through the civil process, however, similar records were disclosed, and the applicant withdrew his request for the travel records.

Workers' Compensation Board – proposal information

An applicant, whose accounting firm had submitted an unsuccessful proposal to the Workers' Compensation Board (the WCB), requested a copy of the successful proposal submitted by a third party. The WCB refused to disclose the third party proposal on the grounds that, under the *Freedom of Information and Protection of Privacy Act*, such a disclosure could harm the

business interests of the successful firm. The WCB also found that disclosure of other parts of the proposal might be considered an unreasonable invasion of a third party's personal privacy, namely the employees of the successful firm. The applicant requested a review of this decision with the Commissioner's Office.

The applicant, a reporter for a major media outlet, requested from the British Columbia Ferry Corporation documents relating to the Fast Ferry Project.

During mediation, the applicant clarified that, although he did not accept that the entire proposal could be withheld as proprietary information, he was really only interested in the price and the qualifications of the successful team. He would, therefore, settle for the project price and the professional résumés attached to the successful proposal.

The Office contacted the successful firm to discuss the release of this information. Although they were initially reluctant to disclose any information regarding the proposal, they did eventually agree that it would be difficult to argue that disclosure of the price and professional résumés would harm the firm's business interests. There was some discussion about whether disclosure of the professional résumés would invade the personal privacy of the individuals, but a compromise was reached whereby the names and some personal information would be removed from the résumés before they were disclosed to the applicant. The applicant accepted this resolution and the case was closed.

BC Ferry Corporation – fee waiver

The applicant, a reporter for a major media outlet, requested from the British Columbia Ferry Corporation (the Corporation) documents relating to the Fast Ferry Project. The Corporation told the applicant that he would have to pay a fee in order to receive the records. The applicant requested a fee waiver under the *Freedom of Information and Protection of Privacy Act* on

the grounds that the disclosure of the information contained in the records was in the public interest. Citing a lack of requests from the public regarding the Fast Ferry Project, the Corporation refused the fee waiver.

The applicant requested a review of the decision by the Commissioner's Office. During mediation, mention of the issue appeared in the media and the Corporation, reversing its earlier decision, agreed to release the requested information free of charge to the applicant.

Insurance Corporation of British Columbia (ICBC) – mistaken identity

An applicant made a request to the Motor Vehicle Branch (MVB) of the Insurance Corporation of British Columbia (ICBC), for file material relating to herself and that of a third party. She had suspected that MVB was relying on incorrect information about her qualifications to drive and that her file might be cross-linked with a third party whose name was identical to her own. ICBC withheld portions of the requested file materials from the applicant under the *Freedom of Information and Protection of Privacy Act*, on the grounds that the disclosure would be an unreasonable invasion of the third party's personal privacy. The applicant requested the Commissioner's Office review of the decision.

As a result of mediation, the Commissioner's Office was able to confirm for the applicant that the information withheld by ICBC had been properly excepted from disclosure. However, the thrust of mediation efforts was directed at assisting the applicant to discover more about the possibility that the information MVB was relying on in her file was incorrect.

After investigating the matter, ICBC reported that there had been an inadvertent cross-linking of files due to the fact that the applicant's name and that of the third party were identical and that their respective dates of birth were also very close. In response, ICBC conducted a thorough search of the MVB databases to detect and correct any instances of cross-linking involving the applicant's files.

The Commissioner's Office was able to mediate a further release of some records but ICBC withheld the remainder under the Act, citing solicitor-client privilege and possible harm to its financial or economic interests.

Insurance Corporation of British Columbia (ICBC) – claim files

An applicant, who had been injured in a motor vehicle accident, made a request under the *Freedom of Information and Protection of Privacy Act* for copies of all the records in her claim file at the Insurance Corporation of British Columbia (ICBC). She specifically requested medical records, photographs, surveillance records, independent adjuster's reports, adjuster's notes, engineering reports, and repair estimates. ICBC refused to release most of the records on the grounds that the applicant was preparing to litigate her claim in court. The applicant asked the Commissioner's Office to review this decision.

The Commissioner's Office was able to mediate a further release of some records but ICBC withheld the remainder under the Act, citing solicitor-client privilege and possible harm to its financial or economic interests.

The applicant accepted that, with the second disclosure, she had likely received all the records she could reasonably expect under the Act. She also acknowledged that, for the purpose of litigation, she was much more likely to obtain disclosure of records relating to her claim file through the court, as ICBC cannot invoke the Act to withhold records requested under the rules governing court procedure.

B. LOCAL PUBLIC BODIES

Hospital – severing

The applicant requested a copy of an incident report and any supporting documentation of an investigation into an injury involving an elderly family member which may have occurred while the family member was a patient in a hospital. The hospital responded that the incident report could not be disclosed under section 51 of the *Evidence Act* and the remaining information was protected under section 14 of the *Freedom of Information and Protection of Privacy Act*. The applicant requested a review of this decision by the Office.

The first record in dispute was a one-page quality assurance form consisting of handwritten notes completed by the registered nurse who discovered and reported the incident. This page included a 'concise description of event,' 'immediate action taken,' and 'injuries noted.' In addition, the page included notifications and the physician's comments and findings.

The hospital had refused access to this record on the grounds that information arising out of quality assurance activities in hospitals is privileged under the *Evidence Act* and cannot be admitted as evidence in legal proceedings or disclosed to anyone other than those listed in that Act. As a result of mediation, the hospital agreed, in this particular case, to release a copy of the quality assurance report, as it simply reported the facts of the incident and did not contain any analysis or recommendations.

However, other documentation held by the hospital, including correspondence to and from an insurance adjuster and patient notes, was withheld on the grounds that it had been prepared in contemplation of litigation and its release might have had an impact on negotiations. This explanation satisfied the applicant and the case was closed.

Municipality – telephone records

The applicant, a reporter for a community newspaper, sought details of a local politician's use of a publicly-funded cellular phone, including telephone numbers called, the date and time of the calls, and the time and duration of each call. In response to a previous request by the applicant, the municipality had already released details of the amounts spent by the municipality to reimburse the politician's cellular phone bill. However, the municipality felt that disclosure of information in response to the second request would constitute an unreasonable invasion of the third parties' privacy under the *Freedom of Information and Protection of Privacy Act*. The applicant requested a review of this decision.

During mediation, the Commissioner's Office was able to show that the Commissioner had established that an individual's calling record is personal information.

During mediation, the Commissioner's Office was able to show that in Order No. 63-1995, Order No. 64-1995, and Order No. 65-1995, the Commissioner had established that an individual's calling record is personal information. Barring unique circumstances, the disclosure of this information would likely be considered an unreasonable invasion of personal privacy under the Act. Dissatisfied with this interpretation, the applicant requested an inquiry before the Commissioner.

Further mediation clarified that the municipality did not have 'custody or control' of the information sought by the applicant. The practice of the municipality was to require members of council to submit only their bill stub from the telephone company in order to receive reimbursement and thus the municipality had never come into possession of the information the applicant had requested. Since the Commissioner's Office did not have jurisdiction over individual members of council, the applicant subsequently abandoned the request for inquiry and the case was closed.

School District – human resource records

The applicant, one of a group of school district employees who were the subject of a harassment complaint made by a colleague, submitted an access request for a copy of the harassment complaint records. He also requested records about a related workplace incident that had been investigated by the police. The school district refused, in both instances, to disclose any information under the *Freedom of Information and Protection of Privacy Act* because it believed this would be an unreasonable invasion of the colleague's personal privacy and further, that such a disclosure could threaten the safety of one or more individuals.

Through mediation, the school district agreed to disclose some factual information about the incident after the applicant confirmed what he already knew of this matter. The school district also disclosed personal information about the applicant, found in the harassment complaint records, where this could be done without revealing the identity of other employees. The applicant accepted the partial disclosure as a resolution of his request and the file was closed.

Fire Protection District – insurance report

An applicant requested a copy of an Underwriters' Survey Report prepared for a Fire Protection District (the district). The district refused to disclose a copy of the report, stating that the authors had specifically indicated prohibition of further distribution without explicit consent. The district also indicated that it planned to release the report to the public at a future date. The applicant asked for a review by the Commissioner's Office.

The Office informed the district that, while the authors of the report likely held the copyright to the document, under the *Freedom of Information and*

Protection of Privacy Act the district was obligated to treat the report in the same way as any other record subject to an access request. The Office suggested that the advice and recommendations in the report could be withheld under the Act, but that if the district intended on making the report public, it should do so sooner rather than later. The district accepted the Office's suggestions and made the report available to the applicant.

Municipality – towing contract records

An applicant requested from a municipality copies of all the records relating to the towing of vehicles from a particular parking area frequently used by hikers. Among the records requested were copies of the contract between the municipality and the towing company, all records relating to the towing of specific vehicles, correspondence between the municipality and the towing company, correspondence between owners of towed vehicles and the municipality, and any related records.

The municipality released most of the requested information but refused to release towing receipts and related correspondence from vehicle owners to the municipality, both of which contained personal information about the owners of the vehicles.

The applicant requested a review by the Commissioner's Office. Mediation resulted in the towing receipts being released with the personally-identifying information of third parties removed, as required by the *Freedom of Information and Protection of Privacy Act*. Some of the letters of complaint to the municipality were released after consultation with the authors, who provided their consent. In addition, the municipality released further towing receipts after the applicant observed that there should be more receipts

available for the period of time covered by his request and a subsequent search by the towing company, on behalf of the municipality, revealed this to be true.

The Office does not have jurisdiction to investigate private-sector companies under the Act, but it was noted that the towing company was obligated by contract to provide the municipality with details of all impounded vehicles. The municipality stated that the applicant had received all the information that it had received from the towing company. The applicant acknowledged the assistance of the municipality in obtaining this information, and on that basis the file was closed.

The Office does not have jurisdiction to investigate private-sector companies under the Act, but it was noted that the towing company was obligated by contract to provide the municipality with details of all impounded vehicles.

University – fee waiver

The applicant, a university student newspaper, requested proposals from advertising or media companies to the university for the purpose of placing commercial advertising on the university campus. The university assessed a $100 fee to process the request. The student newspaper requested a waiver of the fee, noting that the estimate included an amount for the cost of the first three hours of searching. The university denied the fee waiver based on the considerations of the time and expense involved in processing the request, the limited resources of the university and the fact that the student newspaper could generate advertising revenue. The university considered the newspaper to be a commercial applicant under the *Freedom of Information and Protection of Privacy Act* and therefore not entitled to have the first three hours of searching done for free. The applicant requested that the Commissioner's Office review the university's decision against section 75(2) of the Act, which requires that applicants not be charged for the first three hours of a search.

During mediation, the applicant clarified that the purpose of the request was to follow 'a story on proposals to the university from two advertising companies which specialize in putting ads in public washrooms. Advertising and commercial agreements at [the university] are both controversial.' The applicant further noted that it is a society incorporated under the *Society Act*, which prohibits it from doing any activity primarily for profit.

The university argued that the newspaper should be considered a commercial applicant under the Act because the information sought by the request was for the purposes of writing a story, which in turn generates advertising revenue for the newspaper.

It was this Office's opinion that the applicant was not a business but rather a non-profit society. It did not plan to sell the information and would not be reimbursed for services related to the request. Therefore, the applicant was not a commercial applicant. Further, the information sought in this case was clearly to stimulate public discussion about a controversial issue. In addition, under the Act, the university could not charge for the first three hours. The university agreed and waived the fee.

Self-governing professional body – complaint records

The applicant, a complainant to the professional body, requested copies of records provided to the body by a third party in response to the applicant's own complaint. The professional body agreed to disclose a few pages of records that the applicant herself had generated and which were attachments to the third party's submissions. However, the professional body informed the applicant that the remaining records were protected from disclosure under the *Freedom of Information and Protection of Privacy Act*. The applicant asked the Commissioner's Office to review this decision.

Through mediation, the Office clarified that the applicant was only interested in getting her own personal information contained within the records and not the records in their entirety. The Commissioner's Office suggested that the professional body consider preparing summaries or extracts of the applicant's personal information for release to her. As a result of further mediation, the third party agreed instead to disclosure of the actual records containing the applicant's own personal information and with all other information removed, or severed, from the records.

To ensure that the applicant would receive all the information she was entitled to under the Act, the Commissioner's Office assisted the third party's lawyer in severing and preparing the records for release by the professional body.

The public body had not had time to disclose the severed records to the applicant by the inquiry deadline. At the applicant's insistence, therefore, the Office issued a notice of inquiry to the parties. The applicant received the severed records soon after. The applicant voiced no objection to the severing but raised other, unrelated issues. After further discussion, the public body agreed to send a clarification letter, which satisfied the applicant. The review was, therefore, settled and this Office cancelled the inquiry.

To ensure that the applicant would receive all the information she was entitled to under the Act, the Commissioner's Office assisted the third party's lawyer in severing and preparing the records for release by the professional body.

V. Complaints

Introduction

Sections 42(2) and 52 of the *Freedom of Information and Protection of Privacy Act* (the Act) authorize the Commissioner to receive and investigate complaints about a public body's compliance with the Act. Individuals can complain to the Commissioner's Office that a public body has collected, used, or disclosed their personal information inappropriately. They can also complain that a public body has not fulfilled a duty imposed by the Act. The Commissioner's Office will investigate these complaints and make recommendations and decisions for their resolution.

The Complaint Process

The Commissioner's Intake Officers receive complaints, review the relevant facts and circumstances and often contact the parties for more information. If the complaint can proceed under the Act, one of the Intake Officers will assign it to a Portfolio Officer, who has delegated authority from the Commissioner to investigate and resolve the issues of the complaint.

Based on the Portfolio Officer's findings, the Commissioner or Portfolio Officer may make recommendations to a public body that change the way it collects, uses, discloses, or secures personal information. The Commissioner may decide the issue is systemic or affects a significant number of people and thus assign it for further investigation and analysis, which may result in the release of a formal Investigation Report. Where a complaint is not substantiated, the Office may dismiss it.

Statistics for Complaints and Investigations

Between April 1, 1998 and March 31, 1999, the Office closed 85 complaints and 24 investigations, most of which pertained to allegations of inappropriate collection, use, or disclosure of personal information. Other complaints or investigations related to the failure of a public body to perform a duty imposed by the Act, such as the duty to assist an applicant.

Between April 1, 1998 and March 31, 1999, the Office closed 85 complaints and 24 investigations, most of which pertained to allegations of inappropriate collection, use, or disclosure of personal information.

Complaints and investigations explore similar issues. However, where an individual or group files a complaint, the Commissioner usually initiates an investigation in response to concerns about systemic access or privacy issues.

Complaints are resolved through investigation, which typically result in findings that the complaint is either substantiated or not substantiated, in full or in part. Where a complaint is substantiated, the Commissioner's Office makes recommendations to a public body for changes to its existing policies or practices. Where a complaint is not substantiated, the case is closed. Investigations are normally concluded in a similar fashion. However, where a matter has garnered significant public interest or where the recommendations may be applied generally to all public bodies, the Commissioner may release an Investigation Report. Of the 24 investigations completed this year, two resulted in the release of a formal Investigation Report.

Since many complaints or investigations involve more than one issue, they have been categorized in Figure 8, below, by their predominant grounds only.

Figure 8: Disposition by Grounds of Complaints and Investigations Closed Between April 1, 1998 and March 31, 1999

Grounds	Fully or Partially Substantiated	Not Substantiated	Discontinued*	Investigation Report Issued	Total
Failure to Perform a Duty	6	10	0	0	16
Inappropriate Collection	16	17	1	0	34
Inappropriate Disclosure	19	28	4	2	53
Inappropriate Use	4	2	0	0	6
Total	45	57	5	2	109

** "Discontinued" indicates those requests for review that have been abandoned or withdrawn*

DEFINITIONS OF GROUNDS FOR COMPLAINT

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.

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 about an individual under the Act.

Figure 9, below, illustrates disposition by percentage of complaints and investigations closed by the Commissioner's Office between April 1, 1998 and March 31, 1999 by percentage.

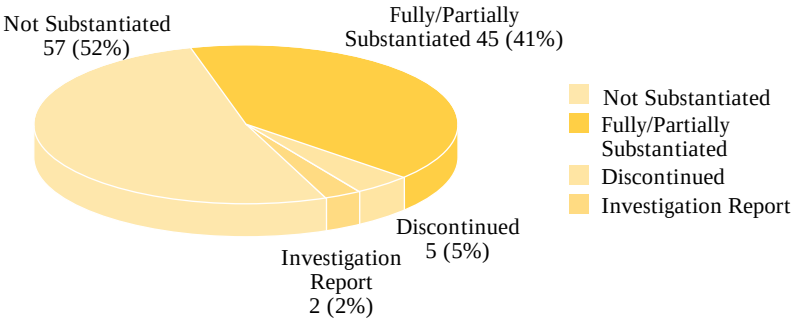


Figure 9: Disposition by Percentage of Complaints and Investigations Closed Between April 1, 1998 and March 31, 1999

Complaint Statistics by Public Body

Some public bodies are the subjects of complaints to, or investigations by, the Commissioner's Office more often than others. Normally, it is because they possess or handle more personal information than other public bodies. It may also reflect ongoing disputes about certain practices or policies of a particular public body.

Figures 10 and 11, below, indicate the number, grounds, and disposition of complaints or investigations that were concluded by the Commissioner's Office from April 1, 1998 to March 31, 1999, categorized by public body. Figure 10 indicates the grounds under which the complaints were filed or investigations launched, while Figure 11 indicates their final disposition.

Note that there have been no complaints filed or investigations launched against the majority of public bodies covered by the Act. The category of 'All Other Public Bodies' and its total figure of 50 represent the one or two complaints made against 37 public bodies other than the ones specifically listed.

Figure 10: Grounds of Complaints and Investigations Closed Between April 1, 1998 and March 31, 1999 by Public Body

Public Body	Collection	Disclosure	Duty	Use	Total
Insurance Corp. of BC	4	5	4	1	14
Children and Families	2	7	1	0	10
Human Resources	4	3	1	0	8
Health	2	3	1	1	7
Attorney General	3	3	0	0	6
Vancouver Hospital and Health Sciences Centre	1	2	0	1	4
Vancouver Police Department	1	3	0	0	4
Forests	0	0	3	0	3
Workers' Compensation Board	0	3	0	0	3
All Other Public Bodies*	17	24	6	3	50
Total	34	53	16	6	109

** See explanation of this category and its total figure of 50 in the paragraph above.*

Figure 11: Disposition by Public Body of Complaints and Investigations Closed Between April 1, 1998 and March 31, 1999

Public Body	Fully or Partially Substantiated	Not Substantiated	Discontinued	Investigation Report Issued	Total
Insurance Corporation of BC	5	8	1	0	14
Children and Families	4	5	1	0	10
Human Resources	1	7	0	0	8
Health	3	4	0	0	7
Attorney General	3	3	0	0	6
Vancouver Hospital and Health Science Centre	4	0	0	0	4
Vancouver Police Department	0	4	0	0	4
Forests	3	0	0	0	3
Workers' Compensation Board	2	1	0	0	3
All Other Public Bodies*	20	25	3	2	50
Total	45	57	5	2	109

** See explanation of this category and its total figure of 50 in the paragraph above.*

Samples of Recent Complaints

The following sample summaries of complaints received by the Commissioner's Office in the last fiscal year are generally illustrative of those received and of how the Office handles such complaints.

A. MINISTRIES, CROWN CORPORATIONS, AGENCIES, BOARDS, AND COMMISSIONS

Ministry of Human Resources – verification for benefits

The complainant was concerned that a verification officer for the Ministry of Human Resources (the Ministry) had disclosed information about the complainant's work history, and financial relationship with her spouse, to her landlord, who was also a relative.

The alleged disclosure of the complainant's personal information took place during a telephone conversation in which the verification officer confirmed, with the landlord, information provided by the complainant on an application for Income Assistance Benefits.

Upon receipt of the complaint, the Ministry conducted an internal investigation that concluded that the verification officer had not handled the case appropriately and had disclosed more information than was necessary. Remedial action took the form of a training session on how to protect client confidentiality and the type of responses that can be used.

In addition to increasing awareness of confidentiality issues, the Commissioner's Office also recommended that the Ministry conduct supplemental training in the area of interview skills, as part of the difficulty in this case had arisen from the style of questions asked. The Office recommended that the Ministry be fully versed in the skill of interviewing

subjects in a manner that protects the privacy of the Ministry's clients yet allows it to collect the information it requires to carry out its mandate.

Workers' Compensation Board – claim file

A Workers' Compensation Board (WCB) claimant received a copy of his claim file with a memo containing detailed information on the claimant's ex-wife's medical history. The ex-wife was subsequently made aware of this and filed a privacy complaint with the Commissioner's Office.

The allegations of fraud by the complainant turned out to be true.

The complainant had earlier written a letter to the WCB suggesting that the claimant was fraudulently collecting WCB benefits. During the WCB investigation into these allegations, the WCB field investigator became aware of certain details of the complainant's medical history. The WCB stated that the information about the complainant's medical history was 'relevant to [the Complainant's] credibility as an informant.'

The allegations of fraud by the complainant turned out to be true. For this reason, this Office suggested to the WCB that the complainant's sensitive medical history was irrelevant to the investigation, and should not have been recorded on the file.

The WCB conducted an internal investigation and issued a formal apology to the complainant. The WCB also altered the offending memo by removing the complainant's medical information from the permanent record.

Insurance Corporation of British Columbia (ICBC) – medical release form

The complainant, a physician, approached the Commissioner's Office with the complaint that a medical release form used by the Insurance Corporation of British Columbia (ICBC) was overly broad. The form, which is signed by an injured party seeking compensation or reimbursement for medical expenses, includes an authorization allowing general distribution of the party's personal information to a wide range of medical practitioners and caregivers. The complainant was concerned that the scope of this form could result in the release of patient information which has nothing to do with the current injuries, and which could prejudice the fair resolution of the patient's claim for damages.

Upon examination, this Office concluded that ICBC has the legal authority under both the *Freedom of Information and Protection of Privacy Act* and the *Insurance Corporation Act* to issue the form in its current format. However, this Office suggested that, if it was the physician's opinion that release of all of the information contemplated by the form would unduly invade the patient's personal privacy, or would otherwise be unfair for the patient,

a) the physician might choose to submit only those records which he or she feels are medically relevant to the patient's injury which is the subject of the claim (doctor's discretion); or,
b) permit the patient to modify the scope of the consent, after discussions with the patient (patient's discretion).

Whichever route is taken, it should be decided on the basis of explicit discussions with the patient and, in cases where the patient is represented, the patient's legal counsel. In all cases ICBC should be fully informed of the resolution.

B. LOCAL PUBLIC BODIES

College – disclosure of a job applicant's name

An individual had submitted an application to the college in response to a job vacancy posting. A short time later, the college sent a postcard to the individual's home confirming that his job application had been received. The individual believed that his privacy had been violated because, for personal reasons, he did not want other people at his home to know, at that time, that he had applied for the position.

The individual's privacy concerns were recognized however, and the college agreed to stop sending the postcards.

The college receives many applications for job vacancies, and it had used the postcards as a cost-effective way of confirming that an application had been received. The individual's privacy concerns were recognized, however, and the college agreed to stop sending the postcards. The college now sends a confirmation letter to short-listed applicants only. Information about this change in the procedure is now included in the college's job posting notices.

Municipal District – physician's report

An employee of a municipal district complained to the Commissioner's Office that the district personnel officer had disclosed her confidential physician's report to her supervisor. The Office investigated the complaint and learned that, under the district's sick leave management program, supervisors are responsible for making an initial decision on entitlement to sick leave benefits. Thus, in the Office's view, the supervisor did need to have access to the report as part of his supervisory duties.

However, the Office also learned that the district had recently set up a procedure by which employees could submit especially sensitive physician's reports directly to the district personnel officer, who would then make the

initial entitlement decision in place of the supervisor. The employee had been attempting to engage this process when she submitted her report to the personnel officer but the district admitted that it had not realized this. The district promised to take steps to ensure that, with particularly sensitive cases, it did not forward the physician's report to supervisors in cases where employees wished to use this alternative process.

In addition, the Office recommended to the district that it revise the physician's report, as it invited physicians to provide a great deal of personal medical information that, in the Office's view, was unnecessary for leave decisions. The district responded that physicians do not actually answer many of the questions but generally provide minimal medical information. After reviewing sample, anonymized forms, the Office concluded that the district was collecting appropriate personal information as part of this process but again recommended that the district revise the form so that it requested only relevant information. The district accepted the Office's recommendations and revised the form.

Municipality – by-law enforcement

The complainant wrote to the Commissioner's Office alleging that a municipal by-law enforcement officer had improperly disclosed his personal information to his neighbour. The complainant had felt threatened by his neighbour's dog and had asked that the animal be placed on a leash. The owner refused and allegedly harassed the complainant. The complainant wrote to the municipality expressing his concern about the animal and pointed out that the owner was in contravention of a municipal by-law. The by-law enforcement officer subsequently shared, with the neighbour, the complainant's correspondence to the municipality. According to the complainant, this resulted in further harassment by the neighbour.

The Office investigated the complaint and discussed the matter of the disclosure with the municipality. The municipality agreed that the by-law enforcement officer had acted improperly in disclosing the letters of complaint to the dog's owner. The municipality apologized to the complainant and promised to educate all municipal employees in their obligations to protect individuals' personal information under the *Freedom of Information and Protection of Privacy Act*.

The municipality apologized to the complainant and promised to educate all municipal employees in their obligations to protect individuals' personal information under the Freedom of Information and Protection of Privacy Act.

Hospital – employee assessment form

The complainant, a hospital employee, asserted that an employee health assessment form used by a hospital was a violation of privacy rights due to the amount of information collected. The complainant also had concerns about the use to which the information was put, and wished to have the information from this form erased from his employee record.

A review of the assessment form by the Commissioner's Office clarified that it was used to assess placement of employees within the hospital. While some of the questions on the form were appropriate for determining this, many questions regarding lifestyle, personal habits, and non-work-related health issues were not related directly to, or necessary for, the purpose for which the form had been constructed. Although no evidence was found to indicate that information was being used for purposes other than that for which it was collected, or was being disclosed for unauthorized purposes, it was the Office's opinion that the collection of this information did not meet the criteria for the collection of personal information under the *Freedom of Information and Protection of Privacy Act*.

After consultation, the hospital agreed to remove all of the information that was not related directly to employee placement, as well as a question pertaining to the employee's Social Insurance Number. In addition, the hospital removed an authorization to gather further medical information, and a statement warning employees who failed to provide complete and accurate data that they could be dismissed.

The notice section of the form was clarified to specify the purpose for collection and to inform all employees that the collection, use, and disclosure of this information are governed by the Act.

The hospital also agreed to remove the information that had been collected inappropriately on this form from the complainant's personnel file.

Self-governing professional body – licencing application

The complainant was concerned that a specialist's licencing form used by the professional body infringed on his access-to-information and privacy rights. The form contained a clause that authorized the professional body to use the information provided on the form for use in any way it deemed 'fit and necessary.' A second clause stated that, in signing the form, the complainant was waiving any right to seek disclosure from the professional body of any information it might collect on him.

The Commissioner's Office contacted the professional body to discuss the form. The professional body agreed that the clauses were likely in contravention of the *Freedom of Information and Protection of Privacy Act*. It moved quickly to change the form and also told the complainant that he was not required to complete it.

VI. Commissioner's Orders

Introduction

Sections 56(1) and 58(1), (2), and (3) of the *Freedom of Information and Protection of Privacy Act* (the Act) provide that the Commissioner must dispose of requests for review by an Order if they cannot be settled by mediation. The Commissioner may make Orders on the right of access to records, time extensions, corrections to records, and fees. The Commissioner may also make Orders on the collection, use, and disclosure of personal information under the Act.

The Commissioner is the impartial adjudicator of a case and his decisions are final and binding under the Act.

Orders arise out of formal inquiries where the Commissioner reviews the facts, issues, and records of a particular dispute and then makes a decision. The Commissioner is the impartial adjudicator of a case and his decisions are final and binding under the Act. If individuals involved in the case are dissatisfied with the Commissioner's decision and want to appeal, they must take their case to the Supreme Court of British Columbia and apply for judicial review.

Note: *The Commissioner's Orders are available on the Office's web site at: http://www.oipcbc.org.*

THE FORMAL INQUIRY PROCESS

Inquiries are conducted by the Commissioner, who decides if they will be oral or written. He also decides who may make submissions during the inquiry. The Commissioner also decides all questions of fact and law arising during the inquiry. The Commissioner has 90 days within which to conclude the inquiry, although the first portion of the 90 days is normally allocated to Portfolio Officers for the purposes of mediation. After the Commissioner has concluded his inquiry, he makes an Order, which is released to the parties and becomes a public document. The Order may require a public body to

withhold records, release records, or resolve issues concerning time extensions, corrections to records, or fees. It also may decide matters related to the collection, use, and disclosure of personal information. Public bodies must comply with the Commissioner's Orders within 30 days.

Note: *A Chronological Table of Orders and a Table of Concordance Between the Orders and the Act are available on the Office's web site at: http://www.oipcbc.org.*

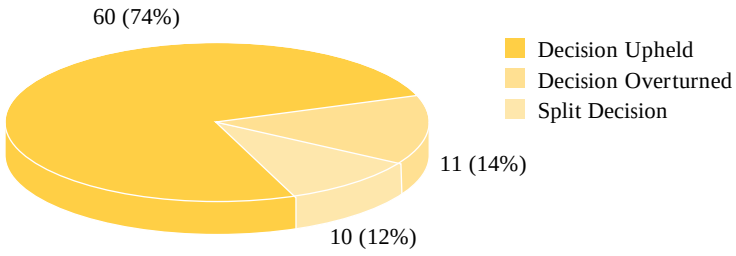
DISPOSITION OF COMMISSIONER'S ORDERS

Between April 1, 1998 and March 31, 1999, the Commissioner released 81 Orders. Sixty of the Orders upheld the decision of the public body, while 11 of them overturned a public body's decision and ten contained a split decision.

In considering the high percentage of Orders which upheld a public body's decision, it is important to note that mediation plays a large role in this statistic. The Office's discussions with public bodies during the mediation process frequently result in public bodies releasing additional records or withdrawing the application of particular sections of the Act they have used to withhold records. Thus, if called upon to make an Order, the Commissioner generally is faced with resolving significantly narrowed issues and records. Without mediation, it is likely that Orders would contain more overturned or split decisions. It is also important to acknowledge that public bodies now have more experience in applying and complying with the Act than they did when it first became applicable to their records and operations.

The disposition by percentage of Commissioner's Orders issued this fiscal year is illustrated in Figure 12, on the following page.

Figure 12: Disposition by Percentage of Commissioner's Orders Issued Between April 1, 1998 and March 31, 1999



JUDICIAL REVIEWS

From April 1, 1998 to March 31, 1999, five of the Commissioner's Orders were the subject of applications for judicial review before the B.C. Supreme Court: Order Nos. 266-1998, 281-1998, 290-1999, 291-1999, and 293-1999. The court heard the petition of Order No. 281-1998 but issued its decision after the fiscal year end. None of the other petitions has been heard.

The Court also delivered three decisions on Orders that were the subject of a judicial review in earlier fiscal years: Order Nos. 115-1996, 144-1997, and 195-1997. Order No. 115-1996 was upheld, Order No. 144-1997 was partly set aside and partly sent back to the Commissioner for reconsideration, and the petition for Order No. 195-1997 was dismissed.

Two decisions of the B.C. Supreme Court were appealed to the B.C. Court of Appeal: Order Nos. 115-1996 and 48-1995. Order No. 115-1996 has not yet been heard. The appeal for Order No. 48-1995 was dismissed.

There is only one petition from the previous fiscal year, concerning Order No. 126-1996, which has not been heard by the B.C. Supreme Court.

Note: *Copies of judicial review decisions are available by contacting the B.C. Supreme Court registries in Vancouver at (604) 660-2845, or Victoria at (250) 356-1478, or by linking from the table of judicial reviews on the Commissioner's Office web site to the corresponding B.C. Supreme Court decisions on the B.C. Superior Courts' web site at: http://www.courts.gov.bc.ca*

SAMPLE SUMMARIES OF RECENT ORDERS

From April 1, 1998 to March 31, 1999, the Commissioner issued 81 Orders. These were Order Nos. 221 to 301. Some of the more recent topical Orders have been summarized and set out below in reverse chronological order.

Order No. 299-1999 - A decision by BC Transit to refuse to grant a waiver of fees

The Chair of the Save South Granville Neighbourhood Committee requested records from BC Transit regarding the proposed rapid transit bus route along Vancouver's south Granville Street. The applicant requested the records so that his committee and other affiliated resident and merchant groups in the Granville Community might be fully informed of the issues and the possible impact of the proposal on the community.

In response to the applicant's request, BC Transit issued a fee estimate of $3,800. The applicant requested a fee waiver on the grounds that his association could not afford to pay the fee and that the records related to a matter of public interest, including the environment, and public health and safety. BC Transit denied the fee waiver request, stating that there were approximately 8,000 pages of records and that there were no grounds to waive the fee as the records were not of concern to a 'significant number or group of citizens,' they do not relate to 'realistic or genuine health and safety issues,' and the applicant cannot be relied upon to ensure that the information reaches the public.

The Commissioner found BC Transit's specific arguments to be problematic: 'The information before me clearly and overwhelmingly indicates that the records to which the applicant seeks access are related to matters of public interest. In addition, it is clear from the evidence that the applicant is in a

position to disseminate the information to the public. In the circumstances of this inquiry, I find it is fair to excuse the payment of fees.'

286-1998 - A decision by School District No. 73 (Kamloops/Thompson) to withhold information relating to harassment complaints against the applicant

The applicant, a teacher in the school district, was the subject of two workplace harassment complaints filed against her by two other teachers in the school district. She requested the two investigation reports created by the school district in response to the complaints.

The school district withheld the investigation reports and the supporting documentation, which consisted primarily of correspondence, student records, and witness statements taken or received by the persons assigned to investigate the complaints. The school district was concerned with protecting the personal privacy of the complainants and other 'third parties' under the *Freedom of Information and Protection of Privacy Act*.

The applicant argued that the information she sought was directly related to her, had resulted in serious adverse consequences for her career, and that she had a right of access to this information in order to defend her position on the matter.

Commissioner Flaherty found that the Act, on the facts of this case, permitted disclosure of information sufficient to allow the applicant to understand the substance of the allegations made against her, and the findings and recommendations of the investigators. For records such as notes of investigative interviews taken under an assurance of confidentiality, the disclosure of which the Commissioner agreed would amount to an

unreasonable invasion of third parties' personal privacy, he ordered the school district to produce a single anonymized summary.

285-1998 - A decision by British Columbia Lottery Corporation to withhold records concerning Lake City Casinos Ltd. from the Kamloops Daily News

A Kamloops Daily News reporter requested records about the gross revenue from 275 slot machines at the Stockman's Hotel Casino for a 5-day period in April 1998. The reporter stated that this should be public information because most of the money goes to the provincial government.

The Lottery Corporation refused to give the reporter the information, citing exceptions under the *Freedom of Information and Protection of Privacy Act* for trade secrets and financial information, potential harm to intergovernmental relations, and harm to the business interests of a third party. The applicant argued that disclosure was in the public interest.

The Commissioner decided that the Lottery Corporation was authorized to withhold the requested information because the financial results of the casino operations are trade secrets as defined by the Act and because it is financial information which has, or is reasonably likely to have, monetary value to the Corporation. The Commissioner also stated that the subject of the access request was not of the standard necessary to invoke the public interest override in section 25 of the Act.

The Commissioner decided that the Lottery Corporation was authorized to withhold the requested information because the financial results of the casino operations are trade secrets.

264-1998 - A request to Simon Fraser University for access to the 'Campus Crime Survey' database

In 1993, a unit of the university sponsored a crime victimization survey with the assistance of a professor from the school of criminology. Information

from the survey was later used in an article published in an academic journal. One of the project researchers, complaining that she had not been given appropriate credit in the article, requested a complete copy of the survey database.

The university responded that the database was the criminology professor's research information and that they did not have custody or control of the information. At a written inquiry before the Commissioner, the professor argued that the database and research resulting from it belonged to him, and that the university failed 'at any time to assert any form of proprietary or ownership right over either the records or the survey results.' The applicant argued that the university owned the database and therefore it was covered by the *Freedom of Information and Protection of Privacy Act*.

The applicant argued that the university owned the database and therefore it was covered by the Freedom of Information and Protection of Privacy Act.

The Commissioner commented that 'the university, for its part, has gotten itself into a complicated or at least 'ambiguous' situation, under the Act, by failing to clarify the custody and control of the database at the initiation of the project. In the circumstances, I can understand that a sponsored piece of applied research migrated into the private research project of a major advisor on the original project... I find that the database was not in the custody or under the control of the university... [b]ecause of the actions of the [professor], the university had effectively lost any practical claims to custody and control of the database, and it had not asserted any legal claims to custody or control.'

261-98 - A media request for access to records regarding the administration of the medication Ritalin by school district staff to elementary school students: School District No. 35 (Langley); School District No. 75 (Mission); School District No. 43 (Coquitlam); School District No. 38 (Richmond); School District No. 41 (Burnaby); School District No. 36 (Surrey); and School District No. 39 (Vancouver)

The applicant, a reporter with The Province newspaper, made a request under the *Freedom of Information and Protection of Privacy Act* to more than twenty school districts for records indicating the number of children, per school, who were receiving Ritalin from school employees during school hours. Some of the school districts responded by providing a summary of the information. Seven school districts refused to provide any records or create a summary of the information. The reporter requested a review of these refusals by the Commissioner's Office.

At a written inquiry, The Province argued that 'disclosure of information relating to the use of Ritalin by children which is administered at school by school employees is necessary to foster debate as to the prevalence, and fluctuating rates, of usage of Ritalin in British Columbia. This debate is likely to promote public health and safety, especially for one of the most vulnerable groups in our society.' The school districts argued that disclosure of the information would be an unreasonable invasion of privacy, and might result in stigmatization of children who were already disadvantaged.

The Commissioner noted that 'the fact that this applicant has already received comparable records and has published an informative series of articles in a leading provincial newspaper indicates, at least to my satisfaction, that there is a significant public interest in the dispensing

of certain types of medication to elementary school students during school hours. It seems clear to me that school administrators, teachers, parents, and students in elementary schools should be interested in the use of medication by some students.' The Commissioner ordered that the information be disclosed in a non-identifying format.

A reporter for the Delta Optimist newspaper, requested the expense records for the Corporation of Delta's (the Corporation) Chief Administrative Officer for the years 1995 to 1997.

259-98 - The Corporation of Delta's refusal to grant a fee waiver

The applicant, a reporter for the Delta Optimist newspaper, requested the expense records for the Corporation of Delta's (the Corporation) Chief Administrative Officer for the years 1995 to 1997, seeking all receipts, vouchers, and other supporting documents for the CAO's expense claims. In response, the Corporation issued a fee estimate of $660 to $810 to process the request. The newspaper requested the Corporation waive the fee on the grounds that the information in the records was a matter of public interest. The request for a fee waiver was denied.

At a written inquiry, the newspaper argued that it should not be charged for the information, stating '...we believe the amount the municipality set to process our Freedom of Information request has more to do with stifling the flow of information than it does with cost recovery.' The Corporation took the position that, while the records may be of public interest, 'no public benefit will flow from the waiver of the estimated fee in this case.'

The Commissioner disagreed: 'I accept that the applicant performs an important role in facilitating the flow of information concerning local government to the interested public. While I am cognizant that the applicant, as a community newspaper, has a private economic interest in obtaining and disseminating the requested information, I accept in the particular circumstances of this case that the applicant's primary purpose is

to disseminate the information in a way that could reasonably be expected to benefit the public. Thus I cannot accept the Corporation's submission that no public benefit would flow from the waiver of the fee.'

247-98 - A decision of School District No. 58 (Nicola-Similkameen) on the custody or control of a retired school principal's diary

The applicant requested records relating to any investigations, complaints, and allegations concerning his wife and her working conditions at a school, particularly in connection with another co-worker. The applicant subsequently narrowed his request to those records retained by the principal of the school, upon his retirement. The school district denied the request, stating that the records he was seeking were not in the custody or control of the school district.

Commissioner Flaherty ruled that the diary was not accessible under the *Freedom of Information and Protection of Privacy Act.* Although the diary included notes and comments about events in the former principal's workplace, the Commissioner found that it was not a record falling within the custody or under the control of the school district. He concluded that: 'The school district did not require the record to be created, nor could it have required the record to be created. Indeed, the diary was created by the [principal] without the knowledge or consent of the school district.... Based on the evidence before me, I accept that the diary was a personal document within the custody and control of the [principal] rather than the school district....[As such], it does not fall within the ambit of the Act.'

222-98 - An applicant's request for access to a victim impact statement made at his parole hearing.

The applicant requested a copy of the audiotape of his parole hearing, at which he was present. The Ministry of Attorney General (the Ministry) provided the applicant with a copy of the audiotape but deleted the portion containing his victim's oral victim impact statement. The applicant requested a review of this decision by the Commissioner's Office.

In confirming the Ministry's decision, Commissioner Flaherty stated that '[t]he fact that the applicant has heard the oral impact statement at his parole hearing does not grant him an automatic right of access to such a record under the *Freedom of Information and Protection of Privacy Act*.' The Commissioner agreed with the Ministry's statement that '...given the extremely violent and sadistic nature of the crimes committed by the applicant upon the [victim], the applicant's lack of remorse and denial of these events, and the fact these crimes were not random incidents, but arose out of a common law spousal relationship, the access to... the record... could reasonably be expected to threaten the [victim's] safety or mental or physical health.'

The Commissioner wrote further that 'a victim impact statement is an extremely intimate document, comparable perhaps to use of the confessional in a religious ceremony, except that a victim may have a somewhat larger audience'. The process of making an impact statement can be therapeutic for the individual in the best of cases. There is a reason why it should be unusual for any record of a victim impact statement to be disclosed to others, beyond its intended aural audience, unless the victim chooses to make that disclosure. In this inquiry, the victim strongly resists the disclosure of the record in dispute.'

In a final note, the Commissioner wrote 'individuals should have a fundamental right to control the disclosure of their own personal information. This is the link to appreciating the nature of victim impact statements.'

221-98 - A decision by the College of Physicians and Surgeons of British Columbia to refuse the Canadian Broadcasting Corporation's (CBC) request for access to records associated with the conduct of a physician

The CBC requested records from the College of Physicians and Surgeons (the College) concerning a physician who was the subject of 17 conduct reviews and who had been temporarily suspended from practicing medicine for unprofessional conduct. The College provided the CBC with some records pertaining to previous investigations but refused to confirm whether or not other complaints had been received about the doctor in question. The College later confirmed that the doctor had been the subject of 17 conduct reviews, but would not disclose the outcomes of these reviews.

At a written inquiry, the CBC argued that, in the public interest, the records should be disclosed, and stated 'the revelation of any personal information would not be an unreasonable invasion of the privacy of [the doctor] as the number of conduct reviews and disciplinary hearings to which he has been subject suggests that his own conduct is unreasonable and that in the interests of public safety his actions should be made known.'

The College stated that 'physicians who participate in the college's [conduct review] processes do so in the expectation that all information will be maintained in confidence.' The College further argued that disclosure of the

The Commissioner found that the College was permitted by law to withhold the records: 'In conclusion, and despite any sympathy I may have for the position of the CBC, I nevertheless find that the records in dispute are explicitly protected from disclosure by the [Freedom of Information and Protection of Privacy Act].'

records could damage the public interest, 'if the result is to impede the College's ability to improve the standards of competence and of ethical conduct of medical practice in British Columbia.'

The Commissioner found that the College was permitted by law to withhold the records: 'In conclusion, and despite any sympathy I may have for the position of the CBC, I nevertheless find that the records in dispute are explicitly protected from disclosure by the [*Freedom of Information and Protection of Privacy Act*].'

VII. Section 43 Authorizations

Introduction

Section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) provides that the Commissioner may authorize a public body to disregard requests for records that are 'repetitious or systematic' in nature, and which 'would unreasonably interfere with the operations of the public body.' The purpose of section 43 is to prevent irresponsible use of the Act by applicants.

This year the Commissioner's Office disposed of four section 43 requests from public bodies. Two were withdrawn upon further consultation with this Office while the other two were resolved through mediation. No section 43 request resulted in an inquiry before the Commissioner this year.

The Commissioner may authorize a public body to disregard requests for records that are 'repetitious or systematic' in nature, and which 'would unreasonably interfere with the operations of the public body.'

The Section 43 Authorization Process

The Office processes a public body's section 43 authorization request in similar fashion to a request for review. The Office's Intake Officers review the authorization request and assign it to a Portfolio Officer, who will try to assist the parties in reaching a mediated solution. If mediation fails, the request will proceed to a formal inquiry before the Information and Privacy Commissioner. During the inquiry, the public body is required to provide evidence to substantiate its claim that the applicant is unreasonably interfering with the public body's operations by making repetitious or systematic requests. The Commissioner reviews the arguments and issues a binding decision confirming or denying the request.

The terms of a section 43 authorization vary according to the nature of the public body's request and the Commissioner's determination of the facts. Normally, however, a section 43 authorization will bar an applicant from requesting records from a public body for a specified period of time. Alternatively, the Commissioner may choose to limit the number of requests an applicant can make to a public body for a specified period of time.

Note: *Section 43 authorizations are available on the Office's web site at: http://www.oipcbc.org.*

VIII. Investigation Reports

Introduction

Sections 42(1), 42(2), and 44 of the *Freedom of Information and Protection of Privacy Act* (the Act) authorize the Commissioner to conduct investigations on a variety of matters concerning the access to information and protection of privacy practices of public bodies under the Act. These investigations may originate from complaints, but also may be undertaken where the Commissioner perceives there are larger, systemic information or privacy issues of public concern. The purpose of an investigation is to ensure that a public body's policies and practices are in compliance with the Act, and to offer it guidance in achieving that compliance.

Note: Investigation Reports are available on the Office's web site at: http://www.oipcbc.org

The purpose of an investigation is to ensure that a public body's policies and practices are in compliance with the Act, and to offer it guidance in achieving that compliance.

Summaries of Recent Investigation Reports

This year the Office released two public investigation reports. These have been summarized and set out below in reverse chronological order.

P99-014 An Investigation by the Office into privacy complaints concerning the Provincial Learning Assessment Program of the Ministry of Education (March 25, 1999)

In response to concerns from parents, an MLA, the BC Teachers' Federation, and the media, the Commissioner's Office launched an investigation into the administration of the Provincial Learning Assessment tests by the Ministry of Education and individual schools. The essay topic of the tests asked students to write about their home life and these responses were subsequently reviewed by a group of teachers who were supervised by

Ministry of Education staff. In addition, a child protection specialist provided training to the markers to identify child protection concerns that might be contained in the answers. This specialist reviewed any tests flagged by the markers as raising child protection issues and 46 of the tests administered across the province were sent to the Ministry for Children and Families for further review.

The Commissioner found that the Ministry of Education was legally required to report any child protection issues identified in the tests to the Ministry for Children and Families. However, this investigation raised additional concerns about the testing process.

The Office's investigation focussed on the disclosure of the tests to the Ministry for Children and Families and the Ministry of Education's choice of an essay topic. The investigation also considered whether identifiable information was needlessly collected on the tests, and whether children and parents were properly notified as to how students' personal information might be used.

The Commissioner found that the Ministry of Education was legally required to report any child protection issues identified in the tests to the Ministry for Children and Families. However, this investigation raised additional concerns about the testing process and the Commissioner made the following recommendations:

- that, in the future, the Ministry not select essay topics that would invite or prompt students to write about sensitive or unsettling personal situations. The Ministry should have anticipated the possible unintended consequences from using the 'home' topic, especially since the issue of child abuse had arisen in previous provincial tests and the purpose of the tests was not to uncover child abuse.
- that the Ministry and school districts encourage school principals and teachers to review completed tests before they are forwarded to the Ministry, as this would allow the people who know the child and the particular

circumstances to deal promptly with any information that would suggest a child might be in need of protection. This is a desirable 'privacy scenario.'

- that the Ministry adopt a procedure that will allow for the students' names to be deleted at the school after the tests have been written. This should not, however, interfere with or delay the reporting requirements under the *Child, Family and Community Service Act*.

- that the label sheets used to link an individual student to his or her test be kept for a limited time only but that the Ministry continue with the use of this unique identifier for these tests because, in general, the Commissioner opposes the use of a single student identifier for a variety of purposes which may not be related.

- that there be a clearer notification that individual scores will be disclosed to the school and the school district, and that the scores will be used for a particular purpose. The Ministry confirmed that, for the 1999 assessment tests, results for individual students will not be returned to the school district or the school.

- that the brochures sent to parents contain information that clearly explains the purpose for collecting the background and habits information for individual students. The Ministry has reported that a section explaining the purpose of gathering this information has been added to the 1999 brochure.

- that parents and students be notified that classroom teachers may score the tests before they are sent to the Ministry, and that the classroom teachers will use the scores for a particular purpose. The Ministry has said that it will alert parents that classroom teachers may score the tests and that parents can obtain further information about the use of such scores from the school.

P99-013 An investigation into the disclosure of personal information concerning discipline matters by the British Columbia College of Teachers (January 5, 1999)

In response to an article in the Vancouver Sun concerning the British Columbia College of Teachers' decision to terminate a former assistant superintendent's membership and cancel his teaching certificate, the Commissioner's Office conducted an investigation into the disclosure of discipline information by the College. The College had taken disciplinary action against the assistant superintendent following an investigation of sexual harassment allegations. The College had published a summary of the disciplinary case in its quarterly newsletter, which is distributed to the College's 55,000 active members. The Vancouver Sun had gleaned details of the harassing behaviours from this case summary.

The investigation began by reviewing the College's authority for disclosing personal information and then examining the various levels of disclosure in its hearing reports, discipline case summaries, news releases, and annual report extracts.

The investigation began by reviewing the College's authority for disclosing personal information and then examining the various levels of disclosure in its hearing reports, discipline case summaries, news releases, and annual report extracts. The report concluded that the College's disclosure practices complied with the *Freedom of Information and Protection of Privacy Act*. It also made some recommendations:

- that the College develop guidelines on when it would be appropriate to disclose hearing reports, beyond the pre-determined list in the College's Policies.
- that the College develop guidelines to assist it in determining when it is appropriate to disclose the names of respondents and adult victims and complainants in its hearing reports.

- that the College draw up guidelines which will assist it in achieving consistency in the content of its case summaries.
- that the College draft guidelines on when it would be appropriate to disclose the names of adult victims or complainants and of respondents in case summaries.
- that the College consider making its case summaries routinely available, or available on request, to the public.

IX. Site Visits

Introduction

Section 42(1)(a) of the *Freedom of Information and Protection of Privacy Act* (the Act) authorizes the Commissioner to conduct audits or investigations of public bodies under his jurisdiction to ensure their compliance with the provisions of the Act. Inspired by the German federal and state models of auditing data protection practices in the public sector, the Commissioner is convinced that auditing for compliance is essential to successful data protection. He fulfills this mandate, in part, by conducting 'site visits.'

Site visits are a less formal form of audit and typically focus on Part 3 of the Act, which sets out the rules and guidelines for public bodies on how to collect, use, and disclose personal information.

Site visits are a less formal form of audit and typically focus on Part 3 of the Act, which sets out the rules and guidelines for public bodies on how to collect, use, and disclose personal information. These guidelines are often referred to as 'fair information practices.' The primary goal of a site visit is to raise consciousness about information and privacy rights and the obligations of public bodies under the Act. The Commissioner also uses it as an opportunity to learn more about the practices of particular public bodies, especially those in more remote communities, and to respond to the questions and concerns they might have about the Act.

Site visits also provide the Commissioner with more information about freedom of information problems in general, such as the impact of the Act on the relationship between local police and hospital authorities. As well as alerting public bodies to the Office's role in monitoring compliance with the Act, the Commissioner sees site visits as an opportunity to put a human face on the legislation and to offer guidance and support for its proper implementation.

The Commissioner often focuses on 'information intensive' public bodies, such as hospitals, social services, and municipal police forces. He also visits central government bodies, Crown corporations, and municipal offices. Public bodies themselves sometimes invite the Commissioner to visit them because they want help. Office staff may also suggest site visit opportunities where, on the basis of their advice-giving activities and investigation of reviews or complaints, they suspect problems with applying the legislation. Site visits are also organized around invitations to the Commissioner to speak to various organizations around the province.

An in-depth discussion of the site visit process, including how the Office selects public bodies as candidates for a site visit, the format of a typical site visit, and other site visit procedures is detailed in the Office's Annual Report for 1997/98. This report is available on the Office's web site at: http://www.oipcbc.org

Recent Site Visits

The Office conducted 67 site visits to public bodies this year, most of which are listed below according to type of public body. Please note that some public bodies may have undergone name and/or organizational changes since the conclusion of the site visit.

Hospitals and Health Authorities: Capital Health Region; Chase Hospital; Coast Garibaldi Community Health Services Society; Cowichan District Hospital; Delta Health Services; Fernie District Hospital; Fraser Valley Health Region; Lady Minto Hospital; Langley Memorial Hospital; Mission General Hospital; MSA General Hospital; North Okanagan Regional Health Board – Enderby and District Memorial Hospital, Queen Victoria

Hospital, and Shuswap Lakes Hospital; Peace Arch Hospital; Pemberton Health Care Centre; Royal Inland Hospital; Squamish General Hospital; St. Paul's Hospital; Surrey Memorial Hospital; Vancouver Hospital and Health Sciences Centre; Whistler Health Care Centre.

Ministries, Agencies, Boards, Commissions, and Crown Corporations: BC Board of Parole; BC Lottery Corporation; Children's Commission; Ministry of Attorney General – Corrections Branch; Ministry for Children and Families – Willingdon Youth Detention Centre, Victoria Life Enrichment Society Residential Alcohol Treatment Centre, Pemberton House, Dallas Society, and Salmon Arm, Revelstoke, Fernie, Esquimalt, and Saltspring Island District Offices; Ministry of Human Resources – Esquimalt District Office; Ministry of Small Business, Tourism and Culture – Government Agent's Offices at Saltspring Island, Fernie, and Squamish.

Municipalities and Local Government Bodies: Capital Regional District; City of Fernie; City of Kamloops; City of Surrey; Corporation of the Town of Esquimalt; District of Salmon Arm; District of Squamish; Islands Trust; North Saltspring Waterworks; Resort Municipality of Whistler; Village of Pemberton.

School Districts: School District 19 (Revelstoke); School District 36 (Surrey); School District 64 (Gulf Islands); School District 73 (Kamloops/Thompson); School District 83 (North Okanagan-Shuswap).

X. Providing Advice

Introduction

Sections 42(1)(f), (g), and (h) of the *Freedom of Information and Protection of Privacy Act* (the Act) authorize the Commissioner to comment on the access to information or protection of privacy implications of (i) proposed legislative schemes or programs; (ii) automated systems for the collection, storage, analysis, or transfer of information; and (iii) the use or disclosure of personal information for record linkage. The Office normally fulfills this advisory role by consulting directly with public bodies, although it may engage in public discussion of a particular matter if it appears to affect significantly the information and privacy rights of British Columbians.

The Office normally fulfills this advisory role by consulting directly with public bodies, although it may engage in public discussion of a particular matter if it appears to affect significantly the information and privacy rights of British Columbians.

Recent Matters for Advice

A. CONTRACTING-OUT OF GOVERNMENT COMPUTER SERVICES

Following on our extensive consultations last year concerning the proposal to contract out some of the government's computer services, the Office continued this year to provide information and privacy advice to the BC Assets and Land Corporation during negotiations with MacDonald Dettwiler and Associates (MDA) to purchase BC Online.

The Commissioner and members of the Office's staff visited the MDA facilities in Richmond to review security arrangements, talk to MDA staff, and generally satisfy themselves that MDA could provide appropriate security and confidentiality safeguards for the personal information stored by BC Online.

B. PRIVATE SECTOR PRIVACY LEGISLATION – BILL C-54

In 1995, the European Union adopted a directive (Directive 95/46/EC) to establish a uniform right to privacy among its 15 member states. The member states were required to adopt national legislation in line with the provisions of the directive by October 24, 1998. Under the directive, the citizens of the EU have the right to:

- information from users of their personal information as to where that information originated, the identity of the organization processing data about them, and the purposes of such processing;
- access to personal data relating to them;
- correct personal information that is shown to be inaccurate; and
- opt out of allowing their data to be used in certain circumstances (for example, for direct marketing purposes), without providing any specific reason.

The directive also requires that transfers of personal data take place only to non-EU countries that provide an 'adequate' level of privacy protection, that is, a level of protection at least equal to that provided in European Union member states.

In response to the EU Directive, the Government of Canada introduced legislation which sought to extend privacy protections to the private sector in a fashion similar to that already provided to personal information handled in the public sector. In Quebec, personal information is already protected in both the public and the private sectors.

The proposed federal privacy legislation, Bill C-54, or the *Personal Information Protection and Electronic Documents Act*, is based on the

Canadian Standards Association's Model Code for the Protection of Personal Information, negotiated with business and industry associations across the country. Under the new law, consumer consent would be needed for organizations to collect and use their personal data, and individuals would have a right of access to their personal information held by private enterprise. The Act would apply to the federally regulated private sector including: banks, telecommunications, and inter-provincial transportation companies. The federal government relied on its powers under the 'trade and commerce' clause of the Constitution to extend the scope of the Act to cover any organization that collects, uses, or discloses personal information 'in the course of commercial activities.' This was defined as personal information that has commercial value and is traded within a market. The Act would also apply to personal information that an organization 'collects, uses, or discloses inter-provincially or internationally,' such as a list of subscribers to a magazine.

Under the new law, consumer consent would be needed for organizations to collect and use their personal data, and individuals would have a right of access to their personal information held by private enterprise.

The federal government also said that the provisions of Bill C-54 would apply to provincially-regulated industries within three years of being passed, unless substantially similar legislation is also passed at the provincial level. This is a bold step and is certainly an effective incentive for the provinces to put the issue of private sector privacy protection firmly on the agenda.

The fact that we, in British Columbia, do not already have privacy legislation for the private sector often surprises members of the public who call our Office seeking advice.

However, there is a clear need. Governments in modern social-democratic societies are responsible for the establishment and operation of a wide range of social programs, from employment benefits to the judicial system; traffic enforcement to recreation programs; government will always be required to

collect, use, store, and disclose large amounts of their citizens' personal information. However, private enterprise is rapidly taking a larger and more significant role in the management of our personal information management *vis à vis* the public sector. The personal information held by travel agencies, airlines, private physicians' offices, video rental stores, magazines, or Internet service providers is not protected. Nor is the personal information a person gives department stores, gas stations, or credit issuers when he or she signs up for a loyalty-reward card.

Polls show that consumers are becoming increasingly concerned about the unauthorized use and trading of their personal information by commercial entities.

Moreover, citizens in many international jurisdictions, including Hong Kong SAR, New Zealand, and, of course, Europe, already have privacy protection for their personal information handled by private enterprise. Polls show that consumers are becoming increasingly concerned about the unauthorized use and trading of their personal information by commercial entities. Thus, the protection given to personal information in these jurisdictions will give commerce, especially electronic commerce, an edge over those jurisdictions who do not have such protections. If action is not taken to protect consumer information, electronic commerce will never reach its full potential in Canada. This is a very serious consideration in our global economy.

Information and Privacy Commissioner David Flaherty submitted to Industry Canada last year that 'the privacy of personal information goes to the heart of our identity as human beings. It is a fundamental, democratic, human, and ethical right that deserves full and forceful legal protection.' Others seemed to agree. At an address to an international conference on privacy and data protection in Ottawa, in September 1996, then Minister of Justice, Allan Rock, announced that 'by the year 2000, we aim to have federal legislation on the books that will provide effective, enforceable protection of privacy rights in the private sector'. The protection of personal

information can no longer depend on whether the data is held by a public or private institution.'

Bill C-54 did not make it on to the House of Commons' legislative agenda this spring. The federal government has promised to re-introduce the bill in the fall sitting of the House and pass it before the new year.

C. OTHER ITEMS

The Office also provided comments on a number of information-sharing agreements, including the BC Family Bonus Agreement between the federal and provincial government; the National Child Benefit Data Transfer MOU with Revenue Canada; the sharing of information between the Workers' Compensation Board and the Family Maintenance Enforcement Program; the information-sharing protocol between the Ministry for Children and Families and physicians; and the BC Cancer Agency's distribution of personally identifiable information to other countries. Further, the Office developed a checklist for data matching agreements.

In addition, the Office made comments to the Advisory Council for Health Info-structure; reviewed a privacy impact assessment conducted by the Ministry of Advanced Education, Training and Technology regarding the personal education number (PEN) for post secondary institutions; provided ongoing consultation services to the Ministry of Health as it extended BC's Pharmanet system to emergency services and planned the extension of Pharmanet to doctors' offices throughout the province; reviewed the Vancouver Hospital and Health Sciences Centre's video surveillance policy, e-mail usage policy, confidentiality policy, and security and confidentiality agreement for data access; and the amalgamation of 15 community health databases into one by the Vancouver/Richmond Health Board. The Office

also commented on a series of Elections BC's initiatives and continued to provide guidance to public bodies on the use of sections 25 and 33(p) of the Act, with respect to community notification of sex offenders and to monitor new legislation for pertinent information and privacy issues.

XI. Informing the Public

Introduction

Section 42(1)(c) of the *Freedom of Information and Protection of Privacy Act* (the Act) grants the Commissioner the responsibility of informing the public about the Act. The Office fulfills this educational mandate by interacting with the media; participating in and hosting conferences; presenting speeches, seminars, workshops, and video conferences; and developing various public education materials and tools, such as the Office's web site, information kits, FAQs, and an information and privacy rights brochure.

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Annual Information and Privacy Conference

In October 1998, the Office hosted its fifth annual information and privacy conference. The conference was entitled 'Private Lives and Public Accountability.' The focus of the conference was privacy and accountability, specifically the challenges involved in balancing the privacy rights of individuals against the public's right to know. The topics included public registries and profiling; privacy impact assessments and research agreements; outsourcing of personal information management; community notification; and access to personnel, harassment, and disciplinary records.

The sessions were interactive in format with panelists presenting various or opposing viewpoints and taking questions from the audience. The final panel, including Alberta's Information and Privacy Commissioner, Bob Clark, and British Columbia's Information and Privacy Commissioner, David Flaherty, was chaired by the Privacy Commissioner of Canada,

Bruce Phillips. The panelists offered insight into how privacy commissioners balance the public's right to know against an individual's right to privacy. The commissioners provided examples of difficult decisions they have made and explored those issues that complicate the decision-making process, such as technological advances, public policy, and shrinking government resources. The commissioners also discussed those issues that they foresee as being particularly problematic for the near future. Commissioner David Flaherty, whose six-year non-renewable term expires on July 31, 1999, concluded the conference with some personal reflections on his experiences in office.

The conference took place in Vancouver and was attended by participants of various backgrounds and interests, including public and private sector employees and members of the media.

May 1996 'Visions of Privacy' Conference Update

On May 9-11, 1996, the Office, in conjunction with the University of Victoria, hosted an international conference entitled 'Visions for Privacy in the 21st Century: A Search for Solutions.' The conference featured an impressive range of privacy experts and advocates. Representatives from several countries were in attendance, along with many of the world's privacy activists.

As a product of this important conference, Colin J. Bennett and Rebecca Grant, professors of political science and business, respectively, of the University of Victoria, edited a collection of conference papers that were published in a book released by the University of Toronto Press in March 1999. Featuring experts from Canada, the United States, and the

United Kingdom, the book explores five potential paths to privacy protection: application of the principles of fair information practices; building privacy into new technologies and regulatory frameworks; factoring privacy into business practices; thinking globally; and advocating against surveillance. The book, entitled Visions of Privacy: Policy Choices for the Digital Age, is available at major bookstores.

Web Site Update

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 the Act and the Office as broadly accessible as possible. It plays an important role in the Office's communication and education strategy and experienced an increase in traffic of approximately 30% last year. The web site serves approximately 2,000 pages on an average day, totalling almost 30 megabytes of information monthly.

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The web site currently includes the following relevant materials:

- A copy of the *Freedom of Information and Protection of Privacy Act*
- The Commissioner's Orders and related news releases
- The Commissioner's Investigation Reports and related news releases
- Section 43 authorizations
- A Table of Concordance cross-referencing sections of the Act with the Orders
- A Table of Judicial Reviews of the Commissioner's Orders linking to the B.C. Superior Courts web site

- The Office's Annual Reports for 1994/95, 1995/96, 1996/97, 1997/98, 1998/99
- The Office's Information and Privacy Rights brochure
- The Office's Policies and Procedures
- Privacy Advice, including Fax, E-mail Guidelines, and Privacy Impact Assessments
- Submissions by the Office to other bodies, such as the Legislative Assembly and Industry Canada
- Copies of the Commissioner's speeches and presentations
- Information about past and future information and privacy events, such as conferences and workshops
- Links to other major information and privacy web sites in Canada and around the world

XII. Towards the Future

Data Mining in the Healthcare Sector

By Peter Luttmer, Portfolio Officer

'A just machine to make big decisions
Programmed by fellows with compassion and vision
We'll be clean when their work is done
We'll be eternally free yes and eternally young
What a beautiful world this will be
What a glorious time to be free'
From 'I.G.Y.' composed and arranged by Donald Fagen

Doctors are facing an information overload when it comes to new treatments against diseases they did not even know exist. Vast and increasing amounts of information available to doctors call for new and improved intelligent support systems to help in the diagnosis and selection of optimal treatments. The healthcare industry needs to reinvent the way to distribute information and take advantage of the media technologies.

Furthermore, these new technologies and treatment methods give rise to unique problems. The patient's desire for privacy remains largely unchanged in the face of growing technology. With caregivers rushing towards the Internet and other technologies, how long can it be before new technologies collide with our immoveable desire for privacy?

I recently attended a meeting with healthcare professionals from the Victoria area. At that meeting, one of the more senior officials present said that there is a mindset within the healthcare community that believes that all information is good information and if you can record it, there must be a

use for it, and it must be needed. It is this mindset that is going to come face-to-face with the patient's desire for individual control of his or her personal information.

THE HUMAN GENOME PROJECT

Information technology on the Internet is one of the primary factors which will significantly affect the healthcare and biotech industries in the next few years.

At the Bio98 Conference in New York, featured luncheon speaker Robert Shapiro, Chairman and CEO of Monsanto, mentioned that information technology on the Internet is one of the primary factors which will significantly affect the healthcare and biotech industries in the next few years. Later the same day, at another conference in the same city, speaker Gina Smith mentioned that the Human Genome Project is one technology that would have a major effect on our future during the coming 20 years.

The Human Genome Project, which is scheduled to be completed by 2005, has one major objective: to map the human genome or to sequence the gene structures found in humans. Due to the rapid progress in gene mapping technologies, it is now anticipated that the project will be completed before 2005.

The huge amount of data generated as a result of the Human Genome Project are going to be manipulated, ordered, and have their secrets unlocked by using sophisticated data mining techniques. The Human Genome Project and data mining are in a symbiotic relationship; you cannot talk about the first without the second. A number of biotech companies have emerged in order to exploit the commercial value of the genetic knowledge generated as a result of the genome project. Most of these companies are delivering information on a subscription basis to major pharmaceutical companies.

DATA MINING

Data mining is a technology that has been around for quite a while, at least as we measure time in the information technology world. It is defined as:

> *The nontrivial extraction of implicit, previously unknown, and potentially useful information from data by the development of rules derived from inference using artificial intelligence.*

In order to mine data, programmers used to gather information from a variety of transaction-centric databases. In a large organization or group of organizations, these individual databases hold the organization's records on such things as accounting, inventory, patient care, diseases, and diagnostic information. The programmer was faced with the task of organizing this data into a 'data warehouse.' In this data warehouse, all of the information from the various different databases was combined into a single repository. One of the most difficult tasks was the standardization of names of individual data elements. As an example, a staff member may be called a 'nurse' in one database, an 'RN' in another, and a 'Registered Nurse' in a third. If you expand that example to include the various names for diseases, symptoms, and treatments, you can appreciate the complexity of this task. After the data had been cleaned and standardized, it was the resulting data warehouse that was used by the data miners.

Until very recently, the concepts of privacy and confidentiality were inherent in the use of data mining technology as the objectives of data mining were to look for patterns, analyze those patterns, and infer rules. The fields in the original databases that contained personal identifiers were of no use to the data miners. Yes, data miners were interested in the sex of the patient, age of the patient, racial origin of the patient, the geographic location of the patient, and possibly even the economic status of the patient.

Until very recently, the concepts of privacy and confidentiality were inherent in the use of data mining technology as the objectives of data mining were to look for patterns, analyze those patterns, and infer rules.

What they were not interested in was the name or address of the patient. In order to manipulate these databases in an efficient manner with the technologies that were available, unneeded fields were removed to enhance the speed and reduce any confusion. Using a retail sales example, data mining programs have inferred rules such as '78% of retail customers who bought Coca Cola also bought potato chips.' In this example, the 'rule' was not developed by running a simple query like 'How many people bought coke and potato chips?' against the data. Rather, the complex algorithms developed by the data mining programmers sift through the data looking for patterns and actually learn as they do so. The program 'discovered' the relationship between Coca Cola and potato chips all on its own. This type of information is used to plan store layouts and to determine the actual cost of participating in such things as a Pepsi Cola promotion. True data miners have no interest in producing a list of who bought Coca Cola in Southern British Columbia, for example.

Fifteen years ago, a single query could cost up to $2,500, take days or even weeks to complete and involve data warehouses as large as 15 gigabytes. Today, a single query costs on average $20, will take minutes to complete and can involve data warehouses of over 800 gigabytes to ones in the multiple terabyte range. These advancements in technology also make the cleaning and manipulation of the data prior to the mining exercise less necessary. This, combined with an increased understanding of the value of data that can be related to identifiable individuals, is probably the source of one of the major privacy concerns of the next few years.

The term data mining is incorrectly becoming known as the gathering of information from any data source by any method producing any result. Technology companies have slapped data warehouse labels on traditional

transaction processing products, and co-opted the lexicon of the industry in order to be considered players in this fast-growing category.

THE FUTURE

The more traditional uses of data mining in the healthcare field are the characterization of patient behaviour to predict office visits and the identification of successful medical therapies for different illnesses. In the future, the results of sequencing the human genome will be entered into massive databases that will be available to healthcare providers from the local hospital to your doctor. By data mining these databases, doctors will be able to tell us whether any part of our gene sequence matches a high-risk gene sequence. Will all people want to know that? Do we really want our doctor telling us, with an accuracy rate of 83.5%, that we will die from congestive heart failure some time between our 53rd and 55th birthdays?

The more traditional uses of data mining in the healthcare field are the characterization of patient behaviour to predict office visits and the identification of successful medical therapies for different illnesses.

What will happen when insurance companies have this information available to them? Will they insure people at any risk and allow a person who is going to die from congestive heart failure to ensure that his or her family is looked after when they shuffle off this mortal coil right on schedule? Will financially-strapped hospitals determine their operation lists based on who is going to live the longest after the operation?

The first uses of this new star application of data mining will probably appear in the United States where financial issues and the need to attract more customers to medical facilities makes healthcare a different business than here in B.C. As an example, Michael Reese Medical Associates in Georgia employed data mining software as a tool for gaining advantage in contract negotiations. This 28 doctor group had to predict trends in type,

price, location, and use of services since they must negotiate with insurance companies to provide certain services at set monthly fees. Thus, the doctors must accurately predict their per member/per month cost to break even or make a profit. If, as a result of their data mining exercise, this organization also produces statistics on an individual's prescription drug use, the temptation to sell this information to the pharmaceutical companies will be great.

According to a 1998 issue of Privacy Journal, one out of three hospitals is engaged in data mining today. A third of those hospitals do so without getting the consent of the patients involved. Of those that do get consent, 14% get specific consent and 47% rely on a general authorization to access patient data. Will this trend continue? Will the cash-strapped healthcare industry find the money to make use of the information contained in the human genome? The healthcare industry has routinely spent less on information technology than other industries: 2% compared to 5% to 17% in other industries. This figure by itself does not bode well for the fledgling Human Genome Project and data mining. However, analysts such as Volpe and Welty of San Francisco predict that healthcare in the United States will cost $1 trillion annually by the year 2000. Two percent of that is $20 billion. As privacy watchdogs, we are standing on the track with a train that is so immense we cannot comprehend its size bearing down on us. The task of protecting our privacy and even our individuality will be equally immense.

As privacy watchdogs, we are standing on the track with a train that is so immense we cannot comprehend its size bearing down on us.

Some of the issues that arise from the marriage of data mining and the genome project have been identified by the project group itself. Those issues are:

- Fairness in the use of genetic information

  Who should have access and how will it be used?

- Privacy and Confidentiality
  Who owns and controls it?
- Psychological impact and Stigmatization
  How does the information affect an individual, and society's perceptions of that individual?
- Genetic Testing
  Should testing be performed when no treatment is available?
  Should parents have the right to have their minor children tested for adult-onset diseases?

As privacy watchdogs, we have an immense task ahead of us. Our role will be to ensure that information is collected only when necessary, that only what is necessary is collected, and that information will be disclosed only to those people who have a legitimate need for it and that is of benefit to the patient. But even more important in this rapidly approaching future is the concept of informational self determination. These protections will be increasingly difficult to provide in a society that sees morality bound up with values rather than virtues.

Appendix A

Financial Statement

BUDGET ALLOCATION FOR THE 1998/99 FISCAL YEAR

Total Salaries and Benefits	$1,776,000
Total Operating Costs	$ 687,000
Total Asset Acquisitions	$ 12,000
Total Recoveries	($15,000)
Total Voted Appropriation	$2,460,000

The voted appropriation provides for the salary of the Information and Privacy Commissioner and staff, and other expenses incurred by the Office of the Information and Privacy Commissioner in meeting the requirements of the *Freedom of Information and Protection of Privacy Act*.

Appendix B

Office Staff

One of the major achievements of our Office is the settlement of most cases before they need to be brought to formal inquiry. The Office believes that this is reflective of the quality and commitment of its operational and administrative staff, who are identified below for the 1998/99 fiscal year:

David Boyko	Law Co-op Student (from January 12 – April 24/98)
Tim Buckland	Co-op Student (May 4 – August 21/98)
Linda Calver	Director, Finance and Administration
Mary Carlson	Portfolio Officer
Lisa Crumly	Receptionist
Lorrainne A. Dixon	Executive Director
Helga Driedger	Registrar
Judy Durrance	Intake Officer
Sean Finn	Law Co-op Student (May 5 – August 7/98)
David H. Flaherty	Commissioner
Celia Francis	Portfolio Officer
R. Kyle Friesen	Portfolio Officer (until September 30, 1998)
Mark Grady	Portfolio Officer
Deanna Hamberg	Intake Officer
Barbara Haupthoff	Senior Executive Administrator
Christine Kowbel	Law Co-op Student (January 12 – April 30/99)

Deborah K. Lovett, Q.C.	Legal Counsel (contractor)
Charmaine Lowe	A/Portfolio and Communications Officer
Peter Luttmer	Portfolio Officer
Susan E. Ross	Legal Counsel (contractor)
Sharon Plater	Portfolio Officer
Jim Sereda	Portfolio Officer
Erin Seeley	Co-op Student (May 4 – September 15/98)
Ralph Sketchley	Portfolio Officer
Michael Skinner	Portfolio Officer
Pamela Smith	Manager, Communications and Information (until Sept. 14/98)
Darleen Taylor	Coordinator, Finance and Administration
Bill Trott	Portfolio Officer
Peter Trotzki	Law Co-op Student (September 1 – December 31/98)
Angela R. Westmacott	Legal Counsel (contractor)
Terry Widen	Administrative Assistant (from August 4/98)
Judy Windle-Newby	Administrative Assistant
Jason Young	Researcher and Policy Analyst
Stacie Young	Administrative Assistant (until July 31/98)

Appendix C

How to Contact Us

By Telephone: (250) 387-5629

Or for toll free access within British Columbia, call Enquiry BC at the number in your area below and ask 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: info@oipcbc.org

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.)