

**CHECK AGAINST DELIVERY**

**SPEECH TO THE  
SELECT STANDING COMMITTEE ON FINANCE &  
GOVERNMENT SERVICES  
APRIL 28, 2020**

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

Good morning, Honourable Chair, Deputy Chair, and Members of the Committee. I trust this morning finds you all well.

With me this morning are Deputy Commissioners oline Twiss and Jeannette Van Den Bulk. I am also joined by Dave Van Swieten, Executive Director of Shared Services, who serves in this capacity for the four Officers of the Legislature headquartered at 947 Fort Street.

Thank you for the opportunity to meet with you to discuss the work of the Office of the Information and Privacy Commissioner and the Office of the Registrar of Lobbyists for British Columbia.

What we could not have envisioned, even just a few short weeks ago, is the way this meeting would be held. The COVID-19 pandemic has profoundly impacted our province, the country, and the world.

Like most workplaces, the virus has significantly affected the way our office operates. What remains unchanged, however, are the demands placed on the services we provide British Columbians. Those demands relate directly to the reasons the offices were established by the legislative assembly, namely, ensuring the transparency and accountability of public bodies and private organizations.

These foundational principles are more important than ever as government exercises extraordinary authority to meet the crisis. Meanwhile, an increasing number of organizations are lobbying government to make their needs known to policy makers.

The principles of transparency and accountability that underlie our laws **must** continue to inform how organizations, public bodies, and the public navigate this crisis.

.....

This morning I will share some of our offices' accomplishments in relation to the goals set out in our Service Plan and conclude with a financial update.

First, however, I would like to provide you with some insight on how COVID-19 has affected our offices' operations and highlight some of the issues we have engaged relating to the pandemic.

Because of the virus, it has been necessary to change **where** we work in order to deliver to British Columbians the services mandated by our statutes. Our Office was ready for the transformation. I began preparations for the changeover in February, and my Senior Leadership Team acted quickly when the pace of COVID-19 accelerated. By mid-March, with the exception of a very small crew based at 947 Fort Street, my staff transitioned to working from their homes.

We, along with the other three independent officers of the legislature leasing space on Fort Street, have engaged the technical expertise of our Shared Services IT team, led by Dave Van Swieten, to provide employees with secure remote access to their files and email accounts.

This assistance, combined with the resilience and adaptability of our staff, has ensured the continuity of our operations to serve public bodies, the private sector, and the public at large during this extraordinary time.

### **Emerging issues: COVID-19**

Beyond operational changes, our office has faced and continues to deal with many important legal and policy issues related to the crisis.

Since the outbreak of the COVID-19, my Office has been in regular contact with Provincial Health Officer Dr. Bonnie Henry and her team to discuss a range of issues related to information sharing and its potential privacy implications. These communications will continue as Dr. Henry and her colleagues lead the province's public health response.

From the outset of the pandemic, I have been clear that the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act* are designed to facilitate the

sharing of personal information necessary to ensure the public's health and safety. Where public bodies or organizations are unsure of their responsibilities or their authority to collect and use personal information, we will provide guidance to them on an expedited basis.

Our oversight and guidance roles have intensified with the provincial government implementing measures to deal with the epidemic.

For example, the Ministry of Citizens Services consulted me about Ministerial Order 085; an order temporarily lifting BC's data residency requirements. Among other things it broadens the use of communication tools used by public bodies responding to COVID-19.

The order allows health care bodies and workers to use technologies that may be hosted outside Canada to communicate and collaborate for the purpose of continuing service delivery during the public health emergency.

Since students can no longer come together in physical classrooms around the province, the order permits the use of a wider range of technology tools for distance learning. We are working with the Ministry of Education to implement video conferencing in a privacy protective way. This work also includes the publication of guidance to assist educators across BC entitled "FIPPA and online learning during the pandemic" on our website.

The temporary provisions of Ministerial Order 085 are, in my view, tailored and reasonable given the challenging circumstances we find ourselves in. The technology tools allowed by the order, often referred to as third party applications, can only be relied on if they support recommendations or requirements related to minimizing the transmission of COVID-19.

And public bodies cannot deploy these applications without proper security measures first being put in place.

Finally, it is important to note that Ministerial Order 085 has a defined end date; terminating on June 30, 2020. I expect government will consult my office if they believe there is a need for the order to be extended.

My office also provided guidance on two other important initiatives: the Ministry of Health's COVID-19 Self-Assessment app, and the Provincial Health Officer's order directing travelers to demonstrate they have a self-isolation plan in place when they return to BC from the US and other international destinations.

All of this ongoing oversight work plays an important role in building public trust in efforts to combat the virus.

In a public health crisis, government accountability is not only about the protection of personal information; it is also about the public's right to access information. Access to information is a critical part of our democracy and necessary to holding governments to account -- perhaps even more so when the same governments are exercising extraordinary powers. That said, the operations of many public bodies, including their ability to respond to information requests, have been significantly affected by the spread of the virus.

I proactively issued a decision on March 18 that recognized both the challenges public bodies face in reorganizing themselves in the face of COVID-19 and the continuing need for accountability and transparency. In that decision, I granted a 30-day time extension to public bodies to respond to freedom of information requests because, as I am authorized to do under FIPPA, I considered it fair and reasonable in the circumstances. I have just extended that order for an additional 15 days, after which time I expect public bodies to have sufficiently arranged their operations to meet the provisions of the statute.

On March 17, my office released guidance entitled "Tips for public bodies and organizations setting up remote workspaces." This should assist both as they transition away from traditional office structures. We will continue to answer their questions and review matters like privacy impact assessments as well reviewing draft legislation for government. Through these and other initiatives, we are sending a clear signal that we want to help BC public bodies and organizations navigate these uncertain waters so that they can better serve the public.

It remains our intention to ensure the principles of accountability and transparency are upheld, in both decision making and in privacy management during these trying times. These principles can and must work in harmony.

.....

Our office continues to respond to the many questions by the public and media about how our privacy and access statutes apply in a time of pandemic. We are also engaged in ongoing discussions with our regulatory colleagues nationally and internationally discussing approaches to the challenges we face commonly.

The relationships we have built with our counterparts in the Asia Pacific Region have proven especially important. We restate our appreciation to the Committee for its continuing support of our role as Secretariat to the Asia Pacific Privacy Authorities.

The APPA Forum we are currently organizing with our colleagues from Singapore will be held virtually in early June. This meeting will be an important opportunity to discuss matters ranging from

contact tracing apps to how government emergency measures have challenged the protection of personal information in a time of crisis. It is not a zero-sum game to protect personal information and make use of every tool in our toolkit to fight COVID-19.

## **Recent work and accomplishments of the OIPC and ORL**

I now will turn to non-COVID recent work and accomplishments. I'll begin with the OIPC....

### **OIPC – recent work and accomplishments**

We set out a goal in 2019-20 to **increase the implementation of effective Privacy Management Programs in private sector organizations** (OIPC Goal 2). Since our last appearance before the Committee, we have collaborated with other Canadian regulators to produce investigation reports into the privacy practices of several sizable Canadian organizations.

Late last year, we released our joint investigation report with the Office of the Privacy Commissioner of Canada into the Victoria-based company AggregateIQ. Our offices found that AIQ failed to ensure consent for the use and disclosure of personal information and failed to adequately safeguard it. AIQ has agreed to implement our Offices' recommendations to address these issues.

Two weeks later, we announced a joint investigation with the Information and Privacy Commissioner of Ontario into the LifeLabs cybersecurity breach that affected up to 15 million Canadians, including millions of British Columbians. It will not surprise the Committee to know that since this announcement we have fielded a high volume of calls and emails from media and concerned British Columbians. I am constrained from extensive comments about this investigation because it is ongoing, but I can say it has proven to be a complex matter. I, along with Commissioner Beamish, hope to release our report soon.

We are also currently collaborating with the federal privacy commissioner and our counterparts in Quebec and Alberta to jointly investigate Clearview AI. Clearview AI developed an app that permits people to run a photo of an individual against the company's database of images using facial recognition technology. This investigation, resulted from questions about whether the company was collecting and using personal information without consent.

Related to this, privacy regulators in every province and territory are working together to develop guidance for organizations – including law enforcement – on the use of biometric technology, including facial recognition.

In other recent work, we continue to collaborate with Elections BC to produce a Code of Conduct for the province's political parties following the release our political parties' report last February. We also recently developed a well-received privacy impact assessment template and guidance for use by BC businesses and other organizations.

And last month, we concluded a year-long campaign to promote good privacy practices by BC businesses. Entitled PrivacyRight, it featured a series of monthly themed webinars, podcasts, and guidance documents. We coordinated the distribution of these materials with, among others, the Better Business Bureau of BC and Service BC locations throughout the province.

### **ORL – recent work and accomplishments**

Now, moving on to the Office of the Registrar of Lobbyists.... there has been an extensive amount of work behind the scenes by my staff since my last appearance before you.

This work relates to the transition from the *Lobbyists Registration Act* to the *Lobbyists Transparency Act*, or the LTA, which happens in just a few short days on May 4, 2020. The amendments, passed back in November 2018, will result in much greater transparency for lobbyists and the public about activities that influence the decisions made by government.

A significant part of this work has been the creation of a new lobbyist registry based on adapting the federal system. You will recall we negotiated an arrangement to license the federal lobbyists registry at no cost and our team of developers has completed the work to bring that registry into line with BC's legislative requirements.

I want to pay public tribute to our ORL staff and the development team who have worked hard on the design of the new registry. It will be easier for lobbyists to navigate and will, as importantly, enhance the public's window into lobbying activities in BC.

We are, as I speak, in the final stage of preparing to migrate over to the new system. The move will take place this coming weekend, so that the new registry is ready on May 4, when the LTA comes into force. We will expect lobbyists to transfer to the new registry in the month of May, with the first monthly lobbying reports due by June 15<sup>th</sup>.

Some organizations on the front lines of the response to COVID-19 have told me that it may be challenging for them to meet this timetable. In response, I have said that as long as these lobbyists keep track of their lobbying activities and related information required under the new Act from May 4 onwards, they can have until September 15<sup>th</sup> to submit it to the registry.

All of this work supports our goal to **ensure implementation of reforms to the Lobbyists Registration Act** (ORL Goal 1). The Committee approved our total request of \$500,000 in capital funds to complete the reforms. The new registry will enhance the transparency purpose of the LTA, with a sophisticated search function to provide the public with easy access to information about what is happening in lobbying in BC.

Our second ORL goal has been to ensure that the new legislative changes are well understood, so lobbyists achieve a high rate of compliance with the Act. We have been reaching out to our stakeholders with a comprehensive educational campaign. It ramped up at the end of the 2019-20 fiscal year and will continue into this fiscal year.

As the COVID-19 crisis evolved in March, we shifted scheduled public information sessions from in-person events to video conferencing, so that we could ensure appropriate physical distancing for all participants and ORL staff. Since our last appearance before you, almost 400 participants attended our recent webcasts.

We have also published three editions of *Influencing BC* and posted 15 guidance documents, more than 100 FAQs, and other educational materials to the ORL website.

Our office is also slated to host a meeting of federal, provincial, and territorial lobbying commissioners in September, which I now expect to be conducted virtually.

### **People, systems, processes, and culture**

The final accomplishment I want to address relates to one of our office's 2019-20 goals: **Enhancing the quality and capacity of the OIPC's people, systems, processes, and culture (OIPC Goal 4).**

In response to this goal, which affects all staff whether they work on access to information, privacy, or lobbying, my senior management team introduced a new team engagement model for our strategic goal setting procedures and evaluation processes. This approach, which was embraced enthusiastically by staff, was designed to draw out the depth of knowledge and experience at the OIPC and ORL. You can expect to see it reflected in our Service Plan in the fall.

In addition, we established a diversity and inclusion committee this past year. This committee has made a number of recommendations for our workplace that touch on areas such as mandatory respectful workplace training and incorporating indigenous relations behavioural competencies into our hiring practices. My senior leadership team have already starting operationalizing some of the recommendations. I am confident that this will lead to further improvements in our workplace.

## **Financials**

Finally, I'd like to turn to our financials.

While the books have not yet been closed on the old fiscal year, we are projecting a modest surplus of 1.3% or \$90,000 for our operating budget of \$6,702,000, while all of our capital budget has been expended.

I wish to thank the Committee for recommending that government approve our 2020-21 budget request. That request was for \$132,000 to cover inflationary costs for operating expenditures of the OIPC and the ORL for a total operating budget of \$6,942,000. It also included capital expenditures of \$29,000.

Based on what we know today, my office will not require additional funds.

## **Conclusion**

To conclude, the COVID-19 pandemic is unlike anything we have ever experienced. It has tested all of us. Our office is committed to continuing to play its role to guide and assist public bodies, organizations and the public and to ensure the important pillars of accountability and transparency are maintained as we navigate this crisis.

It is too early to say with certainty, but we expect to see continued increases to our work as we face these challenges together. We will continue to monitor the situation and demands on our services closely.

Before I invite your questions, I want to acknowledge the incredible work being done by everyone at my office. Their flexibility and dedication permitted us to adapt quickly to changing circumstances and to provide continuity of service while working remotely. In a word, they have been exemplary, and it's my privilege to work with them.

I also cannot let this opportunity pass without publicly thanking all of those working to manage the pandemic and, in particular, all of those on the frontlines of this crisis. The entire team at the OIPC are very grateful for their work.

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