

## IN - OIPC Briefing to FOIPPA Special Committee Feb 2022

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From: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
To: Sime, Mark CITZ:EX <Mark.Sime@gov.bc.ca>  
Cc: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>, Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Sent: February 10, 2022 9:59:33 AM PST  
Attachments: IN - OIPC Briefing to FOIPPA Special Committee Feb 2022.docx  
Good morning Mark.

Further to your request from Matt for an IN on the OIPC submission to the FOIPPA Special Committee, Neal has pulled together a brief IN summarizing their recommendations and key points. While the submission was fairly straightforward, there was an explicit signal that the commissioner's detailed submission to the special committee can be anticipated.

In terms of process for approvals (Cliff, eApps, etc.), please let me know if there is a way you would like to see this information formally submitted.

And also, for Cathy's input, I am happy to be informed of the particular hierarchy of approvals that these types of requests should follow.

Thank you,  
Kjerstine

## INFORMATION NOTE

### Advice to Assistant Deputy Minister

**DATE:** February 10, 2022

**CLIFF#:** 99999

**ISSUE:** Information and Privacy Commissioner's briefing to the special committee to review FOIPPA

#### BACKGROUND:

On June 21, 2021, a special committee of the Legislative Assembly was appointed to carry out a review of the *Freedom of Information and Protection of Privacy Act* (FOIPPA). At its meeting on February 3, 2022, the special committee received a briefing from Michael McEvoy, BC's Information and Privacy Commissioner.<sup>1</sup>

#### DISCUSSION:

The briefing given by the commissioner was intended to be general and therefore it focused largely on the commissioner's conception of FOIPPA as a social contract, the history of the Act, and the role of the OIPC. In addition, the commissioner also told the committee:

- Fundamental technological changes during the 30 years since FOIPPA was introduced have created complex challenges for both access and privacy. In the commissioner's view, FOIPPA is not well-equipped to deal with emerging challenges that will continue to arise as technology advances.
- Although the recent amendments to FOIPPA improved privacy and the penalty and offence provisions, it is believed that work remains to strengthen the Act and that more recommendations from past special committees should have been included in the amendments.
- The OIPC will study the impact of the application fee on citizens' right of access.

The commissioner was clear that a more substantial submission to the special committee is forthcoming, writing that "[the general briefing] will be supplemented by a more detailed and targeted package of recommendations that will be submitted later during your consultations." Based on the commissioner's general briefing and subsequent discussions with committee members, it can be reasonably expected that future recommendations will include advocacy for:

- Government to adopt recommendations that were issued by past special committees and which, in the view of the commissioner, remain unaddressed
- Expanded coverage of the Act (subsidiary corporations were cited as an example)
- Narrowed exceptions to disclosure (S. 13 was cited as an example)
- Regulating government use of automated processing and artificial intelligence
- Strengthening oversight and streamlining of OIPC processes

#### NEXT STEPS:

Conduct policy analysis related to the commissioner's detailed recommendations once that submission is made to the special committee reviewing FOIPPA.

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<sup>1</sup> The commissioner's speaking notes and written submission can be found on the OIPC's website. The proceedings of the special committee are recorded as part of Hansard.

Prepared by: Neil Yonson, Senior Legislative and Policy Analyst  
Phone 778-698-2378  
Contact: Kjerstine Holmes, Project Director, Strategic Policy and Legislation  
Phone 250-419-8888

## RE: FOIPPA Special Committee summary - March 4, 2022

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From: Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
Sent: March 4, 2022 1:47:26 PM PST  
Thx

s.13

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**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** March 4, 2022 1:38 PM  
**To:** Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
**Subject:** FW: FOIPPA Special Committee summary - March 4, 2022

In case you're interested. But nothing really groundbreaking in today's submissions.

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**Sent:** March 4, 2022 1:37 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>; Sime, Mark CITZ:EX <Mark.Sime@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
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Hi Cathy,

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### Key takeaways:

- One committee member raised the idea of having the ministry make another presentation to the special committee and it is on their radar as a possibility.
- Submissions largely focused on either FOI or privacy. Only one presentation focused on privacy while the remaining four focused on FOI.
- There were no issues raised that would be considered novel or unexpected.
- The BCTF indicated they would also be making a written submission which outlines their concerns around privacy protections for students in more detail. It will likely be beneficial for the ministry to analyze that submission once it is available.
- A common theme from presenters was about the lack of accountability or consequences for public bodies that act in ways which, in the view of applicants, seem designed to frustrate access to information (e.g. refusal to routinely release information, lengthy delays, imposition of fees, narrow reading of requests, heavy severing, etc.)
- Many questions from committee members centred around whether more proactive disclosure would be the solution to FOI concerns expressed by participants. Participants were supportive of proactive disclosure generally but did not feel like it was necessarily the appropriate solution to many of the issues raised.

### Summarized presentations:

**The BC Construction Association (BCCA)** spoke about challenges with transparency around procurement processes and the reluctance of public sector buyers to provide timely and complete information to bidders. They are encouraging more proactive disclosure throughout the course of procurement.

- At the conclusion of the BCCA presentation, a committee member asked the chair whether ministerial staff ought to be present at the meeting to explain their view on the concerns being raised by presenters. The chair responded that the committee has the ability to invite the ministry to present and will coordinate that if needed.



**The BC Teachers' Federation (BCTF)** expressed concerns around privacy protections for students, who are minors, and feel that the repeal of data residency has weakened those protections. Teachers do not feel like they are well-equipped to navigate privacy issues arising from the increasing use of technology, and the BCTF is seeking stronger protections for the personal information of students, including "the right to be forgotten". They are also opposed to fees for FOI.

**The Independent Contractors and Business Association (ICBA)** spoke about the importance of FOI for holding public bodies accountable. They advocated for FOIPPA to be re-oriented through the lens that government records belong to taxpayers rather than the government. They are opposed to the FOI application fee and feel that request volume and cost to government could be reduced through better proactive or routine disclosure by public bodies rather than compelling information requests to go through the FOI process. ICBA has been partnering with the Freedom of Information and Privacy Association (FIPA) and are supportive of their recommendations, which are forthcoming.

**The Ubysey (UBC Student Newspaper)** spoke about the challenge of trying to use FOI as a small organization to hold a bigger one (UBC) accountable. They have experienced challenges around unexplained delays to responses, and feel that the fee regime is unreasonable for requests that they feel are legitimate and in the public interest. They expressed continued frustration that UBC's subsidiary corporations are not subject to FOI despite repeated recommendations to include them within the scope of FOIPPA. They noted that representatives of the newspaper have been presenting similar recommendations to FOIPPA special committees for 10 years, with no noticeable changes. The Chair asked whether they had contacted the ministry to request UBC's subsidiaries be added to FOIPPA under the new ministerial powers. The speaker said no. The chair suggested that they contact the ministry to make that request.

**The Wilderness Committee** shared their experience with three specific FOI requests in which, for various reasons, it was felt like the public body did not process the request in good faith. Advocated for better implementation of the duty to document and the duty to assist. Advocated that lengthy delays should be considered the exception rather than the norm, and that culture change was needed so that government does not approach FOI requests in such an adversarial manner.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## RE: BCCA presentation to FOIPPA special committee

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From: Varghese, Prince CITZ:EX <Prince.Varghese@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>, Ricard, Michele CITZ:EX <Michele.Ricard@gov.bc.ca>, Griffin, Shannon FIN:EX <Shannon.Griffin@gov.bc.ca>  
Sent: March 4, 2022 2:00:40 PM PST

Thanks Neal for sharing.

s.13

s.22

Prince

**Prince Varghese, B.COM, MBA, DIPTH, SCMP** | Procurement Specialist | Strategic & Advisory Services | Procurement Services

**D:** 236-478-0816 / **C:** 250-208-6113 | **E:** [prince.varghese@gov.bc.ca](mailto:prince.varghese@gov.bc.ca) | **M:** c/o 1st Floor – 563 Superior St, Victoria BC V8W 9W6

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**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>

**Sent:** March 4, 2022 1:46 PM

**To:** Ricard, Michele CITZ:EX <Michele.Ricard@gov.bc.ca>; Varghese, Prince CITZ:EX <Prince.Varghese@gov.bc.ca>; Griffin, Shannon FIN:EX <Shannon.Griffin@gov.bc.ca>

**Subject:** BCCA presentation to FOIPPA special committee

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Blues are here: <https://www.leg.bc.ca/documents-data/committees-transcripts/20220304am-FIPPAReview-Vancouver-Blues>

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To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>, Sime, Mark CITZ:EX <Mark.Sime@gov.bc.ca>  
Cc: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: March 7, 2022 8:45:52 AM PST  
Great summary Neal – THANK YOU!  
Yes please plan to tune in on Friday the 11 as well.

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**Sent:** March 4, 2022 1:37 PM  
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## FW: FOIPPA Special Committee summary - March 4, 2022

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From: Stock, Cathy CITZ:EX  
To: Matt CITZ:EX Reed (Matt.Reed@gov.bc.ca) <Matt.Reed@gov.bc.ca>  
Cc: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>, Sime, Mark CITZ:EX <Mark.Sime@gov.bc.ca>  
Sent: March 7, 2022 8:47:17 AM PST  
Hello Matt,

Summary from Friday's SC.

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Sent: March 7, 2022 8:49:38 AM PST

Thanks Neal. An interesting read and consistent with their messaging. I don't see a problem with it personally, it is their prerogative to advocate and this is the type of work they need to be doing if they want policies not guidelines and with greater applicability.

The Guidelines we are working on are already in existence so it's fine I think that he mentioned them. They have been around since 2016.

Shannon

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**From:** Ricard, Michele CITZ:EX <Michele.Ricard@gov.bc.ca>  
**Sent:** March 4, 2022 3:15 PM  
**To:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>; Varghese, Prince CITZ:EX <Prince.Varghese@gov.bc.ca>; Griffin, Shannon FIN:EX <Shannon.Griffin@gov.bc.ca>  
**Subject:** RE: BCCA presentation to FOIPPA special committee

Hi Neal,

Thanks so much for sharing this with us<sup>s.22</sup>. I felt that at our meetings with them, we were very cordial and we were open to their suggestions. However, despite making it clear that what they were asking for was outside of the scope of the document, Chris came to the FOIPPA special meeting with an agenda. It will be interesting to see what comes out of the March 15 meeting.

Have a nice weekend,

Michele

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From: Yonson, Neal CITZ:EX  
To: Harriman, Rheannon CITZ:EX <Rheannon.Harriman@gov.bc.ca>  
Sent: March 10, 2022 11:13:42 AM PST

FYI if you hadn't received already - related to hearing from BCTF on FOIPPA through other venues. But sounds like their messaging/concerns are fairly consistent.

Blues are here: <https://www.leg.bc.ca/documents-data/committees-transcripts/20220304am-FIPPARReview-Vancouver-Blues>

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## FOIPPA SC excerpt - regulation-making

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From: Yonson, Neal CITZ:EX  
To: Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>, Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: March 15, 2022 1:10:13 PM PDT  
Carm,

Snipping a tiny bit of the Blues from FOIPPA special committee this morning where an committee member was questioning a presenter about what they'd like to see in FOIPPA regulations. These were more in the context of regulations for disclosure outside of Canada, rather than MB or PMP regs, but flagging that it was a topic of discussion.

**J. Rustad:** Earlier in your presentation, you talked about, you know, moving from having stuff in legislation to moving it into regulation, for the simplicity of being able to change and go through that. In some ways, that makes a lot of sense because it is way more flexible. You aren't limited to when the Legislature is sitting to be able to bring it in, and there's only so much legislation that you can put through, you know, all the challenge around there.

At the same time, it also means that there isn't the scrutiny. There isn't sort of the oversight of regulations and regulatory changes.

I guess the question I've got for you is, you know, in that shift, have you seen regulations that have been put in place since that legislation was brought in? Where is there an opportunity for input or scrutiny or improvements through a process where that is done through regulation as opposed to legislation?

**J. Tipping:** I think that's a really excellent point, so perhaps I should just caveat my comments in that I think that this is a great approach when what you're dealing with is a very fast-moving environment. What's appropriate in the world of data residency and what specific requirements British Columbia is going to have, it makes sense to me that because that is such a fast-moving environment, the benefits of flexibility and being able to respond quickly outweigh what you might consider for something that was a slower-moving situation. That's worth saying.

I still think that there's a lot to be worked through in the detail of regulation to make sure that things are working appropriately and as efficiently as they can without giving up that. You don't want to have no limits whatsoever. You want to make sure that it's given enough scrutiny and that it is a balanced approach that has the support of all, so I think there is more work to be done on the detail level.

**J. Rustad:** Thank you.

If I could, just in terms of follow-up, as you said, there's more work to be done. What would you like to see in regulation? Or what would you expect to see in regulations as they are developed?

**J. Tipping:** There are really a few things that we're most focused on. Actually, I won't suggest that I will step into the shoes of the individual suppliers who will also have very specific input on this. I'm sure you'll be hearing from others.

At a general level, what the tech sector as a whole is looking for is that the regulations are very, very clear. They do need to be very specific and unambiguous and clear, both in overall intent and specific requirements. It should provide us with as solid a basis for working as we have today.

Taking all of the learnings from the experiment we've been doing since March 2020 and really reflecting those, many things worked. Not everything worked. Making sure that that's reflected, I think, is really critical. So I would say that that process is important.

Neal Yonson | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## RE: FOIPPA Special Committee Summary - March 15, 2022

---

From: Harriman, Rheannon CITZ:EX <Rheannon.Harriman@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
Sent: March 15, 2022 3:52:13 PM PDT  
Thank you!

Rheannon  
250-208-7809

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** March 15, 2022 3:31 PM  
**To:** Harriman, Rheannon CITZ:EX <Rheannon.Harriman@gov.bc.ca>  
**Subject:** FW: FOIPPA Special Committee Summary - March 15, 2022

Sending your way in case you have recently met, or plan to meet with any of these stakeholders.

---

**From:** Yonson, Neal CITZ:EX  
**Sent:** March 15, 2022 3:29 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Subject:** FOIPPA Special Committee Summary - March 15, 2022

Hi Cathy,

Here's the brief summary of the FOIPPA Special Committee meeting today. (The one originally scheduled for March 11<sup>th</sup> was cancelled/rescheduled.) The next meeting is tomorrow and I'll be tuned in.

### Key takeaways

- A committee member raised the prospect of inviting a representative of the ministry to address the committee, this time on the topic of rules and requirements for information destruction. It is unclear what level of familiarity, if any, committee members have with the *Information Management Act*.
- While there were a broader range of topics canvassed today I would not consider any of the issues raised to be unprecedented. Some of the solutions proposed by presenters may be considered novel though.
- Speakers were again heavily weighted towards access concerns over privacy concerns. One speaker was mostly focused on privacy protection in relation to the use of technology. One other focused on secure destruction of information.
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- The majority of speakers raised the issue of the Legislative Assembly not being subject to access requests despite previous committee recommendations and commitments by government.
- The majority of speakers also stated their objection to the introduction of application fees for access requests.

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**B.C. Tech** expressed their support for the recent changes to repeal data residency requirements, while also increasing privacy protections. They feel that the changes align BC with other jurisdictions and enable modern tools that will deliver efficiencies to the public sector. The view was also expressed that the decoupling of data residency requirements from privacy protection will allow the latter to get better through the use of a wider range of tools and services. They support

the introduction of Mandatory Breach and Privacy Management Program requirements. The committee engaged the speaker in a lengthy discussion around the benefits and drawbacks of data residency requirements.

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system, and the recent amendments weaken government transparency. She feels the application fee will privilege the wealthy and hinder research in the public interest. Also wishes to see some sort of consequence for public bodies that do not fulfill their requirements under the Act.

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Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## FW: FOIPPA Special Committee Summary - March 15, 2022

---

From: Yonson, Neal CITZ:EX  
To: Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
Sent: March 15, 2022 3:53:09 PM PDT

Know you were also listening to most of it but in case you want to have a copy in case it needs to be referred to later.

---

**From:** Yonson, Neal CITZ:EX  
**Sent:** March 15, 2022 3:29 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Subject:** FOIPPA Special Committee Summary - March 15, 2022

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## RE: FOIPPA Special Committee Summary - March 15, 2022

---

From: Yonson, Neal CITZ:EX  
To: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Sent: March 16, 2022 10:27:55 AM PDT  
Hi Cathy,

Two presenters to the Special Committee to Review FOIPPA have specifically discussed challenges with procurement-related disclosure. They weren't necessarily aligned with each other so I've made separate bullets for each. The BCCA is probably the one more relevant to PSD though I want to note that government has already received very similar feedback from that group directly and have made some efforts to try and address their concerns - Michele Ricard within PSD would be able to speak more to that.

### Presenter #1: The BC Construction Association

- Members report difficulty in getting access to basic information like a complete set of solicitation documents; an approximate value of construction; how the owner intends to evaluate bids; lists of firms that have been pre-qualified.
- This is experienced throughout the broader public sector, from ministries through municipalities, Crowns and other agencies.
- The lack of transparency in the process makes firms less inclined to bid, which leads to less competitive procurements for public sector buyers. The lack of timely communication about the outcome of procurements also makes it difficult for firms to bid on multiple projects.
- More and better disclosure about construction procurement needs to happen proactively or routinely.
- Their request was ultimately for government to adopt construction-specific disclosure requirements within FOIPPA.

Presenter #2: An individual named Thomas Martin who works in the forestry sector and has occasionally worked as a contractor with FLNRO.

- Recommended proactive disclosure of government procurement records, including responses and evaluations of proposals, awarded contracts and the actual payments.
- Recommended an amendment to Section 21 of FOIPPA such that it cannot be invoked for records related to government procurement.
- Suggested that the proactively disclosed lists of contracts published by FLNRO were incomplete.

Neal Yonson | Senior Legislative and Policy Analyst  
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---

**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** March 16, 2022 8:28 AM  
**To:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Subject:** FW: FOIPPA Special Committee Summary - March 15, 2022

Morning  
Can you pull out the procurement bullets for Matt to send to PSD.

---

**From:** Reed, Matt CITZ:EX <Matt.Reed@gov.bc.ca>  
**Sent:** March 15, 2022 4:14 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Subject:** RE: FOIPPA Special Committee Summary - March 15, 2022

Thanks Cathy – are you able to have Neal summarize the parts relevant to procurement so that we can flip that summary over to PSD. Nothing crazy – 5 bullets kind of thing.

---

**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** March 15, 2022 3:43 PM  
**To:** Reed, Matt CITZ:EX <Matt.Reed@gov.bc.ca>  
**Cc:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>; Hillier, Emilie A CITZ:EX <Emilie.Hillier@gov.bc.ca>; Donald, Janet CITZ:EX <Janet.Donald@gov.bc.ca>  
**Subject:** FW: FOIPPA Special Committee Summary - March 15, 2022

Hello

Please see below the summary from today's FOIPPA Special Committee meeting. There is another meeting tomorrow.

Lots of interesting items in today's meeting, including a few suggestions for IAO.

Matt/Emile highlighted the idea of inviting a representative from the ministry to address the committee on information destruction.

---

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**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
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From: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
To: Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
Cc: Kane, Meghan M CITZ:EX <Meghan.Kane@gov.bc.ca>, Onciul, Jamie CITZ:EX <Jamie.Onciul@gov.bc.ca>, Ghag, Kris CITZ:EX <Kris.Ghag@gov.bc.ca>, Mullane, Loren CITZ:EX <Loren.Mullane@gov.bc.ca>, Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
Sent: March 16, 2022 12:19:32 PM PDT  
Hello Rhianna and team  
Please see the details below.  
THANKS Neal!

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** March 16, 2022 11:30 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Subject:** RE: FOIPPA Special Committee Summary - March 15, 2022

Hi Cathy,

I've excerpted the relevant parts of [the Blues](#) below but the brief answer is that the FLNRO is the ministry where it is suggested that not all contracts are being disclosed. The presenter said that he had personally received a direct-award contract valued over \$10,000 which was ultimately not reported on either list published by FLNRO. He also said that FOI disclosures had revealed other direct-award contracts that were not included in proactive disclosures. The presenter said that he was not the applicant on that FOI so I'm not sure how easy it'll be for IAO to triangulate which request he might be referring to based on the information provided.

On the suggestion to change IAO's business model<sup>s.13</sup>  
s.13 Just the idea that IAO currently acts as "censor" but should instead be acting as "publisher".

### Unreported contracts

**T. Martin:** A third example I want to talk about is the unreported contracts. In government procurement, there are policies that directly awarded contracts get published in these summary tables, and contracts over \$10,000 get published in these summary tables online. But they don't always go there.

For example, just out of interest, I looked for my fire line contract from this past summer, which was both over \$10,000 and directly awarded. It should have been published online in either of those two tables or both of those two tables. It was not published. Now we have a contract that was directly awarded that is not published anywhere and has no records online, so the only way you'd be able to find it is if you knew it existed and then you filed an FOI to receive the contract details.

I was emailed an FOI summary. I can't remember when I got this email. It was a year or two ago. It was in regards to a B.C. wildfire program. Someone else had done all the FOIs, and there were five companies that received work out of this new program. I believe the total summary of work in this program was about \$1.5 million, and one company that was owned by ex-B.C. wildfire employees received \$1.3 million of the total. The next largest billing company on the list was \$200,000. That's an example of contracts that were directly awarded.

Well, I actually don't know, because I just got an email summary of it. I didn't get the FOIs. It was an example of contracts that were probably directly awarded, but they probably wouldn't post it online. The only reason someone found out about them is because they submitted a bunch of FOIs to get this information and then compiled it manually.

### IAO's business model

**B. Mackin:** Two, transform the information access operations department business model from censor to publisher. Amend the law. Make proactive disclosure the rule. The proactive disclosure of calendars, expenses and contract data

was a long-overdue baby step to start by the B.C. Liberal government in 2016, but it was only a policy change. Today the NDP routinely misses the deadlines and omits information with no fear of being held accountable.

---

**From:** Stock, Cathy CITZ:EX <[Cathy.Stock@gov.bc.ca](mailto:Cathy.Stock@gov.bc.ca)>  
**Sent:** March 16, 2022 11:07 AM  
**To:** Yonson, Neal CITZ:EX <[Neal.Yonson@gov.bc.ca](mailto:Neal.Yonson@gov.bc.ca)>  
**Cc:** Holmes, Kjerstine L CITZ:EX <[Kjerstine.Holmes@gov.bc.ca](mailto:Kjerstine.Holmes@gov.bc.ca)>  
**Subject:** FW: FOIPPA Special Committee Summary - March 15, 2022

Hello,  
Again great job and great to hear that others appreciate your hard work.

Rhianna has a few additional questions in red – when you have a minutes can you see if we have more detail?

---

**From:** Begley, Rhianna CITZ:EX <[Rhianna.Begley@gov.bc.ca](mailto:Rhianna.Begley@gov.bc.ca)>  
**Sent:** March 16, 2022 11:01 AM  
**To:** Stock, Cathy CITZ:EX <[Cathy.Stock@gov.bc.ca](mailto:Cathy.Stock@gov.bc.ca)>  
**Cc:** Kane, Meghan M CITZ:EX <[Meghan.Kane@gov.bc.ca](mailto:Meghan.Kane@gov.bc.ca)>; Onciul, Jamie CITZ:EX <[Jamie.Onciul@gov.bc.ca](mailto:Jamie.Onciul@gov.bc.ca)>; Ghag, Kris CITZ:EX <[Kris.Ghag@gov.bc.ca](mailto:Kris.Ghag@gov.bc.ca)>; Mullane, Loren CITZ:EX <[Loren.Mullane@gov.bc.ca](mailto:Loren.Mullane@gov.bc.ca)>  
**Subject:** RE: FOIPPA Special Committee Summary - March 15, 2022

Hey Cathy,

Wanted to say thank you so much to your team for doing this, and sharing the output. I really appreciate it and would love to continue to receive this type of work going forward.

I'm wondering if it's appropriate to ask Neal if he had more details on the two blue highlights/red font below?

Sharing with leadership team as an FYI only.

Thanks,  
Rhianna

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**From:** Stock, Cathy CITZ:EX <[Cathy.Stock@gov.bc.ca](mailto:Cathy.Stock@gov.bc.ca)>  
**Sent:** March 15, 2022 3:43 PM  
**To:** Reed, Matt CITZ:EX <[Matt.Reed@gov.bc.ca](mailto:Matt.Reed@gov.bc.ca)>  
**Cc:** Begley, Rhianna CITZ:EX <[Rhianna.Begley@gov.bc.ca](mailto:Rhianna.Begley@gov.bc.ca)>; Hillier, Emilie A CITZ:EX <[Emilie.Hillier@gov.bc.ca](mailto:Emilie.Hillier@gov.bc.ca)>; Donald, Janet CITZ:EX <[Janet.Donald@gov.bc.ca](mailto:Janet.Donald@gov.bc.ca)>  
**Subject:** FW: FOIPPA Special Committee Summary - March 15, 2022

Hello  
Please see below the summary from today's FOIPPA Special Committee meeting. There is another meeting tomorrow.

Lots of interesting items in today's meeting, including a few suggestions for IAO.  
Matt/Emile highlighted the idea of inviting a representative from the ministry to address the committee on information destruction.

---

**From:** Yonson, Neal CITZ:EX <[Neal.Yonson@gov.bc.ca](mailto:Neal.Yonson@gov.bc.ca)>  
**Sent:** March 15, 2022 3:29 PM  
**To:** Stock, Cathy CITZ:EX <[Cathy.Stock@gov.bc.ca](mailto:Cathy.Stock@gov.bc.ca)>  
**Cc:** Holmes, Kjerstine L CITZ:EX <[Kjerstine.Holmes@gov.bc.ca](mailto:Kjerstine.Holmes@gov.bc.ca)>  
**Subject:** FOIPPA Special Committee Summary - March 15, 2022

Hi Cathy,

Here's the brief summary of the FOIPPA Special Committee meeting today. (The one originally scheduled for March 11<sup>th</sup> was cancelled/rescheduled.) The next meeting is tomorrow and I'll be tuned in.

### Key takeaways

- A committee member raised the prospect of inviting a representative of the ministry to address the committee, this time on the topic of rules and requirements for information destruction. It is unclear what level of familiarity, if any, committee members have with the *Information Management Act*.
- While there were a broader range of topics canvassed today I would not consider any of the issues raised to be unprecedented. Some of the solutions proposed by presenters may be considered novel though.
- Speakers were again heavily weighted towards access concerns over privacy concerns. One speaker was mostly focused on privacy protection in relation to the use of technology. One other focused on secure destruction of information.
- IAO may wish to look into one speaker's claim that a ministry is not properly reporting all of its contracts as part of its proactive disclosure obligations. Were there more details on what ministry or specific contracts?
- The majority of speakers raised the issue of the Legislative Assembly not being subject to access requests despite previous committee recommendations and commitments by government.
- The majority of speakers also stated their objection to the introduction of application fees for access requests.

**The B.C. and Yukon Community Newsmedia Association** is a representative group for more than 90 news outlets, which are mostly smaller and locally-focused. FOI is a valuable tool for their members to help hold local authorities accountable. The shared experience of their members is that getting information about the COVID-19 pandemic was extremely challenging both at the local and provincial level. The perceived reason for this was strong information control at all levels. FOIPPA requires balance to work and their organization does not feel like way the system currently operates is balanced. Wish to see the committee recommend that public information should be public by default unless there are legitimate privacy reasons that would prevent disclosure.

**B.C. Tech** expressed their support for the recent changes to repeal data residency requirements, while also increasing privacy protections. They feel that the changes align BC with other jurisdictions and enable modern tools that will deliver efficiencies to the public sector. The view was also expressed that the decoupling of data residency requirements from privacy protection will allow the latter to get better through the use of a wider range of tools and services. They support the introduction of Mandatory Breach and Privacy Management Program requirements. The committee engaged the speaker in a lengthy discussion around the benefits and drawbacks of data residency requirements.

**The Fraser Valley Current** (media outlet) spoke about the challenge of getting information from government through routine channels outside of FOI. The example cited was data around ambulance response times, which have traditionally required FOI requests despite no reason in the speaker's view why these couldn't be routinely released. In addition, it is felt that government communications staff prefer to issue statements containing limited information in response to inquiries, rather than enable journalists to speak directly with individuals within government who could knowledgeably speak to a given issue. Feels that the introduction of the application fee has introduced an additional barrier, especially in the context of local journalists whose coverage area may include multiple local jurisdictions all of whom operate separately.

**Vincent Gogolek** (private citizen) spoke about how the committee is in an unusual situation with the recent passage of amendments to FOIPPA and that those amendments did not address past recommendations and government commitments such as making the Legislative Assembly subject to FOI. He discussed at length how a court ruling around settlement privilege had effectively caused a significant expansion of the scope of S.14 although the language in FOIPPA remained unchanged.

He recognizes that the common law now binds the commissioner but feels these court decisions took settlement privilege beyond its intended scope. He also wants the province to reverse the decision to implement an application fee.

**Bob Mackin** (media) expressed generalized displeasure with most aspects of how the public obtains information from government and put forward five specific requests to the committee:

- 1) Repeal the application fee for FOI requests.
- 2) Change IAO's business model to better enable disclosure of information. Were there further details provided on this?
- 3) Split the OIPC and ORL into three separate agencies with three commissioners: one each for access, privacy, and lobbying.
- 4) Allow reviews of FOI requests to proceed directly to the courts without needing to go through the OIPC.
- 5) Make the Legislative Assembly subject to the Act.

**Thomas Martin** (private citizen) spoke about challenges obtaining information from government relating to procurement processes. He shared his view that a ministry was not properly reporting all of its contracts as required under proactive disclosure directive, citing records obtained through FOI, and his own experience receiving a direct-award contract which was not subsequently reported by the ministry. He had three recommendations for the committee:

- 1) Repeal the application fee for FOI requests
- 2) Increased proactive disclosure around procurement processes, including copies of awarded contracts, and records of payments.
- 3) Amend S.21 to say that records relevant to government procurement cannot be withheld under that section of the Act.

**i-SIGMA** introduced their organization as an industry group for secure information lifecycle management. They expressed support for the recent changes incorporating Mandatory Breach reporting and Privacy Management Programs into FOIPPA. This group offered a series of recommendations relating to information destruction.

- 1) Clear requirements for public bodies to securely destroy information when no longer needed.
- 2) Commissioner should conduct audits of information destruction practices.
- 3) The Commissioner should have strong enforcement powers around information destruction practices and violations should carry significant penalties.
- 4) Public bodies should require proper due diligence for third party contractors who are responsible for information destruction.

**\*\*At this point, a committee member raised the prospect of inviting an “archivist” (likely to be GRS in practice) to speak on existing rules and requirements around information destruction.**

**Keegan Clark** (private citizen) made a series of allegations related to medical care received in the province and recounted the challenges experienced while trying to obtain records relating to that care. Expressed concern about the recent amendment to Section 43 of FOIPPA.

**Maureen Juffs** (private citizen) expressed her opposition to the recent FOIPPA amendments, specifically mentioning the repeal of data residency and the introduction of the application fee. Also wishes to see the Legislative Assembly be made subject to FOI. In her view, government transparency forms the basis of public participation and trust in our democratic system, and the recent amendments weaken government transparency. She feels the application fee will privilege the wealthy and hinder research in the public interest. Also wishes to see some sort of consequence for public bodies that do not fulfill their requirements under the Act.

**Nicole Duncan** (private citizen) feels that revisions to the Act and Regulations are required, in addition to culture change within government to recognize that openness is beneficial both to government and the public. Spoke in depth about how the public interest test in S.25 is too high in her view, because it is rarely invoked and based on her research the OIPC has never found S.25 to be applicable. This was contrasted against a similar public interest test in the UK which puts more onus on the public body to balance interests. Also suggested targeted amendments to Sections 13, 71, 71.1. Spoke more on how the culture around FOI, and how the routine delays and No Records Responses frustrate the public's right to information and the ability to advocate in a timely fashion. In her view, a culture shift towards helping applicants would prove itself to be more efficient both for the public and government.

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Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378



## RE: FOIPPA Special Committee Summary - March 15, 2022

---

From: Yonson, Neal CITZ:EX  
To: Ricard, Michele CITZ:EX <Michele.Ricard@gov.bc.ca>  
Sent: March 16, 2022 1:13:11 PM PDT  
Of course!

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**From:** Ricard, Michele CITZ:EX <Michele.Ricard@gov.bc.ca>  
**Sent:** March 16, 2022 1:13 PM  
**To:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Subject:** RE: FOIPPA Special Committee Summary - March 15, 2022

Hi Neal,

Thanks for letting me know. Would it be okay if we discussed this tomorrow at our meeting.

Michele

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** March 16, 2022 12:09 PM  
**To:** Ricard, Michele CITZ:EX <Michele.Ricard@gov.bc.ca>  
**Subject:** FW: FOIPPA Special Committee Summary - March 15, 2022

FYI, I am monitoring the legislature's FOIPPA special committee and was asked to do a summary of procurement-related presentations for PSD. Mentioned you as someone to talk to about BCCA concerns. Better that everyone's on the same page rather than the potentially having the ministry draft some sort of separate reply to BCCA. -Neal

---

**From:** Yonson, Neal CITZ:EX  
**Sent:** March 16, 2022 10:28 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Subject:** RE: FOIPPA Special Committee Summary - March 15, 2022

Hi Cathy,

Two presenters to the Special Committee to Review FOIPPA have specifically discussed challenges with procurement-related disclosure. They weren't necessarily aligned with each other so I've made separate bullets for each. The BCCA is probably the one more relevant to PSD though I want to note that government has already received very similar feedback from that group directly and have made some efforts to try and address their concerns - Michele Ricard within PSD would be able to speak more to that.

### Presenter #1: The BC Construction Association

- Members report difficulty in getting access to basic information like a complete set of solicitation documents; an approximate value of construction; how the owner intends to evaluate bids; lists of firms that have been pre-qualified.
- This is experienced throughout the broader public sector, from ministries through municipalities, Crowns and other agencies.
- The lack of transparency in the process makes firms less inclined to bid, which leads to less competitive procurements for public sector buyers. The lack of timely communication about the outcome of procurements also makes it difficult for firms to bid on multiple projects.
- More and better disclosure about construction procurement needs to happen proactively or routinely.
- Their request was ultimately for government to adopt construction-specific disclosure requirements within FOIPPA.

Presenter #2: An individual named Thomas Martin who works in the forestry sector and has occasionally worked as a contractor with FLNRO.

- Recommended proactive disclosure of government procurement records, including responses and evaluations of proposals, awarded contracts and the actual payments.

- Recommended an amendment to Section 21 of FOIPPA such that it cannot be invoked for records related to government procurement.
- Suggested that the proactively disclosed lists of contracts published by FLNRO were incomplete.

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**Sent:** March 16, 2022 8:28 AM  
**To:** Yonson, Neal CITZ:EX <[Neal.Yonson@gov.bc.ca](mailto:Neal.Yonson@gov.bc.ca)>  
**Subject:** FW: FOIPPA Special Committee Summary - March 15, 2022

Morning

Can you pull out the procurement bullets for Matt to send to PSD.

## FW: FOIPPA Special Committee Summary - March 15, 2022

---

From: Stock, Cathy CITZ:EX  
To: Matt CITZ:EX Reed (Matt.Reed@gov.bc.ca) <Matt.Reed@gov.bc.ca>  
Sent: March 16, 2022 1:41:15 PM PDT  
Hello Matt

Bullets for PSD

Two presenters to the Special Committee to Review FOIPPA have specifically discussed challenges with procurement-related disclosure.

Presenter #1: The BC Construction Association (note: government has already received very similar feedback from BCCA)

- Members report difficulty in getting access to basic information like a complete set of solicitation documents; an approximate value of construction; how the owner intends to evaluate bids; lists of firms that have been pre-qualified.
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**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** March 15, 2022 3:43 PM  
**To:** Reed, Matt CITZ:EX <Matt.Reed@gov.bc.ca>  
**Cc:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>; Hillier, Emilie A CITZ:EX <Emilie.Hillier@gov.bc.ca>; Donald, Janet CITZ:EX <Janet.Donald@gov.bc.ca>  
**Subject:** FW: FOIPPA Special Committee Summary - March 15, 2022

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Matt/Emilie highlighted the idea of inviting a representative from the ministry to address the committee on information destruction.

---

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**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
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[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## FW: FOIPPA Special Committee Summary - March 16, 2022

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From: Yonson, Neal CITZ:EX  
To: Harriman, Rheannon CITZ:EX <Rheannon.Harriman@gov.bc.ca>  
Sent: March 16, 2022 4:25:41 PM PDT

FYI. You were likely listening to the UBCIC stuff live but the [Blues are here](#) if you want to review the transcript.

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**From:** Yonson, Neal CITZ:EX  
**Sent:** March 16, 2022 4:23 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Subject:** FOIPPA Special Committee Summary - March 16, 2022

Hi Cathy,

Here's the summary of today's proceedings. There are no other meetings currently scheduled to receive public delegations. Other submissions (including written, audio and video) are due to the committee by March 31. Future meetings are on the calendar for the purposes of committee business or private deliberations.

### Key Takeaways

- SPL should conduct some analysis of the issue around fees raised by the Trial Lawyers Association and consider whether the situation can be clarified through policy guidance or regulatory amendments.
- An expanded summary of the UBCIC presentation has been included, but individuals who are specifically working on how FOIPPA relates to Indigenous peoples should review the full transcript in Hansard.
- Many of today's presentations were intended to highlight portions of written submissions, with the more detailed content contained in the written submission. (We do not yet have access to written submissions.)
- Today's presenters were all primarily focused on access issues but the presentations were quite varied and often extremely wide-ranging.
- A common theme today was the continued opposition to fees, and the view that the recent amendments to FOIPPA weakened the Act and should be repealed or reconsidered.

**The B.C. Association of Police Boards** spoke about the current experience for small public bodies (police boards) who are required to respond to FOI requests. These PBs typically have very little in the way of staff and resources available to devote to processing these requests. Most of their members report having at least one frequent applicant who files multiple requests per month, often filing requests that are seen as non-topical fishing expeditions. These requests take up a disproportionate amount of time and resources from FOI staff as well as officers and leadership, which detracts from the departments' primary mandate of ensuring public safety. Currently most police boards don't charge the application fee, but they feel that starting to do so would be unlikely to slow down the frequent applicants. Suggested a requirement that requests be topical, and the ability to increase the application fee once an applicant has submitted a certain number of requests.

**The Trial Lawyers Association** raised an issue relating to the interpretation of 75 (3) of the Act, which sets out that fees cannot be charged for personal FOI requests. The presenter reports that Health Authorities are typically charging fees for FOI requests seeking personal information, when those requests are filed by a lawyer acting on behalf of a client. Recommended a targeted amendment to Sec 75 (3) to clarify that fees should not be charged for personal requests if the applicant making the request is doing so on the individual's behalf. Alternatively, the ministry may be able to address this through an amendment to the FOIPPA Regulations, or issue some guidance on the matter. Committee members seemed surprised to hear that fees would be charged for this type of FOI request. A committee member proposed that the Chair could write to the ministry asking it to issue guidance about this. Another committee member suggested the ministry could be made aware through an interim report.

**Sean Holman** (University of Victoria professor) gave a presentation setting out the historical and societal context of access to information and its role in democratic systems. He feels that the recent amendments to FOIPPA are regressive and urged the committee to make its recommendations through the lens of increasing transparency, reducing government control over information and strengthening democracy. The only specific recommendation made was to amend Section 71 to require unredacted disclosures of a series of record types, including inspection reports, audits, scientific studies, aggregate statistics, and cabinet records. The committee engaged the speaker in a wide-ranging conversation broadly relating to government secrecy and access to information in democratic society.

**The Union of B.C. Indian Chiefs** spoke about the barriers that Indigenous peoples face when trying to obtain information held by government. For Indigenous peoples, researching claims relies heavily on FOI because government holds the records that would substantiate those claims. It is often necessary to request large volumes of historical documents that reside with government as the historical record needs to be re-constructed and examined to most effectively substantiate the claims. Obtaining this information is fundamental to reconciliation and accessing justice; creating barriers to access stands in the way of those objectives. FOIPPA is the mechanism through which government regulates access to information and DRIPA requires that it align with UNDRIP rather than create barriers to Indigenous rights. Specific barriers mentioned include:

- Prohibitive fees and denial of fee waivers
- Lengthy delays
- Unreasonable use of exceptions to disclosure
- Failure to create, retain or transfer records.

UBCIC feels that many of the recent amendments to FOIPPA were made without consulting Indigenous groups, in contravention of Article 19 of UNDRIP. In their view the bill was rushed through without full debate, or opportunity for Indigenous groups to make adequate representations. Does not feel it is appropriate that the special committee is doing its work after amendments have been made. Specific recommendations included:

1. Immediately engage in meaningful, direct dialogue with First Nations as around eliminating barriers to access.
2. Codify the IGE exemption from application fees into the legislation.
3. Introduce penalties for public bodies that do not meet legislated timelines and work with First Nations to address under-resourcing.
4. Strengthen implementation of section 22 (2) (d) of the Act.
5. Legislate a Duty to Document in FOIPPA.
6. Incorporate human rights principles, like self-determination and respect for rights and title holders into legislation and all processes for developing and reviewing it.

**Cameron Bell** (private citizen) recounted their experience attempting to contact public bodies through phone or mail and being largely unsuccessful, or the process resulting in unreasonable delays. Speaker suggested that public bodies should accept requests through any mailing address or phone number they publish and that it is unreasonable to require individuals to have internet access and/or an email address to access government. The presenter also suggested that individuals should have more control over their personal information and where it is disclosed. Individuals should also be able to request to have their personal information destroyed and receive proof of destruction. Finally they recommended that the OIPC needs to be audited to ensure they are acting within the law and that there should be another independent body to provide oversight for the OIPC.

**The Centre for Law and Democracy** expressed the perspective that the right to information (RTI) is considered a human right under international law. They take an interjurisdictional approach to this issue, reviewing access laws and assigning a RTI rating to each one based on how robust it is. The presenter read out a series of specific recommendations and indicated that a written submission will be made that provides more detail and analysis on each one. The recommendations include:

- Expand the coverage of the Act to include the legislature, the courts, and other organizations that serve a public function, or receive substantial government funding for core operating costs.
- Repeal the application fee or reduce it to \$5. Discontinue processing fees, or change the regime to provide a higher minimum free allocation that covers any time of staff time spent (not just search).
- Reduce timelines and put more stringent conditions on when multiple extensions can be granted.
- Amend exceptions to disclosure to include more harms tests, better balancing of interests, and introduce or shorten sunset clauses.

The committee's questions discussed how BC compares against other jurisdictions and what we might be able to learn from other jurisdictions in terms of legislation or tools.

**The BC Freedom of Information and Privacy Association** indicated that a detailed written submission would be provided prior to the deadline but highlighted recommendations on 10 themes:

1. Compliance with the Act by government. Cited the fact that the annual report requirement has not been met for multiple years.
2. Duty to Document. Considers the IMA to be inadequate and recommends that a Duty to Document form part of FOIPPA.
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Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378



## FW: FOIPPA Special Committee Summary - March 16, 2022

---

From: Yonson, Neal CITZ:EX  
To: Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
Sent: March 16, 2022 4:26:22 PM PDT  
Ooof. Some really lengthy presentations today.

---

**From:** Yonson, Neal CITZ:EX  
**Sent:** March 16, 2022 4:23 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Subject:** FOIPPA Special Committee Summary - March 16, 2022

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## RE: FOIPPA Special Committee Summary - March 16, 2022

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From: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
Cc: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: March 16, 2022 4:36:42 PM PDT

Wow, there was a lot going on today. Great job Neal

Will share with the other ED as well as our team (Jenny, RH, Corey). Some great insight into the consultation with our Indigenous partners.

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** March 16, 2022 4:23 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
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## RE: FOIPPA Special Committee Summary - March 16, 2022

---

From: Donald, Janet CITZ:EX <Janet.Donald@gov.bc.ca>  
To: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>, Reed, Matt CITZ:EX <Matt.Reed@gov.bc.ca>, Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>, Hillier, Emilie A CITZ:EX <Emilie.Hillier@gov.bc.ca>  
Cc: Harriman, Rheannon CITZ:EX <Rheannon.Harriman@gov.bc.ca>, Bowness, Corey CITZ:EX <Corey.Bowness@gov.bc.ca>, Romero, Jenny CITZ:EX <Jenny.Romero@gov.bc.ca>, Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
Sent: March 16, 2022 5:00:41 PM PDT

thanks Cathy super interesting here is the link to the blues -<https://www.leg.bc.ca/documents-data/committees-transcripts/20220316am-FIPPAReview-Victoria-Blues>

Janet Donald (she/her)

Mobile 250-415-7647  
Office 778-698-5050

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**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** March 16, 2022 4:45 PM  
**To:** Reed, Matt CITZ:EX <Matt.Reed@gov.bc.ca>; Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>; Donald, Janet CITZ:EX <Janet.Donald@gov.bc.ca>; Hillier, Emilie A CITZ:EX <Emilie.Hillier@gov.bc.ca>  
**Cc:** Harriman, Rheannon CITZ:EX <Rheannon.Harriman@gov.bc.ca>; Bowness, Corey CITZ:EX <Corey.Bowness@gov.bc.ca>; Romero, Jenny CITZ:EX <Jenny.Romero@gov.bc.ca>; Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Subject:** FW: FOIPPA Special Committee Summary - March 16, 2022

Hello

There was a lot going on today at the FOIPPA Special Committee. Neal did a great job given the range of topics covered. We will look into the fees for personal requests and the feedback from UBCIC related to consultation and IGEs.

---

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Page 046 of 120 to/à Page 055 of 120

Withheld pursuant to/removed as

s.13 ; s.14

## RE: Commissioner presenting to FOIPPA Special Committee - April 7

---

From: Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>, Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Cc: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: April 4, 2022 8:51:39 AM PDT  
Thx Neal- will be listening

FYI- the OIPC recommendations are significant in that the historically the SC has been known to accept and recommend what the OIPC has recommended - so it's kind of a sneak peak into what the SC will likely have in their report - who knows we may get some insight in data linking specifics

Carm

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** April 4, 2022 8:46 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>; Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
**Subject:** Commissioner presenting to FOIPPA Special Committee - April 7

Hi Cathy,

Passing along a heads up that the agenda for the April 7 FOIPPA Special Committee meeting has been updated and now includes an OIPC presentation starting at 8:00 AM. The presentation is intended to give an overview of their submission, though their written submission hasn't been made available yet.

I'll be tuned in and will send out a summary afterwards but this is one that others may want to listen in on directly, or at least be aware of, so spreading the word.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## RE: Commissioner presenting to FOIPPA Special Committee - April 7

---

From: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
Cc: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>, Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
Sent: April 4, 2022 9:02:37 AM PDT  
Thanks Neal

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** April 4, 2022 8:46 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>; Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
**Subject:** Commissioner presenting to FOIPPA Special Committee - April 7

Hi Cathy,

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I'll be tuned in and will send out a summary afterwards but this is one that others may want to listen in on directly, or at least be aware of, so spreading the word.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

OIPC Recommendation	Analysis /Comment	Status	Similar previous recommendations	
1: Include the administrative functions of the Legislative Assembly as a public body under FIPPA in such a way that maintains the important role that constituency records and other records subject to parliamentary privilege play in our democratic process.	s.13; s.14		N/A	
2: Amend FIPPA to allow the Executive Council to disclose to an applicant information that would reveal the substance of deliberations of the Executive Council or any of its committees when they are satisfied that the public interest in the disclosure outweighs the need to protect cabinet confidences.			FOIPPA SC 2016 - #13	
3: Amend s. 13(1) of FIPPA to clarify the following: <ul style="list-style-type: none"> <li>• "advice" or "recommendations" set out suggested actions for acceptance or rejection during a deliberative process, and to that extent, are similar concepts and often interchangeably used terms;</li> <li>• "advice" or "recommendations" does not apply to the facts upon which the advice or recommendation is based; and</li> <li>• "advice" or "recommendations" does not apply to factual, investigative, or background material, for the assessment or analysis of such material, or for professional or technical opinions.</li> </ul>			OIPC submission 2010 - #15 OIPC submission 2015 - #2 FOIPPA SC 2016 - #15	
4: Clarify the language in s. 2 to specifically state that despite any common law or legal exemption to disclosure, public bodies may only rely on the specific exceptions contained in FIPPA			N/A	
5: Add to s. 29 of FIPPA a requirement that public bodies correct personal information when an individual requests that their personal information be corrected - if the public body is satisfied on reasonable grounds that the request made should be implemented.			OIPC submission 2015 - #11 FOIPPA SC 2016 - #35	
6: Amend FIPPA to require that public bodies have in place reasonable measures respecting records management			OIPC submission 2015 - #1 FOIPPA SC 2016 - #2&3	
7: Amend s. 42 of FIPPA to expand the Commissioner's oversight by granting the Commissioner the jurisdiction to review matters or allegations of unauthorized destruction of records. The Commissioner should have jurisdiction over the unauthorized destruction of records as set out in: <ul style="list-style-type: none"> <li>• any enactment of British Columbia, or</li> <li>• set out in a bylaw, resolution or other legal instrument by which a local public body acts or, if a local public body does not have a bylaw, resolution or other legal instrument setting out rules related to the destruction of records, as authorized by the governing body of a local public body.</li> </ul> <p>Introduce offenses and penalties tied the above obligations.</p>			OIPC submission 2010 - #9 OIPC submission 2015 - #12 FOIPPA SC 2016 - #27 & 31 & 34	
8: Amend FIPPA to limit the exemption in s. 3(3)(i) to Part 2 of FIPPA by moving it under s. 3(5).			OIPC submission 2015 - #10	
9: Government should draft and consult with the OIPC on regulations that address transparency, privacy protections and oversight for data-linking.			FOIPPA SC 2016 - #29	
10: Define "automated decision-making."			N/A	
11: Amend FIPPA to give individuals the right to be notified that automated decision-making will be used to make a decision about them, and, on request, receive a meaningful explanation of the reasons and criteria used. Individuals should also be given the right to submit an objection to the use of automated processing to an individual with the authority to review and change the decision.  <p>Require public bodies to create a record of how a decision is made that impacts an individual using automated-decision making in a format that is traceable.</p> <p>Where trade secrets or security classification prevent an explanation from being provided, the following should at least be provided:</p> <ul style="list-style-type: none"> <li>• the type of personal information collected or used;</li> <li>• why the information is relevant; and</li> <li>• its likely impact on the individual.</li> </ul>			N/A	
12: Government should enact new comprehensive health information privacy legislation			OIPC submission 2015 - #20 FOIPPA SC 2016 - #37	

13: Require ministries to consult with the OIPC on draft legislation that could have implications for access to information or protection of privacy

14: Amend s. 56 of FIPPA to permit the Commissioner to extend the 90-day review period in a manner that is consistent with s. 50(8) of PIPA.

15: Amend FIPPA to allow the Commissioner to share information with regulatory counterparts to facilitate enforcement collaboration.

16: Amend s. 47 of FIPPA to allow the Commissioner to disclose information obtained in the course of their duties when the disclosure is in the public interest.

17: Amend Part 6 of FIPPA to require government to list provisions in statutes that prevail over FIPPA in a schedule to the Act, and amend s. 80 of FIPPA to include a review of those provisions as part of the statutory review of the Act.

N/A	
OIPC submission 2010 - #22 FOIPPA SC - #31 OIPC submission 2015 - #18	
N/A	
N/A	

s.13; s.14

OIPC submission 2015 - #17 FOIPPA SC 2016 - #36	
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## RE: FOR REVIEW: KMs on OIPC report

---

From: Stock, Cathy CITZ:EX  
To: Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>, Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
Cc: Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
Sent: April 6, 2022 2:41:00 PM PDT  
Sorry – had a extra period in Sonia’s email

---

**From:** Stock, Cathy CITZ:EX  
**Sent:** April 6, 2022 2:40 PM  
**To:** 'Paulson, Dave GCPE:EX' <Dave.Paulson@gov.bc.ca>; Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
**Cc:** 'Sonia.Lowe@gov.bc.ca,' <Sonia.Lowe@gov.bc.ca,>  
**Subject:** FW: FOR REVIEW: KMs on OIPC report

Hello  
See comments below

---

**From:** Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
**Sent:** April 6, 2022 1:46 PM  
**To:** Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>; Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
**Subject:** FOR REVIEW: KMs on OIPC report

Hi Cathy and Rhianna,  
Sonia and I have drafted a few lines for MLB in response to the OIPC’s submission to the committee. Any concerns?  
Dave

- I’d like to thank the Commissioner for his report and recommendations.
- I also like to thank the Special Committee tasked with reviewing the Act for their continued work and engaging the public on this important piece of legislation.

s.13

*If asked: Will you take the OIPC’s recommendations into consideration?:*

- I’d like to thank the Commissioner for his report and recommendations.
- I respect the work of the Commission and his staff to advocate for improved timeliness and transparency for the people of B.C. – reflecting one of our government’s priorities.
- We will be studying the Commissioner’s recommendations and give them the consideration they deserve.

**Dave Paulson | Sr. Public Affairs Officer**  
Government Communications and Public Engagement

Ministry of Citizens' Services  
Direct: 250 356-7959  
Mobile: 250 213-2089  
email: [dave.paulson@gov.bc.ca](mailto:dave.paulson@gov.bc.ca)



## FOIPPA Special Committee Meeting - April 7

---

From: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
To: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Cc: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: April 7, 2022 10:15:39 AM PDT

Hi Cathy,

Some quick bullets on the Commissioner's presentation to the FOIPPA Special Committee this morning. In my view there wasn't much to note for the short term. It is mostly the longer-term task of analyzing the recommendations issued by the OIPC, and eventually the recommendations issued by the committee.

- The presentation covered the same issues as the written submission. We will analyze the submission in due course and have created a disposition table to track it.
- The overarching themes being communicated were about restoring exceptions to disclosure to their original policy intent on the access side, and making the Act more future-looking on the privacy side.
- Many committee questions asked for the commissioner's view on specific issues raised by previous presenters.
- Many questions revolved around proactive disclosure. The commissioner advocated for the minister to exercise the powers in S.71 more vigorously, but also noted that proactive disclosure should be responsive to the types of requests that a Public Body typically receives, and need for the disclosures to be structured and organized to be useful.
- IAO will likely be asked to provide some data for upcoming reports:
  - The OIPC intends to write a report examining the impact of the application fee, covering the six months immediately following the introduction of the fee.
  - The OIPC also intends to issue a new version of its timeliness report card, covering April 1, 2020 – March 31, 2022. The most recent one was issued in September 2020.

Neal Yonson | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## **Review disposition table of OIPC recommendations.msg.ics**

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**From:** Yonson, Neal CITZ:EX <s.15 s.15>  
**To:** Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>, Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Cc:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** April 21, 2022 2:20:31 PM PDT  
**Received:** April 21, 2022 2:20:00 PM PDT  
**Attachments:** OIPC Disposition table.xlsx  
  
**Priority:** Normal (5)  
**Address:** (UTC-08:00) Pacific Time (US & Canada)  
**Calendar Item Type:** REQUEST

After the OIPC submission to the FOIPPA Special Committee was published, Carm quickly put together a disposition table of the recommendations and their status.

Setting aside some time for us to review that table as a group to see if there's consensus on the status of each, and if there's any worth trying to address in the short term, or that tie into other ongoing work.

Cathy, included you so that you can feel welcome to join us if you have interest/time but certainly no obligation to attend if you have other things to take care of.

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Microsoft Teams meeting

Join on your computer or mobile app

Click here to join the meeting<sup>s.15; s.17</sup>

s.15; s.17

Or call in (audio only)

s.15; s.17

Canada, Victoria

Phone Conference IDs<sup>s.15; s.17</sup>

Find a local number<sup>s.15; s.17</sup>

Reset PIN<sup>s.15; s.17</sup>

Learn More<<https://aka.ms/JoinTeamsMeeting>> | Meeting

options<sup>s.15; s.17</sup>

s.15; s.17

OIPC Recommendation	Analysis /Comment	Status
<p data-bbox="630 174 730 199" style="text-align: center;">s.13; s.14</p> <p data-bbox="134 241 630 373">1: Include the administrative functions of the Legislative Assembly as a public body under FIPPA in such a way that maintains the important role that constituency records and other records subject to parliamentary privilege play in our democratic process.</p> <hr/> <p data-bbox="134 569 630 730">2: Amend FIPPA to allow the Executive Council to disclose to an applicant information that would reveal the substance of deliberations of the Executive Council or any of its committees when they are satisfied that the public interest in the disclosure outweighs the need to protect cabinet confidences.</p> <hr/> <p data-bbox="134 856 630 1182">3: Amend s. 13(1) of FIPPA to clarify the following:</p> <ul style="list-style-type: none"> <li>• “advice” or “recommendations” set out suggested actions for acceptance or rejection during a deliberative process, and to that extent, are similar concepts and often interchangeably used terms;</li> <li>• “advice” or “recommendations” does not apply to the facts upon which the advice or recommendation is based; and</li> <li>• “advice” or “recommendations” does not apply to factual, investigative, or background material, for the assessment or analysis of such material, or for professional or technical opinions.</li> </ul> <hr/> <p data-bbox="134 1283 630 1386">4: Clarify the language in s. 2 to specifically state that despite any common law or legal exemption to disclosure, public bodies may only rely on the specific exceptions contained in FIPPA</p> <hr/> <p data-bbox="134 1638 630 1770">5: Add to s. 29 of FIPPA a requirement that public bodies correct personal information when an individual requests that their personal information be corrected - if the public body is satisfied on reasonable grounds that the request made should be implemented.</p>		

6: Amend FIPPA to require that public bodies have in place reasonable measures respecting records management

7: Amend s. 42 of FIPPA to expand the Commissioner's oversight by granting the Commissioner the jurisdiction to review matters or allegations of unauthorized destruction of records. The Commissioner should have jurisdiction over the unauthorized destruction of records as set out in:

- any enactment of British Columbia, or
- set out in a bylaw, resolution or other legal instrument by which a local public body acts or, if a local public body does not have a bylaw, resolution or other legal instrument setting out rules related to the destruction of records, as authorized by the governing body of a local public body.

Introduce offenses and penalties tied the above obligations.

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10: Define "automated decision-making."

11: Amend FIPPA to give individuals the right to be notified that automated decision-making will be used to make a decision about them, and, on request, receive a meaningful explanation of the reasons and criteria used. Individuals should also be given the right to submit an objection to the use of automated processing to an individual with the authority to review and change the decision.

Require public bodies to create a record of how a decision is made that impacts an individual using automated-decision making in a format that is traceable.

Where trade secrets or security classification prevent an explanation from being provided, the following should at least be provided:

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- why the information is relevant; and
- its likely impact on the individual.

12: Government should enact new comprehensive health information privacy legislation

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## FW: Letter/Submission to the Special Committee to Review the Freedom of Information and Protection of Privacy Act

---

From: Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
To: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Cc: Carling, Emma CITZ:EX <Emma.Carling@gov.bc.ca>  
Sent: April 29, 2022 10:22:25 AM PDT  
Attachments: Letter 04-28-2022 Special Committee to Review FIPPA.pdf, RUCBC 2022 Submission to Special Committee.pdf

Cathy,  
Please advise. Assume we should provide some kind of response to this letter, even if only to confirm receipt. What do we typically do. Could your team draft a response for me.

thx

### Charmaine Lowe

Assistant Deputy Minister  
Corporate Information and Records Management Office  
Ministry of Citizens' Services  
Province of British Columbia  
[Charmaine.lowe@gov.bc.ca](mailto:Charmaine.lowe@gov.bc.ca)  
250-896-6697

---

**From:** Riley Nicholson <Riley.Nicholson@rucbc.ca>

**Date:** Thursday, April 28, 2022 at 4:25 PM

**To:** "FOICommittee@leg.bc.ca" <FOICommittee@leg.bc.ca>

**Cc:** "AEST Deputy Minister AEST:EX" <AEST.DeputyMinister@gov.bc.ca>, "Baskerville, Shannon AEST:EX" <Shannon.Baskerville@gov.bc.ca>, "DMOFFICE, HLTH HLTH:EX" <HLTH.DMOFFICE@gov.bc.ca>, "CITZ Deputy Minister, CITZ:EX" <CITZDeputyMinister@gov.bc.ca>, "Lowe, Charmaine CITZ:EX" <Charmaine.Lowe@gov.bc.ca>, "researchethicsbc@healthresearchbc.ca" <researchethicsbc@healthresearchbc.ca>

**Subject:** Letter/Submission to the Special Committee to Review the Freedom of Information and Protection of Privacy Act

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Good afternoon,

Enclosed please find a letter and submission from Max Blouw, President of the Research Universities' Council of BC.

Thank you and regards,

Riley

Riley Nicholson  
Executive Administrative Assistant  
Research Universities' Council of BC  
400 – 880 Douglas Street, Victoria BC V8W 2B7  
Cell: 250-896-0821  
Office: 250-480-4869

THE Research  
Universities' Council  
OF BRITISH COLUMBIA

April 28, 2022

Special Committee to Review the Freedom of Information  
and Protection of Privacy Act  
c/o Parliamentary Committees Office  
Room 224, Parliament Buildings  
Victoria, BC V8V 1X4

Dear Committee Members:

On behalf of the research universities of British Columbia please accept our sincere thanks for the opportunity to present our input on amendments to the Freedom of Information and Protection of Privacy Act (FIPPA). The Research Universities' Council of British Columbia (RUCBC) works with and on behalf of the six research universities – University of British Columbia, Simon Fraser University, University of Victoria, University of Northern British Columbia, Royal Roads University, and Thompson Rivers University – to improve the quality, accessibility and coordination of university education in British Columbia.

The enclosed submission is in reply to the March 2022 submission to the Special Committee by Michael McEvoy, Information and Privacy Commissioner for British Columbia, whereby the Commissioner recommends amending section 3(3)(i) of FIPPA to apply privacy protections to teaching and research materials. Collectively, the research universities urge the Special Committee not to implement this recommendation.

Please don't hesitate to reach out if you have any questions or need any clarification. With my best wishes, and sincere thanks on behalf of the RUCBC member universities for considering these thoughts.



Dr. Max Blouw, PhD, ICD.D, CM  
President

Enclosure

cc: Shannon Baskerville, Deputy Minister of Advanced Education and Skills Training  
Stephen Brown, Deputy Minister of Health  
Shauna Brouwer, Deputy Minister of Citizens' Services  
Charmaine Lowe, Assistant Deputy Minister, Ministry of Citizens' Services  
Research Ethics BC





## **Research Universities' Council of British Columbia**

### **SUBMISSION TO THE SPECIAL COMMITTEE TO REVIEW THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT ("FIPPA")**

**April 2022**

#### **Introduction**

The Research Universities' Council of British Columbia ("RUCBC") works with and on behalf of the six major universities – UBC, SFU, UVic, UNBC, RRU, and TRU – to improve the quality, accessibility and coordination of university education in British Columbia. The Council provides its members with a single voice with respect to public policy issues including funding, research, accountability, admissions and transfer.

This submission reflects the consensus view of the members of RUCBC.

#### **Nature of this Submission**

This submission is in reply to a recommendation made by Michael McEvoy, Information and Privacy Commissioner for British Columbia, in his submission to the Special Committee dated March 2022.<sup>1</sup> On pages 12-13, he recommends amending section 3(3)(i) of FIPPA to apply privacy protections to teaching and research materials. We urge the Special Committee not to adopt this recommendation.

#### **Discussion**

Section 3(3)(i) of FIPPA excludes the following records from the scope of the Act:

- (i) a record containing teaching or research materials of
  - (i) a faculty member, as defined in the College and Institute Act and the University Act, of a post-secondary educational body,
  - (ii) a teaching assistant or research assistant employed at a post-secondary educational body, or
  - (iii) another person teaching or carrying out research at a post-secondary educational body;

The Commissioner states that this provision "appears to omit privacy protections for research subjects or for anyone whose personal information is included in teaching or research material." He states that this is a "shortcoming" and that there is "no cogent reason why this information should not have the benefit of protection under Part 3 of the Act". Therefore, he recommends that FIPPA be amended to limit the exemption in section 3(3)(i) by moving it under s.3(5) so that it only applies to access requests under Part 2 of the Act.

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<sup>1</sup> OIPC, Submission to the Special Committee to Review the Freedom of Information and Protection of Privacy Act (<https://www.oipc.bc.ca/legislative-submissions/3656>)

We disagree that section 3(3)(i) of FIPPA represents a “shortcoming”. This provision was expressly designed to exclude teaching and research materials from the scope of the Act. In our view, diluting this exclusion would be a significant mistake.

***Lack of Consultation:***

The original version of section 3(3)(i) was inserted into the Act in 1993<sup>2</sup> on the basis of representations made by scholars and researchers who were concerned that bringing scholarly activity under the scope of FIPPA would harm their intellectual property rights.<sup>3</sup> While their concern was focused on Part 2 of the Act (freedom of information) it would be a mistake to assume that bringing this activity under Part 3 (protection of privacy) would have no impact on their interests.

On the contrary, imposing the FIPPA privacy regime on scholarly activity would erode the academic freedom of our scholars and researchers. All six RUCBC Universities have committed in their faculty Collective Agreements not to interfere with the academic freedom of faculty members. Academic freedom has been defined as the “freedom, within the law, to pursue what seems to [scholars] as fruitful avenues of inquiry, to teach and to learn unhindered by external or non-academic constraints, and to engage in full and unrestricted consideration of any opinion.”<sup>4</sup> An important aspect of academic freedom is the freedom to decide what information to collect and use for research purposes. Therefore, the Commissioner’s proposal to bring scholarly activity under direct legislative oversight and control via Part 3 of FIPPA would be anathema to many researchers and would bring the government’s commitment to academic freedom into question.

Such an important change should not be made without meaningful input from scholars, researchers, research ethics boards, and other stakeholders. Unfortunately, the Commissioner did not, to our knowledge, engage in such consultations before making this recommendation.

***Harms of Extending FIPPA to Teaching and Research Materials:***

In addition to its negative impact on academic freedom, the proposed amendment would harm the public interest because the provisions of Part 3 of FIPPA are ill-suited to scholarly research. Here are three examples of problems that would arise if research projects were subject to FIPPA:

- Section 26 of FIPPA does not expressly authorize the collection of personal information for scholarly research purposes. Since FIPPA is not a consent-based statute, it would not be a sufficient answer for researchers to say that they have the informed consent of the research subjects to collect their personal information; they would also have to show which paragraph of section 26 authorizes the collection of the information. The only paragraph of section 26 that might authorize scholarly research is (c) (“the information relates directly to and is necessary for a program or activity of the public body”). The Commissioner requires a public body seeking to rely on this paragraph to provide cogent evidence that collection of personal information is “necessary”, which is an unrealistic standard for many research projects. Therefore, if section 26 is applied to research, researchers may be denied potential avenues of inquiry because they are

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<sup>2</sup> Bill 62-1993 ([https://www.leg.bc.ca/pages/bclass-legacy.aspx#%2Fcontent%2Flegacy%2Fweb%2F35th2nd%2F3rd\\_read%2Fgov62-3.htm](https://www.leg.bc.ca/pages/bclass-legacy.aspx#%2Fcontent%2Flegacy%2Fweb%2F35th2nd%2F3rd_read%2Fgov62-3.htm))

<sup>3</sup> Official Report of Debates of the Legislative Assembly (Hansard), Tuesday, July 27, 1993, page 9281 (<https://www.leg.bc.ca/documents-data/debate-transcripts/35th-parliament/2nd-session/19930727pm-Hansard-v12n19>)

<sup>4</sup> UBC Senate Policy on Academic Freedom (<http://www.calendar.ubc.ca/Vancouver/index.cfm?tree=3,33,86,0>)

unable to justify in advance why a particular type of personal information is “necessary” for their research.

- Section 27 of FIPPA normally requires public bodies to collect personal information directly from an individual, which raises concerns about whether researchers would be authorized under FIPPA to collect personal information indirectly for the purposes of their research. This is an important point because a great deal of research is “secondary research”, i.e. research using already existing data. Amending section 3(3)(i) as the Commissioner has recommended could make it impossible to pursue many secondary research projects.
- Section 69 of FIPPA requires the head of the public body to conduct privacy impact assessments (PIAs) of new projects or initiatives. If research activity became subject to the FIPPA privacy regime, each research project would have to undergo a PIA. Conducting PIAs on the thousands of research projects that are conducted every year would be resource-intensive and time-consuming. Moreover, these PIAs would have little practical benefit as they would essentially duplicate the Research Ethics Board (“REB”) review.

***Existing Privacy Protections for Scholarly Activity:***

It is not necessary to amend section 3(3)(i) to apply FIPPA to scholarly research because any research involving the collection of personal information (“human research”) is already subject to strong privacy and security protections through ethics review, funding agency requirements, data sharing agreements, and scholarly integrity policies. These protections are briefly summarized below:

1. All human research applications are required to undergo a research ethics review by an REB. Ethics reviews include considerations of privacy and confidentiality, including access privileges and controls, protections of personal information, retention and destruction of data, and future use of data. The REB process involves a risk-benefit analysis, balancing the ethical and privacy risks against the public benefit of the research.
2. One of the key roles of the REBs is to ensure that researchers comply with the requirements imposed by funding agencies as a condition of providing funding. Violations of these terms can and do result in cancellation of funding arrangements. In Canada, the largest source of funding for human research is the three federal research agencies, CIHR, NSERC and SSHRC, collectively known as the Tri-Council. The Tri-Council provides research funding under the terms of the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (“TCPS 2”). TCPS 2 contains detailed requirements around informed consent, fairness and equity, and privacy and confidentiality. These requirements are based upon fundamental research principles in use world-wide and provide an equivalent -- and in many cases superior -- level of privacy protection as compared to FIPPA. For example, TCPS 2 generally requires researchers to secure the informed consent of research subjects using signed consent forms. By contrast, FIPPA authorizes collection of personal information without consent, using a simple privacy notice. The informed consent requirement used in research provides far better protection than the notice requirements under FIPPA.
3. Researchers who wish to collect personal information from a private or public entity in British Columbia are normally required to sign a research agreement under section 21 of the *Personal Information Protection Act* or section 33(3)(h) of FIPPA. Under these provisions, the entity may only share personal information for a research purpose under strict conditions, including but not

limited to security and confidentiality, removal or destruction of individual identifiers, and prohibition of subsequent use or disclosure of the information in identifiable form. Entities outside BC generally impose similarly onerous requirements before disclosing personal information for research purposes.

4. Finally, suspected violations of the norms of scholarly conduct are investigated under Universities' scholarly integrity policies. Investigations conducted under these policies are conducted by experts in the field of study, and violations of these policies carry significant penalties for misconduct. By contrast, FIPPA privacy investigations are conducted by the Information and Privacy Commissioner, who does not have specialized research expertise or the resources to conduct complex investigations of this nature, and does not have power to impose penalties.

For the above reasons, the privacy and security requirements that apply to human research projects already match or exceed the requirements set out in FIPPA. There is no reason to believe that personal information collected through scholarly activities requires the protection of FIPPA.

## **Conclusion**

We strongly advise the Special Committee not to implement the above recommendation of the Commissioner.

## RE: Letter/Submission to the Special Committee to Review the Freedom of Information and Protection of Privacy Act

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From: Yonson, Neal CITZ:EX  
To: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: May 2, 2022 4:40:33 PM PDT  
Attachments: Draft Response to RUCBC on FOIPPA SC submission.docx  
Kjerstine,

Here's a first draft to acknowledge receipt and not comment on the specific issue raised. s.13  
s.13

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

---

**From:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Sent:** April 29, 2022 4:45 PM  
**To:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Subject:** FW: Letter/Submission to the Special Committee to Review the Freedom of Information and Protection of Privacy Act

Hi Neal,

May I please ask for your assistance in drafting a response to the Research Universities' Council of British Columbia indicating that we are evaluating the submissions to the Special Committee will address the recommendations in their entirety upon conclusion of the Committee's work?

Thank you,  
Kjerstine

---

**From:** Lowe, Charmaine CITZ:EX <[Charmaine.Lowe@gov.bc.ca](mailto:Charmaine.Lowe@gov.bc.ca)>  
**Sent:** April 29, 2022 10:22 AM  
**To:** Stock, Cathy CITZ:EX <[Cathy.Stock@gov.bc.ca](mailto:Cathy.Stock@gov.bc.ca)>  
**Cc:** Carling, Emma CITZ:EX <[Emma.Carling@gov.bc.ca](mailto:Emma.Carling@gov.bc.ca)>  
**Subject:** FW: Letter/Submission to the Special Committee to Review the Freedom of Information and Protection of Privacy Act

Cathy,  
Please advise. Assume we should provide some kind of response to this letter, even if only to confirm receipt. What do we typically do. Could your team draft a response for me.

thx

**Charmaine Lowe**  
Assistant Deputy Minister  
Corporate Information and Records Management Office  
Ministry of Citizens' Services  
Province of British Columbia  
[Charmaine.lowe@gov.bc.ca](mailto:Charmaine.lowe@gov.bc.ca)  
250-896-6697

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**From:** Riley Nicholson <[Riley.Nicholson@rucbc.ca](mailto:Riley.Nicholson@rucbc.ca)>  
**Date:** Thursday, April 28, 2022 at 4:25 PM

**To:** "FOICommittee@leg.bc.ca" <FOICommittee@leg.bc.ca>

**Cc:** "AEST Deputy Minister AEST:EX" <AEST.DeputyMinister@gov.bc.ca>, "Baskerville, Shannon AEST:EX" <Shannon.Baskerville@gov.bc.ca>, "DMOFFICE, HLTH HLTH:EX" <HLTH.DMOFFICE@gov.bc.ca>, "CITZ Deputy Minister, CITZ:EX" <CITZDeputyMinister@gov.bc.ca>, "Lowe, Charmaine CITZ:EX" <Charmaine.Lowe@gov.bc.ca>, "researchethicsbc@healthresearchbc.ca" <researchethicsbc@healthresearchbc.ca>

**Subject:** Letter/Submission to the Special Committee to Review the Freedom of Information and Protection of Privacy Act

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Good afternoon,

Enclosed please find a letter and submission from Max Blouw, President of the Research Universities' Council of BC.

Thank you and regards,

Riley

Riley Nicholson  
Executive Administrative Assistant  
Research Universities' Council of BC  
400 – 880 Douglas Street, Victoria BC V8W 2B7  
Cell: 250-896-0821  
Office: 250-480-4869



DATE

Ref: 999999

Dr. Max Blouw  
President  
The Research Universities' Council of British Columbia  
400 – 880 Douglas St.  
Victoria, BC V8W 2B7

Dear Dr Blouw:

The Ministry of Citizens' Services is in receipt of a copy of the submission from the Research Universities' Council of British Columbia (RUCBC) to the Special Committee to Review the *Freedom of Information and Protection of Privacy Act* (FOIPPA) dated April 28, 2022.

The ministry intends to conduct a full review of the Special Committee's recommendations once the committee completes its work and issues its final report. The RUCBC's submission will be kept on file to inform that future work.<sup>s.13</sup>  
s.13

Sincerely,

Charmaine Lowe  
Assistant Deputy Minister and Chief Records Officer  
Ministry of Citizens' Services

cc: Shauna Brouwer, Deputy Minister of Citizens' Services  
Shannon Baskerville, Deputy Minister of Advanced Education and Skills Training  
Stephen Brown, Deputy Minister of Health

## FW: SC-FIPPA: Committee Contact

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From: Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
To: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Cc: Carling, Emma CITZ:EX <Emma.Carling@gov.bc.ca>  
Sent: May 17, 2022 10:23:42 PM PDT  
FYI

---

**From:** Brouwer, Shauna CITZ:EX <Shauna.Brouwer@gov.bc.ca>  
**Sent:** May 17, 2022 6:02 PM  
**To:** Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
**Subject:** Fwd: SC-FIPPA: Committee Contact

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**From:** Riarh, Karan <Karan.Riarh@leg.bc.ca>  
**Sent:** Tuesday, May 17, 2022 12:06:20 PM  
**To:** Brouwer, Shauna CITZ:EX <Shauna.Brouwer@gov.bc.ca>  
**Cc:** Molyneux, Jennifer CITZ:EX <Jennifer.Molyneux@gov.bc.ca>; Reed, Matt CITZ:EX <Matt.Reed@gov.bc.ca>; Ritchie, CJ CITZ:EX <CJ.Ritchie@gov.bc.ca>; Newell, Mary <Mary.Newell@leg.bc.ca>; Curtis, Emma <Emma.Curtis@leg.bc.ca>; Arril, Jennifer <Jennifer.Arril@leg.bc.ca>; Hol, Darryl <Darryl.Hol@leg.bc.ca>; Gordon, Jesse <Jesse.Gordon@leg.bc.ca>  
**Subject:** SC-FIPPA: Committee Contact

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Good afternoon Shauna,

s.22

My colleague Jennifer Arril, Clerk of Committees, will be supporting the Special Committee to Review the Freedom of Information and Protection of Privacy Act for the remainder of its work so please connect with her on any matters related to the Special Committee.

Many thanks to you and your colleagues for your support of the Special Committee's work over the last few months.

Kind regards,  
Karan

**Karan Riarh** (Karn Re-are)  
Committee Clerk | Parliamentary Committees Office | [Legislative Assembly of British Columbia](#)  
Office: 250-356-1898 | Cell: 250-415-6039  
Email: [karan.riarh@leg.bc.ca](mailto:karan.riarh@leg.bc.ca)





May 27, 2022

Ref: 117385

Max Blouw, PhD, ICD.D, CM  
President  
The Research Universities' Council of British Columbia  
400 – 880 Douglas St  
Victoria, BC V8W 2B7

Dear Dr. Blouw:

Thank you for providing me with a copy of the submission from the Research Universities' Council of British Columbia (RUCBC) to the Special Committee to Review the *Freedom of Information and Protection of Privacy Act* (FOIPPA), dated April 28, 2022.

The Ministry of Citizens' Services intends to conduct a full review of the Special Committee's recommendations once the committee completes its work and issues their final report. My office will keep RUCBC's submission on file to inform that review.

Thank you for your interest and contribution to this important work.

Sincerely,

Charmaine Lowe  
Assistant Deputy Minister and Chief Records Officer  
Ministry of Citizens' Services

pc: Shauna Brouwer, Deputy Minister of Citizens' Services  
Shannon Baskerville, Deputy Minister of Advanced Education and Skills Training  
Stephen Brown, Deputy Minister of Health

## RE: FOIPPA special committee update

---

From: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
Cc: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: June 2, 2022 4:43:36 PM PDT  
Thanks Neal

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** June 2, 2022 4:36 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Subject:** FOIPPA special committee update

Hi Cathy,

The FOIPPA Special Committee held its last scheduled meeting this morning. The committee approved the report in principle and tasked the Chair and Deputy Chair to work with committee staff to produce a final version for tabling in the Legislature. Although today is the last day of session, Parliamentary Practice (14.10) allows for committee reports to be “released by way of formal deposit with the Office of the Clerk during non-sitting periods” so it’s likely we won’t be left waiting until September to see it, though it’s unknown when it might come out.

You had also asked for a scan of issues where it might be a good idea to think about potential ministry responses in advance of the report coming out. From all the submissions, there’s three issues that came up frequently where the ministry should be able to prepare a response in advance in the event the committee recommends any of the following:

- Making the Legislature subject to FOI
- Elimination or reduction of the FOI application fee
- Reinstating some form of data residency requirement.

There were plenty of smaller/newer/emerging issues raised, but it’s harder to tell which ones the committee might take up, so not sure if doing lots of prep work on those is worthwhile. But can compile that list if someone is keen to do it. For those, it’s also easier to not have anything to say at the beginning - the ministry needs some time to read and consider the report.

Neal Yonson | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## RE: FOIPPA special committee update

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From: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
Sent: June 3, 2022 8:38:55 AM PDT

Thanks Neal. This is a good summary. I appreciate your watchful eye on the development of the Special Cttee recommendations.

Kjerstine

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** June 2, 2022 4:36 PM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Subject:** FOIPPA special committee update

Hi Cathy,

The FOIPPA Special Committee held its last scheduled meeting this morning. The committee approved the report in principle and tasked the Chair and Deputy Chair to work with committee staff to produce a final version for tabling in the Legislature. Although today is the last day of session, Parliamentary Practice (14.10) allows for committee reports to be “released by way of formal deposit with the Office of the Clerk during non-sitting periods” so it’s likely we won’t be left waiting until September to see it, though it’s unknown when it might come out.

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- Making the Legislature subject to FOI
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- Reinstating some form of data residency requirement.

There were plenty of smaller/newer/emerging issues raised, but it’s harder to tell which ones the committee might take up, so not sure if doing lots of prep work on those is worthwhile. But can compile that list is someone is keen to do it. For those, it’s also easier to not have anything to say at the beginning - the ministry needs some time to read and consider the report.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## RE: FOIPPA SC report just dropped

---

From: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>, Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: June 8, 2022 10:34:51 AM PDT  
Thanks Neal!

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** June 8, 2022 10:34 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>; Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
**Subject:** FOIPPA SC report just dropped

[https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report\\_42-3\\_2022-06-08.pdf](https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report_42-3_2022-06-08.pdf)

Haven't reviewed yet, but will do so today and start a disposition table. Certainly a possibility of the ministry getting questions about some of the content though.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

Number	Recommendation	Status	Notes	Potential Actions			
	Appoint a special committee within two years of substantive changes being made to the Act to conduct a targeted review of those changes, in addition to the statutory review required under section 80.	s.13; s.14					
2	Add a duty to document to the Act to ensure all public bodies create and manage detailed records of decisions and actions.						
3	Extend freedom of information provisions to the administrative functions of the Legislative Assembly and ensure records subject to parliamentary privilege, including those related to the work of Members and their constituency offices, remain exempt.						
4	Amend the definition of "public body" to ensure that any board, committee, commissioner, panel, agency or corporation created or owned by a public body is subject to the Act, regardless of whether it is listed in Schedule 2.						
5	Amend section 12 of the Act to clarify that background materials must be released.						
6	Amend subsection 13 (1) of the Act to clarify that the discretionary exception for "advice" or "recommendations" does not extend to facts upon which they are based; or for factual, investigative or background material; or for the assessment or analysis of such material; or for professional or technical opinions.						
7	Amend the Act to clarify that there is no exception to disclosure for settlement privilege.						
8	Amend section 14 of the Act to clarify that the exception applies only to legal advice provided in confidence and not any time a lawyer is involved in providing policy or program advice.						
9	Amend the Act to require that the annual report on its administration be tabled before the Legislative Assembly before June 30th of each year.						
10a	Ensure that information held by public bodies is considered public by default and proactively released without undue delay, limited only by the exceptions outlined in the Act. a. Immediately require public bodies in collaboration with the Information and Privacy Commissioner to evaluate categories of records that are regularly requested and released and to make such records available through proactive disclosure.						
10b	Ensure that information held by public bodies is considered public by default and proactively released without undue delay, limited only by the exceptions outlined in the Act. b. Amend the Act to require that all information not subject to an exception under Division 2 be proactively released in a timely manner and easily accessible.						
11	Require records related to public procurement processes to be proactively released, including when a process is cancelled.						
12	Allocate resources to modernize the freedom of information system with a focus on timeliness, including through leveraging technological solutions, automation, and standardization.						
13	Amend section 5 of the Act to include additional requirements for identifying specific records, to provide applicants with more information about how to make a request from a public body that is not too broad.						
14	Strengthen the duty to assist in section 6 of the Act, including ensuring public bodies are aware of the duty to assist applicants and requiring public bodies to provide timely, accurate and fulsome assistance to applicants.						
15	Reduce the timeline in which a public body must respond to an access request or extend the time for responding to a request from 30 business days to 30 calendar days.						
16	Amend the Act to provide an automatic waiver of application fees and processing fees for applicants when a public body has failed to meet the statutory timeline for freedom of information requests.						
17	Require public bodies to provide data on timeliness of responding to requests for information, and regularly make this data available to the public.						
18	Amend the Act to clarify that the final amount charged to fulfill a request cannot exceed the initial written estimate provided to the requestor by the public body.						
19	Amend the Act to establish that an applicant who makes a formal access request has the right to anonymity.						
20	Conduct a comprehensive review of the Act to address the evolving relationship with indigenous governing bodies as it pertains to the Declaration on the Rights of Indigenous Peoples Act.						
21	Examine the socioeconomic and privacy issues associated with de-identification, automated decision-making, biometrics, the right to be forgotten, data-linking, and data destruction with a view of developing clear regulations.						
22	Draft and consult with the OIPC on regulations that address transparency, privacy protections and oversight for data-linking.						
23	Amend the Act to define "automated decisionmaking."						
24	Amend the Act to give individuals the right to be notified that automated decision-making will be used to make a decision about them, and, on request, receive a meaningful, plain language explanation of the reasons and criteria used. Individuals should also be given the right to submit an objection to the use of automated processing to an individual with the authority to review and change the decision.						
25	Require public bodies to create a record of how a decision is made that impacts an individual using automated decision-making in a format that is traceable. Where trade secrets or security classification prevent an explanation from being provided, the following should at least be provided: a. the type of personal information collected or used; b. why the information is relevant; and c. its likely impact on the individual.						

26	Add to section 29 of the Act a requirement that public bodies correct personal information when an individual requests that their personal information be corrected, if the public body is satisfied on reasonable grounds that the request made should be implemented.
27	Enact new comprehensive health information privacy legislation.
28	Amend subsection 75 (3) of the Act to make it clear that applications by an individual or a party requesting records on their behalf are exempt from fees and, in the interim, issue an interpretation bulletin that clarifies that legal representatives are able to collect personal information on behalf of their clients, as is the intent of the Act
29	Amend both the Freedom of Information and Protection of Privacy Act and the Personal Information Protection Act to enable concurrent reviews of both Acts by one special committee to enable consistency and alignment across issues that are relevant to both Acts
30	Amend the Act to require the Information and Privacy Commissioner to be consulted when provisions that override the Act are being added to other legislation, and when draft legislation could have implications for access to information or protection of privacy.
31	Amend the Act to allow the Commissioner to share information with regulatory counterparts in alignment with paragraph 36 (1) (k) of the Personal Information Protection Act.
32	Amend section 47 of the Act to allow the Commissioner to disclose information obtained in the course of their duties when the disclosure is in the public interest.
33	Amend section 56 of the Act to permit the Commissioner to extend the 90-day review period in a manner that is consistent with subsection 50 (8) of the Personal Information Protection Act.
34	Amend section 42 of the Act to expand the Commissioner's oversight by granting the Commissioner the jurisdiction to review matters or allegations of unauthorized destruction of records. The Commissioner should have jurisdiction over the unauthorized destruction of records as set out in: a. any enactment of British Columbia b. set out in a bylaw, resolution or other legal instrument by which a local public body acts or, if a local public body does not have a bylaw, resolution or other legal instrument setting out rules related to the destruction of records, as authorized by the governing body of a local public body.

Number	Recommendation	Action timeline	Suggested action
	Amend the definition of “public body” to ensure that any board, committee, commissioner, panel, agency or corporation created or owned by a public body is subject to the Act, regardless of whether it is listed in Schedule 2.	s. 13	
4			
	Amend the Act to require that the annual report on its administration be tabled before the Legislative Assembly before June 30th of each year.		
9			
10a	Ensure that information held by public bodies is considered public by default and proactively released without undue delay, limited only by the exceptions outlined in the Act. a. Immediately require public bodies in collaboration with the Information and Privacy Commissioner to evaluate categories of records that are regularly requested and released and to make such records available through proactive disclosure.		
11	Require records related to public procurement processes to be proactively released, including when a process is cancelled.		
12	Allocate resources to modernize the freedom of information system with a focus on timeliness, including through leveraging technological solutions, automation, and standardization.		
14	Strengthen the duty to assist in section 6 of the Act, including ensuring public bodies are aware of the duty to assist applicants and requiring public bodies to provide timely, accurate and fulsome assistance to applicants.		
17	Require public bodies to provide data on timeliness of responding to requests for information, and regularly make this data available to the public		
19	Amend the Act to establish that an applicant who makes a formal access request has the right to anonymity.		
20	Conduct a comprehensive review of the Act to address the evolving relationship with Indigenous governing bodies as it pertains to the Declaration on the Rights of Indigenous Peoples Act		
21	Examine the socioeconomic and privacy issues associated with de-identification, automated decision-making, biometrics, the right to be forgotten, data-linking, and data destruction with a view of developing clear regulations		
22	Draft and consult with the OIPC on regulations that address transparency, privacy protections and oversight for data-linking.		
23	Amend the Act to define “automated decisionmaking.”		
24	Amend the Act to give individuals the right to be notified that automated decision-making will be used to make a decision about them, and, on request, receive a meaningful, plain language explanation of the reasons and criteria used. Individuals should also be given the right to submit an objection to the use of automated processing to an individual with the authority to review and change the decision.		
25	Require public bodies to create a record of how a decision is made that impacts an individual using automated decision-making in a format that is traceable. Where trade secrets or security classification prevent an explanation from being provided, the following should at least be provided: a. the type of personal information collected or used; b. why the information is relevant; and c. its likely impact on the individual.		
28	Amend subsection 75 (3) of the Act to make it clear that applications by an individual or a party requesting records on their behalf are exempt from fees and, in the interim, issue an interpretation bulletin that clarifies that legal representatives are able to collect personal information on behalf of their clients, as is the intent of the Act		
29	Amend both the Freedom of Information and Protection of Privacy Act and the Personal Information Protection Act to enable concurrent reviews of both Acts by one special committee to enable consistency and alignment across issues that are relevant to both Acts		
30	Amend the Act to require the Information and Privacy Commissioner to be consulted when provisions that override the Act are being added to other legislation, and when draft legislation could have implications for access to information or protection of privacy.		

Number	Recommendation	Possible IAO action/impact
	Amend the definition of “public body” to ensure that any board, committee, commissioner, panel, agency or corporation created or owned by a public body is subject to the Act, regardless of whether it is listed in Schedule 2.	s.13
4		
5	Amend section 12 of the Act to clarify that background materials must be released	
6	Amend subsection 13 (1) of the Act to clarify that the discretionary exception for “advice” or “recommendations” does not extend to facts upon which they are based; or for factual, investigative or background material; or for the assessment or analysis of such material; or for professional or technical opinions.	
7	Amend the Act to clarify that there is no exception to disclosure for settlement privilege.	
8	Amend section 14 of the Act to clarify that the exception applies only to legal advice provided in confidence and not any time a lawyer is involved in providing policy or program advice	
9	Amend the Act to require that the annual report on its administration be tabled before the Legislative Assembly before June 30th of each year.	
10	Ensure that information held by public bodies is considered public by default and proactively released without undue delay, limited only by the exceptions outlined in the Act. a. Immediately require public bodies in collaboration with the Information and Privacy Commissioner to evaluate categories of records that are regularly requested and released and to make such records available through proactive disclosure. b. Amend the Act to require that all information not subject to an exception under Division 2 be proactively released in a timely manner and easily accessible.	
11	Require records related to public procurement processes to be proactively released, including when a process is cancelled.	
12	Allocate resources to modernize the freedom of information system with a focus on timeliness, including through leveraging technological solutions, automation, and standardization.	
13	Amend section 5 of the Act to include additional requirements for identifying specific records, to provide applicants with more information about how to make a request from a public body that is not too broad.	
14	Strengthen the duty to assist in section 6 of the Act, including ensuring public bodies are aware of the duty to assist applicants and requiring public bodies to provide timely, accurate and fulsome assistance to applicants.	
15	Reduce the timeline in which a public body must respond to an access request or extend the time for responding to a request from 30 business days to 30 calendar days.	
16	Amend the Act to provide an automatic waiver of application fees and processing fees for applicants when a public body has failed to meet the statutory timeline for freedom of information requests.	
17	Require public bodies to provide data on timeliness of responding to requests for information, and regularly make this data available to the public	
18	Amend the Act to clarify that the final amount charged to fulfill a request cannot exceed the initial written estimate provided to the requestor by the public body	
19	Amend the Act to establish that an applicant who makes a formal access request has the right to anonymity.	
28	Amend subsection 75 (3) of the Act to make it clear that applications by an individual or a party requesting records on their behalf are exempt from fees and, in the interim, issue an interpretation bulletin that clarifies that legal representatives are able to collect personal information on behalf of their clients, as is the intent of the Act	
33	Amend section 56 of the Act to permit the Commissioner to extend the 90-day review period in a manner that is consistent with subsection 50 (8) of the Personal Information Protection Act.	



Number	Recommendation	Possible PCT action/impact
	Amend the definition of “public body” to ensure that any board, committee, commissioner, panel, agency or corporation created or owned by a public body is subject to the Act, regardless of whether it is listed in Schedule 2.	s.13
4		
9	Amend the Act to require that the annual report on its administration be tabled before the Legislative Assembly before June 30th of each year.	
21	Examine the socioeconomic and privacy issues associated with de-identification, automated decision-making, biometrics, the right to be forgotten, data-linking, and data destruction with a view of developing clear regulations	
22	Draft and consult with the OIPC on regulations that address transparency, privacy protections and oversight for data-linking.	
23	Amend the Act to define “automated decisionmaking.”	
24	Amend the Act to give individuals the right to be notified that automated decision-making will be used to make a decision about them, and, on request, receive a meaningful, plain language explanation of the reasons and criteria used. Individuals should also be given the right to submit an objection to the use of automated processing to an individual with the authority to review and change the decision.	
25	Require public bodies to create a record of how a decision is made that impacts an individual using automated decision-making in a format that is traceable. Where trade secrets or security classification prevent an explanation from being provided, the following should at least be provided: a. the type of personal information collected or used; b. why the information is relevant; and c. its likely impact on the individual.	
26	Add to section 29 of the Act a requirement that public bodies correct personal information when an individual requests that their personal information be corrected, if the public body is satisfied on reasonable grounds that the request made should be implemented.	
27	Enact new comprehensive health information privacy legislation.	
30	Amend the Act to require the Information and Privacy Commissioner to be consulted when provisions that override the Act are being added to other legislation, and when draft legislation could have implications for access to information or protection of privacy.	
33	Amend section 56 of the Act to permit the Commissioner to extend the 90-day review period in a manner that is consistent with subsection 50 (8) of the Personal Information Protection Act.	

## FW: URGENT - Notes for MO

---

**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**To:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>, Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** June 8, 2022 10:57:36 AM PDT  
**Attachments:** image001.jpg

---

**From:** Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
**Sent:** June 8, 2022 10:55 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>; Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>  
**Subject:** URGENT - Notes for MO

Hello Both,

Great session but no rest for the wicked.

Can I ask both of you to work on the bullets for the Minister. This needs to be done today so ASAP.

In terms of roles, Cathy – your team takes the lead on content. Review the report and come up with a couple of high level comments for the Minister to say in response to the SC report. For example, thanking the Committee for their work, that we will be reviewing etc... With a view to future improvements..... I haven't read so can't comment on whether there are certain items that she may be questioned on.

Susan's role is to provide that communications lens and fine tune, word smith, etc...

As going to Minister, this needs to go into e apps and up to CJ, DM before Minister's office so let's try to get something to be by 1pm.

---

**From:** Ritchie, CJ CITZ:EX <CJ.Ritchie@gov.bc.ca>  
**Sent:** June 8, 2022 8:57 AM  
**To:** Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
**Subject:** Re: Embargoed Fwd: CONFIDENTIAL: Report of the Special Committee to Review FIPPA

Charmaine,

I spoke with MLB this morning and she will be looking for a response for her to give to this report. Please review and formulate some bullets for her today.

Get [Outlook for iOS](#)

---

**From:** Brouwer, Shauna CITZ:EX <Shauna.Brouwer@gov.bc.ca>  
**Sent:** Wednesday, June 8, 2022 8:11:56 AM  
**To:** Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>; Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>; Ritchie, CJ CITZ:EX <CJ.Ritchie@gov.bc.ca>  
**Subject:** Embargoed Fwd: CONFIDENTIAL: Report of the Special Committee to Review FIPPA

---

**From:** Beare, Lisa CITZ:EX <Lisa.Beare@gov.bc.ca>  
**Sent:** Wednesday, June 8, 2022 8:11:11 AM  
**To:** Brouwer, Shauna CITZ:EX <Shauna.Brouwer@gov.bc.ca>; Lawal, Kassandra CITZ:EX <Kassandra.Lawal@gov.bc.ca>; Carreras, Korleen CITZ:EX <Korleen.Carreras@gov.bc.ca>  
**Subject:** Fwd: CONFIDENTIAL: Report of the Special Committee to Review FIPPA

---

**From:** Arril, Jennifer <Jennifer.Arril@leg.bc.ca>  
**Sent:** Wednesday, June 8, 2022 7:48 AM  
**To:** Beare, Lisa CITZ:EX <Lisa.Beare@gov.bc.ca>  
**Subject:** RE: CONFIDENTIAL: Report of the Special Committee to Review FIPPA

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Hi Minister,

My apologies that I did not see your email until this morning. My administrative support has suggested that it may be a technical issue with Adobe. I have re-attached a low resolution version to this email and hopefully that helps.

Many thanks,  
Jennifer



**Jennifer Arril** (she, her, hers), Clerk of Committees | Parliamentary Committees Office | [Legislative Assembly of British Columbia](#) | Victoria, BC V8V 1X4 | Tel: 250.356-1623 | Cell: 250.208-3383 | Follow us on [Facebook](#), [Twitter](#) and [Instagram](#)

---

**From:** Beare, Lisa CITZ:EX <Lisa.Beare@gov.bc.ca>  
**Sent:** Tuesday, June 7, 2022 9:10 PM  
**To:** Arril, Jennifer <Jennifer.Arril@leg.bc.ca>  
**Subject:** Re: CONFIDENTIAL: Report of the Special Committee to Review FIPPA

Good evening Jennifer. Unfortunately the file you sent say not supported and won't load. It appears blank. Can you please send me a viewable version. Thank you Lisa Beare

Get Outlook for iOS

---

**From:** Arril, Jennifer <Jennifer.Arril@leg.bc.ca>  
**Sent:** Tuesday, June 7, 2022 5:17 PM  
**To:** Beare, Lisa CITZ:EX <Lisa.Beare@gov.bc.ca>  
**Subject:** CONFIDENTIAL: Report of the Special Committee to Review FIPPA

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Dear Minister,

Please find attached a **confidential, embargoed copy** of the report of the Special Committee to Review the Freedom of Information and Protection of Privacy Act.

The report will be deposited tomorrow morning (June 8) with the Office of the Clerk, at which time it will become public and made available on the Legislative Assembly's website.

I will send an email tomorrow morning once the report is public. Until that time, **please ensure the report remains confidential.**

Many thanks,  
Jennifer



**Jennifer Arril** (she, her, hers), Clerk of Committees | Parliamentary Committees Office | [Legislative Assembly of British Columbia](#) | Victoria, BC V8V 1X4 | Tel: 250.356-1623 | Cell: 250.208-3383 | Follow us on [Facebook](#), [Twitter](#) and [Instagram](#)

## **Special Committee Report: Review of FOIPPA**

June 8, 2022

*Please refer to the statement below, which can be attributed to the Lisa Beare, Minister of Citizens' Services*

"I want to thank the members of the all-party Special Committee for their time and efforts to deliver this thorough report.<sup>s.13</sup>

"Our government is committed to improving the freedom of information system so people in B.C. can quickly access the information they need.

"We also know technologies are emerging and evolving, and it is essential that our laws governing freedom of information and personal privacy are continually enhanced and modernized to keep pace.

"The Special Committee's recommendations touch on several areas where we are already making improvements, such as:

"the proactive disclosure of more information. Since 2017, we have increased the number of proactive disclosure directives by 75% and will look to expand the breadth of proactive disclosures in the future, so people do not have to file a request for information (recommendation 10).

"Our recent investment of \$5.3 million to modernize and improve FOI services across government will help streamline processes and address inefficiencies, to ensure people get the information they need, faster (recommendation 12).

"Improving the annual reporting process. We have already started work on the 2021-22 annual report and are aiming to table in fall 2022 (recommendation 9).

"Continuously looking at opportunities to ensure consistency and continued alignment across FOIPPA and PIPA (recommendation 29).

"Continuously looking at opportunities to consult the OIPC when provisions that override the Act are being added to other legislation (recommendation 30).

"I'm committed to taking a closer look the Special Committee's recommendations to see where we can make further improvements to the system.

"I also want to thank those British Columbians who took part in the Special Committee's public consultation for their valuable insight. Their participation helps ensure B.C. has freedom of information and privacy protection systems that are second to none."

## FW: FOR REVIEW: STMT-MLB

---

From: Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>  
To: Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
Cc: Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>, Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Sent: June 8, 2022 12:23:37 PM PDT  
Attachments: Statement MLB FOIPPA special committee report 08June 2022\_DRAFT2.docx  
Hi Dave,

Thanks for the great start on the bullets. We've have made some additions. Charmaine has given Cathy and me a 1pm deadline to get this to her. Can you review it one more time with our changes before I submit it to her?

Thanks,  
Susan

---

**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** June 8, 2022 11:35 AM  
**To:** Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>  
**Subject:** FW: FOR REVIEW: STMT-MLB

GCPE is working on as well

---

**From:** Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
**Sent:** June 8, 2022 11:35 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
**Subject:** FOR REVIEW: STMT-MLB

Hi Cathy,  
Here's our draft statement for MLB for review.  
Thanks,  
Dave

---

**From:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
**Sent:** June 8, 2022 10:36 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>; Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
**Cc:** Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
**Subject:** RE: FOIPPA SC report just dropped

Thanks, Cathy.  
Dave is working up a statement. Will send your way shortly for approval.

---

**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** June 8, 2022 10:35 AM  
**To:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>; Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
**Subject:** FW: FOIPPA SC report just dropped

Hello

[https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report\\_42-3\\_2022-06-08.pdf](https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report_42-3_2022-06-08.pdf)

Haven't reviewed yet, but will do so today and start a disposition table.

## **Special Committee Report: Review of FOIPPA**

June 8, 2022

*Please refer to the statement below, which can be attributed to the Lisa Beare, Minister of Citizens' Services*

"I want to thank the members of the all-party Special Committee for their time and efforts to deliver this thorough report.<sup>s.13</sup>

"Our government is committed to improving the freedom of information system so people in B.C. can quickly access the information they need.

"We also know technologies are emerging and evolving, and it is essential that our laws governing freedom of information and personal privacy are continually enhanced and modernized to keep pace.

s.13

"I'm committed to taking a closer look the Special Committee's recommendations to see where we can make further improvements to the system.



"I also want to thank those British Columbians who took part in the Special Committee's public consultation for their valuable insight. Their participation helps ensure B.C. has freedom of information and privacy protection systems that are second to none."

## RE: FOR REVIEW: STMT-MLB

---

From: Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>  
To: Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
Cc: Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>, Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Sent: June 8, 2022 2:22:13 PM PDT  
Attachments: Statement MLB FOIPPA special committee report 08June 2022.docx  
Charmaine-approved version attached. Thank you.

---

**From:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
**Sent:** June 8, 2022 2:18 PM  
**To:** Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>; Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
**Subject:** RE: FOR REVIEW: STMT-MLB

Wonderful, thank you.

Can you flip Dave and I Charmaine's edited version? Will start getting approvals on my end..and will incorporate CJ's edits when they come in.

---

**From:** Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>  
**Sent:** June 8, 2022 2:17 PM  
**To:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>; Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
**Subject:** RE: FOR REVIEW: STMT-MLB

Charmaine has just approved it. Next stop, CJ.

---

**From:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
**Sent:** June 8, 2022 2:13 PM  
**To:** Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>; Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
**Subject:** RE: FOR REVIEW: STMT-MLB  
**Importance:** High

Hi Susan,

Do we have an ETA on the statement? Reporter will include in her story a comment that the Province did not respond if we don't have something for her by 3:30pm today. It also needs to go through further approvals on my end.

Can you let me know when Charmaine has reviewed it and it has gone to DM?

Thanks,  
Sonia

---

**From:** Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>  
**Sent:** June 8, 2022 12:24 PM  
**To:** Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
**Cc:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>; Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Subject:** FW: FOR REVIEW: STMT-MLB

Hi Dave,

Thanks for the great start on the bullets. We've have made some additions. Charmaine has given Cathy and me a 1pm deadline to get this to her. Can you review it one more time with our changes before I submit it to her?

Thanks,  
Susan

---

**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** June 8, 2022 11:35 AM  
**To:** Laidlaw, Susan CITZ:EX <Susan.Laidlaw@gov.bc.ca>  
**Subject:** FW: FOR REVIEW: STMT-MLB

GCPE is working on as well

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**Sent:** June 8, 2022 11:35 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Cc:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
**Subject:** FOR REVIEW: STMT-MLB

Hi Cathy,  
Here's our draft statement for MLB for review.  
Thanks,  
Dave

---

**From:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>  
**Sent:** June 8, 2022 10:36 AM  
**To:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>; Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
**Cc:** Paulson, Dave GCPE:EX <Dave.Paulson@gov.bc.ca>  
**Subject:** RE: FOIPPA SC report just dropped

Thanks, Cathy.  
Dave is working up a statement. Will send your way shortly for approval.

---

**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** June 8, 2022 10:35 AM  
**To:** Lowe, Sonia GCPE:EX <Sonia.Lowe@gov.bc.ca>; Lowe, Charmaine CITZ:EX <Charmaine.Lowe@gov.bc.ca>  
**Subject:** FW: FOIPPA SC report just dropped

Hello

[https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report\\_42-3\\_2022-06-08.pdf](https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report_42-3_2022-06-08.pdf)

Haven't reviewed yet, but will do so today and start a disposition table.

## **Special Committee Report: Review of FOIPPA**

June 8, 2022

*Please refer to the statement below, which can be attributed to the Lisa Beare, Minister of Citizens' Services*

"I want to thank the members of the all-party Special Committee for their time and dedicated efforts to deliver this thorough report.

"Our government is committed to improving the freedom of information system so people in B.C. can quickly and effectively access the information they need.

"We also know technologies are emerging and evolving, and it is essential that our laws governing freedom of information and personal privacy are continually enhanced and modernized to keep pace.

"The Special Committee's recommendations touch on several areas where we are already making important improvements, such as:

"the proactive disclosure of more information. Since 2017, we have increased the number of proactive disclosure directives by 75% and will look to expand the breadth of proactive disclosures in the future, so people do not have to file a request for information (SC recommendation 10).

"Our recent investment of \$5.3 million to modernize and improve FOI services across government will help streamline processes and address inefficiencies, to ensure people get the information they need, faster (SC Recommendation 12).

"Improving the annual reporting process. We have already started work on the 2021-22 annual report and are aiming to table it in the fall of 2022 (SC Recommendation 9).

"Continuously looking at opportunities to ensure consistency and continued alignment across FOIPPA and PIPA (SC Recommendation 29).

"Continuously looking at opportunities to consult the OIPC when provisions that override the Act are being added to other legislation (SC Recommendation 30).

"I'm committed to taking a closer look the Special Committee's recommendations to see where we can make further improvements to the system.

"I also want to thank those British Columbians who took part in the Special Committee's public consultation for their valuable insight. Their participation helps ensure B.C. has freedom of information and privacy protection systems that are second to none."

## RE: Special Committee to Review FIPPA - see recommendation 11

---

From: Yonson, Neal CITZ:EX  
To: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>, Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>, Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
Sent: June 9, 2022 10:37:07 AM PDT  
Cathy,

Yes, will follow up with them and try to set something up. Having sat on a working group grappling with issues around procurement disclosure for about 2 years, I suspect the FOIPPA angle here is likely to be limited though. There are simply too many types of procurements processes and types of goods or services being procured for any blanket rules to be practical. Still happy to see how we might be able to help them out though.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

---

**From:** Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
**Sent:** June 9, 2022 9:56 AM  
**To:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>; Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>; Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
**Subject:** FW: Special Committee to Review FIPPA - see recommendation 11

Hi

Neal can you look into recommendation 11 first and we can schedule a meeting with the Procurement folks for maybe the end of next week – if that is possible.

---

**From:** Begley, Rhianna CITZ:EX <[Rhianna.Begley@gov.bc.ca](mailto:Rhianna.Begley@gov.bc.ca)>  
**Sent:** June 9, 2022 9:53 AM  
**To:** Harris, Tracy CITZ:EX <[Tracy.Harris@gov.bc.ca](mailto:Tracy.Harris@gov.bc.ca)>; Stock, Cathy CITZ:EX <[Cathy.Stock@gov.bc.ca](mailto:Cathy.Stock@gov.bc.ca)>  
**Subject:** FW: Special Committee to Review FIPPA - see recommendation 11

Hi Tracy,

By way of this email I'll introduce you to Cathy Stock, the ED of the Strategic Policy and Legislation Branch (SPL) within CIRMO. Her team would be the area with responsibility to reviewing the Special Committee recommendations and I think would be the best person to start with in terms of understanding how government might receive the Special Committee recommendations.

Thanks for reaching out.  
Rhianna

---

**From:** Harris, Tracy CITZ:EX <[Tracy.Harris@gov.bc.ca](mailto:Tracy.Harris@gov.bc.ca)>  
**Sent:** June 9, 2022 8:25 AM  
**To:** Begley, Rhianna CITZ:EX <[Rhianna.Begley@gov.bc.ca](mailto:Rhianna.Begley@gov.bc.ca)>  
**Subject:** FW: Special Committee to Review FIPPA - see recommendation 11

Good morning Rhianna,

The below information was sent to me yesterday and I'm wondering if your branch has done some planning around this or what expectations have been set for the procurement function.

Kind regards,  
Tracy

---

**From:** Munch, Travis CITZ:EX <[Travis.Munch@gov.bc.ca](mailto:Travis.Munch@gov.bc.ca)>

**Sent:** June 9, 2022 8:07 AM

**To:** Harris, Tracy CITZ:EX <[Tracy.Harris@gov.bc.ca](mailto:Tracy.Harris@gov.bc.ca)>; Hartman, Teresa CITZ:EX <[Teresa.Hartman@gov.bc.ca](mailto:Teresa.Hartman@gov.bc.ca)>

**Subject:** RE: Special Committee to Review FIPPA - see recommendation 11

Wish I had answers for you, but I suspect this is more in your teams purview. You might wish to contact these folks directly for answers and to discuss how best to move forward.

Best,

Travis

---

**From:** Harris, Tracy CITZ:EX <[Tracy.Harris@gov.bc.ca](mailto:Tracy.Harris@gov.bc.ca)>

**Sent:** June 8, 2022 5:07 PM

**To:** Munch, Travis CITZ:EX <[Travis.Munch@gov.bc.ca](mailto:Travis.Munch@gov.bc.ca)>; Hartman, Teresa CITZ:EX <[Teresa.Hartman@gov.bc.ca](mailto:Teresa.Hartman@gov.bc.ca)>

**Subject:** RE: Special Committee to Review FIPPA - see recommendation 11

Thank you for sharing Travis. Is there work being done to analyze, develop policy, or enforce these recommendations?

There are a lot of considerations that should be looked at, especially when and how documentation is released and the associated impact on the supplier community. I know at one point Michele was working on the guidance for disclosure of procurement documentation; does this impact that work?

There may also be an impact to privacy requirements, depending what action falls out of these recommendations.

Cheers,

Tracy

---

**From:** Munch, Travis CITZ:EX <[Travis.Munch@gov.bc.ca](mailto:Travis.Munch@gov.bc.ca)>

**Sent:** June 8, 2022 11:03 AM

**To:** Hartman, Teresa CITZ:EX <[Teresa.Hartman@gov.bc.ca](mailto:Teresa.Hartman@gov.bc.ca)>; Harris, Tracy CITZ:EX <[Tracy.Harris@gov.bc.ca](mailto:Tracy.Harris@gov.bc.ca)>

**Subject:** Special Committee to Review FIPPA - see recommendation 11

Hello,

Please see the email stream below from our friends at the Privacy Commissioner. Seems there is a recommendation (recommendation 11) to proactively disclose all documents related to a procurement process, including those that have been cancelled.

You folks might want to look into this.

Please share with other leadership stakeholders as you see appropriate,

Travis

---

**From:** oline Twiss <[OTwiss@oipc.bc.ca](mailto:OTwiss@oipc.bc.ca)>

**Sent:** June 8, 2022 10:45 AM

**To:** Munch, Travis CITZ:EX <[Travis.Munch@gov.bc.ca](mailto:Travis.Munch@gov.bc.ca)>

**Cc:** XT:Ross, Morag AG:IN <[MRoss@bcorl.ca](mailto:MRoss@bcorl.ca)>; Zatylny, Jane OIPC:EX <[JZatylny@oipc.bc.ca](mailto:JZatylny@oipc.bc.ca)>

**Subject:** thank you

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Hi Travis,

I wish to extend thanks to you again on behalf of our team for the invite to speak with the procurement group today. What a great network of people it is. We look forward to our continuing discussions.

Today the **Special Committee to Review the Freedom of Information and Protection of Privacy Act** has released its report on the [Special Committee's website](https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report_42-3_2022-06-08.pdf) or directly here:  
[https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report\\_42-3\\_2022-06-08.pdf](https://www.leg.bc.ca/content/CommitteeDocuments/42nd-parliament/3rd-session/fippa/report/SC-FIPPA-Report_42-3_2022-06-08.pdf) - you may be interested in recommendation 11 which calls for proactive release of procurement documents.

Thanks again, we'll talk soon,

oline

**oline Twiss**

She/her/hers

Deputy Commissioner

[www.oipc.bc.ca](http://www.oipc.bc.ca)

Deputy Registrar

[www.lobbyistsregistrar.bc.ca](http://www.lobbyistsregistrar.bc.ca)

Phone: 250-953-4138

Email: [otwiss@oipc.bc.ca](mailto:otwiss@oipc.bc.ca)

We acknowledge the homelands of the Indigenous Peoples of this place we now call British Columbia, and honour the many territorial keepers of the Lands on which we work.

This email and any attachments are only for the use of the intended recipient and must not be distributed, disclosed, used or copied by or to anyone else. If you receive this in error please contact the sender by return email and delete all copies of this email and any attachments.



## RE: FOIPPA SC report - disposition table

---

From: Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
To: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>, Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>, Parasram, Karen CITZ:EX <Karen.Parasram@gov.bc.ca>  
Sent: June 13, 2022 7:50:24 AM PDT  
Thanks Neal,

I have taken a first pass and added my comments in red - for discussion.

C

---

**From:** Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
**Sent:** June 9, 2022 2:18 PM  
**To:** Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>; Parasram, Karen CITZ:EX <Karen.Parasram@gov.bc.ca>; Plater, Carmelina CITZ:EX <Carmelina.Plater@gov.bc.ca>  
**Subject:** FOIPPA SC report - disposition table

An initial effort at starting a disposition table for the latest Special Committee Report is in the folder below, for other to build off of if they wish:

[\\sfp.idir.bcgov\s177\S77101\SPP\ACTIVE\Legislation and Special Projects Unit\FOIPPA\FOIPPA Special Committees\2022\Final Report](#)

There's also a second tab to the spreadsheet which attempts to identify some recommendations that we might be able to at least partially address in the short-, medium- or long-term through non-legislative actions.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## Proposed memo to FOIPPA public bodies re: Fees

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From: Yonson, Neal CITZ:EX  
To: Holmes, Kjerstine L CITZ:EX <Kjerstine.Holmes@gov.bc.ca>  
Sent: June 15, 2022 4:37:25 PM PDT  
Attachments: FOIPPA SC recommendation 28 - Fee Memorandum.docx  
Hi Kjerstine,

Here's a one-pager outlining a short-term action that the ministry could take to directly address one of the recommendations of the FOIPPA Special committee around fees. Seems like this could represent fairly low-hanging fruit as far as the SC recommendations go, and we should be able to distribute something like this effectively thanks to all of Rheannon's work to build our capacity to communicate out to the broader public sector. If there's support from you/Cathy/Charmaine to pursuing this, would be easy to re-package this info into a DBN and put the draft memo on letterhead to seek formal approval.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

### Background

Recommendation #28 of the 2022 Special Committee to review FOIPPA is: “Amend subsection 75 (3) of the Act to make it clear that applications by an individual or a party requesting records on their behalf are exempt from fees and, in the interim, issue an interpretation bulletin that clarifies that legal representatives are able to collect personal information on behalf of their clients, as is the intent of the Act.”

This recommendation was based on oral testimony from the Trial Lawyers Association (TLA) and a written submission from another lawyer who appeared to be acting independently from the TLA. Both reported that some public bodies, particularly in the health sector, charge fees when a lawyer submits an FOI request seeking a client’s personal information. Both argued that the intent of the Act was that fees should not be levied when an individual is seeking their own personal information.

### Discussion

s.13

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Withheld pursuant to/removed as

s.13

## Deck re: FOIPPA Special Committee Recommendations

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From: Yonson, Neal CITZ:EX  
To: Donald, Janet CITZ:EX <Janet.Donald@gov.bc.ca>, Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
Cc: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Sent: June 16, 2022 11:07:25 AM PDT  
Attachments: FOIPPA Special Committee Recommendations - IAO and PCT.pdf  
Hi Janet and Rhianna,

Here's a copy of the deck today about FOIPPA SC recommendations where IAO and/or PCT may have a role in trying to address the spirit of them through non-legislative means. Again there is no expectation that government will be in a position to address all of these, but it may be possible to address the spirit of them through policy/practice, and some of them may tie into other initiatives that are already happening.

SPL has created a disposition table to keep a running status of all the committee recommendations and we will try to maintain it over time.

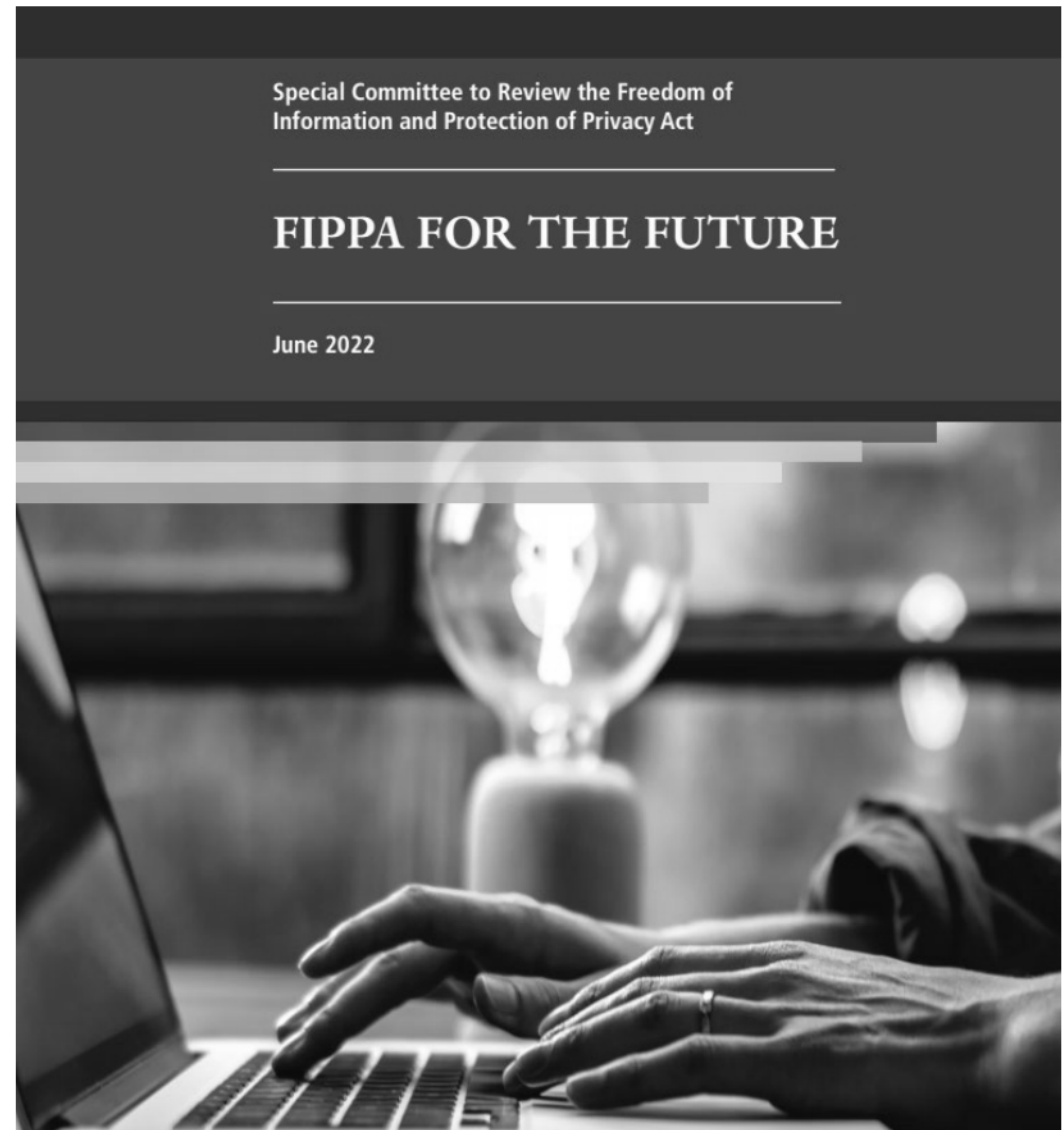
**Neal Yonson** | Senior Legislative and Policy Analyst  
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# FOIPPA Special Committee Recommendations

Potential impacts for IAO and PCT

- 34 recommendations in total
- Many are similar to recommendations issued by past special committees.



# Addressing the recommendations

- Most recommendations are structured around suggested legislative amendments.
- Some can only be addressed through legislative amendments:
  - #7 – Amend the Act to clarify that there is no exception to disclosure for settlement privilege.
  - #27 – Enact new comprehensive health information privacy legislation.
- However, the spirit of some recommendations can be addressed through non-legislative means.



## Already in progress (general)

#9 - Require that the FOIPPA annual report be tabled before June 30th of each year.

- Renewed commitment from the ministry to the timely release of the annual report. IAO and PCT are both key partners through data reporting.

#33 – Amend the Act to permit the Commissioner to extend the 90-day review period in a manner that is consistent with PIPA.

- Commissioner currently manages this through consent extensions. Government routinely consents to these extensions.

# Already in progress (IAO)

#12 – Allocate resources to modernize the FOI system.

#17 - Require public bodies to provide data on timeliness of responding to requests for information, and regularly make this data available to the public.

#19 - Amend the Act to establish that an applicant who makes a formal access request has the right to anonymity.

- Further opportunity to clarify through FOIPPA manual updates.

#28 – Clarify that fees should not be charged when a lawyer makes a request on behalf of a client for that client's personal information.

- Further opportunity to clarify through interpretation memo and/or FOIPPA manual updates.

## Already in progress (PCT)

#26 – Require that public bodies correct personal information if the public body determines the correction request to be reasonable.

#30 – Require consultation with the commissioner when legislative overrides are being contemplated.

# Proactive Disclosure (IAO)

#10 - Ensure that information held by public bodies is considered public by default and proactively released without undue delay, limited only by the exceptions outlined in the Act.

- a. evaluate categories of records that are regularly requested and released and to make such records available through proactive disclosure.

#11 - Require records related to public procurement processes to be proactively released, including when a process is cancelled.

# Training opportunities (IAO)

#6 - Clarify that the discretionary exception in s. 13 for “advice” or “recommendations” does not extend to facts upon which they are based; or for factual, investigative or background material; or for the assessment or analysis of such material; or for professional or technical opinions.

#13 - Amend section 5 of the Act to include additional requirements for identifying specific records, to provide applicants with more information about how to make a request from a public body that is not too broad.

#14 – Ensure public bodies are aware of the duty to assist applicants and require public bodies to provide timely, accurate and fulsome assistance to applicants.

## Practices around fees (IAO)

#16 – An automatic waiver of application fees and processing fees for applicants when a public body has failed to meet the statutory timeline.

#18 – The final amount charged to fulfill a request cannot exceed the initial written estimate provided to the requestor by the public body.

## Data-linking (PCT/SPL)

#21 – Examine the socioeconomic and privacy issues associated with de-identification, automated decision-making, biometrics, the right to be forgotten, data-linking, and data destruction with a view of developing clear regulations.

#22 – Draft and consult with the OIPC on regulations that address transparency, privacy protections and oversight for data-linking.

# Automated decision-making (PCT/SPL)

#23 – Define “automated decision-making”

#24 – Give individuals the right to be notified that automated decision-making will be used and receive a plain language explanation. Give individuals the right to have the automated decision reviewed by a human.

#25 – Require public bodies to create a record of how automated decisions are made.



## Deck re: FOIPPA Special Committee Recommendations

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From: Yonson, Neal CITZ:EX <Neal.Yonson@gov.bc.ca>  
To: Donald, Janet CITZ:EX <Janet.Donald@gov.bc.ca>, Begley, Rhianna CITZ:EX <Rhianna.Begley@gov.bc.ca>  
Cc: Stock, Cathy CITZ:EX <Cathy.Stock@gov.bc.ca>  
Sent: June 16, 2022 11:07:33 AM PDT  
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[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378

## PIPA-relevant recommendations from FOIPPA Special Committee

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From: Yonson, Neal CITZ:EX  
To: Buck, Caitlin CITZ:EX <Caitlin.Buck@gov.bc.ca>  
Cc: Doerksen, Chad CITZ:EX <Chad.Doerksen@gov.bc.ca>  
Sent: June 21, 2022 1:21:01 PM PDT  
Hi Caitlin,

Was mentioning last week how we are digesting the report from the FOIPPA Special Committee and wanted to send you a quick note to highlight some recommendations that might have the most relevance to work on the PIPA side of things. Sharing mostly for interest and awareness.

### Joint Review Committee

**FOIPPA SC #29.** Amend both the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act* to enable concurrent reviews of both Acts by one special committee to enable consistency and alignment across issues that are relevant to both Acts.

We haven't thought too deeply about the merits of this idea, but if there was a desire to implement this, doing it as part of PIPA amendments (with a consequential FOIPPA amendment) would seem to be the most logical path.

### Bringing aspects of FOIPPA into alignment with PIPA

**FOIPPA SC #26.** Add to section 29 of the Act a requirement that public bodies correct personal information when an individual requests that their personal information be corrected, if the public body is satisfied on reasonable grounds that the request made should be implemented. [*Alignment with section 24 of PIPA.*]

**FOIPPA SC #31.** Amend the Act to allow the Commissioner to share information with regulatory counterparts in alignment with paragraph 36 (1) (k) of the *Personal Information Protection Act*.

**FOIPPA SC #33.** Amend section 56 of the Act to permit the Commissioner to extend the 90- day review period in a manner that is consistent with subsection 50 (8) of the *Personal Information Protection Act*.

Nothing to do on the PIPA end, but flagging that these are considered the parts of PIPA that FOIPPA ought to emulate. (And presumably the implication is the existing scheme within PIPA is adequate.)

### FOIPPA SC recommendations that echo PIPA SC recommendations

**FOIPPA SC #27.** Enact new comprehensive health information privacy legislation.

**PIPA SC #26.** Create legislation dedicated to governing the collection, use and disclosure of health information in the public and private sectors.

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**FOIPPA SC #21.** Examine the socioeconomic and privacy issues associated with de-identification, automated decision-making, biometrics, the right to be forgotten, data-linking, and data destruction with a view of developing clear regulations.

**PIPA SC.** [The extremely broad scope of this recommendation makes it tie into many PIPA recommendations, at minimum #3, 4, 6, 7, 8, 11, 18]

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**PIPA SC #5.** Ensure that PIPA requires an organization to notify an individual that automated processes were used to make a significant decision about them and includes provisions to allow an individual to request human intervention in the decision-making process.

**FOIPPA SC #24.** Amend the Act to give individuals the right to be notified that automated decision-making will be used to make a decision about them, and, on request, receive a meaningful, plain language explanation of the reasons and criteria used. Individuals should also be given the right to submit an objection to the use of automated processing to an individual with the authority to review and change the decision.

**FOIPPA SC #25.** Require public bodies to create a record of how a decision is made that impacts an individual using automated decision-making in a format that is traceable. [*recommendation continues with more specifics*]

Again, nothing in particular to do in the short term, but these are the key issues identified where some shared policy work might come in handy.

**Neal Yonson** | Senior Legislative and Policy Analyst  
Strategic Policy and Legislation, OCIO  
[neal.yonson@gov.bc.ca](mailto:neal.yonson@gov.bc.ca) | 778-698-2378