
STATEMENT

For Immediate Release
[release number]
October 22, 2015

Ministry of Technology,
Innovation and Citizens' Services

Minister responds to Information and Privacy Commissioner's report

VICTORIA – Technology, Innovation and Citizens' Services Minister Amrik Virk made the following statement in response to the Office of the Information and Privacy Commissioner's latest Report.

"On behalf of the government of British Columbia, I would like to thank the Information and Privacy Commissioner for the report.

All government employees have a responsibility to ensure they are properly responding to freedom of information requests. The Commissioner has made a number of important findings that we take seriously and government is committed to acting on her recommendations.

At the direction of the Premier, I have asked the former B.C. Information and Privacy Commissioner David Loukidelis to advise government on how to address the recommendations. Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.

Government is already addressing a number of the recommendations. This includes the Ministry of Transportation and Infrastructure's agreement to provide the additional 36 pages of information and the Ministry of Advanced Education's commitment to provide the requested 20 email records. Both information releases will be in accordance with the Freedom of Information and Protection of Privacy Act.

We intend to address outstanding recommendations as swiftly as possible. For example, the Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests. The Office will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office. A number of other recommendations that require both policy and operational considerations will require more time for review.

Two of the Commissioner's recommendations also involve changes to existing legislation. Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.

Aspects of the report touch on personnel and legal matters. Given our obligations to protect the privacy of employees and respect for due process, we will not be commenting on these elements.

Earlier this year government passed the *Information Management Act* and created a Chief Records Officer. This position helps ensure the retention and management of important government records so they are available for operational use and for freedom of information requests.

Our government remains committed to being as open and transparent as possible. Over the last five years government has responded to over 43,000 Freedom of Information requests. Government also has almost 1 million boxes of securely stored records in its possession and an additional 40,000 boxes are added per year.

Contact:
Government Communications and Public Engagement
Ministry of Technology, Innovation and Citizens' Services
250 889-1121

Page 002

Withheld pursuant to/removed as

s.14

Page 003 to/à Page 008

Withheld pursuant to/removed as

s.22

McCann, Meghan PREM:EX

From: Kay, Maclean PREM:EX
Sent: Thursday, October 22, 2015 7:21 PM
To: Ives, Andrew PREM:EX
Cc: Chin, Ben PREM:EX
Subject: RE: Note
Attachments: 2015 10 22 Email Letterhead.doc

Clean copy attached.

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 4:47 PM
To: Kay, Maclean PREM:EX; Ives, Andrew PREM:EX; McPhee, Jordan PREM:EX; Mills, Shane LASS:EX; Oliphant, Sam PREM:EX; Southern, Evan PREM:EX; Toda, Sarah PREM:EX
Cc: Doyle, Dan PREM:EX; Cadario, Michele PREM:EX; Sweeney, Neil PREM:EX
Subject: Note

Made a slight change...Maclean can you check for formatting, spelling.

Andrew, once Maclean gets you a clean copy, PCC can email to Dan and Ministers in the morning.

Sarah, if you're at work, please forward from Dan to all PO and MO staff tomorrow morning.

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.



October 22, 2015

Dear Colleagues,

I know you share my sense of duty to British Columbians to ensure we lead a government that is open and accountable.

To that end, I have asked David Loukidelis to help us strengthen our processes and training around Freedom of Information, and give us advice on the best ways to implement actions in response to the Privacy Commissioner's recommendations.

Until Mr. Loukidelis completes his work, I am further directing my Cabinet Ministers and all political staff to keep all the emails they send, regardless of whether they are transitory or not.

There can be conflicting views on how the rules have been applied over the decades. We and our staff do our utmost to follow the regulations around Freedom of Information to the best of their understanding. But, we also need to recognize that technology, as well as public expectations, are evolving.

We can, and should, take this additional step to give our citizens greater confidence that their government is open and accountable.

Sincerely,

Christy Clark
Premier

Kay, Maclean PREM:EX

From: Kay, Maclean PREM:EX
Sent: Thursday, October 22, 2015 2:53 PM
To: De Wit, Antoinette PREM:EX
Subject: rush job
Attachments: 2015 10 23 FOI.docx

Can you put this on letterhead ASAP please?

Maclean Kay
Communications Manager
Office of Premier Christy Clark
(250) 387-1369

Dear Colleagues,

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Premier Christy Clark

Kay, Maclean PREM:EX

From: Kay, Maclean PREM:EX
Sent: Thursday, October 22, 2015 3:09 PM
To: Chin, Ben PREM:EX
Subject: RE:
Attachments: 2015 10 23 Letterhead.doc; 2015 10 23 FOI.docx

Letterhead and plan copies attached.

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 2:48 PM
To: Kay, Maclean PREM:EX
Subject:

Ben Chin
Executive Director
Communications & Issues Mgmt
Office of Premier Christy Clark
Government of British Columbia
250.588.3113



October 22, 2015

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Premier Christy Clark

Doyle, Dan PREM:EX

From: Doyle, Dan PREM:EX
Sent: Wednesday, October 21, 2015 3:16 PM
To: s.22
Subject: Need some advice

David

We have met in the past but you may not remember me. I am presently the Chief of Staff to Premier Clark. We have an FOI issue that I would like your advice on or more specifically help with. You can reach me on this email or my cell phone^{s.17} Looking forward to hearing back from you

Dan Doyle

Sent from my iPhone

McCann, Meghan PREM:EX

From: Mills, Shane LASS:EX
Sent: Thursday, October 22, 2015 4:52 PM
To: Chin, Ben PREM:EX; Kay, Maclean PREM:EX; Ives, Andrew PREM:EX; McPhee, Jordan PREM:EX; Oliphant, Sam PREM:EX; Southern, Evan PREM:EX; Toda, Sarah PREM:EX
Cc: Doyle, Dan PREM:EX; Cadario, Michele PREM:EX; Sweeney, Neil PREM:EX
Subject: Re: Note

I'll reinforce at morning meeting tomorrow.

Sent from my BlackBerry 10 smartphone on the TELUS network.

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 4:47 PM
To: Kay, Maclean PREM:EX; Ives, Andrew PREM:EX; McPhee, Jordan PREM:EX; Mills, Shane; Oliphant, Sam PREM:EX; Southern, Evan PREM:EX; Toda, Sarah PREM:EX
Cc: Doyle, Dan A PREM:EX; Cadario, Michele PREM:EX; Sweeney, Neil PREM:EX
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Andrew, once Maclean gets you a clean copy, PCC can email to Dan and Ministers in the morning.

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Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

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McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 3:32 PM
To: Cadario, Michele PREM:EX; Doyle, Dan PREM:EX
Subject: Fw:
Attachments: 2015 10 23 Letterhead.doc; 2015 10 23 FOI.docx

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Ben Chin
Executive Director
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250-588-3113

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Executive Director
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Premier Christy Clark

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 4:26 PM
To: Cadario, Michele PREM:EX; Doyle, Dan PREM:EX
Subject: Re:

Good point..will fix.

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Cadario, Michele PREM:EX
Sent: Thursday, October 22, 2015 4:03 PM
To: Chin, Ben PREM:EX; Doyle, Dan PREM:EX
Subject: Re:

For PCC letter - in sentence "I know my staff and yours...". Shouldn't that also include her and her Ministers as well as all of our staff take it seriously..."

M

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From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 3:31 PM
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McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 5:02 PM
To: Kay, Maclean PREM:EX
Subject: Re: Note

s.22

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Kay, Maclean PREM:EX
Sent: Thursday, October 22, 2015 4:58 PM
To: Chin, Ben PREM:EX
Subject: Re: Note

Will do. s.22

Maclean Kay
Communications Manager
Office of Premier Christy Clark
(250) 387-1369

On Oct 22, 2015, at 4:50 PM, Chin, Ben PREM:EX <Ben.Chin@gov.bc.ca> wrote:

I found one error already! I changed it to we and our staff do utmost...but forgot to change "their" to "our" please correct

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

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McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 4:50 PM
To: Kay, Maclean PREM:EX
Subject: Fw: Note
Attachments: 2015 10 23 Letterhead.doc

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Contact:
Government Communications and Public Engagement
Ministry of Technology, Innovation and Citizens' Services
250 889-1121

Doyle, Dan PREM:EX

From: Toda, Sarah PREM:EX
Sent: Monday, October 19, 2015 9:23 AM
To: Doyle, Dan PREM:EX
Subject: FW: Embargoed: OIPC Investigation Report F15-03
Attachments: s.3

FYI - credentials to open Investigation Report F15-03:

s.15

s.3

Page 029 to/à Page 132

Withheld pursuant to/removed as

s.3

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From: Chin, Ben PREM:EX
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Subject:

Ben Chin

Executive Director

Communications & Issues Mgmt

Office of Premier Christy Clark

Government of British Columbia

250.588.3113

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Friday, October 23, 2015 2:50 PM
To: Ingram, Geoff MTIC:EX; Mills, Shane LASS:EX
Cc: Facey, Nick MTIC:EX; Southern, Evan PREM:EX
Subject: Re: Updated: Media Request - Van Sun - OIPC Report - Triple Delete Function

Looks fine...one change, Premier sent a directive today, not memo

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ingram, Geoff MTIC:EX
Sent: Friday, October 23, 2015 2:37 PM
To: Chin, Ben PREM:EX; Mills, Shane LASS:EX
Cc: Facey, Nick MTIC:EX; Southern, Evan PREM:EX
Subject: FW: Updated: Media Request - Van Sun - OIPC Report - Triple Delete Function

Updated for approval. Please note we are past the deadline.

Geoff

Deadline @ 2:30pm

Media: Vancouver Sun

Reporter: Rob Shaw, 250-953-5932, rshaw@vancouversun.com

Topic: OIPC Report – Triple Delete Function

Background: Reporter seeking responses to the questions below as a follow-up to the OIPC's report issued yesterday.

Suggested Response:

Does government intend to end the practice of triple-deleting by, as Denham recommended, barring employees from access to the 'recover' folder in their email program? And if so, when will this change be implemented?

Does government intend to change the automatic delete time of the the recover folder to 30 days before it is automatically emptied, thereby allowing the monthly government backup system to backup the contents of the recovery folder? And if so, when will this change be implemented?

Does the government agree with Commissioner Denham's description of triple-delete, in that if it is done quickly enough it can permanently erase an email from the government system before it can be backed up by monthly government backup procedures? Or, is there another way government technicians have found to recover emails that are triple-deleted even if they aren't backed up? I've had some computer people email me to say that hard drives could in fact be analyzed and emails recovered using other forensic techniques on individual computers.

What other technological solutions is government exploring to prevent people from deleting their emails?

To clarify part of the commissioner's report, is it government's understanding that the emails that were triple-deleted by Mr. Gretes have not been recovered and can't be recovered? They are permanently erased? They didn't show up in any other FOIs, or on any other computers, or anywhere else – they are gone? And does the ministry know what those records were, contained, or involved?

Why did the ability for staff to access their recover deleted email folder exist in the first place? For what purpose did government expect staff would want to access that folder?

- Commissioner Denham's report is comprehensive, and her recommendations provide remedies appropriate to the findings, and we are acting on them.
- The Commissioner has made a number of important findings that we take seriously and government is committed to acting on her recommendations.
- At the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, has been asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.
- Today the Premier sent a memo to all ministers and political staff instructing them to keep all emails they send, regardless of whether they are transitory or not, until Mr. Loukidelis' work is complete.
- Further, the Ministry of Transportation and Infrastructure and the Ministry of Advanced Education have committed to providing the requested email records.
- The Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests and will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office.
- Two of the Commissioner's recommendations also involve changes to existing legislation.
- Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.

Tasha Schollen | Communications Director
 Ministry of Technology, Innovation and Citizens' Services
 Government Communications and Public Engagement
 Phone: 250-387-3134 | Cell: 250-889-1121

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Wednesday, October 21, 2015 8:14 PM
To: Vaughn Palmer
Subject: Re: getting my background paragraphs organized

...but also former FOI Commish, and as I understand this is with the blessing of Denham

Yes Cadario started after May 2013

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

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From: Vaughn Palmer
Sent: Wednesday, October 21, 2015 8:09 PM
To: Chin, Ben PREM:EX
Subject: getting my background paragraphs organized

Cardario is Haakstad's successor, correct?

I see she was also placed under oath by Denham in the ethic outreach investigation.

also, wondering about the choice of loukidelis, given his role, with whitmarsh, in crafting the escape hatch in the basi/virk case.

--vaughn

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 11:25 AM
To: Ingram, Geoff MTIC:EX; Mills, Shane LASS:EX; Southern, Evan PREM:EX
Cc: Facey, Nick MTIC:EX
Subject: Re: MTICS media requests x2 - CBC Radio BC Almanac and CBC On the Coast re OIPC report for 12:05 today

Yes

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Subject: MTICS media requests x2 - CBC Radio BC Almanac and CBC On the Coast re OIPC report for 12:05 today

Gentlemen,

We have 2 media requests from CBC to go on their day shows. Are you ok with MAV participating?

Geoff

1. Date/Time: Oct. 22 – 10:52 a.m.

Deadline @ asap

Media: CBC Radio BC Almanac

Host: Gloria Macarenko

Producer: Michelle Eliot, 604-662-6982, michelle.eliot@cbc.ca

Topic: OIPC report

Background: Would like to know if Minister Virk can go on for a few minutes at 12:05 today to talk about OIPC's report. Format would be live with host Gloria Macarenko. Piz note: they are looking for a columnist to go on following for open line but that has not been confirmed.

2. Date/Time: Oct. 22/11am

Deadline @ asap

Media: CBC - On the Coast

Host: Stephen Quinn

Dial-in#: 604-669-3733

Producer: Jessica Linzey, 604-662-6923, Jessica.linzey@cbc.ca

Topic: OIPC Investigation

Background: Host would like to speak to MAV for 7 minutes, one-on-one. No other guests are booked on this topic thus far.

Questions: Seeking general interview about the report and what government is doing in response to it.

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 2:48 PM
To: Kay, Maclean PREM:EX
Attachments: letter.docx

Ben Chin
Executive Director
Communications & Issues Mgmt
Office of Premier Christy Clark
Government of British Columbia
250.588.3113

Dear Colleagues,

I know you share my sense of duty to British Columbians to ensure we lead a government that is open and accountable.

It is to that end that I have asked David Loukidelis to help us strengthen our processes and training around Freedom of Information, as well as to give us advice on the best ways to implement actions in response to the Privacy Commissioner's recommendations. Until Mr. Loukidelis completes his work, I am further directing my Cabinet Ministers and all political staff to keep all the emails they send, regardless of whether they are transitory or not.

There can be conflicting views on how the rules have been applied over the decades. And I know my staff and yours do their utmost to follow the regulations around Freedom of information to the best of their understanding. But we also need to recognize that technology, as well as public expectations are evolving. We can and should take this additional step to give our citizens greater confidence their government is open and accountable.

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 3:32 PM
To: Cadario, Michele PREM:EX; Doyle, Dan PREM:EX
Subject: Fw:
Attachments: 2015 10 23 Letterhead.doc; 2015 10 23 FOI.docx

Please take a look...letter from PCC to Dan and ministers, which Dan would forward to staff

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Kay, Maclean PREM:EX
Sent: Thursday, October 22, 2015 3:09 PM
To: Chin, Ben PREM:EX
Subject: RE:

Letterhead and plan copies attached.

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 2:48 PM
To: Kay, Maclean PREM:EX
Subject:
Ben Chin
Executive Director
Communications & Issues Mgmt
Office of Premier Christy Clark
Government of British Columbia
250.588.3113



October 22, 2015

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Sincerely,

Christy Clark
Premier

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Premier Christy Clark

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Sent: Thursday, October 22, 2015 4:47 PM
To: Kay, Maclean PREM:EX; Ives, Andrew PREM:EX; McPhee, Jordan PREM:EX; Mills, Shane LASS:EX; Oliphant, Sam PREM:EX; Southern, Evan PREM:EX; Toda, Sarah PREM:EX
Cc: Doyle, Dan PREM:EX; Cadario, Michele PREM:EX; Sweeney, Neil PREM:EX
Subject: Note
Attachments: 2015 10 23 Letterhead.doc

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Andrew, once Maclean gets you a clean copy, PCC can email to Dan and Ministers in the morning.

Sarah, if you're at work, please forward from Dan to all PO and MO staff tomorrow morning.

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250-588-3113

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From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 4:50 PM
To: Kay, Maclean PREM:EX
Subject: Fw: Note
Attachments: 2015 10 23 Letterhead.doc

I found one error already! I changed it to we and our staff do utmost...but forgot to change "their" to "our"
please correct

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
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Office of Premier Christy Clark
250-588-3113

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Sincerely,

Christy Clark
Premier

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 5:02 PM
To: Kay, Maclean PREM:EX
Subject: Re: Note

s.22

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Kay, Maclean PREM:EX
Sent: Thursday, October 22, 2015 4:58 PM
To: Chin, Ben PREM:EX
Subject: Re: Note

Will do. s.22

Maclean Kay
Communications Manager
Office of Premier Christy Clark
(250) 387-1369

On Oct 22, 2015, at 4:50 PM, Chin, Ben PREM:EX <Ben.Chin@gov.bc.ca> wrote:

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Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

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Sent: Thursday, October 22, 2015 4:47 PM
To: Kay, Maclean PREM:EX; Ives, Andrew PREM:EX; McPhee, Jordan PREM:EX; Mills, Shane LASS:EX; Oliphant, Sam PREM:EX; Southern, Evan PREM:EX; Toda, Sarah PREM:EX
Cc: Doyle, Dan PREM:EX; Cadario, Michele PREM:EX; Sweeney, Neil PREM:EX

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250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

Olson, Alisha PREM:EX

From: Olson, Alisha PREM:EX
Sent: Thursday, October 22, 2015 9:53 AM
To: McCann, Meghan PREM:EX
Subject: FW: Social Media: Privacy report

From: tno@gov.bc.ca [<mailto:tno@gov.bc.ca>]
Sent: Thursday, October 22, 2015 9:44 AM
Subject: Social Media: Privacy report

Social Media

22-Oct-2015 09:30

Copyright

TNO...

This e-mail is a service provided by Government Communications and Public Engagement and is only intended for the original addressee. All content is the copyrighted property of a third party creator of the material. Copying, retransmitting, redistributing, selling, licensing, or emailing the material to any third party or any employee of the Province who is not authorized to access the material is prohibited.

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Subject: FW: Social Media: Duncan report

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Sent: Thursday, October 22, 2015 9:49 AM
Subject: Social Media: Duncan report

Social Media

22-Oct-2015 09:40

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McCann, Meghan PREM:EX

From: Olson, Alisha PREM:EX
Sent: Thursday, October 22, 2015 9:55 AM
To: McCann, Meghan PREM:EX
Subject: FW: Webcast: The Ministry of Technology, Innovation and Citizens' Services webcast will begin in approximate...

From: tno@gov.bc.ca [<mailto:tno@gov.bc.ca>]
Sent: Thursday, October 22, 2015 9:37 AM
Subject: Webcast: The Ministry of Technology, Innovation and Citizens' Services webcast will begin in approximate...

Copyright

Page 158 to/à Page 223

Withheld pursuant to/removed as

s.3

Page 224

Withheld pursuant to/removed as

s.14

Page 225 to/à Page 226

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Page 227

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Page 228 to/à Page 229

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Page 231 to/à Page 235

Withheld pursuant to/removed as

s.3

Page 236

Withheld pursuant to/removed as

s.14

Page 237

Withheld pursuant to/removed as

s.3

Doyle, Dan PREM:EX

From: Doyle, Dan PREM:EX
Sent: Wednesday, October 21, 2015 3:16 PM
To: s.22
Subject: Need some advice

David

We have met in the past but you may not remember me. I am presently the Chief of Staff to Premier Clark.

We have an FOI issue that I would like your advice on or more specifically help with.

You can reach me on this email or my cell phone s.17 Looking forward to hearing back from you

Dan Doyle

Sent from my iPhone

Cadario, Michele PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 4:47 PM
To: Kay, Maclean PREM:EX; Ives, Andrew PREM:EX; McPhee, Jordan PREM:EX; Mills, Shane LASS:EX; Oliphant, Sam PREM:EX; Southern, Evan PREM:EX; Toda, Sarah PREM:EX
Cc: Doyle, Dan PREM:EX; Cadario, Michele PREM:EX; Sweeney, Neil PREM:EX
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Attachments: 2015 10 23 Letterhead.doc

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Sarah, if you're at work, please forward from Dan to all PO and MO staff tomorrow morning.

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

Page 240

Withheld pursuant to/removed as

s.14

Cadario, Michele PREM:EX

From: Cadario, Michele PREM:EX
Sent: Thursday, October 22, 2015 4:03 PM
To: Chin, Ben PREM:EX; Doyle, Dan PREM:EX
Subject: Re:

For PCC letter - in sentence "I know my staff and yours...". Shouldn't that also include her and her Ministers as well as all of our staff take it seriously..."

M

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From: Chin, Ben PREM:EX
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To: Cadario, Michele PREM:EX; Doyle, Dan PREM:EX
Subject: Fw:

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Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

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To: Chin, Ben PREM:EX
Subject: RE:

Letterhead and plan copies attached.

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 2:48 PM
To: Kay, Maclean PREM:EX
Subject:

Ben Chin
Executive Director
Communications & Issues Mgmt
Office of Premier Christy Clark
Government of British Columbia

Cadario, Michele PREM:EX

From: Mills, Shane <Shane.Mills@leg.bc.ca>
Sent: Thursday, October 22, 2015 4:52 PM
To: Chin, Ben PREM:EX; Kay, Maclean PREM:EX; Ives, Andrew PREM:EX; McPhee, Jordan PREM:EX; Oliphant, Sam PREM:EX; Southern, Evan PREM:EX; Toda, Sarah PREM:EX
Cc: Doyle, Dan PREM:EX; Cadario, Michele PREM:EX; Sweeney, Neil PREM:EX
Subject: Re: Note

I'll reinforce at morning meeting tomorrow.

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Office of Premier Christy Clark
250-588-3113

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Cadario, Michele PREM:EX

From: Chin, Ben PREM:EX
Sent: Thursday, October 22, 2015 4:26 PM
To: Cadario, Michele PREM:EX; Doyle, Dan PREM:EX
Subject: Re:

Good point...will fix.

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

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From: Cadario, Michele PREM:EX
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To: Chin, Ben PREM:EX; Doyle, Dan PREM:EX
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To: Kay, Maclean PREM:EX
Subject:

Ben Chin
Executive Director
Communications & Issues Mgmt
Office of Premier Christy Clark
Government of British Columbia
250.588.3113

Cadario, Michele PREM:EX

From: Chris Gailus <Chris.Gailus@globalnews.ca>
Sent: Thursday, October 22, 2015 10:41 AM
To: Cadario, Michele PREM:EX
Subject: Hello

Hi Michele,

I'm sure the request may have come in from Keith already, but for obvious reasons we would love the opportunity to speak to the Premier today in a live interview on the News Hour.

Please let me know if that will be possible!

Cheers,
CG

Chris Gailus, News Hour Anchor, Global BC News
Shaw Media Inc. 7850 Enterprise Street, Burnaby, BC
T: 1-604-422-6494 E: chris.gailus@globalnews.ca



Page 248

Withheld pursuant to/removed as

s.22

Page 249 to/à Page 305

Withheld pursuant to/removed as

s.3

Page 306 to/à Page 308

Withheld pursuant to/removed as

s.14

STATEMENT

For Immediate Release
[release number]
October 22, 2015

Ministry of Technology,
Innovation and Citizens' Services

Minister responds to Information and Privacy Commissioner's report

VICTORIA – Technology, Innovation and Citizens' Services Minister Amrik Virk made the following statement in response to the Office of the Information and Privacy Commissioner's latest Report.

"On behalf of the government of British Columbia, I would like to thank the Information and Privacy Commissioner for the report.

All government employees have a responsibility to ensure they are properly responding to freedom of information requests. The Commissioner has made a number of important findings that we take seriously and government is committed to acting on her recommendations.

At the direction of the Premier, I have asked the former B.C. Information and Privacy Commissioner David Loukidelis to advise government on how to address the recommendations. Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.

Government is already addressing a number of the recommendations. This includes the Ministry of Transportation and Infrastructure's agreement to provide the additional 36 pages of information and the Ministry of Advanced Education's commitment to provide the requested 20 email records. Both information releases will be in accordance with the Freedom of Information and Protection of Privacy Act.

We intend to address outstanding recommendations as swiftly as possible. For example, the Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests. The Office will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office. A number of other recommendations that require both policy and operational considerations will require more time for review.

Two of the Commissioner's recommendations also involve changes to existing legislation. Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.

Aspects of the report touch on personnel and legal matters. Given our obligations to protect the privacy of employees and respect for due process, we will not be commenting on these elements.

Earlier this year government passed the *Information Management Act* and created a Chief Records Officer. This position helps ensure the retention and management of important government records so they are available for operational use and for freedom of information requests.

Our government remains committed to being as open and transparent as possible. Over the last five years government has responded to over 43,000 Freedom of Information requests. Government also has almost 1 million boxes of securely stored records in its possession and an additional 40,000 boxes are added per year.

Contact:
Government Communications and Public Engagement
Ministry of Technology, Innovation and Citizens' Services
250 889-1121

Date: October 22, 2015

Dear Mr. McRac

In the Information and Privacy Commissioner's most recent investigation report, "Access Denied: Record Retention and Disposal Practices of the Government of British Columbia OIPC File F15-62376", the Commissioner has made three recommendations that government believes represent a shift from current policy, practice and legislation.

We respectfully request the Special Committee to turn their minds to the three issues highlighted below. We ask you to consider best practice in these areas including looking at practices in other provinces and jurisdictions.

This OIPC report includes two recommendations that require legislative changes to enact including legislative oversight of information management requirements (e.g. document destruction), and the inclusion of a "duty to document" provision in the Freedom of Information and Protection of Privacy Act.

These two concepts address information management practices that BC has attempted to address. For example, British Columbia has enacted more than 400 "duty to create" requirements within legislation. In addition, the new Information Management Act creates a Chief Records Officer to oversee government's records management practices.

The third issue that we would encourage the Special Committee to consider is the idea that deleted electronic records remain available for response to access requests.

Given the nature and potential impact of the identified recommendations, government believes it is important to refer these issues to the Special Committee now in addition to government's full submission which will be tabled on November 18th, 2015.

Sincerely,



Amrik Virk
Minister

Page 311

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Page 312 to/à Page 313

Withheld pursuant to/removed as

s.3

Page 314

Withheld pursuant to/removed as

s.14

Page 315

Withheld pursuant to/removed as

s.3

Page 316

Withheld pursuant to/removed as

s.14

Oliphant, Sam PREM:EX

From: Oliphant, Sam PREM:EX
Sent: Thursday, October 22, 2015 11:13 AM
To: Marcella Bernardo
Subject: Re: Deleted Emails

Hi Marcella,

Premier will be travelling to Merritt tomorrow to participate in the opening of a new trades facility and to tour a new biomass plant. She will be available to respond at that time, and I can share tape with those who cannot be in attendance.

Sam Oliphant
Press Secretary
Office of the Premier

On Oct 22, 2015, at 10:12 AM, Marcella Bernardo <marcella@roundhouseradio.com> wrote:

Hi Sam,

When is Premier Clark going to be available today to comment about this?

Deleted-Emails OCT222015

Copyright

Thanks,
Marcella

Marcella Bernardo | News and Content Director, Roundhouse Radio
714 Alexander Street, Vancouver, British Columbia, V6A 1E3
Direct: 604 449 5517 Mobile: 604 802 1730
Twitter: @MBernardo983
Email: marcella@roundhouseradio.com

<image001.jpg>

This e-mail is confidential and is intended for the above-named recipient(s) only. If you are not the intended recipient, please notify us immediately and delete this e-mail from your system without making a copy. Any unauthorized use or disclosure of this e-mail is prohibited.

Oliphant, Sam PREM:EX

From: Oliphant, Sam PREM:EX
Sent: Thursday, October 22, 2015 11:14 AM
To: Stefania Seccia
Subject: Re: 24 hours comment request

Hi Stefania,

Premier will be travelling to Merritt tomorrow to participate in the opening of a new trades facility and to tour a new biomass plant. She will be available to respond at that time, and I can share tape with those who cannot be in attendance.

-Sam

Sam Oliphant
Press Secretary
Office of the Premier

On Oct 22, 2015, at 10:33 AM, Stefania Seccia <Stefania.Seccia@sunmedia.ca> wrote:

Hi Sam,

Will the premier be making any comments regarding the Privacy Commissioner's report today?

Very best,

Stefania Seccia
Reporter, 24 hours
604 322 2357
778 628 1159
@Stefania24hrs

Oliphant, Sam PREM:EX

From: Oliphant, Sam PREM:EX
Sent: Thursday, October 22, 2015 11:16 AM
To: Matthew McFarlane
Subject: Re: Premier Clark response to Info Commissioner report

Hi Matthew,

Premier will be travelling to Merritt tomorrow to participate in the opening of a new trades facility and to tour a new biomass plant. She will be available to respond at that time.

Full details will be released in an advisory later today.

Cheers,

Sam Oliphant
Press Secretary
Office of the Premier

On Oct 22, 2015, at 10:52 AM, Matthew McFarlane <matthew.mcfarlane@cbc.ca> wrote:

Hi,

I work with CBC TV.

Would the premier be available today to come on camera today and speak about the Info and Privacy Commissioner Investigative Report that was just released.

Matthew McFarlane

--

Matthew McFarlane
Associate Producer
CBC News Vancouver

CBC  Radio-Canada

McCann, Meghan PREM:EX

From: Sweeney, Neil PREM:EX
Sent: Friday, November 6, 2015 11:55 AM
To: McCann, Meghan PREM:EX
Subject: FW: latest
Attachments: DRAFT Response Statement_KMs_QAs_Latest.docx; Statement_Virk_Report Response_Oct2215_Latest.docx

For request 53335

From: Gordon, Matt GCPE:EX
Sent: Wednesday, October 21, 2015 5:23 PM
To: Chin, Ben PREM:EX; Mills, Shane LASS:EX; Schollen, Tasha GCPE:EX; Sweeney, Neil PREM:EX
Subject: latest

Matt Gordon
Assistant Deputy Minister
Corporate Priorities & Communications Operations
Government of British Columbia
250 356.7398 office | 250 896.4923 mobile

Key Messages

Topline KMs

- Our government remains committed to being as open and transparent as possible.
- We are already addressing a number of the recommendations and taking the necessary steps to make improvements where we can and ensure the public can have confidence in our processes
- David Loukidelis, the former Information and Privacy Commissioner of British Columbia, has agreed to advise government on how to address the recommendations. Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for political staff.
- This Ministry of Transportation and Infrastructure's agreement to provide the additional 36 pages of information and the Ministry of Advanced Education's commitment to provide the requested 20 email records.
- The Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests and will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office.
- Two of the Commissioner's recommendations also involve changes to existing legislation.
- Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.
- A number of other recommendations that require both policy and operational considerations will require more time for review.
- Aspects of the report touch on personnel and legal matters. Given our obligations to protect the privacy of employees and respect for due process, we will not be commenting on these elements.

General

- All government employees have a responsibility to ensure they are properly responding to freedom of information requests.
- Earlier this year government passed the *Information Management Act* and created a Chief Records Officer.
- This position helps ensure the retention and management of important government records so they are available for operational use and for freedom of information requests.
- Over the last five years government has responded to over 43,000 Freedom of Information requests.
- Government also has almost 1 million boxes of securely stored records in its possession and an additional 40,000 boxes are added per year.

Questions & Answers

GENERAL

1. **You state your intention to 'Act' on all recommendations.... Does that mean you will accept each?**

The Commissioner has made a number of important findings and we take these seriously.

We are always interested in finding ways we can improve and be even more transparent and open as a government. We need to ensure the public has confidence in our processes and we will carefully review each recommendation and have indicated our intent to act on them all to ensure we have that confidence of the public.

David Loukidelis, the former Information and Privacy Commissioner of British Columbia, has agreed to advise government on how to address the recommendations. Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for political staff.

If pressed for more:

Some of the recommendations could involve policy and even legislative change. Government will refer these recommendations to the all-party Special Committee to review the *Freedom of Information and Protection of Privacy Act*. This review will include looking at practices of other provinces and jurisdictions.

2. Is the government paying the legal fees for ^{s.22}

We don't discuss the provision of indemnities – indemnification is available to employees as determined by officials in the Ministry of Justice. It is a personnel matter and subject to solicitor client privilege.

If it is determined that an individual has committed wrongdoing – for example found guilty in court of an offence, there are provisions for the repayment of the legal fees.

TRANSPORTATION

3. Will you release the 36 pages of transportation records as recommended by the Commissioner?

Yes we are retrieving these records and will run through the appropriate process for release, and documents will be severed according to the Freedom of Information and Protection of Privacy Act.

4. What actions has the ministry taken since this issue came to light?

Ms. Denham's report demonstrates that there is already a rigorous process in place around how the Ministry of Transportation handles FOIs. Still, the ministry recognized in the spring that there was more the ministry could do to improve our processes, and we've taken a number of steps, including:

- The MoTI Deputy held meetings with executive to reinforce processing, handling and decision making related to FOIs and to ensure that the ministry has the right number of staff in place to handle FOI volumes.
- The ministry has hired additional staff and is in the process of changing organizational structures to strengthen FOI capacity.
- The ministry has started a number of education and training activities for ministry employees. For example, ministry staff have been encouraged to participate in a corporate government training day that will be held on October 28, and we are planning and delivering more focused and targeted FOI education sessions within the ministry.

- The ministry is also conducting a Lean project on FOI to ensure our processes are as reliable and efficient as possible.

5. The Information and Privacy Commissioner has referred the actions of the Ministerial Assistant in the Transportation Ministers Office to the RCMP..... how seriously does government take this referral? Is the individual still employed by the government?

As this is a personnel matter, I can't go into further details. However, we take all workplace complaints seriously and act quickly to look into allegations.

In personnel matters, we're limited in what we can say due to privacy considerations. Even in circumstances where an employee has engaged in serious misconduct, the employee's or former employee's right to privacy is respected. The Public Service Agency takes great care to make sure that an employee's personal details aren't disclosed without compelling reason. The information may enter the public domain if the employee later commences litigation or a grievance proceeds to arbitration.

We need to both respect the concerns of the people bringing forward concerns, and due process for the person against whom the allegations are made.

6. Will the ADM at Transportation receive any discipline for her failure to abide by the Act? Have you taken any steps to ensure this senior official of government is clear on her obligations under the Act?

Senior officials with the government are hardworking and dedicated people who make a number of challenging decisions each day. I understand that in this case, they made the decision to narrow the scope based on the information they had at the time.

The government, however, agrees with the commissioner that the interpretation was ultimately too narrow and that we have a duty to clarify the request with the applicant. In fact, upon further review of the request in February, we agreed that we interpreted it too narrowly and the ministry provided additional relevant briefing information to the requestor on March 3.

We have also agreed to retrieve the outstanding records and will run through the appropriate process for release and documents will be severed according to the Freedom of Information and Protection of Privacy Act.

I also understand that the ministry has made a commitment to further improve their processes, which started with the deputy meeting with his executive to reinforce processing, handling and decision making related to FOIs.

7. Minister Stone – what's your reaction to the OIPC's findings about your MA?

I'm disappointed by what I saw in the report. But this is a personnel matter, so it would be inappropriate to comment further.

8. Will there be a further investigation into Mr Gretes by the BC government.

No. [further answer to follow]

PREMIER'S OFFICE

9. How is it that the Premier's Office determined it was appropriate to have an individual with apparently 1hr of FOI training not only run the FOI process in that office, but also create the process – which is nothing more than phone calls and sticky notes?

We have committed to strengthening the processes of documenting and tracking Freedom of Information requests in our office. The Office will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office.

10. What if any discipline will the Director of Issues management and the Deputy Chief of Staff face? If none, why not?

We have received the report and need to give the findings due consideration. All individuals deserve due process, and it would be inappropriate to rush to judgement.

As part of our overall review and implementation of actions to address the findings, if additional steps are warranted, they would be taken. But all personnel matters are confidential.

We are already addressing a number of the recommendations to help ensure we don't have systemic issues, particularly by strengthening the documentation and tracking of requests, and assigning responsibility for coordination to the deputy minister's office. We intend to address the outstanding recommendations as swiftly as possible.

Our objective is to address the findings in the report and meet the public expectation of transparency and trust.

11. It is clear the government's approach to record management starts with the Premier's Office but is systemic across all Ministers Offices. What will you do to change the culture of secrecy?

We are already addressing a number of the recommendations to help ensure we don't have systemic issues, particularly by strengthening the documentation and tracking of requests, and assigning responsibility for coordination to the deputy minister's office.

Our objective is to address the findings in the report and meet the public expectation of transparency and trust.

12. This isn't the first time you have been caught not following the rules. What have you done since to clean up your act? And what will you do now to give British Columbians confidence you are actually committed to openness and transparency?

ANY INTEL IN THIS REGARD?

- 13. The Commissioner says the Deputy Chief of Staff contravened the Act because she deleted her emails... it seems the Deputy Chief of Staff thinks they were transitory – do you agree with the finding?**

We are already addressing a number of the recommendations to help ensure we don't have systemic issues, particularly by strengthening the documentation and tracking of requests, and assigning responsibility for coordination to the deputy minister's office. We intend to address the outstanding recommendations as swiftly as possible.

Our objective is to address the findings in the report and meet the public expectation of transparency and trust.

ADVANCED EDUCATION

- 14. Will you release Nick Facey's emails as recommended by the Commissioner?**

Yes we are retrieving these records and will run through the appropriate process for release and severing will occur according to the Freedom of Information and Protection of Privacy Act..

- 15. Will Nick Facey face any discipline for contravening the Act?**

We have received the report and need to give the findings due consideration. All individuals deserve due process, and it would be inappropriate to rush to judgement.

As part of our overall review and implementation of actions to address the findings, if additional steps are warranted, they would be taken. But all personnel matters are confidential.

We are already addressing a number of the recommendations to help ensure we don't have systemic issues, particularly by strengthening the documentation and tracking of requests, and assigning responsibility for coordination to the deputy minister's office. We intend to address the outstanding recommendations as swiftly as possible.

TECHNOLOGY, INNOVATION & CITIZENS' SERVICES

- 16. Will you quickly move to disable the 'triple delete' option before any more important emails/information is destroyed?**

We will require more time to review this recommendation. The expectation is that government records, including e-mail, are maintained in accordance with legislation. A Transitory Records Schedule allows for the deletion of copies as soon as they are of no further business use.

Redundant and obsolete emails clutter our systems and make it difficult for government employees to access relevant information in a timely way. This in turn delays services to clients and responses to FOI and other information requests.

17. Why can't government even ensure their data transfers work?

In fact, government has already taken steps to improve all data migrations.

The Ministry of Technology, Innovation and Citizens' Services has directed the service provider to conduct daily backups during data migrations and to ensure there is a monitoring function in place.

18. What will government do to ensure that applicants get the records that they are asking for?

FOI requests are processed by trusted professional public servants, whose decisions and actions are guided by the Freedom of Information and Privacy Protection Act. It is more common that an applicant will be contacted to narrow a request in order to ensure they are receiving the information they need in a timely manner and/or reduce potential fees, as part of clarifying the request.

Government will continue to implement its practice of contacting the applicant to better understand their request. Clearly outlined in FOIPPA legislation, is a duty to assist all applicants, to ensure that they receive the records that they are requesting. (Sec. 6.1)

If someone disagrees with a decision about the release of information, the procedure is to ask the Office of the Information and Privacy Commissioner to conduct a review of the decision to withhold information.

It's important to note that over the past two years, the rate of no-record responses has been reduced from 25 to 17 per cent of responses.

19. What is the current level of FOI training – what's included?

s.13 and we expect that every record that needs to be kept is kept in accordance with the legislation. Training typically includes what to do when an FOI request is received, and expectations around records management; the use of email and which records are transitory and which must be filed and saved according to the Act. A transitory records guide is provided to all legislative staff who receive the training and is available online for all government employees.

In addition, the Call for Records form, which is attached to every FOI request, provides guidance to staff on how to conduct searches and helps ensure that all of the responsive records are identified. All new staff are also required to take the mandatory on-line course "Information Sharing and Privacy Awareness Training for Employees." Government provides training regarding the FOI process which includes reasonable search on all mediums whether electronic devices or not.

We will ensure our training reflects the limitations on search from devices such as iPad and other mobile devices.

20. Will you move to discipline employees who fail to turn over responsive records or who deliberately delete records?

The new Information Management Act does not change the actions available to government in responding to the rare circumstance where an employee wilfully disregards the requirements of the Act. These actions include disciplinary sanctions, contractual penalties and, in extreme cases, criminal proceedings.

Although the new Act specifically excludes coverage by the Offence Act, it is important to recognize that this is common legislative practice. Most, if not all, legislation drafted in the last 20 years has excluded the application of the Offence Act.

Almost 400 B.C. statutes contain a requirement or authority to create records, which is over 80 per cent of all B.C. legislation.

21. Why wasn't 'duty to document' included in the Act?

The Act does not include a specific requirement to create records as these requirements are already set out in program specific legislation and supporting policy. Almost 400 B.C. statutes contain a requirement or authority to create records, which is over 80 per cent of all B.C. legislation.

21. How do you explain the discrepancy in responsive records between yourself (MAV) and your Chief of Staff?

My expectation is that all records that need to be kept are kept in accordance to the legislation. We have clear policy and training and I expect it to be followed.

Most emails are considered transitory in nature and are not considered a final decision record. Transitory records include routine and duplicate e-mails, drafts and may be deleted when they have no further business value to the employee who has them. If emails are kept and are requested through FOI, they would be included as a responsive record regardless of whether or not they are transitory.

This often explains why FOI requests for records from different individuals can result in different responses.

STATEMENT

For Immediate Release
[release number]
October XX, 2015

Ministry of Technology,
Innovation and Citizens' Services

Minister responds to Information and Privacy Commissioner's report

VICTORIA – Technology, Innovation and Citizens' Services Minister Amrik Virk made the following statement in response to the Office of the Information and Privacy Commissioner's latest Report.

"On behalf of the government of British Columbia, I would like to thank the Information and Privacy Commissioner for the report.

All government employees have a responsibility to ensure they are properly responding to freedom of information requests. The Commissioner has made a number of important findings that we take seriously and government is committed to acting on her recommendations.

David Loukidelis, the former Information and Privacy Commissioner of British Columbia, has agreed to advise government on how to address the recommendations. Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for political staff.

Government is already addressing a number of the recommendations. This includes the Ministry of Transportation and Infrastructure's agreement to provide the additional 36 pages of information and the Ministry of Advanced Education's commitment to provide the requested 20 email records. Both information releases will be subject to severing in accordance with the Freedom of Information and Protection of Privacy Act.

We intend to address outstanding recommendations as swiftly as possible. For example, the Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests. The Office will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office. A number of other recommendations that require both policy and operational considerations will require more time for review.

Two of the Commissioner's recommendations also involve changes to existing legislation. Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.

Aspects of the report touch on personnel and legal matters. Given our obligations to protect the privacy of employees and respect for due process, we will not be commenting on these elements.

Earlier this year government passed the *Information Management Act* and created a Chief Records Officer. This position helps ensure the retention and management of important government records so they are available for operational use and for freedom of information requests.

Our government remains committed to being as open and transparent as possible. Over the last five years government has responded to over 43,000 Freedom of Information requests. Government also has almost 1 million boxes of securely stored records in its possession and an additional 40,000 boxes are added per year.

Contact:
Ministry of Technology, Innovation and Citizens' Services

McCann, Meghan PREM:EX

From: Sweeney, Neil PREM:EX
Sent: Friday, November 6, 2015 11:56 AM
To: McCann, Meghan PREM:EX
Subject: FW: Statement_Virk_Report Response_Oct2215_DRAFT4
Attachments: Statement_Virk_Report Response_Oct2215_DRAFT4.docx

For request 53335

From: Gordon, Matt GCPE:EX
Sent: Wednesday, October 21, 2015 4:01 PM
To: Sweeney, Neil PREM:EX
Subject: Statement_Virk_Report Response_Oct2215_DRAFT4

Latest – expect very close to final.. package will coming soonest

STATEMENT

For Immediate Release
[release number]
October XX, 2015

Ministry of Technology,
Innovation and Citizens' Services

Minister responds to Information and Privacy Commissioner's report

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"On behalf of the government of British Columbia, I would like to thank the Information and Privacy Commissioner for the report.

All government employees have a responsibility to ensure they are properly responding to freedom of information requests. The Commissioner has made a number of important findings that we take seriously and government is committed to acting on her recommendations.

Government is already addressing a number of the recommendations. This includes the Ministry of Transportation and Infrastructure's agreement to provide the additional 36 pages of information and the Ministry of Advanced Education's commitment to provide the requested 20 email records. Both information releases will be subject to severing in accordance with the Freedom of Information and Protection of Privacy Act.

We also intend to address outstanding recommendations as swiftly as possible. For example, the Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests. The Office will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office. A number of other recommendations that require both policy and operational considerations will require more time for review.

Two of the Commissioner's recommendations also involve changes to existing legislation. Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.

Aspects of the report touch on personnel and legal matters. Given our obligations to protect the privacy of employees and respect for due process, we will not be commenting on these elements.

Earlier this year government passed the *Information Management Act* and created a Chief Records Officer. This position helps ensure the retention and management of important government records so they are available for operational use and for freedom of information requests.

Our government remains committed to being as open and transparent as possible. Over the last five years government has responded to over 43,000 Freedom of Information requests. Government also has almost 1 million boxes of securely stored records in its possession and an additional 40,000 boxes are added per year.

Contact:
Ministry of Technology, Innovation and Citizens' Services

McCann, Meghan PREM:EX

From: Sweeney, Neil PREM:EX
Sent: Friday, November 6, 2015 11:56 AM
To: McCann, Meghan PREM:EX
Subject: FW: DRAFT Response Statement_KMs_QAs NOT FOR DISTRIBUTION
Attachments: DRAFT Response Statement_KMs_QAs...version2.docx

For request number 53335

From: Gordon, Matt GCPE:EX
Sent: Tuesday, October 20, 2015 2:46 PM
To: Cadario, Michele PREM:EX; Plecas, Bobbi PREM:EX; Fraser, John Paul GCPE:EX; Carroll, Sandra AVED:EX; Jacobson, John MTIC:EX; Sweeney, Neil PREM:EX; Chin, Ben PREM:EX; Main, Grant TRAN:EX; Halls, Lori D PSA:EX
Subject: DRAFT Response Statement_KMs_QAs NOT FOR DISTRIBUTION

Revised as per comment

Matt Gordon
Assistant Deputy Minister
Corporate Priorities & Communications Operations
Government of British Columbia
250 356.7398 office | 250 896.4923 mobile

Statement – Response to OIPC

VICTORIA – Technology, Innovation and Citizens' Services Minister Amrik Virk made the following statement in response to the Office of the Information and Privacy Commissioner's latest Report.

"On behalf of the government of British Columbia, I would like to thank the Information and Privacy Commissioner for the report.

All government employees have a responsibility to ensure they are properly managing their records. The Commissioner has made a number of important findings that we take seriously. Government is committed to acting on her recommendations and we will provide specific details on those steps once we have completed a thorough review.

The Commissioner's recommendations also include two which would involve changes to existing legislation. Government will ask the legislative committee currently reviewing the Freedom of Information and Protection of Privacy Act to consider these recommendations and consider them in terms of how other provinces and jurisdictions manage these issues.

Aspects of the report touch on personnel and legal matters. Given our obligations to protect the privacy of employees and respect for due process, we will not be commenting on these elements.

Our government is committed to being as open and transparent as possible. Last year we completed approximately 8,400 Freedom of Information requests. "

Key Messages

- All government employees have a responsibility to ensure they are properly managing their records.
- The Commissioner has made a number of important findings that we take seriously.
- Government is committed to acting on her recommendations and we will provide specific details on those steps once we have completed a thorough review.
- Aspects of the report touch on personnel and legal matters. Given our obligations to protect the privacy of employees and respect for due process, we will not be commenting on these elements.
- Our government is committed to being as open and transparent as possible.
- Last year we completed approximately 8,400 Freedom of Information requests

Questions & Answers

GENERAL

Q1. You state your intention to 'Act' on all recommendations.... Does that mean you will accept each?

The Commissioner has made a number of important findings and we take these seriously. We will carefully review each and have indicated our intent to act on all recommendations. Specific details on what steps will be taken will be clear once we complete our thorough review.

If pressed for more:

As you can imagine, given some of the recommendations could involve policy and even legislative change, we will have to carefully consider what action is appropriate.

TRANSPORTATION

Q2. Will you release the 36 pages of transportation records as recommended by the Commissioner?

Yes we are retrieving these records and will run through the appropriate process for release.

Q3. The Information and Privacy Commissioner has referred the actions of the Ministerial Assistant in the Transportation Ministers Office to the RCMP..... how seriously does government take this referral? Is the individual still employed by the government?

As this is a personnel matter, I can't go into further details. However, we take all workplace complaints seriously and act quickly to look into allegations.

In personnel matters, we're limited in what we can say due to privacy considerations. Even in circumstances where an employee has engaged in serious misconduct, the employee's or former employee's right to privacy is respected. The Public Service Agency takes great care to make sure that an employee's personal details aren't disclosed without compelling reason.

The information may enter the public domain if the employee later commences litigation or a grievance proceeds to arbitration. We need to both respect the concerns of the people bringing forward concerns, and due process for the person against whom the allegations are made.

Q4. Will the ADM at Transportation receive any discipline for her failure to abide by the Act? Have you taken any steps to ensure this senior official of government is clear on her obligations under the Act?

PREMIER'S OFFICE

Q5. How is it that the Premier's Office determined it was appropriate to have an individual with apparently 1hr of FOI training not only run the FOI process in that office, but also create the process – which is nothing more than phone calls and sticky notes?

Q6. Based on the contents of this report it appears the Premier's Office records management is at best, a mess. How will the Premier's Office fix this mess?

Q7. What, if any discipline will the Director of Issues management and the Deputy Chief of Staff face?

Q8. Will the Premier's Office consider appointing a non-partisan, public servant to manage the FOI process going forward?

Q9. It is clear the government's approach to record management starts with the Premier's Office but is systemic across all Minister's Offices. What will you do to change the culture of secrecy?

Q10. This isn't the first time you have been caught not following the rules. What have you done since to clean up your act? And what will you do now to give British Columbians confidence you are actually committed to openness and transparency?

ADVANCED EDUCATION

Q11. Will you release Nick Facey's emails as recommended by the Commissioner?

Yes we are retrieving these records and will run through the appropriate process for release.

Q12. Will Nick Facey face any discipline contravening the Act?

TECHNOLOGY, INNOVATION & CITIZENS' SERVICES

Q13. Will you quickly move to disable the 'triple delete' option before any more important emails/information is destroyed?

Q14. Why can't government even ensure their data transfers work?

McCann, Meghan PREM:EX

From: Sweeney, Neil PREM:EX
Sent: Friday, November 6, 2015 12:01 PM
To: McCann, Meghan PREM:EX
Subject: FW: OIPC Finals
Attachments: KM-QA_OIPC Report_21 Oct 15_FINAL.docx; ATT00001.htm; Statement_OIPC_Report_22 Oct_FINAL.docx; ATT00002.htm; MA_OIPC report Oct 21.pdf; ATT00003.htm

53335

From: Sweeney, Neil PREM:EX
Sent: Thursday, October 22, 2015 12:08 PM
To: Doyle, Dan PREM:EX
Subject: Fwd: OIPC Finals

Sent from my iPhone

Begin forwarded message:

From: "Schollen, Tasha GCPE:EX" <Tasha.Schollen@gov.bc.ca>
Date: October 22, 2015 at 8:54:37 AM PDT
To: "Sweeney, Neil PREM:EX" <Neil.Sweeney@gov.bc.ca>, "Chin, Ben PREM:EX" <Ben.Chin@gov.bc.ca>, "Mills, Shane LASS:EX" <Shane.Mills@leg.bc.ca>
Cc: "Gordon, Matt GCPE:EX" <Matt.Gordon@gov.bc.ca>, "Schollen, Tasha GCPE:EX" <Tasha.Schollen@gov.bc.ca>
Subject: OIPC Finals

Tasha Schollen | Communications Director
Ministry of Technology, Innovation and Citizens' Services
Government Communications and Public Engagement
Phone: 250-387-3134 | Cell: 250-889-1121

Key Messages

- Commissioner Denham's report is comprehensive, and her recommendations provide remedies appropriate to the findings, and we are acting on them.
- British Columbians need to be confident that their government is open and transparent. We are committed to ensuring that it is.
- Government has successfully responded to more than 43,000 FOI requests over the last five years and we continue to strengthen and improve our performance.
- It is our expectation that FOI policies and procedures of government are followed every time, without exception.

Addressing OIPC Report Recommendations

- The Commissioner has made a number of important findings that we take seriously and government is committed to acting on her recommendations.
- At the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, has been asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.
- Further, the Ministry of Transportation and Infrastructure and the Ministry of Advanced Education have committed to providing the requested email records.
- The Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests and will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office.
- Two of the Commissioner's recommendations also involve changes to existing legislation.
- Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.

Transportation Personnel Matter

- If you read the Commissioner's report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.
- I can tell you that the political staffer from the Ministry of Transportation and Infrastructure^{s.22}
- To be clear – I expect all staff to follow proper FOI procedures, to honour their oaths, and to abide by standards of conduct.

Government Management of Information and Records

- Our government remains committed to being as open and transparent as possible.
- I want to assure British Columbians that our government takes freedom of information seriously.
- Over the last five years government has responded to over 43,000 Freedom of Information requests.
- Government has retained almost 1 million boxes of records securely stored in its possession, and every year, an additional 40,000 boxes of records are created.

- It is my expectation that all government staff follow all legislation, without exception.

Questions & Answers

GENERAL

1. You state your intention to 'Act' on all recommendations.... Does that mean you will accept each?

- The Commissioner has made a number of important findings and we take these seriously.
- We are always interested in finding ways we can improve and be even more transparent and open as a government.
- We need to ensure the public has confidence in our processes and we will carefully review each recommendation and have indicated our intent to act on them all to ensure we have that confidence of the public.
- As per the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, was asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.

If pressed for more:

- Some of the recommendations could involve policy and even legislative change.
- Government will refer these recommendations to the all-party Special Committee to review the Freedom of Information and Protection of Privacy Act.
- This review will include looking at practices of other provinces and jurisdictions.

2. Is the government paying the legal fees for ^{s.22}

- We don't discuss the provision of indemnities – indemnification is available to employees as determined by officials in the Ministry of Justice. It is a personnel matter and subject to solicitor client privilege.
- If it is determined that an individual has committed wrongdoing – for example found guilty in court of an offence, there are provisions for the repayment of the legal fees.

TRANSPORTATION

3. Will you release the 36 pages of transportation records as recommended by the Commissioner?

- Yes we are retrieving these records and will run through the appropriate process for release, and documents will be released in accordance to the Freedom of Information and Protection of Privacy Act.

4. What actions has the ministry taken since this issue came to light?

- Ms. Denham's report demonstrates that there is already a rigorous process in place around how the Ministry of Transportation handles FOIs.
- Still, the ministry recognized in the spring that there was more the ministry could do to improve our processes, and we've taken a number of steps, including:
 - The MoTI Deputy held meetings with executive to reinforce processing, handling and decision making related to FOIs and to ensure that the ministry has the right number of staff in place to handle FOI volumes.
 - The ministry has hired additional staff and is in the process of changing organizational structures to strengthen FOI capacity.
 - The ministry has started a number of education and training activities for ministry employees. For example, ministry staff have been encouraged to participate in a corporate government training day that will be held on October 28, and we are planning and delivering more focused and targeted FOI education sessions within the ministry.
 - The ministry is also conducting a Lean project on FOI to ensure our processes are as reliable and efficient as possible.

5. The Information and Privacy Commissioner has referred the actions of the Ministerial Assistant in the Transportation Ministers Office to the RCMP..... how seriously does government take this referral? Is the individual still employed by the government?

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- In personnel matters, we're limited in what we can say due to privacy considerations. Even in circumstances where an employee has engaged in serious misconduct, the employee's or former employee's right to privacy is respected.
- The Public Service Agency takes great care to make sure that an employee's personal details aren't disclosed without compelling reason.
- The information may enter the public domain if the employee later commences litigation or a grievance proceeds to arbitration.
- We need to both respect the concerns of the people bringing forward concerns, and due process for the person against whom the allegations are made.

6. Will the ADM at Transportation receive any discipline for her failure to abide by the Act? Have you taken any steps to ensure this senior official of government is clear on her obligations under the Act?

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7. Minister Stone – what’s your reaction to the OIPC’s findings about your MA?

- If you read the Commissioner’s report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.
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- I can tell you that the political staffer from the Ministry of Transportation and Infrastructure s.22
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TECHNOLOGY, INNOVATION & CITIZENS' SERVICES

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- In fact, government has already taken steps to improve all data migrations.
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- It is more common that an applicant will be contacted to narrow a request in order to ensure they are receiving the information they need in a timely manner and/or reduce potential fees, as part of clarifying the request.
- Government will continue to implement its practice of contacting the applicant to better understand their request.
- Clearly outlined in FOIPPA legislation, is a duty to assist all applicants, to ensure that they receive the records that they are requesting. (Sec. 6.1)

- If someone disagrees with a decision about the release of information, the procedure is to ask the Office of the Information and Privacy Commissioner to conduct a review of the decision to withhold information.
- It's important to note that over the past two years, the rate of no-record responses has been reduced from 25 to 17 per cent of responses.

17. What is the current level of FOI training – what's included?

Political Staff

- Political staff are provided training on the FOI process, and we expect that every record that needs to be kept is kept in accordance with the legislation.
- Training includes what to do when an FOI request is received; records management; the use of email and which records are transitory and which must be filed and saved according to the Act.
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- The Act does not include a specific requirement to create records as these requirements are already set out in program specific legislation and supporting policy.
- In fact, almost 400 B.C. statutes contain a requirement or authority to create records, which is over 80 per cent of all B.C. legislation.

- Our government remains committed to being as open and transparent as possible.
- Over the last five years government has responded to over 43,000 Freedom of Information requests.
- Government also has almost 1 million boxes of securely stored records in its possession and an additional 40,000 boxes are added per year.

20. How do you explain the discrepancy in responsive records between yourself (MAV) and your Chief of Staff?

- My expectation is that all records that need to be kept are kept in accordance to the legislation. We have clear policy and training and I expect it to be followed.
- Most emails are considered transitory in nature and are not considered a final decision record.
- Transitory records include routine and duplicate e-mails, drafts and may be deleted when they have no further business value to the employee who has them.
- If emails are kept and are requested through FOI, they would be included as a responsive record regardless of whether or not they are transitory.
- This often explains why FOI requests for records from different individuals can result in different responses.

Oct. 21, 2015

MEDIA ADVISORY – Ministry of Technology, Innovation and Citizens' Services

VICTORIA – Minister of Technology, Innovation and Citizens' Services Amrik Virk will be available to respond to a report by the Information and Privacy Commissioner.

Event Date: Thursday, Oct. 22, 2015

Time: 9:45 a.m.

Location:
Legislative Press Theatre
Parliament Buildings
Victoria

Special Instructions:

Media unable to attend the news conference in person may listen-only to the announcement.

Dial-in: 1 877 353-9184
Participant Pass Code: 5137291#

Contact:
Tasha Schollen
Communications Director
Ministry of Technology, Innovation and Citizens' Services
250 889-1121

Key Messages

- Commissioner Denham's report is comprehensive, and her recommendations provide remedies appropriate to the findings, and we are acting on them.
- British Columbians need to be confident that their government is open and transparent. We are committed to ensuring that it is.
- Government has successfully responded to more than 43,000 FOI requests over the last five years and we continue to strengthen and improve our performance.
- It is our expectation that FOI policies and procedures of government are followed every time, without exception.

Addressing OIPC Report Recommendations

- The Commissioner has made a number of important findings that we take seriously and government is committed to acting on her recommendations.
- At the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, has been asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.
- The Premier has sent a directive to all ministers and political staff instructing them to keep all emails they send, regardless of whether they are transitory or not, until Mr. Loukidelis' work is complete.
- Further, the Ministry of Transportation and Infrastructure and the Ministry of Advanced Education have committed to providing the requested email records.
- The Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests and will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office.
- Two of the Commissioner's recommendations also involve changes to existing legislation.
- Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.

Transportation Personnel Matter

- If you read the Commissioner's report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.
- I can tell you that the political staffer from the Ministry of Transportation and Infrastructure^{s.22}
- To be clear – I expect all staff to follow proper FOI procedures, to honour their oaths, and to abide by standards of conduct.

Government Management of Information and Records

- Our government remains committed to being as open and transparent as possible.
- I want to assure British Columbians that our government takes freedom of information seriously.

- Over the last five years government has responded to over 43,000 Freedom of Information requests.
- Government has retained almost 1 million boxes of records securely stored in its possession, and every year, an additional 40,000 boxes of records are created.
- It is my expectation that all government staff follow all legislation, without exception.

Questions & Answers

GENERAL

1. You state your intention to 'Act' on all recommendations.... Does that mean you will accept each?

- The Commissioner has made a number of important findings and we take these seriously.
- We are always interested in finding ways we can improve and be even more transparent and open as a government.
- We need to ensure the public has confidence in our processes and we will carefully review each recommendation and have indicated our intent to act on them all to ensure we have that confidence of the public.
- At the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, was asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.
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If pressed for more:

- Some of the recommendations could involve policy and even legislative change.
- Government will refer these recommendations to the all-party Special Committee to review the Freedom of Information and Protection of Privacy Act.
- This review will include looking at practices of other provinces and jurisdictions.

2. Is the government paying the legal fees for ^{s.22}

- We don't discuss the provision of indemnities – indemnification is available to employees as determined by officials in the Ministry of Justice. It is a personnel matter and subject to solicitor client privilege.
- If it is determined that an individual has committed wrongdoing – for example found guilty in court of an offence, there are provisions for the repayment of the legal fees.

TRANSPORTATION

4. Will you release the 36 pages of transportation records as recommended by the Commissioner?

- Yes we are retrieving these records and will run through the appropriate process for release, and documents will be released in accordance to the Freedom of Information and Protection of Privacy Act.

5. What actions has the ministry taken since this issue came to light?

- Ms. Denham's report demonstrates that there is already a rigorous process in place around how the Ministry of Transportation handles FOIs.
- Still, the ministry recognized in the spring that there was more the ministry could do to improve our processes, and we've taken a number of steps, including:
 - The MoTI Deputy held meetings with executive to reinforce processing, handling and decision making related to FOIs and to ensure that the ministry has the right number of staff in place to handle FOI volumes.
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- This often explains why FOI requests for records from different individuals can result in different responses.

22. Why did you ask the Commissioner for an extension?

- Commissioner Denham's report raises legal and human resourcing considerations and as such, we asked for extra time to respond to her report.

If pressed:

- The report contains personal information and findings of misconduct and we wanted to ensure that the legal rights of those individuals were being respected.

23. Why do government employees and political staff have the ability to triple delete in the first place?

- Triple deletion is a standard function provided by Microsoft and allows a person to recover an email that they may have inadvertently deleted, without needing to contact the help desk.

24. Do you triple delete?

- I have always managed my emails in accordance with the law
- We know technology is changing and so is the public's expectations.
- As the premier made clear, we will work towards meeting them.
- This is why the Premier has instructed ministers and political staff to keep all sent emails until Mr. Loukidelis has completed his work and offered his advice on how best to move forward.

Do you delete/triple delete:

- Yes/No, I delete transitory emails.
- No, I have not used the triple delete function.

Doyle, Dan PREM:EX

From: Sweeney, Neil PREM:EX
Sent: Thursday, October 22, 2015 12:08 PM
To: Doyle, Dan PREM:EX
Subject: Fwd: OIPC Finals
Attachments: KM-QA_OIPC Report_21 Oct 15_FINAL.docx; ATT00001.htm;
Statement_OIPC_Report_22 Oct_FINAL.docx; ATT00002.htm; MA_OIPC report Oct 21.pdf; ATT00003.htm

Sent from my iPhone

Begin forwarded message:

From: "Schollen, Tasha GCPE:EX" <Tasha.Schollen@gov.bc.ca>
Date: October 22, 2015 at 8:54:37 AM PDT
To: "Sweeney, Neil PREM:EX" <Neil.Sweeney@gov.bc.ca>, "Chin, Ben PREM:EX" <Ben.Chin@gov.bc.ca>, "Mills, Shane LASS:EX" <Shane.Mills@leg.bc.ca>
Cc: "Gordon, Matt GCPE:EX" <Matt.Gordon@gov.bc.ca>, "Schollen, Tasha GCPE:EX" <Tasha.Schollen@gov.bc.ca>
Subject: OIPC Finals

Tasha Schollen | Communications Director
Ministry of Technology, Innovation and Citizens' Services
Government Communications and Public Engagement
Phone: 250-387-3134 | Cell: 250-889-1121

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- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.
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- The Office of the Premier has confirmed they will strengthen their process of documenting and tracking Freedom of Information requests and will also assign responsibility for Freedom of Information coordination to the Deputy Minister's Office.
- Two of the Commissioner's recommendations also involve changes to existing legislation.
- Government will refer these recommendations to the all-party Special Committee reviewing the *Freedom of Information and Protection of Privacy Act*. This referral will include a request to look at the practices of other provinces and jurisdictions.

Transportation Personnel Matter

- If you read the Commissioner's report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.
- I can tell you that the political staffer from the Ministry of Transportation and Infrastructure^{s.22}
- To be clear – I expect all staff to follow proper FOI procedures, to honour their oaths, and to abide by standards of conduct.

Government Management of Information and Records

- Our government remains committed to being as open and transparent as possible.
- I want to assure British Columbians that our government takes freedom of information seriously.
- Over the last five years government has responded to over 43,000 Freedom of Information requests.
- Government has retained almost 1 million boxes of records securely stored in its possession, and every year, an additional 40,000 boxes of records are created.

- It is my expectation that all government staff follow all legislation, without exception.

Questions & Answers

GENERAL

1. You state your intention to 'Act' on all recommendations.... Does that mean you will accept each?

- The Commissioner has made a number of important findings and we take these seriously.
- We are always interested in finding ways we can improve and be even more transparent and open as a government.
- We need to ensure the public has confidence in our processes and we will carefully review each recommendation and have indicated our intent to act on them all to ensure we have that confidence of the public.
- As per the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, was asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.

If pressed for more:

- Some of the recommendations could involve policy and even legislative change.
- Government will refer these recommendations to the all-party Special Committee to review the Freedom of Information and Protection of Privacy Act.
- This review will include looking at practices of other provinces and jurisdictions.

2. Is the government paying the legal fees for^{s.22}

- We don't discuss the provision of indemnities – indemnification is available to employees as determined by officials in the Ministry of Justice. It is a personnel matter and subject to solicitor client privilege.
- If it is determined that an individual has committed wrongdoing – for example found guilty in court of an offence, there are provisions for the repayment of the legal fees.

TRANSPORTATION

3. Will you release the 36 pages of transportation records as recommended by the Commissioner?

- Yes we are retrieving these records and will run through the appropriate process for release, and documents will be released in accordance to the Freedom of Information and Protection of Privacy Act.

4. What actions has the ministry taken since this issue came to light?

- Ms. Denham's report demonstrates that there is already a rigorous process in place around how the Ministry of Transportation handles FOIs.
- Still, the ministry recognized in the spring that there was more the ministry could do to improve our processes, and we've taken a number of steps, including:
 - The MoTI Deputy held meetings with executive to reinforce processing, handling and decision making related to FOIs and to ensure that the ministry has the right number of staff in place to handle FOI volumes.
 - The ministry has hired additional staff and is in the process of changing organizational structures to strengthen FOI capacity.
 - The ministry has started a number of education and training activities for ministry employees. For example, ministry staff have been encouraged to participate in a corporate government training day that will be held on October 28, and we are planning and delivering more focused and targeted FOI education sessions within the ministry.
 - The ministry is also conducting a Lean project on FOI to ensure our processes are as reliable and efficient as possible.

5. The Information and Privacy Commissioner has referred the actions of the Ministerial Assistant in the Transportation Ministers Office to the RCMP..... how seriously does government take this referral? Is the individual still employed by the government?

- If you read the Commissioner's report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.
- As this is a personnel matter, I can't go into further details. However, I can tell you that we take all workplace complaints seriously and act quickly to look into allegations.
- In personnel matters, we're limited in what we can say due to privacy considerations. Even in circumstances where an employee has engaged in serious misconduct, the employee's or former employee's right to privacy is respected.
- The Public Service Agency takes great care to make sure that an employee's personal details aren't disclosed without compelling reason.
- The information may enter the public domain if the employee later commences litigation or a grievance proceeds to arbitration.
- We need to both respect the concerns of the people bringing forward concerns, and due process for the person against whom the allegations are made.

6. Will the ADM at Transportation receive any discipline for her failure to abide by the Act? Have you taken any steps to ensure this senior official of government is clear on her obligations under the Act?

- If you read the Commissioner's report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.
- Senior officials with the government are hardworking and dedicated people who make a number of challenging decisions each day.

- I understand that in this case, they made the decision to narrow the scope based on the information they had at the time.
- The government, however, agrees with the commissioner that the interpretation was ultimately too narrow and that we have a duty to clarify the request with the applicant.
- In fact, upon further review of the request in February, we agreed that we interpreted it too narrowly and the ministry provided additional relevant briefing information to the requestor on March 3.
- We have also agreed to retrieve the outstanding records and will run through the appropriate process for release and documents will be severed according to the Freedom of Information and Protection of Privacy Act.
- I also understand that the ministry has made a commitment to further improve their processes, which started with the deputy meeting with his executive to reinforce processing, handling and decision making related to FOIs.

7. Minister Stone – what’s your reaction to the OIPC’s findings about your MA?

- If you read the Commissioner’s report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.
- I’m disappointed by what I saw in the report.
- I can tell you that the political staffer from the Ministry of Transportation and Infrastructure s.22
- I expect all staff to follow proper FOI procedures, to honour their oaths, and to abide by standards of conduct.
- This is a personnel matter, so it would be inappropriate to comment further.

PREMIER’S OFFICE

8. How is it that the Premier’s Office determined it was appropriate to have an individual with apparently 1 hour of FOI training not only run the FOI process in that office, but also create the process – which is nothing more than phone calls and sticky notes?

- We have committed to strengthening the processes of documenting and tracking Freedom of Information requests in our office.
- The Office will also assign responsibility for Freedom of Information coordination to the Deputy Minister’s Office.
- As per the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, was asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.

9. What if any discipline will the Director of Issues management and the Deputy Chief of Staff face? If none, why not?

- If you read the Commissioner’s report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.

- In fact, we are already addressing a number of the recommendations to help ensure we don't have systemic issues, particularly by strengthening the documentation and tracking of requests, and assigning responsibility for coordination to the deputy minister's office.
- We intend to address the outstanding recommendations as swiftly as possible.
- As per the direction of the Premier, David Loukidellis, the former Information and Privacy Commissioner of British Columbia, was asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidellis will also provide advice and direction on how we can enhance Freedom of Information training for staff.

10. It is clear the government's approach to record management starts with the Premier's Office but is systemic across all Ministers Offices. What will you do to change the culture of secrecy?

- We are already addressing a number of the recommendations to help ensure we don't have systemic issues, particularly by strengthening the documentation and tracking of requests, and assigning responsibility for coordination to the deputy minister's office.
- Our objective is to address the findings in the report and meet the public expectation of transparency and trust.

11. The Commissioner says the Deputy Chief of Staff contravened the Act because she deleted her emails... it seems the Deputy Chief of Staff thinks they were transitory – do you agree with the finding?

- We are already addressing a number of the recommendations to help ensure we don't have systemic issues, particularly by strengthening the documentation and tracking of requests, and assigning responsibility for coordination to the deputy minister's office.
- We intend to address the outstanding recommendations as swiftly as possible.
- As per the direction of the Premier, David Loukidellis, the former Information and Privacy Commissioner of British Columbia, was asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidellis will also provide advice and direction on how we can enhance Freedom of Information training for staff.

ADVANCED EDUCATION

12. Will you release Nick Facey's emails as recommended by the Commissioner?

- Yes we are retrieving these records and will run through the appropriate process for release in accordance with the Freedom of Information and Protection of Privacy Act.

13. Will Nick Facey face any discipline for contravening the Act?

- If you read the Commissioner's report, you will see that her recommendations provide remedies appropriate to the findings, and we are acting on them.

- We are already addressing a number of the recommendations to help ensure we don't have systemic issues, particularly by strengthening the documentation and tracking of requests, and assigning responsibility for coordination to the deputy minister's office.
- We intend to address the outstanding recommendations as swiftly as possible.
- As per the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, was asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.

TECHNOLOGY, INNOVATION & CITIZENS' SERVICES

14. Will you quickly move to disable the 'triple delete' option before any more important emails/information is destroyed?

- We will require more time to review this recommendation.
- The expectation is that government records, including e-mail, are maintained in accordance with legislation.
- A Transitory Records Schedule allows for the deletion of copies as soon as they are of no further business use.

15. Why can't government even ensure their data transfers work?

- In fact, government has already taken steps to improve all data migrations.
- The Ministry of Technology, Innovation and Citizens' Services has directed the service provider to conduct daily backups during data migrations and to ensure there is a monitoring function in place.

16. What will government do to ensure that applicants get the records that they are asking for?

- As per the direction of the Premier, David Loukidelis, the former Information and Privacy Commissioner of British Columbia, was asked and has agreed to advise government on how to address the recommendations.
- Mr. Loukidelis will also provide advice and direction on how we can enhance Freedom of Information training for staff.
- FOI requests are processed by trusted professional public servants, whose decisions and actions are guided by the Freedom of Information and Privacy Protection Act.
- It is more common that an applicant will be contacted to narrow a request in order to ensure they are receiving the information they need in a timely manner and/or reduce potential fees, as part of clarifying the request.
- Government will continue to implement its practice of contacting the applicant to better understand their request.
- Clearly outlined in FOIPPA legislation, is a duty to assist all applicants, to ensure that they receive the records that they are requesting. (Sec. 6.1)

- If someone disagrees with a decision about the release of information, the procedure is to ask the Office of the Information and Privacy Commissioner to conduct a review of the decision to withhold information.
- It's important to note that over the past two years, the rate of no-record responses has been reduced from 25 to 17 per cent of responses.

17. What is the current level of FOI training – what's included?

Political Staff

- Political staff are provided training on the FOI process, and we expect that every record that needs to be kept is kept in accordance with the legislation.
- Training includes what to do when an FOI request is received; records management; the use of email and which records are transitory and which must be filed and saved according to the Act.
- A transitory records guide is provided to all political staff who receive the training and is available online for all government employees.
- Government provides training that includes reasonable search on all smart phones, laptops and desktop computers and hard copy records.
- We will ensure our training reflects the limitations on search from devices such as iPad and other mobile devices.

Public Servants

- FOI training is available to all public servants.
- A transitory records guide is available online for all government employees.

18. Will you move to discipline employees who fail to turn over responsive records or who deliberately delete records?

- The new Information Management Act does not change the actions available to government in responding to the rare circumstance where an employee wilfully disregards the requirements of the Act.
- These actions include disciplinary sanctions, contractual penalties and, in extreme cases, criminal proceedings.
- Although the new Act specifically excludes coverage by the Offence Act, it is important to recognize that this is common legislative practice. Most, if not all, legislation drafted in the last 20 years has excluded the application of the Offence Act.
- Almost 400 B.C. statutes contain a requirement or authority to create records, which is over 80 per cent of all B.C. legislation.

19. Why wasn't 'duty to document' included in the Act?

- The Act does not include a specific requirement to create records as these requirements are already set out in program specific legislation and supporting policy.
- In fact, almost 400 B.C. statutes contain a requirement or authority to create records, which is over 80 per cent of all B.C. legislation.

- Our government remains committed to being as open and transparent as possible.
- Over the last five years government has responded to over 43,000 Freedom of Information requests.
- Government also has almost 1 million boxes of securely stored records in its possession and an additional 40,000 boxes are added per year.

20. How do you explain the discrepancy in responsive records between yourself (MAV) and your Chief of Staff?

- My expectation is that all records that need to be kept are kept in accordance to the legislation. We have clear policy and training and I expect it to be followed.
- Most emails are considered transitory in nature and are not considered a final decision record.
- Transitory records include routine and duplicate e-mails, drafts and may be deleted when they have no further business value to the employee who has them.
- If emails are kept and are requested through FOI, they would be included as a responsive record regardless of whether or not they are transitory.
- This often explains why FOI requests for records from different individuals can result in different responses.

Oct. 21, 2015

MEDIA ADVISORY – Ministry of Technology, Innovation and Citizens' Services

VICTORIA – Minister of Technology, Innovation and Citizens' Services Amrik Virk will be available to respond to a report by the Information and Privacy Commissioner.

Event Date: Thursday, Oct. 22, 2015

Time: 9:45 a.m.

**Location:
Legislative Press Theatre
Parliament Buildings
Victoria**

Special Instructions:

Media unable to attend the news conference in person may listen-only to the announcement.

**Dial-in: 1 877 353-9184
Participant Pass Code: 5137291#**

**Contact:
Tasha Schollen
Communications Director
Ministry of Technology, Innovation and Citizens' Services
250 889-1121**

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Wednesday, October 21, 2015 10:23 PM
To: Schollen, Tasha GCPE:EX
Cc: Gordon, Matt GCPE:EX; Fraser, John Paul GCPE:EX; Ingram, Geoff MTIC:EX
Subject: Re: Draft OIPC Materials - 9:45pm

Just some small suggestions...

On km's , start with three over arching messages...theyre three buckets that your key messages support

Commissioner Denham's report is comprehensive, and she has outlined remedies for her findings through her recommendations

British Columbians need to be confident that their govt is open and transparent.

Govt does successfully process a vast majority of foi requests and we will continue to strengthen and improve our performance

As well, that first message should be the beginning of the answer to any questions about penalties to individuals...as in what are you going to do to x.? That is one of the findings but i would ask you to read the full report as commish denham prescribes remedies for all of her findings. We will act on her recos with the help of dl ..and in fact we have already done x

On the q that deals w gretes, remember, beyond the i can't comment on personnel matters there also has to be a statement of mav's expectations of staff. I can't comment on personnel but let me be clear, i expect all staff to follow proper procedures on foi, honour their oaths, and abide by their standard of conduct

Ben Chin
Executive Director
Communications & Issues Mgmt
Office of Premier Christy Clark
Government of British Columbia
250-588-3113

> On Oct 21, 2015, at 10:03 PM, "Chin, Ben PREM:EX" <Ben.Chin@gov.bc.ca> wrote:

>

> Please dont respond to tasha's previous email

>

>

> Ben Chin

> Executive Director

> Communications & Issues Mgmt

> Office of Premier Christy Clark

> Government of British Columbia

> 250-588-3113

>

>> On Oct 21, 2015, at 9:47 PM, "Schollen, Tasha GCPE:EX" <Tasha.Schollen@gov.bc.ca> wrote:

>>

>> Docs for review as of 9:45pm:

>>

>>

>> · Media advisory that went out tonight to provincial media and press gallery for 9:45am media avail tomorrow.

>>

>> · MAV Statement

>>

>> · Key Messages/Questions and Answers document

>>

>> · MAV Speaking notes

>>

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>> _____
>> Tasha Schollen | Communications Director Ministry of Technology,
>> Innovation and Citizens' Services Government Communications and
>> Public Engagement

>> Phone: 250-387-3134 | Cell: 250-889-1121

>>

>> <MA_OIPC report Oct 21.pdf>

>> <Statement_OIPC_Report_22 Oct_940pm.docx> <KM-QA_OIPC Report_21 Oct

>> 15_940pm.docx> <SN_OIPC Report_22 Oct 15 V5.doc>

McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Wednesday, October 21, 2015 10:26 PM
To: Schollen, Tasha GCPE:EX
Subject: Re: Draft OIPC Materials - 9:45pm

Keep trying and don't worry. I've come close to doing that myself. A good thing to do is to put reporters into your contact list by something other than a name that's similar to staff's. In his case, NW Woodford

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

Original Message
From: Schollen, Tasha GCPE:EX
Sent: Wednesday, October 21, 2015 10:02 PM
To: Chin, Ben PREM:EX
Subject: RE: Draft OIPC Materials - 9:45pm

I know. We caught it immediately. I recalled the email right away.

Shane Mills is going to call him. ^{s.13}

Very sorry.

-----Original Message-----
From: Chin, Ben PREM:EX
Sent: Wednesday, October 21, 2015 10:01 PM
To: Schollen, Tasha GCPE:EX
Subject: Re: Draft OIPC Materials - 9:45pm

You sent the email to shane woodford at cknw

Ben Chin
Executive Director
Communications & Issues Mgmt
Office of Premier Christy Clark
Government of British Columbia
250-588-3113

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Cc: Gordon, Matt GCPE:EX; Fraser, John Paul GCPE:EX; Ingram, Geoff MTIC:EX
Subject: Re: Draft OIPC Materials - 9:45pm

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McCann, Meghan PREM:EX

From: Chin, Ben PREM:EX
Sent: Wednesday, October 21, 2015 8:48 PM
To: Gordon, Matt GCPE:EX
Cc: Mills, Shane LASS:EX
Subject: Re: Statement_Virk_Report Response_Oct2215_Latest1

For Tasha the three buckets are:

Citizens need to be confident of open gov

Report is thorough, and provides remedies through recommendations

We do deliver on FOI as stats prove.

Ben Chin
Executive Director
Communications and Issues Mgmt
Office of Premier Christy Clark
250-588-3113

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Gordon, Matt GCPE:EX
Sent: Wednesday, October 21, 2015 8:37 PM
To: Chin, Ben PREM:EX
Cc: Mills, Shane LASS:EX
Subject: Statement_Virk_Report Response_Oct2215_Latest1

Working with CD on KMs, QAs and speaking notes... wanted you to have the latest statement with MMDJ comments reflected soonest.

Full package will come from Tasha once finished, MAV reviews and gives his ok.