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**Dayman, Marlene JAG:EX**

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**From:** Minister, JAG JAG:EX  
**Sent:** Monday, October 27, 2014 3:38 PM  
**To:** Green, Greg JAG:EX  
**Subject:** FW: Draft Request (RUSH by Thursday)

Hi Greg,

I have just received this from my EA Laura – she is asking for an AG Draft reply by Thursday of this week.

She is not sure if this may be possible or not, but I am just passing along her request.

Many thanks,

Candice

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**From:** Tennant, Laura JAG:EX  
**Sent:** Monday, October 27, 2014 3:29 PM  
**To:** Minister, JAG JAG:EX  
**Cc:** Langlands, Kevin J JAG:EX; Lalonde, Jarett JAG:EX  
**Subject:** Draft Request

Hi Candice,

Minister committed in the house to getting information to an MLA in regards to a question asked in QP. I have confirmed that MSA may reply to the MLA via letter. Could I kindly ask that a letter be drafted from MSA to MLA Karagianis. The question is below, as well as information that was sent up from the LSB. I will leave it to the discretion of LSB to decide what information is appropriate to include in the response.

Unsure if it's possible, but having this in the MO by Thursday would be greatly appreciated. Thanks, Laura

**Question:**

**M. Karagianis:** Perhaps the minister can answer this question, then. How many times has this policy been used, and in what circumstances?

**Hon. S. Anton:** That's not information that's in my possession today. I'll get back to the member on it.

**Branch Information:**

1. Since the early 1990s, the terms and conditions of employment for excluded employees and certain classes of OIC appointees have included coverage for legal expenses in bringing a defamation action.
2. The criteria for coverage from time to time have been substantially the same as under the Excluded Employees (Legal Proceedings) Indemnity regulation, and in particular section 6(3):

(3) An employee is eligible for coverage to commence or continue a defamation action only if

(a) Legal Services Branch provides the administrator with a legal opinion that there is a cause of action in defamation, and

(b) the administrator determines, based on the following factors, that it is in the public interest that such an action be commenced or continued:

- (i) the need to rehabilitate the employee's usefulness for employment or appointment, including future employment or appointment by an employer;
- (ii) the need to restore or preserve the integrity of the employee's office or position of employment or appointment;
- (iii) the degree of likelihood that the defamation action will achieve the objectives set out in subparagraph (i) or (ii);
- (iv) the need to achieve general deterrence of defamatory statements against employees;
- (v) other factors that may be relevant to the public interest in commencing or continuing the defamation action by the employee.

3. s.13

4. s.13

5. There is no record of the number of requests, over the years, for coverage to bring a defamation action. However, relatively few ( approximately 10 to 15) have been granted.

6. It is inappropriate to provide the names of applicants or, out of an abundance of caution, the names of persons who received coverage.

7. s.13

8.

**Laura Tennant** | Executive Assistant to the Honourable Suzanne Anton

Office of the Minister of Justice and Attorney General  
PO Box 9044 Stn Prov Govt | Victoria | BC | V8W 9E1



Ms. Maurine Karagianis  
MLA  
Esquimalt-Royal Roads  
Email: [maurine.karagianis.mla@leg.bc.ca](mailto:maurine.karagianis.mla@leg.bc.ca)

Dear Ms. Karagianis:

I am writing in regard to information about the government's indemnity policy which you recently requested from myself during Question Period. Our exchange was as follows:

**Question:**

**M. Karagianis:** Perhaps the minister can answer this question, then. How many times has this policy been used, and in what circumstances?

**Hon. S. Anton:** That's not information that's in my possession today. I'll get back to the member on it.

Since the early 1990s, the terms and conditions of employment for excluded employees and certain classes of OIC appointees have included coverage for legal expenses. That has included coverage of defendant costs in civil litigation, human rights proceedings, etc., and also—in appropriate circumstances—for public servants to bring defamation actions. The criteria for coverage from time to time has been substantially the same as under the Excluded Employees (Legal Proceedings) Indemnity regulation, and in particular Section 6(3). An electronic copy of the regulation is available at:

[www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/62\\_2012](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/62_2012)

There is no record of the number of requests, over the years, for coverage to bring a defamation action. However, eight have been granted. It would be inappropriate to provide the names of applicants or persons who have received coverage. However, I can provide the following information.

Before 2001, there were three occasions where coverage was approved for a public servant to bring an action for defamation. Those involved a deputy minister, a minister and an executive director. After 2001, there were an additional five such occasions. Those involved a former Conflicts Commissioner, a former Police Complaints Commissioner, a government lawyer attacked for the way she was handling a file, and public servants who were made subject to personal attacks in relation to their performance of their professional responsibilities.

I hope that this information will be helpful.

Yours very truly,

Suzanne Anton QC  
Attorney General  
Minister of Justice

LSBCU/Drafter: Mittag (with wording from Butler)/Approvers: Butler, Sandstrom/by/AG  
411982

APR 30 2015

Ms. Maurine Karagianis  
MLA  
Esquimalt-Royal Roads  
Email: [maurine.karagianis.mla@leg.bc.ca](mailto:maurine.karagianis.mla@leg.bc.ca)

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**Question:**

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I hope that this information will be helpful.

Yours very truly,

Suzanne Anton QC  
Attorney General  
Minister of Justice

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