

Shi, Sandy PSSG:EX

From: Lapointe, Lisa PSSG:EX
Sent: Tuesday, September 26, 2017 12:35 PM
To: SG BCCS All
Subject: Policy Updates - Chapter 7 - Release of Information and Media Release

Hello everyone,

Chapter 7 of our **Investigative Policy and Procedures Manual** has been updated to reflect revisions to **File Management - Release of Information and Media Release**. These revisions reflect the discussions held at our Professional Development conferences in May and June regarding information management and provide greater clarity about what information can be disclosed and when. The revision also clarifies that electronic and digital data – including information from internet and the cloud – are subject to the same prohibitions against disclosure as other information. Detailed notes must be made in TOSCA whenever information is disclosed during an investigation.

The media release policy states that information about the decedent (including identity) and the circumstances of death cannot be released to media prior to conclusion of an investigation, inquiry or review.

We'll be discussing these revisions at upcoming monthly regional meetings and will be happy to answer any questions. In the meantime, if you have questions about the updates, please contact your regional coroner or unit manager.

Amendment #4 - September 2017

- File Management - Release of Information
Policy has been revised to include specific reference to digital information, including information viewed on, or downloaded from, cloud and internet services, as well as to provide greater clarification about what information can be released during and after conclusion of an investigation.
- File Management - Media Release
Policy has been revised to confirm that personal information about the decedent (including release or confirmation of identity) and details about the circumstances of a death cannot be disclosed to media during an investigation except in specified circumstances.

Many thanks,
Lisa

Lisa Lapointe
Chief Coroner, British Columbia Coroners Service
Ministry of Public Safety and Solicitor General
5th floor, 910 Government Street
Victoria, BC V8V 1X4
lisa.lapointe@gov.bc.ca



Coroners Service
Ministry of Public Safety and Solicitor General

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Shi, Sandy PSSG:EX

From: Watson, Andy PSSG:EX
Sent: Tuesday, June 20, 2017 4:17 PM
To: McAndrews, Caroline GCPE:EX
Cc: Watson, Andy PSSG:EX
Subject: Statement from BCCS on Privacy

As per the *Coroners Act*, regarding the privacy of the deceased, the BC Coroners Service will not be identifying the victim or confirming any identity at this time.

Earlier in 2017, the Coroners Service undertook a review of its policy around the release of personal information and previous practice of releasing names – this has been done to ensure the BCCS is in compliance with legislative requirements of the *Coroners Act*. Until that review is complete, names of the deceased will not be publically released.

Once the review is complete, the BCCS will provide a summary of the information release policy, including changes (if any), and the legal basis for it.

Andy Watson
Manager, Strategic Communications
BC Coroners Service
250-356-9253 (w)

Page 004 to/à Page 015

Withheld pursuant to/removed as

s.14

Shi, Sandy PSSG:EX

From: Youssef, Marten IIO:EX
Sent: Tuesday, May 15, 2018 11:36 AM
To: Watson, Andy PSSG:EX; Annie LINTEAU
Cc: MacDonald, Ronald J IIO:EX; Brennan, Shannon IIO:EX
Subject: RE: Identity of man shot?

Hello Andy,

I am copying our CCD as he has done some interviews on this topic.

I think it is good for all of the involved agencies to highlight that this is a consistent practice based on the law. Ron has been saying this message to the media.

Feel free to forward him our way. Thanks


Marten Youssef | Director, Public Engagement and Policy
Independent Investigations Office

12th Floor, 13450 102 Avenue, Surrey BC V3T 5X3

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| Fax: (604) 586-5662

www.IIOBC.ca

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From: Watson, Andy PSSG:EX
Sent: May-15-18 11:06 AM
To: Annie LINTEAU; Youssef, Marten IIO:EX
Subject: RE: Identity of man shot?

IIO lead?

From: Chris Bush [<mailto:photos@nanaimobulletin.com>]
Sent: Tuesday, May 15, 2018 10:59 AM
To: Annie LINTEAU; info@iio.ca; Watson, Andy PSSG:EX
Subject: Identity of man shot?

Good morning,

Just having an idle moment and thought I'd better check in to see if the identity of the suspect who died has been release or will be released.

Are there any updates in that regard and if the identity of the deceased is not being released can someone give the reasons why not?

Sorry the tone of this email isn't intended to sound interrogative or snide, I just think I'd like to do an update and provide the possible reasons for not identifying a suspect in these circumstances. Previous subjects have

been identified quite quickly, such as Craig Andrew Ford, who was shot and died in Nanaimo in 2016. I think he was identified in less than two days, so I'd like to explain why this incident might be treated differently.

Thanks,
Chris

Chris Bush
Photographer/Reporter
Nanaimo News Bulletin
1-250-734-4625 Direct line
or 1-250-753-3707 ext. 245
chris.bush@nanaimobulletin.com
photos@nanaimobulletin.com

Shi, Sandy PSSG:EX

From: Rutherford, Matthew <matthew.rutherford@vicpd.ca>
Sent: Thursday, May 10, 2018 10:46 AM
To: Watson, Andy PSSG:EX
Cc: VicPD Community Engagement
Subject: FW: Victims names

Hi Andy,

Just got off the phone with Katie in regards to this. Just wondering how you answered as I understand that you've replied already.

Just so you know they're writing a larger piece on the BC coroner service, police and the IIO on why names are being released.

Cst. Matt Rutherford
Public Affairs
Victoria Police Department
850 Caledonia Avenue
Victoria, BC, V8T 5J8
C: 250-361-8263
D: 250-995-7294
www.vicpd.ca

-----Original Message-----

From: DeRosa, Katie (Times Colonist) [<mailto:Kderosa@timescolonist.com>]
Sent: May-10-18 10:26 AM
To: VicPD Community Engagement
Subject: Victims names

Hi there,

Can you release an update on the man who was on fire on Gorge Road East? Was this deliberate, accidental or a crime? Can you release the man's name and if not, why not?

Can VicPD provide its policy on when it identifies deceased persons. What is the legal basis around whether or not to release victims' names? It seems Victoria Police previously identified victims, so when did this policy change? Can Chief Manak speak about this policy?

My deadline is end of day today.

Thanks very much,

Katie DeRosa
250-812-1132

Page 019 to/à Page 022

Withheld pursuant to/removed as

s.13

Shi, Sandy PSSG:EX

From: Lapointe, Lisa PSSG:EX
Sent: Wednesday, September 20, 2017 2:26 PM
To: Watson, Andy PSSG:EX
Subject: RE: FOR REVIEW: Information release policy

Thanks Andy – these are great suggestions and I'll incorporate them.

Lisa

From: Watson, Andy PSSG:EX
Sent: Wednesday, September 20, 2017 12:30 PM
To: Lapointe, Lisa PSSG:EX
Cc: Watson, Andy PSSG:EX
Subject: RE: FOR REVIEW: Information release policy

Lisa,

This looks good from my perspective. Under #4, I presume next of kin would be examples of 'appropriate person' (e.g. if in a high profile death that we could help the family by releasing details for purposes of accuracy and/or eliminating speculation – this would be in rare cases where the family may want our support and I think we should have a procedure in place for doing this – examples would be the Joi Harris motorcycle fatality or the Cory Monteith case).

There are also some provisions when working with other agencies where we may be required to confirm details with them – I have a procedure in place for this already but wondering if we need to explicitly mention here and write down as policy or if it's already covered in your mind under the blanket police agency piece on 1 c). The example I can think of would be an open RCMP or local police case of a missing person – s.13

s.13

s.13

My proposed edits are below.

Media Requests

1. If approached by media while at a death scene, the attending coroner may confirm that a death has been reported and refer the media to CoronerMedia@gov.bc.ca. This mailbox is monitored during working hours.
2. The Manager, Strategic Communications will respond to all media requests. When a death is being investigated for possible criminal charges by police or the Independent Investigations

Office, the Manager will s.13 refer media to the respective authority.

3. When a death is not being investigated for possible criminal charges, the Manager will confirm when a death is under investigation by the Coroners Service. Where the general circumstances of the death are public (ie motor vehicle crash), the Manager will confirm s.13. At his/her discretion, the Manager may defer confirmation of this information to the Regional Coroner.
4. Personal information about the deceased (including s.13 identity) and details about the circumstances of death cannot be disclosed. Exceptions to this are when an appropriate person (as defined by the *Freedom of Information and Protection of Privacy Act*) explicitly requests that the Coroners Service confirm the s.13
5. For other information, media should be advised that they may make a request for information by e-mail to: CoronerMedia@gov.bc.ca. Their request will then be reviewed as per the provisions of the *Coroners Act* and/or the *Freedom of Information and Protection of Privacy Act*.

In any event, I think we need to do s.13 and I think we need to indicate that it was s.13 I can come up with a draft strategy for your review.

Thanks, and happy to discuss further if you'd like.

Andy

s.14

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To: Lapointe, Lisa PSSG:EX
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Andy

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Page 027 to/à Page 031

Withheld pursuant to/removed as

s.14;s.13

Shi, Sandy PSSG:EX

From: Lapointe, Lisa PSSG:EX
Sent: Friday, April 6, 2018 11:00 AM
To: Watson, Andy PSSG:EX; Sidhu, Tej PSSG:EX; McNamee, John PSSG:EX; Stancato, Vincent PSSG:EX
Subject: RE: Written Submission for FOI Consultation

Very interesting – thanks Andy. I understand Jon’s frustration and it will be interesting to see what the privacy commissioner thinks.

Lisa

From: Watson, Andy PSSG:EX
Sent: Friday, April 6, 2018 10:09 AM
To: Lapointe, Lisa PSSG:EX; Sidhu, Tej PSSG:EX; McNamee, John PSSG:EX; Stancato, Vincent PSSG:EX
Subject: FW: Written Submission for FOI Consultation

Hi folks,

Wanted to flag this for you – Jon Woodward from CTV shared with me (our relationship continues to strengthen with me in this role, and he’s trusted me to share this with a few people internally). He flagged his submission to the FOI consultation that just wrapped up.

See section 1 within (pasted below) for his frustration with our new policy. I have provided him with our background on our legislation and what parameters we have in the Coroners Act and through FOIPPA, so he’s aware of our challenges.

Worth the read (we’re the first of six areas of concern he’s expressed):

I would like to spend some time on some matters that specifically affect my work as a reporter that I believe have weakened the ability of journalists to find out and relay information about important subjects to viewers, readers and the public. In some cases this has quite clearly made our society less able to perceive actual threats to our safety individually and collectively, and consequently harmed our ability to respond to them.

1. *Naming the dead.*

- a. *The B.C. Coroners Service is responsible for fact-finding about public deaths in B.C., with an eye to understanding them better so that they may not be repeated. Part of this mission is disclosing publicly what happened to who and why, making recommendations to prevent it, and ensuring that we can trust our institutions to be accountable when the worst happens and someone dies.*
- b. *Recently the Coroners Service changed a policy of theirs and, invoking the privacy rights of the dead, decided to no longer reveal their names. This has included ceasing naming the dead upon request, not accepting requests for coroners reports unless the name of the dead is already known by some other means, and also severing the names of the dead from reports that are released under FOI.*
- c. *This unfortunately compromises their mission in a significant way. Without knowing who the dead are we cannot begin to ask questions about the larger circumstances of their lives and other factors that may have come into play around how they died. Specifically in the media, a name is can be a crucial tool that can link disparate parts of a dead person’s life to show a surprising or overlooked aspect of a death.*

- d. *For example, as casinos in B.C. were expanding, I did a story looking at suicides that had been linked to gambling. We had known that a Victoria-area man had killed himself after stealing some \$300,000 from a youth soccer association. A coroners report described a man who had died in a similar situation and linked it to gambling, but without a name it was very difficult to link the death to the theft. With some digging and some luck we could confirm that the two events were one and the same, and that this man had victimized young soccer players to feed a gambling habit. It's the kind of event that is incredibly traumatic for a community, and it's vital to discuss this as gambling expands in this province. Instead, the B.C. Coroners Service policy change made it harder, not easier, to address the significant public safety issue inherent in that death. There are many cases that we reporters will not be so lucky, and important public interest observations will go unmade. <https://bc.ctvnews.ca/368k-theft-suicide-at-soccer-club-was-gambling-related-coroner-1.2972963>*
- e. *The identities of those who died in significant or public ways should continue to be released, and media should be sensitive in their approach to the stories. The public interest of investigating how these people died and making the living safer outweighs the privacy interest of the dead.*

Andy

From: Woodward, Jon [<mailto:Jon.Woodward@bellmedia.ca>]
Sent: Wednesday, April 4, 2018 10:22 AM
To: Watson, Andy PSSG:EX
Subject: FW: Written Submission for FOI Consultation

Hi Andy

Hope you're doing well. I just finished a submission to the FOI consultation process and one of my points had to do with the way the coroner treats the names of the dead.

I know it began before your time but it continues to cause problems for us here and for the larger pursuit of understanding how people died and preventing future deaths, which is the mission of the coroner.

Feel free to share that point among staff there – I thought it would be useful to send this to you so you understand better how the change is impacting our work and understand why I and others are including the policy change as part of our feedback to the consultation process.

Happy to answer questions about it too.

Thanks

Jon
604-351-1831

From: Woodward, Jon
Sent: Wednesday, April 04, 2018 10:18 AM
To: 'FOI.Reform@gov.bc.ca'
Cc: BC FIPA (fipa@fipa.bc.ca); 'shannon@policyalternatives.ca'; Dermod Travis (piracomm@gmail.com)
Subject: Written Submission for FOI Consultation

Hi

Please find attached my submission for the FOI consultation. Those copied might find this of interest.

Thanks

Jon
604-351-1831

Shi, Sandy PSSG:EX

From: Woodward, Jon <Jon.Woodward@bellmedia.ca>
Sent: Wednesday, April 4, 2018 10:22 AM
To: Watson, Andy PSSG:EX
Subject: FW: Written Submission for FOI Consultation
Attachments: 20180404 - Information Consultation Submission.docx

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Feel free to share that point among staff there – I thought it would be useful to send this to you so you understand better how the change is impacting our work and understand why I and others are including the policy change as part of our feedback to the consultation process.

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Jon
604-351-1831

From: Woodward, Jon
Sent: Wednesday, April 04, 2018 10:18 AM
To: 'FOI.Reform@gov.bc.ca'
Cc: BC FIPA (fipa@fipa.bc.ca); 'shannon@policyalternatives.ca'; Dermod Travis (piracomm@gmail.com)
Subject: Written Submission for FOI Consultation

Hi

Please find attached my submission for the FOI consultation. Those copied might find this of interest.

Thanks

Jon
604-351-1831

Jon Woodward
Reporter, CTV News
500-969 Robson Street
Vancouver, BC
V6Z1X5
Jon.woodward@bellmedia.ca

Via e-mail: FOI.Reform@gov.bc.ca

April 4, 2018

To Whom It May Concern:

I am writing as a reporter for CTV News, who uses the Freedom of Information laws regularly to tell stories of interest to our readers and viewers and also in the public interest. I have argued cases in written hearings with the Privacy Commissioner and have a familiarity with the laws and the procedures. In my opinion Freedom of Information is a crucial tool.

I would give unqualified support of the submissions of FIPA and of the CCPA, including for whistleblower protection, duty to document, and penalties for those interfering with information rights. Exemptions for policy advice should also not exclude factual information, and cabinet confidences should be optional. Subsidiary organizations created by public bodies should obviously be included to avoid the temptation to hide records inside them. And urgent circumstances should just be a consideration, rather than a requirement, in disclosures under Section 25.

But I would like to spend some time on some matters that specifically affect my work as a reporter that I believe have weakened the ability of journalists to find out and relay information about important subjects to viewers, readers and the public. In some cases this has quite clearly made our society less able to perceive actual threats to our safety individually and collectively, and consequently harmed our ability to respond to them.

1. Naming the dead.

- a. The B.C. Coroners Service is responsible for fact-finding about public deaths in B.C., with an eye to understanding them better so that they may not be repeated. Part of this mission is disclosing publicly what happened to who and why, making recommendations to prevent it, and ensuring that we can trust our institutions to be accountable when the worst happens and someone dies.
- b. Recently the Coroners Service changed a policy of theirs and, invoking the privacy rights of the dead, decided to no longer reveal their names. This has included ceasing naming the dead upon request, not accepting requests for coroners reports unless the name of the dead is already known by some other means, and also severing the names of the dead from reports that are released under FOI.

- c. This unfortunately compromises their mission in a significant way. Without knowing who the dead are we cannot begin to ask questions about the larger circumstances of their lives and other factors that may have come into play around how they died. Specifically in the media, a name is can be a crucial tool that can link disparate parts of a dead person's life to show a surprising or overlooked aspect of a death.
- d. For example, as casinos in B.C. were expanding, I did a story looking at suicides that had been linked to gambling. We had known that a Victoria-area man had killed himself after stealing some \$300,000 from a youth soccer association. A coroners report described a man who had died in a simliar situation and linked it to gambling, but without a name it was very difficult to link the death to the theft. With some digging and some luck we could confirm that the two events were one and the same, and that this man had victimized young soccer players to feed a gambling habit. It's the kind of event that is incredibly traumatic for a community, and it's vital to discuss this as gambling expands in this province. Instead, the B.C. Coroners Service policy change made it harder, not easier, to address the significant public safety issue inherent in that death. There are many cases that we reporters will not be so lucky, and important public interest observations will go unmade. <https://bc.ctvnews.ca/368k-theft-suicide-at-soccer-club-was-gambling-related-coroner-1.2972963>
- e. The identities of those who died in significant or public ways should continue to be released, and media should be sensitive in their approach to the stories. The public interest of investigating how these people died and making the living safer outweighs the privacy interest of the dead.

2. Real-time disclosure.

- a. In the mid-1990s, when this existing law was drafted, computers were nothing like they are today, and the law is written for paper records. Some updates have happened – such as the finding that a digital record is a record – but one update is necessary: the ability to authorize ongoing, automated disclosure of simple data feeds via an FOI request.
- b. For example: Recently first responders in the Lower Mainland encrypted their radio systems. This had the effect of protecting the private information contained in those calls, but it also deprived citizens of information about the events in their community such as fires, crimes and most importantly disasters.
- c. We explored how the encryption would delay citizens from finding out about potentially life-threatening events, and hurt their ability to protect themselves in a disaster here: <https://bc.ctvnews.ca/going-dark-scanner-silence-means-citizens-in-danger-will-wait-for-info-1.3829679>
- d. In essence, the unavoidable bureaucratic delays of message approval translate into half an hour or more of silence from our authorities while genuine threats can harm people. Police and firefighters may be able to inform people personally of the threat at the scene, but I believe the standard should be higher: what about the people driving towards the

- scene? What about people in the vicinity? In the case of the Port Coquitlam railyard fire, neighbours told CTV News they read the news of the disaster and made themselves better prepared. As one woman said: "When the RCMP told us it was time to leave, we understood why."
- e. Not only that, but in cases where the threat is a limited disaster or danger, agencies are waiting days or a week to inform the public about pressing issues.
 - i. In one case, a man died in front of his children while jumping into a trampoline pit. Richmond RCMP waited four days before releasing any information about that death while the facility remained open to customers, and only after four days were local media able to explore the significant public safety hazards in that pit's construction.
 - ii. In another case, a massive car crash on the Coquihalla Highway was officially reported some 13 hours after it happened, and well after the crash was cleared. In that case, media using scanners heard radio communication, confirmed the story, and the public was informed in a timely way.
 - iii. In another case, Vancouver police waited 5 days before informing the public about an assault with a weapon – only deciding to do so when the agency needed help finding the perpetrator. That man had been on the lam and a public safety threat for a week before the public was even aware there was a problem.
 - 1. I have attached the press releases in each case below.
 - 2. We covered some of those incidents in context here: <https://bc.ctvnews.ca/going-dark-we-need-to-let-local-media-know-immediately-public-safety-minister-says-1.3831917?autoPlay=true>
 - 3. All of these events would have been discussed on first responder radios.
 - f. The decision to encrypt also handicapped a natural accountability mechanism for our first responders, which is a real-time account of the work they are doing and the effectiveness of the resources that we as a society deploy.
 - g. It is possible via FOI to ask for dispatch records as an accountability measure. However this takes over a month, and does not solve the more pressing life safety concern.
 - h. It is possible to both protect the privacy of those involved in fire department responses and also inform the public about what is happening via a live feed of dispatch data, possibly to a website.
 - i. Toronto does this very well (<https://www.toronto.ca/community-people/public-safety-alerts/alerts-notifications/toronto-fire-active-incidents>) as do a variety of American cities. That city has decided to leave its fire dispatch radios unencrypted.

- ii. The cities of Calgary and Regina have shared with media scanners that can de-encrypt communications, with an agreement to not share private data. This is another form of real-time disclosure.
 - iii. E-Comm has an e-mail notification system called E2MV that communicates basic details about any dispatch. It can be customized as to what each e-mail address receives by type of incident. It is a ready-made system that could be deployed immediately to media to help let the public know about events in their community and events that are dangerous.
 - i. Any of these could serve as a first notification to media that something is going on, media can do some legwork to confirm something, and the public can be informed much more quickly. This results in a safer, more informed public.
 - j. I believe data like this should be disclosed in real time, and I believe that it naturally follows from Section 25: the public body has an obligation to inform people of danger when there is a risk. But we should not wait for a lengthy process of appeals and decisions from the information commissioner. This is a public safety issue and it needs to be addressed quickly.
 - k. The provincial government should mandate real-time disclosure of basic details about emergency response through legislation, in a way similar to Toronto, and provide a legal option to request real-time disclosure where the situation warrants.
3. Open courts versus private information.
- a. Our courts are open. Meanwhile our governments are obligated to protect private information of people.
 - b. So: what happens when you ask a government to refer you to a court file involving a person?
 - c. I think it's obvious that a government body and its officials should admit that it has a responsibility to inform citizens about its involvement in a court case, refer the journalist to a court file, and let the open court process allow the journalist to continue his or her research, whether it involves identifying the people involved or not.
 - d. But when I asked for a referral to the court cases where drivers of off-brand Uber-like ride-hailing companies were suing the Ministry of Transportation over their tickets, I was told information about those court cases was private. Without details about the cases or the plaintiffs, it would be a herculean task to find them at the court.
 - e. This is unacceptable on several levels. But it speaks to a culture problem as bureaucracies see violations of privacy as something to avoid, but there are no penalties to clamp down on transparency. Admitting that there is a trial – unless it is somehow sealed by the courts – should not be a problem.
 - f. This review should result in clear guidelines for bureaucrats: they should not interfere with the open court principle and the mere existence of court cases are not secrets.

4. Information collected by the IIO

- a. Our court system is presumptively open, and that is one of the bright spots in transparency in this province. There are those who may doubt a court's decision but I rarely find someone who doubts the courts make themselves truly accountable for the decisions that they make. Such transparency encourages trust in the courts as an institution and encourages citizens to follow their judgments. It is also an important window into what happened in any significant event and why.
- b. However there is a significant gap in transparency when a case makes it to an accusation stage but does not make it to a hearing. I will focus today on the most pressing of those cases: when the accused is a police officer.
- c. The IIO in this province was created to increase police accountability by acting as an independent agency. When they recommend charges, transparency functions well, the officer is named, and information comes out in a usual fashion at the courts.
- d. When the officer is not charged, there can be problems in transparency, and I would highlight a case where there are systemic issues at play. It's well known that police dog bites are among the highest causes of in-custody injuries. There was a significant attack by a police dog in Nanaimo. It was recorded by a bystander, who supplied his video to the IIO. The IIO investigation did not result in any criminal charges against the dog handler. There was no disclosure of the evidence in this case, including the video. Outsiders were left to wonder whether the IIO's case had proceeded properly, and why the victim of the attack had been charged instead. My request for the video was denied on Section 15 grounds, prosecutorial discretion. It was upheld on review by the OIPC's review. This had the effect of cutting off our ability to question this suspect decision, and also it meant we could not see the dog bite in action – something that can help the public see how these dogs are truly deployed, and inform the debate about their use.
- e. We must hold our police officers to a higher standard, we must hold the IIO to a higher standard, and allow the public to see the evidence to make sure we have trust in the justice system. It is my hope that this review will mandate release of some evidence from the IIO in the case that there has been no criminal charge.

5. Frivolous rejections

- a. This is the pattern: a reporter asks a question of a public body. The media contact informs the reporter the public body can't say anything, vaguely referring to FOI laws. An FOI reveals there is actually quite a lot they can do and say.
- b. This has happened to my colleagues and me too many times to count. It is a waste of our time and it's a waste of taxpayer funds. Often the e-mails we receive are word-for-word cut and pastes of previous e-mails. My favourite example recently was a series of claims from the Abbotsford

Police Department that “The BC provincial Freedom of Information and Protection of Privacy Act does not allow us to provide you with any information concerning third parties.” Never mind that kind of discussion is routine and happens on an ongoing basis – even with the Abbotsford Police Department. When they choose to, of course.

- c. Again, I believe this is a culture problem: it is viewed as bad to release information, and not viewed as bad to hide it. An information requester can be viewed as vexatious or frivolous for asking too many questions – but there is no such complaint for someone who routinely denies obviously immediately releasable information, or invokes FOI rules in bad faith.
- d. We need to introduce an ability to complain to the information commissioner about a pattern of frivolous, offhand rejections by public bodies or certain people in those public bodies, and obtain guidance or orders for them to better answer questions from the public and the media. This would discourage bad faith responses, lessen the burden on the FOI system and needlessly delay important information from being discussed or released.

6. Delaying posting reports

- a. It’s important to me to have some time to craft a story before the information in an FOI is posted publically, as widespread release means that others can take advantage of my insight and hard work. However I support the widespread release of the documents after a reasonable time (say 3 days) as that is a natural compromise that encourages open government while also encouraging original journalism.

Overall: we need to respect privacy rules. But we need to get the balance right. Too often I see public employees, both well-meaning and otherwise, routinely refusing to disclose something that is presumptively public because of privacy. Sometimes it’s in good faith, sometimes in bad faith, and sometimes it’s a pretext to avoid disclosure. That attitude seriously harms our ability to do responsible journalism, which harms the public’s right to know and our ability to live in a safe society with a responsible, accountable government. I would hope that observation helps guide this consultation process.

I am happy to provide any more information on the above subjects or answer any questions you see fit.

Sincerely,

Jon Woodward
604-351-1831

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Shi, Sandy PSSG:EX

From: McAndrews, Caroline GCPE:EX
Sent: Thursday, October 5, 2017 4:21 PM
To: McLintock, Barbara J PSSG:EX; Watson, Andy PSSG:EX
Subject: FW: Ombudsmen report - recommendations update
Attachments: Government Status Update FINAL.PDF; ST_DW response to Ombuds status update reoport_ Oct 2017_DRAFT.docx; Status Update Message from DW FINAL 3Oct17 no link.docx; QA_Umbuds Status Update posting.docx

FYI

From: Currie, David GCPE:EX
Sent: Thursday, October 5, 2017 4:14 PM
To: Anderson, Kristy GCPE:EX; Porter, Rodney GCPE:EX; McAndrews, Caroline GCPE:EX
Cc: Zaharia, Sarah GCPE:EX; Zadravec, Don GCPE:EX; LeGuilloux, Marg GCPE:EX
Subject: Ombudsmen report - recommendations update

Hi all,

There are a number of documents that have been posted to the Ombuds recommendations web site (<http://www2.gov.bc.ca/gov/content/home/ombudspersons-report>) this afternoon as part of the quarterly updates to the Misfire report.

Health, Aved and Pssg (coroners) all have recommendations in the report.

Finance will be handling media reactively on this topic. Please find attached the media statement if we are clontacted.

DW has provided a heads up to all Ministers and DMs with his status update document and the @Work message that will posted shortly (both of these documents are attached as well).

Also find attached a short QA about the concerns raised by the OMB today about timelines regarding tabling legislation.

The progress report from Mr. Cromwell is expected sometime next week. Unknown at this point if he will do any proactive media on his report.

Please call if you have any questions.

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

On April 7, 2017, government responded¹ to each of the 41 recommendations in the Ombudsperson's report *Misfire: The 2012 Ministry of Health Employment Terminations and Related Matters*. On the same day, government announced it had engaged the Hon. Thomas Cromwell to administer a reparation process and monitor the implementation of the recommendations over the following year. The Head of the Public Service offered an unqualified and comprehensive apology to all those adversely affected by public service conduct, and took accountability to act on the recommendations to ensure the events described in the Ombudsperson's report cannot happen again. The Public Service is committed to providing updates to both support the Hon. Thomas Cromwell in his monitoring role, and to track progress in support of the Ombudsperson's recommendation that the Public Service provide a written status report on the implementation of recommendations by April 30, 2018.

The following information serves as a status update on progress toward the Ombudsperson's recommendations.

Summary of Progress

In total, the Ombudsperson made 41 recommendations, some of which are multi-faceted and all of which have a deadline. The Public Service acknowledges that, while it will continue to work diligently toward implementing the recommendations, the delay in the transition of government has meant that the necessary work to bring forward new legislation, or amendments to existing legislation, for government's consideration prior to the introduction and consideration of the Legislative Assembly, has been delayed. As a result, the Public Service may not meet the March 31, 2018 legislative deadlines set out in the Ombudsperson's report.

Of the 41 recommendations:

- **22** are complete;
- **2** are partially complete, meaning one of the elements is complete and others are underway;
- **9** are underway; and
- **8** are not yet started.

¹ https://news.gov.bc.ca/files/Response_to_Ombudsperson_Report_Table_Apr_7_2017.pdf

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

Report on Progress: Detailed Information by Recommendation

| Rec # | Status |
|------------------------|---|
| R1, R2, R3(a), R5, R14 | Complete. All specified ex gratia payments were made by June 30, 2017. |
| R3 (b) | Partially complete. R3(b): Underway. The Hon. Thomas Cromwell is facilitating the process to reach agreement with the individuals to reverse the financial impact ... and remove disciplinary findings from their employment records. A letter addressing each of their individual circumstances was sent to the individuals in spring 2017 and has been provided to the Hon. Thomas Cromwell to evaluate the proposed redress. |
| R4 | Partially complete. R4(a)i: Complete. The compensation fund was established on July 17, 2017. R4(a)ii: Complete. The Ministry of HLTH sent letters to impacted individuals on May 12, 2017 seeking their consent to share their contact information with the Hon. Thomas Cromwell for the purposes of inviting them to participate in the reparation process. The Hon. Thomas Cromwell has contacted the individuals who provided their consent to advise them of the process to apply to access the fund and will review and make determinations in the coming weeks. In addition, the Hon. Thomas Cromwell took steps to identify other individuals who may be eligible but who were not initially identified. R4(b): By March 31, 2018 ex gratia payments, as recommended by the Hon. Thomas Cromwell, will be made. |
| R6 | Underway. The parties agreed to refer this matter to the Hon. Thomas Cromwell to be addressed; his <u>terms of reference</u> ² were amended accordingly. The parties are in the midst of making their submissions for his consideration. |
| R7 | Complete. On April 6, 2017, the then Head of the Public Service, Kim Henderson, offered an unqualified and comprehensive apology to all who were adversely affected by the public service conduct as part of <u>government's statement</u> ³ on receiving the Ombudsperson report. |

² https://news.gov.bc.ca/files/REF_TOR.pdf

³ <https://news.gov.bc.ca/releases/2017PREM0042-001114>

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

| Rec # | Status |
|-------|--|
| | <p>On May 31, 2017 Kim Henderson, offered a <u>public statement</u>⁴ expanding on the apology and confirmed that the Public Service would be addressing the recommendations. The statement also confirmed the engagement of the Hon. Thomas Cromwell to monitor and oversee progress, and to facilitate and administer a reparation process for individuals impacted by the matters recounted in the Ombudsperson's report.</p> <p>Mr. Cromwell's appointment and his Terms of Reference underscore government's acknowledgement of its responsibility for the events described in the Ombudsperson's report, and for the harms caused to those adversely impacted by public service conduct.</p> |
| R8 | Complete. Letters of apology were sent to the individuals. Any necessary follow up as requested by recipients is ongoing. |
| R9 | Not yet started. Work will start on R9 once the individuals to whom letters will be written have been identified through the process of implementing R4. |
| R10 | Not yet started. These letters relate to persons who received data demand letters, but excludes those persons falling under R4 who are to receive an apology letter under R9. The additional letters called for by this recommendation will be prepared once the identity of the people excluded from this recommendation has been ascertained. |
| R11 | Complete. In May 2017, individuals reviewed the contents of the boxes and items were returned. |
| R12 | Complete. The Office of the Comptroller General issued a <u>public statement</u> ⁵ on June 29, 2017 confirming its response to R12 and R13. |
| R13 | Complete. Letters of apology have been sent confirming that the report has been withdrawn and that the report will not affect the ability of those individuals to work for or with government in the future should they wish to do so. |
| R15 | Complete. On July 17, the Ministry of Finance transferred \$500,000 to the University of Victoria to fund the endowment. |

⁴ https://news.gov.bc.ca/files/Statement_from_Deputy_Minister_Kim_Henderson_May_31_2017.pdf

⁵ http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/public-service/public_statement_confirming_withdrawal_of_investigation_and_forensic_unit_report.pdf

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

| Rec # | Status |
|-------|--|
| | The University of Victoria, in consultation with Mr. MacIsaac's family, has developed Terms of Reference for consideration by the University of Victoria Senate in early October, 2017. Should the Senate approve the terms of the award; the first disbursement will take place in September 2018. |
| R16 | <p>Complete. The Ministry of Health has developed a nomination process and criteria for an award to recognize excellence in working with co-op students.</p> <p>In addition to the award in the Ministry of Health, the Public Service Agency has developed an award to recognize excellence across the Public Service. The Staff Award of Excellence: Supporting a Co-op Student Experience will recognize Public Service employees who have demonstrated excellence in training, mentoring and supporting a co-op student.</p> <p>The awards were announced to employees of the Ministry of Health on September 29 and to the Public Service on September 27, respectively.</p> |
| R17 | <p>Not yet started. Work on this recommendation is pending decisions on the broader approach to ethics stemming from this report, in particular R18 and R32.</p> |
| R18 | Not yet started. |
| R19 | Not yet started. |
| R20 | <p>Underway. Terms of reference, including a schedule of deliverables, are being drafted for the independent contract.</p> |
| R21 | <p>Complete.</p> <p>R21(a): The Comptroller General has implemented a professional development framework for investigators of the Investigation and Forensic Unit. The framework ensures investigators receive ongoing professional development in areas such as administrative and procedural fairness. Accordingly, investigators are attending courses at the Justice Institute of BC (and other training providers), a community of practice⁶ has been formed with other internal</p> |

⁶ Communities of Practice are voluntary, organized groups of employees with similar interests or roles who wish to deepen their knowledge and understanding by engaging regularly with each other to share ideas and solve common problems. These

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

| Rec # | Status |
|-------|--|
| | <p>investigative functions in the Public Service, and investigators continue their education by pursuing certificates, accreditations or other credentials.</p> <p>R21(b): The process to update the Policy and Procedures manual of the Investigation and Forensic Unit was initiated following the practice review by KPMG. The manual incorporates all recommendations from the KPMG report plus a review of best practice and CPA recommendations. The manual, which can be viewed here, requires investigators assess each phase of the investigative process against five administrative fairness principles. The results of the assessment provide documentary evidence that the principles of administrative fairness are applied throughout each investigation.</p> <p>R21(c) and (d) KPMG's practice review is informing a new process for investigative oversight which includes clearly identified points at which investigators must obtain approval from the Comptroller General before moving to the next investigative phase. To support this process, the Policy and Procedures manual provides tools and assessment criteria for each key decision of the investigation process. In addition, incidents of a certain level are guided by an oversight committee comprised of: the Comptroller General; the Deputy Minister of Finance; the ministry executive team in the implicated ministry; and the Deputy Minister of the Public Service Agency.</p> <p>Developing and implementing these procedures will ensure that the integrity of the investigative process is not compromised while, at the same time, there is appropriate oversight in place.</p> <p>The new process has been implemented and will be reviewed and updated as necessary to ensure ongoing relevance.</p> |
| R22 | <p>Complete. A report outlining progress toward implementing the recommendations in the KPMG report has been submitted to the Office of the Auditor General.</p> <p>It is recognized and understood the Auditor General is an independent Officer of the Legislature and as such will</p> |

communities foster innovation, establish and disseminate best practices, and often become the stewards of organizational knowledge across the organization.

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

| Rec # | Status |
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| | determine their own interest in receiving the information provided. |
| R23 | Underway. |
| R24 | Underway. The Ministry of Health has consulted with the Information and Privacy Commissioner. In consultation with the Ministry of Health, the Corporate Information and Records Management Branch is working on guidelines regarding the suspension of access to data to reflect concerns addressed in the Ombudsperson's Report. |
| R25 | Complete. The Policy on Termination for Just Cause for excluded and included staff, developed by the Public Service Agency and approved by the Head of the Public Service, was distributed by the Deputy Minister of the Public Service Agency to all deputy ministers and Public Service Agency executives on June 30, 2017. |
| R26 | Complete. On April 7, 2017 the Public Service ceased the practice of suspending excluded employees without pay pending an investigation. The policy change, and the date it took effect, was communicated by the Deputy Minister of the Public Service Agency to Deputy Ministers' Council members and inside the Public Service Agency. In addition, the Public Service Agency will be engaging a recognized employment law expert to review the <i>Public Service Act</i> and Regulations and make recommendations on the appropriate statutory framework for suspensions pending investigation in the Public Service. |
| R27 | Not yet started. |
| R28 | Complete. The policy is available on the government website. ⁷ The policy covers both R28 and R29. |
| R29 | Complete. The policy is available on the government website. ⁸ The policy covers both R28 and R29. |
| R30 | Complete. A report has been submitted to the Head of the Public Service. It includes recommendations and an assessment tool that for executive readiness that looks to increase the likelihood of a successful match. Report findings are based on focus groups with members of the BC Public Service executive and BC Public Service Agency staff, best |

⁷ <http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/services-policies-for-government/information-management-technology/information-privacy/policy-communications-hr-matters.pdf>

⁸ <http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/services-policies-for-government/information-management-technology/information-privacy/policy-communications-hr-matters.pdf>

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

| Rec # | Status |
|-------|---|
| | practice research and research on executive transitions in other jurisdictions. |
| R31 | Underway. The Legal Services Branch and Head of the Public Service are working to develop these written protocols. |
| R32 | Underway. The Public Service Agency is working on a comprehensive approach to ethics management that includes not only the recommendations from the Ombudsperson, but also the issues raised by the Office of the Auditor General's ethics audit. The Public Service Agency, Ministry of Justice and the Head of the Public Service will prepare, for government's consideration, a request for legislation to address the recommendation. Legislation is subject to passage the Legislative Assembly of British Columbia. |
| R33 | Complete. The Ministry of Health has developed and launched a comprehensive organizational reconciliation program that includes the elements outlined by the Ombudsperson. From May through the beginning of October 2017, the ministry: <ul style="list-style-type: none"> • Reviewed existing literature about creating a healthy workplace and reconciliation in the workplace; • Engaged with facilitators to plan employee sessions; • Reviewed data from previous employee sessions and Workforce Engagement Surveys; • Held divisional sessions with the deputy minister; • Is facilitating a number of in person employee engagement sessions across the entire ministry, including offering alternate channels for input (including online and anonymous suggestion boxes) to ensure employee voices are heard. Next steps include: <ul style="list-style-type: none"> • Organizing the information and data resulting from consultation sessions into themes; • Creating a cross ministry, cross function guiding coalition to guide and steer planning; • Broadening the ministry project team to lead action; • Bringing forward findings for review and prioritization to ministry employees through a facilitated open space session; • Developing an action plan to implement change, including near, medium and long term strategies; • Developing timelines and baseline measures to track progress; and |

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

| Rec # | Status |
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| | <ul style="list-style-type: none"> Monitoring, evaluating, tracking and reporting progress. |
| R34 | <p>Complete. The Ministry of Health has consulted with BC health researchers affiliated with drug therapy research and identified gaps in areas related to evidence-informed programs and decision-making in: pharmaceuticals; public health surveillance; health service; and high quality data analytics. The Ministry is creating a plan in each of these four areas.</p> <p>The Ministry also identified intangible gaps and impacts when it reached out to researchers and contractors. The Ministry acknowledges the value of the relationships and the role they played within rich and productive networks, and is working to rebuild trust with the research and contractor community.</p> <p>A plan to address the gaps identified is being developed in response to R35.</p> |
| R35 | <p>Underway. A plan to address gaps has been initiated based on the work completed for R34.</p> |
| R36 | <p>Not yet started. Options will be developed for approval in time to roll out the nomination period for the program in late February/early March.</p> |
| R37 | <p>Not yet started.</p> |
| R38 | <p>Underway.</p> |
| R39 | <p>Complete. A new investigative policy has been implemented and can be viewed here. Consultations and discussions with all Coroners Service staff at four Professional Development conferences held in May and June in Kelowna, Victoria, Burnaby and Prince George, helped inform this policy.</p> |
| R40 | <p>Complete. Government's response to the Ombudsperson was sent on April 7, 2017 and posted online.⁹</p> |
| R41 | <p>Underway. This document represents the Public Service's first update on progress toward addressing the Ombudsperson's recommendations.</p> |

⁹ https://news.gov.bc.ca/files/Response_to_Ombudsperson_Report_Table_Apr_7_2017.pdf

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Sidhu, Tej PSSG:EX

From: Lapointe, Lisa PSSG:EX
Sent: Friday, April 6, 2018 11:00 AM
To: Watson, Andy PSSG:EX; Sidhu, Tej PSSG:EX; McNamee, John PSSG:EX; Stancato, Vincent PSSG:EX
Subject: RE: Written Submission for FOI Consultation

Very interesting – thanks Andy. I understand Jon’s frustration and it will be interesting to see what the privacy commissioner thinks.

Lisa

From: Watson, Andy PSSG:EX
Sent: Friday, April 6, 2018 10:09 AM
To: Lapointe, Lisa PSSG:EX; Sidhu, Tej PSSG:EX; McNamee, John PSSG:EX; Stancato, Vincent PSSG:EX
Subject: FW: Written Submission for FOI Consultation

Hi folks,

Wanted to flag this for you – Jon Woodward from CTV shared with me (our relationship continues to strengthen with me in this role, and he’s trusted me to share this with a few people internally). He flagged his submission to the FOI consultation that just wrapped up.

See section 1 within (pasted below) for his frustration with our new policy. I have provided him with our background on our legislation and what parameters we have in the Coroners Act and through FOIPPA, so he’s aware of our challenges.

Worth the read (we’re the first of six areas of concern he’s expressed):

I would like to spend some time on some matters that specifically affect my work as a reporter that I believe have weakened the ability of journalists to find out and relay information about important subjects to viewers, readers and the public. In some cases this has quite clearly made our society less able to perceive actual threats to our safety individually and collectively, and consequently harmed our ability to respond to them.

1. Naming the dead.

- a. The B.C. Coroners Service is responsible for fact-finding about public deaths in B.C., with an eye to understanding them better so that they may not be repeated. Part of this mission is disclosing publicly what happened to who and why, making recommendations to prevent it, and ensuring that we can trust our institutions to be accountable when the worst happens and someone dies.*
- b. Recently the Coroners Service changed a policy of theirs and, invoking the privacy rights of the dead, decided to no longer reveal their names. This has included ceasing naming the dead upon request, not accepting requests for coroners reports unless the name of the dead is already known by some other means, and also severing the names of the dead from reports that are released under FOI.*
- c. This unfortunately compromises their mission in a significant way. Without knowing who the dead are we cannot begin to ask questions about the larger circumstances of their lives and other factors that may have come into play around how they died. Specifically in the media, a name is can be a crucial tool that can link disparate parts of a dead person’s life to show a surprising or overlooked aspect of a death.*

- d. *For example, as casinos in B.C. were expanding, I did a story looking at suicides that had been linked to gambling. We had known that a Victoria-area man had killed himself after stealing some \$300,000 from a youth soccer association. A coroners report described a man who had died in a simliar situation and linked it to gambling, but without a name it was very difficult to link the death to the theft. With some digging and some luck we could confirm that the two events were one and the same, and that this man had victimized young soccer players to feed a gambling habit. It's the kind of event that is incredibly traumatic for a community, and it's vital to discuss this as gambling expands in this province. Instead, the B.C. Coroners Service policy change made it harder, not easier, to address the significant public safety issue inherent in that death. There are many cases that we reporters will not be so lucky, and important public interest observations will go unmade. <https://bc.ctvnews.ca/368k-theft-suicide-at-soccer-club-was-gambling-related-coroner-1.2972963>*
- e. *The identities of those who died in significant or public ways should continue to be released, and media should be sensitive in their approach to the stories. The public interest of investigating how these people died and making the living safer outweighs the privacy interest of the dead.*

Andy

From: Woodward, Jon [<mailto:Jon.Woodward@bellmedia.ca>]
Sent: Wednesday, April 4, 2018 10:22 AM
To: Watson, Andy PSSG:EX
Subject: FW: Written Submission for FOI Consultation

Hi Andy

Hope you're doing well. I just finished a submission to the FOI consultation process and one of my points had to do with the way the coroner treats the names of the dead.

I know it began before your time but it continues to cause problems for us here and for the larger pursuit of understanding how people died and preventing future deaths, which is the mission of the coroner.

Feel free to share that point among staff there – I thought it would be useful to send this to you so you understand better how the change is impacting our work and understand why I and others are including the policy change as part of our feedback to the consultation process.

Happy to answer questions about it too.

Thanks

Jon
604-351-1831

From: Woodward, Jon
Sent: Wednesday, April 04, 2018 10:18 AM
To: 'FOI.Reform@gov.bc.ca'
Cc: BC FIPA (fipa@fipa.bc.ca); 'shannon@policyalternatives.ca'; Dermod Travis (piracomm@gmail.com)
Subject: Written Submission for FOI Consultation

Hi

Please find attached my submission for the FOI consultation. Those copied might find this of interest.

Thanks

Jon

604-351-1831

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