


2013-14 ANNUAL REPORT

Office of the Information and Privacy
Commissioner for British Columbia



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.



Established in 1993, the Office of the Information and Privacy Commissioner (OIPC) provides independent oversight and enforcement of B.C.'s access and privacy laws, including:

The *Freedom of Information and Protection of Privacy Act* (FIPPA), which applies to over 2,900 public bodies, including ministries, local governments, schools, crown corporations, hospitals, municipal police forces, and more

The *Personal Information Protection Act* (PIPA), which applies to over 380,000 private organizations, including businesses, charities, associations, trade unions and trusts

The Commissioner has the power to:

- **Investigate, mediate and resolve** appeals concerning access to information disputes, including issuing binding orders;
- **Investigate and resolve** privacy complaints;
- Initiate Commissioner-led **investigations and audits** of public bodies or organizations, if there are reasonable grounds of non-compliance or if it is in the public interest;
- **Comment on the access and privacy implications** of proposed legislation, programs or policies;
- Comment on the **privacy implications of new technologies**;
- Conduct **research** into anything affecting access and privacy rights;
- **Educate the public** about their access and privacy rights and the relevant laws.

In 2011, the Commissioner created an External Advisory Board to enhance the Office's research, public education and policy work, and to assist in identifying emerging issues affecting access and privacy. The current board members are:

Dr. Colin Bennett, Department of Political Science, University of Victoria

Heather Black, former Assistant Privacy Commissioner for Canada

Dr. Peter Chow-White, School of Communication, Simon Fraser University

Dr. David Flaherty, former B.C. Information and Privacy Commissioner

Dr. Ben Goold, Faculty of Law, University of British Columbia

Drew McArthur, McArthur Consulting Group

Dirk Ryneveld QC, McConnan Bion O'Connor & Peterson

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July 2014

The Honourable Linda Reid
Speaker of the Legislative Assembly of British Columbia
Room 207, Parliament Buildings
Victoria, BC V8V 1X4

Honourable Speaker:

In accordance with s. 51 of the *Freedom of Information and Protection of Privacy Act* and s. 44 of the *Personal Information Protection Act*, I have the honour to present the office's Annual Report to the Legislative Assembly.

This report covers the period from April 1, 2013 to March 31, 2014.

Yours sincerely,

Elizabeth Denham
Information and Privacy Commissioner for British Columbia

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COMMISSIONER'S MESSAGE

The 2013-14 fiscal year saw access to information and privacy issues increasingly discussed and debated in the news media and among citizens.

The deletion of government records, use of private email by some public servants to conduct government business, calls for a duty to document key public policy decisions, and demands for transparency in the spending of public funds made headlines on the federal and provincial level. It is very clear that citizens are hungry for open information. I believe that governments have a duty to meet those demands.

It is also a critical time to be talking about privacy as a fundamental value. Edward Snowden's revelations of mass surveillance by the NSA prompted worldwide calls for strong oversight of national security agencies. Citizens are increasingly concerned about the erosion of their individual privacy rights. And at in the age of big data analytics, the data trails we are leaving behind are becoming increasingly valuable to both the state and private actors.

Transparency is the panacea. When governments and businesses make information available, and create opportunities to meaningfully engage the public, they build confidence and trust in their activities while addressing information and privacy concerns.

Government's recent consultation on the BC Services Card is an excellent example of how citizens can be active and informed participants in policy-making, even on highly technical and complex matters. In the fall of 2013, a citizens' panel was assembled. They heard from subject matter experts, asked questions, deliberated, and made recommendations for future phases of the Card – including which information and services should be made available with the Card and which should not. Their report was thorough, thoughtful, and articulate, and should form the blueprint for future phases of the Card. Government should build on this success and undertake similar consultations on other major topics in access and privacy, including the use of big data analytics by the public sector.

In the past, we kept conversations about privacy separate from those about access to information. These discussions took place in distinct silos. Today these silos are collapsing, and the lines between the issues are becoming increasingly blurred. More than ever it is critical that we collaborate and share ideas about how to address the privacy and access issues we collectively face.

My office brought these conversations together with a special conference celebrating 20 years of access to information and privacy law. *Privacy and Access 20/20* sought to unify the dialogue on privacy and access, information and data across the public and private sectors.

In 1993, when the legislation was first enacted, B.C. was seen as a leader in access to information and protection of privacy. In the 20 years since, we have enjoyed a high level interest and engagement on access and privacy issues, thanks to thought leaders in the public service, an FOI-savvy media, and advocacy groups that have pressed for policy and legal reform. Their contributions have helped to create a rich, information rights culture that sets our province apart.

IN THE PAST, WE KEPT CONVERSATIONS ABOUT PRIVACY SEPARATE FROM THOSE ABOUT ACCESS TO INFORMATION. THESE DISCUSSIONS TOOK PLACE IN DISTINCT SILOS. TODAY THESE SILOS ARE COLLAPSING, AND THE LINES BETWEEN THE ISSUES ARE BECOMING INCREASINGLY BLURRED.

But as we celebrate the past, we must also look forward to the future. In October 2013, Information and Privacy Commissioners from across Canada met in Vancouver and proposed comprehensive reforms to modernize access to information and privacy laws, including mandatory breach notification, a legislated duty to document, and stronger enforcement powers including penalties for non-compliance. These reforms would ensure B.C. can meet the access and privacy challenges of the 21st century and make our province a leader once again. I will continue to press for these reforms here in British Columbia in future years.

In closing, I wish to acknowledge the dedication and teamwork of my staff, the leadership of my executive team – Jay Fedorak, Michael McEvoy and Cara McGregor – the support of our External Advisory Board, as well as stakeholders in the access and privacy community. Their ongoing interest, involvement and commitment has contributed significantly to the work of this office.



Elizabeth Denham
Information and Privacy Commissioner for B.C.



○
WHEN GOVERNMENTS AND
BUSINESSES MAKE INFORMATION
AVAILABLE, AND CREATE
OPPORTUNITIES TO MEANINGFULLY
ENGAGE THE PUBLIC, THEY
BUILD CONFIDENCE AND TRUST
IN THEIR ACTIVITIES WHILE
ADDRESSING INFORMATION
AND PRIVACY CONCERNS.

HIGHLIGHTS 2013-14

20 YEARS OF INFORMATION RIGHTS IN B.C.

In October 2013, B.C. celebrated 20 years of freedom of information and privacy law. To mark the occasion, the OIPC hosted a two-day conference with thought-provoking content from access, privacy, and technology experts from academia, government, civil society and industry. Turn to page 11 for more details about the conference.

MASS SURVEILLANCE BY NATIONAL SECURITY AGENCIES

In June 2013, whistleblower Edward Snowden thrust surveillance into the global spotlight. The activities of the NSA, as described by Snowden, have prompted similar questions about the activities of Canadian intelligence organizations. Information and Privacy Commissioners from jurisdictions across Canada have called for transparency and public debate about sweeping surveillance by national security agencies.

INCREASING ACTIVITY ON ACCESS TO INFORMATION

The year 2013-14 saw a 53% increase in the number of access to information complaints and a 26% increase in requests for review of decisions to withhold information. In 2014, the Office will undertake a review of trends in access to information, including assessing timeliness of government responses to FOI requests, a follow-up report on the number of instances of "no responsive records" replies to general access requests, and an examination of the administration of fees and fee estimates in the access to information process.

OIPC RULES ON USE OF ELECTRONIC MONITORING DEVICES BY EMPLOYERS

Building on the Office's rulings in F13-04 (UBC) and P12-01 (Schindler Elevator Corporation), in 2013-14 the OIPC issued two Orders about the use of electronic monitoring devices by employers. P13-01 (KONE Inc.) examined the use of GPS information from employer-issued cellular phones and P13-02 (THYSSENKRUPP Elevator (Canada) Limited) addressed monitoring devices in company service vehicles. The adjudicator considered a number of factors when determining the reasonableness of electronic monitoring of employees under PIPA in these two cases, including the fact that the monitoring was not continuous in either case. In both cases the monitoring was authorized, provided that employees were given proper notice about the collection and use of the information.

INFORMATION AND PRIVACY
COMMISSIONERS FROM ACROSS
CANADA HAVE CALLED FOR
TRANSPARENCY AND PUBLIC DEBATE
ABOUT SWEEPING SURVEILLANCE
BY NATIONAL SECURITY AGENCIES.



4,024

NUMBER OF REQUESTS FOR INFORMATION RECEIVED IN 2013-14

OPEN DATA SETS RELEASED

Following the recommendations set out in the Commissioner's investigation report on open government, the OIPC has entered the world of open data by proactively disclosing data sets about contracts over \$10,000 and monthly travel expenses of the Commissioner.

NEW ACCOUNTABILITY GUIDANCE FOR THE PUBLIC SECTOR

To promote comprehensive privacy protection in the public sector, the OIPC published guidance tailored to the needs of public agencies and the legal requirements of the *Freedom of Information and Protection of Privacy Act*. *Accountable Privacy Management in BC's Public Sector* will be used in OIPC investigations to assess compliance with the law.

PRIVACY AND HEALTH RESEARCH ALLIES, NOT FOES

The OIPC held a second health research roundtable to bring together academics, researchers, and data stewards and give clarity and understanding to data access processes. The roundtable identified the need for a long-term solution for secure and timely access to data, including a privacy protective research platform for secure one-stop access to data.

B.C. TAKES PART IN GLOBAL INTERNET SWEEP

The OIPC participated in the first-ever global "internet sweep" to promote privacy and transparency online. 19 data protection authorities from around the world reviewed the privacy policies of private sector websites and pooled their results. Compared to the global average, the websites of B.C. businesses were twice as likely to not have any privacy policy – a finding that prompted the OIPC to issue a new guidance tool to give B.C. companies practical tips on writing privacy policies that are readable, accessible, and meet B.C.'s legal requirements.

○
THE OIPC HAS ENTERED THE
WORLD OF OPEN DATA BY
PROACTIVELY DISCLOSING DATA
SETS ABOUT CONTRACTS OVER
\$10,000 AND MONTHLY TRAVEL
EXPENSES OF THE COMMISSIONER.

414

NUMBER OF ATTENDEES AT THE OIPC'S PRIVACY
AND ACCESS 20/20 CONFERENCE



INVESTIGATION REPORTS

The Commissioner has the legal authority to investigate the programs, policies or information systems of public bodies and private organizations to assess compliance with access and privacy laws. Where there is a public interest in doing so, the Commissioner can publish a detailed investigation report that describes the scope of the investigation, makes findings of law and recommends changes to a public body or private organization's policies or practices. The following investigation reports were published by the OIPC in 2013-14:

WHERE THERE IS A PUBLIC INTEREST IN DOING SO, THE COMMISSIONER CAN PUBLISH A DETAILED INVESTIGATION REPORT THAT ... MAKES FINDINGS OF LAW AND RECOMMENDS CHANGES TO A PUBLIC BODY OR PRIVATE ORGANIZATION'S POLICIES OR PRACTICES.

MINISTRY OF HEALTH

In the wake of three privacy breaches affecting more than four million British Columbians, the Commissioner launched a comprehensive investigation that revealed serious deficiencies in the ministry's privacy practices at the time the breaches occurred. The lack of operational and technical safeguards led to a situation in which ministry employees were able to copy a large volume of personal health data onto unencrypted flash drives and share that data with other parties, undetected.

The Commissioner made 11 recommendations to improve the ministry's privacy practices, which the ministry agreed to implement. The office continues to consult with the ministry and receives regular updates regarding implementation of the Commissioner's recommendations.

EVALUATING B.C.'S OPEN GOVERNMENT INITIATIVE

The Commissioner examined the three core elements of the B.C. open government program: open information (proactive disclosure of records), open data (making raw data available and accessible to the public), and a disclosure log (the public release of government's replies to general access to information requests). The Commissioner made 18 recommendations including proactive disclosure of calendar information, disclosure of data about contracts over \$10,000, and the release of high value data sets that increase transparency and accountability in government.

Since the report was issued, government has accepted five of the recommendations in the report. The OIPC is following up with government on all outstanding recommendations.



56%

INCREASE IN THE NUMBER OF PRIVACY BREACHES REPORTED TO THE OIPC FROM 2009-10 TO 2013-14

SHARING OF PERSONAL INFORMATION AS PART OF THE DRAFT MULTICULTURAL STRATEGIC OUTREACH PLAN

Following the public release of the Multicultural Strategic Outreach Plan, the Commissioner initiated an investigation into allegations that personal information was improperly shared between the BC Government and the BC Liberal Party.

Investigators reviewed all available documents, emails and correspondence, and also conducted interviews under oath. Investigators did not find evidence that personal information was improperly shared between government and the BC Liberal Party. However, it did reveal the exchange of government information using personal email accounts, particularly among individuals who have dual roles as government employees and volunteers or members of political parties.

The Commissioner made five recommendations to help the government and the BC Liberals implement better information management and training practices. Government accepted the recommendations, and the BC Liberal Party has complied with the recommendation relevant to its practices.

PUBLIC BODY DISCLOSURE OF INFORMATION UNDER SECTION 25 OF FIPPA

In response to allegations that public bodies were failing in their “duty to warn” the public about health and safety concerns, the Commissioner investigated the use of section 25 of FIPPA. She opted to investigate after receiving a written submission from the BC Freedom of Information and Privacy Association, including a detailed report from the University of Victoria’s Environmental Law Clinic that alleged a systemic failure by public bodies to disclose information under section 25.

The investigation report made three recommendations for change, including policies and training for public bodies and their employees specific to section 25, and amending FIPPA to require public bodies to disclose information in the public interest, even where the information is of a non-urgent nature.

In response to the report, the Minister for Technology, Innovation and Citizens’ Services confirmed that government would implement plans to better inform ministries of their duties to provide more information to the public. The Commissioner’s recommendation for a legislative amendment to section 25 is under review.

○
THE OIPC PUBLISHED FOUR
MAJOR INVESTIGATION REPORTS
IN THE 2013-14 FISCAL YEAR.

20

NUMBER OF PRIVACY IMPACT ASSESSMENTS
RECEIVED BY THE OIPC IN 2013-14



INVESTIGATION REPORTS

SUMMARY OF COMPLIANCE WITH COMMISSIONER'S RECOMMENDATIONS (2011-14)

INVESTIGATION	TITLE OF REPORT	STATUS
F11-01	Investigation into a privacy breach of customers' personal information by the BC Lottery Corporation	Complied
F11-02	Investigation into the simultaneous disclosure practice of BC Ferries	BC Ferries complied. Government instituted a 72-hour delay for publishing general access to information requests.
F11-03	BC Hydro and Power Authority (privacy and security of smart meters)	Complied
F12-01	Investigation into the use of facial recognition technology by ICBC	Complied
F12-02	University of Victoria (privacy breach)	Complied
F12-03	Use of employment-related criminal record checks by the Government of BC	Complied
F12-04	Use of Automated Licence Plate Recognition Technology by the Victoria Police Department	Complied
F13-01	Increase in no responsive records to general access to information requests: Government of BC	5 of 6 recommendations accepted. Government is studying the OIPC's recommendation for a duty to document.
F13-02	Ministry of Health (privacy breach)	Recommendations accepted. Ministry is providing quarterly updates on implementation.
F13-03	Evaluating the Government of BC's open government initiative	5 of 18 recommendations accepted. OIPC is conducting follow-up on outstanding recommendations.
F13-04	Sharing of personal information as part of the draft multicultural strategic outreach plan between the BC Government and the BC Liberal Party	Recommendations accepted by government and BC Liberal Party. The BC Liberal Party has complied.
F13-05	Public body disclosure of information under s.25 of the <i>Freedom of Information and Protection of Privacy Act</i>	Government is studying the OIPC's recommendation for a s. 25 amendment.
F14-01	Use of police information checks in British Columbia	OIPC to follow up with government and police boards after 90 days (July 2014)



639

NUMBER OF ACCESS AND PRIVACY COMPLAINTS
RECEIVED BY THE OIPC IN 2013-14

PRIVACY AND ACCESS 20/20

On October 10-11, 2013 more than 400 delegates took part in *Privacy and Access 20/20: A New Vision for Information Rights* at the Hyatt Regency in downtown Vancouver. The event brought together the public and the private sector, civil society, students and Commissioners to celebrate the 20th anniversary of the B.C. *Freedom of Information and Protection of Privacy Act*.

While the conference was organized to honour the past, the agenda was focussed on contemporary challenges and reform in the areas of big data, ubiquitous surveillance, open information and open data, and the role technology plays in the exercise of access and privacy rights.

The conference featured three keynote speakers representing local, national and international interests on access and privacy.

Kevin Dunion of the Centre for Freedom of Information at the University of Dundee (Scotland) shared his insights on information rights in the 21st century. Changes in public sector service delivery, avoidance measures adopted by those in authority, and an agenda shift away from freedom-of-information to open data were cited as contemporary pressures on the right to information. His remedies included robust laws, strategic leadership, and a culture shift in the exercise of information rights.

Vancouver-based open data expert **David Eaves** gave a thought-provoking presentation about the relationship between technology and access to information. He encouraged Commissioners to focus their efforts on the bottom of the "technology stack" (processes and systems) as well as the top (individual cases and paper records) in order to have the greatest impact on access rights and promote open information by default.

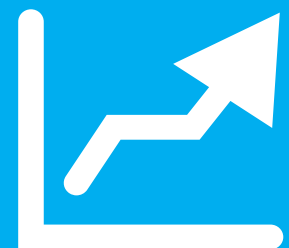
In her last major keynote as Privacy Commissioner of Canada, **Jennifer Stoddart** reflected on her experiences and legacy of her 10-year tenure. She reviewed progress made on the federal office's strategic priorities of privacy and public safety, information technology, and genetic information.

The OIPC wishes to thank all delegates, volunteers, and conference sponsors who made the event a success. A special thank you to the conference advisory committee, whose input ensured a content-rich agenda on the leading edge of access and privacy, to the team at Reboot Communications who organized event logistics, and to SFU, UBC and UVic for sponsoring student participation.

○
WHILE THE CONFERENCE
WAS ORGANIZED TO HONOUR
THE PAST, THE AGENDA WAS
FOCUSED ON CONTEMPORARY
CHALLENGES AND REFORM.

45%

INCREASE IN COMPLAINTS RECEIVED BY
THE OIPC FROM 2012-13 TO 2013-14



MODERNIZING ACCESS AND PRIVACY LAWS FOR THE 21ST CENTURY

The following resolution was passed at the annual meeting of Canada's Information and Privacy Commissioners and Ombudspersons, which took place in Vancouver October 8-9, 2013.

Context

Canadians have come to expect greater accountability and transparency on the part of both governments and private-sector organizations with respect to how they gather, create, share, disclose and manage information, including personal information.

There have been many changes in technology, changes to government practices (such as public-private partnerships, outsourcing or shared services models), and Canadians' expectations over the years. Recent revelations about government surveillance programs have heightened Canadians' concerns about the erosion of their privacy rights and have prompted calls for increased transparency and greater oversight of national security initiatives.

Most Canadian access and privacy laws have not been fundamentally changed to keep up with these changes and to improve protections and rights since their passage, some more than 20 years ago. Only a few Canadian laws have recently been passed or updated to address modern challenges and to ensure continued protection of individuals' rights to access and privacy.

At the same time, other laws have been amended or passed that have had the result of undermining or eroding access and privacy rights – the very rights access and privacy laws were intended to protect and guarantee.

Elsewhere in the world, privacy and access laws are being strengthened to meet the realities of the 21st Century – more powerful information and communication technologies, the challenge of managing electronic information and the social and political demands of engaged citizens. Canada's laws need to do the same.

Whereas

Information is one of Canada's most important national resources.

Robust protection of privacy and access to information are defining values for Canadians and underpin our democratic rights and freedoms.

Canadians need to be able to hold public institutions and private organizations to account for their privacy practices, their access decisions and their information management.

Canada must re-establish its position as a leader in both the access and privacy fields.

ONLY A FEW CANADIAN LAWS
HAVE RECENTLY BEEN PASSED
OR UPDATED TO ADDRESS
MODERN CHALLENGES AND TO
ENSURE CONTINUED PROTECTION
OF INDIVIDUALS' RIGHTS TO
ACCESS AND PRIVACY.



Therefore

1. Canada's Information and Privacy Commissioners and Ombudspersons call on our respective governments to recommit to the fundamental democratic values underpinning access and personal privacy legislation by:

Consulting with the public, civil society and Information and Privacy Commissioners and Ombudspersons on how best to modernize access and privacy legislation in light of modern information technologies, evolving government practices and citizens' expectations.

Modernizing and strengthening these laws in keeping with more current and progressive legislation in parts of Canada and around the world, including some or all of the following:

In terms of access to information:

- a. Providing strong monitoring and enforcement powers such as the ability to issue binding orders for disclosure, and penalties for non-compliance;
- b. Broadening and clarifying which public entities are covered by access laws;
- c. Creating a legislated duty requiring all public entities to document matters related to deliberations, actions and decisions;
- d. Legislating strict and enforceable timelines for public entities to respond to access requests in a timely fashion;
- e. For exemptions where the expectation of harm is in issue, limiting which records are exempt from the general right of access by requiring public entities to prove there is a real and significant harm in their disclosure;
- f. Requiring all records, including exempt records, be disclosed if it is clearly in the public interest to do so;
- g. Establishing minimum standards for proactive disclosure, including identifying classes or categories of records that public entities must proactively make available to the public and, in keeping with the goals of Open Data, make them available in a usable format;
- h. Requiring that any exemptions and exclusions to access that are to be included in laws other than access to information laws be demonstrably necessary and that government consult with Information and Privacy Commissioners and Ombudspersons; and
- i. Establishing a requirement that for any new systems that are created, public entities create them with access in mind, thus making exporting data possible and easier.

○
 ELSEWHERE IN THE WORLD,
 PRIVACY AND ACCESS LAWS
 ARE BEING STRENGTHENED TO
 MEET THE REALITIES OF THE
 21ST CENTURY ... CANADA'S
 LAWS NEED TO DO THE SAME.

MODERNIZING ACCESS AND PRIVACY LAWS FOR THE 21ST CENTURY

CANADA'S INFORMATION AND PRIVACY COMMISSIONERS AND OMBUDSPERSONS CALL ON OUR RESPECTIVE GOVERNMENTS TO RECOMMIT TO THE FUNDAMENTAL DEMOCRATIC VALUES UNDERPINNING ACCESS AND PERSONAL PRIVACY LEGISLATION.

In terms of privacy:

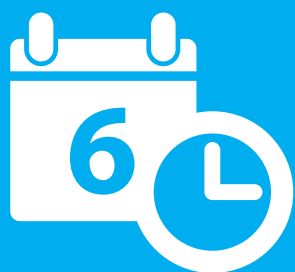
- a. Providing strong monitoring and enforcement powers and penalties for non-compliance;
- b. Broadening and clarifying which public entities are covered by privacy laws;
- c. Establishing legislative requirements for notifying affected individuals when their personal information has been lost, stolen, destroyed, or improperly accessed, used or disclosed (mandatory breach notification);
- d. Requiring public and private entities to improve the information they provide about their personal information policies and practices;
- e. Legislating a "necessity test" requiring public and private entities to demonstrate the need for the personal information they collect;
- f. Providing individuals with effective means to assert their privacy rights and to challenge entities' compliance with their legislated obligations;
- g. Strengthening reporting requirements to the public with respect to the disclosure of personal information between private and public entities;
- h. Legislating a requirement that public and private entities implement privacy management programs to ensure the protection of personal information; and
- i. Establishing a requirement that for any new legislation, service, program or policy, public entities consider and plan for privacy implications at the outset (for example, privacy impact assessments, privacy by design).

2. Canada's Information and Privacy Commissioners and Ombudspersons commit to

Engaging and following up with government, Legislature and Parliament on the issues set out above;

Continuing to study and make public how access and privacy laws impact all Canadians; and

Making recommendations to government, Legislature and Parliament based on our areas of expertise.



123%

INCREASE IN TIME EXTENSION REQUESTS TO THE OIPC FROM 2011-12 TO 2013-14

YEAR IN NUMBERS

The OIPC opened 7,298 files in 2013-14. Staff resolved 1,199 complaint and request for review files in 2013-14 with a 93% mediation rate.

There has been an increase in the number of complaints and reviews specific to an individual's **access to information** rights. The year 2013-14 saw a 53% increase in access to information complaints and a 26% increase in requests for review of decisions to withhold information. In 2014, the OIPC will undertake a review of trends in access to information, including timeliness, no responsive records and the administration of fees.

Privacy breaches reported to the OIPC have increased again this year and are up 56% over the past five years. The Commissioner continues to advocate for mandatory breach reporting in the private sector, which would compel businesses to report significant breaches to affected individuals and to the OIPC.

We continue to review **Privacy Impact Assessments** (PIAs) submitted by public bodies and private organizations. Many of these PIAs are technical in nature and require in-depth analysis and specialized expertise to complete. Detailed comments are provided to the organization by the OIPC on a confidential basis, with an expectation that they will follow the law when implementing new programs, policies and technologies that process personal information.

The OIPC continues to receive a large number of **media inquiries** – 180 requests in 2013-14. These inquiries are primarily about the Office's investigation reports (see page 8) however an increasing proportion of media inquiries are about technology, surveillance and digital privacy issues.

○

THE COMMISSIONER CONTINUES TO ADVOCATE FOR MANDATORY BREACH REPORTING IN THE PRIVATE SECTOR, WHICH WOULD COMPEL BUSINESSES TO REPORT SIGNIFICANT BREACHES TO AFFECTED INDIVIDUALS AND TO THE OIPC.

180

NUMBER OF MEDIA INQUIRIES RECEIVED BY THE OIPC IN 2013-14



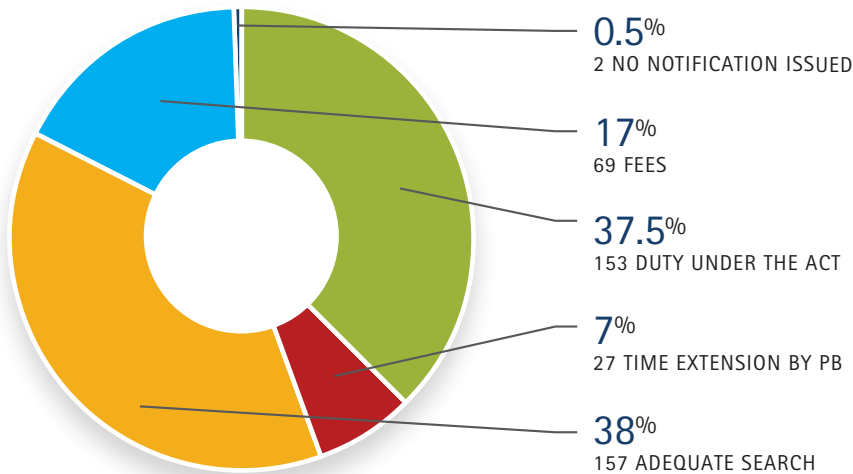
YEAR IN NUMBERS

SUMMARY OF ALL FIPPA AND PIPA FILES RECEIVED IN 2013-14

THIS TABLE SUMMARIZES ALL FILES RECEIVED AND OPENED BY THE OIPC IN THE FISCAL YEAR 2013-14.

FILE TYPE	RECEIVED 13/14	RECEIVED 12/13	RECEIVED 11/12
Complaints			
Access complaints	408	266	316
Privacy complaints	231	173	252
Requests for review			
Requests for review of decisions to withhold information	778	618	570
Applications to disregard requests as frivolous or vexatious	7	8	6
Time extensions			
Requests by public bodies and private organizations	853	735	382
Requests by applicants seeking a review	19	17	14
Reconsideration of decisions			
Internal reconsideration of OIPC decisions	27	16	31
Adjudication (court review of OIPC decisions)	2	1	0
Information requested			
Requests for information and correspondence received	4,024	4,346	4,353
Media inquiries	180	209	126
FOI requests for OIPC records	27	31	18
Non-jurisdictional issue	4	19	7
No reviewable issue	165	132	123
Files initiated by public bodies and private organizations			
Privacy impact assessments	20	21	16
Privacy breach notification	114	106	83
Public interest notification	17	17	21
Policy or issue consultation	81	137	102
Police Act (Independent Investigations Office) reports	37	5	0
Request for contact information for research purposes	2	2	0
OIPC initiatives			
Investigations	11	7	5
Legislative reviews	38	56	55
Projects	78	160	150
Public education and outreach			
Speaking engagements and conferences	96	99	105
Meetings with public bodies and private organizations	69	59	43
Site visits	4	1	1
Other	6	6	4
TOTAL	7,298	7,247	6,783

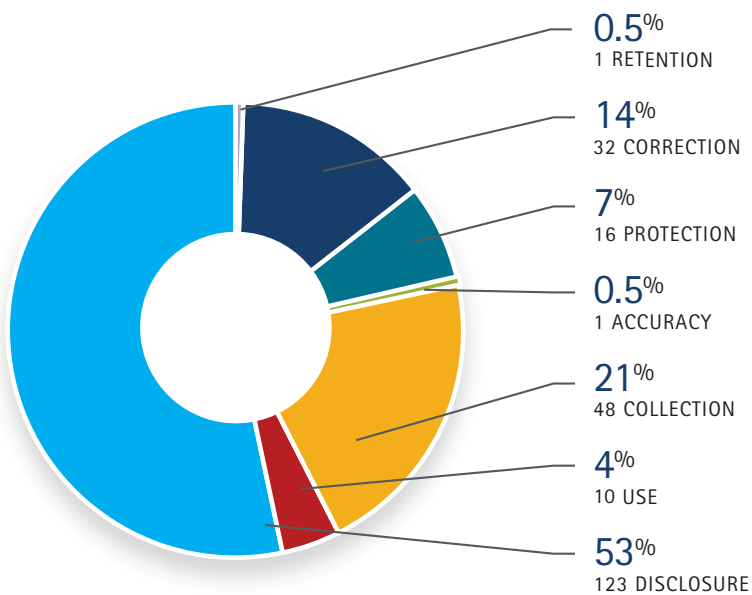
TYPE OF ACCESS COMPLAINTS RECEIVED IN 2013-14



408 TOTAL

38% OF ACCESS COMPLAINTS RECEIVED BY THE OIPC WERE ABOUT ADEQUATE SEARCH FOR RECORDS.

TYPE OF PRIVACY COMPLAINTS RECEIVED IN 2013-14



231 TOTAL

MORE THAN HALF OF ALL PRIVACY COMPLAINTS RECEIVED BY THE OIPC WERE ABOUT THE DISCLOSURE OF PERSONAL INFORMATION.

YEAR IN NUMBERS

NUMBER OF FIPPA COMPLAINTS AND REQUESTS FOR REVIEW RECEIVED IN 2013-14 BY PUBLIC BODY

PUBLIC BODY	COMPLAINTS RECEIVED	REQUESTS FOR REVIEW RECEIVED	TOTAL
Insurance Corporation of British Columbia	17	98	115
Ministry of Justice and Attorney General	32	53	85
City of Vancouver	23	37	60
Vancouver Police Department	10	27	37
Ministry of Children and Family Development	20	12	32
Ministry of Finance	10	20	30
Vancouver Coastal Health	14	16	30
Ministry of Jobs, Tourism and Skills Training	3	25	28
Vancouver Island Health	17	8	25
Ministry of Environment	5	19	24
Top 10 totals	151	315	466
All other public bodies	330	407	737
TOTAL	481	722	1,203

31% OF ALL COMPLAINTS AND 44% OF ALL REQUESTS FOR REVIEW RECEIVED UNDER FIPPA NAMED THESE TEN PUBLIC BODIES.

The majority of ICBC requests for review are filed by lawyers performing due diligence on behalf of clients involved in motor vehicle accident lawsuits. As with ICBC, the number of requests for review and complaints against a public body is not necessarily indicative of non-compliance, but it may be a reflection of its business model or quantity of personal information involved in its activities.

The OIPC gives citizens recourse if they feel their access to information or privacy rights have been compromised. Much of the Office's work focuses on resolving complaints made by applicants about the information practices of public bodies or private organizations, or requests for review of an access to information decision.

All incoming requests for review and complaints are processed by the OIPC Intake team, who gather relevant documentation and seek an expedited or simple solution to disputes. Complex files are assigned to investigators for analysis and mediation. A high percentage of mediations are successful, however in cases where one or more parties are not satisfied with the investigator's conclusion, the



99%

PERCENTAGE OF COMPLAINTS RESOLVED WITHOUT A HEARING OR INQUIRY IN 2013-14

NUMBER OF PIPA COMPLAINTS AND REQUESTS FOR REVIEW RECEIVED IN 2013-14 BY SECTOR

SECTOR	COMPLAINTS RECEIVED	REQUESTS FOR REVIEW RECEIVED	TOTAL
Services	47	15	62
Health	35	18	53
Sales and Retail	13	7	20
Accommodations	19	1	20
Financial	15	4	19
Professionals	6	4	10
Entertainment	8	0	8
Internet	5	0	5
Agriculture, Forestry, Fishing & Hunting, Mining	3	1	4
Manufacturing and Construction	2	2	4
Transportation	2	2	4
Education	2	2	4
Other	1	0	1
TOTAL	158	56	214

THE SERVICES SECTOR (INCLUDING HOUSING CO-OPS, LABOUR UNIONS, RELIGIOUS SERVICES, ADMINISTRATIVE SUPPORT AND UTILITIES) ACCOUNTS FOR 29% OF ALL COMPLAINTS AND REQUESTS FOR REVIEW RECEIVED BY THE OIPC UNDER PIPA.

matter can proceed to a formal inquiry. The result is a legally-binding order, written by an adjudicator, which is enforceable by a court of law. Parties unsatisfied with the order can apply to the BC Supreme Court for judicial review.

While responding to complaints and requests for review can have significant positive outcomes for aggrieved individuals, the benefits are dependent upon an individual filing a complaint. In order to promote broader awareness of and compliance with the law, the Office combines this reactive role with proactive education, outreach and systemic investigations.

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NUMBER OF GUIDANCE DOCUMENTS PUBLISHED OR UPDATED IN 2013-14



YEAR IN NUMBERS

OUTCOME OF ACCESS COMPLAINTS RESOLVED IN 2013-14, FIPPA

TYPE	INVESTIGATION	NO INVESTIGATION	HEARING OR REPORT	TOTAL
Adequate Search	43	74	3	120
Duty	72	42	2	116
Fees	24	28	1	53
Time Extension by PB	23	3	0	26
TOTAL	162	147	6	315

99% OF ALL COMPLAINTS WERE RESOLVED WITHOUT A FORMAL HEARING OR REPORT.

"Investigation" includes files that were mediated, not substantiated, partially substantiated, and substantiated. "No investigation" includes files referred back to public body, withdrawn, or files the OIPC declined to investigate. "Hearing or report" refers to files that proceeded to inquiry and/or a report was issued.

OUTCOME OF ACCESS COMPLAINTS RESOLVED IN 2013-14, PIPA

TYPE	INVESTIGATION	NO INVESTIGATION	HEARING OR REPORT	TOTAL
Adequate Search	6	6	0	12
Duty	8	11	0	19
Fees	2	2	0	4
Time Extension by Org	1	1	0	2
TOTAL	17	20	0	37

"Adequate search" means failure to conduct an adequate search for records. "Duty" means failure to fulfill any duty required except adequate search. "Fees" means unauthorized or excessive fees assessed by the public body or private organization. "Time extension" means unauthorized time extension taken by public body or private organization.



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NUMBER OF ORDERS PUBLISHED BY THE OIPC IN 2013-14

OUTCOME OF PRIVACY COMPLAINTS RESOLVED IN 2013-14, FIPPA

TYPE	INVESTIGATION	NO INVESTIGATION	HEARING OR REPORT	TOTAL
Accuracy	0	0	0	0
Collection	16	11	1	28
Correction	8	12	0	20
Disclosure	26	28	0	54
Retention	0	0	0	0
Use	1	2	0	3
Protection	4	1	0	5
TOTAL	55	54	1	110

"Accuracy" means where personal information in the custody or control of a public body is inaccurate or incomplete. "Collection" means the unauthorized collection of information. "Correction" means refusal to correct or annotate information in a record. "Disclosure" means unauthorized disclosure by a public body or private organization. "Retention" means failure to retain information for the time required. "Use" means unauthorized use by the public body or private organization. "Protection" means failure to implement reasonable security measures.

49% OF ALL COMPLAINTS RESOLVED WERE ABOUT THE DISCLOSURE OF PERSONAL INFORMATION – ALL OF THEM WERE RESOLVED WITHOUT THE NEED FOR A FORMAL HEARING OR REPORT.

OUTCOME OF PRIVACY COMPLAINTS RESOLVED IN 2013-14, PIPA

TYPE	INVESTIGATION	NO INVESTIGATION	HEARING OR REPORT	TOTAL
Collection	6	9	0	15
Correction	4	6	0	10
Disclosure	18	19	0	37
Retention	0	0	0	0
Use	6	1	0	7
Protection	5	2	0	7
TOTAL	39	37	0	76

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NUMBER OF SPEAKING ENGAGEMENTS AND CONFERENCES COMPLETED BY OIPC STAFF IN 2013-14



YEAR IN NUMBERS

OUTCOME OF REQUESTS FOR REVIEW RESOLVED IN 2013-14, FIPPA

TYPE	MEDIATED / RESOLVED	HEARING OR REPORT	TOTAL
Deemed refusal	202	4	206
Deny Access	74	18	92
Notwithstanding	3	1	4
Partial Access	222	46	268
Refusal to confirm or deny	3	1	4
Scope	5	2	7
Third Party	23	2	25
TOTAL	532	74	606

OUT OF ALL OIPC REQUEST FOR REVIEW FILES RESOLVED UNDER FIPPA, PARTIAL ACCESS FILES WERE 59% OF THE CASELOAD.

"Mediated/resolved" includes files that were mediated, withdrawn, referred back to public body, a consent order was issued for a deemed refusal, or other decision by the Commissioner was made. "Hearing or report" includes files that proceeded to inquiry and/or a report was issued.

OUTCOME OF REQUESTS FOR REVIEW RESOLVED IN 2013-14, PIPA

TYPE	MEDIATED / RESOLVED	HEARING OR REPORT	TOTAL
Deemed refusal	35	1	36
Deny Access	11	0	11
Notwithstanding	0	0	0
Partial Access	7	1	8
Refusal to confirm or deny	0	0	0
Scope	0	0	0
Third Party	0	0	0
TOTALS	53	2	55

TWO-THIRDS OF ALL PIPA REQUESTS FOR REVIEW ARE DEEMED REFUSAL FILES, WHICH MEANS THE ORGANIZATION DID NOT RESPOND TO A REQUEST FOR RECORDS WITHIN THE TIMELINES SPECIFIED IN LAW.

"Mediated/resolved" includes files that were mediated, withdrawn, a consent order was issued for a deemed refusal, or other decision by Commissioner was made. "Hearing or report" includes files that proceeded to inquiry and/or a report was issued.



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NUMBER OF OPEN DATA SETS PUBLISHED BY THE OIPC IN 2013-14

FINANCIAL REPORTING

NATURE OF OPERATIONS

The Information and Privacy Commissioner is an independent Officer of the Legislature, whose mandate is established under the *Freedom of Information and Protection of Privacy Act* (FIPPA) and the *Personal Information Protection Act* (PIPA). FIPPA applies to more than 2,900 public agencies and accords access to information and protection of privacy rights to citizens. PIPA regulates the collection, use, access disclosure and retention of personal information by more than 380,000 private sector organizations.

The Commissioner has a broad mandate to protect the rights given to the public under FIPPA and PIPA. This includes: conducting reviews of access to information requests, investigating complaints, monitoring general compliance with the Acts and promoting freedom of information and protection of privacy principles.

In addition, the Commissioner is the Registrar of the Lobbyist Registry program and oversees and enforces the provisions under the *Lobbyist Registration Act*.

Funding for the operation of the Office of the Information and Privacy Commissioner is provided through a vote appropriation (Vote 5) of the Legislative Assembly and through cost recovery from conferences hosted by the Office. The vote provides separately for operating expenses and capital acquisitions, and, all payments or recoveries are processed through the Province's Consolidated Revenue Fund. Any unused appropriation cannot be carried forward for use in subsequent years.

As well, part of the Office's funding is dedicated solely for the purpose of carrying out judicial review work, such as proceedings brought against the Office of the Information and Privacy Commissioner. Any portion of the dedicated funding that is unused for that purpose during the fiscal year is returned to the Consolidated Revenue Fund at fiscal year end.

ACCOUNTING POLICIES AND PROCEDURES

This financial reporting has been prepared per the policies and procedures as set out in the Province of British Columbia's Core Policy and Procedures Manual (or CPPM), found at:

<http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/CPMtoc.htm>.

Section 1.2.4, Governance, Application, describes the entities that are required to follow the CPPM which includes the Office of the Information and Privacy Commissioner.

FINANCIAL REPORTING

VOTED, USED, AND UNUSED APPROPRIATIONS

The Office receives approval from the Legislative Assembly to spend funds through an appropriation that includes two components – operating and capital. Any unused appropriation cannot be carried forward for use in subsequent years.

The following table compares the Office's voted appropriations, total operating and capital expenses, and the total remaining unused appropriation (unaudited) for the current and previous fiscal year:

	2013/14		2012/13	
	Operating	Capital	Operating	Capital
Appropriation	\$5,526,000.00	\$45,000.00	\$5,396,000.00	\$45,000.00
Other amounts	\$0	\$0	\$0	\$0
Total appropriation available	\$5,526,000.00	\$45,000.00	\$5,396,000.00	\$45,000.00
Total operating expenses	\$5,321,734.08	-	-\$5,097,825.14	-
Capital acquisitions	-	\$25,637.21	-	\$32,972.02
Unused appropriation	*\$204,265.92	\$19,362.79	\$298,174.86	\$12,027.98

*Note: \$135,177.69 of this total is the unused portion of judicial review dedicated funding which was returned to the Consolidated Revenue Fund at fiscal year end. After this adjustment, the Office's remaining unused appropriation is \$69,088.18.

LEAVE LIABILITY

Eligible employees are entitled to accumulate earned, unused vacation and other eligible leave entitlements as provided under their terms of employment or collective agreement. The liability for the leave is managed and held by the BC Public Service Agency. Accumulated leave liability for the Office of the Information and Privacy Commissioner for fiscal year 2013/14 is \$33,842.80.

TANGIBLE CAPITAL ASSETS

Tangible capital assets are recorded at historical cost less accumulated depreciation. Depreciation begins when the asset is put into use and is recorded on the straight-line method over the estimated useful life of the asset. The following table shows the Office's capital assets (unaudited):

	2013/14		2012/13	
	Closing Cost	Closing Amortization	Net Book Value (Mar 31, 2014)	Net Book Value
Computer Hardware and Software	\$226,531	-\$193,194	\$33,337	\$27,840
Tenant Improvements	\$552,302	-\$368,202	\$184,101	\$294,561
Furniture and Equipment	\$78,324	-\$47,633	\$30,691	\$41,056
	\$857,157	-\$609,029	\$248,129	\$363,457

LEASEHOLD COMMITMENTS

The Office of the Information and Privacy Commissioner has a leasehold commitment with *947 Fort Street Holdings Ltd.* for building occupancy costs. Total payments for occupancy costs for the fiscal year 2013/14 was \$533,218.22. Payments to *947 Fort Street Holdings Ltd.* for office space for fiscal 2014/15 are estimated to be \$562,736.88

PENSION AND RETIREMENT BENEFITS

The Office and all eligible employees contribute to the Public Service Pension Plan which is a multi-employer, defined benefit, and joint trusteeship plan, established for certain British Columbia public service employees. The British Columbia Pension Corporation administers the plan, including payments of pension benefits to eligible employees. A board of trustees, representing plan members and employers, is responsible for overseeing the management of the plan, including investment of assets and administration of benefits.

The Plan is contributory and its basic benefits are based on years of service and average earnings at retirement. Under joint trusteeship, the risks and rewards associated with the Plan's unfunded liability or surplus are shared between the employers and the plan members and will be reflected in their future contributions.

The Office also pays for retirement benefits according to conditions of employment for employees excluded from union membership. Payments are made through the province's payroll system. The cost of these employee future benefits is recognized in the year the payment is made.

RESOURCES

Resources for public bodies and private organizations

Getting started

Guide to OIPC processes (FIPPA and PIPA)

A guide to PIPA for business and organizations

Early notice and PIA procedures for public bodies

Access (General)

How do I request records?

How do I request a review?

Time extension guidelines for public bodies

Guidelines for conducting adequate search investigations (FIPPA)

Privacy (General)

Guidelines to develop a privacy policy

Privacy proofing your retail business

Protecting personal information away from the office

Privacy guidelines for landlords and tenants

Privacy emergency kit

Comprehensive privacy management

Getting accountability right with a privacy management program

Accountable privacy management in B.C.'s public sector

Privacy breaches

Key steps to responding to privacy breaches

Breach notification assessment tool

Privacy breach policy template

Privacy breach checklist

Technology and social media

Cloud computing guidelines (public and private sector)

Good privacy practices for developing mobile apps

Public sector surveillance guidelines

Guidelines for overt video surveillance in the private sector

Use of personal email accounts for public business

Guidelines for online consent

Guidelines for social media background checks

To request copies of these resources, or to get more information about B.C.'s access and privacy laws, email info@oipc.bc.ca or visit www.oipc.bc.ca

VISION AND STRATEGIC GOALS

- A community where privacy is valued, respected and upheld in the public and private sectors;
- A community where access to information rights are understood and robustly exercised;
- A community where public agencies are open and accountable to the citizenry they serve.

STRATEGIC GOALS (2014-2016)

1. Uphold privacy rights and monitor protection of personal information and data.
2. Ensure public bodies and private sector organizations understand their responsibilities under the law.
3. Promote and advocate for an open, accountable and transparent public sector.
4. Help individuals understand the value of information rights and to make informed choices about the exercise of those rights.
5. Enhance the quality and capacity of the OIPC's people, systems, processes and culture.



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.

Office of the Information and Privacy Commissioner for British Columbia

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