

CHECK AGAINST DELIVERY

**SPEECH TO THE
SELECT STANDING COMMITTEE ON FINANCE & GOVERNMENT
SERVICES
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LOBBYISTS**

Good evening, Chair, Deputy Chair, and Members of the Committee.

I would first like to acknowledge and respect that we are meeting today on the traditional territories of the Ləkʷəŋjínəŋ-speaking people of the Songhees and Esquimalt Nations. As an Officer of this Legislature I also acknowledge that I am privileged to work with people across many traditional indigenous territories, covering all regions of our Province.

The Budget and Service Plan before you this evening encompasses both the Office of the Information and Privacy Commissioner and the Office of the Registrar of Lobbyists for British Columbia. As the Information and Privacy Commissioner I am designated the Registrar of Lobbyists under the Lobbyists Transparency Act.

To assist me this evening are Deputy Commissioners oline Twiss and Jeannette van den Bulk, along with Dave Van Swieten, Executive Director of Shared Services for the four Officers of the Legislature headquartered at 947 Fort Street.

Keeping with my past appearances Chair, and members of the Committee.... I want to shine a light on some of the more challenging files that our office has recently faced.

But first, I would like to explain work we have done to identify areas of efficiencies and savings for the Office. I

recognize that we don't have a significant budget increase request at this time, however I still believe it important to continuously identify areas that generate financial savings and improve the efficiency of our service.

As you are aware, we participate in a shared service model with the three other Officers of the Legislature located at 947 Fort. I credit the foresight of my predecessors in undertaking this arrangement because it negates the need for each office to separately hire key personnel in finance, HR, and IT positions. It also reduces office expense because we share in the use and cost of boardrooms, video conference facilities, and a common IT infrastructure. This model has worked well and has resulted in considerable savings over the past decade for taxpayers.

In a few moments I will detail the increasing demand for our office's services. I pause here to note that this demand has required us to hire additional staff and with that usually follows space pressures. What I can report to you this evening is that we have been able to leverage remote work arrangements to alleviate those pressures. This means we have held our office space requirements steady year over year, even with the recent increase to the complement of our adjudication staff – an increase I again want to thank the committee for recommending last fall.

We are also closely tracking expenditures at the employee level to identify recruitment lag, so we can reallocate resources when available to address internal pressures. In other words, we are making the most of every dollar.

Finally, we continue to take steps to refine our processes. Two examples: the redesign of our consent order forms, which will have the effect of reducing processing times for deemed refusal files, and the improvement of our service coverage for front line staff when an unexpected leave occurs. As I'm sure you can relate, this has been essential given events of the past few years when unexpected absences are unfortunately commonplace.

Taken together these various measures have made the Office more efficient and allowed us to minimize our request for additional funding at this time.

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I want to now turn to the recent work and accomplishments of the OIPC since my last appearance in April.

Demand for our services continues to rise. When we last met, I noted that our preliminary numbers showed a significant increase in core files. I can now confirm that last year we received a record-breaking 1,822 files – and we are on track to receive a similarly high number this year.

The same story can be told for adjudication. That team received 169 files, an all-time high and greater than our projection from last year.

Together, our teams processed more case files in the last fiscal year than was the case in each of the previous five years. This was only possible because each member of our team members is truly dedicated to improving service to British Columbians.

Even still, the demand for our services is outpacing the efficiencies and our higher productivity. Simply put, we are more productive in the face of greater demands, but we are on the verge of matters no longer being sustainable. And what is at stake is longer wait times for the public.

As you will see in the Service Plan portion of my submission, reducing wait times at all levels of the office is a top priority. We are working hard to complete the hiring of adjudicators we received funding for in this fiscal year to reduce the wait time for adjudication services. Our first competition filled 3 positions and a second is near completion.

Given these recent trends and the anticipated effect of soon to be implemented amendments to *Freedom of Information and Protection of Privacy Amendment Act*, the high demand for our services can only be expected to increase.

As our written submission states, we expect that recent amendments to the *Freedom of Information and Protection of Privacy Act* bringing in mandatory breach notification and privacy management programs will come into force in the near term.

The good news is these changes will result in keeping the personal information of British Columbians more secure. And to do so will require far greater interaction between our staff and public bodies around the province.

But with resources already stretched to the limit, these added responsibilities mean our hard-working team will need additional help.

Once the timing and content of the amendment's implementation become known, I will carefully review their impact and will return to you with a request for the necessary resources to ensure we are able to continue to effectively serve public bodies and the public alongside our priority to reduce wait times for applicants and complainants.

[PAUSE]

Meanwhile my office continues its responsibilities to report, investigate, and comment on privacy and access to information matters.

Several of those are now in progress, including our report card on the timeliness of government responses to access requests and our review of the impact of the application fee on the public's right of access to information. I will be able to discuss the outcome of these reports in more detail when we next meet in the spring.

If there were one word summarizing much of our work this year it would be coordination. Coordination with other Canadian regulators in the access to information and privacy space, especially in the latter. Working together with other authorities serves to streamline our operations and sends a clear message to organizations that we as regulators will not be played off against one another when personal information crosses interprovincial borders. It also relieves the organizations of the burden of having to deal with multiple

investigations.

It was in this spirit that Alberta, Canada, Quebec, and British Columbia, the four jurisdictions in Canada with authority over private sector privacy, renewed our Memorandum of Understanding which, amongst other things, sets out protocols for joint investigations.

The most recent high-profile example was our joint investigation report into an app Tim Hortons provided its customers. What we found was shocking – the app tracked users' movements every few minutes of every day, even when the app was not open. The investigation also found that Tim Hortons lacked a robust privacy management program that would have allowed the company to identify and address many of the privacy contraventions we found.

Tim Hortons clearly crossed a line with the surveillance of their customers' every movement. The report made it clear that organizations can't spy on their customers just because it fits their marketing strategy.

All three recommendations we made to fix the problem, including that Tim Hortons delete any of the location data in its custody, were agreed to by the company.

Another issue our office confronted together with federal provincial territorial colleagues concerned Facial Recognition Technology.

Every human face is unique. The underlying idea of FRT is to capture that uniqueness through a series of facial measurements. It is both a figurative and literal rendering of who we are as individuals. And it is for this reason that those renderings are considered highly sensitive personal information, and should not, and cannot be collected without the closest scrutiny.

We have called on governments to implement legal frameworks limiting police use of FRT and to put in place restrictions on circumstances where someone's image can be entered into a comparison database.

Together we also finalized guidance on the use of facial recognition by police agencies – guidance that assists them to make sure their use of FRT is privacy protective.

And, most recently following our September Federal Provincial Territorial meeting in St. Johns Newfoundland, we addressed the importance of strengthening and modernizing privacy protections in our healthcare system that will ensure your personal information is properly protected as the system becomes increasingly digitized.

Chair, there is one additional initiative of our Office I would like to draw the Committee's attention to. Like many authorities globally we are focusing on the impact tech companies are having on our children. And as any of us that have children these days will attest – kids spend a lot of time online. In doing so, they are subject to all manner of automated systems that can expose them to harmful content, put them in contact with adult strangers, profile them, track their precise locations, nudge them to provide personal information or prod them into staying online for hours on end.

These harms were underlined by the recent UK coroner's report into the suicide of 14-year-old Molly Russell. The coroner concluded that Molly died from an act of self-harm while suffering depression exacerbated by the

negative effects of online content. The coroner said that Molly viewed images of self-harm and suicide that, and I quote, “shouldn’t have been available for a child to see.” Those images that Molly watched were served to her by the apps she used, and the coroner was clear they were a factor in her death.

I share her story, because this is not something any child should ever have to see – not here in BC, nor anywhere else.

This is a global problem that has been the subject of many conversations amongst us regulators as we try to find a solution to protect our children.

I wish it were as easy as having one global privacy regulator who could wave a wand to deal with matters. We don’t.

It will be up to all jurisdictions that deal with private sector privacy to take a stand. This includes BC.

One solution gaining currency around the world is the idea of a Children’s Code. More specifically, legally enforceable Age Appropriate Codes of Practice, that would govern the activities of companies online.

Our discussions and work on this matter are ongoing. I believe British Columbia can lead the way in Canada. We can leverage the work already done by other regulators around the world to put up a safety net of enforcement for the privacy interests of children in British Columbia.

I now turn to the recent work of the Office of the Registrar of Lobbyists. I have three key responsibilities under the *Lobbyists Transparency Act* as Registrar; to establish and maintain a registry for lobbyists; to educate the public, lobbyists, media and public office holders about the Act; and finally, to oversee and enforce compliance with the LTA.

We aim to ensure the Registry is transparent. Our ORL team is continuously seeking ways to make it more user friendly for lobbyists and accessible for the public. Last year, for example, we reduced the requirement for users to do certain manual updates by adding an auto-complete function. We also streamlined the government funding reporting process in response to input from lobbyists. A system that is easy for lobbyists to use will yield better transparency for the public.

We continue to educate lobbyists and the public about the Act and Registry. Since our last appearance, we have issued three guidance documents, including simple “how to” instructions to help anyone searching the vast amount of information available in the Registry.

We continue to publish *Influencing BC*, our online newsletter that includes updates on recent legislative amendments, the popular feature *Who’s Lobbying Who*, a monthly summary of active or re-activated Registration Returns, and we have recently added a section identifying the Top Five Ministries or Provincial Entities that are presently being lobbied.

On the enforcement side, a number of investigations are underway. As required by the Act, any reports following from those investigations will be delivered to the Speaker to be tabled before all MLAs. Thereafter

they will be published on our website.

In my final few minutes with you this evening I will summarize the two elements of our 2023/24 budget request: the costs associated with inflation and the update to our Case Tracker system.

Most of my budget for the two offices consists of salaries and benefits. We have a staff complement of 52 positions.

As you are no doubt aware, on Monday evening of this week BCGEU members ratified a new agreement. In the budget submitted before you, the lift for my Schedule A staff is included. What remains unknown at this moment is the settlement's impact on excluded management salaries for both 2022/23 or 2023/24. We will of course assess those impacts before any return to this Committee.

For the forthcoming fiscal year, my office is faced with an adjustment of \$176,000 inflationary costs which is less than 2% of my overall budget. This includes \$115,000 for salary increments and adjustments in the current fiscal year; an increase in our Shared Services costs of \$76,000, and an increase in our building occupancy costs of \$30,000 with an offset savings in amortization costs of \$45,000.

I have reviewed our budget in detail and have determined that we have exhausted our fiscal flexibility and are unable to absorb these cost pressures without reducing staffing resources and disrupting service to British Columbians.

With respect the Case Tracker System and its replacement, my office's share of the cost was approved in 2020 and I have included in my submission an adjustment in coordination with the other offices that are part of the Resolve Software Implementation. This adjustment makes it a three-year project rather than a two-year project, as originally planned.

The combined operating budget request to cover these new and ongoing cost pressures and adjustments is therefore an increase of \$176,000, for a total operating budget of \$9,272,000 and a capital budget of \$261,000 for the 2023/24 fiscal year. The capital budget request includes a reduction of \$8,000 for inflationary capital costs including furniture, and a reduction of \$91,000 to support the adjusted schedule for the Case Tracker replacement.

This represents an increase of 2.43% for inflationary cost pressures and a reduction of 0.49% for the Case Tracker replacement project being delayed, for an overall operating budget increase of 1.93% compared to the current fiscal year.

Before I invite your questions, I want to acknowledge our OIPC team, the people I get to work with every day. Their dedication is second to none and it is a privilege to work with them.

I also want to acknowledge David Flaherty who died peacefully on October 11. David was a scholar of international renown who undertook ground-breaking work on privacy law long before it's high profile of today. His knowledge was put to practice when he accepted an appointment as British Columbia's first

Information and Privacy Commissioner serving from 1993 until 1999. He built the Office from the ground up, issuing more than 300 decisions shaping our approach and understanding of BC's access and privacy laws. He was a mentor to all Commissioner's that followed, David Loukidelis, Elizabeth Denham and me, and to countless others working in these fields.

To the last he was a staunch supporter of the OIPC, serving on my External Advisory Board supporting research, public education and policy work. He was deeply committed to his province and community -- volunteering countless hours to various boards and donating generously to many causes.

For all of this we are grateful and thank him. He will be deeply missed.

With that Chair, I thank you and the Committee for your care and attention to these matters. My team and I would now be pleased to answer any questions you may have.