



BC FREEDOM OF
INFORMATION
AND PRIVACY
ASSOCIATION

Questions for NDP leadership candidates on Freedom of Information and Privacy Issues

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***The BC Freedom of Information and Privacy Association
would appreciate receiving your views on the following questions.
Please do not be restricted by the format; feel free to elaborate on any point.***

Freedom of Information:

1. *What specific amendments would you make to the Freedom of Information and Protection of Privacy Act (FOIPP Act) to make it easier for requesters to obtain information and records under the act?*

A. I believe proactive routine disclosure, coupled with the creation of electronic reading rooms are measures that can improve access to information. They are practical solutions to long delays currently caused by obstructionist tactics like exorbitant fees, and time consuming appeals for information.

2. *Many have described the current government culture as resistant to freedom of information requests, particularly where they are “politically sensitive”. What specific reforms would you make to the FOIPP Act or the way it is administered in order to improve government performance regarding FOI requests?*

A. Exorbitant fees are intended to dissuade FOI requests. Routine proactive disclosure, and providing records in electronic format and electronic reading rooms, can significantly reduce the cost associated with FOIs. Revising the fee schedule to take into account changes in information technology and processing is also overdue. I would also require that the Act’s public interest section release both urgent and non-urgent information related to issues of public concern. I would also return the definition of the day to its ordinary meaning.

3. *Increasing use is being made of several “exceptions” in the FOIPP Act. In particular, section 12 (cabinet confidences) and section 13 (policy advice) are now used to block the release of factual or background information. What will you do to limit or narrow the current exceptions or limit their use?*

A. Changing definitions to specify what cannot be exempted is a place to start: the current government applies a broad interpretation of “policy advice and recommendation” to withhold information ie add statistical and scientific analysis, investigative opinion or report, internal ministerial audits, to the list of items that cannot be withheld under Section 13. Another measure is altering Section 12 to permit government to release information related to cabinet decisions. I also believe Section 13’s advice and recommendation exception should be narrowed to include only information which recommends a decision or a course of action by a government, minister or a public body.

4. *Governments in BC and elsewhere are gradually introducing procedures to routinely release information electronically without the need for FOI requests. What specific measures will you implement to bring about more routine disclosure and better compliance with existing requirements (Reference: S.70 of the FOIPP Act)?*

A. A proactive disclosure scheme should have certain key features: information should be relevant, timely, clearly presented. Certain categories of information should also be proactively disclosed, including operational information, statutes, decisions, meeting minutes and schedules. I would also examine how other jurisdictions have implemented proactive disclosure and open data sites to determine best practices that can be applied in BC. For open data to facilitate better research, innovation and meaningful public participation, the data sets must be updated on a consistent and transparent timeline.

Posting existing and updated policy manuals in an electronic reading rooms is one strategy to ensure the requirement of section 70 are being met.

The system should also be transparent about what information is not being proactively disclosed. Personal information should not be proactively disclosed.

5. *BC Ferries has been brought back under the Freedom of Information and Privacy Act in order to improve transparency and governance. However, BC Ferries has introduced policies and procedures that discourage FOI requesters (for example, by depriving media and other requesters of ‘first use’ of the records they obtain). What will you do to ensure that BC Ferries abides by the spirit and not just the letter of the law?*

This practice is problematic on multiple grounds, including that it misrepresents the concept of proactive disclosure. As an interim step, this system needs to be put on hold until OPIC’s investigation is complete. A policy balance needs to be struck between disclosure of requests for the purpose of reducing redundant requests – to save people the time of making a request when the information has already been made available - and respecting a requester’s right of first access.

6. *BC is the only province in Canada which does not have an Archives Act to ensure that important government records are preserved. Currently, government documents are not being properly placed in the provincial archives. What will you do to correct these inadequacies?*

7. *What will your government do to incorporate the principles of public access into the creation, preservation and destruction of records, including:*

- *a positive duty to create and maintain records of key government decisions, orders, actions, deliberations and transactions; and*

- *penalties for improperly tampering with or destroying records to avoid disclosure? What will you do to reinforce section 25 of the Freedom of Information and Privacy Act, “Public Interest Paramount” to ensure public bodies do their legal duty to release information (without request) when it is in the public interest?*

I would review best practices from other jurisdictions to determine the most effective solutions to these inadequacies.

8. *What will you do to reinforce section 25 of the Freedom of Information and Privacy Act, “Public Interest Paramount” to ensure public bodies do their legal duty to release information (without request) when it is in the public interest?*

I would require that the Act’s public interest section release both urgent and non-urgent information related to issues of public concern, and waive fees in cases where disclosure of information is deemed to be in the public interest

Privacy Protection

9. *The BC government is paying \$180 million (for openers) to introduce an ‘Integrated Case Management’ system which will allow government to demand more personal client information from outside service providers and to share personal information more freely across ministries and with partners outside government. To date the government has not provided a Privacy Impact Assessment for this project as required by law or conducted a public consultation as requested by the Information and Privacy Commissioner. Will you put the Integrated Case management system on hold pending proper impact analysis and public consultation? If not, what will you do to ensure British Columbians’ personal information is protected?*

Yes, I would put the ICMS on hold pending proper impact analysis and public consultation.

10. *Over the past three years, the Information and Privacy Commissioner has called on the government to put a hold on plans for widespread sharing of personal information until it introduces a White Paper outlining how it plans to protect personal information and conducts a public consultation with stakeholders on the subject. If elected, will you follow the Commissioner’s recommendation on this issue, and if not, why not?*

Yes.

11. *The government is introducing Electronic Health Records (EHRs) which will integrate personal health information from all points in the health care system and provide access to it in accordance with the new E-health Act. Privacy advocates have criticized the system for not providing adequate patient control over who may see their information. What specific measures will you introduce to ensure that health care patients in BC have the right and ability to control the use and protect the privacy of their medical records?*

I have expressed concerns about the lack of clarity and effectiveness of the government’s proposed disclosure directives and the overall lack of public education about how individuals can exercise control over their personal health information. I want to work with patient and privacy advocacy groups to ensure these concerns are remedied. Public

confidence in the system's ability to protect privacy is a requirement for our ehealth system.

Elections Act

12. The BC Elections Act requires anyone falling under the very broad definition of "election advertising sponsor" to register with Elections BC or face fines and up to a year in jail, no matter how little they spend expressing themselves. Will you undertake to narrow the definition of 'election advertising sponsor' and (as in the Canada Elections Act) bring in a minimal amount below which citizens do not have to register to express themselves on issues during an election?

Yes.

Please contact / send your response to:
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