



June 1, 2012

The Honourable Christy Clark
Premier
PO Box 9041 Station Provincial Government
Victoria, BC V8W 9E1

BY FAX: 250- 356-1385

Dear Premier Clark:

**Re: Undercutting the Freedom of Information and Protection of Privacy Act,
and the Information and Privacy Commissioner**

I am writing to you on behalf of the BC Freedom of Information and Privacy Association (FIPA) to express our deep concern about what appears to be an increasing tendency by your government to introduce legislation that undermines the information and privacy rights contained in the *Freedom of Information and Protection of Privacy Act (FIPPA)*.

As you have repeatedly stated that your intention is to lead the most open and transparent government in the country, we find these recent developments very troubling.

I will list the pieces of legislation introduced by your government during the Spring Session of the Legislature and our concerns with each of them. The Information and Privacy Commissioner, Elizabeth Denham, has already written to the responsible ministers with her concerns, which they have rejected. As the person responsible for the overall direction of this government, we are asking you for an explanation.

First, Bill 35, the *Pharmaceutical Services Act*.

- Not only does this bill prevent release of information about listing of generic drugs in response to a FOI request, it also appears to have excluded the operation of the Auditor General through its over-broad wording.
- The purposes for the collection, use and disclosure of personal information are also unreasonably broad.
- In addition, the Minister is given virtually unlimited power to 'prescribe' purposes for the collection, use and disclosure of personal information.

Second, Bill 37, the *Animal Health Act*.

- Section 16 of this Act prevents the disclosure under the *FIPPA* of any information under a long list of information related to animal disease outbreaks, and s.17 would make it an offence to disclose that information. This is clearly designed to prevent whistleblowers from alerting the media or the public about any disease outbreak.
- Section 60 allows the override of *FIPPA* and provides the ministry and others with broad powers and no oversight.
- Again, the government gives itself extremely broad powers by regulation with no oversight from either the Commissioner or the Legislature.

Third, Bill 39, the *Emergency Intervention Disclosure Act*.

- This bill will force individuals to undergo very invasive testing, and according to Commissioner Denham, your government was unable show “a significant demonstrated need” for this intrusion into their privacy rights.

Finally, Bill 47, the *Coastal Ferries Act*.

- Section 3 of this bill will allow for the elimination of proactive disclosure of information related to the cost of providing ferry service. As Commissioner Denham stated, “...service and financial information pertaining to essential government services, such as the information BC Ferries discloses to the Commissioner for the purpose of establishing price caps for ferry routes, is information that is both useful to the public and likely to be the subject of access requests. It is clearly in the public interest that the Commissioner routinely and proactively disclose such information.” We agree.

These bills were brought forward by your government despite the Commissioner’s objections. In debate on these various bills, your ministers did not come up with any persuasive arguments as to why our information rights and privacy protections should be diminished by any of these bills. In fact, a number of these measures seem to have come about because the government and some parts of the private sector are either unwilling or unable to provide evidence to the commissioner that their concerns are more than hypothetical. That should not be a good enough reason to overturn the information and privacy rights of British Columbians.

We look to you for an explanation of why your government has apparently decided to undertake a piecemeal repeal of transparency and privacy rights.

We look forward to hearing from you.

Yours Truly,

ORIGINAL SIGNED BY

Vincent Gogolek
Executive Director