



BC FREEDOM OF
INFORMATION
AND PRIVACY
ASSOCIATION

July 8, 2011

Vancouver Police Board
Vancouver, BC
c/o Shona McGlashan
Executive Director

BY E Mail

Re: Refusal of VPD to comply with Information and Privacy Commissioner's report

Dear Board members,

I am writing to you after discovering that the Vancouver Police department is persisting in its policy of simultaneously releasing responses to Freedom of Information requests. This is despite not only a report by the Information and Privacy Commissioner that such practices violated the fundamental purpose of the *Freedom of Information and Protection of Privacy Act*, but also a resolution of the Vancouver City Council committing the City to "...not engaging in the practice of simultaneous disclosure of materials resulting from a Freedom of Information request."

The officially stated position of the VPD on simultaneous disclosure is as follows:

If a request is made based on the claim that distributing our information is in the public interest, then we will continue to facilitate and assist that distribution by placing the document on our website. We believe strongly that the public interest is best served by providing them in a timely manner with an accurate, unedited, and uncondensed version of the truth to the full legal limits.

Although it is not stated explicitly in the policy, the practice of the VPD has been to post this information at the same time it is released to the person who requested it. In some cases, the VPD has been so enthusiastic about "serving the public interest" that it has actually posted the information **before** the requester gets a copy.

This policy is designed to frustrate requesters who seek information that could embarrass the police, and its management. These requesters are often, but not always, members of the media.

Although the Commissioner has declined to make the practice illegal, she has clearly stated that what the VPD insists doing actually diminishes the availability of information to the public. As Commissioner Denham put it in her report:

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[140] Given my finding that the simultaneous disclosure frustrates the purposes of FIPPA, best practice is for public bodies to delay posting of the responses for a *minimum* of 24 hours and to permit applicants who have particular concerns to request a further delay on reasonable grounds. A short delay in all cases will not negatively affect the public interest in proactive disclosure or impede government accountability. I firmly believe that in cases where the media or others have expressed a legitimate need for exclusive access to the information for a particular purpose, the public body should consider a longer delay that allows that need to be met within a reasonable period of time. [emphasis in original]

The VPD's refusal to abide by the Commissioner's ruling is particularly disturbing because a police force is supposed to enforce the law. It should not be playing fast and loose with its policies and practices. The VPD should not be doing anything that frustrates the purposes of a duly enacted law of this province. If the officer of legislature empowered by statute to determine these questions says something the VPD is doing frustrates the purposes of the law, they should stop doing it. It is not acceptable that they take the position that they will continue to do as they please unless a practice is specifically ruled to be illegal and they are ordered to stop it.

The Police Board, as the governing body under the *Police Act*, should order the VPD to get into line with the Commissioner's recommendations in this area.

This would also eliminate the current unfortunate situation, where the City of Vancouver and its council, chaired by Mayor Robertson, reaffirms its commitment to not use simultaneous disclosure while the VPD, chaired by Mayor Robertson, reaffirms its devotion to frustrating the purposes of FIPPA.

It is quite clear how this anomaly can be resolved – this Board should order VPD to abandon its position as the sole remaining public body explicitly defying the findings of the Information and Privacy Commissioner by engaging in simultaneous disclosure of FOI requests.

I look forward to answering any questions the Board may have at the July 20 meeting. We would be pleased to provide you and your office with whatever additional information and assistance we can about this disturbing problem.

Sincerely,

A handwritten signature in black ink, appearing to read "Vincent Gogolek". The signature is fluid and cursive, with a large initial "V" and a long, sweeping underline.

Vincent Gogolek
Executive Director
BC FIPA