

NEWS RELEASE
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BC Government uses magic word to hide records from FOI

If officials say a record is 'transitory', it disappears

VANCOUVER, B.C.—The BC government is continuing to misinterpret its own laws and policies to delete records they don't want to release, says the BC Freedom of Information and Privacy Association. A Canadian Press report released today shows that one in five BC Freedom of Information requests is sent back with no records.

<http://www.theprovince.com/news/Many+information+requests+continue+find+records/9597452/story.html>

Records released through FOI on the BC government's Open Information website shows how this disappearing act is done. In one apparently unsuccessful attempt to wipe the record, a senior bureaucrat instructs other officials (in red letters to emphasize the point) "...please delete all drafts of the materials and e - mail correspondence should be treated as transitory."

<http://www.openinfo.gov.bc.ca/ibc/search/detail.page?config=ibc&P110=recorduid:4641471&title=FOI%20Request%20-%20JTI-2013-00073>

According to government policy, a transitory record is one that relates to "temporary usefulness [...] needed only for a limited period of time in order to complete a routine action or prepare an ongoing record."

http://www.cio.gov.bc.ca/cio/priv_leq/foippa/backgrounders/drafts.page

Information and Privacy Commissioner Elizabeth Denham's 2013 report on the scandalous rise in the number of 'no responsive records' responses to FOI requests identified the misuse of the definition of 'transitory record' as one cause of the disappearance of records.

<http://www.oipc.bc.ca/investigation-reports/1510>

FIPA's experience with the Ministry of Health bears this out. A series of damning e mails about the Burnaby Hospital Consultative committee were leaked to the NDP last year, including one sent to former Health Minister Margaret MacDiarmid on her private e mail account, in violation of the law. Ms. MacDiarmid apologized for her actions.

However when asked for a copy of the email by BC FIPA in a FOI request, the Ministry could not come up with the Minister's correspondence, and told the Office of the Information and Privacy Commissioner that the record had been deleted as because it was 'transitory'.

http://fipa.bc.ca/library/Released_through_FOI/OIPC%20transitory%20response%20Burnaby%20Hospital.pdf

“Having now obtained a copy of the original mail, there is no way that it qualifies under any definition of ‘transitory’,” said FIPA executive director Vincent Gogolek. “The government is clearly abusing their own policies and the English language to keep information from being released.”

http://fipa.bc.ca/library/Released_through_FOI/Burnaby%20Hosp%20MacDiarmid%20Email.pdf

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