

IN THE MATTER OF THE INQUIRY

between

AN APPLICANT

and

**THE MINISTRY OF HEALTH
(Public Body)**

AFFIDAVIT

I, Wendy Taylor, 3350 Douglas Street, Victoria, British Columbia, SWEAR AS FOLLOWS:

1. I have personal knowledge of the matters in this affidavit, except where they are stated to be based on information and belief, in which case I believe them to be true.
2. I was responsible for an investigation conducted by the Ministry of Health (the "Ministry").
3. In 2012 the Ministry of was advised of several serious concerns regarding the Pharmaceutical Services Division ("PSD") of the Ministry. The concerns included inappropriate data access, standard of conduct violations, inappropriate procurement practices and contracting irregularities including suspected conflicts of interest. I was responsible for conducting the Ministry investigation to deal with those concerns (the "Ministry Investigation").
4. I was the Investigation Lead, responsible for the Ministry Investigation. That investigation started approximately June 2012.
5. I was assisted in the conduct of the Ministry Investigation at the beginning by Dale Samsonov, Ted Boomer, Laine Coopsie, and Greg Tonn.
6. On or about May 2012, the Ministry advised the Office of the Comptroller General (OCG) that it had commenced an internal investigation regarding several serious concerns involving the PSD. Based on the results of a preliminary assessment of the allegations, the Ministry requested that the OCG examine suspected financial improprieties in the procurement and contracting practices of the PSD.
7. The objectives of the Ministry Investigation were as follows:

- Ensure Government's contracting, research grant practices, data access arrangements and approval processes are in place and being followed by the Research and Evidence Development section of the PSD, MOH
 - Provide all findings and facts relating to allegations being reviewed.
 - Identify opportunities to improve government and ministries information contracting, granting, research and data access practices in the Research and Evidence Development section of PSD, MOH
8. The Ministry withheld information from the records requested by the Applicant on the basis that the disclosure of such information could reasonably be expected to harm ongoing law enforcement investigation, namely, investigations that were being conducted by the Ministry, the OCG and the RCMP at the time (the "Section 15 Information").
 9. I was involved in the processing of the Applicant's request for access to records. I believed that the disclosure of the Section 15 Information would harm the Ministry Investigation during the time that that investigation was ongoing.
 10. Now that the Ministry Investigation has been completed, the law enforcement investigations that could reasonably be expected to be harmed by the release of the Section 15 Information at this time are the ongoing RCMP and OCG investigations. Based on my discussions with Sergeant Andrew Cowan, of the RCMP and Stacy Johnson, of the OCG, I understand that they believe that the disclosure of the records at issue in this case could reasonably be expected to harm the ongoing OCG investigation.
 11. Based on my discussions with Stacy Johnson, OCG, I understand that the records containing the Section 15 Information are being considered by the OCG as part of the OCG Investigation.
 12. I have discussed with Stacy Johnson and we are in agreement as to the types of harm that could reasonably be expected to occur in relation to the public release of the Records. Those types of harm are as follows (hereinafter referred to as the "Harm Categories"):
 - Access to such information by potential witnesses could reasonably lead to those individuals altering their responses to questions asked in interviews conducted for the purposes of the investigation. This would hamper the ability of investigators to get at the truth. I referred to this category of harm during my review of the Records as "Category A";
 - Access to such information by potential witnesses or other individuals could reasonably lead to those individuals destroying evidence, including emails, database data and hard copy records. This would hamper the ability of an investigator to get at the truth. I referred to this category of harm during my review of the Records as "Category B";

- Access to such information by potential witnesses or other individuals could result in potential witnesses being less inclined to cooperate with an ongoing investigation. I referred to this category of harm during my review of the Records as “Category C”;
 - Access to such information would reveal information to the targets of the investigation, which could enable them to take steps to adversely affect or thwart the course of the ongoing investigations. I referred to this category of harm during my review of the Records as “Category D”;
 - Disclosure would identify anticipated witnesses, thus alerting those individuals that they might be interviewed, thus resulting in the potential for those individuals to thwart the ongoing investigation. I referred to this category of harm during my review of the Records as “Category E”.
13. I reviewed the Records and identified the Section 15 Information in the Records during the course of processing the Requests, including annotating the Harm Categories on each page to document the harm that could reasonably be expected to result to the ongoing (at the time) Ministry Investigation through the release of the Section 15 Information.
 14. I am advised by Cathy Riley, Senior Legal Assistant, and I believe it to be true that she has reviewed the copies of the Records that I annotated with the Harm Categories and that she has incorporated those categories, listed on each page of the Records, in the tables are attached and marked as *In Camera* Exhibit “A” to this my affidavit.
 15. I believe that access to the Section 15 Information to any witnesses and/or targets of the Ministry investigation could assist those individuals in adversely affecting or thwarting the course of the OCG or RCMP investigations.
 16. I believe that the release of the Section 15 Information, which I understand is also relevant to the OCG Investigation, would assist the targets of the OCG investigation in thwarting that investigation. I believe that the disclosure of that information would enable those individuals to learn of the focus of Ministry investigation (meaning the issues dealt with) and, by accurate inference, the OCG Investigation, given that the latter investigation will be dealing with many of the same issues.
 17. I believe that the release of the Section 15 Information would alert the targets of the PSD investigation that certain issues, allegations, agreements and/or other source documents were being considered by the Ministry and, by accurate inference, the OCG for the purposes of the OCG Investigation. Such individuals may or may not be unaware that the investigation was focusing on such issues and/or material. In other words, the disclosure of the Section 15 Information would reveal new information that someone could use to try to attempt to thwart the ongoing OCG Investigation, including potentially altering their responses to questions asked in interviews and/or potentially destroying or creating documentation that is relevant to the issues identified in the severed information.

18. It is not uncommon for people who have engaged in fraud to attempt to cover up their past actions. For such people, it is valuable to know the focus of an investigation. Once they have such information they can try and obfuscate and otherwise try to thwart the investigation.
19. During the course of the Ministry Investigation it became apparent to me that some Ministry employees were afraid of being interviewed. I understood that this was because they feared potential harmful consequences to themselves personally.
20. The Ministry Investigation was a serious and sensitive one. Some witnesses expressed a concern that any information they provided to the Ministry investigators would be kept confidential. We advised those third parties that the information they provided to Ministry investigators would be kept confidential.
21. **(In Camera portions in bold- this is information that is at issue in the inquiry)** The Ministry severed the names of the third parties where concerns were raised in relation to those individuals

as well as

any information that would reveal their identities, including references to their titles and to their PSD section.
22. I swear this Affidavit for consideration by the Information and Privacy Commissioner in this inquiry.

SWORN BEFORE ME at the City of
Victoria, British Columbia, this 6th day
of January, 2015.

A Commissioner for taking Affidavits
in British Columbia


Wendy Taylor

EXHIBIT "A"
TO THE AFFIDAVIT OF WENDY TAYLOR
RESWORN March 17, 2014
IN CAMERA