

BC Freedom of Information and Privacy Association

BC Election Questionnaire, BC Green Party Response

- 1. Do you accept the April 2017 report of the Ombudsperson into the firings at the Ministry of Health, and will you bring in whistleblower protection legislation by March 2018 as recommended?**

Yes, we accept the April 2017 Ombudsperson's report into the Ministry of Health Firings. Whistleblower protection legislation would be introduced under a BC Green government as recommended by the Ombudsperson.

- 2. Both FIPA and the Information and Privacy Commissioner have recommended the creation of a 'duty to document' in the Freedom of Information and Protection of Privacy Act. The Special Legislative Committee reviewing FIPPA agreed with this recommendation. FIPA has called for the creation of penalties under FIPPA to discourage interference with information rights, as have the Commissioner and the Special Committee.**
  - a. Will your government act on the Commissioner's recommendations to put a "duty to document" in the Freedom of Information and Protection of Privacy Act?**
  - b. Will your government support the creation of penalties against those who interfere with information rights?**

Yes, a BC Green government would incorporate clear language that outlines the responsibility that government officials have to document the appropriate steps of the decision-making process to ensure an open and transparent government. We would consult with the Commissioner to determine the appropriate penalties for interference with information rights.

- 3. Certain sections of FIPPA that exempt records from release, specifically cabinet confidences (s.12) and policy advice (s.13) have long been criticized as overly broad and in need of change. What specific changes, if any, would you make to those sections?**

The BC Liberal government have used s.12 and s.13 to exempt records in a way that seem to stretch beyond the intention of the section. A BC Green government would consult the Commissioner and determine what, if any, additional guidelines need to be added to legislation or policy to ensure an appropriate use of these sections.

- 4. In 2017, the Special Legislative Committee reviewing FIPPA repeated the recommendation from the 2010 Committee that subsidiaries created by educational public bodies like colleges and universities should be made subject to the Act. Will your government make this change and if not, why?**

Yes, a BC Green government would extend the Act to cover educational public bodies, like colleges and universities, in a manner advised by the Commissioner.

- 5. Section 25 of FIPPA states that if government records are deemed to be in the public interest, they must be disclosed, even if no request has been made. FIPA, the Commissioner [and the Special Committee] have called for legislative change to this section to bring it into line with how the Commissioner interprets this requirement.**
- a. Do you agree that Section 25 needs to be rewritten to reflect this?**
  - b. What other steps would you take to bring public bodies into line with their statutory duty to disclose under this section?**

Yes, a BC Green government would clarify the legislation concerning section 25 to ensure that disclosures in the public interest were made, even in absence of a formal request. A BC Green government would consult with the commissioner regarding any additional steps that would be required to bring public bodies into line with their statutory duty to disclosure under Section 25. We would expect recommendations to include ensuring that whistleblower legislation covered the Section 25 duty to disclose, to protect those who are acting in the public interest.

- 6. As the number of data breaches continues to grow, there have been repeated calls for joining other provinces and federal government in bringing in mandatory data breach notification. Special Legislative committees examining both the public and private sector privacy laws have recommended including mandatory data breach notification in both the Freedom of Information and Protection of Privacy Act (public sector) and the Personal Information Protection Act (private sector).**
- a. Will your government bring in mandatory data breach notification for the public sector?**
  - b. Will your government bring in mandatory data breach notification for the private sector?**

Yes, mandatory data breach notifications would be introduced for the public sector under a BC Green Government. A BC Green government would consult with the commissioner and relevant stakeholders to explore expanding this requirement to private sector organizations that hold personal information.

- 7. The B.C. Election Act has no lower limit for third party election advertising unlike most jurisdictions in this country. This means people or groups spending little or no money can face jail or fines for failing to register with the government during an election. This has resulted in absurdities like [Elections BC requiring](#) homemade pamphlets to be handed out rather than put in mail boxes, and limiting the number of such pamphlets to 25 per person handing them out.**
- a. Will your government end this ridiculous situation by bringing in a minimum spending amount of \$500 like most other jurisdictions in Canada?**
  - b. If not, why not?**

Yes, a lower limit would be introduced that balances the need to regulate third party advertising with the need to eliminate the over-application of third party election advertising regulation.

- 8. BC has been without a full time Information and Privacy Commissioner since July 2016, with no replacement until later this year at the earliest. Clearly there is a problem with the appointment process. What will your government do to ensure this situation never happens again?**

The BC Green Party agrees that the current situation cannot be allowed to continue or to happen again, and changes to the process should be introduced. We would consult with the Privacy Commissioner and other parties in the house to determine the best method to ensure that the appointments process is enhanced and expedited.

- 9. The BC government now posts the texts of Freedom of Information requests it receives even before releasing any information the requester. This practice has been criticized by FIPA and many others as measure that can intimidate requesters while providing no additional transparency on government operations.**
- a. Do you agree with this policy, and if so, why?**
  - b. If not, will your government end this practice?**

The BC Green Party would consult with the Privacy Commissioner before determining a course of action on this policy. Our priority would be to ensure that requesters were not being placed into a position of intimidation, and would explore remedies if it was found that this was indeed the case.

**10. The [United States](#) has again identified BC's domestic data storage requirements in the Freedom of Information and Protection of Privacy Act as a trade barrier. With renegotiation of NAFTA set to begin in the near future, what will your government do to ensure our privacy law is protected?**

With numerous data breaches in the last 4 years, it is clear that BC must re-examine the legislation that governs the data storage requirements it uses for housing private personal information. Beyond international trade, BC needs to update its policies and practices to catch up to an increasingly digitized world. A robust review of data policy would take place with a mandate to find and implement needed reforms.