



BC Freedom of Information and Privacy Association



September 15, 2020

Micheal McEvoy
Information and Privacy Commissioner
PO Box 9038 Stn. Prov. Govt.
Victoria B.C. V8W 9A4

RE: Ministry of Health Refusal to Disclose COVID Case Information with Indigenous Governments

Dear Commissioner McEvoy,

We are writing to you on behalf of the BC Freedom of Information and Privacy Association and the British Columbia Civil Liberties Association ("BCCLA") to express our support for the Heiltsuk First Nation, Nuu-chah-nulth Tribal Council, and Tsilhqot'in National Government's requests for information to the Ministry of Health, and the expeditious resolution of their resulting complaint with your office.

We have recently learned that despite repeated requests, the Ministry of Health refuses to disclose information relating to presumptive and confirmed COVID cases proximate to these rural Indigenous communities. We understand that the following has been specifically requested:

- The location of proximate presumptive and confirmed cases,
- If the person (who has COVID) has travelled to the particular Indigenous Community in the last 14 days, and
- The name of the infected person, if (a) they are a member of the Indigenous community, and (b) the Indigenous community will use the name for contact tracing purposes

In our view, the Ministry of Health should have provided this information pursuant to section 25 of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), because the requested information is about a risk of significant harm to the health and safety of a group of people.

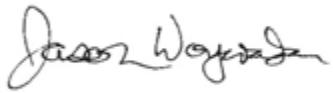
The Ministry's failure to comply with FIPPA is unacceptable given the history of colonization, including how previous pandemics have disproportionately harmed Indigenous communities and stolen their Elders.

In light of the BC government's Declaration on the Rights of Indigenous Peoples Act (DRIPA), which enshrines the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and requires BC to "take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration," the Ministry's repeated refusals are simply reprehensible.

The Heiltsuk First Nation, Nuu-chah-nulth Tribal Council, and Tsilhqot'in National Government have rights to self-determination and self-government, and to be actively involved in developing and determining programs for maintaining the health and well-being of their people. By refusing to share the requested health data (with appropriate confidentiality provisions), the Ministry of Health is essentially preventing these communities from exercising the very rights that the province recognized when it enacted DRIPA.

This is a very serious matter; lives are at stake, as are fundamental Indigenous rights to self-determination. The province's repeated commitments to "reconciliation" appear to be empty when such reasonable requests for information by Indigenous communities to preserve the health and safety of their own members are rebuffed. We are optimistic that you will recognize the urgency of this complaint and seek to resolve it without delay.

Sincerely,



Jason Woywada
Executive Director
BC Freedom of Information and Privacy Association



Meghan McDermott
Interim Policy Director
BC Civil Liberties Association