

More Questions than Answers

The Minister’s justifications on Bill 22 lead to more questions than answers. Based on her statements in the house on [Thursday](#) here are the pieces of information we will be looking for.

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General Questions

There is a problem in the legislation as it is currently drafted that is not allowing us to provide the services that we need to British Columbians without the order.

- How does the Minister support getting rid of data residency requirements when law enforcement in the countries where our data is likely to be held is lobbying for an end to end-to-end encryption which is the only guarantee of its security?

Through this act we're actually going to be increasing public bodies' disclosures.

- The changes increase the exclusions available and by the Ministers own admission the Bill does nothing to increase proactive disclosure.
- How does this act address the growing concerns around a culture of secrecy in government where people who previously received information without the need for a Freedom of Information request are now being forced to make FOI requests? It appears the increase in requests has nothing to do with more mischievous applicants, and everything to do with more people being forced to apply?
- How does the Act ensure that with the addition of a fee and the value judgement by this Minister on different applicants this doesn't become an arbitrary tax they can apply to those they dislike, create a revenue stream from taxpayer funded information and discourage people from finding the truth?

We will actually be adding public bodies to the schedule as well.

- Emails sent to the Department in the Fall of 2020 show they do not know the actual number nor have a list of current public bodies.
- Can the Minister give us a precise number of public bodies currently covered by FIPPA?
- Does the Minister have contact information for all these public bodies?
- If the ministry can't quantify how many public bodies the act applies to with contact information how can the Ministers claim be believed that she is increasing the application of the act?

I believe that this act is going to increase transparency to public bodies by adding ministerial power to add subsidiary entities such as new public bodies. This is important work, as the member well knows, to be able to increase the amount of public bodies and subsidiaries, the entities, that actually fall under freedom of information and privacy protection, the amount of bodies that can actually be as new public bodies

- How does the minister support changes to the act that move decisions to regulation which is drafted behind closed doors as advice to cabinet rather than including provisions in legislation that are subject to debate in this house?
- How will reducing the opportunity for public review and debate serve the public when regulations are a political decision made by the minister?

We're going to be increasing public bodies' ability to disclose to Indigenous governments and entities.

- Great. There have been long standing concerns with the fees and the inherent conflict of interest that the provincial government is in, where they get to both hold the information and determine who they get to the release to.
- Will this also reduce the fees to those entities and their representatives? Will Indigenous peoples and their entities now be subject to the same transparency tax as everyone else?
- What will be defined as an indigenous entity?

It requires public bodies to seek consent from Indigenous governing entities in order to disclose information that's culturally sensitive through FOI, and it adds two new public bodies,

- There are important considerations of this exclusion in a modern context and who gets to decide on what is released and when.
 - What is the definition of culturally sensitive?
 - What is considered an Indigenous governing entity?
- For example, in the Fairy Creek or Wet'suwet'en instances, what happens when different nations or decision-making authorities within a nation disagree on release?
- How will this be administered in a way to ensure it isn't just the latest excuse the provincial government uses to control the narrative despite public interest that crosses cultural and territorial boundaries turning nation against nation and communities against themselves?

the B.C. Association of Chiefs of Police and the B.C. Association of Municipal Chiefs of Police, to the schedule as well.

Great

Given changes on the world stage and GDPR specifically was there any consideration on how this bill would affect qualification for sub jurisdictional equivalency?

On the extensive engagements the minister shows happened while only providing a summary we are left to raise the following questions

On the May 28th ADM roundtable:

On May 28, 2021, we had an ADM round table. The audience was K-to-12 school districts. We had Comox Valley school district, Coquitlam school district, greater Victoria school district, Maple Ridge–Pitt Meadows school district, MyEd B.C. service management council and the Ministry of Education.

- Was this group in favor of or calling for an end to data residency?
 - What was the discussion about the end of data residency and the prospect of these public bodies charging a fee to gain access to information?
 - What were the discussions about the prospective loss of end-to-end encryption and what it would mean when also getting rid of data residency?
 - What concerns were expressed over the loss of data residency and subjecting the personal information of British Columbians to foreign governments?
 - What discussions were held around the concerns of a culture of secrecy and that information previously released without the need for an FOI was now being forced into the FOI process?
 - Will full and complete minutes of any such meeting be available for review?
-
- Which school districts outside of the lower mainland and Vancouver Island were consulted?
 - With Comox Valley school district in the room was there discussion regarding the use of the federal safe return to schools fund to put in place permanent overt video surveillance on its school buses as part of its pandemic response? <https://fipa.bc.ca/2021-fipa-bctf-joint-letter-to-ministers/>
 - Does the Minister feel that overt video surveillance internal to school bus improves the privacy of students and is an important part of pandemic response Or normalizes concepts of surveillance of children in formative years by public bodies and authorities?
 - We can all agree the safety of children is important. How does the Minister see this Bill addressing the use of these effective mobile red-light cameras?

On the June 3rd ministerial roundtable with health authorities.

On June 3 we had a ministerial roundtable with health authorities and other representatives. We had Doctors of B.C., First Nations Health, Fraser Health, Island Health, Northern Health, Provincial Health Services Authority, Vancouver Coastal Health, Ministry of Health.

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- Was there any discussion about addressing the patchwork approach of data management across the authorities and the issues this creates as found by then Commissioner Denham in her 2014 report?
 - <https://www.oipc.bc.ca/special-reports/1634>

On the June 8th ministerial roundtable with the tech sector.

On June 8 of 2021, we had a ministerial roundtable of the B.C. tech sector. We had Charitable Impact, CoPilot AI, Flawless Inbound, Medimap, Omnae Technologies Inc., Planetary Remote Sensing, PressReader, ReadyMode, Ripen Networks Inc., SkyHive, Sophos, Streamline Athletes and representatives of the Ministry of Jobs, Economic Recovery and Innovation.

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On the June 15th stakeholder committee presentation.

On June 15, we had a stakeholder committee presentation, and the ministry privacy officers for all government ministries for the ministry privacy officers.

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On the June 15th public survey.

On June 15, we launched our public survey on information access and privacy. That's to the general public. The engagement occurred from June 15 to July 15, 2021.

- There seems a significant increase from the prior engagement. What was the ministries view of the response?
- If as the minster says a decision was made early in the year to begin billing for FOI fees why was this not included as part of the public survey for response?
- If as the minster says a decision was made to end data residency because the act was failing British Columbians, why was this not included as part of the public survey?
- The survey results indicate that British Columbians view data residency as an important consideration. Why is the public opinion around the importance of maintaining data residency being discarded in favor of the bureaucracies' desire to get rid of it?
- When will the full and complete responses be available for review?

On the June 17th stakeholder committee presentation.

On June 17 was the information security advisory council. Again on June 17, we had ministry chief information officers of all government ministries.

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- What was the discussion surrounding penalties for deleting information after an FOI request?
 - What was the discussion surrounding penalties for deleting information prior to an FOI request counter to the Information management act?
 - Were there discussions regarding the recommendations to have the IMA made part of FIPPA to ensure independent third-party oversight and a complaints mechanism?

On the June 17th ministerial roundtable with post-secondary.

On June 17 we had a ministerial round table of post-secondary institutions, the B.C. Institute of Technology, College of New Caledonia, Kwantlen Polytechnic University, Research Universities Council of B.C., University of British Columbia, Thompson Rivers University, University of Victoria, Vancouver Community College, Ministry of Advanced Education and Skills Training.

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- What were the discussions that came forward over the loss of data residency affecting domestic and international students subjecting their information to foreign governments or data processors?

On the June 24th ministerial roundtable with local government

On June 24, we had an ADM round table of local governments. We had the capital regional district, city of Coquitlam, city of Kamloops, city of Langford, city of Nanaimo, city of New West, city of Surrey, Cowichan Valley regional district, district of Fort St. James, district of Highlands, district of Sooke, district of Tofino, the Local Government Management Association, regional district of Fraser-Fort George, regional district of Central Okanagan, regional district of East Kootenay, regional district of Kootenay-Boundary, town of Qualicum, B.C."

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On the July 8th stakeholder committee presentation

On July 8, we had a stakeholder committee presentation. That was the broader public sector chief information officers, and that was with Interior Health Authority, B.C. Pensions Corp., Ministry of Health, WorkSafeBC, Ministry of Education, B.C. Ferries, ICBC, Fraser Health, VIHA, our Citizens' Services, OCIO, Northern Health Authority, B.C. Hydro, TransLink, B.C. Lottery Corp., the PHSA, the FNHA.

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On the July 21st IPSOS Omnibus Survey

In all of these engagements the minister does not mention the Ipsos Survey.

- When was the decision made to hold the omnibus survey in addition to the public engagement?
- Why was there a need to hold an omnibus survey in addition to the public engagement given the level of response in the engagement?
- How was the provider of the omnibus survey decided upon?
- What open procurement and contracting process was used to fulfill this engagement?