

March 13, 2023

The Honourable David Lametti
Minister of Justice and Attorney General of Canada
Sent by email: david.lametti@parl.gc.ca

The Honourable Marc Miller
Minister of Crown-Indigenous Relations and Northern Affairs Canada
Sent by email: marc.miller@parl.gc.ca

Dear Ministers,

RE: B.C. Freedom of Information and Privacy Association fully endorses the National Claims Research Directors February 15, 2023 letter to Ministers Lametti and Miller calling on Canada to immediately withdraw new, egregious informal access to information requirements that compromise First Nations' access to justice

Dear Ministers Lametti and Miller,

Please be advised that the B.C. Freedom of Information and Privacy Association (FIPA) fully endorses the open letter sent to you by the National Claims Research Directors (NCRD) on February 15, 2023, calling on your government to immediately withdraw new requirements relating to the informal access to information process.

FIPA shares the NCRD's deep concerns with what we understand to be new, unilaterally developed and egregiously inappropriate requirements for accessing departmentally held documents through the informal access to information process.

The new requirements being imposed on researchers – authorized to conduct specific claims research on a First Nation's behalf via a band council resolution – represent unconscionable and legally unjustifiable overreach on the part of CIRNAC and ISC. Since Canada is a defendant in a First Nation's specific claim, disclosing the level of detail to Canada as part of an access to information request for a First Nation's own departmentally held records may harm a First Nation's interests and the just and fair resolution of their claims.

While Canada asserts that it must stringently adhere to its obligations under the federal *Privacy Act*, it continues to ignore its fiduciary obligations to First Nations to disclose records in its possession that are necessary for First Nations to validate their claims. Canada also continues to disregard its legal obligations

under the *United Nations Declaration on the Rights of Indigenous Peoples*, and the *UN Declaration on the Rights of Indigenous Peoples Act* (UN Declaration Act). Canada, in passing the UN Declaration Act in 2021, must comply with Article 19 of the UN Declaration which affirms that any new policy, procedure, or legislation that impacts First Nations cannot be developed without us, or without obtaining our free, prior, and informed consent prior to implementation.

We stand with the NCRD and call on you to direct your Access to Information and Privacy staff to immediately withdraw the new informal access requirements and initiate substantive discussions with First Nations and their representative organizations so that research on specific claims can continue without delay.

Sincerely,



Mike Larsen, FIPA President

Jason Woywada

Jason Woywada (Mar 10, 2023 16:04 PST)

Jason Woywada, FIPA Executive Director