

What Price Accountability?

Funding cutbacks and the current financing of the B.C. Freedom of Information process (1997-2000)

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Chapter One -

FOI CUTBACKS AND THE CAMPAIGN FOR OPEN GOVERNMENT

When the British Columbia government passed its landmark Freedom of Information and Protection of Privacy Act (FOIPP) in 1993, it was widely hailed as the finest such statute in Canada. Under the ruling New Democratic Party, then-premier Mike Harcourt told the public that “fees would not be a barrier” to accessing government records and their personal files.

For the first two years, say FOI observers, the system worked fairly well. Politicians and bureaucracy were struggling to adapt to the new culture of open government, but still determined to give it a try.

Then, perhaps inevitably, a chill set in as the government was hit by an unprecedented series of embarrassments made possible by FOI disclosures of information that would

have been unthinkable in previous decades. These included phone records from Harcourt's office and internal memos that suggested then-Premier Glen Clark misled the public by predicting a provincial budget surplus instead of a deficit. (These records were then used as ammunition in court by a citizens' group seeking to topple the narrowly-elected NDP administration for "electoral fraud.")

After Clark took over as NDP premier from Harcourt in the spring of 1996, the culture of open government was sharply reversed. At a banquet with media present, Clark quipped to the effect of "If I had won the battle in cabinet, we wouldn't have Freedom of Information."

Those who presumed Clark was merely joking may have been disquieted by the final report (1998-99) of retiring Information and Privacy Commissioner David Flaherty. Therein he wrote, "the media would have had to be my ultimate defenders, as surrogates for the public, if the politicians and government of this province had chosen to turn against the Act by, for example, abolishing it. There have been times when I did not regard this as an idle threat."

But since cancellation of the Act was and is not a realistic political option, say critics, the government instead reverted to various means of seriously handicapping the FOI process. This included sweepingly applied exemptions to disclosure, lengthy delays beyond the legally mandated 30-60 day response time, and - most damaging of all - high search and copy fees for records.

A Legislative committee was accepting submissions on amendments to the FOIPP Act, but critics said the Clark government was treating the committee as "irrelevant" by raising fees (through order-in-council) before hearing its advice.

Dan Miller, the minister formerly in charge of FOI administration, raised a furore in March 1997 when he complained that the current FOI fee schedule is "an explicit subsidy to major media conglomerates." He asked, "why should the taxpayer subsidize research for Hollinger?" (Hollinger is the parent company of Southam Press, published of the Vancouver Sun and Vancouver Province.)

FIPA said Miller was off-base on at least three counts. First, the media account for only about four percent of FOI applicants. Second, the media (unlike many other commercial users of the Act) serve the wider interest by providing vital information which the public could not otherwise obtain. Third, the hardest hit media would be not conglomerates but small community and alternative media who can least afford high fees. Under vocal protests, Miller backed down from his position a month later.

As well, local public bodies and professional associations bitterly complained they had to bear the new “high” cost of their FOI administration without any funding aid from Victoria. In 1996, the Union of B.C. Municipalities passed a resolution calling for “full cost recovery” for FOI requests, a move that would disenfranchise hundreds of requesters. A common complaint was that FOI processing interfered with their work “helping the really needy government clients.” The B.C. Law Society even asked the government to end the exemption from fees for one’s own personal records.

B.C.’s minister for FOI management Andrew Petter had claimed cuts would mean no loss in FOI service. But a major study by Prof. Alasdair Roberts of Queens University (<http://qsilver.queensu/~foi/>) dismissed the value to government of fee hikes. “It is clear that the revenue increases that would be obtained through fee changes are negligible,” he wrote. “Free increases are a method of cost-avoidance; they produce savings mainly by deterring large numbers of citizens from exercising their access rights.”

As we shall see below, the B.C. government passed several regulations which reduced the public’s ability to access information. Beyond such directives, an entire negative change in political culture was conveyed downward to the civil service by ministers. This gave rise to a vigorous counter-campaign by open government advocates that blunted the government’s aims.

In a memo of March 30, 1998 stamped Strictly Confidential, Treasury Board chair Joy McPhail wrote to the Environment Minister: “During the 1998/99 budget process, Treasury Board and Cabinet approved changes to the government’s organization and approach to FOI.

“After three years of experience with the FIPPA, it is apparent that a disproportionate amount of personnel time is being devoted to this area and a insufficient proportion of the total costs are being recovered. Total FOI-related recoveries are approximately \$50,000 per year, while the cost to ministries has been estimated at \$20.0 million.

In January 1999, Andrew Petter - the Minister of Advanced Education, Training and Technology, which oversees FOIPP - wrote more specifically: “Personal information requests (those provided free of charge) constitute roughly 60 percent of all requests received under the Act. Last year the government collected only \$40,000 in fees for the remaining 40 percent of requests while spending \$21 million annually to administer the Act... Access to one’s personal information will continue to be provided without cost.” Other applicants are charged only after the first three hours search time; in some cases, fees are waived, generally when the applicant pleads an inability to pay or declares to be working for the “public interest.”

(One might add that if the government complains that “frivolous” FOI requests are costing too much, it always has the option of applying FOIPP Act section 43, which bars “systematic and repetitious requesters.”)

“To assist you in reducing costs and improving recoveries related to FOI, while continuing to adhere to the requirements of the FIPPA, the following measures have been developed. These will be implemented across government ministries and the ISTA immediately: [All the measures deleted under FOIPP Act sections 12 and 13, ie. Cabinet confidences and Policy advice.] If your ministry recovers more than the requested amount, the excess may be used to offset the reduction to your FOI budget.”

On April 7, 1998, then-Information Commissioner Flaherty made an unprecedented public statement to warn of cuts of 60 percent in some FOI offices. FIPA feared that these cuts could lead to a doubling in FOI applicant users fees.

FIPA executive-director Darrell Evans said Treasury Board had sent directives to ministries to target their FOI offices for cuts instead of spreading the cuts evenly within each ministry. “What other government program is having its budget cut in half?” he asked. “This is clearly a surgical strike against FOI.” He added that some ministers disagreed with this directive because their FOI offices were already overburdened.

Troy Lanigan of the Canadian of the Canadian Taxpayers Federation stated, “Even the CTF doesn’t buy this as a cost-cutting measure. Complaints about cost are a smokescreen to deny citizens access to information.”

In response in June 1998, Kevin Scott of FIPA announced “the largest and most important campaign FIPA has ever organized - our Campaign for Open Government.” This was an unprecedented non-partisan network of more than 50 non-profit and professional groups, and membership continued to grow in 1999.

Its primary focus was to rally all the users and supporters of the FOIPP act throughout the province, and urge them to send a message to the provincial government. “British Columbians are fed up with secretive government,” its press release stated. “Public business is OUR business, and we deserve the facts.”

As managed by Scott, the COG undertook many actions in the spring of 1998, including:

- The Campaign for Open Government Action Line (604) 878-4988
- Fundraising (approximately \$10,000)

- Province-wide print and radio ad campaign. (At least \$50,000 worth of media space and time was donated.)
- Provincial “Call in Day” to MLA’s in Victoria, June 30. More than 300 calls of protest were sent to Premier Clark’s office that day from a CoG information display station at the Vancouver Public Library’s main branch.
- An internet page with hot-links to provincial MLA’s: www.ilinc.net/bcfoi
- The development of an electronic “action alert” network
- Letter-writing campaign
- Bulletin sent to all B.C. MLAs.

The Campaign is dormant now but could be reactivated at any time.

Two months later, in a letter of August 13, 1998, the Information, Science and Technology Agency (ISTA, the provincial government branch that coordinates FOI administration) informed FIPA that “there has been no decision made to increase fees related to the Freedom of Information and Protection of Privacy Act.” ISTA added that it did not have up-to-date records on budgets, budget cuts or proposed fee increases.

Then in the fall of 1998, the ISTA’s Chief Information Officer sent memos to Deputy Ministers, “to implement decisions of Cabinet” (actually Treasury Board, the cabinet committee that sets government funding priorities) on fees; these changes were ordered to be effective as of July 1, 1998.

In October 1998, government ordered the FOIPP Act Policy and Procedures Manual amended so ministries would “maximize” FOI fee collection. Before then, fees falling below \$50 were waived, but this practice was to be stopped. All fees would be charged unless in the opinion of the head of the public body there were “compelling reasons for not levying the fee.” (It was not stated how “compelling” was to be decided in practice.)

In November, government ordered the Manual amended again so that all requests for a fee waiver must be made in writing and state the rationale for requesting it. An applicant claiming an inability to pay would have to prove in writing that he/she could not afford the fee and this would be subject to confirmation by the public body. Public bodies would have to consult with the Chief Information Officer before waiving fees on “any other grounds.”

In December, government ordered the Manual amended again so to introduce an invigilation/staff attendance fee for supervising the FOI applicants' viewing of records. (This fee would fall under the category of "producing a record" in FOIPP regulation, section 7.)

It is not clear how rigorously these three directives are followed in practice; there have been no other such directives since then.

In November 1998, the Legislative clerk of committees - on behalf of the Legislative Committee reviewing the FOIPP Act - asked ISTA for a record of staffing levels in FOI offices.

ISTA asked each ministry for their number of Full-Time Equivalent (FTE) staffers budgeted from 1997/98 and 1998/99 estimates (it was 87.48 and 76.23 total, respectively), and the number of FTEs as of November 4, 1998 (70.03 total), in their information and privacy offices. The detailed result, four months later, is attached in the Appendix. (ISTA maintains this was a one-time survey, and it does not regularly keep such statistics.) Some Ministries merged FOI offices as a cost savings measure.

It is very hard to tell which of the cuts ordered in 1998-99 had actually been followed. Almost all the cuts would be in Full Time Equivalent (FTE) workers, since there is very little else to cut.

"Treasury Board has ordered wildly unrealistic cost recovery targets for FOI offices (revenue to be generated from fees) and the equivalent amounts have been pre-emptively deducted from their budgets." wrote FIPA's Darrell Evans. As seen in the attached paper, the second column also represents a form of "cut," but as for the hoped-for recovery through fees, these were nearly impossible to achieve and rarely were. Certainly the worst fears of FIPA were not realized. (See FIPA's 1998 annual report, appendix H.)

The Campaign came too late to forestall the cut that had been ordered in the 1998-99 budget, which was set by Treasury Board by September 1997; this was a FOIPP reduction of \$1,927,000 and a FOIPP recovery of \$981,000. (Treasury Board has no such figures for the 1999-2000 year, saying the cut of last year was an irregular event.) It is very hard to tell what degree of cut ordered that year had actually been done, but we believe it to be about 10-20 percent instead of the feared 50-60 percent. Certainly the NDP's hopes for fee recoveries were grossly overstated.

Liberal MLA Geoff Plant believes the Campaign was "very effective" in slowing the pace of cutbacks. It is hard to measure this precisely, for one would need to compare the 1998-99 overall FOI budget with a 1999-2000 one. Treasury Board has told FIPA

that it does not regularly gather such figures, and has none for the 1999-2000 year; the 1998-99 survey of each ministry - from which one could add up the reduction and recovery costs to a total - was just a one-time effort for the FOIPP legislative review.

One ministry was hardest hit, though. Children and Families which Petter says receives more FOI requests than the entire FOI systems in some other provinces - had its Information and Records Services branch (IRSB) cut back from 24 full-time equivalent workers down to 14. But the government claimed that the number of FOI requests had decreased by 28 percent from 1997 to 1998, so the cutback effect would not be so severe.

This move partly led to the ministry's FOI response time backlog rising from two months to seven months, but the government recently granted the ministry five more FTEs to help reduce the backlog. Most of the requests are for personal information, especially adoption records. (There can also be a seven month wait for personal welfare records at the Ministry of Human Resources.)

On May 19, 1999 Petter told Plant in the Legislature that there was no government directive to cut back FOI staffers or raise applicants' fees in fiscal year 1999-2000. He also claimed that government FOI cuts last year "have been achieved, for the most part, without reducing access to service." Petter said there are about 70 full-time equivalent FOI staffers across government, the same number in November 1998. He added that he wanted a process in which ministries generate plans or strategies that are submitted back to ISTA; then ISTA would work with those ministries to implement those plans.

THE FUTURE

Public concern was very evident. Among the 136 written submissions and 116 oral presentations to the Legislative committee reviewing the FOIPP Act, there were more comments on fees than on any other issue.

Fortunately, in its final report submitted on July 15, 1999, the committee recommended no cutbacks to the FOI process, calling FOI a "justifiable expense" in a democratic society. Now did it advise fee increases - despite submissions from many governmental bodies that had urged this.

For BC open government advocates, it has been a hard struggle but one that has not yet ended. The government has no obligation to heed the committee's advice.

A report last year from ISTA offers hints that large fee increases could be coming. But Petter has said that when changes to the FOIPP Act are brought before the house,

perhaps in 2000, he is not expecting large fee increases. Petter also said a memo was sent out by his deputy minister to all other deputies to develop a strategy on a ministry-by-ministry basis to promote routine disclosure of documents.

Last November 7, finance minister Paul Ramsey announced that in a dramatic contrast with previous NDP messages - "spending cuts will begin soon" across government's existing programs, coupled with a freeze on new initiatives, all to meet its new stricter deficit reduction targets. This would be done through Treasury Board orders, and not debated in the House. Ramsey said more details on how much each sector will be cut would come later, so it is not yet clear how this will effect the FOI system.

This month, one senior government official told FIPA that the FOI office conditions and morale have not changed noticeably since mid-1998, FTE cutbacks continue across ministries generally, and that the three cost-recovery directives of fall 1998 are still being enforced by government (although it has abandoned the \$980,000 recovery figure as impossible).

"The FOIPP Act was created to enshrine access to public information as an essential democratic right, not a "user-pay" service," wrote Evans. "It was not meant to generate profits for the government; the taxpayers have already paid for the creation of this information."

The deeply indebted B.C. government is continually looking about for ways to raise funds, and charging fees for previously public information may ensure more (rather as the B.C Supreme Court Registry now charges \$8 to retrieve a statement of claim from behind the counter and 50 cents to photocopy each page.) Are we to count ourselves fortunate that making an FOI request is still free, unlike in Alberta, which charges \$25 per request?

Governments often cite the unaffordability of FOI. Prince Edward Island is the only province that has not enacted an FOIPP Act (although one has passed second reading); government sources in Charlottetown and Ottawa told FIPA that the primary reason is not a desire for secrecy but a simple lack of funds to implement the Bill in this low-income jurisdiction. Yet even the Yukon and Northwest Territories and Nunavut have their own FOIPP statutes and processes.

There are no credible politicians who would seriously challenge the value of open government today, at least in principle, despite the real powershift this creates. The view as expressed by Vancouver Sun columnist Vaughn Palmer has prevailed:

"The information that government generates at the people's expense is as much the people's property as roads and bridges." Flaherty put it another way: "Freedom of

information is a right equivalent to having open elections, the rule of law, and access to public education. Does anyone challenge the cost of holding elections?"

With the ruling NDP party's state of leadership uncertainty, and with its low ranking in public opinion polls, it seems unlikely to bring in such politically unpopular measures as FOI cutbacks. But the future is uncertain, and it is not at all impossible that the Campaign for Open Government may have to wage the same struggles in the 21st century.

Chapter two -

FOI BUDGETING

There is apparently no budget for the FOI process set by cabinet - neither across government nor by ministry; it is simply too small an item for cabinet to micromanage. In the Spring, the Legislature debates each ministry's "Estimates," ie. the projected costs for the next fiscal year. The MLAs vote on high-cost program levels within ministries.

In the estimate book, each ministry lists 20 "standard objects of expenditures." The largest might be in the billions of dollars and the twentieth might be \$20 million or so. (An exception is the Minister's office budget, which is smaller and traditionally listed first.) The FOI budget figure - which one has to extract elsewhere - might be about \$500,000 in a ministry, hence much too small to be listed in the Estimates (it is absorbed under some other larger item). There would not be the ministerial figures that one could add up to a projected total FOI cost across government. (See also the Supplement to the Estimates.)

The Public Accounts are a different matter; these are the much more detailed figures of amounts spent in the previous fiscal year, if one wishes to look backward. (The Estimates must be bought in hard copy for \$22, but the Public Accounts are online.) Here, the FOI cost for each ministry is included, and one could add up the amounts for a total government figure.

Then how is the budget set? Generally, the FOI director in each ministry prepares his/her "guesstimate" for what that FOI office will need in the coming year, and in about September sends it up for approval to the senior financial officer in the ministry (who is usually an assistant deputy minister).

It must be remembered that the FOI office budget does not only cover FOI requests, but the branch's other responsibilities such as records management; the percentage

breakdown varies among ministries. As well, not all FOI branches are distinct entities; some are subsumed in other ministerial FOI branches.

Chapter three -

CALCULATING THE TRUE COST

The overall cost of processing FOI requests was a matter of much debate and speculation in 1998, and the true figures is very hard to ascertain. Then-Information Commissioner Flaherty described the government's figure of \$20 million figure as "baloney"; one reason he cited was that the government had also included the \$3 million cost of running the Commissioner's office in the \$20 million. Flaherty said of the FOI cost: "Is it \$20 million or \$5 million? I said \$5 million."

FIPA agrees that the overall costs for handling requests were greatly overstated, so we asked B.C. Auditor General George Morfitt for an audit but his office was too overburdened to make more than brief inquiries. Flaherty said that Morfitt's staffers found FOI budgeting one of the most complicated subjects they had ever seen.

In January 1999, an official in Morfitt's office told FIPA that she had studied the cost issue and had found that the ISTA figure of \$20 million, which was obtained by interviewing FOI directors (by far the most knowledgeable officials on the subject), is broken down in an ISTA report as follows:

- \$3 million for the Commissioner's office budget. (Some dispute whether this should be included in the cost of FOI.)
- \$3 million for public relations, "issues management" (ie. of negative news stories that emerge from FOI requests, and for educating the public about the FOI process).
- \$14 million for ministry staff (ie. Primarily Director/Managers of Information and Privacy [DMIPs] and their staff).

She explained that \$11 million of all this was spent for government program staff, ie. those who search for records, and she reported that ISTA said the \$11 million is not "new FOI program money." ie. it is used for staff people that would have searched for and given the public records even if the FOIPP Act did not exist (and who in fact did so before it existed). This \$11 million should not be included in the "\$20 million" figure.

Therefore, she concluded, if one excluded the \$11 million and the \$3 million public relations cost from the \$20 million, the entire FOI cost might really amount to only \$6 to \$7 million.

(Monday Magazine's news editor Russ Francis noted, "The NDP government's own corporate submission to the committee estimates the cost to administer FOI for all public organizations - not just those in the central government - as \$30 to \$50 million. That's another highly questionable figure. For one thing, it even includes the costs of spin-doctoring when a reporter uses FOI to uncover an issue that needs managing.")

She noted Mr. Morfitt's interest in this subject, and she had passed this information onto the groups that do performance audits. Her office will receive with attention examples of government waste exposed through FOI requests, but finds that such an indirect "savings" to government is hard to quantify.

Chapter four -

ALTERNATIVES TO FOI

Critics say if the government really wanted to save money on the FOI mechanism it would release far more information routinely, index records more precisely, and cut back on its public relations branch (which costs far more to operate than the FOI process).

The FOIPP Act was intended as an process of last resort. "Governments are shifting their responsibility to freely disseminate information onto the FOIPP Act, and then blaming the act for the cost of their own failure," wrote Evans.

"Often information is released only after a long and costly process of stonewalling and delay. And instead of releasing information as a routine process, citizens are commonly told to 'make an FOI request.'" (For instance, a recent FOI request to see the minutes of B.C. Hydro's board meetings for early 1999 resulted in an incredible seven month response delay, because no fewer than twenty Hydro officials in their turn wanted to vet and approve the release.)

In her aforementioned letter to the Environment Ministry, Ms. McPhail raised useful ideas for reducing the cost of the FOI process, writing, "Your ministry should consider the following measures:

- create a file for releasable information which can be released outside of FOI

- reduce the number of unnecessary records held in off-site storage, and
- the number of management layers required to approve FOI releases should be reviewed and, where possible, reduced.

It is not known if Ms. MacPhail's worthwhile ideas have been implemented, yet Flaherty said that ISTA's chief information officer "is trying to promote routine disclosure, but the ministries are fiefdoms onto themselves." Flaherty also urged the government to put many more documents on the Internet to save printing costs.

The Auditor General's official added that the FOI processing cost is so high because government databases are extremely poorly managed. Some are antiquated, and none were designed to retrieve records for FOI requests. For government to change this pattern would be a huge short term cost, she said - but FIPA wonders whether it would save money in the long run. The Auditor General's office would also prefer better statistical measures of FOI function and costs, ie. the Request Tracking System (RTS) of ISTA is insufficient.

(One reporter noted that "ministry representatives revealed that they had no formal FOI search methodology and they had searched essential archive boxes by skimming file tabs." Vancouver Sun, Dec. 31, 1994)

Filing records in a more orderly manner not only assists the FOI requester, but the government's efficiency and cost for itself when it seeks the information for its own purposes. This is another retort to those on the committee who proclaimed themselves distressed at how much FOI requests and searches cost the government.

Federal Information Commissioner John Reid was insistent on the subject in a speech last November. "I cannot overstate the point: Information management in government is in crisis. The crisis does not only threaten the viability of the right of access, it also threatens to undermine national archival requirements and the ability to deliver good government to the citizenry. Years of government restraint and downsizing have been devastating to the records management discipline.... The time is right, it seems to me, for an Information Management Act, designed to regulate the entire life-cycle of government-held information."

Chapter five -

THE FISCAL VALUE OF FOI

Unlike the Auditor General - an independent officer of the Legislature - an institution's internal auditor may detect a problem and effect justice, but decline to reveal the problem publicly and so lessen its disciplining value.

The purpose here is not for the public, media, opposition parties and others to displace the role of the Auditor-General (though there is nothing wrong with supplementing the labour of that overworked office), but to send a clear message via the FOI process to the bureaucracy that any public spending could be publicly exposed at any time. As Russ Francis noted, "How many more fast ferry projects [with its \$500 million cost overrun] and Skeena Celluloses will never even be proposed for fear that their terms will be revealed under FOI?"

Conversely, knowing the FOI Act is ineffective can induce politicians and civil servants to spend in ways they realize the public would never accept.

Regarding the "high cost" of administering the Act, the following is a reminder to those who want to impose higher user fees to make the FOI system "help pay for itself": former federal Information Commissioner John Grace in his 1995/96 Annual Report stated that the freedom of information process often saves funds, because public outrage over wasted money (uncovered via FOI requests) induces government to cut the waste.

The best example to date is surely the audit of Human Resources Development Canada (HRDC) transition jobs program, which was obtained and made public this year by a Reform Party MP under an Access to Information request.

The auditors at HRDC took a random sample of only 459 out of 30,000 projects worth about \$1 billion for evaluation. They found that 80 percent of the cases did not have adequate documentation, 87 percent had no financial monitoring and, in 15 percent, money was doled out without a completed application form. After the news broke, auditors announced they are expanding their probe to the entire program; if this small sample exposed this many problems, a full probe might uncover staggering losses.

To anyone remotely caring about fiscal management, the problems revealed are startling. One prosperous American firm said it would have created jobs in the area without the HRDC funding it received, which it called "icing on the cake"; a disproportionate number of the grants went to government-held ridings; 44 firms which were handed millions of dollars have either gone out of business or stopped their projects; in one project, the audit noted, "some expenses are often claimed twice and jewels were claimed under office furniture." In response, funding criteria has been tightened and more monitoring added.

From this example, one might reasonably phrase the issue not so much as “Can we afford to have open government?” as “Can we afford not to have it?”

In his 1996 book on the Canadian military *Tarnished Brass*, author Scott Taylor reports: “In several cases, an access-to-information request, submitted with a detailed account of the alleged misdeed, has been enough of a warning to force the generals named to make full restitution. By the time the Defense Department releases the file to the requesting media outlets, included in the file is a cancelled cheque indicating full reimbursement to the Crown.” (p.91)

As well, in her 1994 book *On the Take*, Stevie Cameron relates that when Prime Minister Brian Mulroney travelled to New York in 1985 to address the United Nations, his large entourage included several siblings who were not on official business and his wife, who spent nearly \$2,000 on a rented limousine for shopping trips. The bill was paid by the Department of External Affairs, but soon after reporter Richard Cleroux made an FOI request for these records, the PC Canada Fund (the Progressive Conservative party’s fundraising arm) sent a cheque for the full amount to the ministry to cover the limousine cost. “Amused officials passed it around, chuckled, recorded it and quickly cashed it.” (p.210)

“Prompted by Cleroux’s requests for information, the [External Affairs] task force scrutinized the bills for each member of the delegation. Whenever a dubious charge was found, a task force member chased down the individual and asked for payment.” (p.208)

These reimbursements from the PC Canada Fund (the Progressive Conservative party’s own fundraising arm) for the Mulroneys’ high travel expenses occurred several times - always after FOI requests were made - and saved the taxpayer a fair amount. Sometimes, however, governments withhold such records on taxpayer-funded expense claims as being “personal” information.

(In his 1993-94 annual report, Grace wrote that these events were the turning point in the Prime Minister’s attitude towards FOI; personally injured by such requests, Mulroney disparaged the Act thereafter and this message influenced his ministers and the civil service.)

Consider also the chair of the Canada Labour Relations Board, terminated in 1998 after the media discovered through an FOI request - and which a probe by the federal Auditor General later confirmed - that he had claimed meal expenses that were five times higher than the standard civil servant rate (eg. a \$730 lunch for two in Paris). A comparable event has not recently occurred in BC but it conceivably could.

EXAMPLES OF GOVERNMENT SPENDING REVEALED BY FOI REQUESTS

There are many instances in B.C. of government waste exposed by FOI requests, and it is important to note that the senior level of government was unaware of some of the problems. These include:

- The Sun obtained numbers from the health ministry through FOI, showing that some of the highest-billing doctors were seeing as many as 80 and 90 patients a day. (Vancouver Sun, Nov. 23, 1994)
- A finance ministry audit obtained under FOI confirmed allegations by the B.C. Nurses Union that doctors at the Vancouver pre-trial services centre were billing for many more hours than they had worked. (Vancouver Sun, Nov. 7, 1997)
- MLA David Mitchell obtained data showing that the provincial government was spending about \$250,000 a month on public opinion polling, market research, focus groups and customer satisfaction surveys. (Vancouver Sun, Nov. 18, 1993)

The Sun later noted that Mitchell's FOI request for the polls prompted several changes, both of which may have implications for taxpayers. First, the Government Services minister announced that in future ministries would routinely make public the results of all their polling (which saves the costs of FOI processing). Secondly, the government ordered a review of polling by crown corporations, because some ministers were surprised to discover that the crowns were polling at twice the expense of the ministries.

- Five locomotives that cost B.C. taxpayers a total of \$2.5 million were sold in 1994 for \$65,000 after they were left for years unprotected and forgotten in an open rail yard in Ontario, documents obtained under FOI by the Sun show. "It was a complete waste of taxpayer's money," said the editor of a train industry magazine. (Vancouver Sun, Dec. 7, 1995)
- Documents obtained from the city of Surrey showed the city had paid out more than \$1 million in severance payments to city managers in the past three years. (Surrey/South Delta News Leader, Oct. 25, 1997)
- In September 1996, a parent in Surrey sent an FOI request to the Education Ministry, asking to see government's criteria for which high schools would receive construction funding, and a list of the ten neediest schools. In January, Premier Clark proudly announced \$110 million in new construction funding for 11 schools, all in government-held ridings and most of them not on the list. The parent gave the list to the media, and a political storm ensued. Not funded, although it topped the list, was

Mcgee secondary school, in a opposition-held riding. A few months after the story, Mcgee was granted funding for a complete rebuild. (Vancouver Courier, May 17, 1998)

- The Hospital Employee's Union released records obtained under FOI which revealed that the former president of St. Paul's Hospital was granted a pension and severance package costing nearly \$500,000, including two lifetime pension plans that can be inherited by his wife. Hours after the release, the B.C. Health Minister ordered an investigation, because she said the agreement seemed to violate the government's guidelines. (Vancouver Sun, Nov. 22, 1996)

Appendix

Members of the Campaign for Open Government (COG)

All About Us Canada Foundation

B.C. Civil Liberties Association

B.C. Coalition of People with Disabilities B.C. Freedom of Information and Privacy Association

B.C. Journalists for Freedom of Information (BCJC)

B.C. Library Association

B.C. Press Council

B.C. Wild

Biosphere Monitoring Network

Canadian EarthCare Society

Canadian Parks and Wilderness Society

Canadian Taxpayers Federation

Prof. Colin Bennett, University of Victoria

Cortes Island Forest Committee

David Suzuki Foundation
East Kootenay Environmental Society
Environmental Mining Council of B.C.
Granby Wilderness Society
Greenpeace Canada
International Law Education Foundation
Barry Jones, former MLA
Prince George Alzheimer's Society
Sierra Club of British Columbia
Skies Above Foundation
Society Promoting Environmental Protection
Triad Society for Truth in Adoption
Trial Lawyers Association
West Coast Environmental Law Association
Yellowhead Ecological Association
