[Oral testimony by Stanley Tromp to B.C. Legislative FOIPP Act *reviews – 1998, 2004, 2010, 2015]*

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1998 Legislative Session: 3rd Session, 36th Parliament

SPECIAL COMMITTEE TO REVIEW THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

TRANSCRIPTS OF PROCEEDINGS
(Hansard)

RICHMOND

THURSDAY, OCTOBER 29, 1998

Chair:	Vacant
Deputy Chair:	John Weisbeck (Okanagan East L)

[….]

Deputy Chair: We're going to start off first of all with Mr. Stanley Tromp. If you could please just introduce yourself and say who you are representing.

S. Tromp: Good afternoon, committee. Thank you for this opportunity to speak. My name is Stanley Tromp. I graduated last fall from UBC -- political science. I have written many news stories for the Vancouver *Courier* and *Georgia Straight* and also for the UBC student newspaper.

As a freelance journalist I have found the B.C. Freedom of Information Act to be useful in about half of my requests, but there are a number of very frustrating areas. These include high fees, delays, poorly conceived exemptions, university secrecy, privacy, document retention and filing, and more. The minister formally in charge of the freedom-of-information process sparked controversy last year when he floated the notion of charging the media full recovery fees because, supposedly, the government should not pay to subsidize the corporate media's research, as he put it.

The concept, I believe, was absurd since the media's FOI requests are geared towards educating and serving the public. It is well known that media count for 4 percent of applicants, as opposed

to 12 percent of the Nova Scotia act's applicants. The obvious consequence of raised fees would be less access to records. Also, the fees would most harm not Hollinger but smaller community and student newspapers which cannot afford $1,000 search fees.

I refer the committee to the freedom-of-information research project by the school of policy studies at Queen's University, which was put on the Internet on April 30. This report notes that fee increases will do little to improve cost recovery and will seriously limit access rights. In 1995, the Ontario government increased fees for FOI requests and appeals to the provincial information commissioner. This is thought to have caused a 10 percent drop in requests and a 40 percent drop in appeals, but the increase in revenue was negligible.

If MLAs are concerned about public information cost savings, they could (1) install better recordkeeping processes so it takes less time to locate records; (2) trim the ballooning expenses of the government public relations branches; (3) not allow government branches to assess inflated search costs for political ends, as I believe occurred in several cases; (4) release much more information routinely, such as public opinion polls which are now released by the federal government -- after then-commissioner John Grace went to Federal Court and won on that issue.

At the UBC student newspaper I tried for 18 months, with two FOI requests, to obtain an internal audit of UBC's parking department, which generates $6.3 million annually. The 1996 audit was finally released with 80 percent of it whited out. It found an absolute lack of proper cash controls representing an ongoing situation of a very high risk of significant loss of university cash. This is an example of how freedom of information can help recover public funds, for the public exposure of such problems induces the government body to clean up its act.

This month I reported in the student paper -- on records which I could only have obtained through freedom of information -- that the former university president had obtained a $350,000 interest-free housing loan, and three other officials had gained loans of $200,000 each. I am not sure if the money saved by this process is more than the overall cost of running the FOI system in B.C., but it certainly suggests that FOI is much more cost-effective than previously assumed. One obstacle here is the high search fees charged by the UBC FOI office, as other local public bodies do.

The very saddening thing is that the FOI office used to provide the UBC student paper with three hours of free search time. In September of 1997 they reversed that policy and charged full recovery rates -- i.e., $30 per hour. Although the UBC student paper is a registered non-profit society, the UBC FOI office chose to label it commercial media and said: "You could always sell more advertising to pay for the FOI fees." After a nine-month dispute at the commissioner's office, UBC restored the free search time. The FOI process is essential to a healthy democracy. How can one put a price tag on democracy?

On another topic, a disturbing trend might emerge to you -- that is, some public bodies are privatizing sections of themselves or doing business through private consultants and so escaping the Freedom of Information Act's coverage. Crown corporations are covered by the act, but several bodies seem to exist in a definitional limbo, which can be exploited. UBC Properties Inc. -- UBC's real estate arm -- told me it was fully exempt from the FOI because it is a private

company, wholly owned by government. I predict that when the scrutiny made possible by the act becomes too painful, other B.C. public bodies will try similar evasive methods. If the B.C. Lottery Corporation wanted to start a casino, it may call it a fully owned subsidiary company and so exempt it from the act. That would not be in the public interest.

Such attempts should be nipped in the bud if the public body retains any ties to the government as such. As I've noted above with UBC's real estate arm, it should be covered by freedom of information. The Queen's University study noted this problem also, writing:

"Several governments are experimenting with new methods of delivering public services that may also limit access rights. Contracting out is being used more aggressively. Contractors are exempt from FOI laws. . . . FOI laws may provide too much protection for confidential business information. Activities are being delegated to industry-run organizations that are exempt from FOI laws. Nav Canada, which now provides air traffic control services, is one federal example. Ontario, Alberta and British Columbia are using a similar model, although limited steps have been taken to preserve access rights in these cases." I hope so.

There's the matter of record retention, which is the most serious, though seldom discussed, subject in the FOI process. What I fear is that all discussions on federal or B.C. access laws may be irrelevant if bureaucrats can now shred or lose or alter records with impunity. In Alberta's FOI Act of 1995, section 86, the person who discloses personal information, destroys records for the purpose of blocking an FOI request, obstructs or misleads the commissioner or disobeys one of his orders can be fined up to $10,000.

This amendment is most urgently needed for the B.C. FOI Act. There is no rational argument against it. Ironically, Alberta, which was long known as the most politically secretive province in Canada, is far in advance of both Ottawa and B.C. on that issue. I was very pleased to read this month that a private member's bill in Ottawa regarding penalties for record destruction is proceeding through the House.

We must also condemn the trend toward more business being conducted orally, instead of being written, to avoid FOI releases -- a practice which John Grace said would be humorous if it were not so dangerously juvenile. There should be constitutional guarantees that certain types of records must be generated -- for example, records of decisions and events at meetings -- and kept for at least ten years.

I have something to say about section 79. In March, I made an FOI request to Vancouver city hall for copies of the campaign donors list and donation amounts for all the civic political parties and councillor candidates for the 1996 election. But in the FOI Act it states, in section 79 on its relationship to other acts: "If a provision of this act is inconsistent or in conflict with a provision of another act, the provision of this act prevails, unless the other act expressly provides that it, or a provision of it, applies despite this act."

When I invoked this, the city hall FOI director countered that a section in the Vancouver city charter and in the Municipal Act states that their provisions expressly override the Freedom of Information Act. He was legally correct, and thus it was futile to appeal to the information

commissioner. But I object to section 79; it should be amended. Other acts can override the Freedom of Information Act, presumably to protect the public from some kind of harm, but if release could cause harm, the records would have been exempted under a section of the 80-page Freedom of Information Act anyway. It does not need this kind of redundant double protection. This is an extra layer of law.

Section 79 allows future administrations to carve out exemptions from the Freedom of Information Act by adding such clauses -- these notwithstanding clauses -- to other acts. This cannot have been the intention of the initiators of the Freedom of Information Act. Information rights should only be restricted by amending the Freedom of Information Act itself, not by amending other acts that impact the FOI and privacy process. In other words, the Freedom of Information Act should be a single funnel that all the other acts must go through.

Another point is about whistle-blower protection to protect freedom-of-information directors from political retaliation. I've heard that the stress and burnout rate of freedom-of-information coordinators, provincially and federally, is very high. One way to lessen this problem is by installing protection from retaliation -- or the fear of it. Even if the fear is only a civil servant's perception, this can be as potent as reality. Under the Alberta Freedom-of-Information Act, section 77, whistle-blower protection is in place. If an employee finds out that someone's privacy has been violated, he or she can blow the whistle to the commissioner. Anyone who tries to retaliate against that employee can be fined up to $10,000.

The ninth master contract between the government and the BCGEU, negotiated in 1992, contains a clause designed to protect union employees who blow the whistle, but no such protection exists at the management level. That is the gap to be filled. We may need an equivalent of the United States Whistle-Blowers Protection Act of 1989.

Deputy Chair: Mr. Tromp, just a couple of minutes to sum up, please.

S. Tromp: Okay.

The results of record release under the Freedom of Information Act can be chaotic and dramatic for governments, which value stability and control, but the costs of government secrecy and accountability are ultimately much higher. I was very saddened by a former committee member from Esquimalt complaining last November about the high cost of freedom of information. This sends a harmful signal to local public bodies such as universities that if they charge high fees, Victoria is unlikely to object. The incentive for open government must come strongly from the very top.

Deputy Chair: Thank you very much. If we can have a copy of your presentation, we can certainly read the parts that you weren't able to present. Any questions from the committee?

R. Kasper: I have one question: out of curiosity, what was your batting average as a journalist, prior to the implementation of the act, in getting information?

S. Tromp: It was much harder. I do appreciate the act coming in very much. It's been useful.

One example is that at the community college I went to, there was an earthquake preparedness study done on the buildings, and we of the student press -- it was two years before the act was passed -- asked to see it. He replied: "No, it's too complex for you to understand, and I can't find the time to explain it to you. Even if I did, you might take details out of context and distort it anyway." So we had to appeal to the college president, and she ordered it released. That sort of thing would not go on anymore.

Deputy Chair: Any further questions? No?

Thank you very much for your presentation.

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2003 Legislative Session: 4th Session, 37th Parliament

SPECIAL COMMITTEE TO REVIEW THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

MINUTES

Wednesday, January 21, 2004
Room 420, Morris J. Wosk Centre for Dialogue,
Vancouver, B.C.

Blair Lekstrom, MLA (Chair); Mike Hunter, MLA, (Deputy Chair)

[….]

B. Lekstrom (Chair): We'll move on to our next presenter this afternoon. I will call on Stanley Tromp. Good afternoon.

S. Tromp: Good day. My name is Stanley Tromp. For five years I've been the research director for FIPA, B.C. Freedom of Information and Privacy Association, and newsletter editor for that group and a freelance news reporter for about ten years — a graduate, UBC political science.

For your interest, I have prepared a five-page executive summary about a report I've been preparing on FOI statistics and usage over the past two years, which I e-mailed to everyone

yesterday as an attachment. I don't know if you received it or not or have had a chance to go through it.

Interjection.

S. Tromp: You have? Oh, very good. Excellent. I don't know if the e-mail system is working very well.

My purpose is to supplement some of FIPA's points, who'll be doing a separate submission. I'm writing my report as a separate submission from FIPA and just to supplement some of FIPA's points, because we have so many to make and never enough time or space, it seems, to make them all. I don't know how long your attention span is for all these many, many points we have to make. I was at your committee meeting on Monday with Darrell, and I found it most interesting.

If we start with a statistical study, a review, for the past five years to compare the record before and after the election of May 2001 — this was very kindly supplied by the Ministry of Management Services — of various kinds of applicant types, delays, fees, records from various ministries…. We'll perhaps be putting that on our webpage along with our reports. As well, we have much information on our webpage that you may find interesting — www.fipa.bc.ca.

We noticed some trends in freedom-of-information and privacy practices. The number of requests has been rising modestly from 1998 to 2002. We are pleased to note that access requests denied in full, so-called, have fallen by nearly half — from 325 in 1998 down to 170 in 2002. This government has cited a trend towards routine release of information, and the figures seem to support that claim, partly. From 54 requests marked routine releasable in 2002, it's nearly tripled to 181 in 2001 and further rose to 258 in 2002.

[1440]

We were also pleased to discover — we give credit wherever it's due, although we're critics — that the FOI request response time has shortened over the past six years. In 1998 about 28 percent of the total requests were closed in 30 days or less, as the law says they should be. This more than doubled to 62 percent of the total in 2002 and rose to 73 percent during the first half of 2003. Even better, requests in the most regrettable category — that is, closed in 60 days or over — plummeted from 55 percent of the total in 1998 down to 11 percent in 2002 and then down to 4.2 percent in the next half year. So there are good and bad points to be made.

We recall that newly elected Premier Campbell, in his victory night speech of 2001, said: "We will bring you the most open and accountable government in Canada. I know some people say we'll soon forget about that, but I promise you that we won't." However, we only wish the practices would live up to the rhetoric. As Darrell would write in his report, if we were grading a report card, we would give the Liberals a bare P, or pass, on privacy protection and F, fail, on freedom of information. We would note that they are not performing up to their abilities and are just not trying.

FOI compliance problems occur not so often with ministries as with some other entities that jealously guard their quasi-autonomy from senior governments — certain municipalities, colleges, universities, Crown corporations, professional regulatory bodies and police forces.

FIPA made several submissions on improvements to the act in the six years of review, and FIPA's proposals were largely ignored in the two sets of amendments, along with most of the recommendations produced by the all-party committee which reviewed the act and reported its findings to the Legislature in 1999, as you may recall. We hope this won't happen again and that there will be political will to implement this committee's recommendations. If not, your labours may be perceived by some to have been in vain.

There are a few amendments. I don't quite have all my ducks in a row here, but it'll be forthcoming in this report, which I expect to be done and polished up in a week or two and released. In the amended FOIPPA Act, section 21(1)(a)(ii) is amended by replacing "of a third party" with "of or about a third party," not as it once stood, only "supplied by a third party." For us, this is too broad in this new era of private-public partnerships. This could potentially shield from the public view records about a company's environmental violations, health inspections, improper business practices and so forth, all with the claimed purpose of preventing so-called competitive harm to the company. We believe the concept of the Legislature being required to consult with the information and privacy commissioner on proposed bills to seek his opinion on the privacy impacts of these should be extended to taking in his views on the FOI and accountability impacts of proposed bills.

We believe the applicant should be allowed to appeal to the commissioner within six months. Actually, this is my personal view, speaking as myself; FIPA may say differently. These are separate submissions, although we agree on almost every other point. The applicant should be allowed to appeal to the commissioner within six months or at the very least three months of an FOIPPA refusal — not the one-month deadline that now exists, especially when you recall that the federal act allows for one year to appeal. Some people making Privacy Act requests to government perhaps had conflict with the police or mental health institutions and may be confused, distraught and not understand their rights or the process very well, so the 30-day deadline is often missed. We know that the commissioner has the discretion to overlook a missed deadline, but this could be enshrined in law.

If you were asking how to do routine release, which is a valuable goal, I have a solution that's cheap, easy and simple. It could be proscribed, and the law could be amended that records cited in the B.C. FOI Act, section 13(2), must be posted on the public body's Internet page within a month of their creation and must be routinely released to applicants with no need to file an FOI request.

Such records are — as Michael Doherty said in his submission — any factual material, public opinion poll, appraisal, economic forecast, environmental impact statements and so forth. These are the types of records that would not be withheld or severed under any other section, because they are so clearly in the public interest. These are exactly the sorts of things that could be released. The OICs are put on the government's Internet page within a week; the *Hansard*, the next day. It's not difficult. It takes just a few keystrokes to put them up. For the ministries, I

believe they can put up the full record on the Internet page. For other public bodies this may be a little more onerous. At the very least they could put up lists of such records within a month of their completion.

We urge the B.C. government to at least pass a whistle-blower protection section in the FOI Act such as the Alberta FOI act has in section 77(1). In fact, the 1999 FOI review committee advised the prospect of a more general whistle-blower protection act be considered, and we prefer this broader option.

FOI directors can be put under immense political strain. The FOI directors of Toronto and Langley have been fired due to their diligent seeking of governmental records, just doing their job. The federal information commissioner John Reid said his staff who were seeking the Prime Minister's briefing books in response to an applicant had their careers threatened by the Prime Minister's Office. It is that sort of thing that should be averted.

We regret that one Liberal government plan would very much disturb open-government advocates. In October 2002 there was a move to amend the FOI Act to mandate that if any government caucus committees or any other committee had a single cabinet minister sitting on it, that committee could now be accorded the same FOI protection of section 12, cabinet confidences. You're put in the dark. This problem was partially reversed under protest.

The information commissioner, of course, has…. In a letter to FIPA during the 2001 election campaign, Mr. Campbell stated he was committed to providing a stable funding base for the information and privacy commission's office to ensure that it has resources to discharge its statutory mandate, yet after the election they slashed the commission's budget by 35 percent over three years. Recently he's been granted some more funding, but that new money is just enough to cover his duties under the new PIPA, the privacy act, not the current FOI tasks.

Another serious matter is the matter of record retention and archiving. Civil servants avoid writing things down now because they fear they'll become subject of an FOI request. Ken Dobell, deputy minister to Premier Campbell and head of the B.C. public service, spoke to a panel discussion on it in the fall. Mr. Dobell confirmed that he runs the government via informal meetings through telephone conversations, seldom keeping working notes of either. He does make thorough use of e-mails, but: "I delete those all the time, as fast as I can." We are profoundly troubled by this news, and we urge that the laws be amended to avert this practice.

You could pass an information management act, which prescribes all record creation, storage and retention of government information, rather than a rather outdated patchwork of record retention laws we have now, such as the Document Disposal Act, ORCs and ARCs, GMOPs and so forth.

You could pass a section containing strict penalties for the improper record destruction or alteration of government records such as the federal government and Alberta have. Another very serious issue is the shrinking coverage, the privatization partnerships. When is a public entity not a public entity? Unfortunately, the FOI coverage list of bodies not included has the newly privatized B.C. Ferries corporation, including — inexcusably — its safety audits; the Vancouver

2010 Bid Corporation or any future organizing committee for the Olympic Games that would stage the event; B.C. Hydro's Accenture branch. We've heard the B.C. government may be planning to sell the B.C. Buildings Corporation to the private sector. If so, that would likely be exempt from FOI coverage.

These are public buildings held in the public trust, and we surely have a right to know what's happening there. With the Olympics in particular, the cost to the public could be staggering. Historically, it's been so in other cities. We surely have a need to know everything about the process. There is a growing population of private contractors. Some are assuming responsibility for the operation of essential infrastructure while others play a critical role in developing policy advice for government, and their records would be exempt from FOI laws.

We believe public bodies should be added automatically to the FOI schedules when they're created, and not added slowly by ministerial choice one by one at the minister's leisure. I stress that we are not objecting to privatization per se; it's just the loss of accountability that can come with it.

The B.C. legislative review of the act, in its 1999 report, advised that new public bodies be brought under the act's coverage as they are established. Mr. Campbell has promised in writing to FIPA that he will implement this report's recommendations, but this has not been done. The committee did not endorse FIPA's recommendations to amend the act to clearly extend it to government services that are contracted out and to personal information that is given to non-governmental organizations.

[1450]

Great Britain passed an FOI act in 2000 which is far more advanced in its coverage of this. It has a model solution to the problem. We find it highly ironic that Britain was the mother of parliamentary secrecy in this country and is far advanced to British Columbia.

The matter of FOI funding and fiscal value of the FOI, cost versus benefits. Public concern is very evident among the 136 written submissions and 116 oral submissions to the 1998 legislative review committee on this subject. There were more comments on fees than on any other issue. Governments often complain without justifications of the high cost for FOI management. Critics reply that if the government really wanted to save money on the FOI mechanism, it would release far more information routinely, as far as I've suggested with the section 13 records, index records more precisely, and cut back on its public relations branch. The FOI Act was meant as a means of last resort.

In a 1998 memo the head of the Treasury Board at that time, Ms. MacPhail, now my MLA, 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 a number of management layers required to approve FOI releases should be reviewed and, where possible, reduced."

The auditor general's official added that FOI processing costs are so high because government databases are extremely poorly managed. Some are antiquated, and none were designed to retrieve records for FOI requests. The act was passed in 1993, and of the systems that support it, some were pre-Internet and some were even pre-Windows, if you can imagine.

B. Lekstrom (Chair): Stan, a couple of minutes.

S. Tromp: Okay. I'll wrap up. Many note that the FOI process often receives funds because government outrage over wasted money uncovered by FOI requests induced government to cut the waste. Sometimes officials have been shamed into actually paying back funds they had grossly overcharged to the public treasury after exposure. It also compels stricter controls on things like megaproject overruns. From such examples we can wonder: can we afford to have FOI? The question should be rather: can we afford not to have it?

We hope Mr. Campbell will live up to his pledge to have the most open and accountable government in Canada. We have a reputation to uphold, because B.C.'s act was described at that time as the best in Canada. Let us not fall behind Britain on the privatization issue or Alberta on the whistle-blower protection issue, for example. That's all I have time for.

B. Lekstrom (Chair): I know it's very difficult, Stanley, in 15 minutes, although we've exceeded that. It's a difficult time for him to get it all in.

I'm going to look to members of the committee if they have any questions regarding this.

K. Johnston: You went through some statistics quite early in your presentation. There was one I hope that I got right when I scrawled it down here. You talked about freedom-of-information requests that were responded to on time, in a 30-day window. I think you said in 1998 there was a 38 percent compliance, in 2002 a 62 percent and in 2003 a 73 percent. To me that would seem to be going in the right direction in terms of compliance. I was wondering if you had any sense of what has happened to make those numbers appear to be improving.

S. Tromp: Well, I think there's more experience from the FOI offices in response to that and also many more rulings from the commissioner which give more guidance on how to respond. Perhaps the nature of the requests is changing. We noticed a great change in far fewer FOI requests over the last five years, but the number of personal privacy act requests has been rising greatly. The balance is shifting completely, and I don't know exactly why that is. We will give all the statistics to you very shortly in detail.

That's the only explanation I have for that. Perhaps Management Services would be able to answer.

K. Johnston: Yeah, just from a simplistic point of view, it looks to be getting better — I guess, would be the terminology I would use. I was just trying to get a sense of what is making that happen. Obviously, you pointed out some things that you feel need to be improved, but somebody seems to be complying on a better basis than they did a few years ago.

S. Tromp: Oh, for sure, and the nature of the requests has certainly changed as well. There seem to be many factors in there. Probably Management Services would know much more.

[1455]

B. Lekstrom (Chair): Stanley, I want to thank you for coming out and presenting to our committee. As you had indicated, you are planning on putting a written submission in as well, and I can assure you that our committee will give due consideration to that as well. Thank you for taking the time.

S. Tromp: You're welcome. Thank you.

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REPORT OF PROCEEDINGS
(Hansard)

SPECIAL COMMITTEE TO REVIEW THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

TUESDAY, FEBRUARY 2, 2010

Waddington Room, Fairmont Hotel Vancouver

Ron Cantelon (Parksville-Qualicum L) [chair]

Doug Routley (Nanaimo–North Cowichan NDP) [deputy chair]

[....]

R. Cantelon (Chair): The next item on our agenda is Stanley Tromp. [….] We'll give you half an hour to make your points, if you would, Stanley, and then move on to questions.

S. Tromp: Thank you very much, Chair. My presentation shouldn't take that long. The report speaks for itself. I know I can't reasonably expect everyone to read the entire report. Just the recommendations would be sufficient. I know how valuable your time is.

[1105]

To begin, hon. Members, let us consider these words spoken by newly elected Premier Gordon Campbell in his victory-night speech of 2001: "We will bring in the most open and accountable government in Canada. I know some people say we'll soon forget about that, but I promise that we won't."

When it was passed in 1992, British Columbia's Freedom of Information and Protection of Privacy Act was hailed by some FOI commentators as the best in North America. Yet since then, in its practice, several flaws and shortcomings have become apparent, and the need for certain amendments is obvious.

While it certainly remains, overall, the best FOI law in Canada, it is still a very modest achievement within the world context. In fact, it is not even the best law in Canada in every single aspect, for some provinces' FOI laws, such as those of Quebec and Nova Scotia, have several sections much advanced over B.C.'s law, as will be shown.

Yet is there any valid reason why the B.C. FOI law could not be reformed so as to render it the best transparency law in the world? I spoke to B.C. legislative committees reviewing the FOI law twice before, in 1998 and 2003, yet no major positive amendments resulted from those committee reports. Although I believe you mean very well, can you provide any cause for hope that the political results will be different this time?

As both a political idealist and realist, I wish to place on the record today what needs to be done, while being well aware that the prospect of most of these new recommendations being passed into law eventually is slim indeed, and I wonder if I might have to return in five years again to plead all the same points.

In my 67 recommendations for reform here, I have tried to cover every B.C. FOI topic from A to Z. Although as a journalist, after making hundreds of FOI requests and studying FOI law and theory for the past 15 years, I still believe I do not have all the answers, nor does any single individual or institution. Yet I do believe that many of these recommendations merit consideration. In the end, of course, the choices remain yours.

Here's why it matters. A legislative review of an FOI statute may appear to some readers very remote from their practical daily concerns. Why in fact should the public care if we have an effective FOI law?

As a kind of answer, I've collected and posted on my website summaries of B.C. news stories from the past two years on issues as diverse as health, safety, government waste, public security and environmental risks. They all share two common features. All reveal issues vital to the public interest — that is, not merely topics the public might find interesting. And all were made possible through B.C. FOI requests.

On occasion we need to view the human face on abstract legal questions, as we can here. These topics include:

(1) B.C. Coroners Service statistics obtained through FOI note that at least 54 people have died on SkyTrain tracks and platforms since 1985, yet there is no plan to retrofit any SkyTrain platforms with barriers to stop people from falling or jumping on tracks.

(2) A briefing note prepared for the B.C. Housing and Social Development Ministry advised there would be "significant fire safety concerns with five- and six-storey wood-frame buildings," yet the government still moved ahead with its plan to permit the construction of those buildings.

(3) Many of the trucks used to make B.C.'s highways safe are themselves unsafe. The violations committed by the private heavy commercial vehicles are the type of infractions targeted under a new safety program announced by the provincial government.

(4) Using the FOI, the *Vancouver Sun* made detailed inspection data for all licensed care facilities in the Lower Mainland available on-line for the first time. The *Sun* also revealed many records of day care centre inspections.

These stories require a second look, for when they appear in a daily newspaper, they may be forgotten within days, but many should not be, because we could be living continuously with the unresolved problems that they have raised.

In section 25 of the act, called the public interest override, it states that government must release such information proactively, whether or not an FOI request for access was made. In such cases, it seems it should have done so but did not. In my recommendation 49 I urged the government to find ways to implement proactive publication on such matters.

[1110]

In response to the common governmental complaints of the cost to taxpayers of the FOI system, one could well argue the reverse is true, because public outrage at government waste, exposed through FOI requests, prompts the state to cut such waste or even prevent it before it occurs. Hence, the modest annual cost of FOI may be an impressive bargain — all the more reason to reduce 2010 Olympic Games secrecy.

What about British Columbia in the world context? Most of the arguments regarding B.C. FOI Act reform are by now familiar, so I wish to consider another perspective on the issue, one not explored yet. We need instead to continuously reframe and reconceptualize the act in the light of rapidly changing international and historical contexts. This could positively alter what British Columbians come to expect and perhaps even demand for their own rights to information.

Exemplary sections of our FOI Act have been adopted in other jurisdictions' FOI laws, so why not vice versa? Since 2004 our knowledge and experience of the FOI subject have multiplied, and we can now draw more accurate conclusions about it.

To this end, I created the *World FOI Chart* two years ago as an aid to FOI scholars and posted it to my website. This chart cross-references by topic key primary documents on freedom-of-information law, including the texts of all 73 national FOI laws, all the Canadian provincial FOI laws and the commentaries of 14 global and 17 Canadian political organizations.

On the chart, upon scrolling down to row 15, you can compare B.C.'s FOI Act, section by section, to all the other laws. Though this chart took a year full-time to create, it was worth it because the topic is really more fascinating than it may appear at first. In fact, the whole ground has shifted. Ten years ago we did not have clear global standards that each FOI law could be measured up to, but now we do.

British Columbia surely needs to at least raise its own FOI law up to the best standards of the Commonwealth nations and then, hopefully, look beyond the Commonwealth to consider the rest of the world. This means not leaping into the future but merely stepping into the present.

Even the United Kingdom, B.C.'s model for parliamentary secrecy, has well outpaced us on many critical points, although frankly it still lags behind us on a few others. Some Canadian officials, to deter FOI reforms, still invoke the great tradition of Westminster-style confidentiality.

If so, how do they explain why the U.K. Freedom of Information Act, which came into effect in 2005, has several features lacking in our law, such as a harms test for policy advice, a 20-day response deadline, a 30-year limit for legal advice records and coverage of a vastly wider range of quasi-governmental bodies? I might add that the average response time in global FOI laws is two weeks, not 30 days.

What about B.C. in the Canadian context? In Nova Scotia's FOI law, policy advice can be released in five years; in B.C. it is ten years. The cabinet record exemption there is discretionary; here it is mandatory. Records there may be withheld; here they must be. They also have a much broader detailed definition of what is a public body for FOI purposes than we do.

In Quebec's FOI law, more policy advice records can be revealed, and more public bodies are covered. The response time in Quebec is 20 days; here it's 30. Quebec's law has the broadest scope of penalties for obstructionism. It is also the only provincial FOI law that mandates record management in a way that assists applicants. Finally, Quebec is the only province that guarantees the public's right to information in its provincial constitution.

It seems clear what needs to be done. We do not have to reinvent the FOI wheel from scratch when the wheel works well elsewhere. Instead, we need the political will for reform. Yet I fear that the main incentive to block FOI law improvements may be emerging from the senior bureaucracy. Last December the commissioner sought a $400,000 legal budget to cover the growing numbers of court challenges to its ruling by the B.C. government and other public bodies — up by 50 percent over 2008.

As Vaughn Palmer wrote: "No wonder the commissioner wants to be able to hire his own high-priced legal help to stand up to all the government-funded lawyers swarming over him and his office." Above all, I plead with the bureaucracy not to oppose needed FOI Act reforms, especially in sections 12 and 13.

There are other approaches. On his very first day in office, January 21, 2009, U.S. President Barack Obama issued an executive order to all government agencies to reverse the default secrecy position of his predecessor, writing: "The government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.… All agencies should adopt a presumption in favour of disclosure in order to renew their commitment to the principles embodied in FOIA and to usher in a new era of open government."

[1115]

A similar order from the Premier to the B.C. public service would be most welcome.

Let me speak about a subject that may be of the greatest interest to all of us in the city this month. That is, of course, the 2010 Olympic Games. For some journalists the most challenging of all games has turned out to be trying to find information about its costs and processes.

For example, the B.C. government refused to include VANOC, the Olympic organizing committee, under our FOI law. Yet the similar entity that manages the 2012 Olympic Games in Britain, the Olympic Delivery Authority, ODA, is covered by the British FOI law. FOI requests there have produced news stories about the ODA in England.

Secondly, it was reported that the B.C. government "was given access to 3,200 tickets at the cost of nearly $1 million." The public needs more detail than this, I believe, so last August I made an FOI request to the ministry responsible for the 2012 games for: "(1) the total number of such allotted tickets that the government holds, the total cost, the categories of recipients that

tickets will be allotted to and the costs of these; (2) a list of how many tickets will go to which government branches, companies, organizations, officials and individuals; (3) your policy and practice on the allotment of such tickets."

After months of delay, the ministry replied. It said that no records were found for item 2 and that items 1 and 3 were withheld completely under the B.C. FOI law — sections 12, cabinet records; 13, policy advice; 16, harm to intergovernmental relations; and 17, economic harm to government. Talk about going overboard.

Yet I did receive many similar records from Heritage Canada under the federal Access to Information Act and B.C. civic governments, which released them under our B.C. FOI law — sometimes even proactively. This is taxpayers' money.

Last November the Minister for the Olympics told *CTV News* that the ticket distribution policy would be revealed soon. But now we hear that taxpayers won't learn that policy until the games are over. She said: "Until we know actually who's going to be in the seat, we'll have full disclosure at the end." But at least partial disclosure is possible now — that is, all from what we know today. The games start in ten days. Perhaps it is not too late. Perhaps you could urge this be done.

Finally, and worst of all, the Olympic Games secretariat actually stopped recording minutes of its meetings after being annoyed by my FOI requests for them. As well, VANOC used to forward copies of its meeting minutes to the secretariat, and I did get those by FOI, but then VANOC stopped doing that, and my access was cut off. I twice obtained hundreds of pages of minutes from both entities through quarterly requests under the act.

An editorial in the *Asian Pacific Post* said: "This paper and the *South Asian Post* are big supporters of the 2010 Olympic Games in Vancouver, yet the increasing secrecy surrounding the 2010 games is creating a credibility gap between VANOC and its supporters, let alone its detractors. Now with the minutes gone, the media and the public have to rely on oral governance of VANOC."

Why did this happen? Who knows? As the Vancouver *Province* paper reported: "The secretariat said keeping the minutes were 'not an effective management tool.' The move, it says, is 'consistent with cross-government practices and legislation.'" But what does that mean? Is this a whole provincial government of non–minute taking departments? I've asked the government to explain but have received no reply. I hope you can find the answer to that question.

The federal Conservative Party, running for office in 2006, pledged to amend the Access to Information Act to "oblige public officials to create the records necessary to document their actions and decisions" — a promise as yet unfulfilled.

Can you imagine, for example, if this committee did not record any minutes? How could anyone recall exactly what was said a week, a month or a year ago? How could any lasting value or purpose be derived from its work without written records?

While the letter of our FOI law may be silent on this matter, could there be any worse violation of the spirit of the law than this? This recent dangerous shift towards so-called oral government is really a tragedy for the public interest. Oral government is bad government.

On another topic, one of the most serious problems, as FIPA noted, is the shrinking scope of FOI coverage. Public bodies such as UBC are creating wholly owned subsidiaries that they claim are exempt from the FOI Act. One expects that B.C. legislators, in passing the act in 1992, did not foresee this practice of shell companies arising, which circumvents the act's letter and spirit.

Closer to home, I also believe that records of parliamentary committees — including this one, indeed — should be covered by the law. Some may argue that since they only recommend and do not make decisions, there is little need to include them in the act's scope.

I disagree. The in-camera minutes and private reports of these committees and what was urged in camera may be extremely important, even if they only give advice, for the advice could be ultimately influential on law-making. Of course, the exemptions of the law would apply to such records to protect truly necessary information.

The government also said that government caucus committees are not covered by the law, but I believe they are. We had a dispute on that at the commissioner's office.

As well, the exclusion of the Legislative Assembly Management Committee is incomprehensible and indefensible, due in part to the large spending of taxpayers' funds. In another regard, it could entail a risk to public health and safety.

As a newspaper story noted this year, the B.C. legislative buildings would likely collapse into rubble during an inevitable earthquake, according to two studies. The second study in 2006 has never been seen by the public because government labelled it confidential. The story said:

> "Why the provincial government has not paid for the critical seismic upgrades remains unknown. Repairs are handled by MLAs who sit on the Legislative Assembly Management Committee, but the committee doesn't discuss its decisions or release its reports, for it is not subject to the FOI law.
>
> "A partial collapse of the Legislature when it is in session could be catastrophic for the more than 500 people who work in the buildings.
>
> "There was $2 million in non-structural work done in 2006-07 to address falling hazards, such as loose gargoyles that could crush bystanders."

What about the road forward? In this province we have, if enough political will and imagination are present, at least a chance of bringing our law into the second decade of the 21st century while still protecting all truly necessary secrets. This could be done because one of the most appealing things about the FOI topic is that it can transcend political parties' ideologies.

Such is the challenge for you, hon. Members. British Columbia is reputed to be a land of visionaries and pioneers. The government letterhead proclaims that B.C. is "the best place on earth." To conform to this bold — and, to some people, contentious — statement, as Vancouver welcomes the world to the city this month for the Olympics, why not think big, take an overarching global vision, and implement the best FOI act in the world?

We have already moved partly towards that goal by passing the best FOI law in Canada. Why not finish the task that was begun in 1992? Why should B.C. accept being second best to any other jurisdiction on any FOI-related matter and not become a province that others can look to for leadership on this vital subject? I cannot think of a single reason why not. Can you?

In the end, there can be no real accountability without transparency. By raising up our law, you can greatly enhance our own democracy and create a lasting legacy for your constituents.

Thank you. I'd be most pleased to answer any questions.

R. Cantelon (Chair): Thank you very much, Mr. Tromp. We now have some time for questions. The floor is open.

G. Gentner: I'm just interested. What's your e-mail address or your website, Mr. Tromp? I want to inquire. I'm quite intrigued with what you had to say.

S. Tromp: Oh, sure. It's on the e-mail I sent to all the members earlier, and it's on the report and the recommendations as well. I can resend that if you wish.

R. Cantelon (Chair): Further questions?

R. Sultan: Mr. Tromp, I would suggest you stop the presses because I'm going to make an unauthorized FOI disclosure.

Concerning all those free tickets that Mr. Smyth keeps talking about in his column in the *Province*…. I sort of shrugged it off. I said: "At least I'm going to get to see a wonderful event, I'm sure, and I guess I can withstand the journalistic barbs in the process." That was the first difficulty, you might say, we learned to endure.

The second difficulty arose when it turned out we aren't getting any free tickets — so a second deprivation.

I would hope that Mr. Smyth might correct his column at some early date in the future.

D. Routley (Deputy Chair): Thank you, Mr. Tromp. You, in a sense, challenged the committee to make a request for more openness around the 2010 Olympic costing. In order to explore that a bit further, could you compare some of the previous Olympic Games and the access to information that was allotted — as well as, if you know the numbers, how the initial projections worked out in terms of final costs?

S. Tromp: I've not done a study of previous Olympic Games costing. In the United States it's generally more open. But I've looked at the future one, the British Olympic Delivery Authority of 2012, which is covered by the law. At websites doing Google searches you can see many stories about that.

We need to know more about the cost before this event occurs. With loss of access to the minutes, I wish I could answer that question. But I'm afraid I'm not able to. Perhaps other government spokesmen who may come here later could speak more to it, because they have access to records that I don't.

D. Routley (Deputy Chair): In follow-up to that, I would look to tomorrow's meeting, Mr. Chair, with open time before the hearing starts. Could the Chair add to the agenda an opportunity for the committee to discuss the notion of making a request to government for a more open accounting of the 2010 costing?

R. Cantelon (Chair): Well, I think what I'll say is that we'll discuss all recommendations, the fulsome of recommendations, as we move forward. But the time is open for the public, and the public might well appear. So I don't want to preclude that. I think we need to gather everything in before we launch into our discussions and recommendations.

J. Kwan: In terms of comparing B.C. to other jurisdictions relative to our FOI laws and their application, you mentioned two jurisdictions, I think — Nova Scotia and Quebec — who are in advance in some areas.

I'm wondering: have you also compared the stats in which…? For example, earlier we had a presentation that said over 50 percent of the FOI requests actually exceeded the 30-day delay.

Then also, I presume — and I don't have the stats here with me…. You might actually know it, because I know you've done a lot of work in this area. A number of cases have been abandoned for a variety of reasons because it's taking too long, it's too costly and those kinds of things.

Do you have that information, as well, and that comparison between B.C. and that of other jurisdictions?

S. Tromp: Well, that's a very good question. I wish I had that information, but I was doing a comparative study of FOI statutes alone. That took a year, full-time. To do a study of practices would take another two years, which I wish I had. Of course, when I make claims about comparison in law, I make no claim about how well they operate in practice. That's a whole separate field.

The commissioner's office of those other jurisdictions will be able to answer all those questions. I wish I could. But I do emphasize that they don't always work. The law doesn't always work in practice as it does here as well. I wish I could answer that, but future research, I hope, will do that for us.

J. Kwan: Maybe that's a question we can put to the office itself. I think they're going to be back on our agenda, so I'd be interested in getting that information.

The other question is this. What about the issue of penalty? That's been raised as well. Maybe that's unfair to ask you, because obviously you're just an individual citizen who is doing a tremendous job, actually, trying to gather this information in the public interest.

But I'm curious if you have any information on the penalty issue itself in the jurisdictions where they have a penalty clause. Again the question is its application. What is the range of penalties? What does it mean when someone violates the timelines that have been set, let's say, for access to the information? Where the penalty clause is attached, how has that been implemented? I'd be interested in that, because it would be interesting for B.C. to look at those examples for deliberation.

S. Tromp: Yes, it certainly is a most interesting topic, and I have a chapter of that in my report as my recommendations 55 and 56. One good example would be in the federal act. I advise amending B.C.'s act, section 74, to prohibit and penalize persons for the unauthorized record destruction and handling in the FOI process.

With the wording of the Canadian Access to Information Act, section 67.1, that was an amendment to the act in 1999 by the federal government. That would be most advisable for B.C. as well. There are many recommendations for specific penalties on page 133 of my report, from article 19's model FOI law and a Commonwealth Secretariat's model FOI bill. So there's much to be done on that score. There's a chapter in here on it.

[1130]

J. Kwan: I must confess I received your document. I hadn't had a chance to go through all of it, although I certainly had a look through various parts of it. I'll go back to it, though, and review those chapters and find those clauses. But that would also be an interesting area which we should canvass with the office as well to get further information on it.

R. Cantelon (Chair): I hope, Jenny, that you'll make a note of your question when we do have the….

J. Kwan: It's all in *Hansard*, and I'm sure the Clerk's office is keeping very good track of all of this.

K. Conroy: You said that you've made a number of recommendations in 2004, and you said none of them have been implemented. Do you have a short form, *Cole's Notes*, of those recommendations that we could see? It's one of the things we were looking at — the recommendations that were made in 2004 and what has actually been implemented and what hasn't. Why recreate the wheel?

Actually, I'm glad, Darrell, you're still here, because I'd say the same thing to you guys. If you could give us a copy of those too, I think that would be really helpful — just a short form of what was recommended then, what hasn't been implemented, because it's still pertinent, obviously. So if we could get that.

Another question. When you're accessing information as a journalist, accessing e-mails or PIN-to-PIN e-mails, it seems that…. Recently we heard that a minister suggested that a committee develop e-mails between each other on Gmail because it wasn't accessible. Is that an issue with the journalists? Is it something you can access, or does that in effect eliminate the accessibility to those communications?

S. Tromp: To answer the first question, I don't recall all that I recommended back then, but it's most of the same. I believe almost all the recommendations I made back then have been incorporated into my new number of 67 recommendations today. At the front of my book I have the summary of the ten most important recommendations, and they're mostly the same. They overlap almost completely with what FIPA wants as well.

The second question. Yes, that's an area of major concern — that the law always falls behind technology. Digital and communications technology advances so quickly, and law reform is so slow. There is always a disconnect between them.

I have a few pages in my book about just that question about record retention and what a record for government FOI purposes is. There was a debate in the Legislature about that, which I reference here. The Premier spoke to that and what should be considered by bureaucrats private or public e-mail.

We urge that B.C. also create a complete record management act. I believe the librarians have complained that we are the only province in Canada that lacks one, and that would deal with all these questions about record creation — such as even Olympic minutes — their retention and disposal from start to finish and that it be revised continuously to keep up with new technologies. It's very important.

R. Cantelon (Chair): Thank you.

D. Horne: Thanks, Stanley, for your comments. Just a couple of questions for you, really simply. You talk about…. Obviously this is about freedom of information and not about the Olympics. But I did have one question on your point earlier about London and their authority. I understand that that authority is actually set up by the government to provide infrastructure and to build the venues in London and that basically that authority that you quoted isn't actually the organizing committee that London gave us.

S. Tromp: Well, there are two parts. There's an earlier authority that does the construction, and there's the other one that manages the putting on of the games — the ODA — which is covered by the law.

D. Horne: Is it covered by the law as well?

S. Tromp: Yes. The second one, the Olympic Delivery Authority, is covered, but the earlier one is not.

D. Horne: But the delivery authority is also a government entity — right?

S. Tromp: It's a quasi-governmental entity, much like VANOC is. It was created by government and is quasi-independent.

D. Horne: VANOC isn't a government entity. It's a private entity.

S. Tromp: No. Quasi — I mean created by government but run independently.

D. Horne: Because the Olympic organizing committee, which was actually organizing the games…. I believe both the entities you're talking about are actually government entities, which obviously should be covered by access to freedom of information.

The other question I have, which I think probably goes more to a point…. You're very well versed on freedom of information, obviously. You do make many, many requests to freedom of information, so obviously, I think you have a wealth of information for this committee.

In an average year — let's say last year — how many freedom-of-information requests would you personally make?

S. Tromp: Oh, it varies from year to year. Sometimes 200 or 300, I suppose, but that includes, also, federal Access to Information Act requests as well.

D. Horne: Obviously, as a journalist you'd be using those access-to-information requests in order to publish articles or to bring this information to the public. Of those 300 information requests, how many would result in an article?

S. Tromp: The obstacles to the working of the FOI system are so large that perhaps one in ten, I would hope, and that's just how it was. I wish it was more. But the idea that sometimes is raised, that journalists use FOI just to sell newspapers, is not realistic because the public will be more interested in reading things about trivia, about Hollywood movie stars and tabloid type of information than in dry policy reports about governmental issues revealed by FOI requests.

R. Cantelon (Chair): I have Marc Dalton and then Jenny Kwan finally.

M. Dalton: Yes, Stanley, just along with what Doug is saying here, you just said last year approximately a couple of hundred FOIs — 200 or 300 a year — and one that you mentioned was a couple of hundred pages.

How significant have your costs or your company costs been? Has there been an expenditure? I'm interested in knowing that — how much it has cost. And maybe estimate the cost towards the province. I know that this is freedom of information, but there is the whole idea

of what your cost is, what the newspapers are paying, as opposed to what it is costing the province. Can you comment on that, please?

S. Tromp: Yes. Well, I can't really speak for newspaper management, because I work as a freelance reporter, but I can tell you that I have to abandon many, many of these FOI requests because the fee estimates are just too high, ranging in the hundreds or even thousands of dollars, so have to be abandoned. The government can describe more specific numbers on how much the processing for each would be.

It is not easy. Even newspapers are suffering so much at this time, and some are going bankrupt. They can barely afford to pay FOI fees either, so the system is in decline in that sense.

M. Dalton: What percentage would you say are the fees paid out of the FOI requests that you are making?

S. Tromp: Fees. I don't know the exact percentage. I can get that for you later. But it's not a large amount. It's sometimes manageable, but more often not.

J. Kwan: Actually, it's interesting on the fee question. I have to say, probably, in all my years in politics…. I recently made an FOI request to the Ministry of Small Business for records, documents, related to the ministry's activity in hosting Olympic-related events and activities and the costs associated with it. I actually got a fee attached to it to the tune of $10,300.

That was actually, I think, my first FOI request as an elected official, and I was shocked, I have to say. I made a personal request to that ministry, and it came back with a fee of $10,300 — never mind me, in my capacity in my job — to try and get access to this information. I can't imagine that an individual in the public realm would be able to pay that kind of money to get what should have been on the public record.

We were asked then to narrow the request. I narrowed the request. The fee came back to be the same amount. There was no difference. It turned out that there were some contracts that been entered into with various companies, presumably, on activities related to the Olympics that was an expenditure to the Ministry of Small Business. Because the fee didn't change, we were trying to figure out how were going to manage this situation.

In any event, that's sort of an offside issue. The issue of cost is a major issue in terms of access to information, no doubt, and I've experienced it firsthand, and it sounded like, from the previous questioner, that's your situation too. This relates to, then, the previous presentation from the B.C. Freedom of Information and Privacy Association. This has got to be an issue related to how records are kept — right? If records are kept in such a way that access would not require thousands of dollars to retrieve, then that would actually facilitate access to information by members of the public.

To that end, on the access question: did you do comparisons with B.C.'s legislation to that of other jurisdictions on the methods of record keeping?

S. Tromp: Yes. As I mentioned, in Quebec, for example, the law has a section that requires government to manage records and store them in a way that assists applicants.

I'd just like to respond to the previous questioners about the cost of FOI to government. First of all, as I mentioned before, it can save the government costs because it reveals waste via FOI requests, which the public response would cause government to cut the waste.

Secondly, if there was more routine release, there wouldn't be any need for FOI requests. The government creates its own costs in that manner. It could release hundreds of types of more information in records on line. Otherwise, there would be no need for an FOI process or costs, as many other jurisdictions do. All the minutes for the Olympic secretariat, for example, after they have sensitive information removed, could be posted on line.

Government just creates its own inefficiencies, and the applicant cannot be blamed for that — that the government does not do more routine release as it should and as other jurisdictions do.

J. Kwan: Just on that notion, then, in the jurisdictions where they do this routinely and so on, what's the budget allocated — do you know? — to those ministries to do that work up front?

S. Tromp: I don't know the budget offhand. I can research that and find it for you. If it was done here, I suppose it would be likely less than the cost of processing FOI requests, what with the appeals and so on.

J. Kwan: I think that would be actually a very important piece of information, if not through the presenter, Mr. Tromp, perhaps through our own office. They may be able to obtain that information for us.

I think the facility to access…. The cost is prohibitive. Just in my own example, it's just mind-boggling to try and get access to information that should have been on the public record, and that would be contracts entered into by the ministry in hosting guests for the Olympic venue. That should be on the public record, but yet it would cost $10,300 to access that. It's just shocking to me.

So thank you for that.

Interjection.

J. Kwan: Yeah, I'm sure we won't get it until after the Olympics — that is, if we actually get it. So there's also the timeline question.

R. Cantelon (Chair): Thank you very much, Mr. Tromp. You've certainly challenged us and excited this committee with some very interesting discussions it will have, I'm sure. I want to thank you very much for your presentation and for your valuable input. Thank you very much.

S. Tromp: Thank you for listening.

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https://www.leg.bc.ca/documents-data/committees-transcripts/20151109am-FIPPAReview-Vancouver-n6

2015 Legislative Session: Fourth Session, 40th Parliament
SPECIAL COMMITTEE TO REVIEW THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

MINUTES

Monday, November 9, 2015

320 Strategy Room, Morris J. Wosk Centre for Dialogue
580 West Hastings Street, Vancouver, B.C.

Don McRae, MLA (Chair); Doug Routley, MLA (Deputy Chair)

[…..]

D. McRae (Chair): We have before us Stanley Tromp. Stanley has asked us to waive the question element of it because his presentation is 30 minutes. Because I believe I have the unanimous approval of everybody at the table, that will be done.

Stanley, it is now 9:35. You have 30 minutes, sir.

S. Tromp: I am pleased and honoured to be here today, for freedom-of-information and protection-of-privacy law is one of the most important and interesting subjects you'll ever deal with, because it concerns the citizen's relationship to the state. I'll let you just know I'm speaking personally and not on behalf of any organization. I will post a longer version of this presentation on my website this week.

I recall speaking at a B.C. legislative review of this law, chaired by MLA Rick Kasper, in 1998 and then one by Blair Lekstrom, then Ron Cantelon and now the fourth such review today.

FOI and legal study and journalistic practice has been my life's main work for the past 20 years, and perhaps it will be for years to come. You can read about 100 FOI news stories on my website. I also wrote *Fallen Behind: Canada's Access to Information Act in the World Context* in 2008 — the first book to cross-reference the FOI laws of every nation and Canadian province.

The news media act as a surrogate for the citizens who have neither the time nor expertise to obtain the records for themselves. With Canada's ineffective FOI laws, we can produce far fewer FOI news stories than the American press does. In fact, I often use the FOI laws of Washington state. The contrast in service with B.C. is like night and day.

The loss of hundreds of such news articles in the public interest that might have been possible amounts to a world of lost opportunities. We too often forget, also, that the public paid for the production of these records, millions of them. They are, for that reason, as much the public's property as are roads, schools and bridges.

In 2010, I proposed 67 recommendations for reform. The reason I have to reattach them to this submission again is that none were implemented since then — not one. As well, the best recommendations of the first three FOI review committees were shelved by Premier and cabinet and never acted upon.

I will move on to my three main themes of policy advice, shell companies and oral government.

Topic 1, section 13. The most widely misused section of the B.C. Freedom of Information and Protection of Privacy Act, the surely unlucky number 13, for it creates a wide opportunity of secrecy for policy "advice or recommendations developed by or for a public body or a minister."

How did we arrive here? The B.C. Court of Appeal set a dangerous precedent in 2004, when it ruled on an FOI dispute — the Doctor Doe case of the B.C. College of Physicians and Surgeons, with the court holding that section 13 was not limited to recommendations. Instead, the investigation and gathering of facts could be exempted pursuant to section 13, regardless of whether or not any decision or course of action was actually recommended.

In the Doctor Doe case, the bureaucracy pulled off a legal coup — one contrary to the public interest — with arcane, ingenious arguments that bare facts somehow implicitly prompt a policy direction and the two are inseparably intertwined.

By now, officials use the policy advice exemption in practice as a de facto, all-purpose master key that can lock up almost any FOI door or a catch-all net hanging beneath all the other exemptions. It has become like a spreading epidemic that urgently needs to be quarantined. This likely happened because the drafters of the FOI law in 1992 did not foresee section 13's use as spreading so far.

If section 25 is known as the public interest override, I would describe section 13 as, in effect, the bureaucratic interest override, except the latter one never expressed the will of the Legislature but the contrary. It now acts as a sort of inverted section 25. The situation is rather like section 13 versus 25, with the first being applied hundreds of times more often in practice than the second. Although such a match is no contest, I do not call for this balance to be entirely reversed, just more equitably distributed.

Why is this occurring? Perhaps because records such as internal audits reveal serious internal failures and the need for costly solutions, but more often, political embarrassments and inconveniences. And secrecy is a tool of control and power.

How does it affect us in practice? What follows is the worst misuse of section 13 I've seen. For many years, in my view, UBC and the B.C. Lottery Corporation were tied for the status of the most obstructionist FOI branches in B.C., but that prize has now been claimed by the Provincial Health Services Authority, the PHSA. This body oversees the B.C. Cancer Agency, the B.C. Centre for Disease Control, the B.C. Mental Health Society, the Children and Women's Health Centre and more, all with $2 billion in annual revenue.

In 2011, I applied through FOI for summaries of five internal audits. The PHSA refused under section 13. I appealed to the commissioner. Her office, in order F12-02, ordered two of the summaries released in full and parts of the other three. The PHSA has also incorrectly claimed section 12.

[0940]

The PHSA then appealed to overturn that order in a judicial review in B.C. Supreme Court. I sat in the courtroom and listened as lawyers argued that the Doctor Doe ruling was binding. Utilizing lawyers at taxpayers' expense, the PHSA made its argument using in-camera affidavits which we could not review or challenge. The judge agreed with the PHSA, and they won, but the public lost. After that court ruling, I applied for four new audits. The PHSA denied them all in full, citing that ruling on section 13. And so it goes.

It is crucial to note here that by stark contrast, all the other B.C. health authorities give out their internal audits by FOI in full. As with most FOI exemptions, section 13 is discretionary,

which means that the agency may — but not must — withhold the records and is called upon here to exercise its own judgment. So then often it becomes not so much a legal problem as an attitudinal one — less a question of FOI law and policy than of conscience and character. As well, this would have been the ideal time to apply section 25, as the records concerned public health. As a last resort, I hope the Premier would publicly urge the PHSA to release its audits.

The government hides behind the Doctor Doe ruling, and any FOI ruling that it likes, with faux helplessness, a false posture of legal impotence, saying: "The court has spoken, and we must obey it." Courts do interpret the law as written, indeed, but section 13 is very badly written. So it can be rewritten, and must be.

In reply, the B.C. government may try to reassure us by saying: "Section 13 is well written, but in some places it may have been misapplied" — indeed — "but if so, just trust us to correct such misapplications on a case-by-case basis. We can also provide better regulations and guidance for it." This view is mistaken, for the problem is now far too systemic and widespread for that. So the section needs to be reworded. I expect it'll be, politically, the hardest section to change, except perhaps section 12 — the one privilege most treasured by unelected officials, who far outlast elected politicians.

The amount of information in the public interest lost over the past 20 years due to over-application of this section is incalculable. We have all been too slow to notice and catch up to its wide misuse. If not repaired, it will only grow worse.

How to reform section 13? Ideally, records that might attract section 13 would be divided into two parts — (1) facts, and (2) genuine advice. The agency should release the first part and consider withholding some of the second. But then the second part, advice, would itself be subdivided into two categories — 2(a), that which would cause no harm to the deliberative process if it were disclosed; i.e., it would pass a harms test and so would be released; and 2(b), that which would likely cause some such harms and so would be withheld.

The FOI law of the United Kingdom, which is B.C.'s parliamentary model, does this. My recommendation is to amend section 13 to include a harms test, wherein a policy advice record can only be withheld if disclosing it would cause serious or significant harm to the deliberative process. The best models can be found in the FOI laws of South Africa, section 44, and the United Kingdom, section 36.

Section 12 is also misused. When I applied to see cabinet agendas, it was refused, with the nonsensical claims that disclosing the one-line topic headings would somehow reveal the "substance of deliberations." I appealed, and the commissioner's delegate said: "There's no substance to them, and they contain no deliberations." The government appealed the ruling to the Supreme Court and lost. Then they simply ignored the court ruling and are still doing it today in reply to my latest request for the same records.

A note on legal process. Even when some officials know that doing so is indefensible, they will apply section 13 anyway, simply as a game to outspend and outlast the applicant. They know that if the applicant appeals to the commissioner's office, it takes two years for a ruling. Then if that ruling goes against the agency, it promptly appeals to B.C. Supreme Court; then, if need be, to B.C. Appeal Court; then Supreme Court of Canada after that. Hopefully by then, the applicant will grow tired, lose interest and just go away.

Then, upon the ruling, if the court costs go against the applicant, he or she can be financially ruined, which is why some FOI applicants dare not engage in FOI litigation, even if they could afford to initiate it. By contrast, if court costs are assessed against the government, it feels

nothing, for there's always a bottomless reserve of a taxpayers' funds to dip into for such legal adventures.

Topic 2 — peering through the corporate veil. Over the past two decades, a very serious problem has arisen. Public bodies have been creating wholly owned and controlled puppet shell companies to perform many of their functions and manage billions of dollars in taxpayers' money while voicing the fiction that these companies are not covered by FOI laws because they are private and independent.

The problem is that in setting up these FOI-exempt companies, the public body wishes to enjoy all the privileges and flexibility of using corporate power, yet without accepting any moral responsibility or legal liability for their activities. But they cannot have it both ways — that is, to have one's cake and eat it too. This form of pseudo-privatization is quietly and adroitly undermining the whole purpose of the FOI law. Unless the problem is fixed now, it will only grow worse. The kind of accountability that these entities need can only come from public transparency.

[0945]

After Vancouver school board's private companies lost public money in failed overseas business ventures, the Education Minister in 2007 sent out a press release pledging to add these companies to the FOI's coverage, but this was never done. Why not? Yet B.C. local municipality subsidiaries are covered by the act.

Please consider this. FOI-exempt companies owned by B.C. Crown corporations were related to two major financial scandals of the 1990s: first, Hydrogate, by which B.C. Hydro formed a subsidiary, IPC International Power Corp., to invest in a Pakistani power project; second, B.C. Ferries $500 million fast ferries loss by its subsidiary, Catamaran Ferries International.

Today B.C. Hydro claims that two of its wholly owned companies — Powertech and Powerex — are FOI exempt, so they denied my FOI request for their records. As well, the B.C. government excluded VANOC, of the 2010 Olympic Games, from FOI coverage, even though in the U.K., a similar entity that managed the 2012 London Games was covered by the British FOI law.

These entities' coverage was urged by the last B.C. FOI review committee in 2010, the Information and Privacy Commissioner, FIPA and many others, all to no avail.

In a 2011 interview, the minister for FOI policy, Margaret MacDiarmid, said: "It seems reasonable to me that they would be covered. So we're certainly looking at it, but we need to do a consultation, because we have to watch for unintended consequences." Deplorably, the government then voted down an MLA's private member's bill that would have fixed the problem.

The issue was highlighted in 2006, when I filed a request to the University of British Columbia. Under FOI, I asked for the meeting minutes, annual reports and salary records of three of UBC's wholly owned corporate entities. The first was UBC Properties Trust, whose self-described mission is to acquire and develop real estate assets for the benefit of the university. It has a monopoly on all of the development that happens on campus. It manages private rental housing for students, and it is the landlord for most of the commercial space.

The second company, UBC Investment Management Trust, acts as an investment manager for UBC's huge endowment fund and its staff pension assets, making decisions worth billions of dollars.

The third, UBC Research Enterprises Inc., takes research developed at UBC and creates spinoff companies.

The university denied my FOI requests, claiming that all the entities are independent, so not under the control of UBC, as required by the act. I appealed to the commissioner. UBC and its entities then hired a brigade of lawyers, at public expense, to quash the public's right to know.

Yet in 2009, the commissioner's adjudicator, Michael McEvoy, ruled that I should have access to the records, writing: "UBC is found to have control of the requested records…. All three bodies were entities created and owned 100 percent by UBC and accountable to it." Students celebrated the outcome, but it was too good to last.

UBC appealed the McEvoy ruling to judicial review, as did Simon Fraser University in a similar case. B.C. Supreme Court Justice Peter Leask ruled that such entities were not covered by the FOI act, because one must not "pierce the corporate veil." UBC lawyers argued that the commissioner's office was "an inferior court," so the Justice Leask ruling should now be regarded as "the law of the province."

By the way, SFU had spent $157,144 in legal fees fighting its subsidiary case. Every public dollar that is wasted on these self-serving ventures is a dollar forgone from something worthwhile. Imagine, for example, PHSA using their FOI legal bills for health services, or if SFU, instead of wasting $157,000 to launch such lawsuits, had used those funds to supply bursaries of $1,000 each to 157 needy students. Which is the better use of public funds? You decide.

What are the government's arguments against FOI coverage of such subsidiaries? Firstly, such so-called private companies of public bodies may complain of the risk of competitive harm. But the claim is illogical. They cannot suffer competitive harm because they have no real competition — i.e., most are monopolies within their parent institution, such as UBC Properties Trust's status on UBC grounds. I hope your committee will inquire of such entities: "What competitive harms could result from FOI coverage, since you enjoy a monopoly position?"

Secondly, the Chair asked a very good question of the AMS last October 16 on whether it matters if the entity has a monopoly position or not. I have an answer to that, which is the key to the topic. It doesn't matter at all whether they face competition or not, because they are already fully covered, protected from competitive harm, in the FOI law in section 17 and section 21.

The key question to ask these shell companies that oppose coverage can be summed up: "Why exactly do you say that B.C. FOI sections 17 and 21 are insufficient to protect your competitive interests?" One might learn that some responders are not — or barely — aware of these two exemptions and may require enlightenment on these.

[0950]

Section 17 begins: "The head of the public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of the public body…." Section 21 repeats the same principle for private sector third parties. These sections were placed in the law for that very purpose. Why else?

If the illogical, indefensible claim of competitive harms was accepted, then no federal or B.C. Crown corporation would be covered by any FOI law, yet they are all. Indeed, even the

most secretive Prime Minister in memory, Mr. Harper, amended the federal Access to Information Act to cover all Crown corporations and their subsidiaries and even some government-created foundations. These would be the national equivalents of B.C. Hydro's Powerex and Powertech.

All the foregoing shows that the vague, dark warnings of so-called unintended consequences of FOI coverage are, with respect, absolute nonsense. The sole purpose of the call for further study is an eternal stalling tactic, which is the graveyard of reform, as already shown from the VSB coverage that was promised eight years ago and never happened.

The government likely hopes this issue will just quietly go away and die, but as you can see from the many urgent submissions people have given to you here about UBC Properties Trust, there will never be peace until this problem is fixed and justice realized.

Consider that UBC residents and students have been complaining of UBC's secrecy about this company since the year 1988. That is more than a quarter century of pleading, all to deaf political ears and the entity's self-serving, granite-like obstructionism. Must they wait now for another quarter century? To Premier and cabinet, I ask: please do not let them down again. Finally heal this long-festering sore.

The outcome is that these public bodies today could still veil their records in the vaults of these fiefdoms, or what the British call quangos. The secrecy creates potential breeding grounds for waste, corruption and risks to public health and safety. Such an outrage cannot be rationalized away by Crown lawyers. This exclusion is also contrary to the spirit of FOI law, section 25.

Apart from the law, UBC's students, staff and general public, in a larger moral sense, should be regarded as the company's shareholders, as much as the legal owner, UBC, is. Why does it matter? Let us make this abstract issue a more concrete one.

For example, UBC Properties Trust manages the residential buildings. What if it had commissioned a consultant's report that found that its student buildings had major fire hazards or chemical fumes? UBC residents could not obtain that report under FOI, and they would never know. It would stay buried in the vaults forever because the trust claims it is FOI-exempt.

What is the world standard and solutions?

The warning "unintended consequences" expresses that the pernicious old claim about FOI law reform that we should not do anything until we first know everything. But in these matters, we already know more than enough. The Legislature, in 1992, knew that the calculations of supposed harms of FOI releases is never an exact science. How could it be? There will always be a speculative aspect to it, yet the choices must be made.

In other countries. The FOI law of the United Kingdom includes companies "wholly owned by the Crown." The French law does as well. Such coverage is also found in the FOI laws of New Zealand, India, South Africa, the American States and many eastern European nations. All of this makes the B.C. and Canadian FOI reality seem all the stranger or barely comprehensible. This is how much the subsidiary coverage has become a global FOI standard.

In 2006, an FOI law was passed in the Islamic Republic of Iran. I am not making this up. I show you a copy. It was just translated from Persian. In article 2, part H, the definition of public institution includes "each institution, company or foundation whose sole share, or more than 50 percent of its share, belong to the state or government."

I emphasize that I'm well aware that Iran has dreadful human rights problems, and I would not wish us to endorse it as a model for anything else. My point is just to show that overall standards have risen to such a level that even that republic endorses the principle, along with

advanced democracies. As well, coverage in the FOI law of the Russian Federation includes information "created by organizations subordinate to public bodies," the Israeli FOI law was amended in 2007 to include all government corporations of which it owns more than 50 percent. The 2005 draft bill of Palestine grants powers to the commissioner to extend coverage, and the law would cover private institutions that manage a public facility.

I was quite delighted to discover one point upon which Israel, Iran and Palestine all agree, but not yet so in B.C. under our open government Premier. This, one regrets, can hardly be a source of national pride. Under the terms above, UBC's Properties Trust and B.C. Hydro's Powertech could never escape FOI coverage as they do now.

My recommendation is to amend section 3 of the B.C. FOI Act to state that the law's coverage extends to "any institution that is established by the Legislature or by any public agency that is publicly funded or publicly controlled, or 50 percent or more owned, or performs a public function, is vested with public powers or has a majority of its board appointed by it."

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It's absolutely crucial that in order to reform the B.C. act that such entities must be 50 percent or more publicly owned, not fully owned. If the latter course was the law, the government could just sell off 5 percent of the entity and still own the remaining 95 percent, as an adroit way to escape FOI coverage.

Related to this issue of FOI-exempt bodies, there is another overlooked but extremely serious problem: the secrecy of student societies, some of which have faced serious financial scandals.

In the worst example, the Langara Students Union passed changes to its constitution that could allow the LSU to bar students from attending student society board meetings, prevent in-camera meetings from being taken and prevent students from making copies of student union records.

Each semester, the LSU collects $390 in mandatory, not voluntary, fees from every student for an income of more than $2 million per year. The LSU record disclosure policy is covered by the Society Act, section 37. But that act says nothing about the right to copy records and is nearly unenforceable.

Student unions' management of student money acts much like a Wild West, under the radar for decades, and most urgently needs FOI coverage.

Topic 3, oral government. The case of the triple deletion of e-mails related to missing women on the Highway of Tears was expertly analyzed in the report *Access Denied* by the commissioner. I'm grateful that the former commissioner, Mr. Loukidelis, whose ability I have the highest respect for, is reviewing the matter with the goal of providing guidance for future best practices. The subject is discussed more fully by others. I just have a few comments below.

Perhaps the apt term for this event is shocking but not surprising. Although it's perhaps the worst FOI scandal in B.C. history to date, the overall problem is hardly new. Most famously, Deputy Premier Ken Dobell startled listeners at an FOI conference in 2003 when he frankly declared: "I delete my e-mails all the time, as fast as I can. I don't put stuff down on paper that I would have 15 years ago."

I discovered the oral government problem directly when a key source of information about the finances of the 2010 Vancouver Olympic Games were abruptly cut off. Minutes of these

meetings of the Olympic Games Secretariat, a branch of the B.C. Economic Development Ministry, were once recorded but then no more. For news stories, I had twice obtained hundreds of pages of minutes from the secretariat through quarterly requests under the act. But in reply to my third attempt, I was told: "We have not located any records in response to your request."

A spokesperson for the secretariat confirmed to the *Vancouver Province* newspaper that meeting minutes were no longer taken. "The secretariat was keeping minutes but found they were not an effective management tool." I know not what that means. He added that the secretariat's approach to keeping records is "consistent with cross-government practices and legislation." But what is the outcome? A whole provincial government of non-minute-taking departments?

Beyond a loss of public accountability, there is a second tragedy for the public interest. A lack of written records leads to poor governance. When that happens, we are all in trouble. Conversely, the benefits of good recordkeeping are felt internally as much as externally.

Government can indeed legislate some conduct, but it is dangerously naive to assume that it can ever legislate attitudes. Yet, perhaps some good will come from this triple-deletion debacle — and someday be relegated to a dismal memory.

Solutions regarding record retention. The B.C. e-mail deletion scandal this year reminds me of another famous case in Ottawa in the 1990s, after members of the Airborne Regiment killed a teenager in Somalia and a public inquiry later found that officials had improperly destroyed records of the case sought by FOI.

Backbench Liberal MP Colleen Beaumier said that so many of her constituents complained to her upon hearing news reports of the record shredding that she became embarrassed by it, enough so to move an amendment to the federal Access to Information Act to fix the problem, which passed in 1999. The same situation should apply in B.C.

Her amendment 67.1 says that no person shall, with intent to deny a right of access under the section, destroy alter or conceal a record. Any person doing so could receive a maximum fine of $10,000 and a two-year prison term. I recommend this for B.C.

Regarding record creation, in 1999, after a decade of pleas by FOI advocates, B.C. passed the Local Government Act. It became the first province to fully prescribe that certain types of documents must be generated by civic councils, such as records of resolutions and decisions. Why should we accept any less of senior government?

Regarding penalties, it is also of interest that in 31 nations the FOI law includes some kind of penalty for obstructing the FOI process — including Ireland, Mexico, Pakistan, India, Scotland and the United Kingdom.

Citizens may well ask: if we are penalized for late tax filings or paying traffic tickets to the point of being pursued by government collection agencies, then why is government not also penalized for breaking its own laws, such as the FOI statute?

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Then there is the dangerous diversion of faux transparency. The current Premier is a keen advocate of the new era of digital government, such as posting on-line data sets as well as using most social media like Twitter and Facebook. Yet the unexamined consequences to our FOI laws must be understood.

Over the decades, we have faced many threats to the FOI system. But this one may, in a strange way, be the most damaging, if it convincingly passes as a resolution to the transparency problem while, actually unnoticed, making it worse. Why? Because it may pacify the public with an illusion of transparency and empowerment, while their legal rights to obtain records through FOI laws are regressing at the same time. Yet a new deluge of self-selected and self-serving government Internet fluff is no substitute for urgently needed FOI law reform.

Common sense tells us that a B.C. cabinet report on a public disease risk that is 95 percent blanked out due to a defective FOI law, such as with section 13, and then those blank pages are instantly posted to the B.C. open government website — or all the blogs and Twitter feeds in the world — does not make the public a bit more informed or empowered. It is a case of garbage in, garbage out.

Moreover, *Vancouver Sun* reporter Chad Skelton explained that most of the database stories produced at the *Sun* were based on data sets that the newspaper had to obtain by FOI requests and not by the government's routine release. Many other news media have reported the same thing. This fact alone confirms the far-lesser value of posted data sets than FOI laws.

In conclusion, senior bureaucrats, political advisers and Crown lawyers may advise cabinet: "The FOI law is just fine the way it is now. It ain't broke, so don't fix it. In fact, it's already a bit too open and needs some more restrictions." These advisers have the inner ear of ministers continuously, in stark contrast to a member of the public who may give input on FOI law reform for one day every six years to a legislative committee, which is a near-total power imbalance.

Future generations may look back upon this time in wonderment that anyone could seriously argue that Canada's FOI laws should not be raised to accepted global standards. Yet there's no complexity, mystery or controversy to the matter. The need to do so is so obvious and commonsense as to be, as the term goes, a no-brainer.

In sum, on FOI reform we know it needs to be done. There's no need to study more and reinvent the wheel. All we need is political will. This must come from the Premier and cabinet, and without their support, nothing good can happen. We hope they will not view this exercise mainly as a forum for the public to blow off some steam harmlessly and for the government to go back to business as usual, which is the old status quo or worse.

The hour is late, but not too late. In fact, if it wanted to, British Columbia could be the world leader on FOI law and practice. The current Premier based her leadership campaign on open government and transparency. Now is her chance to demonstrate it.

This great province surely needs to at least raise its own FOI laws up to best standards of its British Commonwealth partners and then, hopefully, look beyond the Commonwealth to consider the rest of the world. This is not a radical or unreasonable goal at all, for to reach it, B.C. legislators need not leap into the future but merely step into the present.

I do not have a monopoly on the truth, nor does any other individual or institution. I do not have all the answers, and most FOI advocates never expect to get everything they want. But we can and must do far better.

MLAs serve the public in their own way, as the news media do in ours. Here you have an opportunity to create a historical legacy for your constituents that will endure long after you depart office.

I will just add a point on education and promotion. In Mexico, children are taught in high schools how to file FOI requests, and that could be done here. In some countries, they promote

FOI usage by short TV ads. Here are two — from Jamaica and Scotland — each about 30 seconds long.

[Audiovisual presentations.]

D. McRae (Chair): Just a reminder that your presentation, obviously, is part of the public record now. I think you said you were going to make some revisions to it. If you wish to make sure that the committee receives those revisions, make sure you submit it before January 29, 2016.

S. Tromp: Yes, I'll post it on my website this week.

D. McRae (Chair): Thank you very much.

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