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Elizabeth Denham
Office of the Information and Privacy Commissioner for British Columbia
Post Office Box 9038, Station Prov. Govt.
Victoria, British Columbia
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Dear Commissioner Denham

I am writing to you as both a freedom of information practitioner and scholar, as well as vice-president of the Canadian Association of Journalists.

Recently, the Government of British Columbia announced it would be publishing requests for information filed under its records access law. This follows an earlier decision by the government to publish the responses to those requests.

At the time, the Canadian Association of Journalists opposed that earlier decision. That's because the news media and civil society groups are partially motivated to file public interest freedom of information requests because it is in their private interest to do so – obtaining records from the government that result in an exclusive story they can share with supporters, readers, viewers or listeners.

However, if the government releases those records to the applicant and the public simultaneously that story is no longer an exclusive, reducing the incentive to file freedom of information requests. You acknowledged that dynamic in Investigation Report F11-02. That's why you recommended that "best practice is for public bodies to delay posting of the responses for a minimum of 24 hours and to permit applicants who have particular concerns to request a further delay on reasonable grounds."

The Government of British Columbia has adopted a similar policy. But its recent decision to begin publishing freedom of information requests would reverse this gain. The government claims that decision will increase accountability and provide applicants with a means to track the status of their requests. However, journalists believe it will potentially decrease the exclusivity of their requests and, by extension, the incentive to file them. Moreover, there are other unexplored concerns with publishing freedom of information requests – such as what happens if their contents are potentially libelous.

Indeed, if the government is actually interested in making itself more accountable, it could instead include the time it took to process a freedom of information request – as well as the percentage of information that’s been redacted – when those responses are released.

As such, the Canadian Association of Journalists strongly recommends you consider the concerns of news media members in your evaluation of whether the publication of freedom of information requests serves the public interest or simply the private interests of a government that has repeatedly demonstrated a tendency toward opacity rather transparency in its dealings with both reporters and voters.

Sincerely,

A handwritten signature in black ink, appearing to read 'SH', written in a cursive style.

Sean Holman
Vice-President, Canadian Association of Journalists