Fixing Alberta’s broken FOIP system

Wildrose Official Opposition 2017
Executive Summary

“Access to information in Alberta is fast approaching a crisis situation.”

- Information & Privacy Commissioner Jill Clayton

Alberta’s Freedom of Information and Protection of Privacy Act (FOIP) is in a state of crisis.

Despite promising more open, ethical and accountable government, the NDP government has enabled some of the most secretive and obstructionist practices in the country. This has turned Alberta’s FOIP system into a national embarrassment.

95 per cent of FOIP requests were responded to within 60 days in 2012. Last year, that number fell to 82 per cent.

This isn’t an issue of volume. British Columbia receives far more FOIP requests than all of the prairie provinces combined.

There are some deeply troubling behaviours going on in government as well.

Alberta Justice is not only one of the slowest responding departments for FOIP in the government, but its management has developed a notoriously toxic disrespect for FOIP and is currently being investigated by a special prosecutor for obstructing Alberta’s Privacy Commissioner.

A typical Wildrose FOIP request to Justice and Environment was returned in about four months under the previous government. Now, under the NDP, that number has increased to eight months.

While in Opposition, the NDP promised to do things differently, but under their watch, things have only gotten worse.

Scott J. Cyr
Wildrose Shadow Service Alberta Minister

Nathan Cooper
Wildrose Shadow Democracy & Accountability Minister
The NDP government's toxic disrespect for FOIP is evidenced by the fact that despite receiving far fewer requests than other, comparable provinces, Alberta sees unlawfully drawn out wait times and other obstructionist activities within the bureaucracy.

“Alberta’s Information and Privacy Commissioner says the government of Premier Rachel Notley needs a top-down culture change to address a ‘lack of respect’ for freedom of information.”

- CBC News February 23, 2017
Recommendations for Improvement

1. End chronic ministerial signoff delays by instituting presumptive signoff after five days, a practice now being employed in British Columbia. The Alberta Privacy Commissioner found that the Premier’s Office was delaying FOIPs by certain applicants for weeks beyond what was necessary. When the FOIP office has signed off, a FOIP should go out right away.

   “These are busy places, these offices. The point, though, is to give this the priority and importance that we want. You’ve got five days, and if there’s been no formal sign-off, it is presumed to be signed off and that potential for delay is removed from the process.”

   - British Columbia Finance Minister Michael de Jong, Q.C. May 2016

2. Publicly report response times by ministry in annual ministerial reports. This data is currently tracked, but only published by Service Alberta for the government as a whole.

3. Decentralize the FOIP process by ending the interference of the Public Affairs Bureau, Service Alberta and Alberta Justice in the processing of FOIP requests in other government departments.

4. Reallocate $1 million for more FOIP staff by firing Issues Managers in the Premier’s Office and Public Affairs Bureau.

5. Empower government staff to respond to straightforward questions outside the FOIP Act. Current practice directs media and elected officials to Ministers’ offices. Information should be released without a formal ask if there are no privacy or confidentiality concerns.
Recommendations for Improvement

“When the Wildrose asked this year for a detailed search of files in the Department of Environment, it was told the request would cost $70,303 ... freedom of information is neither free nor informative.”

- Edmonton Journal September 2016

6. Formally review, in conjunction with the OIPC, the FOIP system to find and eliminate inefficiencies while updating best practices.

7. Explore stronger penalties for people who obstruct the processing of FOIP requests by creating unnecessary and unlawful delays.

8. Shift from a system based on responding to requests for information to a proactive system based on open data principles and pushing out information.

9. Review the fees charged for FOIP requests to ensure requests are not cost prohibitive for Albertans.

10. Move away from paper to electronic records to speed up the process of locating information and providing it to the public.
Summary

“Freedom of information is absolutely critical to a functioning democracy.”

- Former NDP Opposition Leader Brian Mason April 2014

The Premier’s Office treats FOIP requests from the Official Opposition differently. They are obstructed and delayed for months by Issues Managers and other political staff. The Premier’s Office takes longer to approve a FOIP request than to actually prepare the FOIP request.

Wildrose believes the Alberta government must be open and transparent and help create a FOIP system that works for Albertans. FOIP is a critical pillar to our democracy and must be protected.

It’s time for the NDP to do what they said they were going to do when they were in Opposition.

By implementing the recommendations outlined in this report, the NDP government could begin to restore faith in our FOIP system and help protect our democracy.
Bibliography


4) “Freedom of Information is absolutely critical to a functioning democracy”. – Letter to OIPC Commissioner from Brian Mason, April 23 2014.

5) Quote on John Heaney: Vaughn Palmer, The Vancouver Sun, Dec 14 1995 Pg A22.


8) “Empower GOA staff to respond outside the FOIP Act.” Alberta OIPC Investitgation Report, F2017-IR-01, Recommendation 18, Pg 25

“Advise all program areas that they can assist applicants too. Not all matters require a FOIP request. Simply answering questions is very much within the spirit of the Act and is part of a robust access regime. This includes responding to the queries of inmates particularly when the request is for information found on the internet.”

https://www.oipc.ab.ca/media/788396/f2017-ir-01.pdf

9) 2014/2015 FOIP Requests in AB, BC, and MB. (Table)

Alberta:

British Columbia:

Manitoba:
Sport, Culture and Heritage, Freedom of Information and Protection of Privacy ACT, Annual Reports, 2015 Annual Reports
Pgs 3 and 4.

10) Point 7: Office of the Information and Privacy Commissioner, F2017-IR-02 (Executive Council and Public Affairs Bureau) Pg 17 point 2.
https://www.oipc.ab.ca/media/788394/f2017-ir-02.pdf