



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for British Columbia

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AUTHORIZATION FOR INDIRECT COLLECTION OF PERSONAL INFORMATION

**MINISTRY OF INTERNATIONAL TRADE &
RESPONSIBLE FOR ASIA PACIFIC STRATEGY & MULTICULTURALISM**

Elizabeth Denham, Information and Privacy Commissioner

September 16, 2015

SUMMARY

Under s. 42(1)(i) of the *Freedom of Information and Protection of Privacy Act* (“FIPPA”), the Commissioner authorizes the Ministry of International Trade & Responsible for Asia Pacific Strategy & Multiculturalism to indirectly collect personal information relating to deceased Chinese British Columbians whose personal information is to be included in the Celebration Book.

BACKGROUND

Section 27 of FIPPA requires that public bodies collect personal information directly from the individual the information is about, with specific exceptions. Section 42(1)(i) of FIPPA gives the Commissioner the authority to permit public bodies to collect personal information from other sources. On September 3, 2015, the Office of the Information and Privacy Commissioner received an application from the Ministry of International Trade & Responsible for Asia Pacific Strategy & Multiculturalism for an authorization to collect personal information under s. 42(1)(i) of FIPPA.

The Ministry is requesting authorization to indirectly collect personal information about the historical contributions of Chinese British Columbians for inclusion in the Celebration Book. The Celebration Book is one of the legacy projects being undertaken by government as outlined in the *Chinese Historical Wrongs Consultation Final Report and Recommendations*.¹ That report was the result of a public consultation process which led to a formal apology in May 2014 by all members of the BC Legislative Assembly to Chinese Canadians for historical wrongs. The objectives of the Celebration Book are to celebrate the contributions of Chinese British Columbians to the diversity and prosperity of B.C., and to provide an opportunity for their experiences to be shared through the telling of their personal stories. It is scheduled to be released in late November 2015.

Researchers for the Ministry have, for the most part, been able to collect the consent of individuals whose personal information is to be included in the Celebration Book, or the consent of the nearest relative, for the indirect collection of their personal information, pursuant to s. 27(1)(a)(i) of FIPPA. However, they have not been able to locate the nearest relative or appropriate person for consent for some deceased individuals because:

- the deceased persons have been deceased for many years and therefore, it is difficult, if not impossible, to track down their living descendants;
- many Chinese Canadians who came to Canada during certain time periods came from very few provinces and regions in China, which meant that they tended to have very common last names, making it very difficult to trace their actual familial lines in China or in Canada;
- some deceased persons do not have descendants; and
- there is no way to determine where (within Canada or overseas) the search for living descendants should begin or end as there could be many reasons for these families to relocate.

It would therefore be very onerous, if not impossible, for Ministry researchers to track down all of the nearest relatives in order to obtain consent for indirect collection.

¹ *Chinese Historical Wrongs Consultation | Final Report and Recommendations*, Honourable Teresa Wat, Minister of International Trade, Available https://news.gov.bc.ca/files/Newsroom/downloads/chinese_consultation.pdf.

DISCUSSION

The question that I must decide is whether to authorize the Ministry to collect the personal information of deceased Chinese British Columbians from sources other than the individuals the information is about.

■ MINISTRY'S SUBMISSION

The Ministry submits that it has the authority to collect the personal information of individuals for inclusion in the Celebration Book because the collection relates directly to and is necessary for a program and activity of the Ministry—namely, the compilation and publication of the Celebration Book. In addition, the Ministry states that the collection and disclosure of personal information pertaining to these deceased Chinese British Columbians would not represent an invasion of their personal privacy for the following reasons:

- the information about the deceased individuals is already in the public domain, and much of it has already been documented in published history books;
- the number of individuals for whom this indirect collection authorization is required is estimated to be approximately 25;
- the objective of the Celebration Book is to profile the positive impact of these deceased individuals on British Columbia and it therefore does not pose a risk of harm, humiliation, or damage to the reputation of these deceased persons, nor to their families, particularly as their families cannot be identified;
- the information in the Celebration Book relates to contributions and accomplishments that took place in the public or professional spheres; and
- no personal information of an overly sensitive nature belonging to these deceased individuals will be disclosed in the Celebration Book.

■ REASONS FOR GRANTING AUTHORIZATION

In previous decisions by my Office when considering whether to grant an authorization for indirect collection under s. 42(1)(i)², the following questions have been considered:

1. Has a clear and sufficiently compelling public interest or objective been identified that cannot reasonably be accomplished through direct collection of personal information?

² Authorization for Indirect Collection of Personal Information by the Ministry of Health, March 30, 2012; Auth (s. 42) 01-01, April 19, 2001.

2. Is the requested departure from FIPPA's rule of direct collection clearly justified when judged against the nature of the personal information to be collected and the purpose for which (and to whom) it is to be disclosed or used?

I will consider these same questions in this application.

With respect to the first question, I am satisfied that the objective of the Legislative Assembly of BC when it formally apologized to Chinese Canadians for past historical wrongs, represents a clear and compelling public interest or objective. In addition, I accept the Ministry's submission that it is not practicable, or in some instances possible, for it to seek consent from the nearest relative of some deceased Chinese British Columbians for the indirect collection of those individuals' personal information.

With respect to the second question, I am satisfied that the nature of the personal information to be collected by the Ministry is not sensitive personal information, and that its collection for the purpose of publication in the Celebration Book is appropriate. The departure from FIPPA's rule of direct collection is clearly justified.

AUTHORIZATION

For the reasons noted above, under s. 42(1)(i) of FIPPA, I authorize the Ministry of International Trade & Responsible for Asia Pacific Strategy & Multiculturalism to indirectly collect personal information relating to deceased Chinese British Columbians for the purpose of publication in the Celebration Book. This authorization is effective until December 31, 2016.

September 16, 2015



Elizabeth Denham
Information and Privacy Commissioner
for British Columbia