



May 27, 2009

Honourable Iain Black
Minister of Labour
and Citizens' Services
Parliament Buildings
Victoria, BC V8W 4X4

Dear Minister:

Insurance Corporation of British Columbia ("ICBC")—Audit Respecting Disclosure of Personal Information in Jury Trials—OIPC File F09-38265

As you know, the Office of the Information and Privacy Commissioner ("OIPC") has begun an investigation into the collection, use and disclosure of personal information by ICBC in the conduct of court proceedings involving juries.

You have indicated to me that the government wants to ensure that there is a thorough, independent, comprehensive and detailed audit of this issue. The government specifically wants to understand how, when and why personal information of individuals involved in ICBC court proceedings involving juries may have been inappropriately accessed or used by ICBC external council or ICBC staff, and wants my office to make recommendations to government and to ICBC for measures that ICBC can take to ensure that ICBC contractors, employees, or others maintain the privacy of personal information.

In conducting the audit, the OIPC will:

- Identify what staff in ICBC has access to personal information, the policies and practices around access to that personal information, and policies related to ICBC staff working with external contractors where personal information may be involved;
- Assess the adequacy of ICBC privacy policies and management controls for ICBC contractors (e.g. external counsel) or staff to ensure compliance with privacy policies or to detect non-compliance with those policies or management controls;

- Identify any incidents of inappropriate access to, use or disclosure of personal information in court proceedings involving juries;
- Where there has been inappropriate access to, use or disclosure of personal information in court proceedings involving juries, determine who inappropriately disclosed personal information and how, and what led to that inappropriate disclosure;
- Where inappropriate disclosure has occurred, provide recommendations to government on how those affected by any incidents of inappropriate disclosure should be notified;
- Recommend any changes to improve ICBC policies, procedures, and management controls that govern ICBC staff and external counsel in court proceedings involving juries;
- Provide a detailed report with recommendations to the Minister responsible for ICBC and to the Chair of the Board of ICBC to enhance the integrity and security of personal information in ICBC related court proceedings involving juries as soon as possible or at the latest by September 30, 2009; and
- Provide to the Minister (at the same time as the report referenced above) a summary report that is consistent with *Freedom of Information and Protection of Privacy Act* provisions that the OIPC and the Minister will jointly release to the public by October 15, 2009.

SCOPE OF REVIEW

In light of the above, I confirm that our audit will focus on the following:

- Court proceedings involving juries since the *Freedom of Information and Protection of Privacy Act* came into effect (1993), including any instances where court proceedings were settled before going to trial but where the jury was selected or about to be selected, where information is practicably available. Information may be obtained through interviews with staff or contractors, external counsel, etc., through data base searches and queries, or through other means the Commissioner identifies.

APPROACH

- I will require ICBC to provide OIPC staff or contractors engaged by my office access to staff, records (either electronic or paper), reports and databases to allow my office to carry out this audit.

Government will provide one-time project funding to the Office of the Information and Privacy Commissioner during this fiscal year for the purposes of this audit, recognizing that the appropriation for the OIPC in this year's estimates does not accommodate an investigation of this scope. We confirm our agreement that the

funding will be based on the investigation being conducted by two director-level investigators working full-time until the reports are complete. The costs may also include costs relating to retaining one IT security expert.

Yours sincerely,

ORIGINAL SIGNED BY

David Loukidelis
Information and Privacy Commissioner
for British Columbia

Copies: Lori Wanamaker
Deputy Minister
Ministry of Labour and Citizens' Services

Dana Hayden
Deputy Minister, Public Safety
Ministry of Public Safety and Solicitor General