



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.

December 11, 2013

Note: The deadline for submissions has been extended to Feb. 14, 2014.

Letter from Commissioner Denham to stakeholders regarding the BC Association of Chiefs of Police and the BC Association of Municipal Chiefs of Police

I am writing to seek your comments regarding a possible recommendation to add the British Columbia Association of Chiefs of Police (BCACP) and the British Columbia Association of Municipal Chiefs of Police (BCAMCP) as “public bodies” to Schedule 2 of the *Freedom of Information and Protection of Privacy Act* (FIPPA), as per my authority under section 42(1)(e) of the Act.

Presently, neither the BCACP nor the BCAMCP is listed as a public body in its own right under FIPPA. Today, access by a member of the public to Association records must occur by way of a request to one of the police departments whose chiefs are members of the Associations. To date, none of these requests has required adjudication by my office. Any future requests that require adjudication would obviously have to be fully, fairly and impartially adjudicated on the evidence and based on fidelity to the current wording and intent of FIPPA.

The question arising here is whether, irrespective of how FIPPA currently reads and is properly construed, I should in my capacity as Information and Privacy Commissioner recommend to the Legislature that it amend FIPPA to expressly list the Associations as public bodies in their own right.

In my reflections on this issue to date, it appears that the policy argument in favour of such a recommendation is based on two related considerations.

The first consideration is the important public role that the Chief Constables and the Associations play in our society. A Chief Constable occupies a central and very important public role. That role also appears to be quite unique because each Chief Constable operates within a statutory employment relationship in which he or she nonetheless enjoys and asserts greater operational independence than one might find in an ordinary employment scenario.

Where, as here, Chief Constables operating pursuant to a unique employment relationship have considered it necessary and desirable to associate, assemble and speak collectively through the Associations they have created, and where government and others treat the Associations as the focal point for contact with the Chief Constables on matters of public policy, it may be suggested, that the Associations should be treated under FIPPA as public bodies in their own right.

The second consideration is more practical. It suggests that from a records coverage perspective, the appropriate level of transparency of Association records can be achieved for FIPPA purposes only if a member of the public can request current and historical records from the Association itself, rather than relying on what might be piecemeal and incomplete records held by individual Chief Constables at any given time (assuming that the “custody or control” test is met in those situations).

Having raised these points for your consideration, I wish to make clear that I have not formed any final views, and am suspending judgment, on what if any public policy recommendations I should make until after the period for comment is closed.

Any person with an interest in commenting on this issue will have until the end of business on **February 14, 2014** to do so. Please note that all stakeholder comments submitted in response to this request will be made publicly available.

Yours truly,

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia