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REPORT TO GOVERNANCE COMMITTEE MEETING OF WEDNESDAY, APRIL 03, 2024

SUBJECT **Freedom of Information and Protection of Privacy Act (FOIPPA) 2023
Overview**

ISSUE SUMMARY

The purpose of this report is to provide an annual year-end update on the key metrics of Freedom of Information (FOI) requests received in 2023 and provide an overview of privacy-related activities led by the Privacy and Information Services Division in 2023.

BACKGROUND

The *Freedom of Information & Protection of Privacy Act* (the Act) requires all public bodies to be accountable to the public and to protect personal privacy by providing a right of access to records in the custody or control of a public body, including records containing personal information about the applicant.

Access (FOI) Requests for 2023

In 2023, the Capital Regional District (CRD) processed 284 requests for information under the Act, increasing by 36 requests or approximately 13% over last year. The Planning and Protective Services Department and Building Inspection Division continue as the service areas most subject to FOI requests. The average size of each request increased from previous years, as has the overall complexity and effort required to process each request.

Records retrieved are categorized by department under the following themes:

Planning and Protective Services (249 Requests):

- **Building Inspection** (201 requests) – building and property inspection records;
- **Bylaw Enforcement** (41 requests) – animal control incidents, complaint files (including audio-visual files), permits and inspection records;
- **Fire Incidents** (1 request) – Fire Department incident response records;
- **Regional Housing** (5 requests) – Committee records, planning & policy, funding and grant records;
- **JdF Planning** (1 request) – Committee meeting records, reports, statistics, and surveys.

Corporate Services (6 requests) – contracts, agreements, bylaws and related records.

Executive Services and Human Resources (6 requests) – Board and committee meeting records and correspondence, personnel records.

Integrated Water Services (8 requests) – watershed protection, waste management, water servicing, electronic vehicles and related records.

Parks & Environmental Services (13 requests) – Wildlife and environmental resource

management, strategic planning records about parks and trails, video surveillance footage from recreational facilities.

Finance & Technology (2 requests) – Financial service records.

In 2023, Privacy and Information Services staff processed an unprecedented number of audio-visual files (both audio and video recordings), including 348 videos. Most of these records were responsive to bylaw enforcement FOI requests, which is a new trend in FOI work.

In previous years, the only video files that were commonly requested and released are video surveillance footage from CRD facilities, usually requested to support police/RCMP investigations. Typically, such footage is not severed, as in these cases, requesting law enforcement agencies have legal authority to receive unredacted surveillance footage records.

This new trend reflects society's increased use of mobile devices, including camera and audio recording technology, coupled with increased file storage and file sharing options. This shift resulted in a higher accumulation, storage, and use of these rich media file formats as records, including for personal use, and within organizations. For bylaw complaints, it is becoming commonplace for the public to collect and submit audio and video evidence of bylaw incidents and issues for an investigation file. Parties to an investigation are often aware, or suspect, that audio/video evidence exists and subsequently request these record types through the FOI process.

In FOI work, audio-visual files are complex to redact and are significantly more time-consuming to process compared to written records, electronic documents, photos, and other file types. Privacy and Information Services is quickly adapting to meet this new demand, learning new technology and innovating processes to properly redact, annotate, and release these requested digital formats in compliance with the Act. Given that many public bodies do not have the capability (i.e., required tools and/or technical knowledge) to address audio-visual files yet, we may be leaders in this area.

Request metrics are further broken down in the Tables in Appendix A. Tables 1 and 2 outline the type of requestors and the number of requests broken down by CRD department area. The effort required to address each request varies significantly based on the scope and nature of what the applicant is looking for. Table 3 sets out the cumulative total number of pages staff reviewed and released over the year. This metric does not include other forms of processed records, including audio-video files. Table 4 outlines how many requests were subject to fees, how much was issued in fee estimates compared to how much was collected in fee payments, how many of the requests involving fees were commercial applicants compared to non-commercial applicants (i.e. individuals) and how many requests were not processed due to fees.

Privacy Impact Assessments (PIAs) - In 2023, Privacy and Information Services staff worked on over 54 PIAs, compared to 35 PIAs in 2022. Several PIAs carried over from 2022, of which a few are still in progress. As PIAs have been mandatory since November 2021, corporate training, communications, and practices continue to raise awareness throughout the organization. Besides volume increases, in 2023, staff experienced increases in the complexity, depth and scope of PIA work through numerous information technology (IT) and system upgrades and corporate change initiatives. Many legacy IT systems and processes, which never initially went through the PIA process, are now being assessed due to a major system upgrade or change.

PIAs completed in 2023 can be categorized under the following themes:

- **Public or Internal Stakeholder Consultation and Surveys** (18 PIAs) – Employee engagement survey, arts & culture community engagement, electronic water station booking form, Magic Lake community issues assessment, Housing Agreement Program (HAP) engagement project, 2023 resident survey (Malatest), volunteer satisfaction survey, Indigenous relations coaching program questionnaire, First Nations Relations Forum of All Councils feedback, Project portfolio management survey (internal), Accessibility feedback form (internal), CRD Evolves Survey (internal), Annual survey on climate action progress.
- **New or Updates to Corporate Technologies & Major Change Initiatives** (25 PIAs) – Video surveillance systems changes or updates, corporate safety systems for Prismatic and ProTELEC Checkmate software, SharePoint collaboration sites (various), First Due (Fire Departments records management software), water billing web tool, M365 Teams Presence, PlayBuilder lesson planning software, SuccessFactors (Human Resource Information System, HRIS), Propulso (Royal Oak golf course visitor use), JIRA project management software, telecommunications and automation drone, archaeology field mapping application.
- **Internal Projects** (10 PIAs) – United Way campaign, Alternative Work Options, Equity, Diversity & Inclusion working group, routine disclosure of environmental hazard data, environmental stewardship & protection webinars (LiveGreen), Google street view image capture and mapping of CRD trails, employee recognition through Kudos and E-Cards.
- **Provincial / Multi-Jurisdictional Partnerships or Projects** (2 PIAs) – Extreme Heat Information Portal (CRD and GeoBC), Homeless Individuals and Families Information System project (HIFIS, involving CRD, BC Housing, other various parties).
- **External Studies and Research** (1 PIA) – Western Painted Turtle identification and monitoring.

PIAs can differ greatly across initiatives which require them. The time and effort required to write, review, and complete a PIA heavily depends on the scope, scale and complexity of an initiative. Key considerations include the type and sensitivity of the information involved, the initiative's privacy impacts and mitigation requirements, the physical, technical and security measures used, the processes, systems and stakeholders involved, and timing. Large initiatives may require multiple PIAs to address the different components or may require multiple years to complete. Business areas lack the privacy subject matter expertise to complete PIAs on their own and need guidance for their initiatives to be privacy compliant, which the PIA process provides. Further, PIAs for technology initiatives may also require input and review by Information Technology staff, particularly security.

Initiatives involving a service provider or external stakeholder typically include the third party/parties in the PIA process. Components of the assessment may require external input, such as the technical security measures used to protect information collected and stored by a third party. The process helps apprise service providers of the CRD's obligations under FOIPPA.

PIAs are often time sensitive for the program area submitting them for review, which is challenging for the Manager, FOI and Privacy since they have concurrent FOIs and PIAs to

manage and complete, along with other responsibilities. This is resulting in PIAs which cannot be completed before an initiative is implemented, or some PIAs are not completed, though certain FOIPPA requirements, like collection notice statements on surveys, are still addressed. A risk-based approach is taken in this regard, and a new senior privacy analyst FTE position has been approved for 2024, to further support this work.

Privacy Management Program (PMP) and Training – Privacy and Information Services provides regular mandatory FOI and privacy training for all CRD employees, which must be completed within six months of employment. In 2023, Privacy and Information Services trained approximately 134 employees, over seven training sessions.

Privacy Breach Reporting – In 2023, Privacy and Information Services were notified of six privacy incidents; none of which resulted in any significant harm to affected individuals, and all were quickly remediated. Two privacy-related complaints involved the Office of the Information and Privacy Commissioner (OIPC) for BC. The CRD was upheld in the first complaint review, while the second complaint has not yet been reviewed by an OIPC investigator.

The number of privacy breaches that occur annually is relatively low, and generally manageable, but could be very impactful on workload should a large incident occur, involving sensitive personal information. Privacy staff coordinate closely with IT security on areas of common interest, including PIAs, risk management, incident management, policies, training, and support.

Alignment with Board & Corporate Priorities

Access to information and privacy impact assessments fall under the Community Need for Open Government. These activities also support legislative compliance, transparency and business systems and processes in the Corporate Plan and are important for good governance.

CONCLUSION

The number of FOIs and PIAs has continued to grow in 2023. It is anticipated that this trend will continue in both areas, especially with respect to PIAs given the objectives of the recent IT Strategic Plan. Further work is planned in 2024 to create publicly accessible data categories for certain record types (i.e., building inspection, environmental hazard data) in support of open government.

RECOMMENDATION

There is no recommendation. This report is for information only.

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ATTACHMENT(S)

Appendix A: 2023 FOI Request Metrics Tables 1 - 4