

## Right to Know Week

Remarks by

Frank Work, QC  
Information and Privacy Commissioner

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Accountability. Transparency. The mantras for our times. Add evidence based decision –making and you have the basis for just about every election speech given in the past decade. And yet, as we recognize Right to Know Week, we are confronted by a disconnect.

People who want our votes, particularly at the provincial and federal levels espouse accountability and transparency. The first of Premier Stelmach’s five priorities when he ran for election in 2006 was to govern with integrity and transparency.

I want to accentuate the positive. There is a reasonably good degree of transparency, let’s call it accessibility, in Alberta. For the Government of Alberta, I would give it, overall, a B minus, if I had to assign a grade. We have the degree of accessibility we enjoy because of a group of well-trained, dedicated people who apply the Freedom of Information and Protection of Privacy Act. These are of course the FOIP Coordinators. I know a lot of them and I know there is a strong commitment to open government. My Office watches what goes on and even if we didn’t, we would see the results of poor performance in the kind of requests for review we get. We get very few deemed refusals for lapse of time, for example. Having said that, I note that where we do get deemed

refusals and where we do get more requests for extension are in cases of requests by the media. This should not happen. There should be no discrimination with respect to access requests by the media.

I know it is not possible that all information goes out all the time. It is to be expected that there will be differences in interpreting the provisions of the Act and these, legitimately, will require mediation, sometimes inquiry and only very rarely, judicial review.

I believe that it is also true in the case of municipalities, universities, schools and police that the level of compliance with the Act is solid. Again, I attribute this to a large extent to the professionals who deal with the requests and advise the heads of the public bodies on how the request should be dealt with.

I therefore want to take this opportunity to thank you for the solid work you do in applying the law.

But a law is only a law and when it comes to obeying it you can do what is minimally necessary or you can embrace the spirit of the law. I cannot let this occasion pass without commenting on what I see as a lack of leadership at the provincial level with respect to access to information. As I said, compliance with the law is pretty good. But what I do not see, for the most part, is leadership at the political level in terms of getting information out, being proactive fostering a culture of openness. A few examples. Here's a rhetorical question: has anyone working in the FOIP area ever received an explicit instruction from a minister or a deputy minister to the effect that it is departmental policy to get as much information out as possible? You know, explicit instruction that you should err on the side of disclosure? Why does that matter? Because we all tend to try to do the right thing with respect to authorities. We try to discern what is expected of us in a given situation. And we human beings are very good at reading between

the lines, so to speak. If we perceive that access to information is frowned upon or the unwritten rule is to be extra cautious, we will act accordingly. The sign might be as simple as the fact that the Deputy takes a long time to sign off on access requests or routinely questions the FOIP coordinator extensively or negatively on almost every access request. Another example: over the years, I have only once seen a Minister make a public appearance for Right to Know Week. That was Minister Zwozdesky in 2006, I believe. There has never been a proclamation, an announcement or a letter from the Government of Alberta recognizing Right to Know Week. “So what?” you say, as long as the law is being obeyed. So what is a matter of leadership? It is a matter of those who promise transparency delivering on the promise, and it is as simple as sending the instruction down the ranks. It is the difference between a culture of secrecy and a culture of openness. If you are going to promise transparency then embrace it. If you are going to promise to obey the law, well, you don’t need to promise that; you are supposed to do it.

At the provincial level, don’t assume that it is always the Minister who determines whether the culture is one of secrecy or openness. Deputy Ministers are very powerful people and have a lot of say in terms of the culture in the department. A Deputy can effectively thwart a Minister’s intent in this regard and I believe that it does happen. On the other hand, I have talked to Deputies who I believe are genuinely trying to find ways to put out meaningful and accurate information to Albertans. Deputy Minister Shirley Howe, who just spoke to us about the workplace injuries and fatalities file and the Deputy of the Department of Energy comes to mind. I recall a few years ago when then Deputy Minister of Environment, Ron Hicks, told me that he was going to routinely make all information about contaminated sites available without an access request. He did.

It doesn't take much from a leader. It can be as simple as leadership style. We have already heard from the City of Edmonton. The City of Edmonton's commitment to Open City is wonderful. Would Chris Moore be pushing all this information out if the Mayor or Council was opposed to it or even frowned upon it? Not likely. By the way, I also want to express my sincere appreciation to Mayor Mandel for the Right to Know Week Proclamation. We have heard from Deputy Minister Howe from Employment and Immigration. In a meeting several months ago, Minister Lukaszuk told me that it was not a question of "if" but "when" workplace injury and fatality records would be released. I believe he genuinely wants this to happen and we will see how that translates in terms of disclosure. I want to thank Deputy Minister Howe for being here to talk about how these important disclosures will take place. I would also recognize the Ministry of the Environment not only for their handling of FOIP requests but also for proactive disclosure with respect to State of the Environment reporting.

Here are my challenges for the coming year.

I challenge the heads of all public bodies to give explicit policy direction to staff as to how access requests are to be handled. Again, this is not about making everything available all the time, every time. It is about making as much available as possible. It is about when the judgment call has to be made on "does it stay or does it go", going with it goes.

I challenge them to make these directives public.

I challenge all public bodies to find ways, like the Open City initiative, to make information freely and routinely available to the public. Let the public see, let the public judge, let the public find ways to make the information useful and relevant to themselves and others.

I then challenge them to openly boast specifically about how much information they have made public.

I challenge the heads of all public bodies to treat all access to information requests in the same way.

I challenge myself to work as hard as I and my staff can to mediate and adjudicate in a more timely fashion with the resources we have. We have overhauled our adjudication process twice and we scrutinize requests for inquiry carefully to ensure that cases merit the expenditure of time and resources.

I challenge myself to look for more situations in which the section 32 public interest override might apply.

There will be a lot of elections in the coming year. I challenge the public to make openness and transparency an election issue for every candidate and then to expect delivery on any promises made.

I challenge the Premier to appear during Right to Know Week 2011 and talk specifically about what has been done to further open and transparent government.

Thank you for your attention.