

# B.C. needs strong access to information regulations

**F**reedom of information has in the past been chiefly the concern of journalists and advocacy groups frustrated in their efforts to ferret out documents from government archives. But the email scandal now engulfing the Liberal government has gained so much public opprobrium that it has earned its own Twitter hashtag: #deletagate.

While the tweets direct all their vitriol at Christy Clark's government — or Clark herself — some of the invective should be reserved for previous governments, dating back to at least 1993 when the NDP introduced the Freedom of Information Act and then immediately set about trying to evade it.

The latest assault on the B.C. government's culture of secrecy comes courtesy of Information Commissioner Elizabeth Denham, who has repeatedly called out politicians and bureaucrats for failing to respect their obligations under the Freedom of Information and Privacy Act.

In her latest report, Denham decried "an entrenched oral culture of decision making in government," designed to thwart public requests for information.

As The Sun has reported, the Clark government stands accused of avoiding creating written records that might later prove embarrassing through mass deletion of emails, and using private email accounts and secret code names — as did the Liberal government of Gordon Campbell before hers, and the Ujjal Dosanjh NDP government before his.

Each leader promised to overturn the clandestine practices of his or her predecessor and run an open and transparent government.

The failure of any government to honour its obligations under FOI legislation suggests that the language of the related laws and regulations needs to be more explicit and penalties for failure to comply more severe. On that score, the Liberals have moved in the opposite direction, repealing penalties and sanctions in a new management information regime that had been part of earlier legislation.

It beggars belief that politicians and bureaucrats have been permitted to triple-delete their email messages, removing them from servers so they were lost forever. No corporate enterprise would give its employees that authority. Such material must be retained in the event of an inquiry, litigation and yes, an FOI request.

The federal Access to Information Act could serve as a reasonable starting point for a strengthened FOI Act, for B.C. Section 67.1 states:

No person shall, with intent to deny a right of access under this Act,  
(a) destroy, mutilate or alter a record;  
(b) falsify a record or make a false record;  
(c) conceal a record; or  
(d) direct, propose, counsel or cause any person in any manner to do anything mentioned in any of paragraphs (a) to (c).

We must add to this list a duty to document — that is, a requirement that public officials create the records necessary to document their actions and decisions — a measure enshrined in law in New Zealand and two Australian states. The NDP opposition has noted that it tabled in the legislature last spring a new access to information law that includes a duty to document.

Clearly, an all-party review of existing and proposed legislation with the active participation of information commissioners past and present will be key to improving this vital aspect of government accountability.