

FREEDOM OF INFORMATION

City put to transparency test by privacy commissioner

Provincial agency scrutinizes the record-handling practices of B.C.'s biggest municipality

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VANCOUVER SUN

The City of Vancouver's handling of access to information and protection of privacy is coming under the microscope of the provincial agency that oversees such activity.

Only a week after Information and Privacy Commissioner Elizabeth Denham issued a damning report on the province's illegal practice of permanently deleting emails, she set her target on B.C.'s largest municipality, wanting to make sure Vancouver is properly handling its records.

The commissioner's office said it isn't acting on a complaint, but wants to make sure Vancouver's record-handling practices comply with the provincial Freedom of Information and Protection of Privacy Act.

"Unlike the Access Denied report, which was focused on responding to specific complaints, this is a broader, in-depth report," said Cara McGregor, an Office of Information and Privacy Commissioner spokeswoman.

"At this point, we're just able to say it is focused on the access to

information practices of the City of Vancouver generally. This wasn't a review generated in response to a specific complaint about the city."

On Oct. 22, Denham issued a report showing the provincial government had encouraged, "wilfully or negligently", a culture of permanently deleting, or not even creating, necessary records. The report came with a recommendation that the RCMP investigate one complaint.

Last year, after he won a reduced majority in the November civic election, Mayor Gregor Robertson promised greater transparency. His administration had been criticized by residents for being inaccessible and secretive despite having a huge communications department.

Media also complained about the city's practices of centralizing and vetting all responses through then-city manager Penny Ballem's office. Some also have had poor success when filing Freedom of Information requests, discovering that in many cases records they believe should exist either weren't created or no longer existed.

Robertson's chief of staff, Mike Magee, has come under criticism

for his practice of routinely clearing out his email, and for a lack of records relating to some of the files he controls. Freelance journalist Bob Mackin, a regular user of the FOI process, has highlighted some of those cases.

Magee did not respond to a request for an interview. However, in a statement emailed to The Vancouver Sun, he denied that the mayor's office violates the act by deleting records that must be retained.

"The City of Vancouver has incredibly robust information and privacy regulations, and I take these issues very seriously. As has been said, we welcome the opportunity to participate in the Office of Information and Privacy Commissioner's compliance review," he said.

"Mr. Mackin's specific complaint was rejected by the British Columbia Privacy Commissioner, who stated that 'the City of Vancouver met its obligations under Section 6 of the Freedom of Information and Protection of Privacy Act.' I fully respect those regulations and the duty to document important city decisions."

The mayor's office said that since the beginning of 2015 it has received 35 FOI requests



DARREN STONE/VICTORIA TIMES COLONIST FILE

B.C. Privacy Commissioner Elizabeth Denham is turning her focus to the City of Vancouver.

that have produced 1,556 pages of records. It also received an FOI request for Magee's outgoing email over a 24-hour period that yielded 98 pages of records. It did not identify the topic of the request.

Vincent Gogolek, the executive director of the Freedom of Information and Privacy Association, said Denham's review of the city

makes sense.

"We've had a lot of focus on the many and various sins of the B.C. government," he said. "If the commissioner is now going to look at auditing municipal governments, why not start with the biggest city?"

Acting City Manager Sadhu Johnston said the city already has a robust system for dealing with FOI requests and welcomes the audit. He said he had never heard the term "triple delete" until the Access Denied report, and he doesn't know if any city staff use that practice.

In the 1980s, Vancouver became one of the first municipalities in Canada to create a Freedom of Information bylaw. It preceded the provincial act, and in its early days was hailed as a groundbreaking piece of legislation outlining the rights of citizens to access the city's documents.

It was far more open than the later provincial act, which brought in a number of restrictions that set rules around the privacy of some government records.

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