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**Province of
British Columbia**
Legislative Assembly



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January 7th, 2015

Mr. Richard Fyfe, QC
Deputy Attorney General
Deputy Attorney General's Office
PO BOX 9290, STN PROV GOVT
Victoria, B.C. V8W9J7

Dear Mr. Fyfe:

On December 19th, 2014 the Government released a copy of the "Investigatory Process Review-2012 Investigation into Employee Conduct in the Ministry of Health" conducted by Marcia McNeil. I am requesting that the government release a full un-redacted report as soon as possible.

Premier Clark and Minister Lake repeatedly stated that the McNeil report was independent and would be released to the public. For example on November 20th, 2014 the Premier told the legislature that "the report and the response will both be publicly released." Instead, the government specifically redacted parts of Appendix C of the report and all of Appendix D other than the title. Given the specific commitments made and the seriousness of the issues involved, we have a right to receive the full report, without section inconvenient to the government, hidden from public view.

Appendix D is of particular interest on the important issue of the government's decision to smear the wrongfully dismissed employees with the taint of an RCMP investigation. The decision made by Government Communication and Public Engagement Office to include a reference to such an investigation in the press release, media leak and press statements on September 6th, 2012 was, in my view, disgraceful and inappropriate.

The chronology would show the public whether or not Mr. Dyble, the Office of the Premier, Ms. Mentzapolous, Mr. De Jong, Dr. MacDiarmid, Mr. Whitmarsh and others received legal advice on this question prior to making a decision in the matter. Presumably, the chronology would describe whether or not the advice was given, but not the advice itself.

I note from P. 33 of the report that in any event, according to Ms. McNeil and the evidence presented to her, "at no time before the termination decisions were made was advice with respect to whether there was just cause to dismiss the six Ministry employees either sought or provided." The decision to redact the names of ADMs Lindsay Kislock, Manjit Sidhu and Barbara Walman in Appendix C has no reasonable basis in the Freedom of Information and Protection of Privacy Act. As noted, the Act is not an excuse by the government to hold back whatever information it

chooses and in this case, there is nothing particularly problematic in the information. I note with respect to the author of the document, whose name is redacted in one place but her initials left in another, the redaction is only partial.

As has been well established, the terms of reference of the report were intentionally limited in scope and the Minister of Finance and the Public Service Agency chose not to give Ms. McNeil the power to compel witnesses. Ms. McNeil concluded for example, that "no one has taken responsibility for the effective recommendation to dismiss the employee. Instead, those most likely to have made the recommendation all pointed to someone else."

Further, Ms. McNeil states that "This case is lacking the reports, briefing notes, meeting notes or other documents which are further prepared in situations where discipline may be contemplated. This dearth of documents has granted the decision-makers an opportunity to avoid taking ownership of the decision." I note that Mr. John Dyble, who is involved in several meetings on this issue, was not interviewed for the report and the meetings in which he participated do not appear in the report's chronology.

Finally, the government has failed to post the report on its website or make it available to the public claiming its "responsibilities under the Freedom of Information and Privacy Act" - a similar approach to that taken by the government with the Mingay Report on issues surrounding then Advanced Education Minister Amrik Virk. These responsibilities are not specified, and I have not been able to find anything in the Act that might impose a responsibility to not post this report on the government website.

They certainly contradict again the specific commitments of the government.

In short, the government used its power to limit the report and Mr. Dyble, it would appear, chose not to see Ms. McNeil. This leaves for another inquiry with powers under the Public Inquires Act, to address the myriad of issues raised by this tragic failure of government and the lack of accountability that we have seen from the Premier, her Deputy and the government as a whole.

In the meantime, we ought to be able to see Ms. McNeil's report in full. I ask you to make it available to MLAs, the media and the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Adrian Dix". The signature is stylized, with a large, looped initial "A" and a distinct "Dix" following.

Adrian Dix MLA - Vancouver Kingsway