

From: [Jody Woods](#)
To: [Judy Wilson](#); [Dalton Silver - Sumas First Nation \(dalton.silver@sumasfirstnation.com\)](#); [mabrampoint@outlook.com](#); [sherrymc68 Mcintyre; com](#); [kevinwhitney1959@gmail.com](#)
Cc: [Shannon Williams](#); [Robyn Laba](#); [Morgan Chapman](#)
Subject: SCB follow up on access to information issues: Need help with access to departmental records?
Date: May 21, 2021 10:55:00 AM
Attachments: [C-58DiscussionPaperFINAL.pdf](#)
[image001.png](#)
[NCRD Submission Re Modernizing Privacy Act - FINAL.pdf](#)
Importance: High

Hi BCSCWG,

For your information, please see below.

Marie-Laurence Daigle from SCB reached out to me today to follow up on comments we made at BCSCWG meeting about access to information delays in the production of claims. Her email and our response below.

Meeting summary to follow shortly

From: Jody Woods <jwoods@ubcic.bc.ca>
Sent: May 21, 2021 10:46 AM
To: Daigle, Marie-Laurence (AADNC/AANDC) <marie-laurence.daigle@canada.ca>
Cc: Robyn Laba <rlaba@ubcic.bc.ca>; Allison Eccleston <allison@ubcic.bc.ca>; amcbride <amcbride@algonquinnation.ca>; Morgan Chapman <mchapman@thehavlikgroup.com>
Subject: Re: Need help with access to departmental records?
Importance: High

Hi Marie-Laurence,

Thank you for following up with the information on access to government records outlined in your email. Indigenous peoples have unique interests in access to information and privacy. The right to access information is integral to Indigenous peoples' pursuit of justice and is fundamental to Indigenous peoples' efforts to resolve historical grievances, such as specific claims.

The members of BC Specific Claims Working Group, the National Claims Research Directors, and the CRU side of the CRU-NSD working group are very familiar with the federal legislation governing access to public records, such as the Access to Information Act, Privacy Act, and Library and Archives Canada Act. Many have been dealing with access issues for decades and continue to advocate for much needed reforms. I have attached two submissions made by the NCRD: the first is a discussion paper submitted to the Senate Committee on Legal and Constitutional Affairs in 2019 regarding the impacts of Bill-C-58 on Indigenous information access rights; the second is a submission made to the Department of Justice in 2019 regarding Canada's plans to modernize the Privacy Act. The NCRD remains actively involved in discussions for reform regarding both pieces of legislation and is seeking engagement in the ATIA review, as well as the Privacy Act reform process.

Several Research Directors representing CRUs across Canada also sit on a CRU-Canada working group on access to information and privacy, which deals with both formal Access to Information

procedures and informal mechanisms for accessing records from CIRNAC. We are hopeful that this working group will be a constructive forum for addressing issues and concerns regarding access to records, at least in the interim while an independent claims process is being developed. Tammy Martin (Director of Access to Information for CIRNAC) and David King (Acting Director of Information Management) have been open and helpful, and we look forward to continuing our discussions with them.

Very quickly, I will touch on a couple of the points that you outline in your email:

While in theory, CIRNAC records older than 20 years should be transferred to LAC, the reality is that the majority are not. It was explained to us by Pierre Desrochers (David King's predecessor) that CIRNAC retains many records if it believes there may be a "business case" to justify keeping them (i.e. any legal process that may require CIRNAC to consult these records). There are many instances of records that are about a century old that are still sitting in CIRNAC warehouses. There is little transparency around where many kilometers of records actually are stored and there is no certainty when researchers request even so much as a file list that they are getting complete listings of the records the need to substantiate their claims.

Researchers do not have default access to all records more recent than 20 years old. There are too many examples to recount where file lists are incomplete, records are withheld, and unreasonable redactions are made (even when researchers submit an 8(2)(k) form, which in theory allows researchers access to records if they are for Indigenous claims research purposes). Please see the NCRD submission for examples.

As I mentioned, the NCRD and CRU working group continue to bring these issues forward. While I appreciate your effort to clarify policy and procedures, please understand that we are very aware of these issues, as well as the frustrations with them and how they are implemented, which continue to exacerbate the inequalities in the current process.

Sincerely,
Jody

Jody Woods
Research Director
Acting Administrative Director

Union of B.C. Indian Chiefs

TEL | [\(604\) 684 0231](tel:(604)6840231)
CELL | [\(604\) 992-8849](tel:(604)992-8849)
FAX | [\(604\) 684 5726](tel:(604)6845726)
E-MAIL | jwoods@ubcic.bc.ca
WEBSITE | www.ubcic.bc.ca

[401 - 312 Main Street, Vancouver BC V6A-2T2](#)

OUR LAND IS OUR FUTURE

We acknowledge our place of work is within the ancestral, traditional and unceded territories of the X^wməθk^wəyəm (Musqueam), Sk̓wxwú7mesh (Squamish) and səliłwətaʔ/seliłwitulh (Tsleil-waututh) Nations.

From: Daigle, Marie-Laurence (AADNC/AANDC) <marie-laurence.daigle@canada.ca>

Sent: May 21, 2021 8:09 AM

To: Jody Woods <jwoods@ubcic.bc.ca>

Subject: Need help with access to departmental records?

Hello Jody,

Following the discussion this week, I wanted to reach out to you to offer assistance in resolving some of the recurring access to records issue that you seem to be experiencing. Although, I am not in charge of records access for the Department, I could try to help you and put in contact with colleagues from that office.

In the meantime, here is an update from the Records office on the generic access to the departmental records:

- Departmental records 20 year and older are available through LAC. As claims cover events that are at least 15 years old, most records required to support claim submissions would be available from LAC without restriction.
- For records 20 years and less, access is granted through CIRNAC records office. Default access is provided to all researchers (whether First Nations or governmental) for non-restricted information. Access to restricted information is provided once the program has reviewed the files as per Access to Information Act. Information is not redacted, but documents may be removed as per Access to Information Act (for example privilege legal advice or third party solicitation)
- The standard time to process a request for departmental records is 3 weeks. From receipt of

request, normally 24 to 48 hours for listing to be provided to requester once we receive confirmation on the listing requested files are sent for review by program then returned to us for action, communication is sent to the requester that files are ready. In the NCR, on-site service are possible for the external researchers. We have also started scanning some documents for NCR information requested from external clients in BC region to help with the time delay.

Let me know if and how we could assist you.

Regards,
Marie-Laurence