

Date: 20260415
Place: Vancouver

In the Matter of:

The Freedom of Information and Protection of Privacy Act,
R.S.B.C. 1996, c. 165

And in the Matter of:

An Adjudication Under Section 62 of the *Act*

Requested by Emre Basci on December 3, 2024

Reasons for Decision

of the

Honourable Chief Justice Skolrood

Counsel for the Office of the Information and
Privacy Commissioner for BC:

K.R. Phipps

The Applicant:

Emre Basci

Written Submissions of the Office of the
Information and Privacy Commissioner for
BC:

June 19, 2025, and March 6, 2026

Written Submissions of the Applicant:

February 15, 2026, and
March 7, 2026

Introduction

[1] On October 10, 2024, the applicant, Emre Basci, submitted a request to the Office of the Information and Privacy Commissioner for British Columbia (“OIPC”) for production of all letters and emails that he had submitted to OIPC through two specified email accounts and a list of all complaints that he had made to OIPC, as well as for OIPC to secure all of his data containing “legal evidence”.

[2] OIPC acknowledged the applicant’s request by way of a letter dated October 23, 2024, in which it indicated that it would respond to the request by November 25, 2024. On November 13, 2024, OIPC provided its formal response in which it took the position that the records requested by the applicant were operational records created for or by the Commissioner and, as such, were excluded from disclosure pursuant to s. 3(3)(f) of the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165 [*FIPPA*]. However, OIPC indicated that it would exercise its discretion to disclose some of the records sought relating to one specific file identified by the applicant (the “OIPC Decision”).

[3] According to evidence filed by OIPC in this adjudication, since 2023, OIPC had opened 10 files in the applicant’s name, the majority of which concerned allegations made by the applicant about Vancouver Community College.

[4] On December 3, 2024, the applicant submitted a formal request to the Minister of Citizens’ Services for a review of the OIPC Decision pursuant to s. 62 of the *FIPPA*. That section entitles a person to ask for a review by an adjudicator of a decision of the Commissioner. Reviews of this nature are conducted by justices of the Supreme Court of British Columbia, appointed pursuant to s. 60.

[5] I was appointed as the adjudicator on or about June 4, 2025.

[6] On or about June 19, 2025, OIPC submitted an application in writing requesting that I decline to conduct an inquiry on the basis that the applicant’s request for a review was bound to fail.

[7] Due to the applicant's personal circumstances and the fact that he resides out of the country, I permitted him an extended time to respond to OIPC's application. He did so in writing on February 15, 2026. In his written submission, he narrowed the relief sought to three categories of documents:

- Correspondence authored by the applicant and sent to OIPC;
- Administrative correspondence from OIPC to the applicant; and
- A metadata list of all of the applicant's complaint/review files with OIPC.

[8] In his submission, the applicant indicated that he was not seeking disclosure of any information relating to confidential functions, third-party content or internal deliberations.

[9] OIPC provided reply submissions on March 6, 2026, and the applicant provided a further written submission on March 7, 2026.

Discussion

[10] As noted, OIPC submits that, as the designated adjudicator, I should exercise my discretion to decline to conduct an inquiry. It submits that the records sought by the applicant fall squarely within s. 3(3)(f) of *FIPPA*, which states:

3(3) This *Act* does not apply to the following:

...

- (f) a record that is created by or for, or is in the custody or under the control of, and officer of the Legislature and that relates to the exercise of functions under an *Act*.

[11] OIPC notes that an adjudicator appointed to conduct a s. 62 review has the same powers afforded to the Commissioner as conducting a review under s. 65 of *FIPPA*, including the discretion to decide whether or not to hold an inquiry (see s. 56(1) of *FIPPA*). OIPC submits that an adjudicator may decline to hold an inquiry where it is "plain and obvious that the records fall under a particular exception or outside the scope

of *FIPPA*”: citing *Law Society of British Columbia (RE)*, 2008 CanLii 65714 (BCIPC) (Decision F08-11) at para. 8.

[12] OIPC submits further that it is plain and obvious that the records sought by the applicant are operational records that are excluded from the scope of *FIPPA*. OIPC cites the decision of Justice Grauer, then of this Court, sitting as an adjudicator in *Adjudication (B.F.)* (30 August 2018) Adjudication Order No. 27, who said (at para. 27):

Operational records have been held to include any record specific to a case file, such as case management or tracking sheets and lists, notes and working papers (including draft documents) of the Commissioner or his/her staff, or any other case-specific records received or created by the Commissioner’s office in the course of opening, processing, investigating, mediating, settling, inquiring into, considering, taking action on, or deciding a case...

[13] In support of this position, OIPC relies on the affidavit of Ethan Plato, legal counsel to OIPC, who deposes that the records requested by the applicant, including as part of his narrowed request, were all received or created by the Commissioner in connection with the various complaints and review requests submitted by the applicant.

[14] In his submission, the applicant references difficulties he has encountered in accessing historic communications and records which is why, according to the applicant, he has narrowed his request to include only correspondence exchanged between he and OIPC, as well as a basic list of his OIPC matters. He notes in particular the loss of access to a former email account.

[15] The applicant submits that there is a distinction between these types of records and internal OIPC work product which is what is intended to be caught by s. 3(3)(f) of *FIPPA*. Given this distinction, he argues that his review application is not bound to fail and, as such, should not be dismissed on the basis of OIPC’s preliminary application.

[16] I note that the affidavit filed by the applicant in support of his submissions, while it touches briefly on his issue accessing documents, is largely concerned with the substance of his dispute with Vancouver Community College and his related complaints

about the Vancouver Police Department, all of which is irrelevant to the issue before me.

[17] In my view, there can be no issue that the records sought by the applicant are records that were created by, or for, or are in the custody of OIPC, in connection with its investigative and adjudicative functions and are therefore excluded pursuant to s. 3(3)(f). Such records fall within the description provided by Justice Grauer in *B.F.* as case-specific records received or created by the Commissioner's office in the course of investigating, inquiring into, considering or deciding a case.

[18] OIPC cites numerous adjudication decisions rendered by justices of this Court, sitting as s. 60 adjudicators, in which it has been found that documents of the type sought by the applicant are operational records exempt from disclosure. These decisions include Justice Grauer's decision in *B.F.*, referred to above at para. 12, as well as *Adjudication (S.V.)*, (12 April 2024) Adjudication Order No. 31 (Weatherill J.); *Adjudication (R.M.)*, (17 January 2024) Adjudication Order No. 30 (Mayer J.) and numerous others.

[19] I note that past adjudication decisions are not binding on me and each adjudication must be considered and determined on its own unique facts and circumstances. Nonetheless, these prior adjudication decisions are useful in terms of identifying the relevant principles and informing the applicable analysis. Of particular note is the consistent treatment of "operational records" and the findings that such records are excluded from disclosure pursuant to s. 3(3)(f) of the *FIPPA*.

[20] The fact that many of the records originated with the applicant does not change their proper characterization. As Justice Weatherill said in *S.V.*:

[28] The Requested Documents are clearly "operational records". They are specific to a case file and were received by the OIPC in the course of investigating a case related to the exercise of the Commissioner's investigative and adjudicative functions. The mere fact that they had been submitted to the OIPC by the Applicant is irrelevant to the question of whether or not they are operational in nature.

[21] Justice Devlin came to a similar conclusion in *Adjudication (R.W.)*, (March 31, 2025) Adjudication Order No. 33 at paras. 38-39. Justice Devlin made the point that it is open to OIPC to provide the requested records, but her narrow role as the appointed adjudicator does not permit her to direct OIPC on how to exercise its discretion. The same holds true in this case.

[22] I would add that while OIPC has brought this matter forward as a preliminary application seeking the exercise of discretion under s. 56(1) of *FIPPA* to decline to proceed with an inquiry, there is no meaningful difference between this process and an actual inquiry into the applicant's review request. Specifically, both parties have been given the opportunity to make submissions on the central question of whether the records sought by the applicant are excluded from disclosure pursuant to s. 3(3)(f) which is what would have occurred had OIPC not brought its application. Further, the OIPC Decision that the applicant seeks to review was made in November 2024 and this process has stretched over a lengthy period of time in order to accommodate the applicant. In the circumstances, dismissing the application and proceeding with an inquiry would serve no useful purpose and would not lead to a different result.

Conclusion

[23] For the reasons set out above, OIPC has established that the records sought by the applicant are excluded from disclosure pursuant to s. 3(3)(f) of the *FIPPA*. The applicant's request for a review of the OIPC Decision is therefore denied.

"The Honourable Chief Justice Skolrood"