

Date: 20260903
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 A.P. on 29 December 2025

Reasons for Decision

of the

Honourable Justice Ramsay

The Applicant:

A.P.

**Counsel for the Office of the Information and
Privacy Commissioner for British
Columbia("OIPC"):**

K.R. Phipps

Written submissions of the Applicant:

May 29, 2026

Written submissions of the OIPC:

June 26, 2026

Reply submissions of the Applicant:

July 2, 2026

Introduction

[1] The stated purposes of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 ("*FIPPA*") include making "public bodies more accountable to the public" by "giving the public a right of access to records" and, importantly for the purpose of this adjudication, by "specifying limited exceptions to the right of access": ss. 2(1)(a) and (c). As a "public body" as defined under *FIPPA*, the Office of the Information and Privacy Commissioner for British Columbia ("OIPC") is itself subject to *FIPPA*: *FIPPA*, Schedules 1 and Schedule 2.

[2] On December 23, 2025, the Applicant, A.P., submitted an access to information request to the OIPC seeking "access to all records held by the OIPC regarding [the Applicant's] previous inquiries or complaints involving the City of Vancouver Animal Control (The Pound) and the BCSPCA from 2016-2017", including numerous specific examples of such records. Later that day, the Applicant submitted a revised request that specified additional examples of records "regarding [the Applicant's] 2017 FOI request to the City of Vancouver (Pound)" ("Access Request").

[3] The Applicant in this adjudication has what the OIPC describes as "a robust file history" with the OIPC, with 16 files opened under the Applicant's name since 2017. 15 of those files involve complaints the Applicant has made against the City of Vancouver and the BCSPCA, apparently relating to seizure of the Applicant's dogs. 13 of the Applicant's OIPC files are now closed; three files remain open and are progressing through the OIPC process.

[4] The OIPC responded to the Access Request on December 29, 2025. It denied the Access Request on the basis that *FIPPA* does not apply to the records sought in the Access Request ("Requested Records"). Specifically, the OIPC relied on s. 3(3)(f) of *FIPPA*, which sets out an exception to the right of access to information:

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, an officer of the Legislature and that relates to the exercise of functions under an Act;

[5] The Information and Privacy Commissioner ("Commissioner") is an "officer of the Legislature" within the meaning of s. 3(3)(f): *FIPPA*, Schedule 1.

[6] In correspondence to the Applicant communicating the decision to deny the Access Request, counsel to the OIPC explained that the Requested Records "were created by or for the Commissioner and relate to the Commissioner's functions under *FIPPA*" and were therefore "operational records" that fell within s. 3(3)(f), such that *FIPPA* did not apply to the Requested Records.

[7] The Applicant requested a review of the OIPC decision to deny access to the Requested Records on December 29, 2025.

[8] Pursuant to s. 60 of *FIPPA*, I have been designated to act as an adjudicator to conduct a s. 62 review of the OIPC decision to deny access to the Requested Records. I have received and considered written submissions and supporting materials from both the Applicant and the OIPC. I have also received and considered additional submissions and materials provided by the Applicant in reply to the OIPC's submissions.

The role of an adjudicator appointed under s. 60

[9] In their submissions, the Applicant describes this proceeding as an "administrative appeal" and a "judicial review". Neither is correct. Rather, this adjudication is a review conducted under s. 62 of *FIPPA*.

[10] As an adjudicator appointed under s. 60 to conduct a s. 62 review, my role is much more limited than that of a judge hearing an appeal or a judicial review proceeding. My sole task is to review the OIPC decision, which was made in response to the Access Request, to deny the Applicant access to the Requested Records. As Mr. Justice Kelleher explained in *Adjudication (F.T.)*, (7 February 2019) Adjudication Order No. 28:

[8] As the adjudicator, I am essentially carrying out the role that the OIPC would perform if the complaint were made against a different public body.

This is different from the role of the Supreme Court of British Columbia in judicial review. In a judicial review, the Court oversees the OIPC's discharge of its responsibilities as a statutory decision-maker under *FIPPA* and the *Personal Information Protection Act*, S.B.C. 2003, c. 63. By contrast, in a s. 62 adjudication, the adjudicator reviews the OIPC's compliance with its obligations as a public body under *FIPPA*.

[9] As an adjudicator, I have authority to investigate and decide some issues but not others. I can only review issues that are within my jurisdiction.

[11] In *Adjudication (R.W.)*, (31 March 2025) Adjudication Order No. 33, Madam Justice Devlin described the very limited scope of a s. 60 adjudicator's jurisdiction in this way:

[20] I emphasize that the jurisdiction of a Supreme Court judge appointed as an adjudicator under s. 60 of *FIPPA* is narrow. The role is strictly confined to reviewing a decision of the OIPC in relation to a request of the OIPC for access to records, and determining whether the decision was made in accordance with *FIPPA*. The jurisdiction does not extend to reviewing the adequacy of the OIPC's investigation into a *FIPPA* complaint about another public body, nor to reviewing the OIPC's decision for procedural fairness or natural justice. See *Adjudication (Jane Doe)*, 6 January 2015, Adjudication Order No.26 at paras. 17 and 19 [*Jane Doe*]. Grievances relating to the OIPC's procedures or the adequacy of its investigation into a *FIPPA* complaint may only be litigated by way of judicial review: *MO.* at para. 15.

[12] I agree with and adopt the above statements of Kelleher J. and Devlin J. regarding the jurisdiction I have as a s. 60 adjudicator.

[13] It is apparent from the Applicant's submissions, reply, and supporting materials that the Applicant does not understand the narrow scope of my jurisdiction in this adjudication.

[14] The Applicant's arguments in this adjudication focus almost entirely on their complaints against the City of Vancouver and the BCSPCA and on the many alleged problems or issues the Applicant identifies with the processes and/or decision making that occurred in their various OIPC case files. The Applicant asks that I make various determinations and orders that would effectively be a review or re-determination of those files. None of these issues or proposed determinations and orders are within my jurisdiction as a s. 60 adjudicator.

[15] This adjudication is not a review of the OIPC's handling of and decisions made in the Applicant's various OIPC files. I have no jurisdiction in this adjudication,

under s. 62 or otherwise, to inquire into the Applicant's various complaints made to the OIPC against the City of Vancouver Animal Control and the BCSPCA, or to review OIPC processes and decisions regarding those complaints. This is not the appropriate forum for the Applicant to pursue those inquiries and reviews.

[16] This is an adjudication under s. 62(1) of *FIPPA*. My jurisdiction as a s. 60 adjudicator is limited to reviewing the OIPC decision made in response to the Access Request. The issue in this adjudication is whether that decision was made in accordance with *FIPPA*.

Review of OIPC decision to deny access to the Requested Records

[17] The OIPC has the onus of proving that the Applicant does not have a right of access to the Requested Records: *FIPPA*, s. 57.

[18] Pursuant to s. 3(3)(f) of *FIPPA*, there is no right of access under *FIPPA* to a record if the record was created by or for, or is in the custody of or under the control of, the Commissioner and relates to the exercise of the Commissioner's functions under *FIPPA*. The OIPC denied the Access Request on the basis that the Requested Records all fall within s. 3(3)(f) of *FIPPA*.

[19] In support of its decision to rely on s. 3(3)(f) to deny access to the Requested Records, the OIPC relies on the many adjudication decisions that have used the concept of "operational records" to describe the types of records exempt from *FIPPA* under s. 3(3)(f) (previously s. 3(1)(c)).

[20] Justice Grauer, sitting as an adjudicator in *Adjudication (B.F.)*, (30 August 2018) Adjudication Order No. 27, provided a helpful explanation of distinction between "operational records", which are exempt from disclosure, and "administrative records", which do not fall under s. 3(1)(f):

[24] A necessary condition for the s. 3(1)(c) [now s. 3(3)(f)] exclusion is that the record must relate to the exercise of the officer's functions under an Act. Past adjudication decisions under the Act have drawn a distinction between two classes of records that may be in the custody or control of the OIPC: operational records and administrative records. Administrative records are those not relating to the OIPC's functions under the Act, and so are not excluded. The Applicant would be entitled to access to such records. See, for

instance, *Adjudication (Doe)*, (06 January 2015) Vancouver, Adjudication Order No. 26, at paras. 39-40 [*Doe*], and cases cited therein.

[25] Operational records, however, relate to the Commissioner's powers, duties and functions under the *Act*, and, by s. 3(1)(c), these are excluded from the right of access under s. 4: *Doe* at para. 41.

...

[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: see, for example, *Doe*, citing *Mr. and Mrs. Y v. Information and Privacy Commissioner*, (05 December 2008) Adjudication Order No. 17 at paras. 20-23; *Adjudication (G.R.)*, (30 June 1997) Adjudication Order No. 3 at paras. 16-19 [*G.R.*]; *Adjudication (C.M.)*, (5 January 1998) Adjudication Order No. 7 at paras. 14-15; *Adjudication (F.G.B.)*, (17 May 2000) Adjudication Order No. 13 at para. 13.

[21] Since Grauer J.'s decision in *Adjudication (B.F.)*, adjudicators have continued to consistently use the concept of "operational records" to describe the types of records exempt from the application of *FIPPA* under s. 3(3)(f).

[22] Every adjudication turns on its own facts and past adjudication decisions are not binding on me; however, they do inform the relevant principles and applicable analysis: *Adjudication (D.P.)*, (18 June 2025) Adjudication Order No. 34 at para. 27. The phrase "operational records" is simply a convenient and helpful shorthand description of the wide range of records held by the OIPC that will be excluded from *FIPPA* under s. 3(3)(f) because they relate to the exercise of the Commissioner's functions under *FIPPA*. In other words, the determinative question when considering the application of s. 3(3)(f) to a record is whether the record "relates to the exercise of [the Commissioner's] functions under [*FIPPA*]" : *FIPPA*, s. 3(3)(f). If the answer to that question is yes, the record is an "operational record" and is exempt from disclosure.

[23] As stated above, the Access Request is for all "records held by the OIPC regarding [the Applicant's] previous inquiries or complaints" before the OIPC. The specific examples of records provided by Applicant in the Access Request consist of

correspondence, emails, notes, logs, and other records relating to the Applicant's previous OIPC complaint files.

[24] The OIPC says that both the language of the Access Request and the evidence of the OIPC on this adjudication establish that the Requested Records are "operational records".

[25] I have not reviewed the Requested Records and consider it unnecessary to do so for the purpose of this adjudication. In my view, it is apparent from the Access Request itself that the Applicant is seeking records that the OIPC possesses only through the exercise of its mandate under *FIPPA* to address the Applicant's complaints and requests regarding the City of Vancouver Animal Control (The Pound) and the BCSPCA. As such, the Requested Records will necessarily be records that are exempt from the application of *FIPPA* pursuant to s. 3(3)(f) because they "[relate] to the exercise of" the Commissioner's functions under *FIPPA*.

[26] Further, the evidence establishes that the Requested Records were received by, or created by or for, the Commissioner's delegates in the course of investigating or adjudicating the Applicant's complaints and requests regarding the City of Vancouver Animal Control (The Pound) and the BCSPCA. These are activities that relate to the exercise of the Commissioner's functions under *FIPPA*. Again, this means that the Requested Records fall under s. 3(3)(f) and there is no right of access to them under *FIPPA*.

[27] The Applicant "contends that the BC SPCA's files do not lose their character as records of a private society simply because the OIPC has chosen to store them within its own investigative systems" and argues that "[t]o permit this would mean that any public body could immunize external third-party actions from public oversight simply by absorbing their records into an operational file".

[28] There is no merit to the Applicant's concern that interpreting s. 3(3)(f) of *FIPPA* as applying to the Requested Records means that a public body can avoid its obligations under *FIPPA* simply by providing records to the OIPC. The application of s. 3(3)(f) to records in the OIPC's possession has no bearing on whether the

Applicant might otherwise have a right of access to records in the possession of the BCSPCA or other parties.

[29] Again, the Applicant's submissions demonstrate a misunderstanding of the scope of this adjudication and the application of s. 3(3)(f) of *FIPPA*. The issue before me is not whether the Applicant has a right of access to BCSPCA records. The issue before me is whether Applicant has a right of access to OIPC records. Section 3(3)(f) of *FIPPA* expressly applies not only to records that are created by or for the Commissioner, but also to records that are "in the custody or under the control of" the Commissioner and relate to the exercise of the Commissioner's functions under *FIPPA*. That includes records that the OIPC receives from other parties further to its investigation and decision making functions under *FIPPA*—for example, records the OIPC might have received from the BCSPCA in the Applicant's various OIPC files.

[30] I am satisfied that the OIPC has met its onus to demonstrate that the Requested Records are excluded from access by reason of s. 3(3)(f) of *FIPPA*. Nothing in this adjudication decision bears on access rights the Applicant might have over records held by other parties.

Conclusion

[31] The Applicant's submissions demonstrate that they view this adjudication as a forum to appeal or review the OIPC's investigation of and determinations in the Applicant's various OIPC files. As explained in these reasons, I do not have jurisdiction over the various allegations made by the Applicant in that regard. While the Applicant may be able to pursue those issues in another forum, they are beyond the narrow scope of this s. 62 adjudication.

[32] For the foregoing reasons, I find that the OIPC is authorized to refuse access to the Requested Records because they fall under s. 3(3)(f) of *FIPPA*. Pursuant to ss. 58(2)(b) and 65(2) of *FIPPA*, I therefore confirm the OIPC's decision to refuse the Access Request.

A handwritten signature in blue ink, appearing to read "Ramsay J.", is positioned above the printed name.

Ramsay J.