Date: 20261118
Place: Vancouver

In the Matter of:

The *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165 (the "Act")

And in the Matter of:

An adjudication under Section 62 of the *Act*

Requested by N.C. on February 10, 2026

Reasons for Decision

of the

Honourable Mr Justice Crerar

(Sitting as an adjudicator appointed under Section 60 of the *Act*)

The Requesting Party on his own behalf:	N.C.
Counsel for the Office of the Information and Privacy Commissioner for BC:	K.R. Phipps R. McMillan
Written Submissions of the Requesting Party:	July 22, 2026
Written Response Submissions of the Office of the Information and Privacy Commissioner for BC:	August 14, 2026
Written Reply Submissions of the Requesting Party:	August 19, 2026
Date of Decision:	November 18, 2026

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I. INTRODUCTION

[1] The applicant, N.C., applies under the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165 ("***FIPPA***"), s 62 for a review of the refusal of the Office of Information and Privacy Commissioner for British Columbia ("**OIPC**") to produce documents related to the OIPC's ongoing enquiry as to whether to cancel his seven ongoing information request files as an abuse of process.

II. LEGISLATIVE FRAMEWORK AND APPLICABLE LEGAL PRINCIPLES

[2] In *Adjudication (M.R.)*, (15 June 2026) Adjudication Order No. 39, Justice Jackson explains the role of a judge in reviewing a request for documents from the OIPC itself, as opposed to another public body:

> [1] Generally, a person who submits a request to the head of a public body for access to a record or for correction of personal information, and is dissatisfied with the outcome, can ask the Information and Privacy Commissioner (the "Commissioner") to review any decision, act or failure to act: *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 [*FIPPA*], s. 52(1). However, that review process does not apply where the request for access to a record or for correction of personal information is submitted to the Office of Information and Privacy Commissioner (the "OIPC"), which is also a "public body" as defined under *FIPPA*, and the initial decision is made by the Commissioner or their delegate: ss. 2, 52(1), Schedules 1 and 2. Instead, in such circumstances, a person who is dissatisfied with the outcome or process can ask that an adjudicator review the Commissioner's decision, act or failure to act: *FIPPA*, s. 62(1). An adjudicator has the powers, duties and functions given to the Commissioner by ss. 42(2)(a) (d), 4344.2, and 47(1), (2)(a) and (3)(5) of *FIPPA*: *FIPPA*, s. 61.

[3] *M.R.* also sets out the legal framework:

> [22] The dual purposes of *FIPPA* are to make public bodies accountable to the public and protect the personal privacy of individuals: s. 2.
>
> [23] The Commissioner is responsible for monitoring how *FIPPA* is administered and ensuring that its purposes are achieved: *FIPPA*, s. 42. The means by which the Commissioner does so includes conducting reviews (on request) of decisions, acts, or failures to act by public bodies in relation to requests for access to records: s. 52; see also ss. 53-59.01.
>
> [24] Generally speaking, following an adjudicator's review of the OIPC's decision to refuse access to all or part of a record (as occurred here), the adjudicator must either: (a) require the OIPC to give the applicant access to all or part of the record; (b) confirm the decision of the OIPC to refuse access;

> or (c) require the OIPC to reconsider its decision; see *FIPPA*, ss. 58(2) and 65(2).

[4] The scope of a justice's review under *FIPPA* s 62 is limited to that which the OIPC could itself do: ensuring that the OIPC, as head of the public body, has met his obligations pursuant to *FIPPA*. A s 62 adjudication does not permit judicial review of substantive OIPC decisions. *In Adjudication (F.T.)*, (7 February 2019) Adjudication Order No. 28, Justice Kelleher summarized the present role of an adjudicator:

> [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.

[5] By *FIPPA* s 57, the OIPC bears the onus on a s 62 review to prove that the applicant does not have a right of access to the record in question.

III. CONTEXTUAL BACKGROUND TO THE ADJUDICATION REQUEST

A. The applicant's OIPC history

[6] The applicant has a long history of initiating complaints and requests for review before the OIPC, from 2002 to the present, initiating between one and 56 files in most years during that span.

[7] By February 3, 2026, the OIPC had opened more than 300 files in relation to complaints, requests for review, or other matters initiated by or about the applicant under *FIPPA* and the *Personal Information Protection Act*, SBC 2003, c 63 ("***PIPA***").

[8] On March 28, 2023, on application by the Ministers of Finance, Health, and Attorney General, the OIPC cancelled the applicant's ongoing files related to his concerns with the Medical Services Plan, on the basis that those applications were

an abuse of process. As stated in that decision, indexed as *British Columbia (Attorney General) (Re)*, 2023 BCIPC 27:

> [83] I found above that the Physician is abusing both FIPPA's review and its inquiry processes to air his grievances regarding the MSP Matter. In view of what the facts reveal about the Physician's consistent pattern of behaviour, it is reasonable to expect that if his current matters proceed, he will continue to use FIPPA processes as he has done in the past, namely as a means to complain about the MSP Matter and berate the public bodies' lawyers and affiants. I am satisfied that both the Current Investigations/Mediations and the Current Inquiries are founded on the same animus and allowing them to proceed would perpetuate the Physician's abuse of FIPPA's review and inquiry processes and be an unreasonable use of public resources.

[9] The OIPC declined the Ministries' pre-emptory requests to restrict future applications by the applicant: para 85.

[10] In May 2024, on judicial review, the British Columbia Supreme Court upheld the OIPC decision: *Cimolai v British Columbia (Information and Privacy Commissioner)*, 2024 BCSC 948, per Justice Iyer (then of this Court) ("***Cimolai 2024***").

[11] Of the applicant's more than 300 filed requests, seven remained open as of February 3, 2026: two related to the Provincial Health Services Authority; three related to the University of British Columbia; one related to the Ministry of Finance; and one related to the Ministry of Health (these entities defined collectively as the "**Public Bodies**").

B. The OIPC Abuse of Process Inquiry

[12] Early this year, the OIPC initiated its own abuse of process inquiry against the applicant: ADJ-26-00037 within administrative file GEN-F26-00098 (the "**Abuse Inquiry**")[1]. The Abuse Inquiry was not limited to the applicant's files related to the Medical Services Plan, but concerned the applicant's past and ongoing files before the OIPC. At the initiation of the Abuse Inquiry, the OIPC adjourned the seven open files on an interim basis.

[13] On February 3, 2026, Ethan Plato, a delegate for the OIPC, notified the applicant of the Abuse Inquiry, and invited the applicant to participate (the "**Notice Letter**"). The OIPC also sent the Notice Letter to the Public Bodies, and invited their participation in the Abuse Inquiry proceeding.

[14] The Notice Letter explained that the Abuse Inquiry would be an inquisitorial proceeding. The inquiry would consider two questions:

a) Is the applicant's use of *FIPPA*, *PIPA*, and the OIPC processes an abuse of process?

b) If yes, then what remedy, if any, is appropriate?

[15] The Notice Letter described the broad doctrine of abuse of process:

> **Abuse of Process**
>
> Abuse of process in the context of an applicant or complainant's behaviour generally means using the OIPC processes, be they under FIPPA or PIPA, for improper purposes. There are no set criteria for determining whether an applicant or complainant is engaged in an abuse of OIPC processes, but the following indicators have been used in past orders and decisions:
>
> - excessively using FIPPA/PIPA processes;
> - "springboarding", which occurs when an applicant uses information received in response to an access request or during the OIPC's review processes as fodder for future access requests or complaints to prolong the dispute with a public body;
> - creating a complex web of interrelated proceedings;
> - attempting to obtain records or information they have already received, particularly when they have already obtained these materials through FIPPA/PIPA processes;
> - continuing to include arguments in their submissions that are irrelevant or unsubstantiated, even after the OIPC has declined to address them or has rejected them outright;
> - using FIPPA/PIPA processes to vent their anger and berate other parties involved in the
> - FIPPA/PIPA dispute or people involved in an underlying dispute; and
> - making unfounded and intemperate allegations of bias, illegality, incapacity, fraud, misrepresentation, conspiracy or tampering, in particular, when they continue to make these assertions after the OIPC has found them to be unsubstantiated.

> The above list is not exhaustive, and all relevant circumstances will be considered when deciding whether an individual is abusing FIPPA/PIPA processes.

[16] The Notice Letter enclosed several documents to the applicant and the Public Bodies:

a) a table summarizing all of the applicant's OIPC files;

b) a 265-page collection of examples from those files which could reflect abuse of process (the "**Examples**"), with a table of contents;

c) a contact list for the parties to the Abuse Inquiry;

d) a collection of "frequently asked questions" and answers, to assist parties to written inquiries; and

e) a set of instructions for written inquiries.

[17] The Abuse Inquiry was assigned to an OIPC Adjudicator. Submissions were exchanged between the applicant and all other participants. The applicant received a copy of all participants' submissions.

[18] On October 5, 2026, the OIPC Adjudicator found that the applicant's use of OIPC processes did constitute an abuse of process: *Cimolai (Re)*, 2026 BCIPC 106 ("***Cimolai 2026"***):

> [126] The Individual has demonstrated a consistent pattern of using OIPC resources in an inappropriate and excessive manner, despite being told in two prior Orders that the OIPC considers his conduct to be an abuse of process.
>
> [127] The Individual continues to use many of the same tactics he has in the past. He submits large volumes of irrelevant materials, yet he fails to meaningfully address the issues at hand. He uses his submissions to make unfounded allegations and inappropriate remarks about others, while denying any wrongdoing of his own.
>
> [128] Although he has sought OIPC review over 300 times, the Individual continues to show contempt and disrespect for OIPC processes and the individuals involved, and he fails to follow instructions despite extensive experience with OIPC processes.
>
> [129] The Individual's conduct has resulted in an excessive and disproportionate use of OIPC resources. This indicates he is not using OIPC processes for their intended purpose, namely, to resolve disputes under FIPPA and PIPA. I have no trouble concluding that the Individual is abusing OIPC processes. The next step is to determine the appropriate remedy.

[19] The OIPC Adjudicator placed restrictions on the applicant's future use of the OIPC processes. Notably, the applicant is required to obtain advance permission before initiating any complaint or request for review under *FIPPA* or *PIPA*, and the applicant may only have one open proceeding at any given time, unless otherwise permitted by the OIPC: para 145.

C. The applicant's document demand for the Abuse Inquiry

[20] On February 10, 2026, a week after the Notice Letter, the applicant requested all OIPC records related to the Abuse Inquiry:

> For all matters relating to your files GEN-F26-0098 and ADJ-26-00037 and for the files themselves. I wish to receive from your bureau all notes to files, all internal correspondence from the OIPCBC whether generated from internal interactions or actions with external agents, and all external correspondence and data from external sources directed to the OIPCBC on such matters
>
> (the "**Requested Records**").

[21] In a letter dated February 23, 2026, the OIPC counsel Alexander Lonergan refused the applicant's request, on the basis that the Requested Records were created by or for the Commissioner and relate to the Commissioner's functions under *FIPPA* (the "**Decision**"):

> Under FIPPA, a public body such as the OIPC is required to respond to requests for records, if the responsive records exist and are under its custody or control. However, FIPPA provides that operational records of the Commissioner, as an officer of the Legislature, are excluded by virtue of s. 3(3)(f) of FIPPA. This provision reads as follows:
>
> > **Scope of this Act**
> >
> > **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;
>
> The records that you requested were created by or for the Commissioner and relate to the Commissioner's functions under FIPPA. As operational records they fall within s. 3(3)(f) of FIPPA. As a result, FIPPA does not apply to these records and the OIPC is not required to disclose them to you.
>
> […]

> If you are dissatisfied with this FOI response, you may request a review by making a written request to the minister responsible for FIPPA, the Honourable Diana Gibson, Minister of Citizens' Services.
>
> […]
>
> Please note that the OIPC has been through 35 separate adjudications concerning the application of FIPPA to operational records. In each of those hearings, a Justice of the Supreme Court of British Columbia, acting as an Adjudicator, has affirmed that operational records are exempt from disclosure. A list of those adjudications can be found at http://www.oipc.bc.ca/rulings/adjudications.aspx.

[22] On or about March 4, 2026, the applicant requested a review of that Decision by an adjudicator, leading to the present process and decision.

[23] On July 22, 2026, the applicant forwarded a 17-page argument in small and dense font and spacing.

[24] On August 14, 2026, the OIPC provided its 15-page argument.

[25] On August 19, 2026, the applicant forwarded a further 10-page argument, along with 50 pages of supporting documentation.

IV. STANDARD OF REVIEW

[26] The parties are in agreement that the standard of review is correctness.

V. ISSUE

[27] The sole issue on this review is whether the Commissioner was correct to conclude that the Requested Records are excluded from the scope of *FIPPA* as records "in the custody or under the control of [the Commissioner] and that [relate] to the exercise of [his] functions under [the] Act": *FIPPA* at s 3(3)(f).

VI. ANALYSIS

[28] I agree with the OIPC that the Commissioner was correct to conclude that the Requested Records are excluded from the scope of FIPPA as they are records in the custody or under the control of the Commissioner that relate to the exercise of his functions under *FIPPA*: *FIPPA* at s 3(3)(f).

[29] Judges of this Court sitting as adjudicators under *FIPPA* have repeatedly concluded that materials in an OIPC case file are related to the Commissioner's legislative functions administering *FIPPA* and are excluded from the scope of *FIPPA* under that provision.

[30] *FIPPA* s 3(3)(f) does not exclude from production all records in the custody and control of the OIPC. For example, OIPC administrative records which do not relate to the OIPC's legislative functions are not excluded from *FIPPA* disclosure. In contrast, the OIPC's operational records, including investigatory or adjudicative records, are excluded from the scope of *FIPPA*.

[31] Operational records are those that relate to the Commissioner's functions under the legislation the OIPC is responsible for administering. These include records obtained by the Commissioner in the course of investigating a complaint. As Justice Grauer (then of this Court) explained in *Adjudication (B.F.)*, (30 August 2018) Adjudication Order No. 27:

> [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.
>
> [emphasis added]

[32] *B.F.* confirms broad protections for records related to the Commissioner's investigatory or adjudicative function conferred by statute:

> [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…[authorities omitted]

[33] In other words, operational records include records received or created by the OIPC in the course of carrying out investigative duties.

[34] This is well-established law, as confirmed by multiple judicial interpretations of s 3(3)(f) concerning requests for access to materials in other OIPC investigative files:

a) *M.R.* (Jackson J);

b) *Adjudication (E.B.)*, (15 April 2026) Adjudication Order No. 38 (Skolrood CJSC);

c) *Adjudication (A.A.)*, (12 December 2025) Adjudication Order No. 37 (Marzari J);

d) *Adjudication (D.L.)*, (23 September 2025) Adjudication Order No. 36 (Skolrood CJSC);

e) *Adjudication (A.B.)*, (23 September 2025) Adjudication Order No. 35 (Skolrood CJSC);

f) *Adjudication (D.P.)*, (18 June 2025) Adjudication Order No. 34 (Skolrood CJSC);

g) *Adjudication (R.W.)*, (31 March 2025) Adjudication Order No. 33 (Devlin J);

h) *Adjudication (J.M.)*, (17 January 2025) Adjudication Order No. 32 (Crossin J);

i) *Adjudication (S.V.)*, (12 April 2024) Adjudication Order No. 31 (G.C. Weatherill J);

j) *Adjudication (R.M.)*, (17 January 2024) Adjudication Order No. 30 (Mayer J (then of this Court));

k) *Adjudication (F.T.)*, (7 February 2019) Adjudication Order No. 28 (Kelleher J);

l) *B.F.* (Grauer J (then of this Court));

m) *Adjudication (Doe)*, (6 January 2015) Adjudication Order No. 26 (Fitch J (then of this Court));

n) *Adjudication (J.P.)*, (30 October 2014), Adjudication Order No. 25 (Pearlman J);

o) *Adjudication (VPD)*, (12 April 2013) Adjudication Order No. 23 (Griffin J (then of this Court));

p) *Adjudication (C.S.)*, (12 November 2009) Adjudication Order No. 22 (Griffin J (then of this Court));

q) *Adjudication (J. and D.S.)*, (5 December 2008) Adjudication Order No. 21 (Pearlman J);

r) *Adjudication (A.V.)*, (17 November 2008) Adjudication Order No. 20 (Gerow J);

s) *Adjudication (D.)*, (12 July 2007) Adjudication Order No. 19 (Bauman J (before his tenure as JA and CJBC)); and

t) *Adjudication (V. (A.N.T.))*, (12 March 2007) Adjudication Order No. 18 (Bauman J (before his tenure as JA and CJBC)).

[35] A sampling of the decisions above illustrate the distinction between administrative records, which are subject to disclosure under *FIPPA*, and operational documents, including, specifically, documents relating to adjudicative and investigatory functions, as here, which are excluded under s 3(3)(f):

a) Justice Devlin affirmed in *R.W.* that internal and external memoranda, among many other records, including documents the OIPC received from public bodies, were operational because they related to an exercise of the OIPC's mandate under *FIPPA*: paras 6, 33-35;

b) Chief Justice Skolrood affirmed in *D.L.* that "complete files" were operational because they were created for or in the custody of the OIPC for investigative or adjudicative purposes: para 17;

c) Justice G.C. Weatherill affirmed in *S.V.* that records submitted to the OIPC by a s 62 applicant were "clearly" operational because they were specific to a case file and received by the OIPC in the course of investigating a case related to the exercise of the Commissioner's investigative and adjudicative functions: para 28. The fact the s 62 applicant had submitted them to the OIPC was "irrelevant" to the question of whether they were operational: para 28.

[36] The records requested by the applicant are specific to the two investigatory and adjudicative files. They are operational documents relating directly to the Commissioner's investigatory and adjudicative functions conferred by statute. My conclusions about these records parallel those of Justice Jackson in *R.W.*:

> [39] All of the Requested Records are case specific, in relation to M.R.'s OIPC Correction Complaint involving BC Assessment and the making of the OIPC Correction Decision. The Requested Records are case-specific records received or created by the OIPC, in the course of opening, processing, partially investigating, and considering of the OIPC Correction Complaint involving BC Assessment, and making the OIPC Correction Decision. Documents specific to a case file which are received by the Commissioner while investigating the case are operational records, regardless of whether they were created by the Commissioner or submitted during the investigation by someone else: *RM 2024* at paras. 13-15. Under s. 3(f), *FIPPA* "simply does not apply to records of the Commissioner which relate to the exercise of their investigative and adjudicative functions": *RM 2024* at para. 17.

[37] The records sought by the applicant are excluded operational records within the meaning of these decisions interpreting and applying s 3(3)(f). They are documents received or created by the OIPC in the course of initiating, inquiring into, considering, taking action on, or deciding a case: the Abuse Inquiry. The Abuse Inquiry relates to the Commissioner's statutory functions overseeing and administering *FIPPA*. In considering whether the applicant has been abusing *FIPPA*'s processes, the Commissioner is exercising his statutory role of monitoring how the statute is administered, and ensuring that its purposes are achieved. The records related to the Abuse Inquiry are clearly related to the exercise of the Commissioner's statutory functions under *FIPPA* at ss 42 ("General powers of commissioner") and 56 ("Inquiry by commissioner"). These records are thus excluded from *FIPPA* disclosure by s 3(3)(f).

[38] The applicant does not dispute this considerable body of law; nor does he present authorities that reach different conclusions. He cites the Justice Crossin *J.M.* decision to argue that because the OIPC disclosed records to the s 62 applicant in that case, the Court should order disclosure in his case. As the applicant himself notes, however, the issue in *J.M.* was moot. This was because the OIPC voluntarily disclosed the sought record notwithstanding its position the record was exempt

pursuant to s 3(3)(f): paras 6, 21-22. Consequently, Crossin J declined to hear the s 62 review and thus did not determine whether the record in that case was operational: paras 35-36. The applicant does not cite any authority that stands in contrast to the consistent jurisprudence on operational records.

[39] The applicant's arguments largely express offence that the OIPC has exercised these powers over its processes: that the OIPC initiated the Abuse Inquiry on its own motion, rather than as requested by a public body. But the following authorities, and the authorities cited therein, confirm that the OIPC properly possesses and can exercise this power.

[40] Recently, in *Burgoyne v British Columbia (Information and Privacy Commissioner)*, 2026 BCSC 2123, this Court confirmed that s 56 confers broad powers on the OIPC to control its own processes:

> [55] In *Prassad v Canada (Minister of Employment and Immigration)*, 1989 CanLII 131 (SCC), [1989] 1 SCR 560 at p 568–569, the Supreme Court of Canada recognized the general principle that, in the absence of specific statutory rules to the contrary, an administrative tribunal is master of its own procedure, subject to the requirements of procedural fairness and natural justice. That principle has recently been applied in the context of proceedings before the OIPC: *Pyne v British Columbia (Information and Privacy Commissioner)*, 2026 BCSC 677 at para 59. *FIPPA* leaves significant aspects of the conduct of proceedings to the Commissioner. In particular, s 56 grants the Commissioner broad authority to conduct inquiries, determine questions arising in the course of those inquiries, and determine both the manner and extent to which parties may make representations.

[41] *Cimolai 2024* specifically confirms that the OIPC has broad powers to control and protect its processes to guard against abuses of process:

> [16] FIPPA creates the OIPC, headed by the Commissioner. Section 42 of FIPPA makes the Commissioner responsible for administering FIPPA to ensure its purposes are achieved. This includes ensuring compliance with the rights and responsibilities created by the statute. The Commissioner may investigate, conduct audits, mediate and/or conduct inquiries for these purposes, and the Commissioner may delegate those functions to others: s. 49.
>
> [17] Section 43 authorizes the Commissioner, upon application by a public body, to disregard an access request for specified reasons, including that it is an abuse of process.

> [18] Section 52 provides that an individual who is dissatisfied by the public body's response to their request for access to information may request the Commissioner to review what the public body did. That review may include investigation, mediation and/or an inquiry.
>
> [19] Section 56 governs inquiries. Importantly, s. 56(1) states that the Commissioner "may" conduct an inquiry. The Court of Appeal has interpreted this section to mean that public bodies may apply under s. 56 to ask[ ] the Commissioner not to conduct an inquiry: *Gichuru v. British Columbia (Information and Privacy Commissioner)*, 2014 BCCA 259 at para. 4. The OIPC has relied on abuse of process as one reason to decline to hold an inquiry under s. 56: *West Vancouver (District) (Re)*, 2007 CanLII 67284 (B.C.I.P.C.). This conclusion was implicitly endorsed by this Court in *Gichuru v. British Columbia (Information and Privacy Commissioner)*, 2013 BCSC 835 [*Gichuru* BCSC] at para. 27, rev'd on other grounds, 2014 BCCA 259.

[42] *Cimolai 2024* thus ultimately dismissed the applicant's judicial review:

> [90] The Delegate concludes that Dr. Cimolai's use of FIPPA's processes regarding the MSP Matter is an abuse of process:
>
> > [79] In my view, all the above behaviours demonstrate that the Physician does not have a genuine interest in the FIPPA issues he raises with the OIPC or in accessing the information in dispute. His behaviour is unreasonable and indicates that he is acting in bad faith and has ulterior and vindictive motives for using the FIPPA review and inquiry processes - motives that are unrelated to the purposes for which FIPPA is intended to be used.
>
> [91] In summary, the Decision sets out the applicable law and finds the material facts based on the evidence. In so doing, it addresses the arguments made by the parties. The Decision is both internally coherent and justified in light of the relevant facts and law. Dr. Cimolai has failed to show that it is unreasonable.

[43] Earlier this year, *Pyne v British Columbia (Information and Privacy Commissioner)*, 2026 BCSC 677 at paras 88-90 found that abuse of process was a conclusion reasonably open to the OIPC Adjudicator with respect to that applicant's 65 information requests to his university employer and his 71 OIPC complaint files following refusal of those requests.

[44] The applicant also complains that the Examples provided in the Notice Letter are "cherry-picked" and unfairly slanted. Such arguments are better directed to the Abuse Inquiry itself. Indeed, he did raise them in that inquiry: *Cimolai 2026* at paras 41-45.

[45] Indeed, a review of *Cimolai 2026* indicates that many of the voluminous arguments the applicant advances in the present process duplicate those already advanced and dismissed in the process leading to that decision.

[46] In this, the bulk of the applicant's submissions attempt to relitigate matters that have been considered in *Cimolai 2026* and other OIPC proceedings. These include: the Commissioner's authority to initiate the Abuse Inquiry; the fairness of the procedure in the Abuse Inquiry; the effect of the Abuse Inquiry on the applicant's *Charter* rights; the closure or disposal of OIPC files involving other public bodies; and the alleged spoliation of evidence in other OIPC and Court proceedings.

[47] The applicant's remaining arguments generally allege improprieties against the OIPC, and the Public Bodies involved in the seven open files. For example:

> In the context of 'Examples', it is of note that Plato distinctly disregards the plethora of and the heinous examples of the public bodies particularly in their own abuse of information access. The letter to Harvey of Mar. 2/26 as attached outlines a magnificent abuse of processes for several public bodies in pages 5-9-and 32-37. In addition to the latter, Government Ministries have also been at the very forefront of major information access abuses as shown the in the same letter (pages 9,10, and 38-42. The latter is further supported by publications in which the OIPCBC has directly impugned many of the same or similar public bodies (Harvey Mar. 30, 2026 letter - pp.2-5). Some of the citations in the latter comprise among the most disturbing of Government behaviours in the history of information access in Canada. Again, Plato's selectivity is highly visible and now with the OIPCBC in that very midst of celebrity.

[48] Again, such arguments do not bear upon the present enquiry with respect to *FIPPA* disclosure.

[49] I will close by addressing the applicant's three forms of waiver argument. He argues that he is entitled to these records, as the OIPC has provided access to similar records in the past.

[50] First, the applicant refers to a contract between the OIPC and an external legal counsel, Tamara Nielsen, that he obtained pursuant to an access request. On the evidence before me, that contract was properly disclosed as an administrative (not operational) record of the OIPC. As set out above, while operational records fall

within the scope of s 3(3)(f), administrative records do not, and are subject to disclosure under *FIPPA*. Administrative records include amongst others, personnel, competition and office management files: *Adjudication (R.G.)*, (10 November 1997) Adjudication Order No. 6 (Bauman J, before his tenure as JA and CJBC), at paras 11-15.

[51] Second, the applicant points to the Notice Letter's provision of the Examples to the Public Bodies as a voluntary provision of operational records, such as to deprive the OIPC of its statutory exception. Of course, voluntary provision of operational records in one context does not lead to waiver of all documents in all contexts. The provision of those Examples, as a matter of fairness to both the applicant and the Public Bodies, does not waive statutory protections over all of its operational documents. Indeed, *FIPPA* expressly authorises and contemplates such disclosure:

> **Restrictions on disclosure of information by the commissioner and staff**
>
> **47**(1) The commissioner and anyone acting for or under the direction of the commissioner must not disclose any information obtained in performing their duties or exercising their powers and functions under this Act, except as provided in subsections (2) to (6).
>
> ***(2) The commissioner may disclose, or may authorize anyone acting on behalf of or under the direction of the commissioner to disclose, information that is necessary to***
>
> ***(a) conduct an investigation, audit or inquiry under this Act***, or
>
> (b) establish the grounds for findings and recommendations contained in a report under this Act.
>
> [emphasis added]

[52] It could not be the case that OIPC's exercise of its statutory obligations and rights under one section of *FIPPA* (ss 47 and 56) would render ineffectual another section (s 3(3)) of that statute, or result in the disclosure of all operational records otherwise statutorily protected.

[53] Third, the applicant argues that waiver occurred "in that there has been a deliberate provision of records that would otherwise be seen as operational" to the Ministry of Attorney General: specifically, in the course of the appointment of an adjudicator to conduct this very adjudication.

[54] The applicant's argument is based on the assumption that the OIPC voluntarily disclosed operational records to the Attorney General. On the evidence, this is incorrect. As required, after the Deputy Minister of Citizens' Services received the applicant's request for a review of the Decision under s 62, it contacted the Deputy Attorney General to so advise, and to facilitate the referral of that request to an adjudicator. In accordance with the Ministries' protocol, the Ministry of Citizens' Services forwarded to the Attorney General a copy of the applicant's access request, and the Decision, to demonstrate that the statutory requirements for an adjudication had been met. Apart from that initiating process, neither Ministry has had any further involvement in this adjudication. Nor has either Ministry received any operational records related to the underlying Abuse Inquiry.

[55] Apart from these factual distinctions, the applicant provides no legal authorities supporting his general or specific arguments based on waiver or estoppel.

VII. CONCLUSION

[56] Pursuant to ss 58(2)(b) and 65(2) of *FIPPA*, I confirm the OIPC Decision to refuse the applicant's OIPC access request.

"The Honourable Justice Crerar"

[1] Administrative file GEN-F26-00098 is empty other than housing file ADJ-26-00037.