Order F22-20

PROVINCIAL HEALTH SERVICES AUTHORITY

Jay Fedorak
Adjudicator

April 27, 2022

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Summary: An applicant requested the BC Ambulance Service dispatch, incident and after-action records relating to two incidents at a particular Skytrain Station. The Provincial Health Services Authority (PHSA) disclosed the records but withheld some information under s. 19(1) (disclosure harmful to individual or public safety) and s. 22(1) (disclosure would be an unreasonable invasion of third-party personal privacy) of the *Freedom of Information and Protection of Privacy Act* (FIPPA). The applicant raised the application of s. 25(1) (public interest disclosure) on the grounds that disclosure was in the public interest. The adjudicator found that PSHA was not required to disclose the records under s. 25(1). The adjudicator found that ss 19(1) and 22(1) applied to some of the information at issue and but ordered PSHA to disclose other information.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 19(1), 22(1), 22(2)(a), 22(2)(b), 22(2)(e), 25(1).

INTRODUCTION

[1] A journalist (applicant) made requests under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to the Provincial Health Services Authority (PHSA) for BC Ambulance Service dispatch, incident and after-action records relating to two incidents at a particular Skytrain Station. The PHSA refused access to the records in their entirety under s. 22(1) (unreasonable invasion of third-party personal privacy) of FIPPA. The applicant disagreed with PHSA's decisions and requested that the Office of the Information and Privacy Commissioner (OIPC) conduct a review. The applicant also claimed that s. 25 of FIPPA applied because disclosure of the records was in the public interest.

[2] Before mediation commenced, the PHSA reconsidered its decisions and disclosed more information in the records but continued to refuse access to the remainder under s. 22(1). Mediation did not resolve the dispute and it proceeded to inquiry. Before the inquiry commenced, the PHSA reconsidered its decisions a

second time and disclosed additional information but continued to refuse access to some information under s. 22(1). It also applied s. 19(1) (harm to individual or public safety) to some of the information.

ISSUE

[3] The issues in this inquiry are:

1. Whether s. 25(1) requires PHSA to disclosure the record without delay;

2. Whether s. 19(1) authorizes PHSA to withhold information; and

3. Whether s. 22(1) requires PHSA to withhold personal information.

[4] Under s. 57(1) of FIPPA, PHSA has the burden of proving that s. 19(1) applies to the information withheld. Under s. 57(2) of FIPPA, the applicant has the burden of proving that disclosure of any personal information in dispute would not be an unreasonable invasion of a third party's personal privacy under s. 22(1) of FIPPA. There is no statutory burden of proof with respect to the application of s. 25. Previous orders have indicated that it is in the interests of both parties to provide the adjudicator with whatever evidence and argument they have regarding s. 25.[1]

DISCUSSION

[5] **Background –** PHSA includes the British Columbia Emergency Health Services (BCEHS), which oversees the BC Ambulance Service (BCAS). The BCEHS responded to two incidents at a particular Skytrain station on occasions two months apart. Each incident involved two different individuals who required emergency medical care.

[6] **Information at Issue -** The responsive records include two Event Registers that identify BCEHS employees and details about the incidents. There is also a Patient Care Report relating to one of the incidents. The Patient Care Report contains medical information. The records contain detailed information about the incidents, including victims and witnesses, and the actions of BCEHS employees. The information in dispute includes the names and employee numbers of BCEHS employees, the testimony and a telephone number of an unidentified witness and the medical information of unidentified victims.

[1] For example, see: Order 02-38, 2002 BCIPC 42472 (CanLII) and Order F07-23, 2007 BCIPC 52748 (CanLII).

Public interest disclosure – section 25

[7] Section 25 requires a public body to disclose information in certain circumstances without delay despite any other provision of FIPPA. This section overrides all FIPPA's discretionary and mandatory exceptions to disclosure. The relevant parts of s. 25 state:

> **25**(1) Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people or to an applicant, information
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> (a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people, or
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> (b) the disclosure of which is, for any other reason, clearly in the public interest.
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> (2) Subsection (1) applies despite any other provision of this Act.

[8] Because s. 25 overrides all other provisions in FIPPA, previous orders have found that it applies in only the clearest and most serious situations. Section 25 sets a high threshold, intended to apply only in significant circumstances.

[9] **Section 25(1)(a) Risk to health or safety of the public –** Section 25(1)(a) requires a public body to immediately disclose information about a risk of significant harm to the environment or to human health or safety. Former Commissioner Loukidelis stated that determining whether s. 25(1)(a) applies is contextual and he provided the following non-exhaustive list of types of information that should be disclosed under s. 25(1)(a):

- Information that discloses the existence of the risk;
- Information that describes the nature of the risk and the nature and extent of any harm; and
- Information that allows the public to take action necessary to meet the risk or mitigate or avoid harm.[2]

[10] The applicant raises the application of s. 25(1)(a). He identifies the risk of patrons standing too close to the edge of the platform at Skytrain stations and depressed individuals attempting suicide. The applicant asserts that TransLink has failed to mitigate these risks. He submits that full disclosure of the records will assist the public in understanding the risks at SkyTrain platforms and in avoiding harm.

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[2] Order 02-38, 2002 BCIPC 42472 (CanLII), para. 56.

Analysis

[11] The arguments and circumstances with respect to the application of s. 25(1)(a) in this case appear almost identical to those in Order F20-51 and Order F21-09 involving requests to TransLink for records relating to incidents at a SkyTrain Station. I find the application of s. 25(1)(a) to be the same in the two requests at issue here. The information in the records concerns the response of paramedics to an emergency health situation regarding individual victims. The records do not identify any particular risks associated with the SkyTrain station facility and its design or any evaluation of the effectiveness of any existing mental health services. The records merely indicate what paramedics did to assist the victims. Therefore, the information in these records is even less relevant to the risks the applicant identified than the records in Order F20-51, which related to the facility and the incident. The adjudicator in that case found that s. 25(1)(a) did not apply.[3]

[12] I will now apply the three-part test I noted above. The information withheld does not disclose the existence of a risk or action the public could take to mitigate the risk of harm. The information relates to individuals suffering trauma at a Skytrain Station. The information does describe the harm that particular individuals suffered. Nevertheless, the information does not assist the public to take action to mitigate the risk of similar harm occurring again. The information withheld does not include an indication of how to prevent the trauma the victims suffered.

[13] Moreover, I see no other evidence in the records to suggest the existence of any risk of significant harm to the environment or to the health or safety of anyone.

[14] I find that s. 25(1)(a) does not apply in this case.

[15] **Section 25(1)(b) Clearly in the public interest –** Disclosure under s. 25(1)(b) requires that the information at issue be clearly in the public interest. Former Commissioner Denham outlined the proper approach to applying s. 25(1)(b) in Investigation Report F16-02 as follows:

> Analyzing the application of s. 25(1)(b) in a specific situation begins by considering whether the information at issue concerns a subject, circumstance, matter or event justifying mandatory disclosure. The list of these things cannot be exhaustively enumerated. However, the following factors should be considered in determining whether they meet the test for further consideration under s. 25(1)(b)**:**

[3] Order F20-51 2021, BCIPC 60 (CanLII), paras. 15-16; Order F21-09 2021, BCIPC 13 (CanLII), paras. 10-12.

> - is the matter the subject of widespread debate in the media, the Legislature, or by other Officers of the Legislature or oversight bodies; or
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> - does the matter relate to a systemic problem rather than to an isolated situation?
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> In addition, would its disclosure:
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> - contribute to educating the public about the matter;
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> - contribute in a substantive way to the body of information that is already available about the matter;
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> - enable or facilitate the expression of public opinion or enable the public to make informed political decisions; or
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> - contribute in a meaningful way to holding a public body accountable for its actions or decisions?
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> This is not to say that in order for information to be disclosed under s. 25(1)(b) it must be the subject of public debate; there may well be situations where there is a clear public interest in disclosure of information about a topic that is not currently the object of public concern or is not known to the public.
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> Once it is determined that the information is about a matter that may engage s. 25(1)(b), a public body should consider the nature of the information itself to determine whether it meets the threshold for disclosure. However, this threshold is not static. In any given set of circumstances there may be competing public interests, weighing for and against disclosure, and the threshold will vary according to those interests.[4]

[16] Previous orders have determined that the duty to disclose under s. 25(1)(b) "only exists in the clearest and most serious of situations where the disclosure is *clearly* (i.e., unmistakably) in the public interest."[5]

[17] For disclosure of information to be in the "public interest" means more than just that the public would find the information interesting. It is not a question of whether the information is entertaining or would satisfy a curiosity.[6]

[18] Furthermore, the public's interest in scrutinizing the work of public bodies, while important, does not in and of itself trigger the application of s. 25. As former Commissioner Loukidelis stated, s. 25(1)(b) "is not an investigative tool for those

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[4] Investigation Report IR16-02 2016 BCIPC 36 (CanLII), pp. 26-27.
[5] 4 Order 02-38, at paras. 45-46, citing Order No. 165-1997, 1997 BCIPC 22 (CanLII) at p. 3. Emphasis in original. See also Order F18-26, 2018 BCIPC 29 (CanLII) at para. 14.
[6] 5 Clubb v. Saanich (Corporation of The District), 1996 CanLII 8417 (BCSC) at para. 30.

who seek to look into the affairs of a public body. It is an imperative requirement for disclosure which is triggered by specific information the disclosure of which is clearly in the public interest."[7]

[19] The first step in my analysis is to determine whether the matter may engage s. 25(1)(b). If I find that it does, I will then proceed to examine the nature of the information itself to determine whether it meets the threshold for disclosure.

[20] The applicant's case for the application of s. 25(1)(b) is that disclosure is necessary to prevent suicides at SkyTrain stations and to assist the public in making informed political decisions. The applicant submits disclosure would encourage public officials to implement necessary changes to the design of SkyTrain stations. He questions whether it is possible to improve the safety of the SkyTrain system and help vulnerable individuals without full disclosure of the records at issue.[8] His submission includes references to studies on suicide and possible physical modifications to SkyTrain stations.

Analysis

[21] Without commenting on the merits of the applicant's arguments, I can confirm that the information withheld does not address the issues that the applicant has raised. The majority of this information consists of the names of BCEHS employees and the medical information of the unidentified victims. There are also perfunctory summaries of what unidentified witnesses believed happened to the victims. The records concern the medical response to the trauma that the victims suffered. They do not address the causes of the trauma or what could have been done to prevent it. I acknowledge that safety at Sky Train stations and support for people suffering mental health crises are important public issues. However, in my view, the withheld information would not contribute meaningfully to public policy discussions about those issues.

[22] I cannot see how this limited amount of information would inform the decisions of the public or public officials. Nor can I see any reason why disclosure would be in the public interest.

[23] Therefore, I find that s. 25(1)(b) does not apply.

Section 19(1) – harm to individual or public safety

[24] The relevant provision of s. 19(1) is as follows:

[7] Order 00-16, 2000 BCIPC 7714 (CanLII), at p. 14.
[8] Applicant's response submission, paras. 26 and 37.

> 19(1) The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant, if the disclosure could reasonably be expected to
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> (a) threaten anyone else's safety or mental or physical health

[25] Section 19(1) is a harms-based exception, and the question is whether disclosure of the information in dispute could reasonably be expected to result in the identified harms. The "reasonable expectation of harm" standard is "a middle ground between that which is probable and that which is merely possible".[9] There is no need to show on a balance of probabilities that the harm will occur if the information is disclosed, but the public body must show that the risk of harm is well beyond the merely possible or speculative.[10]

[26] PHSA has applied 19(1)(a) to the names and employee numbers of the BCEHS employees on the grounds that there is a reasonable prospect that disclosure would harm the mental health of those employees. It submits that these individuals all suffer from anxiety and other mental health conditions as a result of the nature of their work. PHSA asserts that disclosure of their names would likely lead journalists to attempt to interview them about the incidents, causing them to relive their experience, which would exacerbate their mental health conditions.[11]

[27] PHSA supports its submissions with affidavits from the employees involved and a clinical psychologist who works with BCEHS. The psychologist deposes that emergency responders frequently suffer from post-traumatic stress disorder, critical incidence stress and other types of stress from the critical incidents and traumatic stress that they encounter during the course of their duties. These problems can become particularly acute when dealing with graphic and violent injuries, as is the case with the incidents at issue. The psychologist also notes that emergency responders are at high risk of experiencing violence and abuse.[12]

[28] The employees attest to experiencing stress and anxiety as a result of their employment. They have cited cases where some first responders have been contacted subsequently by individuals, or relatives of individuals, they treated, causing them to suffer anxiety and stress. Their primary coping mechanism is to compartmentalize their working lives from their personal lives.

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[9] Merck Frosst Canada Ltd. v. Canada (Health), 2012 SCC 3, para. 201.
[10] Ibid, para. 206. See also Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner), 2014 SCC 31, paras. 52-54.
[11] PHSA initial submission, paras. 29-30.
[12] PHSA initial submission, paras. 29-30; Affidavit of the psychologist, paras. 5-19.

Having to relive difficult work experiences or discuss them in their personal capacity risks undermining this coping mechanism.[13]

[29] The applicant contests the application of s. 19(1) to the information at issue on the grounds that PHSA's submission is speculative and flawed. The applicant submits that the psychologist is in a conflict of interest because they work for the BCEHS. The applicant also submits that the similarity in the wording of the affidavits of the employees indicates that they colluded or PHSA placed them under duress. The applicant asserts that PHSA has the resources to provide separate legal advisors for each employee and they should have received the opportunity to make independent submissions to the inquiry.[14]

Analysis

[30] I accept PHSA's submission that the work of BCEHS first responders is comparatively stressful in general. I also accept that this work is even more stressful for the paramedics on scene when dealing with traumatic and violent incidents, like those at issue here. The individual employees have attested as to the state of their own mental health and how their jobs affect it. They indicate anxiety and apprehension at the prospect of their names becoming public in relation to these incidents. PHSA has provided in an affidavit a professional opinion as to the probable impact on these employees from the publication of their names associated with these incidents.

[31] I find the concerns of the applicant with respect to the affidavits to be unfounded. I see no evidence of any conflict of interest, coercion or duress. The affidavit evidence is sworn testimony. I must not reject affidavit testimony without conclusive evidence that this testimony is unreliable. I see no evidence of a corporate motive to hide the identities of the employees. My reading of the affidavits indicates a genuine concern for well-being of the employees. I note that the purpose of the affidavits is to demonstrate there is a prospect of the same harm to all of the employees resulting from the disclosure of the same information in the same context. Therefore, I find it to be understandable that the information is similar. This conclusion is consistent with the finding of the adjudicator in Order F18-18, who found that the similarity of multiple affidavits was not a reason to give them less weight.[15]

[32] The only issue with the affidavits is that they do not distinguish between employees who acted as paramedics on scene who viewed the injuries and the dispatchers who received the calls in the dispatch centre but did not view the

[13] PHSA initial submission, Affidavit of person B, paras. 6-8 Affidavit of person C paras. 6-12; Affidavit of person D, paras. 7-11.
[14] Applicant's response submission, paras. 16-21.
[15] Order F18-18, 2018 BCIPC 21 (CanLII), paras. 19-21.

injuries. The affidavits indicate that the dispatchers suffered the same level of trauma as the paramedics who viewed the injuries. The psychologist suggests that hearing a graphic description from witnesses present at the scene can be as harmful as viewing the injuries.[16]

[33] While I am sceptical that hearing graphic descriptions of the injuries would be as stressful as witnessing them firsthand, the affidavits of the employees and the psychologist demonstrate a reasonable expectation of harm. The affidavits identify the general psychological impacts on employees dealing with emergency medical incidents. They also outline harm for employees who relive these experiences. Finally, they have established the reasonable prospect of the media or other interested individuals contacting the employees with questions about the incidents. I accept that the risk of harm exists in varying degrees for both the paramedics who attended the victims and the dispatchers who received the emergency calls from witnesses.

[34] I find that PHSA has met its burden of proof in providing evidence of a reasonable prospect of significant harm that publication of their identities would cause to the employees' mental health. I accept that even the fear alone of having to relive their experiences by discussing them with interested parties would put their mental health at risk.

[35] Therefore, I find that s. 19(1) applies to the identities of the BCEHS employees at issue because disclosure could reasonably be expected to threaten their mental health.

Section 22 – harm to third-party personal privacy

[36] The proper approach to the application of s. 22(1) of FIPPA has been the subject of analysis in previous orders. A clear and concise description of this approach is available in Order F15-03, where the adjudicator stated the following:

> This section only applies to "personal information" as defined by FIPPA. Section 22(4) lists circumstances where s. 22 does not apply because disclosure would not be an unreasonable invasion of personal privacy. If s. 22(4) does not apply, s. 22(3) specifies information for which disclosure is presumed to be an unreasonable invasion of a third party's personal privacy. However, this presumption can be rebutted. Whether s. 22(3) applies or not, the public body must consider all relevant circumstances, including those listed in s. 22(2), to determine whether disclosing the personal information would be an unreasonable invasion of a third party's personal privacy.[17]

[16] PHSA initial submission, Affidavit of the psychologist, para. 17.
[17] Order F15-03, 2015 BCIPC 3 (CanLII), at para. 58.

I have taken the same approach in considering the application of s. 22(1) here.

Step 1: Is the information "personal information"?

[37] Under FIPPA, "personal information" is recorded information about an identifiable individual, other than contact information. "Contact information" is "information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual." [18]

[38] The information at issue includes the names and employee numbers of identified BCEHS employees. It also includes the information of unnamed victims and witnesses. [19] I find that the information at issue concerning the employees is personal information for the purposes of s. 22(1) and not contact information. This is because the names of the employees are not included in the records for the purpose of contacting them.

[39] The information about the victims and the witnesses is more contentious. None of these individuals are identifiable by name. There is no contact information for these individuals other than the telephone number of one caller. There are no descriptions of the witnesses. The records contain only brief summaries of what they saw, heard and believed to have happened to the victims. There is no identifiable information about the victims. The only information about the victims is a description of what the witnesses and first responders observed. The records only include reference to the sex of one of the victims and their approximate age. There is also a description by the first responder of this same victim's condition and treatment.

[40] From the information available in the records, with the sole exception of the telephone number of one of the witnesses, the victims and witnesses are not identifiable. There is insufficient information for me to identify them. The question remains as to whether an assiduous and knowledgeable reader might be able to use other information available to the public to identify them. I have no such information before me to support such a conclusion. The parties did not address the issue as to whether it would be possible to infer the identities of the victims and witnesses, and it is not obvious to me how that could occur. The adjudicator in Order F20-51 faced the same issue in a similar case involving an incident at a SkyTrain station and found that the individuals involved were not identifiable.[20] I also find that same applies in this case.

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[18] FIPPA provides definitions of key terms in Schedule 1.
[19] FIPPA defines a third party as any person, group of persons or organization other than the person who made the request or a public body. This can include employees of a public body when acting in their personal capacity, such as in relation to human resources matters. See Schedule 1.
[20] Order F20-51, para. 29.

[41] Therefore, I find that the names of the BCEHS employees constitute their personal information, but that the information about the unidentifiable victims and witnesses do not constitute personal information, except for the telephone number of one of the witnesses.

[42] However, because I have already found that s. 19(1) applies to the names and employee numbers of the employees that PHSA withheld, the PHSA may continue to withhold them from disclosure. Consequently, it is unnecessary for me to complete the full analysis for the application of s. 22(1) to those names and numbers as well. I will continue the analysis only with respect to the telephone number of one of the witnesses.

Step 2: Does s. 22(4) apply?

[43] The applicant cites the application of s. 22(4)(b) in the case. The relevant provision reads as follows:

> **22** (4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if
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> (b) there are compelling circumstances affecting anyone's health or safety and notice of disclosure is mailed to the last known address of the third party

[44] The applicant submits that disclosure is necessary owing to compelling circumstances affecting the health and safety of members of the public. He submits that disclosure is necessary to prevent further incidents at SkyTrain stations and to save lives. The applicant argues that the changes necessary at SkyTrain stations will only occur if members of the public pressure the government for change. This requires full disclosure to inform the public.[21]

[45] PHSA responds that previous BC Orders have found that s. 22(4)(b) can only apply in cases where the public body has given notice to the third party. As PHSA has not provided such notice to anyone, s. 22(4)(b) cannot apply.[22]

[46] In my view, the applicant has not demonstrated how the disclosure of the telephone number of one of the witnesses would address a current health emergency. I see no evidence to suggest that disclosure of that number would assist in preventing further incidents and deaths. In addition, as PHSA has not sent the required notice, it cannot rely on s. 22(4)(b) to justify disclosure. Therefore, I find that s. 22(4)(b) does not apply in this case.

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[21] Applicant's response submission, paras. 45-49

[22] PHSA's reply submission, para 42. Order F19-02 2019 BCIPC 2 (CanLII), paras 18-29; Order F20-36 2020 BCIPC 42 (CanLII) paras 63-64.

[47] There is no evidence before me that any other provisions of s. 22(4) apply with respect to the telephone number, and none of them appear to me to apply. Therefore, I find that none of the information falls within s. 22(4).

Step 3. Does s. 22(3) apply?

[48] The parties have not made submissions concerning the application of any of the provisions of s. 22(3) with respect to the telephone number. Therefore, I find that s. 22(3) does not apply.

Step 4: Do the relevant circumstances in s. 22(2) rebut the presumption of invasion of privacy?

[49] The relevant provisions are these:

> **22** (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether
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> (a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,
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> (b) the disclosure is likely to promote public health and safety or to promote the protection of the environment,
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> …
>
> (e) the third party will be exposed unfairly to financial or other harm,

[50] **Section 22(2)(a) public scrutiny –** The purpose of this provision is as follows:

> What lies behind s. 22(2)(a) of the Act is the notion that, where disclosure of records would foster accountability of a public body, this may in some circumstances provide the foundation for a finding that the release of third party personal information would not constitute an unreasonable invasion of personal privacy.[23]

[51] The applicant cites s. 22(2)(a) as a relevant circumstance in this case. He argues "when the institutions that are supposed to work in favour of the public are not doing so, it is up to the media as the last line of defence."[24] The public body at issue is the PHSA. While the applicant has cited issues regarding safety

[23] Order F05-18 2005 BCIPC 24734 (CanLII), para. 49
[24] Applicant's response submission, para. 43.

at SkyTrain stations, he has not suggested that there are issues of accountability relating to the services that BCEHS is providing. I cannot see how disclosure of the telephone number of one of the witnesses would hold the PHSA accountable to an extent that would engage s. 22(2)(a).

[52] Therefore, I find that s. 22(2)(a) is not a relevant circumstance in this case.

[53] **Section 22(2)(b) public safety –** The applicant submits that there is a great risk to SkyTrain patrons who stand too close the edge of the platform and that TransLink has done nothing to mitigate these risks. The applicant suggests that full disclosure of PHSA's records of deaths and serious injuries would help to prevent the current risks of harm to the public.[25]

[54] The applicant's arguments with respect to the application of s. 22(2)(b) are similar to the arguments he submitted with respect to the application of s. 25(1)(a) above. I reject them for the same reasons. The records relate largely to the medical treatment that victims received from first responders. The applicant has not demonstrated how the disclosure of telephone number of the one of the witnesses would assist in making SkyTrain stations safer.

[55] Therefore, I find that s. 22(2)(b) is not a relevant circumstance in this case.

[56] **Other relevant circumstances** – Neither party raises the application of s. 22(2)(e) in this case. Nevertheless, it is clear from the PHSA's submissions that it believes that there would be a reasonable prospect of harm to the employees and witnesses to receive questions from the media and others about what they saw. The disclosure of the telephone number of one of the witnesses would enable the applicant and others to contact this witness for the purpose of asking them questions. The disclosure of a personal telephone number without consent is also a general intrusion into the personal life of an individual. Therefore, it is a consideration in determining whether disclosure would be an unreasonable invasion of the personal privacy of the witness.

[57] I find that s. 22(2)(e) is a relevant circumstance in this case.

[58] The parties do not argue the application of any other relevant circumstances in this case, and I find that none apply here.

Conclusion on s. 22(1)

[59] I found above that the telephone number of the witness in dispute constitutes personal information. I have found that none of the provisions in s. 22(4) apply that would have excluded the application of s. 22(1).

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[25] Applicant's response submission, paras. 41, 49.

[60] I find that none of the s. 22(3) presumptions apply to the witness's telephone number. Therefore, disclosure is not presumed to be an unreasonable invasion of third-party personal privacy. Consequently, I must consider all of the relevant factors to determine whether disclosure of the telephone number would be an unreasonable invasion of the privacy of the BCEHS employees.

[61] I find that there is a real risk that disclosure of the witness's telephone number would expose them to unwelcome approaches from the media and others and would intrude into their personal life in accordance with s. 22(2)(e). This argues in favour of withholding the information.

[62] I also find that the applicant did not make a case that disclosure of this personal information would not be an unreasonable invasion of privacy of the witness. The burden of proof lies with the applicant on this issue, and he have not met their burden of proof.

[63] In conclusion, I find that s. 22(1) applies to the telephone number of the witness at issue and the PHSA must withhold it.

CONCLUSION

[64] For the reasons given above, under s. 58 of FIPPA, I make the following orders:

1. I confirm the decision of PHSA to withhold the names, on pages 1-11, and employee numbers, on page 12, of the BCEHS employees under s. 19(1).

2. I require the PHSA to refuse access, under s. 22(1), to the telephone number of the witness the PHSA on page 5 withheld under s. 22(1).

3. I require PHSA to provide the applicant with access to the remainder of the information the PHSA withheld under s. 22(1).

[65] Pursuant to s. 59(1) of FIPPA, the Ministry must comply with this order by June 9, 2022.

April 27, 2022.

ORIGINAL SIGNED BY

Jay Fedorak, Adjudicator