Order P22-03

GRAND FORKS CONGREGATION OF JEHOVAH'S WITNESSES AND COLDSTREAM CONGREGATION OF JEHOVAH'S WITNESSES

Elizabeth Barker
Director of Adjudication

June 20, 2022

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Summary: Two applicants requested access to their personal information under the control of their former Jehovah's Witness congregations. The congregations refused to disclose the requested information. They believe the *Personal Information Protection Act (PIPA*) does not apply and *PIPA* is unconstitutional, specifically the provisions that give the applicants and the commissioner access to personal information and records under the control of religious organizations. The adjudicator found that PIPA applies. While the adjudicator found that the impugned measures in *PIPA* infringe s. 2(a) (freedom of religion), the infringement is justifiable under s. 1 of *the Canadian Charter of Rights and Freedoms* (*Charter*). The congregations did not establish that *PIPA* infringes s. 2(b) (freedom of expression), s. 2(d) (freedom of association) or s. 8 (unreasonable search and seizure) of the *Charter.* The adjudicator ordered the congregations, under s. 38(1)(b) of *PIPA,* to provide a copy of the records for the adjudicator to review and decide what access to the records, if any, the applicants should be given.

Statutes Considered: : *Personal Information Protection Act, ss. 1 definitions, 2, 3(1), 3(2)(a), 3(2)(b), 23(1)(a), 23(3)(b), 23(4)(c), 23(4)(d), 23(5), 38(1)(b), 38(2)(c), 41, 50 and 52; Canadian Charter of Rights and Freedoms, ss. 1, 2(a), 2(b), 2(d), 8, 24(1) and 27.*

INTRODUCTION

[1] Two applicants (LW and GW) separately made requests under the *Personal Information Protection Act* (*PIPA*) for access to their own personal information held by their former congregations, the Grand Forks Congregation of Jehovah's Witnesses and the Coldstream Congregation of Jehovah's Witnesses. The congregations refused access on the basis the records were confidential

religious communications, privileged at common law, and the application of *PIPA* violates the *Canadian Charter of Rights and Freedoms*[1] (*Charter*).

[2] The applicants were dissatisfied with the responses and separately requested the Office of the Information and Privacy Commissioner (OIPC) conduct a review. Neither matter was fully resolved at mediation and they proceeded to inquiry.

[3] Given the *Charter* issues raised, the OIPC determined that it was appropriate to notify the Attorney General of British Columbia (AGBC) and the Attorney General of Canada. The AGBC is participating in the OIPC proceedings but the federal Attorney General chose not to participate.

Preliminary Matter

[4] In their reply submission, the congregations request that the OIPC strike from the inquiry record eight affidavits submitted by LW and GW. The congregations submit that the affiants are not parties to the inquiry and their affidavits are barren of any objective facts or evidence relevant to this inquiry.[2]

[5] This is not the first time the congregations have requested this, at least with respect to LW's affidavits. After the congregations received LW's inquiry submissions, and before their reply was due, they asked that LW's affidavits be struck from the record. No delegate had yet been assigned to adjudicate the inquiry, so I decided that request in my role as Director of Adjudication. I denied the request to strike the affidavits from the record for the following reasons:

- The strict and formal rules of evidence that apply in courts do not apply to the OIPC's inquiries.
- Parties to OIPC inquires are allowed to present their case in the way they believe best communicates what they want to say.
- LW is not represented by legal counsel.
- The adjudicator is free to consider what the parties present and then decide all matters of fact and law. Whether a party's submissions and evidence are relevant and what weight to give them is a matter to be decided by the adjudicator.
- The congregations still had the opportunity to respond to LW's evidence.

[1] *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being *Schedule B to the Canada Act 1982 (U.K.)*, 1982, c 11.
[2] Respondents' reply at paras. 4-21.

[6] Subsequently, I was assigned to adjudicate this inquiry under s. 50 of *PIPA*, and I have reviewed the eight affidavits that the congregations challenge.[3] The affiants relate their own experiences as Jehovah's Witnesses and their personal opinions and concerns about the doctrines and practices followed by Jehovah's Witnesses. None of the affiants speak about the applicants' *PIPA* access requests or the records and issues in dispute in this inquiry. I find that the evidence in the eight affidavits is clearly not relevant or material to the issues to be decided in this inquiry. For that reason, I give them no weight and will not consider them in making my findings.

ISSUES

[7] The issues to be decided in this inquiry are as follows[4]:

1. Does *PIPA* apply to the congregations?
2. Are the congregations required to refuse to disclose information under ss. 23(4)(c) and/or 23(4)(d) of *PIPA*?
3. Does *PIPA* unjustifiably infringe the *Canadian Charter of Rights and Freedoms*?

DISCUSSION

Background

[8] Jehovah's Witnesses are a religious denomination who practice the Christian faith, meeting in small congregations for community worship.[5] Jehovah's Witnesses do not have paid clergy. Instead, each congregation has a group of voluntary religious ministers, called elders, who are appointed by other elders and are responsible for taking the ecclesiastical and spiritual lead.

[9] The Watch Tower Bible and Tract Society of Canada (Watch Tower Canada) also plays a role in these inquiry proceedings. It is a charitable religious corporation incorporated under the federal *Canada Not-for-profit Corporations Act*, and it represents Jehovah's Witnesses in Canada. Its objectives include: "To commence or defend legal proceedings to preserve freedom of religion, expression, assembly, and press; to uphold the basic rule of law and the liberties provided in the Constitution of Canada".[6]

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[3] GW provides an affidavit from PEA. LW provides affidavits from HI, MI, JB, EMW, NJEF, PJVG and a seventh affiant whose name was provided *in camera*. The EMW and NJEF's affidavits each include a video exhibit.
[4] This is a slight paraphrasing of the language used in the notice of inquiry dated May 26, 2021.
[5] The information in the first two paragraphs of this background come from the affidavit of an elder (KK) who works in the administrative offices of Watch Tower Canada's Service Department in Ontario.
[6] *Ibid* at para. 5.

[10] The access applicants, LW and GW, are former Jehovah's Witnesses.

[11] Several years after LW left the Jehovah's Witnesses, he requested the Grand Forks Congregation provide him a copy of all records that contain information about him. The congregation told him that it was denying him access to the records containing his personal information because the records are "privileged and confidential religious communications."[7] LW requested the commissioner review the congregation's decision. During OIPC mediation, the congregation provided him with copies of some records,[8] it continued to refuse him access to other records.

[12] Approximately ten years after GW was no longer a Jehovah's Witness, he requested the Coldstream Congregation provide him a copy of all records that contain information about him. The congregation initially told him that it did not have any of his personal information. It subsequently revised its response to say that his personal information was in a record that "constitutes a confidential religious communication, privileged under the common law and *Charter*, and is not captured by the application of the *Personal Information Protection Act*."[9] GW requested the commissioner review the congregation's decision.

[13] After the OIPC issued its notices of inquiry respecting the two requests for review, Watch Tower Canada and an elder from each congregation (PS and JV) filed a Notice of Civil Claim against the Province of British Columbia in the Supreme Court of British Columbia (Civil Proceeding). They applied for a stay of the OIPC proceedings on the basis that *PIPA* is unconstitutional and violates the elders' s. 2(a) *Charter* right to religious freedom. In response, the AGBC applied for a stay of the Civil Proceeding pending the outcome of the OIPC proceedings. The AGBC argued the OIPC has the expertise required to address the *Charter* issues. The OIPC was not named as a party in the Civil Proceeding but was given standing to participate. The OIPC supported the AGBC's application and asked that the OIPC proceedings be permitted to continue in accordance with its statutory mandate.

[14] Justice Winteringham stayed the Civil Proceeding. She found that s. 50 of *PIPA* empowers the OIPC to conduct an inquiry and decide all questions of fact and law arising in the course of the inquiry, so it is a court of competent jurisdiction that is able to decide the *Charter* issues.[10]

[15] After the Civil Proceeding was stayed, Watch Tower Canada and the elders, PS and JV, asked to participate in the OIPC inquiries. The OIPC decided

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[7] Grand Forks Congregation's April 2, 2020 decision letter.
[8] LW was given his *Congregation Publisher Records* (S-21 records).
[9] Coldstream Congregation's January 27, 2021 decision letter. PS's affidavit at exhibits B – D.
[10] *Watch Tower Bible and Tract Society of Canada v British Columbia (Attorney General)*, 2021 BCSC 1829 [*Watch Tower*] at para.73.

they were appropriate persons under s. 48(1) of *PIPA* to receive a copy of the requests for review and to make representations. From this point forward, I will refer to the congregations, Watch Tower Canada, JV and PS collectively as the "respondents".

[16] The OIPC also decided to join the two inquiries into one, but it denied the respondents' request for an oral, rather than a written, inquiry.[11] The respondents provided joint submissions. The access applicants, GW and LW, provided separate submissions.

The Records in Dispute

[17] The respondents have not produced the disputed records for me to review in this inquiry. They contend that disclosing the records to anyone, including the commissioner, would violate the *Charter* rights and freedoms of all the elders in the two congregations and all other elders and Jehovah's Witnesses in British Columbia.[12]

[18] The respondents say that there is a single record in dispute in each case, "a confidential religious summary prepared by a committee of three congregation elders pertaining to spiritual status decisions involving LW and GW."[13] However, I cannot tell whether what the respondents say is an accurate description of the records. For instance, I question whether the terms "single" or "summary" accurately describe the records, at least for the records related to LW.[14] Based on the congregation's response to LW's access request and his OIPC request for review, as well as what was said in the Civil Proceeding, the records are a "form" (*i.e.*, an *S-77 Notification of Disfellowshipping or Disassociation form*) and confidential "notes."[15]

Application of PIPA

[19] Before considering the respondents' *Charter* arguments, I will decide if *PIPA* applies to the two congregations and the two elders, PS and JV.

PIPA applies to organizations

[20] Section 2 of *PIPA* expressly states its overarching purpose:

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[11] OIPC's October 12, 2021 decision letter.
[12] Respondents' initial submission at para. 38.
[13] Respondents' initial submission at para. 32.
[14] For clarity, this inquiry does not involve a complaint that the congregations failed in their duty under s. 28 of PIPA to respond to the access requests as accurately and completely as reasonably possible by identifying all of the responsive records.
[15] Grand Forks Congregations' June 24, 2020 and December 30, 2020 letters and *Watch Tower*, *supra* note 10 at para. 43. The June 24, 2020 letter also says that S-77 forms are sent the head office of the Jehovah's Witnesses in Canada.

> Purpose
>
> 2 The purpose of this Act is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

[21] Section 2 is more than a statement of purpose. It is also a statement of scope. As is immediately apparent, *PIPA* applies to "organizations". The term "organization" is defined in s. 1:

> "organization" includes a person, an unincorporated association, a trade union, a trust or a not for profit organization, but does not include
>
> (a) an individual acting in a personal or domestic capacity or acting as an employee,
>
> (b) a public body,
>
> (c) the Provincial Court, the Supreme Court or the Court of Appeal,
>
> (d) the Nisga'a Government, as defined in the Nisga'a Final Agreement, or
>
> (e) a private trust for the benefit of one or more designated individuals who are friends or members of the family of the settlor;

[22] The respondents submit that the congregations, PS and JV are "organizations" under *PIPA*. They say:

> Elders are "persons." Hence, elders, even in their voluntary religious function fulfilling religious purposes, are deemed "organizations" captured by *PIPA*. The two congregations targeted by this inquiry are "unincorporated associations," also deemed "organizations" under *PIPA*.[16]

However, the respondents submit that *PIPA* should not apply to the congregations and elders because of their religious nature. The Respondents submit the Legislature intended *PIPA* to apply only to commercial activity and the congregations and elders do not engage in commercial activity.[17]

[23] As support for their claim that *PIPA* only applies to commercial activity, the respondents cite statements the Hon. S. Santori made in the Legislature before *PIPA* was first introduced and on first reading, about how having a provincial Act would assist provincial business.[18]

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[16] Respondents' initial submission at para. 48.
[17] Respondents' initial submission at para. 74.
[18] Respondents' initial submission at paras. 76-77. *British Columbia, Committee of Supply, Estimates: Ministry of Management Services, Official Report of Debates of the Legislative Assembly*, 37-4, Vol 14, No 2 (7 April 2003) at para 1510; *Bill 38, Personal Information Protection*

[24] The respondents also say the federal *Personal Information Protection and Electronic Documents Act* (*PIPEDA*) supports their interpretation of *PIPA*. *PIPEDA*, which governs private organizations involved in the operation of a federal work, undertaking or business, expressly applies to personal information that an "organization collects, uses or discloses in the course of commercial activities".[19]

[25] The respondents also reference Quebec's *Act respecting the protection of personal information in the private sector,*[20] (Quebec's *PIPA*), which applies to personal information in the context of carrying on an "enterprise". The *Civil Code of Quebec* defines "enterprise" as: "The carrying on by one or more persons of an organized economic activity, whether or not it is commercial in nature, consisting of producing, administering or alienating property, or providing a service, constitutes the operation of an enterprise."[21] The respondents also cite a Court of Quebec (Civil Division) decision that found Quebec's *PIPA* did not apply to a congregation of Jehovah's Witnesses because the congregation's mission or objective was religious activity, not organized economic activity.[22]

[26] The respondents omit to mention the only other Canadian privacy legislation that applies to the private sector, Alberta's *Personal Information Protection Act* (Alberta's *PIPA*).[23] Alberta's *PIPA* applies to certain not-for-profit organizations, as was recently confirmed when an Alberta adjudicator found that a religious organization, the Anglican Diocese of Calgary, was an organization and Alberta's *PIPA* applied to it.[24]

[27] As the AGBC correctly notes, during second reading of *PIPA* in the Legislature, the Hon. S. Santori clearly indicated that *PIPA* was not intended to be restricted to organizations engaged in commercial activity.[25] The Minister said:

> Third, this bill is comprehensive and protects the personal information of all British Columbians. It applies to all personal information held by organizations not already covered by the public sector Freedom of Information and Protection of Privacy Act legislation.
>
> This provides broader protection than the federal legislation, which relates only to commercial activity. For example, this bill protects the employee

Act, 1st reading, British Columbia, Official Report of Debates of the Legislative Assembly, 37-4, Vol 14, No 12 (30 April 2003) at para 1420 (Hon S Santori).

[19] *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5, s. 4.

[20] *Act Respecting the Protection of Personal Information in the Private Sector*, *CQLR, c P-39.1, s. 1.*

[21] *Civil Code of Quebec*, CQLR c CC1-1991 at article 1525.

[22] *Congrégation des témoins de Jéhovah d'Issoudun-Sud c. Maiily*, 2000 CanLII 18306 (QC CQ) at para. 10.

[23] SA 2003, c P-6.5.

[24] Order P2021-02, *Anglican Diocese of Calgary (Re),* 2021 CanLII 27033 (AB OIPC).

[25] GW makes this same point and cites the same excerpt at paras. 49 and 59 of his submission.

> information of British Columbians working for provincial companies. The federal act would not have protected B.C. employees. This bill also ensures that British Columbians' personal information will be protected when held by non-profit organizations.[26]

[28] The respondents did not identify caselaw where *PIPA* was interpreted in the restricted fashion they suggest, nor am I aware of any. No previous BC Orders have found that an organization must be acting in a commercial capacity in order to be an organization to which *PIPA* applies. To the contrary, former Commissioner Loukidelis said, "*PIPA* does not explicitly use the concept of 'commercial capacity' in distinguishing between organizations and others… *PIPA* is clearly intended to apply to not-for-profit organizations, which will most often not be acting in any 'commercial capacity'."[27] Further, the Supreme Court of BC also found that *PIPA* applies to religious organizations.[28]

[29] As already noted, the respondents have conceded that the congregations are unincorporated associations and thus each is an "organization" as defined in *PIPA*, and that the two elders are also each an organization. This is undoubtedly correct, as I outline below.

[30] The term "unincorporated association" is not defined in *PIPA*. A frequently cited definition, which I apply here, is the following:

> [T]wo or more persons bound together for one or more common purposes, not being business purposes, by mutual undertakings, each having mutual duties and obligations, in an organisation which has rules which identify in whom control of it and its funds rests and upon what terms and which can be joined or left at will.[29]

[31] The following evidence provided by the respondents satisfies me that the congregations are "unincorporated associations":[30]

- "While all congregations of Jehovah's Witnesses in British Columbia are registered charities with the federal government, none of them are legal entities. They are all unincorporated voluntary religious associations."[31]

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[26] *Official Report of Debates of the Legislative Assembly (Hansard)*, 37th Parl, 4th Sess, Vol 14, No 13 (1 May 2003) at 6416 (Hon. S. Santori).
[27] Order P06-01, *An Incorporated Dentist's Practice, Re*, 2006 CanLII 13537 (BC IPC) at para. 17.
[28] *Viitre v St. Peter's Estonian Evangelical Lutheran Church*, 2010 BCSC 296 (CanLII) at para. 67.
[29] *Unionist Central Office v Burrell (Inspector of Taxes)*, [1982] 2 All E.R. 1 (C.A.). See also Order P17-03, *Surrey Creep Catcher (Re)*, 2017 BCIPC 38 (CanLII) at para. 29.
[30] The information in the bullets comes from KK's affidavit at paras. 9-17 and the Respondents' initial submission at paras. 6-14.
[31] KK's affidavit at para. 12 and respondent's initial submission at para. 6.

- The purpose of a congregation is to allow Jehovah's Witnesses to congregate together to worship, preach and practice their religious faith.
- There are rules and procedures for becoming a Jehovah's Witness, and a congregant is free, at any time, to cease being a Jehovah's Witness.
- Each congregation has a group of appointed elders (ministers) who are responsible for taking the ecclesiastical and spiritual lead in the congregations. The elders collectively, and without remuneration, organize the congregations' activities, including deciding who qualifies to become and remain a Jehovah's Witness.
- The congregations hold title to the buildings where they congregate by way of appointed trustees.
- No civil or property right arises from, or is contingent on, being a congregant.
- Congregations do not engage in commercial activity.

[32] I also find that the elders meet the definition of "organizations" under *PIPA*. The respondents' uncontradicted evidence is that the elders are ecclesiastical appointees. In particular, the elders say they did not prepare the records as part of their responsibilities to the congregations; rather they prepared them "as part of a 'sacred ecclesiastical duty' to God to help 'restore erring ones' and maintain the 'Scripturally moral and spiritual integrity of our congregations' in the collective sense of the religious denomination of Jehovah's Witnesses."[32] The elders are persons who are not acting in a personal or domestic capacity. They are also not acting as employees (or volunteers) who are obliged to carry out the directions of their employer.

[33] I find that the records were created by, and are under the care and control of, the elders acting on behalf of their respective congregations. The AGBC did not provide evidence to rebut the respondents' evidence about this. I find that it is the decisions the elders made about the applicants' *PIPA* access requests on behalf of the congregations that are at issue in this inquiry.

Section 3

[34] Section 3 also plays a role in the question of whether *PIPA* applies to the congregations. Section 3(1) says that *PIPA* applies to every organization, subject to the exceptions listed in s. 3(2). For instance, s. 3(2)(a) says that *PIPA* does not apply when an individual is collecting, using or disclosing personal information for their own personal or domestic purposes and for no other purpose. Section 3(2)(b) says that *PIPA* does not apply when the collection, use or disclosure of personal information is for journalistic, artistic or literary purposes and for no other purpose.

[32] Respondents' reply at para. 33, also at para. 52.

[35] I find that none of the s. 3(2) provisions apply in this case. The parties do not submit that they do.

[36] In conclusion, I find that *PIPA* applies to the elders' and congregations' collection, use and disclosure of personal information. The elders and the congregations are "organizations" under *PIPA*. Section 3(1) says that *PIPA* applies to every organization subject only to certain exceptions in s. 3(2), none of which apply here.

An organization's obligations under PIPA

[37] *PIPA* imposes obligations on organizations regarding the collection, use, disclosure and care of personal information (ss. 4-22 and ss. 33-35). It also imposes duties with regards to how organizations must respond when an applicant requests access to their own personal information (ss. 23-32).

[38] The obligations that s. 23 of *PIPA* imposes on organizations play a large role in the respondents' *Charter* arguments. Section 23 says:

> Access to personal information
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> 23 (1) Subject to subsections (2) to (5), on request of an individual, an organization must provide the individual with the following:
>
> (a) the individual's personal information under the control of the organization;
>
> (b) information about the ways in which the personal information referred to in paragraph (a) has been and is being used by the organization;
>
> (c) the names of the individuals and organizations to whom the personal information referred to in paragraph (a) has been disclosed by the organization.
>
> …
>
> (3) An organization is not required to disclose personal information and other information under subsection (1) or (2) in the following circumstances:
>
> …
>
> (b) the disclosure of the information would reveal confidential commercial information that if disclosed, could, in the opinion of a reasonable person, harm the competitive position of the organization;
>
> …
>
> (4) An organization must not disclose personal information and other information under subsection (1) or (2) in the following circumstances:
>
> …
>
> (c) the disclosure would reveal personal information about another individual;

> (d) the disclosure would reveal the identity of an individual who has provided personal information about another individual and the individual providing the personal information does not consent to disclosure of his or her identity.
>
> (5) If an organization is able to remove the information referred to in subsection (3) (a), (b) or (c) or (4) from a document that contains personal information about the individual who requested it, the organization must provide the individual with access to the personal information after the information referred to in subsection (3) (a), (b) or (c) or (4) is removed.

Nature of the information at issue

[39] A central question in this case is whether the records in dispute contain personal information. Section 1 of *PIPA* provides the following definitions:

> "personal information" means information about an identifiable individual and includes employee personal information but does not include
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> (a) contact information, or
>
> (b) work product information;
>
> "contact information" means 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;
>
> "work product information" means information prepared or collected by an individual or group of individuals as a part of the individual's or group's responsibilities or activities related to the individual's or group's employment or business but does not include personal information about an individual who did not prepare or collect the personal information.
>
> "employment" includes working under an unpaid volunteer work relationship;

[40] Although the congregations did not produce the records for my review, they did provide some information about their contents. For instance, JV, the elder with the Grand Forks Congregation, says the record in dispute is a confidential religious summary related to LW's decision to no longer be a Jehovah's Witness. He says the record contains LW's name, gender, date of birth, baptism date, the action by which LW disassociated himself and the date it was announced to the congregation that he was no longer a Jehovah's Witness. JV's evidence is also that the record contains details of the elders' spiritual deliberations and handling of the matter.[33]

[33] JV's affidavit at para. 23.

[41] PS, the elder with the Coldstream Congregation, says the record related to GW is a confidential religious summary about GW's decision to no longer be a Jehovah's Witness. The record contains GW's name, gender, date of birth, the action by which GW disassociated himself and the date it was announced to the congregation that he was no longer a Jehovah's Witness. PS's evidence is also that the record contains information about how the elders handled the situation and their spiritual deliberations about it.[34]

[42] This evidence suggests that the records contain information about each of the applicants and, therefore, the records contain "personal information". It may also be the case that the records contain personal information of the elders, and possibly others.

[43] The challenge I face, however, is that the respondents have refused to produce the disputed records for my review. I have concluded that, without seeing them, it is not possible to decide whether they contain personal information or whose personal information may be included. This also means I cannot make any finding about whether the disclosure prohibitions in ss. 24(c) or (d) apply or if severing under s. 23(5) is possible. In my view, it is not possible to decide any of these issues without having access to the disputed records.

[44] On this point, I am not persuaded by the respondents' argument that their inquiry materials fulfill their obligations under *PIPA*. The respondents say:

> In any event, and without prejudice to the religious parties' submissions with regards to the *Canadian Charter of Rights and Freedoms* and the constitutionality of *PIPA*, the Grand Forks Congregation and the Coldstream Congregation have *de facto* complied with *PIPA*'s requirement to provide access to GW's and LW's personal information to an acceptable and reasonable degree through the affidavits of [JV and PS]. [35]

[45] As noted above, the respondents' inquiry materials suggest that the records contain personal information of LW and GW, but beyond that it is not clear whether they contain "personal information" of the elders or others. The respondents' materials do not provide an adequate evidentiary basis for answering this question or, it follows, for deciding whether ss. 24(c) or (d) apply, or if severing under s. 23(5) is operative.

[46] Section 38(1)(b) authorizes me, as the commissioner's delegate, to order the respondents to produce the records:

> Powers of commissioner in conducting investigations, audits or inquiries

[34] PS's affidavit at paras. 21 and 23.
[35] Respondents' initial submission at para. 85(d).

> 38 (1) For the purposes of conducting an investigation or an audit under section 36 or an inquiry under section 50, the commissioner may make an order requiring a person to do either or both of the following:
>
> …
>
> (b) produce for the commissioner a document in the custody or under the control of the person, including a document containing personal information.
>
> …
>
> (2) The commissioner may
>
> (a) examine any information in a document, including personal information, and obtain copies or extracts of documents containing information
>
> …
>
> (ii) provided under this Act, and

[47] In my view, it is necessary to order the respondents to produce the records for my review pursuant to s. 38(1)(b). I must review them in order to fulfill my statutory duty to decide the questions of fact and law arising in this inquiry, including whether ss. 23(4)(c) and (d) apply and how s. 23(5) might operate.

Summary - Application of PIPA

[48] I have found above that *PIPA* applies to the congregations and elders. They both meet the definition of "organization" in s. 1, and s. 3 does not exclude organizations of a religious nature from the scope of *PIPA*. I also find that ss. 3 and 23 do not list religious information as a type of information exempted from access rights and disclosure obligations under *PIPA*. Finally, I have decided it is necessary to order the respondents to produce the records for my review pursuant to s. 38(1)(b).

Charter Analysis

[49] The respondents submit that the *PIPA*'s legislative scheme as a whole is unconstitutional in its application to them. In particular, they submit that ss. 1, 3, and 23 of *PIPA* are unconstitutional as they grant LW and GW a right to access information contained in confidential religious records. This right of access, they submit, violates the ss. 2(a), (b) and (d) *Charter* rights and freedoms "of the elders in the Grand Forks Congregation and the Coldstream Congregation, of all congregation elders in British Columbia and, by extension, the communities of faith of Jehovah's Witnesses across the province."[36]

[50] The respondents also submit that the power s. 38(1)(b) of *PIPA* gives the commissioner to order production of the confidential religious summaries in order

[36] Respondents' initial submission at paras. 38.

to review them violates congregation elders' rights and freedoms under s. 2(a) of the *Charter* and interferes with their right to privacy under s. 8 of the *Charter*.[37]

[51] The following *Charter* provisions are in issue:

> Guarantee of Rights and Freedoms
>
> > Rights and freedoms in Canada
> >
> > 1 The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.
>
> Fundamental freedoms
>
> > Fundamental freedoms
> >
> > 2 Everyone has the following fundamental freedoms:
> > (a) freedom of conscience and religion;
> > (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
> > …
> > (d) freedom of association.
>
> Legal Rights
>
> > Search or seizure
> >
> > 8 Everyone has the right to be secure against unreasonable search or seizure.
>
> Enforcement
>
> > Enforcement of guaranteed rights and freedoms
> >
> > 24(1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.
>
> General
>
> > Multicultural heritage

[37] Respondents' reply at para. 42.

> 27 This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

[52] It is well established that once a claimant successfully demonstrates their *Charter* freedom or right has been infringed, the onus shifts to the government to prove that the infringing measure is justified under s. 1 of the *Charter*. The framework for the s. 1 analysis was set out by the Supreme Court of Canada in *R v Oakes*,[38] (Oakes test), which will be discussed in more detail below.

[53] What the respondents say about ss. 2(a), (b) and (d) is intermingled and somewhat difficult to tease apart. Given their submissions are almost exclusively framed in relation to s. 2(a) freedom of religion, I will address s. 2(a) first. I will consider whether s. 2(a) of the *Charter* has been infringed, and if so, whether the infringement is justified under s. 1 of the *Charter*. Then, I will follow the same approach with ss. 2(b) and 2(d) of the *Charter*.

[54] The respondents' submissions also refer to s. 27 of the *Charter*.[39] The AGBC says that s. 27 is an interpretative principle and the respondents cannot rely on it to found a *Charter* breach. While I agree with the AGBC on that point, I do not think that is what the respondents are doing. What they say is very general, and I understand them to mean that the interpretive principles in s. 27 are applicable in a *Charter* analysis.

[55] Once I have determined whether ss. 2(a), (b) and (d) are unjustifiably infringed, I will consider what the respondents say about s. 8. I will then address their two additional arguments about how *PIPA* is unconstitutional.

Freedom of Religion – s. 2(a) of the Charter

Is s. 2(a) infringed?

Respondents' evidence and initial submission

[56] The respondents submit that ss. 1, 3 and 23 of *PIPA* are unconstitutional "as they purportedly grant LW and GW access to information contained in the confidential religious summaries, contrary to section 2(a) of the *Charter*."[40] Maintaining the confidentiality of the records is a religious practice, they say, and *PIPA* violates the right of congregation elders to keep their religious deliberations private and confidential as required by the precepts of their faith and their personal religious conscience.[41] Being compelled to disclose the records,

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[38] *R v Oakes*, 1986 CanLII 46.
[39] Respondents' initial submission at paras. 51 and 72 and reply at para. 35.
[40] Respondents' initial submission at para. 43.
[41] Respondents' initial submission at para. 44.

whether to the applicants or to the commissioner, unjustifiably violates freedom of religion under s. 2(a) of the *Charter*, they argue.

[57] Before detailing the respondents' submissions, I will summarize the elders' evidence. The respondents submit that the elders' affidavits show that maintaining strict confidentiality of the records is extremely important to all Jehovah's Witness elders in BC. Elders share a deeply-held religious conviction that disclosing the records would violate their religious conscience and hinder their ability to spiritually shepherd congregants.[42]

[58] KK is an elder who resides in Ontario and works in Watch Tower Canada's administrative offices in Ontario. KK says the following about the type of documentation that is usually produced and the procedures that apply when a person leaves the Jehovah's Witnesses:

> In cases of disfellowshipping or disassociation, a committee of three elders is appointed by the congregation's body of elders to meet with the individual and try to restore the person spiritually….
>
> In accordance with our longstanding religious practice, the committee of elders will keep a confidential written record of their meeting or efforts. The elders prepare the religious record, and it is signed by all three elders after prayerfully reflecting on appropriate Scriptures which are then written down and applied. It reflects the three elders' review and assessment of the situation and solemn and private spiritual deliberations. While there is a meeting with the person, if he or she agrees to meet, the individual does not share or attend the prayerful and private deliberations of the three elders. This document serves the religious purpose of recording the spiritual and prayerful deliberations of the elders, their efforts to restore the individual spiritually and, if unsuccessful, the Scriptural basis for disfellowshipping or disassociation….
>
> The spiritual deliberations and summary of same relate solely to elders carrying out their function of helping to restore erring ones and maintaining the Scripturally moral and spiritual integrity of our congregations. These decisions strictly pertain to religious adherence or standing in the congregation (i.e., whether someone is or is not one of Jehovah's Witnesses) and to spiritual fellowship within the congregation. The summary is placed in a sealed envelope and kept under lock and key for no one else in the congregation to view. The record originates with and is kept confidential by the three elders alone. It reflects the three elders' review of the issue and solemn and private spiritual deliberations.
>
> It is part of our religious obligation and canon law that this record be kept strictly confidential. The elders who meet with the individual do not share the confidential religious summary with other elders who are not authorized

[42] Respondents' reply at para. 64.

> to be involved in the spiritual restorative discipline and admonition process or with anyone else in the congregation. Only the elders who met with the individual may open the envelope and, even then, only in very restricted circumstances, for instance when an individual requests reinstatement as one of Jehovah's Witnesses.
> …
> Requiring congregation elders to hand over a confidential religious record as requested by LW and GW would be contrary to the elders' religious obligation under canon law and would seriously impede them from carrying out their religious and Scriptural responsibilities before God. It would jeopardize the integrity of the process by exposing the private spiritual deliberations and expressions to any not sharing in this process and decision-making. The three elders would not be free to write down their spiritual views and doctrinal application of Scripture without fear of others or disgruntled individuals from copying or exposing the elders' private spiritual thoughts for personal malicious, or troublesome purposes. This may include sharing it with non-participants in the process by way of social media, internet chat rooms, YouTube channels, and the like. These private expressions may be misapplied, twisted, or distorted for unintended and contrary purposes. Jehovah's Witnesses in Canada have experienced this type of harassment in various forms of social media.
> ...
> Moreover, if the OIPC can order the production of confidential religious records, the ability of elders to provide spiritual consolation and assistance would be significantly damaged. Elders, as spiritual shepherds, strive to help fellow Jehovah's Witnesses maintain an approved condition with God. Elders cannot do that if they fear they will be compelled to disclose their inmost and solemn private deliberations. There would be a demoralizing effect on all elders seeking to carry out their responsibilities and on the religious community of Jehovah's Witnesses in British Columbia at large.[43]

[59] For his part, JV explains that he is the only remaining member of the Grand Forks Congregations' committee of three elders who met to review LW's decision to leave the Jehovah's Witnesses. The other two have since passed away. JV explains that the record in dispute is a summary of LW's decision, the elders' efforts, and LWs' response. The summary was placed in a sealed envelope and kept under lock and key.[44] He explains how, in light of this OIPC matter, the congregation's body of elders gave JV sole permission to open the envelope and review its contents.[45]

[60] JV says that the record contains the three elders' confidential religious summary of their spiritual deliberations and handling of the matter involving LW. He elaborates as follows:

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[43] KK's affidavit at paras. 29-32, 40 and 42. KK does not say if he had any personal involvement in the decisions the respondents made regarding the applicants' access requests.
[44] JV's affidavit at paras. 11 and 17.
[45] JV's affidavit at para. 19.

> Confidential religious summaries and communications are not to be disclosed outside of the doctrinal rules that govern my conduct as an elder for Jehovah's Witnesses. I owe that duty of confidentiality to congregants individually, my fellow elders, and to the congregation in Grand Forks. I never imagined that one day someone could read my confidential religious notes. From the start, I expected privacy from having my spiritual thoughts and considerations read by third parties, in particular LW.
>
> As stated, our canon law does not permit disclosure of a confidential religious record, nor does my personal religious conscience. The Holy Bible states at Proverbs 11:13: "A slanderer goes about revealing confidential talk, but the trustworthy person keeps a confidence." Proverbs 25:9 states: "Plead your case with your neighbor, but do not reveal what you were told confidentially." I take seriously my sacred and solemn religious obligation to keep strictly confidential what our canon law classifies as confidential religious communications. This includes anything related to private religious deliberations that take place between elders.
>
> It is my sincere religious and conscientious view that such disclosure would only impede my efforts and those of fellow elders to maintain the trust and confidentiality essential for us to carry out our Scriptural and spiritual duties as elders. Jehovah's Witnesses are a small community in Grand Forks and the Okanagan. Even if third-party information is redacted, it would be relatively easy for LW (and any future complainant) to identify the elders and adherents mentioned. This would include the deceased elders. Any state-ordered disclosure would soon become known, and many adherents would be afraid in the future to openly confess their sins, discuss confidential matters, seek pastoral support, or openly approach elders to discuss personal and family matters. They would not want private and intimate matters of self and family to be exposed to any state officials and beyond, no matter how well meaning they may be.
>
> Disclosing confidential religious communications contrary to my ecclesiastical duties would interfere with and seriously hinder my ability to spiritually shepherd congregants that seek or require such assistance….[46]

[61] JV adds that even disclosing the record to an OIPC adjudicator would severely violate his religious practice and personal conscience as an elder.[47]

[62] As for the Coldstream Congregation, PS says that he conducted a diligent search and the only record his congregation has about GW is a confidential religious summary pertaining to GWs departure from the Jehovah's Witnesses. PS explains that there is only one living elder of the three who prepared the summary but that elder is ill. So, for the purposes of this OIPC matter, the congregation's body of elders authorized PS and one other (unidentified) elder to open the sealed envelope and review the summary.

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[46] JV's affidavit at paras. 32-35.
[47] JV's affidavit at para. 28.

[63] PS says that he has read JV's affidavit and he is bound by the same religious duties and procedures JV outlined.[48] PS says:

> Being compelled to disclose confidential religious documents would severely harm my personal religious conscience. Confidential religious documents and summaries related to matters I have been involved in as an elder contain personal religious determinations and views, prayerfully considered, which must remain private. This is necessary for me to care for my responsibilities as a spiritual shepherd toward my congregation and all individual congregants. Keeping this information strictly confidential is absolutely necessary for me to care for one of the primary duties as an elder: provide spiritual support and determine, along with my fellow elders, who can belong to the congregation as one of Jehovah's Witnesses or who can return if they qualify.
> …
> This confidential religious summary constitutes a confidential religious record that should not be disclosed. As per canon law, it documents the elders' efforts to spiritually assist and then formally acknowledge GW's disassociation as one of Jehovah's Witnesses. It is an internal religious document that strictly concerns who is one of Jehovah's Witnesses and must be preserved and kept strictly confidential according to our canon law.
>
> This is not simply a matter of religious procedure. A confidential religious summary is an expression of the elders' individual and collective deeply-held religious convictions and conscience based on our understanding and application of Holy Scripture to our role as elders and spiritual shepherds. We write this anticipating it will remain strictly confidential.
> …
> It would violate our canon law and also my personal religious conscience as an elder to disclose the confidential religious summary even to the individual who is the subject of the religious decision.[49]

[64] The respondents explain their s. 2(a) *Charter* argument as follows:

> The confidential religious summaries at issue are records [JV and PS] must keep confidential under canon law. Disclosing these records would violate their religious obligation, practice, beliefs and personal conscience. Section 23, read in conjunction with sections 1 and 3 of *PIPA*, ignores their fundamental religious rights and freedoms. It jeopardizes the integrity of the religious process by exposing the confidential spiritual deliberations and expressions to unintended persons. Redacting third-party information would still leave exposed the confidential religious views and deliberations of the elders pertaining to their spiritual status decision. This interference with the elders' religious conscience and practice far exceeds the "non-trivial" threshold established in *Syndicat Northcrest* [*Anselem*].
> …

[48] PS's affidavit at paras. 3-4.
[49] PS's affidavit at paras. 9, 24, 25 and 27.

> *PIPA* [s. 23(3)(b)] carves out of thin air protection for confidential commercial information, which enjoys no *Charter* protection, but ignores the privilege and protection the common law and the *Charter* afford confidential religious communication. This is constitutionally flawed and fundamentally defective.
>
> Further, if the records at issue had been created for journalistic, artistic, or literary purposes, they would not be subject to *PIPA*, as per section 3(2)(b) of *PIPA*. …
>
> There is no exemption for the confidential religious summaries at issue in this inquiry. Since they were created for *religious* purposes, they are not protected by any of the exemptions under sections 3 and 23 of *PIPA*. Failure to respect religious freedom as a fundamental *Charter* right while granting an exemption for journalistic, artistic, or literary purposes creates a hierarchy of *Charter* rights, which in itself is unconstitutional. It is also patent discrimination.[50]

[65] The respondents also submit that disclosing the records to the commissioner would violate the confidential nature of the records and be a serious violation of the elders' rights and freedoms under s. 2(a) of the *Charter.*[51] The respondents add that producing the records to the commissioner for the purpose of an inquiry would result in the OIPC "entering into the 'forbidden domain' of assessing religious doctrine and lead to an adjudicator inquiring into the religious beliefs, practices, and ecclesiastical procedures of Jehovah's Witnesses in order to understand the record itself—issues that are purely religious, do not engage any property or civil right, and are non-justiciable."[52]

[66] The respondents say that the analysis in the Supreme Court of Canada's *Alberta (Information and Privacy Commissioner) v United Food and Commercial Workers, Local 401*,[53] [*Local 401*] should apply in the present case. *Local 401* involved a lawful strike, during which the union posted signs stating that images of people crossing the picket line might be placed on a website. Several individuals who were filmed crossing the picket line filed complaints with the Alberta Information and Privacy Commission. The Alberta commissioner concluded that the union's collection, use and disclosure of the information was not authorized by Alberta's *PIPA*. The Supreme Court of Canada found that the absence of an exemption in Alberta's *PIPA* to permit a union to collect, use and disclose personal information for the purpose of advancing its interests in a labour dispute contravened the union's freedom of expression under s. 2(b) of the *Charter*. The infringement of that freedom of expression was disproportionate to the government's objective of providing individuals with control over the

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[50] Respondents' initial submission at paras. 50, 52, 53 and 54.
[51] Respondents' initial submission at para. 55; Respondents' reply at para. 40.
[52] Respondents' initial submissions at para. 58.
[53] *Alberta (Information and Privacy Commissioner) v United Food and Commercial Workers, Local 401*, [2013] 3 SCR 733 [*Local 401*]. Respondents' initial submissions at para. 5.

personal information that they expose by crossing a picket line, and it was, therefore, not justified under s. 1 of the *Charter*. The Court declared Alberta's *PIPA* invalid but suspended its declaration for 12 months to give the legislature time to amend the legislation.

[67] The respondents bolster their *Charter* arguments by pointing out that *PIPA* does not provide an exemption for the kind of religious communications that would be protected by common law case-by-case privilege. They say, "In contrast with *PIPA*, the common law recognizes that confidential religious summaries are privileged when the *Wigmore* test is satisfied".[54] However, the respondents do not actually rely on a claim of privilege to protect the records in this case; rather, they say:

> It is not necessary to resort to the common law concept of privilege as it applies to religious communications to settle this inquiry in favour of the named congregations and elders. Here, the *Charter* directly applies, as it did in *Local 401*. PIPA is unconstitutional and should not be applied against the elders or the two congregations targeted by this inquiry.[55]

AGBC's submission

[68] The AGBC does not dispute the elders' sincerely held beliefs regarding the confidentiality of the records.[56] Rather, it says that the requirement to disclose portions of records under *PIPA* does not meet the threshold of interfering with the ability to act in accordance with a practice or belief in a manner that is more than trivial or insubstantial. The requirement neither threatens religious beliefs nor prevents congregation members from manifesting those beliefs by engaging in any religious activities.[57]

[69] The AGBC says one must remember that the only information that may be disclosed under s. 23 of *PIPA* relates solely to the applicants. Any personal information of third parties, including the elders, will have been removed. There would be no breach of confidence in relation to any third party who may have shared information with the elders, and the disclosure of information about the elders would be limited to their work product information.[58]

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[54] Respondents' initial submission at para. 51. They cite *R v Gruenke,* 1991 CanLII 40 (SCC) where the Court said there is no *prima facie* or class privilege over religious communications but they may be excluded where the Wigmore criteria are satisfied: (1) the communications must originate in a confidence that they will not be disclosed; (2) this element of confidentiality must be essential to the full and satisfactory maintenance of the relation between the parties; (3) the relation must be one which in the opinion of the community ought to be sedulously fostered; and (4) the injury that would inure to the relation by the disclosure of the communications must be greater than the benefit thereby gained for the correct disposal of litigation.
[55] Respondents' initial submission at para. 57 and reply submission at paras. 35-38.
[56] AGBC submission at para. 70.
[57] AGBC submission at para. 79.
[58] AGBC submission at para. 74.

[70] Further, the AGBC says the responsibility to disclose records falls on the organizations, not the elders; the elders are not personally required to disclose the records. The AGBC suggests that there may be "alternative methods of facilitating the disclosure" such that it would not violate the elders' personal religious conscience and canon law.[59]

[71] The AGBC argues that the respondents' own evidence demonstrates that legal proceedings are considered a valid reason for the records to be unsealed and reviewed.[60] For instance, the records were unsealed and reviewed by PS and JV for the purposes of the OIPC proceeding.

[72] The AGBC adds that a disclosure of some limited portions of the records pursuant to a legal requirement should not be seen by informed congregation members as a breach of confidence. It cites an unreported Ontario Superior Court of Justice decision where a Jehovah's Witness elder was subpoenaed to testify. The Court said that any informed congregant would understand that following a direct order of the Court was not a breach of confidentiality on the part of the elders.[61]

[73] The AGBC also says that in other countries Jehovah's Witnesses have policies acknowledging congregation members have a right to access their own personal information. It provides a copy of the Jehovah's Witnesses' privacy policy for the United Kingdom, which provides that congregants have a right to access their personal data held by the Jehovah's Witnesses.

Respondents' reply submission

[74] The respondents assert that they have established that *PIPA*'s interference with the elders' sincerely-held religious beliefs and practices is more than trivial or insubstantial.[62] They say that the elders have explained that providing any further disclosure would "profoundly interfere" with their religious beliefs and practices, and confidentiality over the records is of "sacred importance."[63] *PIPA*'s interference is not trivial because the matters the records address are not trivial; they are about LW and GW no longer being one of Jehovah's Witnesses.[64]

[75] The respondents say that any suggestion by the AGBC that the responsibility to disclose the records is assigned to the organization and not any particular individual is based on a false premise. The records are under the control of the committee of elders assigned to handle the religious adherence

[59] AGBC submission at para. 71.
[60] AGBC submission at para. 72.
[61] *R v Davis* (Unreported, Court file 7/07, April 11, 2008). AGBC submission at paras. 75-76.
[62] Respondents' reply at para. 46.
[63] Respondent's' reply at paras. 48 and 50.
[64] Respondents' reply at paras. 52-53.

decision, and in the case of GW, the elder who stepped in because the original elders are either deceased or incapacitated.[65]

[76] The respondents submit that *PIPA*'s interference should not be judged as trivial simply because the elders temporarily unsealed the records for the OIPC proceedings. Only the elders vested with the spiritual and religious authority viewed the records. Although the unsealing enabled the affiants to provide some limited disclosures in their affidavits, the record itself and the remainder of the information was protected from disclosure. The mere fact that a limited number of authorized elders accessed the confidential records does not abrogate confidentiality.[66] The respondents say the elders' actions "are in harmony with their claim that further disclosures would severely interfere with their personal religious conscience as well as the doctrinal beliefs and practices of Jehovah's Witnesses in Canada."[67]

[77] The respondents also say that disclosure of the records should not be seen as a trivial interference with religious freedoms because *PIPA* protects the elders' personal information from disclosure. There is the possibility that the commissioner may conclude the information is "work product" information, not the elders' personal information, in which case it would be disclosed to the applicants.[68]

GW's submission

[78] GW says that the respondents' entire *Charter* argument "would become void if it was shown that these documents are, in fact, not confidential."[69] He disputes the records were treated as confidential and he believes there is a high probability that many elders have seen the records. For instance, he says that there are Jehovah's Witnesses' procedures that permit elders to consult with a circuit overseer and the Canadian Branch of Jehovah's Witnesses (branch office). The procedures also require that reports of disassociations and other matters be sent to the branch office using the appropriate forms. GW thinks it is likely that all of those procedures took place in his case. GW figures at least eight people have probably viewed the records.

[79] GW says:

> The testimony in this submission and The Watchtowers own manual's [sic] show that confidentiality is not respected in this organization. When one thinks of confidentiality, one may call to mind a kind priest listening to the confession of a church member and seeking to help this individual. This

[65] Respondents' reply at para. 52.
[66] Respondents' reply at para. 54.
[67] Respondents' reply at para. 54.
[68] Respondents' reply at para. 55.
[69] GW's submission at para. 15.

> confidential information would go no further. This is obviously not the environment within the organization. Confidential information is shared between multiple elders, circuit overseers and the branch office where any number of individuals could have access to this personal information.[70]

[80] GW also says:

> The organization is accusing the OIPC of entering the forbidden domain of religious belief and doctrine. I feel that the organization is exaggerating these proceedings as somehow a judgement on their practices and beliefs. While I am critical of some of the practices of the organization, I'm only involved in these proceedings to attain my personal information and documents held by the organization.[71]

LW's submission

[81] LW says that the information "belongs" to the congregation, not to the elders. He also disputes any claim that the information is protected by religious privilege. He says that privilege would only apply to conversation between an elder and congregant for the purpose of penitence. He says privilege does not apply to elder-to-elder communication.

[82] He also disputes that *PIPA* requires disclosure of other peoples' personal information. He says *PIPA* adequately considers and respects the privacy of other parties and the commissioner can deal with their personal information on a case-by-case basis.

Findings, infringement of s. 2(a)

[83] As outlined above, the respondents submit that the *PIPA*'s legislative scheme as a whole is unconstitutional and their submissions are far reaching. This made characterizing the infringing measure(s) for the purposes of this analysis particularly challenging. For its part, the AGBC articulates the impugned measure as the duty *PIPA* places on organizations to provide an individual with their own personal information under the control of the organization on request under s. 23 of *PIPA*.[72]

[84] Having considered what the parties say, I find that that the following two measures allegedly infringe s. 2(a) of the *Charte*r in this case:

1. The right that s. 23(1)(a) of *PIPA* gives the applicants to access their personal information under the control of JV, PS and the congregations.

[70] GW's submission at para. 58.
[71] GW's submission at para. 45.
[72] AGBC's submission at para. 83.

2. The power s. 38(1)(b) of *PIPA* grants the commissioner to require that JV, PS and the congregations produce for the commissioner's review the documents in their custody or under their control that contain the applicants' personal information.

[85] The first step in successfully advancing a claim that freedom of religion has been "infringed" is to demonstrate that the individual sincerely believes in a practice or belief that has a nexus with religion.[73] My analysis is informed by the following guidance from the Supreme Court of Canada in *Syndicat Northcrest v Amselem*[74] about religious beliefs and freedom of religion:

> [39]…In essence, religion is about freely and deeply held personal convictions or beliefs connected to an individual's spiritual faith and integrally linked to one's self-definition and spiritual fulfilment, the practices of which allow individuals to foster a connection with the divine or with the subject or object of that spiritual faith.
> …
> [46] To summarize up to this point, our Court's past decisions and the basic principles underlying freedom of religion support the view that freedom of religion consists of the freedom to undertake practices and harbour beliefs, having a nexus with religion, in which an individual demonstrates he or she sincerely believes or is sincerely undertaking in order to connect with the divine or as a function of his or her spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials.
> …
>
> [49] To require a person to prove that his or her religious practices are supported by a mandatory doctrine of faith, leaving it for judges to determine what those mandatory doctrines of faith are, would require courts to interfere with profoundly personal beliefs in a manner inconsistent with the principles set out by Dickson C.J. in *Edwards Books*, *supra*, at p. 759:
>
> > The purpose of s. 2(*a*) is to ensure that society does not interfere with profoundly personal beliefs that govern one's perception of oneself, humankind, nature, and, in some cases, a higher or different order of being. These beliefs, in turn, govern one's conduct and practices. [Emphasis added.]
>
> [50] In my view, the State is in no position to be, nor should it become, the arbiter of religious dogma. Accordingly, courts should avoid judicially interpreting and thus determining, either explicitly or implicitly, the content of a subjective understanding of religious requirement, "obligation", precept, "commandment", custom or ritual. Secular judicial determinations

[73] *Syndicat Northcrest v Amselem,* 2004 SCC 47 (CanLII) [*Anselem*] at para. 65.
[74] *Ibid.*

> of theological or religious disputes, or of contentious matters of religious doctrine, unjustifiably entangle the court in the affairs of religion.
>
> [51] That said, while a court is not qualified to rule on the validity or veracity of any given religious practice or belief, or to choose among various interpretations of belief, it is qualified to inquire into the sincerity of a claimant's belief, where sincerity is in fact at issue: see *Jones*, *supra*; *Ross*, *supra*. It is important to emphasize, however, that sincerity of belief simply implies an honesty of belief: see *Thomas v. Review Board of the Indiana Employment Security Division*, *supra*.
> …
>
> [56] Thus, at the first stage of a religious freedom analysis, an individual advancing an issue premised upon a freedom of religion claim must show the court that (1) he or she has a practice or belief, having a nexus with religion, which calls for a particular line of conduct, either by being objectively or subjectively obligatory or customary, or by, in general, subjectively engendering a personal connection with the divine or with the subject or object of an individual's spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials; and (2) he or she is sincere in his or her belief. Only then will freedom of religion be triggered.

[86] I accept the respondents' evidence that the religious practice of JV, PS and other elders in the two congregations is to allow only elders appointed by each congregation's body of elders to create, care for and access the records at issue. The AGBC provided no evidence to contradict that this is the practice of the elders and that it is based on their religious beliefs.

[87] I also accept PS and JV's evidence that they sincerely believe that permitting anyone other than an approved elder to see the records would be contrary to their personal understanding of the rules governing their religious practices and contrary to their personal religious beliefs and conscience. PS and JV have satisfactorily explained how restricting access to the records to only appointed elders is a sincerely and deeply-held belief and practice that has a nexus to religion. The AGBC does not dispute the elders' sincerely held beliefs regarding the confidentiality of the records.

[88] JV and PS's evidence is that they have been authorized by the body of elders in their respective congregations to view and deal with the records at issue. I accept this as satisfactory evidence that the elders in the two congregations share JV and PS's sincerely-held religious belief and conviction that the records in dispute may only be viewed by authorized elders. However, I cannot extend that finding to every elder and Jehovah's Witness in BC, as the respondents would have me do. There is an insufficient evidentiary basis to make such a sweeping finding.

[89] In addition, I am not persuaded by the AGBC's evidence about how Jehovah's Witnesses in the United Kingdom may have different religious views and practices regarding the confidentiality of records. Assessing the sincerity of PS and JV's religious beliefs is not an exercise in comparing what they believe to what other Jehovah's Witnesses believe or how others practice their faith. For that reason, it is not necessary to make any finding about the beliefs and practices of Jehovah's Witnesses in the United Kingdom in relation to a different statute dealing with personal information matters.

[90] The next step is to decide if what *PIPA* requires interferes with the ability of JV, PS and other elders in their congregations to act in accordance with their sincerely-held religious belief and practice in a manner that is more than trivial or insubstantial. Interference is trivial or insubstantial where it "does not threaten actual religious beliefs or conduct".[75]

[91] I accept the PS and JV's evidence that they believe any *PIPA*-imposed disclosure of the records, whether to the OIPC or LW and GW, would be more than a trivial interference with their freedom of religion and that of other elders in their congregations. The AGBC did not provide evidence to contradict what JS and PS said about their beliefs and those of the other elders in their congregations. They believe the records must not be viewed by anyone other than an approved elder. *PIPA* requires the opposite, namely that records or parts of the records be disclosed to applicants or the commissioner.

[92] I am not persuaded by the AGBC's argument that the infringement is merely trivial because PS and JV do not have to personally carry out the congregations' *PIPA* duties, or because members of the congregation will understand that compliance with *PIPA* is a legal requirement and not an elder's personal choice. That misses the point as I see it, which is that *PIPA* requires behaviour that is contrary to the elders' sincerely held religious belief that only authorized elders may access the records. Within their own congregations, it is apparent that PS and JV are not alone in believing that only authorized elders may access the records. The body of elders that authorized PS and JV to unseal the records evidently share the same belief. There is nothing to suggest that there are elders in the two congregations who would not feel the same way as PS and JV if required by *PIPA* to disclose the information in the records.

[93] The AGBC also argues that the impact on religious freedoms would be trivial because *PIPA* only requires disclosure of the applicants' personal information and no one else's personal information. It also submits that the respondents' own evidence is that the records were unsealed and reviewed by elders for these legal proceedings. While both may be true, I do not see how that means *PIPA*'s requirement that the records be disclosed, in whole or in part, is a trivial or insubstantial infringement. As I understand their evidence, the sincerely

[75] *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37 [*Hutterian*] at para. *32.*

held religious belief of PS, JV and the other elders in their congregations is that no part of the records should be accessed by anyone other than authorized elders. The impact of *PIPA* requires the elders to do the exact opposite with the parts of the records that contain the applicants' personal information and, in the case of disclosure to the commissioner, all parts of the records.

[94] I find that what *PIPA* requires of the organizations, in terms of giving the applicants and the commissioner access to the records, is not a trivial or insubstantial interference with the elders' religious beliefs and practices. Given the religious precepts under which the two congregations are organized and function, only JV and PS have been authorized by a body of elders to view and deal with the disputed records. The respondents have, I conclude, established that being compelled to give the applicants access to their own personal information under s. 23, or to allow the commissioner to review the records under s. 38, would infringe the right of JV, PS and the other elders in their congregations to freedom of religion under s. 2(a) *Charter*.

Is the infringement of s. 2(a) justified under s. 1 of the Charter?

[95] The AGBC says that if the OIPC finds that *PIPA* violates s. 2(a) of the *Charter*, the impugned provisions are saved by s. 1 of the *Charter*. The respondents submit the AGBC has failed to prove that *PIPA*'s interference with the elders' religious freedom should be saved under s. 1.

[96] Once a claimant successfully demonstrates their *Charter* freedom or right has been infringed, the onus shifts to the government to prove that the infringing measure is justified under s. 1 of the *Charter*. The AGBC has the burden to establish that the infringing measures are a reasonable limit on religious freedom that can be demonstrably justified in a free and democratic society.[76] In order to meet its burden, the AGBC must prove all parts of the Oakes test are met:

1. The limit must be prescribed by law;
2. The purpose for which the limit is imposed must be pressing and substantial;
3. The means by which the purpose is furthered must be proportionate:
    a) The limit must be rationally connected to the purpose,
    b) The limit must minimally impair the right,
    c) The law must be proportionate in its effect.

[76] *Ontario (Attorney General) v G*, 2020 SCC 38 (CanLII) at para. 72, citing *RJR-MacDonald Inc. v Canada (Attorney General)*, 1995 CanLII 64 (SCC) [*RJR-MacDonald*] at para. 144.

Prescribed by law

[97] I have found that there are two infringing measures in this case: the right that s. 23(1)(a) of *PIPA* gives GW and LW to access their personal information under the control of JV, PS and the congregations, and the power s. 38(1)(b) of *PIPA* gives the commissioner to require that JV, PS and the congregations produce for the commissioner's review documents in their custody or under their control.

[98] The question of whether the impugned measures are prescribed by law is not in contention. *PIPA* is a British Columbia statute.

Is the purpose of the infringing measures pressing and substantial?

[99] The AGBC says that the purposes of *PIPA* are pressing and substantial, and what the Supreme Court of Canada said in *Local 401* about the analogous Alberta's *PIPA* applies equally here:

> [19] There is no dispute that *PIPA* has a pressing and substantial objective…The focus is on providing an individual with some measure of control over his or her personal information: Gratton, a pp. 6 ff. The ability of individuals to control their personal information is intimately connected to their individual autonomy, dignity and privacy. These are fundamental values that lie at the heart of a democracy. As this Court has previously recognized, legislation which aims to protect control over personal information should be characterized as "quasi-constitutional" because of the fundamental role privacy plays in the preservation of a free and democratic society : *Lavigne v. Canada (Office of the Commissioner of Official Languages)*, [2002] 2 S.C.R. 773, at para. 24; *Dagg v. Canada (Minister of Finance)*, [1997] 2 S.C.R. 403, at paras. 65-66; *H.J. Heinz Co. of Canada Ltd. v. Canada (Attorney General)*, [2006] 1 S.C.R. 441, at para. 28.

[100] The respondents submit that the question is not whether *PIPA* as a whole serves a pressing and substantial objective, as the AGBC argues, but whether the limit or the infringing measure does. They contend the AGBC has adduced no evidence to prove "that a pressing and substantial objective is served by *PIPA* capturing confidential religious records and violating elders' section 2(a) *Charter* rights."[77]

[101] For the reasons that follow, I find that the purpose of the two infringing measures is to provide a mechanism for individuals to protect their personal information under the control of organizations and that this is a pressing and substantial purpose.

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[77] Respondents' reply submission at para. 66.

[102] As previously stated, s. 2 says that the purpose of *PIPA* is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances. The Supreme Court of Canada in *Local 401* recognized that the ability of individuals to control their personal information is intimately connected to their individual autonomy, dignity and privacy and that these are fundamental values that lie at the heart of a democracy.[78]

[103] *PIPA* provides applicants with a measure of control over the collection, use and disclosure of their personal information and a means to protect it.[79] It does so, in large part, by requiring organizations to be transparent and accountable for their personal information practices.[80] For instance, s. 23 requires an organization to give individuals access to their own personal information, subject to limited exceptions, and to tell them what it was used for, and to whom it was disclosed. *PIPA* also requires organizations take reasonable steps to ensure they have complete and accurate information about individuals and to consider their requests for correction of their personal information (ss. 33 and 24). This helps ensure that organizations use accurate and up-to-date information when they make decisions that affect an individual.[81] *PIPA* also provides individuals with a mechanism to complain to the commissioner or ask the commissioner to review an organization's decision, act or failure to act (s. 46).

[104] The ability for an applicant to access their personal information under the control of organizations, and the ability of the commissioner to access records for adjudicative purposes, are integral parts of *PIPA*'s statutory scheme. Requiring an organization to disclose an individual's personal information to the individual is a first step in shedding light on how the organization is dealing with the personal information. An individual cannot meaningfully exercise their right to protect and prevent misuse of their personal information if they are kept in the dark with no access to their personal information under the organization's control. For example, the ability to understand the implications of an organization's collection, use and retention of one's personal information, or to request correction if it is in error, requires being able to see the information.

[105] Further, an applicant's ability to protect their personal information depends in large part on the commissioner's oversight powers and ability to independently

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[78] The Court was speaking of Alberta's *PIPA* whose purpose statement is identical to *PIPA*, with only minor wording differences. *Local 401, supra* note 53 at para. 19
[79] *Local 401*, *supra* note 53 at paras. 19 and 24.
[80] Order P22-02, *Conservative Party of Canada (Re)*, 2022 BCIPC 13 (CanLII) at para. 118.
[81] *Ibid*, at para 118.

examine documents and scrutinize organizations' personal information practices. The commissioner's powers in the context of a complaint or request for review would be impeded, as they are here, without being able, where necessary, to independently review documents to determine if they contain personal information and what information might be exempt from disclosure.

[106] In summary, I find that the right that *PIPA* gives GW, LW to access their personal information under the control of JV, PS and the congregations, and the power *PIPA* gives the commissioner to review the records, have the same pressing and substantial purpose.

Are the infringing measures rationally connected to their purpose?

[107] The AGBC submits that the impugned provisions of *PIPA* are rationally connected to its purposes. It says the disclosure duty that *PIPA* imposes on organizations clearly furthers the right of individuals to protect their personal information. The duty to disclose an individual's personal information, the AGBC says, "is a tool individuals can use to hold organizations accountable for the way they collect, use, and disclose personal information. It acts as a deterrent to misuse and allows individuals a greater degree of control over information about themselves."[82]

[108] The respondents do not contest that the impugned provisions are rationally connected to their purpose.

[109] The Supreme Court of Canada provided the following guidance about this element of the Oakes test in in *Hutterian:*[83]

> [48] To establish a rational connection, the government "must show a causal connection between the infringement and the benefit sought on the basis of reason or logic": *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1995] 3 S.C.R. 199, at para. 153. The rational connection requirement is aimed at preventing limits being imposed on rights arbitrarily. The government must show that it is reasonable to suppose that the limit may further the goal, not that it will do so.

[110] I have considered the parties' submissions and the evidence that was provided and I am satisfied that the infringing measures are rationally connected to their purpose of providing the applicants with a mechanism to protect their personal information under the control of JV, PS and the congregations.

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[82] AGBC submission at para. 89.
[83] *Hutterian, supra* note 75.

Do the infringing measures minimally impair freedom of religion?

[111] The next step in the analysis is to determine "whether there is an alternative, less drastic means of achieving the objective in a real and substantial manner."[84] The infringing measure must impair the *Charter* right as little as reasonably possible in order to achieve the measure's objective. The Supreme Court of Canada said the following about this in *RJR-MacDonald Inc. v Canada (Attorney General):*[85]

> [160] The impairment must be "minimal", that is, the law must be carefully tailored so that rights are impaired no more than necessary. The tailoring process seldom admits of perfection and the courts must accord some leeway to the legislator. If the law falls within a range of reasonable alternatives, the courts will not find it overbroad merely because they can conceive of an alternative which might better tailor objective to infringement [citations omitted]. On the other hand, if the government fails to explain why a significantly less intrusive and equally effective measure was not chosen, the law may fail.

[112] The AGBC submits that the provisions infringe on freedom of religion no more than necessary in order to achieve the statute's objective. The AGBC says:

> PIPA, therefore, grants a right of access to personal information an organization possesses having to do with membership or association with that organization. If an individual is to have control over and protect their personal information, this right must extend to all organizations that the individual may engage with, including religious organizations. Excluding religious organizations, or the Jehovah's Witnesses in particular, from this duty to disclose undermines the integrity of the scheme and significantly compromises the objective.
>
> There is no more minimally impairing way of ensuring that individuals have access to personal information in the control of an organization. Nothing less than a general right of access will actually achieve the government objective.[86]

[113] The respondents submit that *PIPA* is not a law that is "carefully tailored", such that the elders' rights are impaired no more than necessary and the AGBC has offered no evidence to prove that it is.[87] For instance, they say that the AGBC has failed to explain why s. 1 of *PIPA* does not exclude religious organizations from the definition of organization or why s. 3(2) does not expressly exclude religious information in the way it does personal information that is collected, used or disclosed solely for personal, domestic, journalistic, artistic or

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[84] *Hutterian, supra* note 75 at para 55.
[85] *RJR-MacDonald, supra* note 77.
[86] AGBC submission at paras. 93-94.
[87] Respondents' reply at paras. 67- 68.

literary purposes. The respondents say, "Failure to respect religious freedom as a fundamental *Charter* right while granting an exemption for journalistic, artistic, or literary purposes creates a hierarchy of *Charter* rights, which in itself is unconstitutional."[88] They also argue that AGBC provided no evidence to justify why s. 23 does not provide a disclosure exception for religious information like it does for personal information whose disclosure would reveal confidential commercial information.[89]

[114] The extent to which freedom of religion is impaired by the application of *PIPA* to religious organizations, in the ways contended by the respondents, must be considered in context. *PIPA* gives applicants a right to access *their own* personal information. An applicant is not entitled to information about any other identifiable individual (i.e., third-party personal information) in response to their access request under s. 23(1)(a).[90] In that way, *PIPA* carefully carves out a middle-ground that gives an applicant access to the limited amount of information they need in order to protect and exercise some control over their own personal information while at the same time recognizing other individuals' right to do the same with their personal information.

[115] In the context of LW's and GW's access requests, ss. 23(4)(c) and (d) would mean that they have no right to access the elders' personal information or any other third party's personal information, regardless of whether that information is of a religious nature or otherwise. I accept that the elders have a sincerely held religious belief and practice that the records are confidential and may only be accessed by authorized elders. However, the right to be free to follow that belief and practice is only minimally impaired by the application of *PIPA* because the responsible organizations are only required to give the applicants access to the discrete parts of the records that contain the applicants' own personal information.

[116] Specifically, *PIPA* prohibits an organization from disclosing the personal information of anyone other than the individual who is seeking their own personal information. There is no harms test and no balancing involved. Section 23(4)(c) prohibits an organization from disclosing "personal information and other information" where it "would reveal personal information about another individual", however trivial or sensitive that information might be. Further, s. 23(4)(d) prohibits disclosure where the information would reveal the identity of an individual who has provided personal information about another individual and the individual providing the personal information does not consent to disclosure of his or her identity.

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[88] Respondents' reply at para. 72.
[89] Respondents' reply at paras. 73 and 75.
[90] However, in response to a request under s. 23(1)(c), an organization must provide the applicant with the names of the individuals (and organizations) to whom the applicant's personal information under the control of the organization has been disclosed.

[117] These protections are, I find, tailored in a way that minimizes the impact on the confidentiality of elders' spiritual deliberations, prayers or opinions and, thus, the exercise of their freedom of religion.

[118] It would be unnecessarily sweeping to exclude religious organizations and the personal information under their control from *PIPA* when the Act already provides a mechanism to protect third parties' personal information, including where the personal information is religious in nature. Again, ss. 23(1)(a) and 23(4) give individuals a right to their own personal information, but not to anyone else's. That prohibition is absolute, as already noted.

[119] It also seems overly broad to exclude religious organizations, such as the elders and congregations, from *PIPA* altogether when it is apparent that not all of an applicant's personal information under their control will necessarily involve anyone's spiritual deliberations or a religious summary. In this case, for instance, the evidence shows that some of LW and GW's personal information under the elders and congregations' control is the applicants' names, gender, dates of birth, contact details, membership dates, hours spent in congregation activities, number of visits made and magazines delivered.[91] Not only is that information arguably more administrative than religious in nature, it is certainly not the religious or other personal information of the elders or any other third party.

[120] I am not persuaded by the respondents' argument that excluding religious organizations and the personal information they collect, use and disclose from *PIPA*'s application is a reasonable, more minimally impairing alternative. The purpose of the infringing measures is to provide individuals a meaningful way to protect their personal information under an organization's control. What the respondents suggest would completely undermine and defeat that purpose. I am satisfied that the right that *PIPA* gives LW and GW to access their own personal information under the control of JV, PS and the congregations only minimally impairs freedom of religion.

[121] I also find that the commissioner's authority under s. 38(1)(b) to, where necessary, order production of documents to assess their contents only minimally impairs freedom of religion. The commissioner's review of the documents will be for the limited purpose of deciding the questions of fact and law arising in the course of any inquiry under s. 50(1) respecting LW's and GW's claims that they have been improperly denied access to their own personal information.

[122] This conclusion is bolstered by s. 41 of *PIPA*, which prohibits the commissioner and the commissioner's delegates from disclosing information

[91] PS and JV's affidavits at paras. 21. Grand Forks Congregation's April 2, 2020 decision letter referring to LW's *Congregation's Publisher (S-21)* cards.

obtained in performing their duties or exercising their powers and functions under the Act except in very limited circumstances. Section 41 says:

> Restrictions on disclosure of information by commissioner and staff
>
> 41 (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.
>
> (3) In conducting an investigation, audit or inquiry under this Act and in a report under this Act, the commissioner and anyone acting for or under the direction of the commissioner must take every reasonable precaution to avoid disclosing and must not disclose
>
> (a) any personal information an organization would be required or authorized to refuse to disclose if it were contained in personal information requested under section 27, or
>
> (b) whether information exists, if an organization in refusing to provide access does not indicate whether the information exists.
>
> (4) The commissioner may disclose to the Attorney General information relating to the commission of an offence against an enactment of British Columbia or Canada if the commissioner considers there is evidence of an offence.
>
> (5) The commissioner may disclose, or may authorize anyone acting for or under the direction of the commissioner to disclose, information in the course of a prosecution, application or appeal referred to in section 39.
>
> (6) The commissioner may disclose, or may authorize anyone acting for or under the direction of the commissioner to disclose, information in accordance with an information-sharing agreement entered into under section 36 (1) (l).

[123] As s. 41(3) makes plain, even the authority to disclose information necessary to conduct an investigation, audit or inquiry under *PIPA* is limited, since third-party personal information is protected under s. 41(3)(a).

[124] In conclusion, I am satisfied that the two infringing measures achieve their purpose while impairing the freedom of religion of JV, PS and the other elders in their congregations as little as is reasonably possible.

Are the measures proportionate in their effect?

[125] The final stage of s. 1 analysis allows for a broader assessment of whether the value or benefit of the impugned measures are worth the cost of the rights limitation.[92] The question is whether the deleterious effects are out of proportion to the public good achieved by the infringing measures.[93]

[126] McLachlan C.J. said the following in *Hutterian* about this stage of the analysis:

> [90] Because religion touches so many facets of daily life, and because a host of different religions with different rites and practices co-exist in our society, it is inevitable that some religious practices will come into conflict with laws and regulatory systems of general application… In judging the seriousness of the limit in a particular case, the perspective of the religious or conscientious claimant is important. However, this perspective must be considered in the context of a multicultural, multi-religious society where the duty of state authorities to legislate for the general good inevitably produces conflicts with individual beliefs. The bare assertion by a claimant that a particular limit curtails his or her religious practice does not, without more, establish the seriousness of the limit for purposes of the proportionality analysis. Indeed to end the inquiry with such an assertion would cast an impossibly high burden of justification on the state. We must go further and evaluate the degree to which the limit actually impacts on the adherent.
>
> [91] The seriousness of a particular limit must be judged on a case-by-case basis. ...

[127] The AGBC submits that *PIPA* is proportionate in its effects and that the deleterious effects on the respondents are far outweighed by *PIPA*'s salutary effects. The beneficial effects of *PIPA*'s access provisions, the AGBC says, include a statutory right of all individuals to access and protect their personal information, allowing them to know what information organizations have about them and prevent the misuse of that information.[94]

[128] The AGBC submits that the following quote from *Local 401* about the beneficial effects of the analogous Alberta *PIPA* apply to BC's *PIPA* as well:

> [21] The beneficial effects of *PIPA*'s goal are demonstrable. *PIPA* seeks to enhance an individual's control over his or her personal information by restricting who can collect, use and disclose personal information without that individual's consent and the scope of such collection, use and disclosure. *PIPA* and legislation like it reflect an emerging recognition that

[92] *Hutterian*, *supra* note 75 at para. 77.
[93] *Hutterian, supra* note 75 at paras. 78.
[94] AGBC submission at para. 98.

> the list of those who may access and use personal information has expanded dramatically and now includes many private sector actors. *PIPA* seeks to regulate the use of personal information and thereby to protect informational privacy, the foundational principle of which is that "all information about a person is in a fundamental way his own, for him to communicate or retain…as he sees fit"…
>
> [22] Insofar as *PIPA* seeks to safeguard informational privacy, it is "quasi-constitutional" in nature:[citation omitted]. The importance of the protection of privacy in a vibrant democracy cannot be overstated…
> …
> [24] Finally, as discussed above, the objective of providing an individual with some measure of control over his or her personal information is intimately connected to individual autonomy, dignity and privacy, self-evidently significant social values.

[129] The AGBC argues that the central deleterious effect identified by the respondents is that disclosing the records would be a breach of canon law. Despite that, the respondents' evidence demonstrates that legal proceedings may justify unsealing the records. It would be clear to congregation members, the AGBC says, that the information is being disclosed pursuant to a legal requirement and not due to the personal failings of any member. Further, the AGBC says, this level of disclosure is already contemplated in the Jehovah's Witnesses privacy policy in other jurisdictions where there is a similar statutory right of access. The AGBC further submits:

> This minimal infringement does not deny Jehovah's Witnesses the choice to practise their beliefs. The adjustments to their record keeping practices that would be required cannot outweigh the significant benefits afforded by the statutory scheme in relation to the protection of privacy and personal information.[95]

[130] The AGBC does not accept the respondents' assertion that congregation members are going to be less likely to share information with elders if *PIPA* applies. The respondents' argument fails to recognize that a person is only entitled to access their own personal information and that *PIPA* requires an organization that receives an individual's access request to remove all third-party personal information. Given this, the AGBC says, "It makes little sense that congregation members would be less likely to share information if they themselves are the only ones entitled to access it in the future through the provisions of *PIPA*."[96] Further, the AGBC says that the respondents have provided no evidence that there has been any such deleterious impact in BC or other jurisdictions with a statutory right of access.[97]

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[95] AGBC submission at para. 102.
[96] AGBC submission at para. 104.
[97] AGBC submission at para. 103

[131] In summary, the AGBC says that if *PIPA* violates s. 2(a) of the *Charter*, the impugned provisions are saved by s. 1. *PIPA* is a statute of general application intended to tackle an important social objective, it only minimally infringes religious freedom and it does not fundamentally impact the ability to engage in religious activities. The AGBC ends its submission with the following quote from *Hutterian*, which it says is apposite (emphasis added by AGBC):

> [69] … By their very nature, laws of general application are not tailored to the unique needs of individual claimants. The legislature has no capacity or legal obligation to engage in such an individualized determination, and in many cases would have no advance notice of a law's potential to infringe *Charter* rights. It cannot be expected to tailor a law to every possible future contingency, or every sincerely held religious belief. Laws of general application affect the general public, not just the claimants before the court. The broader societal context in which the law operates must inform the s. 1 justification analysis. A law's constitutionality under s. 1 of the *Charter* is determined, not by whether it is responsive to the unique needs of every individual claimant, but rather by whether its infringement of *Charter* rights is directed at an important objective and is proportionate in its overall impact. While the law's impact on the individual claimants is undoubtedly a significant factor for the court to consider in determining whether the infringement is justified, the court's ultimate perspective is societal. The question the court must answer is whether the *Charter* infringement is justifiable in a free and democratic society, not whether a more advantageous arrangement for a particular claimant could be envisioned.

[132] The respondents dispute that the infringing measures are proportionate in their effects and say:

> In this inquiry, PIPA does not merely increase the cost for the elders to practice their religion. Compelling disclosure of the confidential religious records at issue would *force* them to violate their religious conscience. It would *deprive* them of the ability to carry out their religious practice. The deleterious effects are severe.
>
> In paragraphs 100–104 of his submission, the AGBC appears to suggest the elders should simply change their religious practice with regard to record-keeping. That is not a "meaningful choice." The AGBC further suggests that since the two elders with the requisite religious authority briefly reviewed the records, there should be no religious objection to the public disclosure of the records in the course of this inquiry. This argument is the very contradiction of proportionality. The temporary and limited unsealing was done strictly in accordance with religious beliefs and practice.
>
> The AGBC has provided no evidence that the government objective would be negatively impacted by providing an exemption in *PIPA* for personal

> information collected for religious purposes. On the other hand, compelling disclosure of the elders' records and confidential religious deliberations would cause severe injury to their religious freedom. This deleterious effect far outweighs any potential benefit accorded to the complainants, such as satisfying their curiosity or allowing them to use *PIPA* as a weapon to push their religious agenda, as demonstrated by their inquiry submissions.[98]

[133] The respondents end by submitting that any obligation to disclose more of the applicants' personal information than JV and PS have already provided in their inquiry affidavits would violate s. 2(a) of the *Charter*. The respondents submit that the AGBC has failed to establish any justification for such a violation under s. 1 of the *Charter* and any order for further disclosure would be *ultra vires* the OIPC.[99]

[134] I recognize that if JV, PS and other elders in the congregations comply with *PIPA*, they may have to disclose to the applicants the discrete parts of the records that contain the applicants' own personal information. In that way, *PIPA* has a deleterious effect on freedom of religion because it requires the elders to act contrary to their sincerely held religious belief that only approved elders can access the records.

[135] Based on the respondents' evidence, I understand that the religious belief and practice that the records can only be accessed by approved elders stems from a desire to protect the sensitive and religious nature of the personal information in the records. The records ostensibly contain elders' spiritual deliberations and information they received in confidence from congregation members. PS says the records are an expression of the elders' individual and collective deeply-held religious convictions and conscience, which they write anticipating they will remain strictly confidential. JV explains that congregation members confess their sins, seek pastoral support and discuss intimate personal and family matters with elders. JV's evidence shows that keeping confidential what congregation members reveal to elders, and what the elders think about it, is integral to the relationship between elders and congregation members and the elders' ability to provide religious and spiritual support.

[136] The respondents' submission overlooks the point made earlier, which is that *PIPA* protects the confidentiality of all personal information, including the type of religious and spiritual information the elders and the respondents have described. Such information is, when it is about an identifiable individual such as an elder, that individual's personal information. Thus, *PIPA* protects the confidentiality of elders' spiritual and religious views, thoughts and beliefs just as it protects the confidentiality of GW's and LW's personal information. It protects an individual's personal information from disclosure to third parties, whether or

[98] Respondents' reply at paras. 83 and 85.
[99] Respondents' reply at para. 89.

not the information is spiritual or religious in nature. This protection for religious and spiritual personal information reduces the seriousness of the negative impact *PIPA*'s disclosure obligations have on the religious belief and practice that mandates that only authorized elders may view such information.

[137] I recognize that having to comply with *PIPA* means elders and congregations face an administrative burden or cost in having to respond to access requests. They will have to sever records pursuant to s. 23(5) and follow other *PIPA* requirements regarding the collection, use and disclosure of personal information under their control. In my estimation, however, that cost is not disproportionate when weighed against the societal benefits that *PIPA* provides, which include offering a means for individuals to protect and exercise some control over how organizations collect, use and disclose their personal information. As *Local 401* says, these *PIPA* protections provide individuals with a measure of control over their personal information that is intimately connected to individual autonomy, dignity and privacy, and that these are significant social values. I find that the salutary effects of the applicants having the right under *PIPA* to access their own personal information outweighs the deleterious effects imposed on the right to religious freedom of JV, PS and the other elders in their congregations.

[138] The other deleterious effect of *PIPA*'s application that the respondents identify is the ability of the commissioner to compel production of records for the purposes of an investigation, audit or inquiry under *PIPA*. The commissioner's only authority in reviewing records, however, is for the limited purpose of carrying out the commissioner's duties under *PIPA*. Those duties do not include reviewing or judging a religious opinion or decision. The commissioner's duty is solely to independently adjudicate the respondents' decisions regarding the applicants' requests to access their own personal information. Adjudication includes deciding whether the records contain anyone else's personal information that is prohibited from disclosure under ss. 23(4)(c) and (d). Section 41 ensures, again, that the commissioner and anyone acting for or under the direction of the commissioner must preserve the confidentiality of records and information they view. It also provides the further check and balance, namely that the s. 41 power to disclose information obtained while performing their duties or exercising their powers under *PIPA* prohibits disclosure of third-party personal information. The deleterious effect or limit that s. 38(1)(b) imposes on the religious beliefs and practices of JV, PS and the congregations' other elders should be viewed in the context of the commissioner's duties, functions and limitations under *PIPA*.

[139] Providing the commissioner with the power to access records, where necessary, to conduct an independent review of an organization's personal information practices is essential to ensure that individuals have a meaningful, independently-overseen ability to exercize some control over, and protect, their own personal information. I find that the impact of *PIPA* giving the commissioner

power to access to records is proportionate because the beneficial effects outweigh the deleterious effects on freedom of religion.

[140] I have also considered the respondents' concern that disclosing the records will allow disgruntled former congregation members to expose the elders' private spiritual thoughts for personal malicious or troublesome purposes. There is no such deleterious effect flowing from *PIPA*'s application. As already explained, the applicants are only entitled to access their own personal information under *PIPA*, not the personal information of the elders or anyone else. Further, as previously mentioned, s. 41 prohibits the commissioner from disclosing information except in very limited circumstances, none of which include disclosure of third-party personal information to disgruntled individuals or to the public.

[141] Having considered the circumstances of this case carefully, I am satisfied that the limits that the infringing measures impose on the freedom of religion of JV, PS and the other elders in their congregations are proportionate when balanced against the benefits of those measures.

Summary, s. 2(a) of the Charter

[142] In summary, I find that s. 2(a) of the *Charter* is infringed by ss. 23(1)(a) and 38(1)(b) of *PIPA*. However, I find that these infringements are justified under s. 1 of the *Charter*.

Freedom of Expression – s. 2(b) of the Charter

[143] The respondents also submit that the effects of *PIPA* are unconstitutional and violate freedom of expression under s. 2(b) of the *Charter*. Their argument on this point is: "The above unconstitutional effects overlap with the guarantee of freedom of expression under the *Charter*, section 2(b); any adverse effect on elders' freedom to express their religious views also engages this provision of the *Charter*."[100] The AGBC and the applicants do not reply to the respondents' argument about s. 2(b).

[144] What the respondents say about s. 2(b) is so brief and lacking in explanatory detail that it does not show how *PIPA* limits or interferes with the elders' or Jehovah's Witnesses' ability to express themselves. They have not, for example, explained how, given the zone of confidentiality that *PIPA* provides for elders' personal information (including their views, thoughts or beliefs of a spiritual or religious nature), their freedom of expression is deleteriously impacted. Given the state of the respondents' materials, I find that they have not met their burden to establish that *PIPA*'s application, including ss. 1, 3, 23 and

[100] Respondents' initial submission at para. 72.

38(1)(b), to JV, PS and the congregations infringes freedom of expression under s. 2(b) of the *Charter*.

Freedom of Association – s. 2(d) of the Charter

[145] The respondents contend that *PIPA*'s legislative scheme also violates s. 2(d) of the *Charter*. They explain that freedom of association protects the elders' ability to determine an individual's spiritual status within the congregation and to exclude or reinstate them if necessary:[101]

> As evidenced by the elders' affidavits, determining whether one qualifies to become or remain one of Jehovah's Witnesses is a quintessential religious determination that elders prayerfully make based on doctrinal interpretation of the Bible. Maintaining the confidentiality of religious summaries is a requirement that is integral to elders' ability to determine a person's spiritual status in the congregation. The constitutional freedom to "organize their churches and communities," as quoted above, should prohibit the IPC from examining confidential internal religious records that concern only issues of spiritual status and association. Such spiritual status decisions and religious procedure governing them, including congregation recordkeeping, are non-justiciable.
>
> Although religious associational rights receive protection under section 2(a) of the *Charter*, full meaning should also be given to section 2(d) rights. Freedom of religious association must protect against compelled disclosure of confidential religious summaries. Creating, preserving, and maintaining strict confidentiality over confidential religious summaries is critical to the elders' ability to protect the religious associational rights of their congregations in accordance with religious standards.
> …
> Giving disgruntled former adherents access to the elders' confidential summaries will adversely affect freedom of association.[102]

[146] For its part, the AGBC submits the respondents' assertions about s. 2(d) are not properly before the OIPC and are without merit as the respondents have not identified any provision of *PIPA* that prevents congregation members from associating and conducting religious activities. *PIPA* also does not prevent congregations from making decisions about membership, the AGBC says. The issue of whether the applicants have a right to access the records has nothing to do with freedom of association, the AGBC submits, so s. 2(d) is simply not

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[101] The respondents cite caselaw that says freedom of association includes association by religious groups and decisions by Jehovah's Witnesses about spiritual status and association are non-justiciable: *Mounted Police Association of Ontario v Canada (AG)*, 2015 SCC 1 at para. 57, quoting *Reference Re Public Service Employee Relations Act (Alta.),* 1987 CanLII 88 (SCC) at para. 87; *Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v Wall*, 2018 SCC 26 (CanLII) at paras. 38-39.
[102] Respondents' initial submission at paras. 64-69.

engaged by the facts.[103] Furthermore, the respondents' arguments about s. 2(d) are subsumed by their s. 2(a) arguments and more properly viewed through the lens of religious freedom under s. 2(a).[104]

[147] I am not persuaded by the respondents' arguments about s. 2(d). They do not satisfactorily explain how the application of *PIPA*'s provisions would mean that elders would be unable to decide spiritual status matters as they see fit. I understand the respondents are concerned that access to the records may result in disgruntled people saying negative things about what the elders have recorded about spiritual status matters. As already explained, *PIPA* protects elders' personal information, so even if that were to occur, the respondents do not show how this could reasonably be expected to prevent Jehovah's Witnesses from being able to decide spiritual status and membership matters and pursue their collective interests and activities.

[148] Similarly, I am not convinced that the commissioner's review of the records would interfere with freedom of association. The respondents argue that the commissioner has no right to see the records because they concern only issues of spiritual status and the commissioner should not be judging such matters. However, as already noted, when viewing records, the commissioner has no authority, or interest, in judging the merits of their contents. The sole objective is to oversee the organization's compliance with its duty to give individuals access to their own personal information, and not third-party personal information or other protected information. There can be no reasonable concern that the commissioner will decide or assess issues about spiritual status and who may be a Jehovah's Witness or congregation member.

[149] I find the respondents have not established that *PIPA*'s application, including ss. 1, 3, 23 and 38(1)(b), to JV, PS and the congregations infringes freedom of association under s. 2(d) the *Charter*.

Unreasonable Search and Seizure – s. 8 of the Charter

[150] The respondents also argue that a s. 38(1)(b) order requiring them to produce records for the commissioner would interfere, not only with the elders' freedom of religion under s. 2(a), "but also their right to privacy under s. 8 of the *Charter*."[105] In addition to this assertion, the respondents quote from two Supreme Court of Canada decisions: *R v Mills* (about how s. 8 protects a reasonable expectation of privacy)[106] and *Alberta (Information and Privacy Commissioner) v University of Calgary* (about how Alberta's *Freedom of*

[103] AGBC submission at para. 64.
[104] AGBC submission at para. 65.
[105] Respondents' reply at paras. 42-44.
[106] *R v Mills*, [1999] 3 SCR 668 [*Mills*] at para 77-81.

Information and Protection of Privacy Act does not authorize the commissioner to order production of records that are protected by solicitor-client privilege).[107]

[151] The respondents mention s. 8 for the first time in their reply submission.[108] Therefore, the AGBC did not have notice of this issue and it did not address s. 8 in its response. I offered the AGBC an opportunity to provide a response to what the respondents say about s. 8, but it declined to do so.

Finding, s. 8

[152] Section 8 of the *Charter* says that everyone has the right to be secure against unreasonable search or seizure. The right may be expressed negatively as freedom from unreasonable search and seizure, or positively as an entitlement to a reasonable expectation of privacy.[109] The principal purpose of s. 8 of the *Charter* is to protect individuals from unjustified state intrusions upon their privacy.[110]

[153] A "seizure" for s. 8 purposes is the "taking of a thing from a person by a public authority without that person's consent".[111] I am satisfied that issuing a s. 38(1)(b) production order requiring the congregations provide the commissioner the records containing LW's and GW's personal information is arguably a "seizure" for s. 8 purposes. However, for the reasons that follow, it would not be an "unreasonable" seizure under s. 8 of the *Charter*.

[154] I have taken into consideration that the context of this case is one involving religious organizations and records. Religion is very close to an individual's core sense of identity and privacy concerns are at their strongest when information involves information of that nature.[112] The respondents have established that the congregations have a direct interest in the records and believe they should be kept confidential for religious reasons. JV and PS provide evidence about how the confidentiality of the records is important to the religious beliefs and practices of the congregations' elders. They explain how the records contain the elders' confidential spiritual deliberations and how they have an expectation that the information will remain private and confidential. Based on what JV and PS say, I accept that they, and the other congregation elders, have an objectively reasonable expectation of privacy over the records.

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[107] *Alberta (Information and Privacy Commissioner) v University of Calgary*, 2016 SCC 53 at paras. 67-70.
[108] Section 8 of the *Charter* was also not raised in the Civil Proceeding as far as I can see from the Court's reasons.
[109] *British Columbia Securities Commission v Branch*, 1995 CanLII 142 (SCC), at para 49*; Mills*, *supra* note 106 at para. 77; *Hunter et al. v Southam Inc*., 1984 CanLII (SCC) [*Hunter*] at p. 159.
[110] *Hunter, ibid at p. 160; R v Law*, 2002 SCC 10 (CanLII) at para. 15.
[111] R *v Dyment*, 1988 CanLII 10 (SCC) at para. 26
[112] *Mills*, *supra* note 106 at para 80.

[155] However, it is my view that the congregations' compliance with *PIPA* can only be ascertained by examining the records. An integral part of the OIPC's independent review process is to review the records and information in dispute at inquiry, where that is necessary given the state of other evidence as to their contents. This review assures individuals who have been denied access to their own information that the commissioner will make an independent decision rather than relying on an organization's characterization of the records and information. As I pointed out earlier, in this case I am not confident that the respondents' description of the records is accurate. For instance, I question whether the term "single" or "summary" accurately describe the records as there is evidence that, at least for LW, there are two records, notes and a "form". Further, what the respondents say in their submissions and affidavit evidence about the records is simply not detailed enough for the type of line-by-line review and analysis that must be conducted in order to decide what information in the records is the applicants' personal information and what information is protected third-party personal information excepted from disclosure under s. 23(4). Deferring to the respondents' broad description of the records and the information they contain is not a reasonable alternative in this case to deciding the issues based on my own examination of the records.

[156] The commissioner's ability to make a production order has express statutory authority, and that authority is limited to the records which contain the applicants' personal information. The commissioner's purpose for examining the records is to decide whether they contain LW's and GW's personal information and any other individuals' personal information, including the elders' personal information, and if so, whether ss. 23(4) and 23(5) apply. As previously explained, the commissioner has no authority to judge religious or spiritual matters because such things are outside the commissioner's powers under *PIPA*.

[157] Finally, I have considered the fact that there is a mechanism for review of an order to produce the records to the commissioner, i.e., judicial review. The respondents' submissions acknowledge this, as they say that "an order to produce documents under section 38 of *PIPA* would trigger not only judicial review of an administrative decision following the *Doré/Loyola* framework, but a direct constitutional challenge of section 38 of *PIPA*, engaging sections 1, 2(a), 8, and 24(1) of the *Charter* and section 52(1) of the *Constitution Act, 1982*."[113]

[158] In conclusion, I find that ordering the congregations to produce for the commissioner the records in their custody or under their control that contain the

[113] Respondents' reply at para. 44, citing *Loyola High School v Quebec (AG)*, 2015 SCC at para. 4: "[T]he discretionary decision-maker is required to proportionately balance the *Charter* protections to ensure that they are limited no more than is necessary given the applicable statutory objectives that she or he is obliged to pursue."

applicants' own personal information pursuant to s. 38(1)(b) would not be an unreasonable seizure and would not violate s. 8 of the *Charter*.[114]

Respondents' additional arguments

[159] The respondents also submit that there are two other ways in which *PIPA* is unconstitutional and violates s. 2(a) of the *Charter*: It employs a reasonable person standard to assess the appropriateness of an organization's collection of personal information and the commissioner has a power to enter premises under s. 38(2)(c).

[160] Regarding the reasonable person standard, the respondents say:

> *PIPA* imposes a secular 'reasonable standard' criteria (*PIPA*, sections 2, 4(1), and 11) on what personal information a religious congregation may collect for a religious purpose. Application of secular 'reasonable standard' criteria on what personal information a religious congregation may collect for a religious purpose violates freedom of religion and does not preserve and enhance the multicultural religious heritage of Canadians protected by section 27 of the *Charter;* there exist no neutral legal standards that would enable the state to evaluate what information is reasonable for the elders to collect in order to fulfill the religious purposes of the congregation.[115]

[161] The respondents also take issue with s. 38(2)(c), which says the commissioner may "at any reasonable time, enter any premises, other than a personal residence, occupied by an organization, after satisfying any reasonable security requirements of the organization relating to the premises." The respondents say s. 38(2)(c) is unconstitutional because it empowers the OIPC "to intrude into places of worship without a warrant and seize ecclesiastical records, whether or not such records contain an individual's personal information."[116]

[162] The AGBC says that some of the respondents' constitutional arguments go beyond the scope of this inquiry and the OIPC is not empowered to consider them.[117] Specifically, the OIPC's jurisdiction is limited to granting relief pursuant to s. 24(1) of the *Charter* by declining to apply an unconstitutional legislative provision to a matter properly before it. The OIPC has no jurisdiction to issue a general declaration that a legislative provision is unconstitutional. Also, the AGBC says the OIPC should not consider the respondents' arguments about the constitutionality of *PIPA* provisions that are not directly engaged in this proceeding.

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[114] Given my finding that s. 8 is not infringed, there is no need to consider s. 1.
[115] Respondents' initial submission at para. 72.
[116] Respondents' initial submission at para. 72.
[117] AGBC submission at paras. 57-63.

[163] This is undoubtedly right. This case is not about the respondents' collection of personal information and whether a reasonable person standard is appropriate in that respect. It is also not a case about the commissioner's authority to enter premises under s. 38(2)(c). It would not be appropriate to engage with the respondents' arguments about those matters and I decline to do so in the present circumstances.

Section 38(1)(b) Order

[164] I found above that the application of s. 38(1)(b) to the congregations and the documents in their custody and under their control does not infringe ss. 2(b), 2(d) or 8 of the *Charter* and is a justifiable infringement of s. 2(a) under s. 1 of the *Charter*. For the reasons provided above about the state of the evidence about the records' contents, I conclude that it is necessary and appropriate to make an order under s. 38(1)(b). I therefore require the congregations to produce to me, as the commissioner's delegate seized of these matters, all records in their custody or under their control that contain LW's and GW's personal information. For clarity, this s. 38(1)(b) order also applies to JV, PS and any other person in the congregations who has custody or control of the records.

[165] Once I have the opportunity to review the records, I will be able to decide what personal information in them, if any, the applicants are entitled to access under *PIPA*. That decision will include considering application of the provisions of s. 23, including those that apply to protect the personal information of third parties such as the elders.

[166] When the respondents produce the records for my review, the OIPC will provide the parties with an opportunity to make submissions about the information in the records and the application of s. 23.[118]

CONCLUSION

[167] For the reasons given above, I make the following order under s. 38(1)(b) of *PIPA*:

1. Pursuant to s. 38(1)(b) of *PIPA*, the Grand Forks Congregation of Jehovah's Witnesses and the Coldstream Congregation of Jehovah's Witnesses are required to produce for me, as the commissioner's delegate seized of these matters, all of the records in their custody or under their control that contain GW's and LW's personal information.

[118] Including making submissions addressing the second issue as stated in the notice of inquiry.

2. Pursuant to s. 38(5), the Grand Forks Congregation of Jehovah's Witnesses and the Coldstream Congregation of Jehovah's Witnesses are required to comply with item 1 above by August 3, 2022.

3. For added clarity, items 1 and 2 above apply to JV, PS and any other person in the congregations who has custody or control of the records.

June 20, 2022

ORIGINAL SIGNED BY

Elizabeth Barker, Director of Adjudication

OIPC Files: P20-84594 and P21-85273