Order F25-32

VANCOUVER POLICE DEPARTMENT

Alexander Corley
Adjudicator

May 6, 2025

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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant requested information from the Vancouver Police Department (Department) regarding a complaint made against the applicant and the applicant's interactions with the Department. The Department released some responsive information and records but withheld other information under ss. 16(1)(b) (harm to intergovernmental relations) and 22(1) (unreasonable invasion of privacy) of FIPPA. At inquiry, the adjudicator found that the Department was authorized to withhold the information in dispute under s. 16(1)(b). However, the adjudicator also found that the department was not authorized or required to withhold some of the information in dispute under s. 22(1) and ordered the Department to disclose that information to the applicant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act* [RSBC 1996, c. 165] at ss. 16(1)(a), 16(1)(a)(i), 16(1)(b), 22(1), 22(2), 22(3)(b), 22(3)(i), and 22(4).

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA)[1] an applicant requested information from the Vancouver Police Department (Department) regarding the applicant's interactions with the Department and a complaint the Department received regarding the applicant. In response, the Department provided some information and records to the applicant but withheld other information under ss. 15(1) (harm to law enforcement), 16(1)(b) (harm to intergovernmental relations), and 22(1) (unreasonable invasion of privacy).

[2] The applicant was not satisfied and requested that the Office of the Information and Privacy Commissioner (OIPC) review the Department's decision to withhold records and information.

[1] RSBC 1996, c. 165. Through the remainder of this order, references to sections of an enactment are references to FIPPA unless otherwise stated.

[3] Mediation by the OIPC investigator did not resolve the issues between the parties and the applicant requested that the matter proceed to this inquiry. During the submissions phase of the inquiry, the Department withdrew its reliance on s. 15(1) and disclosed the information originally withheld under that section to the applicant.[2] Therefore, I find s. 15(1) is no longer in dispute in this inquiry and I will not consider it further.

ISSUES

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

1. Is the Department authorized to withhold the information in dispute under s. 16(1)(b)? and
2. Is the Department required to withhold the information in dispute under s. 22(1)?

[5] Section 57(1) places the burden on the Department to demonstrate it is authorized to withhold the information in dispute under s. 16(1)(b). Meanwhile, s. 57(2) says the applicant is responsible for demonstrating that releasing any personal information the Department has withheld under s. 22(1) would not be an unreasonable invasion of third-party personal privacy.[3]

DISCUSSION

Background and information in dispute

[6] The Department received information from the Royal Canadian Mounted Police (RCMP) regarding statements allegedly made by the applicant. Based on the RCMP information, the Department sent officers to the applicant's home, and they interviewed the applicant and a third-party who was visiting the applicant at the time (friend). The applicant was not charged with a crime. However, the Department did open an investigation file containing the information received from the RCMP and certain information generated during the Department's investigation of the statements allegedly made by the applicant.

[7] The records at issue are 39 pages taken from that investigation file. The information in dispute appears on 19 pages of the records.[4] The Department says the information in dispute is a combination of information the Department received from the RCMP about the statements allegedly made by applicant,

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[2] Department's Initial Submission at para. 7. The applicant has confirmed that they received the information originally withheld under s. 15(1).
[3] However, the Department bears the initial burden of showing the information it has withheld under s. 22(1) is, in fact, third-party personal information.
[4] Records at pp. 1-2, 7-8, 14-19, 21-23, 26-27, and 29-33.

which the Department has withheld under s. 16(1)(b),[5] and information the Department collected when it interviewed the friend at the applicant's home, which the Department has withheld under s. 22(1).[6]

Harm to intergovernmental relations, received in confidence – s. 16(1)(b)

[8] Under s. 16(1)(b), a public body may withhold information it has received in confidence from any of the following entities or their agencies:

> (i) The government of Canada or a province of Canada;
> (ii) The council of a municipality or the board of a regional district;
> (iii) An Indigenous governing entity;
> (iv) The government of a foreign state; [or,]
> (v) An international organization of states.

[9] Deciding whether a public body may rely on s. 16(1)(b) to withhold information has two distinct steps. First, the public body must demonstrate that it received the information from one of the entities listed at (i) - (v), above, or an agency of one of those entities. Second, the public body must establish that it received the information "in confidence."[7]

Parties' submissions

[10] The Department says it received the information it has withheld under s. 16(1)(b) from the RCMP via the Canadian Police Information Centre (CPIC), a national police information service administered by the RCMP. The Department submits that the RCMP is clearly an agency of the Government of Canada under s. 16(1)(a)(i), so the first part of the s. 16(1)(b) test is met here.

[11] Further, the Department provides evidence regarding a "memorandum of understanding" between the RCMP and the Department which governs the Department's use of CPIC information shared with it by the RCMP (MOU).[8]

[12] The Department says the MOU contains language which, among other things, requires the Department to comply with all CPIC "policies and procedures."[9] The Department further says the CPIC reference manual (Manual) sets out the relevant policies and procedures and includes an express statement that "all information contributed to or retrieved from CPIC is supplied in confidence and must be protected against disclosure to unauthorized agencies or

[5] Records at pp.14-19 and 29-33.
[6] Records at pp. 1-2, 7-8, 21-23, and 26-27.
[7] See Order 02-19, 2002 CanLII 42444 (BC IPC) at para. 18 and Order F15-72, 2015 BCIPC 78 at para. 48.
[8] Affidavit #1 of the Department's Civilian Analyst (Analyst) at Exhibit A.
[9] Analyst's Affidavit at Exhibit A, s. 4.4.

individuals."[10] Finally, the Department points out that the Manual also requires that information received from CPIC only be used by the Department for strict purposes related to law enforcement.[11]

[13] On these bases, the Department says it clearly received the information in dispute from the RCMP, via CPIC, "in confidence" so the second stage of the s. 16(1)(b) test is also met and the Department is authorized to withhold that information.

[14] The applicant does not take issue with the Department's evidence that it received the information in dispute from the RCMP via CPIC or that the MOU and Manual create general confidentiality obligations on the Department regarding information it receives via CPIC. Rather, the applicant says that, in this case, the Department may not rely on those confidentiality obligations because the applicant believes that the information in dispute was generated via a fraudulent tip to law enforcement about the applicant. Specifically, the applicant believes that third parties who view the applicant as an enemy fabricated information about the applicant, or took legitimate information about the applicant out of its proper context, and provided that information to law enforcement in the interest of inconveniencing or harming the applicant.

[15] Based on their position, the applicant sets out what they see as a key issue in this inquiry,

> The question is whether, when an applicant states that the complaint [to the police made against them] is false and malicious and wishes full disclosure of all the falsehoods and malicious statements made against [them], the job of the [Department] is to extend full confidentiality and protection to the false and malicious statements and withhold them …. That cannot be what [FIPPA] is intended to deliver to Canadian citizens.

[16] In reply, the Department points out that the applicant is free to raise concerns regarding how the Department conducted its investigation and any evidence it relied on via other avenues, such as under the *Police Act*.[12] However, the Department says that the applicant's submissions are not relevant to the actual issue in this inquiry, namely, whether s. 16(1)(b) authorizes the Department to withhold the information in dispute. The Department reiterates its evidence regarding the information in dispute and the information-sharing relationship between the Department and the RCMP via CPIC and repeats its contention that this evidence clearly shows it is authorized to withhold that information.

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[10] Analyst's Affidavit at Exhibit B, s. 4.1 "Confidentiality."
[11] Analyst's Affidavit at Exhibit B, s. 7 "Confidentiality and Dissemination of Information."
[12] RSBC 1996, c. 367.

Analysis and conclusion

[17] I agree with the Department that its evidence and submissions demonstrate it is authorized to withhold the information in dispute under s. 16(1)(b).

[18] I accept, based on the Department's submissions and evidence, including the contents of the records themselves, that the information in dispute is law enforcement-related information which the Department received from the RCMP via CPIC. Further, in line with prior orders that have considered the same issue, I find that the RCMP is clearly an "agency" of the Government of Canada under s. 16(1)(a)(i).[13] So, the first stage of the s. 16(1)(b) test is met in this case.

[19] Turning to whether the information in dispute was "received in confidence" I also find that it was. The Department's evidence clearly establishes that there is an overarching contractual scheme which governs the Department's receipt and use of any information contained in CPIC. Moreover, the relevant sections of the MOU and Manual, read together, lead to the conclusion that when the Department receives information from another law enforcement agency via CPIC it receives that information burdened with an express expectation that it will hold the information in confidence and only use it in tightly controlled ways for specific law-enforcement related purposes. So, I find that the second stage of the s. 16(1)(b) test is also met in this case.

[20] I have considered what the applicant says about the potentially malicious sources of the information in dispute and their concern that the Department may have relied on fraudulent information in opening its investigation into the applicant. However, I agree with the Department that the applicant's arguments are not relevant to the test to be applied under s. 16(1)(b). That test does not involve analysing the original source or context of the information in dispute but just asks if the information was received in confidence from the appropriate kind of government, council, organization, or agency.

[21] Taking all of the above together, I find the Department is authorized by s. 16(1)(b) to withhold the information in dispute under that section.

Unreasonable invasion of privacy – s. 22(1)

[22] Section 22(1) requires a public body to refuse to disclose information if disclosure would be an unreasonable invasion of a third party's personal privacy. The Department has withheld information in dispute from nine pages of the records under s. 22(1).

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[13] See, for example, Order 02-19, *supra* note 7 at paras. 55 and 58. See also, Order F05-24, 2005 CanLII 28523 (BC IPC) at paras. 23-26.

Personal information

[23] Since s. 22(1) only applies to personal information, the first step in the analysis is to determine whether the information in dispute is personal information.

[24] Under schedule 1 of FIPPA,

> "personal information" means recorded information about an identifiable individual other than contact information; [and]
>
> "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[.]

[25] Therefore, "contact information" is not "personal information" under FIPPA. Whether information is contact information is context dependent.[14]

[26] The Department says that all the information it has withheld under s. 22(1) is the personal information of the applicant's friend who was present at the applicant's home and interviewed by the police.

[27] The applicant does not address the information the Department has withheld under s. 22(1) in their submission.

[28] Reviewing the information in dispute and what the Department says about it, I accept that most of it is the friend's personal information. That information comprises, in each case, specific details about the friend (including, among other things, their name, ethnicity, sex, and identification numbers). All of this appears in the records in a form that links the information to the friend as an identifiable individual and therefore I find it is clearly the friend's personal information.

[29] Some of the information in dispute is also information that, in certain contexts, could be considered "contact information," such as the friend's address and telephone number. However, in this case it is clear to me that the friend provided this information to the Department to assist in the Department's investigation of the applicant, and not to facilitate the friend being contacted at a place of business. Therefore, in the context in which it appears in the records I find this information about the friend is personal information and not contact information.

[30] However, I find that some of the information the Department has withheld under s. 22(1) is not personal information. Specifically, I find that the Department has relied on s. 22(1) to withhold headings and stock language which simply

[14] Order F20-13, 2020 BCIPC 15 at para. 42.

demarcate what sort of information was collected from the friend but which, if released to the applicant, would not reveal anything about the friend or anyone else. Therefore, I find the Department cannot rely on s. 22(1) to withhold the headings or stock language and must release that information to the applicant.[15]

Section 22(4) – not an unreasonable invasion

[31] Section 22(4) lists circumstances where disclosing personal information is not an unreasonable invasion of third-party personal privacy. If s. 22(4) applies to personal information, the Department cannot withhold that information under s. 22(1).

[32] Neither party addressed s. 22(4). I have considered whether s. 22(4) may apply to the personal information in dispute and I find that it does not.

Section 22(3) – presumed unreasonable invasion

[33] Section 22(3) lists circumstances where disclosing personal information is presumed to be an unreasonable invasion of third-party personal privacy. The Department says that s. 22(3)(b) applies to all the personal information in dispute. The applicant does not address whether s. 22(3) applies to any of the personal information in dispute.

[34] From my review of the personal information in dispute I find that s. 22(3)(i) may also apply to a small amount of it, so I will consider both ss. 22(3)(b) and (i), below.

Section 22(3)(b) – information compiled as part of an investigation

[35] Under s. 22(3)(b), disclosing personal information is presumed to be an unreasonable invasion of personal privacy where the information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation.

[36] The Department says that s. 22(3)(b) applies to all the personal information in dispute because all that information was compiled by the Department's officers during their investigation into the applicant.

[37] I find, based on all the information before me, that the Department's investigation into the applicant was an investigation into a possible "violation of law," specifically, an investigation into whether the applicant may have committed a criminal offence by uttering threats against another person or persons. Further,

[15] I have highlighted the information I find is not "personal information" in the copy of the records provided to the Department alongside this order. For clarity, this information is found on pp. 1-2 of the records.

I find that all the personal information in dispute was compiled by the Department's officers during this investigation in the sense that it was gathered by those officers for the express purpose of furthering the investigation. Finally, I do not see how disclosing any of this personal information would be necessary to further prosecute the applicant (who has not been charged with a crime) or to continue the investigation (which appears to have concluded).

[38] Given the above, I find that releasing any of the personal information in dispute is presumed to be an unreasonable invasion of the friend's personal privacy under s. 22(3)(b).

Section 22(3)(i) – Racial or ethnic origin

[39] Section 22(3)(i) says that disclosing personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations.

[40] As noted above, a small amount of the personal information in dispute would reveal the friend's ethnicity if disclosed. Therefore, I find that releasing that information is presumed to be an unreasonable invasion of the friend's personal privacy under s. 22(3)(i).

Section 22(2) – relevant circumstances

[41] Section 22(2) says that when a public body is deciding whether disclosing personal information would be an unreasonable invasion of third-party personal privacy, it must consider all relevant circumstances, including those listed in s. 22(2). Some circumstances weigh in favour of disclosure and some weigh against. Circumstances favouring disclosure may rebut s. 22(3) presumptions.

[42] Neither of the parties addressed s. 22(2) in their submissions. From my review of the information in dispute, I find the fact that some of the personal information in dispute is already known to the applicant is relevant to consider in this case.

[43] An applicant's prior knowledge of personal information may weigh in favour of disclosing it. In this case, it is common ground between the parties that the personal information in dispute was collected from the friend at the time the Department's officers visited the applicant's residence. Given this, I find that the applicant is clearly already aware of the friend's name given the applicant already knows that the third party whose information has been withheld from the records is the person who was at the applicant's residence on the day the Department's officers arrived there.

[44] I find that the applicant's prior knowledge of this information weighs in favour of releasing the friend's name to the applicant wherever it appears in the

records. However, I do not have any information before me regarding whether the applicant already knows the other personal information in dispute, such as the friend's full address or identification numbers. In the absence of any evidence that the applicant already knows this personal information I find this factor is not relevant in determining whether releasing it would be an unreasonable invasion of the friend's personal privacy.

Conclusion – s. 22(1)

[45] I have found above that most, but not all, of the information the Department has withheld under s. 22(1) is third party personal information.

[46] Considering s. 22(4), I have found that none of the personal information in dispute falls within that section.

[47] Turning to s. 22(3), I have found that releasing any of the personal information in dispute is presumed to be an unreasonable invasion of the friend's personal privacy pursuant to s. 22(3)(b). I have also found that releasing a small amount of the personal information in dispute would be an unreasonable invasion of the friend's personal privacy under s. 22(3)(i).

[48] Examining s. 22(2) and all the relevant circumstances, I have found that some of the personal information in dispute is already known by the applicant and that this weighs in favour of disclosing that information to the applicant.

[49] Taking this together, I find that releasing most of the personal information in dispute would be an unreasonable invasion of the friend's personal privacy because that information is subject to the presumptions set out in ss. 22(3)(b) and (i). However, I find that the s. 22(3)(b) presumption is rebutted regarding the personal information which is clearly already known by the applicant and that s. 22(1) does not authorize or require the Department to withhold that information.[16]

CONCLUSION

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

1. I confirm the public body is authorized to withhold the information in dispute under s. 16(1)(b).

2. Subject to Item 3, below, I confirm the public body is required to withhold the information in dispute under s. 22(1).

[16] I have highlighted the information the Department is not authorized or required to withhold under s. 22(1) in a copy of the records provided to the Department alongside this order.

3. The public body is not authorized or required to withhold the information I have highlighted in pink on pages 1-2, 7-8, 21-23, and 26-27 of the copy of the records provided to the public body alongside this order. The public body must give the applicant access to the highlighted information.

4. The public body must concurrently copy the OIPC registrar of inquiries on its cover letter to the applicant, together with a copy of the pages described at item 3, above.

[51] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by **June 18, 2025**.

May 6, 2025

ORIGINAL SIGNED BY

Alexander Corley, Adjudicator

OIPC File No.: F23-93672