



Order F25-41

VANCOUVER COASTAL HEALTH AUTHORITY

Jay Fedorak
Adjudicator

June 3, 2025

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Summary: The Vancouver Coastal Health Authority (VCH) requested authorization to disregard a request from the respondent under s. 43(c)(i) of the *Freedom of Information and Protection of Privacy Act*. The adjudicator found that VCH had established that the request was excessively broad under s. 43(c)(i) and that responding to the request would unreasonably interfere with its operations. The adjudicator provided VCH with authorization to disregard the request.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c. 165, s. 43(c)(i).

INTRODUCTION

[1] This inquiry decides an application by the Vancouver Coastal Health Authority (VCH) under s. 43(c)(i) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) for authorization to disregard an access request made by an individual (the respondent). VCH submits that the respondent made one request under FIPPA for all emails sent or received by any of its employees containing any information about a series of COVID-19 vaccine batches over the course of a four-year period. VCH asks the Office of the Information and Privacy Commissioner (OIPC) for authorization under s. 43 (c)(i) to disregard that request.

ISSUE

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

1. Would responding to the respondent's access request unreasonably interfere with the operations of VCH because the request is excessively broad in accordance with s. 43(c)(i)?

2. If the answer to the first issue is yes, what relief, if any, is appropriate?

[3] FIPPA does not assign a burden of proof in cases where public bodies request relief under s. 43. Past orders and decisions on s. 43 have placed the burden of proof on the public body, and I will do the same here.¹

DISCUSSION

Section 43

[4] Section 43 allows the Commissioner to grant the extraordinary remedy of limiting an individual's right of access to information under FIPPA by authorizing a public body to disregard requests. The relevant provision reads as follows:

43 If the head of a public body asks, the commissioner may authorize the public body to disregard a request under sections 5 or 29, including because

- (c) responding to the request would unreasonably interfere with the operations of the public body because the request
 - (i) is excessively broad,

[5] As such relief restricts an individual's right to access information, the Commissioner grants relief under s. 43 applications only after careful consideration and in exceptional cases.²

Section 43(c)(i) – excessively broad

[6] Section 43(c)(i) allows the Commissioner to authorize a public body to disregard an access request, if responding to the request would unreasonably interfere with the operations of the public body because the request is excessively broad.

[7] As confirmed in Order F24-92 and Order F23-98, s. 43(c)(i) has two parts and VCH must prove both. First, it must demonstrate that the request is excessively broad. Second, it must establish that responding to the request would unreasonably interfere with its operations.³

Part 1: Is the request excessively broad?

[8] The first part of the test is about whether the request itself is excessively broad. Previous orders have underlined the key question, which is whether the

¹ For example, Order F23-38, 2023 BCIPC 46 (CanLII), para. 3.

² Order F22-08, 2022 BCIPC 8 (CanLII), para. 29.

³ Order F24-92, 2024 BCIPC 105 (CanLII), para. 16; Order F23-98, 2023 BCIPC 114 (CanLII), para. 6.

request is likely to result in the production of an excessive volume of responsive records. In determining what kind of volume is “excessive,” they have considered the purpose of s. 43, which is to curb abuse of the right of access and give all access applicants a fair opportunity to have their request processed. As a result, they have held that a request is excessively broad when it generates a volume of responsive records that can be fairly characterized as “overwhelming” or “inordinate”.⁴

[9] VCH submits that the request is excessively broad, as VCH has over 30,000 employees and numerous program areas and departments. The applicant had requested records relating to seven batch numbers of COVID-19 vaccines. VCH conducted an electronic search of the first two of the seven codes. This search resulted in 17,515 emails. In support of its position, VCH cites Order F24-92, where the adjudicator found that a request that produced 73,000 items was “overwhelming” or “inordinate”.⁵

[10] The respondent rejects VCH’s assertion that his request is excessively broad. As an example of a request that would be excessively broad, he cites a statement in the Legislature of the Minister responsible for FIPPA that “all emails to government” would qualify. He submits that his request does not meet the meaning as the Minister indicated.⁶

[11] He also cites the finding in Order F23-98 that the term “excessively broad” applies to the details in the request, not the number of records that need to be searched. He argues that it is not relevant whether VCH searches its entire email system or just select departments. He submits that, unlike the request in Order F24-92 for all records on Community Amenity Contributions, his request is “narrowly tailored”.⁷

[12] He also submits that it is unreasonable for VCH to expect him to narrow the scope of his request. He states:

Responsive records—such as emails containing the specified codes—may be held by numerous employees across multiple programs for various purposes. For example, a code like “300042460” might appear in correspondence among clinical staff, administrators, or even external parties, depending on the context. ... VCH must conduct a comprehensive internal search to locate the responsive records ...⁸

⁴ See for example Order F23-98, paras. 37-39.

⁵ VCHA’s initial submission, paras. 3, 10-14.

⁶ Respondent’s response submission, paras. 1-2.

⁷ Respondent’s response submission, paras. 5-7.

⁸ Respondent’s response submission, para. 13.

[13] The respondent also submits that he sent a similar request to the Ministry of Health, which did not apply for relief under s. 43 on the grounds that the request was excessively broad.⁹

Analysis

[14] The question at issue is whether the request is excessively broad, and VCH has the burden of proving that it is. It is not plain and obvious from the wording of the request whether it is excessively broad. Nevertheless, VCH has demonstrated that it is a large organization with about 30,000 employees, all of whom potentially could have responsive records in their email accounts. This is a broad range of possible email recipients. In addition, while the subject matter of the request is restricted to specific vaccine lots, the context of the request with respect to those lots is open-ended. The scope of the request includes everything: procurement, receipt, storage, pricing, transportation, administration, delivery and any other aspect of the vaccines about which any employee may have had communications. This is a broad range of subject matters.

[15] VCH has attempted to provide a reasonable estimate of the potential volume of records that may be responsive to the request. It conducted a sample search involving two of the seven batch codes. I find this to be a reasonable sampling.

[16] In such cases, it is not necessary to use methodology that would meet the highest rigour of scientific verification. Nor is it necessary to minimize the possible margin of error. The only requirement is to take a reasonable approach to determine a rough estimate of the volume of records.

[16] In this case, VCH has identified over 17,000 responsive records. It is reasonable to assume that some records will cover multiple pages. This number represents less than 30 percent of the scope of the request, as it covers only two of seven batch codes. This suggest that a reasonable estimate of the total number of responsive records would be 50,000 records. I find this to be overwhelming and inordinate. Even in the unlikely event that VCH finds no more responsive records, I still find 17,000 to be overwhelming and inordinate.

[17] The respondent's submissions regarding the numerical thresholds for excessively broad requests do not persuade me. The fact that the Minister gave an example of what she considered to be an excessively broad request does not make that example the minimum threshold. Nor does the finding in Order F24-92 set any floor to what would qualify as an excessively broad request.

[18] I note that the respondent argues that his request is narrow. However, when VCH asked him to narrow the scope of his request, he refused. He

⁹ Respondent's response submission, para. 37.

asserted that he was interested in obtaining what he described as a broad range of types of records that might be located in a variety of locations that he insisted should all be searched.

[19] The fact that the respondent made a similar request to the Ministry of Health, which did not result in a s. 43 application, does not undermine VCH's case. There are a number of possible explanations as to why the Ministry did not apply for relief under s. 43. As the Ministry did not make submissions in this case, I am unable to evaluate its response in the context of the respondent's request to VCH.

[20] Therefore, I find that the respondent's request is excessively broad. I must now determine whether processing the request will unreasonably interfere in the operations of VCH.

Part 2: Would responding to the request unreasonably interfere with VCH's operations?

[21] Previous orders have found that determining whether there would be an unreasonable interference in a public body's operations involves an objective assessment of the facts, in conjunction with the size and nature of those operations. Previous orders have also considered the impact of processing requests on the rights of other applicants.¹⁰

[22] The adjudicator in Order 24-15, identified that the following activities are required in responding to FIPPA requests:

- receive the request;
- communicate with the applicant, if necessary, to clarify the request;
- review the request to see if it overlaps with previous requests;
- assess any fees;
- search for and retrieve records that respond to the request;
- review and organize the records to remove duplicate pages;
- decide if any FIPPA exceptions to disclosure apply;
- manage the external consultant, if one was hired to assist the public body with responding to requests;
- consult with third parties and other public bodies, as necessary;
- prepare the records for disclosure, including severing them, if applying exceptions; and
- send the public body's decision letter and the records to the applicant.¹¹

¹⁰ Order F24-15, 2024 BCIPC 21 (CanLII), para. 61 (Order F24-15 was quashed and sent back for reconsideration in *Besler v. British Columbia (Information and Privacy Commissioner)* 2025 BCSC 662 for reasons unrelated to the interpretation of s. 43(c)); Order F22-08, para 59; Order F17-18, 2017 BCIPC 19 (CanLII), para. 40; Order F13-18, 2013 BCIPC 25 (CanLII), para. 31.

¹¹ Order F24-15, para. 60.

[23] VCH submits that responding to the request would unreasonably require an inordinate amount of time. It states that it has three full-time advisors who each process about 62 FIPPA request per year. Regarding the 17,500 emails that the sample search produced, VCH estimates that it would take an advisor 584 hours or 15.5 weeks just to read all of the records. This is only a fraction of the amount of time required to process the records for disclosure.¹²

[24] VCH submits that this would unfairly impede its ability to respond to FIPPA requests from other applicants. In addition, it argues that operational requirements for consultations with program areas and executive review of the release package for an inordinate number of records would affect the operations of that department.¹³

[25] The respondent submits that VCH's arguments that processing his request would unreasonably interfere in its operations are misleading and exaggerated. He claims that the 17,500 records that VCH's sample search retrieved may not all be emails. Some of them, according to him, might be attachments to emails, which he states would not need to be reviewed.¹⁴

[26] The respondent also submits that the number of employees that VCH assigns to process FIPPA requests is irrelevant. He doubts the accuracy of VCH's statements that it employs three employees to process a total of 186 requests per year. Based on the size of its organization and comparing it to that of the government of BC, he submits that "either VCH's FOI activity is underreported or that additional unreported resources are employed".¹⁵

[27] He submits further that instead of assigning his request to one of the three advisors, all three could share the work equally. He estimates that the total time involved would be 2,044 hours. If this work were shared by the three advisors, he suggests, each would spend 17 weeks, which he considers to be manageable.¹⁶

[28] VCH responds that whether a record is an email or an attachment, it still requires review by an employee with expertise in FIPPA to determine whether the record is responsive to the request.¹⁷ VCH also submits that it would be reasonable to expect it to employ additional resources solely for the purpose of responding to one excessively broad request. With its current staff complement, VCH submits that is able to respond to 82% of its requests within the timelines required under FIPPA. It suggests that this compares favourably with the ministries of the government of British Columbia at 84%.¹⁸

¹² VCH's initial submission, para. 19.

¹³ VCH's initial submission, para. 20.

¹⁴ Respondent's response submission, paras. 19-20.

¹⁵ Respondent's response submission, paras. 61-65.

¹⁶ Respondent's response submission, para. 69.

¹⁷ VCH's reply submission, para. 4.

¹⁸ VCH's reply submission, paras. 8-9.

Analysis

[29] I accept in general the estimate of the work involved in processing the request that VCH has provided. VCH took a logical and systematic approach to conduct this estimate, using staff with expertise and experience with the relevant email system. Judging whether processing a request will unreasonably interfere in the operations of a public body does not require knowing with certainty the exact number of records involved and the precise number of minutes required to process each record.

[30] The applicant's attempts to discredit the estimate in VCH's submission do not persuade me. I give greater weight to the evidence of officials who work in the organization and have provided testimony based on their actual experience and knowledge of the FIPPA processes and who have provided calculations to demonstrate the logic of their submission. I give lesser weight to the opinions and speculation of an individual who does not work within the organization and has provided little more than vague criticism based on alleged minor inconsistencies in the evidence.

[31] The respondent acknowledges that 50,000 responsive records is a reasonable estimate and that responding to his request would fully occupy the entire FIPPA department for 17 weeks. This would result, in effect, in no resources being available to process other requests for a little over four months. It is reasonable to conclude that VCH would not be able to process its annual average of 186 requests, and that it would fail to meet the timelines of FIPPA on a greater number of requests than it currently does. This would effect the access rights of other applicants.

[32] Based on this information, the amount of work involved in processing the request would require VCH to suspend work on other requests for one-third of the year. Given that VCH normally processes 186 requests per year, it is reasonable to estimate that this is the amount of time it usually requires to process 62 requests. This is an inordinate amount of work for one FIPPA request. This would constitute an increase by 25 percent the amount of work done annually in the FIPPA department. I find that this would unreasonably interfere in the operations of VCH.

[33] In summary, I find it reasonable to assume that the processing of the respondent's request will require an inordinate amount of time and resources. It will also have a negative impact on the interests of other FIPPA applicants.

[34] Therefore, I find that responding to the respondent's request would unreasonably interfere in the operations of VCH in accordance with s. 43(c)(i).

What relief would be appropriate?

[35] In this case, there is only one request at issue. There are no conditions that I could place on the processing of this request that could reduce the inordinate administrative burden of responding to it. The only appropriate relief to is authorize VCH to disregard the request.

CONCLUSION

[36] For the reasons given above, under s. 58 of FIPPA, I find that VCH has proven that the respondent's request is excessively broad and responding to it would unreasonably interfere with VCH's operations. Therefore, s. 43(c)(i) applies and I authorize VCH to disregard the request.

June 3, 2025

ORIGINAL SIGNED BY

Jay Fedorak, Adjudicator

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