OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
FOR BRITISH COLUMBIA

Order F25-56

MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT

Rene Kimmett
Adjudicator

July 16, 2025

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Summary: An applicant asked for records from the Ministry of Children and Family Development (Ministry) related to herself and her deceased child. The Ministry gave the applicant access to some information but withheld other information under s. 3(3)(f) (record of an officer of the Legislature) and 22(1) (unreasonable invasion of third-party personal privacy) of the *Freedom of Information and Protection of Privacy Act.* The adjudicator found that the records the Ministry withheld under s. 3(3)(f) were properly excluded from the scope of FIPPA and that the Ministry was required to withhold most of the information in dispute under s. 22(1). The adjudicator ordered the Ministry to give the applicant access to the information it was not authorized or required to withhold. Finally, the adjudicator found that the Ministry had not conducted an adequate search for records responsive to the applicant's request for records related to her deceased child and ordered the Ministry to properly respond to this portion of the applicant's access request.

Statutes Considered: *Freedom of Information and Protection of Privacy Act,* RSBC 1996, c. 165, ss. 3(3)(f), 4(2), 5(1)(b), 6(1), 22(1), 22(2)(i), 22(3)(a), 22(3)(i), 22(4)(e); *Freedom of Information and Protection of Privacy Regulation*, s. 5.

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant (Applicant) asked for records from the Ministry of Children and Family Development (Ministry) about her own information and any medical consultation and progress reports related to her deceased child between 2005 and 2007.

[2] In response, the Ministry withheld some of the requested records under ss. 3(3)(f) (record of an officer of the Legislature) and 22(1) (unreasonable

invasion of third-party personal privacy) of FIPPA.[1] Before deciding to withhold information from the Applicant under s. 22(1), the Ministry determined that the Applicant was making the access request on her own behalf and was not an "appropriate person" authorized to act on behalf of the deceased child under s. 5(1)(b) of FIPPA or s. 5 of the *Freedom of Information and Protection of Privacy Regulation* (Regulation).

[3] The Applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Ministry's decision to withhold information responsive to her access request.

[4] The OIPC engaged the parties in mediation, but it did not resolve the issues in dispute and the matter proceeded to this inquiry. The Ministry provided submissions and evidence in this inquiry. The Applicant provided pictures of documents dated between 2005 and 2007 but did not provide submissions despite having the opportunity to do so.

PRELIMINARY ISSUE – S. 6(1) ADEQUATE SEARCH

[5] Section 6(1) of FIPPA reads:

> The head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely.

[6] Section 6(1) imposes a number of obligations on a public body, including the obligation to conduct an adequate search for records responsive to an applicant's access request.

[7] The Ministry submits that on September 7, 2022, one of its representatives called the Applicant to clarify her access request and, following this phone call, sent the Applicant a letter specifying that it understood the Applicant's access request was for *both* her own information as a parent *and* any medical consultations or progress reports of her deceased child.

[8] I have reviewed the September 7, 2022 letter and can see that it also invited the Applicant to provide written proof that she was authorized to make the request for her child's records on behalf of the child. The letter states: "If we have not received the required [written proof] by September 21, 2022, we will process your request for your own information only." The Applicant did not provide the Ministry with any evidence that she was acting on behalf of her deceased child

[1] The Ministry also withheld some information under s. 77(2)(b) of the *Child, Family and Community Service Act*, but subsequently reconsidered this decision and is no longer relying on this provision.

and so the Ministry only searched for records containing the Applicant's own information and did not search for any records related to only the child.[2]

[9] Regardless of whether an applicant is acting on behalf of a deceased person or acting on their own behalf, a public body must respond to an applicant's access request in compliance with Part 2 of FIPPA, including ss. 6-11.

[10] Based on the above information, I invited the Ministry to provide submissions and evidence on the following questions:

1. Did the Ministry conduct an adequate search, as required by s. 6(1) of FIPPA, for records responsive to the Applicant's request for any medical consultation or progress reports related to her deceased child?

2. If the Ministry failed to conduct an adequate search, what is the appropriate remedy?

[11] In its response to my questions, the Ministry acknowledges that it did not conduct an adequate search under s. 6(1) of FIPPA because it only searched for records responsive to the Applicant's request in the Applicant's Family Services file and did not search for records in the child's Child Services file.[3]

[12] The Ministry submits that it has now searched and retrieved the child's Child Services file, which totals approximately 2750 pages and may include duplicates of records already included in the records package relevant to this inquiry.

[13] The Ministry submits that the appropriate remedy is to order the Ministry to process the records in the child's Child Services file and provide the Applicant with records from this file that are not already at issue in this inquiry and that the Ministry is not required or authorized to withhold, in whole or in part, under FIPPA or the *Child, Family and Community Service Act.*[4]

[14] I find that the Ministry did not conduct an adequate search for records responsive to the Applicant's request for records about her deceased child and, therefore, failed to comply with its obligation, under s. 6(1), to respond to the Applicant's request openly, accurately and completely. To remedy its breach of s. 6(1), I require the Ministry to respond to the Applicant's request for records related to her deceased child in accordance with Part 2 of FIPPA. For clarity, the

[2] The Ministry's initial submission at paragraphs 5 and 13 and the Ministry's letter to the Applicant dated September 7, 2022.
[3] Ministry's letter dated June 17, 2025 at page 1, para 4.
[4] *Child, Family and Community Service Act,* RSBC 1996, c. 46.

Ministry is not required to provide the Applicant with copies of records it has already provided to her.[5]

[15] If the Ministry's September 7, 2022 letter was based on a template, then I strongly encourage the Ministry to update its template language to prevent further breaches of s. 6(1) when applicants ask for information about deceased individuals.

ISSUES AND BURDEN OF PROOF

[16] The issues I must decide in this inquiry are as follows:

1. Are some of the records in dispute excluded from the scope of FIPPA under s. 3(3)(f)?

2. Is the Applicant acting on behalf of the deceased child in accordance with s. 5(1)(b) of FIPPA and s. 5 of the Regulation?

3. Is the Ministry required to withhold the information in dispute under s. 22(1)?

[17] The Ministry has the burden to prove that records are excluded from the scope of FIPPA under s. 3(3)(f).[6]

[18] FIPPA does not specify who has the burden to prove that an applicant is acting on behalf of another individual under s. 5(1)(b) of FIPPA and s. 5 of the Regulation. In these circumstances, past orders say that both parties are responsible for providing their best arguments and evidence to support their positions.[7] I find it appropriate to adopt this approach here and do not impose a formal burden on either party to prove this issue.

[19] Section 57(2) places the burden on the Applicant to establish that disclosure of the information withheld under s. 22(1) would not be an unreasonable invasion of a third party's personal privacy. However, as the public body in this matter, the Ministry has the initial burden of proving that the information it withheld under s. 22(1) is personal information.[8]

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[5] Order F18-34, 2018 BCIPC 37 (CanLII) at para 35.
[6] See, for example, Order F16-15, 2016 BCIPC 17 (CanLII); Order F17-30, 2017 BCIPC 32; and Order F23-70, 2023 BCIPC 83 (CanLII).
[7] Order F18-08, 2018 BCIPC 10 (CanLII) at para. 7.
[8] Order 03-41, 2003 CanLII 49220 (BCIPC) at paras 9-11.

DISCUSSION

Background

[20] The Provincial Director of Child Welfare (the Director) is an employee of the Ministry and is the person responsible for child welfare services in BC.

[21] In 2004, the Director gained custody of the Applicant's two children under the *Child, Family and Community Service Act.*

[22] The Applicant's son died of a terminal illness in 2007, while in the custody of the Director.

Records at issue

[23] The records package provided by the Ministry totals 1178 pages. The records include:

- notes, prepared by Ministry social workers, about the children's care;
- records related to one child's medical treatment;
- correspondence between Ministry staff; and
- correspondence between the Ministry and various individuals.

Records that relate to the exercise of functions of an office of the Legislature under an Act – s. 3(3)(f)

[24] Section 3(3)(f) provides that FIPPA does not apply to "a record that is created by or for, or that is in the custody or control of, an officer of the Legislature and that relates to the exercise of functions under an Act."

[25] For s. 3(3)(f) to apply, the following three criteria must be met:

1. An "officer of the Legislature" must be involved.
2. The record must either:
    a. have been created by or for the officer of the Legislature; or
    b. be in the custody or control of the officer of the Legislature.

3. The record must relate to the exercise of functions under an Act.[9]

[26] The Ministry did not provide the records it withheld under s. 3(3)(f) for my review and instead provided affidavit evidence about these records from a senior Ministry employee (the Team Lead).[10]

[27] The Team Lead describes the relevant records as emails between the Ministry and the Ombudsperson's office regarding a complaint the Applicant made to the Ombudsperson about the Ministry. The Team Lead states that the emails relate to the Ombudsperson's investigation into this complaint and the Ministry's participation in that investigation.[11] The Team Lead also says the emails were saved to the Ministry's internal record keeping system and are, therefore, duplicated in the records package.

[28] The Ministry submits that the Ombudsperson is responsible for responding to public complaints under the *Ombudsperson Act*, specifically s. 10. FIPPA defines an "officer of the Legislature" as including the Ombudsperson.[12]

[29] I accept the Team Lead's description of the relevant records as emails related to an Ombudsperson investigation. On this basis, I find that these records were created by or for the Ombudsperson. I also accept, based on the Ministry's evidence, that the records in dispute relate to the Ombudsperson's functions under the *Ombudsperson Act,* specifically those functions related to the investigation and disposition of complaints from the public.

[30] For the reasons given above, I find that the records the Ministry has withheld under s. 3(3)(f) are properly excluded from the scope of FIPPA and, therefore, the Ministry is not required to give the Applicant access to these records in response to her access request.

Acting on behalf of a deceased child – s. 5(1)(b)

[31] The Fact Report and Notice of Inquiry state there is an outstanding question of whether the Applicant was acting on behalf of her deceased son when making the access request.

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[9] Order F25-24, 2025 BCIPC 30 (CanLII) at para 25.
[10] The Ministry cites the following case law and OIPC orders to support its position that it does not need to provide the records in dispute under s. 3(3)(f): *British Columbia (Information and Privacy Commissioner) v British Columbia (Police Complaint Commissioner),* 2015 BCSC 1538; Orders F21-32, 2021 BCIPC 40 (CanLII); and F21-39, 2021 BCIPC 47 (CanLII). Based on this line of cases, I find it appropriate to decide whether the records are excluded from the application of FIPPA (ie: whether s. 3(3)(f) applies) based on the Ministry's affidavit evidence and without reviewing the records themselves. Only if I find that FIPPA applies would I consider ordering the Ministry to produce the records for my review under s. 44(1)(b).
[11] Team Lead's affidavit at paras 16-17.
[12] FIPPA, Schedule 1.

[32] An applicant requesting records on behalf of another person may be entitled to receive more information from a public body than they would if they were acting on their own behalf. This is because, when an applicant is "acting on behalf of" another person, that person's personal information is not treated as "third-party" personal information in the analysis under s. 22(1). In contrast, where an applicant is found *not* to be acting "on behalf of" another person, the OIPC treats the access request as an ordinary, arm's-length request for a third party's personal information.[13]

[33] The requirements in this case for determining whether an applicant is acting on behalf of another person are set out in s. 5(1)(b) of FIPPA and s. 5 of the Regulation.

[34] Section 5(1)(b) of FIPPA states:

> (1) To obtain access to a record, the applicant must make a written request that
>
> […]
>
> (b) provides written proof of the authority of the applicant to make the request, if the applicant is acting on behalf of another person in accordance with the regulations, […]

[35] Section 5(2) of the Regulation says that, if an individual is deceased, an "appropriate person" may make an access request under s. 5 of FIPPA on behalf of the deceased individual.

[36] An "appropriate person", in respect of a deceased minor is defined, in s. 5(1)(b) of the Regulation, as one of the following:

> (i) the personal representative of the deceased;
>
> (ii) if there is no personal representative of the deceased, a guardian of the deceased immediately before the date of death;
>
> (iii) if there is no personal representative or guardian of the deceased, the nearest relative of the deceased.

[37] The term "personal representative" is defined in the *Interpretation Act*[14] as including "an executor of a will and an administrator with or without will annexed of an estate, and, if a personal representative is also a trustee of part or all of the

[13] Order F24-47, 2024 BCIPC 55 (CanLII) at para 23.
[14] *Interpretation Act,* RSBC 1996, c 238.

estate, includes the personal representative and trustee".[15] The Ministry submits that the child did not and does not have a personal representative.[16]

[38] The Ministry submits the Director was the child's legal guardian at the time of his death and provides evidence from the Team Lead supporting this submission.

[39] The Applicant did not provide evidence rebutting the Ministry's position. Instead, she has provided photos of documents that, in my view, support the Ministry's version of events.[17]

[40] Based on the information before me, I find that the child did not have a personal representative and that the Director and not the Applicant was the guardian of the child immediately before his date of death. On this basis, I conclude that, for the purpose of s. 5(1)(b) of the Regulation, the Applicant was not an "appropriate person" authorized to act on behalf of her deceased child at the time she made the access request.

[41] The consequence of this finding is that I will treat the child as a third party in my consideration of whether disclosing the information in dispute would be an unreasonable invasion of third-party personal privacy under s. 22(1).

Unreasonable invasion of third-party personal privacy – s. 22

[42] Section 22(1) requires a public body to refuse to disclose personal information if its disclosure would unreasonably invade a third party's personal privacy. A third party is any person other than the Applicant.

[43] The information the Ministry has withheld under s. 22(1) can be summarized as:

- information about the well-being, behaviour, and opinions of the Applicant's children while under the Ministry's care;
- information about the foster families who were caring for the Applicant's children;
- information about Ministry employees related to their work;

[15] *Interpretation Act,* R.S.B.C. 1996, c. 238 at s. 29.
[16] Ministry's submission at para 54.
[17] Applicant's Document #1 and Document #6.

- information about other people, including medical staff, employees of a private organization, and the friends and family of the Applicant and of her children; and

- dates and template information.

[44] There are four steps in the s. 22(1) analysis,[18] and I apply each step of this analysis under the headings that follow.

Is the withheld information "personal information"?

[45] The first step in the s. 22(1) analysis is to determine if the information in dispute is personal information. Personal information is defined in FIPPA as "recorded information about an identifiable individual other than contact information".[19] Information is about an identifiable individual when it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.[20]

[46] Contact information is defined as "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". Whether information is "contact information" depends on the context in which it appears.[21]

[47] The Ministry submits that it is evident from the records themselves that the information withheld under s. 22(1) is the personal information of various individuals, including the deceased child, the Applicant's other child, and foster families.[22]

[48] I find that the Ministry has withheld some information under s. 22(1) that is not about identifiable individuals, including dates and template information.[23] The Ministry has also withheld some contact information located in the signature blocks of Ministry employees.[24] None of this information is personal information and, therefore, it cannot be withheld under s. 22(1).

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[18] Order F15-03, 2015 BCIPC 3 (CanLII) at para 58.
[19] Schedule 1 of FIPPA.
[20] Order F05-30, 2005 CanLII 32547 (BC IPC) at para 35.
[21] Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.
[22] Ministry's initial submission at para 91.
[23] Records package at pages 7, 12-21, 137, 227, 247, 252-259, 264, 268-269, 312-315, 466, 520, 527, 535, 567, 568, 625-628, 676, 769-826, 846-868, 879, 1000-1099, 1118-1123, 1128, 1130, 1150.
[24] Records package at pages 137, 227, 264, 268-269, 769-826, 846-868, 879, 1000-1099, 1118-1119, 1128, 1130.

[49] There are other instances in which the Ministry has withheld the contact information of medical staff and employees of a private organization.[25] Normally, this sort of information cannot be withheld under s. 22(1) because it is not, on its own, personal information. However, in the context of the records, this information would reveal information about the medical diagnosis and treatment of the Applicant's deceased child. For this reason, I consider this information to be the deceased child's personal information and include it in the s. 22 analysis that follows.

[50] The rest of the information in dispute is the personal information of various individuals, including the Applicant.

Is disclosure not an unreasonable invasion of personal privacy under s. 22(4)?

[51] The second step in the s. 22(1) analysis is to determine if the personal information falls into any of the categories of information listed in s. 22(4). Section 22(4) sets out circumstances where disclosure of personal information is *not* an unreasonable invasion of personal privacy. If s. 22(4) applies to the information in dispute, then its disclosure would not be an unreasonable invasion of personal privacy, and the Ministry cannot withhold it under s. 22(1).

[52] The Ministry submits that none of the categories in s. 22(4) apply to the responsive records.[26]

[53] I have reviewed the records package and find that s. 22(4)(e) applies to some of the information in dispute.

[54] Section 22(4)(e) provides that the disclosure of personal information about a public body employee's position, functions or remuneration is not an unreasonable invasion of that employee's personal privacy. Previous OIPC orders have found that s. 22(4)(e) applies to a person's identifying information that in some way relates to a public body employee's job duties in the normal course of work-related activities.[27] This type of information includes objective, factual statements about what the employee did or said in the normal course of discharging their job duties.[28]

[55] The records include communications sent and received in the normal course of Ministry employees performing their ordinary job duties.[29] I find that disclosing the names, titles, and email addresses of these employees would not

[25] Records package at pages 769-772, 1059-1062, 1150.
[26] Ministry's initial submission at para 92.
[27] Order 01-53, 2001 CanLII 21607 (BC IPC) at para 40.
[28] Order F20-49, 2020 BCIPC 58 (CanLII) at para 16.
[29] Records package at pages 137, 227, 252-259, 264, 268-269, 282, 312-315, 520, 527, 535, 567, 568, 625-628, 676, 769-826, 846-868, 879, 1000-1099, 1118-1123, 1128, 1130, 1150.

be an unreasonable invasion of the employees' personal privacy. This information falls under s. 22(4)(e) and cannot be withheld under s. 22(1).

Is disclosure presumed to be an unreasonable invasion of personal privacy under s. 22(3)?

[56] The third step in the s. 22(1) analysis is to determine whether any of the presumptions listed under s. 22(3) apply to the personal information in dispute. If one or more apply, then disclosure of that personal information is presumed to be an unreasonable invasion of personal privacy.

[57] The Ministry submits that some of the personal information in dispute is the medical history, diagnosis, condition, treatment, and evaluations of third parties.[30] I agree with the Ministry and find that some of the information in dispute relates to the medical history of the deceased child[31] and the Applicant's other child.[32] I find that, under s. 22(3)(a), it is presumed to be an unreasonable invasion of these individuals' personal privacy to disclose this information.

[58] The Ministry submits that some of the personal information in dispute relates to the religious beliefs of third parties.[33] I agree with the Ministry and find, under s. 22(3)(i), that it is presumptively an unreasonable invasion of these individuals' personal privacy to disclose this information.[34]

Considering all relevant circumstances, including those listed in s. 22(2), would disclosure be an unreasonable invasion of personal privacy?

[59] The final step in the s. 22(1) analysis is to consider all relevant circumstances, including those listed in s. 22(2), before determining whether the disclosure of personal information would be an unreasonable invasion of personal privacy. It is at this step that any applicable s. 22(3) presumptions may be rebutted.

Information about a deceased person, s. 22(2)(i)

[60] Section 22(2)(i) asks whether the information is about a deceased person, and if so, whether the length of time the person has been deceased indicates that the disclosure is not an unreasonable invasion of the deceased person's personal privacy.

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[30] Ministry's initial submission at para 95.
[31] Records package at pages 518, 539-541, 704-730, 803, 825, 916, and scattered throughout 986-1099 and 1152-1171.
[32] Records package at pages 253-254.
[33] Ministry's initial submission at para 97.
[34] Records package at pages 264, 267, 295, 311, 444, 752, 991, and 1042.

[61] FIPPA does not specify the length of time after which disclosing a deceased individual's personal information will not be an unreasonable invasion of privacy. Previous OIPC orders have found that an individual's personal privacy rights are likely to continue for at least 20 to 30 years after they have passed away. [35]

[62] In this case, the Applicant's son passed away 18 years ago. There are no circumstances here that persuade me that his personal privacy rights are extinguished after this length of time, which is shorter than 20 years. Therefore, I find that the length of time the Applicant's son has been deceased weighs against disclosure of his personal information.

Sensitivity of the personal information

[63] While not listed in s. 22(2), previous orders have found that the sensitivity of information may be a relevant factor weighing for or against disclosure.[36] The Ministry submits that the personal information in dispute is sensitive and that this is a factor that weighs against disclosure.[37]

[64] I agree with the Ministry that much of the personal information in dispute is sensitive, including information about various individuals' suitability to be guardians, the children's behaviour and opinions about their care, and the emotional impact of the child's terminal illness on various individuals. I find that the sensitivity of this information weighs against disclosure.

Applicant's knowledge

[65] While not listed in s. 22(2), past orders have considered whether the applicant's pre-existing knowledge of the information in dispute weighs for or against disclosure.[38]

[66] The Ministry submits:

> While the Applicant may have some knowledge of parts of the personal information that has been withheld, she may not know the specifics and it would be inappropriate to make any assumptions about what the Applicant does or does not already know.[39]

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[35] Ministry's initial submission at para 99, citing Order F24-22, 2024 BCIPC 28 (CanLII) at para 53.
[36] Order F21-67, 2021 BCIPC 78 (CanLII) at para 82.
[37] Ministry's initial submission at paras 102-105, citing Order F18-38, 2018 BCIPC 41 (CanLII) at para 98.
[38] Order F18-48, 2018 BCIPC 51 at para 27; Order F20-22, 2020 BCIPC 26 at para 51.
[39] Ministry's initial submission at para 106.

[67] For the most part, I do not know what knowledge the Applicant already has about the information in dispute. However, there is one instance in which the Ministry has withheld a form related to the deceased child's care that has been signed by the Applicant.[40] It is clear to me, on the face of this record, that the Applicant already knows the content of this record. In this one instance, I find the Applicant's existing knowledge weighs in favour of disclosure.

Applicant's personal information

[68] Previous OIPC decisions have found that the fact that a record contains an applicant's own personal information weighs in favour of disclosure. However, the weight of this factor is limited where the information in dispute is simultaneously the applicant's personal information and the personal information of other individuals.[41]

[69] In this case, some of the information in dispute is simultaneously about the Applicant and other individuals. This factor weighs only slightly in favour of disclosing this information.

Section 22 – findings

[70] I found above that most of the withheld information is personal information. However, some of the information in dispute is not personal information because it is either not about an identifiable individual or it is contact information. Section 22(1) does not apply to this information and the Ministry is not authorized or required to withhold it.

[71] I found that s. 22(4)(e) applies to some of the personal information in dispute (the names, titles, and email addresses of Ministry employees) because it is about the position, functions or remuneration of public body employees. The Ministry is not authorized or required under s. 22(1) to withhold this information.

[72] I have also found that one or more presumptions under s. 22(3) apply to most of the remaining information in dispute because it is information about individuals' medical history or religious beliefs.

[73] One record about the deceased child's medical history is signed by the Applicant. In this one instance, I find that the Applicant's knowledge of the record in dispute is sufficient to rebut the presumption that disclosure of the information in this record would be an unreasonable invasion of the deceased child's personal privacy under s. 22(3)(a). The Ministry is not authorized or required under s. 22(1) to withhold this information.

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[40] Records package at pages 1142-1145.
[41] Order F24-48, 2024 BCIPC 56 at para 146.

[74] For the rest of the information about individuals' medical histories or religious beliefs, I find that the presumptions under s. 22(3) have not been rebutted by any relevant circumstances, including those listed under s. 22(2). The Ministry is required to withhold this information under s. 22(1).

[75] The remaining information in dispute is either letters of support for the Applicant, information about the foster families that were caring for the Applicant's children, or information about other individuals. All of this information is sensitive in nature and, as far as I am aware, not known to the Applicant. While some of this information is simultaneously about the Applicant and other individuals, which is a factor that favours disclosure, I find this factor is not strong enough to overcome the other factors that weigh in favour of withholding this information. After considering all the relevant circumstances, I find that disclosure of this information would be an unreasonable invasion of these individuals' personal privacy and that the Ministry is required to withhold this information under s. 22(1).

Reasonable severing – s. 4(2)

[76] The Ministry makes an argument that relates to s. 4(2), which reads:

> [An applicant's] right of access to a record does not extend to information that is excepted from disclosure under Division 2 of this Part [which includes s. 22(1)], but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record.

[77] To help visualize this concept, think of severing information as blacking it out. I have found that the Ministry is required to sever information under s. 22(1). The Ministry says that once it severs this information, then the information that is left in some of the records will be meaningless or unintelligible to the Applicant. Even though this "meaningless or unintelligible information" cannot be withheld under s. 22(1), or any other exception to disclosure in FIPPA, the Ministry says it is withholding it because, under s. 4(2), it is unreasonable to sever the s. 22(1) information and give the Applicant the meaningless or unintelligible information that makes up the remainder of the record.[42]

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[42] Ministry's initial submission at footnote 52 and paras 21-31, citing Order 03-16, 2003 CanLII 49186 (BCIPC) at paras 53, 54, and 59; Order F16-12, 2016 BCIPC 14 (CanLII) at paras 37-39; Order F17-05, 2017 BCIPC 6 at paras 77-78; Order F17-32, 2017 BCIPC 34 at para 50; Order F17-39, 2017 BCIPC 43 (CanLII) at para 138; Order F24-36, 2024 BCIPC 44 at para 115; *Canada (Information Commissioner) v Canada (Solicitor General)*, 1988 CanLII 9396 (FC) at paras 14-15; *Murchison v Export Development Canada*, 2009 FC 77 (CanLII) at para 64; *Attaran v Canada (National Defence)*, 2011 FC 664 (CanLII) at para 35.
See also *Merck Frosst Canada Ltd. v Canada (Health)*, 2012 SCC 3 at paras 235-238, cited with approval in *Cain v. Canada (Health)*, 2023 FC 55 (CanLII) at paras 42-45.

[78] The remainder of the record is the information that I found the Ministry cannot withhold under s. 22(1). This information includes dates records were sent or received, headings and subheadings that indicate the nature of the record, contact information in the signature blocks of Ministry employees, and the names, titles, and email addresses of Ministry employees contained in communications they sent and received in the normal course of performing their ordinary job duties. The Ministry has not provided evidence or argument sufficient to establish that any of this information would be rendered meaningless or unintelligible once the information the Ministry is required to withhold under s. 22(1) is severed from the records.[43]

[79] Given the above, I find that the information the Ministry is required to withhold under s. 22(1) can reasonably be severed and the Ministry is not authorized to withhold the remainder of the records under s. 4(2). The Ministry must provide the Applicant with all the information it is not authorized or required to withhold under s. 22(1).

CONCLUSION

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

1. I confirm that pages 756-758 and 896-899 of the records package are excluded from the application of FIPPA under s. 3(3)(f). The Applicant has no right of access to these records under FIPPA.

2. Subject to item 3 below, the Ministry is required to withhold the information in dispute under s. 22(1).

3. The Ministry is not required, under s. 22(1), or authorized, under s. 4(2), to withhold the information I have highlighted in green in the copy of the records provided to the Ministry with this order. I require the Ministry to give the Applicant access to this highlighted information.

4. I require the Ministry to respond to the Applicant's request for records related to her deceased child in accordance with Part 2 of FIPPA. For

[43] Further, while the Ministry claims the s. 22(1) information cannot reasonably be severed and the remainder of the records provided to the Applicant, the Ministry has done just that in several places in the records package. For example, pages 533 and 535 are the same type of record. The Ministry has entirely withheld page 535 but has severed information from page 533 and given the remainder to the Applicant. The Ministry has not adequately explained why it is unreasonable to provide the remainder of a record to the Applicant in some instances, but not in other instances.

clarity, the Ministry is not required to provide the Applicant with copies of records it has already provided to her.

5. I require the Ministry copy the OIPC registrar of inquiries on the cover letter(s) and records it sends to the Applicant in compliance with items 3 and 4 above.

[81] Pursuant to s. 59(1) of FIPPA, the Ministry is required to comply with this order by August 28, 2025.

July 16, 2025

ORIGINAL SIGNED BY

Rene Kimmett, Adjudicator

OIPC File No.: F23-93363