



Order F25-94

## INSURANCE CORPORATION OF BRITISH COLUMBIA

Elizabeth Barker  
Director of Adjudication

December 9, 2025

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**Summary:** The Insurance Corporation of British Columbia (ICBC) refused an individual access to records and parts of records under sections 3(3)(f) (records created by or for an officer of the Legislature), 13(1) (advice or recommendations) and 15(1)(l) (harm to the security of a property or system) of the *Freedom of Information and Protection of Privacy Act* (FIPPA). At the inquiry, ICBC withdrew its reliance on s. 13(1) and the applicant confirmed he did not want the type of information ICBC withheld under s. 15(1)(l). The only remaining issue was s. 3(3)(f) which the adjudicator found ICBC had correctly applied.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165, s. 3(3)(f).

## INTRODUCTION

[1] An individual (applicant) requested the Insurance Corporation of British Columbia (ICBC) provide him with a copy of his “fair practices” file. ICBC provided some records but refused to disclose other records and parts of records under ss. 3(3)(f) (records created by or for an officer of the Legislature), 13(1) (advice or recommendations), and 15(1)(l) (harm to the security of a property or system) of the *Freedom of Information and Protection of Privacy Act* (FIPPA).<sup>1</sup> The applicant requested the Office of the Information and Privacy Commissioner (OIPC) review ICBC’s decision. Mediation did not resolve the dispute regarding the severing, and the applicant requested the matter proceed to inquiry. Both parties provided written inquiry submissions.

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<sup>1</sup> From this point forward all section numbers are references to FIPPA provisions, unless otherwise specified.

## **Preliminary Matter**

### *Section 13(1) no longer an issue*

[2] In its initial submission, ICBC says that given the passage of time, it no longer relies on s. 13(1) to withhold information in the records and it has given the applicant the reconsidered records package. I can see that the only information withheld from the records before me in this inquiry is severed under ss. 3(3)(f) and 15(1)(l). Therefore, I conclude that s. 13(1) is no longer an issue in dispute in this inquiry.

### *Section 15(1)(l) no longer an issue*

[3] ICBC relied on s. 15(1)(l) to withhold information which it says are the electronic file paths indicating the location of ICBC's shared file systems and the names of records. It submits disclosing that information could reasonably be expected to harm the security of its computer systems.

[4] I have reviewed the information that has been severed under s. 15(1)(l) and can confirm that every instance is a file path name where ICBC staff have saved documents in its electronic systems.<sup>2</sup> I believe the applicant will have concluded this too because it is readily apparent from the surrounding information that what has been severed under s. 15(1)(l) are file path names.

[5] Based on what the applicant says in his response to ICBC's submission, I conclude he does not want access to this file path information. Specifically, he says on two occasions that ICBC's submissions focus on "irrelevant issues such as metadata and file extensions, matters I never raised or requested."<sup>3</sup> Given this, I conclude ICBC's decision to refuse access to the file path names under s. 15(1)(l) is no longer an issue in dispute between the parties and I will make no decision about that information.

### *New issues*

[6] The applicant's submission addresses several complaint matters that the OIPC investigator's fact report and the notice of inquiry do not list as issues in dispute. The applicant complains that ICBC contravened s. 6(1) of FIPPA by conducting an inadequate search for records.<sup>4</sup> He also complains about two matters that the OIPC investigator's fact report expressly says are not at issue in

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<sup>2</sup> That s. 15(1)(l) information is in the 216-page second set of records on pp. 4, 7, 18, 20, 22, 24, 27, 29, 32, 34 and 43, and in the 684-page third set of records on p. 140. Most of the severing is duplicates of the same file path.

<sup>3</sup> Applicant's initial submission at p. 1.

<sup>4</sup> He also raises concerns about the personal and financial consequences to him caused by what he believes is ICBC's use of FIPPA as a tool for delay, financial advantage and as a means to deprive him of the ability to seek a legal remedy related to his vehicle claim. He also discusses his concerns about how ICBC valued his vehicle, the repairs and how it responded to his claim.

this inquiry: the severing of the records in another file which the OIPC closed and did not send to inquiry (F24-95742), and the length of time ICBC took to respond to his requests.

[7] The notice of inquiry the OIPC sent to the parties advised them to review the OIPC's *Instructions for Written Inquiries*. Those instructions say that parties may not add new issues into an inquiry without the OIPC's prior permission and any request for permission must be made before the date for initial submissions. I can see nothing in the materials before me that indicates the applicant requested the OIPC's prior approval to add the above-mentioned issues into this inquiry or that there are any exigent circumstances that would warrant adding them now. In particular, I do not think that it would be fair to expand the scope of the inquiry to address matters that the investigator's fact report explicitly says are not issues in this inquiry. Therefore, I will not add those complaints into this inquiry or make any decision about them.

[8] In addition, the applicant's submission revisits a matter that he has already been denied permission to add into this inquiry. After the applicant received ICBC's initial inquiry submission, he requested the OIPC expand the inquiry to include a complaint. He complained that ICBC failed to meet its obligations under s. 6 of FIPPA "by providing records in a format that, although technically compliant, are functionally inaccessible, thereby denying the applicant meaningful access."<sup>5</sup> An OIPC adjudicator decided that request and declined to add that complaint into this inquiry.<sup>6</sup> For that reason, I will not consider his complaint about that matter.

[9] In conclusion, while I have considered all of the applicant's submission, I will only refer to what is necessary to provide reasons for the issue I am deciding in this inquiry.<sup>7</sup>

## ISSUE

[10] The issue to be decided in this inquiry is whether the disputed records are outside the scope of FIPPA pursuant to s. 3(3)(f). It is well-established that the public body has the burden of establishing that records are excluded from the scope of FIPPA, including under s. 3(3)(f).<sup>8</sup>

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<sup>5</sup> Applicant's August 16, 2025 email.

<sup>6</sup> Adjudicator's August 19, 2025 decision letter.

<sup>7</sup> His submission includes 60 pages of supporting documents about his vehicle and ICBC claim.

<sup>8</sup> See for example: Order F25-24, 2025 BCIPC 30 (CanLII) at para 2; Order F23-109, 2023 BCIPC 125 (CanLII) at para 5; Order F23-08, 2023 BCIPC 10 (CanLII) at para 6; Order F15-26, 2015 BCIPC 28 (CanLII) at para 5; and Order 03-06, 2003 CanLII 49170 (BC IPC) at para 6.

## DISCUSSION

### Background

[11] ICBC is the sole provider of universal and compulsory basic auto insurance in BC. ICBC has a Fair Practices Office (FPO) which assists individuals who are dissatisfied with ICBC's services. The FPO investigates concerns about unfair decisions or processes, makes recommendations for resolving concerns, and provides explanations of ICBC products and services. It is apparent from the parties' submissions that the applicant was unhappy with how ICBC handled his accident claim, he raised concerns with FPO, and he complained about ICBC to the Ombudsperson.

[12] This inquiry is about the second of two access requests involving the applicant's request for ICBC records. Initially, he requested access to his "claim file" and because he was dissatisfied with ICBC's response, he requested a review by the OIPC. The OIPC opened file F24-95472. An OIPC investigator resolved that matter and it is not the subject of this inquiry.<sup>9</sup> However, during the review of F24-95472, the applicant expanded his access request to include records in his "fair practices file". ICBC agreed to process that as a separate request.

[13] ICBC provided the applicant with his fair practices file records with some information severed under ss. 3(3)(f) (records created by or for an officer of the Legislature), 13(1) (advice or recommendations), and 15(1)(l) (harm to the security of a property or system). The applicant requested the OIPC review that decision. Mediation did not resolve the dispute regarding the severing, and the applicant requested the matter proceed to this inquiry.

### Records and information at issue

[14] ICBC provided the records to the applicant in three sets: a first set of 182 pages, a second set of 216 pages and a third set of 684 pages. The information in dispute under s. 3(3)(f) is on 16 pages in the first set and on two pages in the third set.<sup>10</sup>

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

[15] 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." The

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<sup>9</sup> File F24-95472, which was about a different set of records than those at issue in this inquiry, was closed as having been resolved at mediation.

<sup>10</sup> The s. 3(3)(f) information is in the first set of records on pp. 1-3, 5-7, 9-11 and 176-182 and in the third set on pp. 14-15.

purpose of s. 3(3)(f) is to facilitate, and prevent interference with, the exercise of an officer of the Legislature's functions under an enactment.<sup>11</sup>

[16] In order for this provision to apply, the following three criteria must be met:

1. An "officer of the Legislature" is 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.<sup>12</sup>

*Parties' submissions on s. 3(3)(f)*

[17] ICBC says that the records in issue under s. 3(3)(f) indicate that the Ombudsperson Officer initiated correspondence with ICBC staff to investigate a complaint made by the applicant and they contain case-specific emails and notes to file. ICBC adds that all the records it received from the Ombudsperson or created for the Ombudsperson during the course of investigating and deciding the applicant's complaint, are outside of the scope of the Act.<sup>13</sup>

[18] The applicant does not specifically address the application of s. 3(3)(f) in his submissions. He simply says that the OIPC should "scrutinize ICBC's practices closely and issue orders that ensure meaningful access, accountability, and compliance with the Act."<sup>14</sup>

*Analysis and findings, s. 3(3)(f)*

[19] For the reasons that follow, I find that the records in dispute under s. 3(3)(f) were created by or for an officer of the Legislature and they relate to the exercise of the officer's functions under an Act.

[20] Officer of the Legislature – I can plainly see that the records are emails and notes in ICBC's electronic case management file system that are all about an investigation being conducted by the Office of the Ombudsperson. The definition of "officer of the Legislature" in Schedule 1 of FIPPA includes the Ombudsperson. Therefore, I am satisfied that the records involve an officer of the Legislature.

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<sup>11</sup> Order F16-07, 2016 BCIPC 9 (CanLII) at para 9 with reference to s. 3(1)(c) which was the former version of s. 3(3)(f). The only difference between the two versions is that s. 3(1)(c) used the phrase "the exercise of that officer's functions under an Act" while s. 3(3)(f) says "the exercise of functions under an Act".

<sup>12</sup> F25-35, 2025 BCIPC 43 at paras 18-19; Order F25-24, 2025 BCIPC 30 at para 24-25; Order F23-109, 2023 BCIPC 125 (CanLII) at para 50.

<sup>13</sup> ICBC's initial submission at para 14.

<sup>14</sup> Applicant's submission at p. 4.

[21] Records created by or for the officer of the Legislature – I also find that the records were created by or for an officer of the Legislature. They commence, chronologically, with a lengthy email from an Ombudsperson Officer (the Officer) followed by his emails back and forth with an FPO advisor and an FPO manager. There are also several file notes made by the FPO manager and advisor that reflect what was said to and by the Officer and include an excerpt from one of the Officer's emails.<sup>15</sup>

[22] Records relate to the exercise of functions under an Act – Based on what the Officer says in his initial email about the *Ombudsperson Act*,<sup>16</sup> I am satisfied that the records relate to the exercise of functions under that Act. For clarity, I find that applies not only to the direct communications between the FPO staff and the Officer but also the FPO staff's internal file notes about the Officer's investigation. The file notes were created because of the Ombudsperson's investigation, and they are about the FPO's response and participation in the investigation.<sup>17</sup>

[23] Summary – In summary, I am satisfied that ICBC correctly applied s. 3(3)(f) to the records and they fall outside the scope of FIPPA. The records were created by or for an officer of the Legislature and they relate to the exercise of functions under an Act.<sup>18</sup> Because FIPPA does not apply to these records, the applicant has no right of access to them under FIPPA.

## CONCLUSION

[24] For the reasons given above, under s. 58 of FIPPA, I confirm ICBC's decision that s. 3(3)(f) applies to pages 1-3, 5-7, 9-11 and 176-182 in the 182-page first set of records and to pages 14-15 in the 684-page third set of records. The applicant has no right of access to those records under FIPPA because they fall outside the scope of FIPPA.

December 9, 2025

## ORIGINAL SIGNED BY

Elizabeth Barker, Director of Adjudication

OIPC File No.: F24-98366

<sup>15</sup> I note that the Officer's initial email and several of the other emails appear multiple times in the records in dispute.

<sup>16</sup> *Ombudsperson Act* RSBC 1996, c. 340.

<sup>17</sup> For similar findings about a public body's internal communications about an officer of the Legislature's investigations, see Order F25-24, 2025 BCIPC 30 (CanLII) at para 34 and the cases cited there.

<sup>18</sup> The records at issue under s. 3(3)(f) are as follows: First set of records at pp. 1-3, 5, 6-7, 9-11 and 176-182 and in the third set of records at pp. 14-15.