Order F26-50

MINISTRY OF SOCIAL DEVELOPMENT AND POVERTY REDUCTION

Alexander Corley
Adjudicator

June 17, 2026

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Summary: The Ministry of Social Development and Poverty Reduction (Ministry) applied to the Commissioner for authorization to disregard an access request under s. 43 of the *Freedom of Information and Protection of Privacy Act*. The Ministry argued, among other things, that it should be granted authorization to disregard because the access request was "excessively broad" and responding to the access request would unreasonably interfere with the Ministry's operations. The adjudicator concluded that the Ministry's evidence demonstrated the access request was "excessively broad" and that responding to it would unreasonably interfere with the Ministry's operations. Therefore, the adjudicator authorized the Ministry to disregard the access request under s. 43.

Statutes Considered: *Freedom of Information and Protection of Privacy Act* [RSBC 1996, c. 165] at ss. 2, 4, 6(1), 43, 43(c)(i), and 43(d)(ii).

INTRODUCTION

[1] This inquiry decides an application by the Ministry of Social Development and Poverty Reduction (Ministry) under s. 43 (authorization to disregard access requests) of the *Freedom of Information and Protection of Privacy Act* (FIPPA)[1] for authorization to disregard an access request made by a specific individual (respondent).

[2] The respondent submitted the access request to the Ministry on January 25, 2025, and requested numerous classes of information and records falling within 14 distinct categories.[2]

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[1] Through the remainder of this order, references to sections of an enactment are references to FIPPA unless otherwise stated.
[2] There is some evidence before me that the respondent submitted the same or a similar access request to other public bodies: see Affidavit #1 of Ministry of Citizens' Services FOI Team Lead

[3] Both parties provided written submissions and evidence in this inquiry.[3] A preliminary decision by the OIPC excluded some of the respondent's submissions and evidence from consideration at inquiry because those submissions and evidence were related to "without prejudice" communications between the parties during unsuccessful attempts to resolve their dispute.[4] Given the OIPC's determination on this point, I have not considered any of the excluded evidence in reaching my conclusions, below.[5]

[4] During the inquiry, s. 43 was amended by the Legislature.[6] Given this, I invited the parties to provide additional submissions regarding any impact those amendments may have on the Ministry's s. 43 application.[7] Ultimately, I concluded that the amendments do not impact the outcome of the Ministry's application or the appropriate remedy. Therefore, while I have read everything the parties said in response to my invitation for additional submissions, I have not found it necessary to rely on or refer to any of that material in reaching my conclusions, below.[8]

Preliminary Issues

Respondent's concerns

[5] The respondent raises two preliminary issues which I will address under this heading.

Ministry evidence about respondent's prior access requests

[6] The respondent says that some of the Ministry's evidence was placed before me improperly because that evidence relates to other access requests made by the respondent that have been considered by the OIPC under other file numbers and do not form an appropriate part of the record for this inquiry.[9] The

(FOI Lead) at paras. 24-25. However, only the access request made to the Ministry is at issue in this inquiry.

[3] The respondent's submission contains numerous mis-citations to OIPC orders and decisions and mis-identifies the relevant subsections of s. 43 in some cases. The respondent also consistently provides global citations to legal authorities as opposed to pinpointing the sections of those authorities which are allegedly relevant to their specific arguments. In the interests of fairness to the respondent, I have made reasonable efforts to discern which legal authorities (or sections of authorities) and subsections of s. 43 are relevant to the respondent's distinct arguments where I have considered those arguments below.

[4] See OIPC Director of Adjudication's Letter to Parties sent April 10, 2026.

[5] For clarity, this includes any communications related to the parties' external attempts at dispute resolution which the parties incidentally copied to the OIPC Registrar of Inquiries.

[6] See Bill 9 – *Freedom of Information and Protection of Privacy Amendment Act, 2026* [Bill 9] at ss. 12, 27, and 28. Available here: https://www.leg.bc.ca/parliamentary-business/overview/43rd-parliament/2nd-session/bills/3rd_read/gov09-3.htm.

[7] See my Letter to Parties sent June 4, 2026.

[8] See respondent's emails to OIPC Registrar of Inquiries of June 4 and 10, 2026, and Ministry's supplemental submission of June 12, 2026.

[9] Respondent's submission at paras. 60-69.

respondent says that relying on any of this evidence in reaching my decision on the Ministry's application would be procedurally unfair to the respondent.

[7] The Ministry says that it would not be improper or unfair for me to consider this evidence. In the alternative, the Ministry says that even if I were to exclude this evidence the Ministry would still have made out its case under s. 43.[10]

[8] Ultimately, I have not found it necessary to rely on any of the Ministry's evidence regarding the respondent's access request history or the arguments the Ministry makes based on that evidence in reaching my conclusion in this order. Therefore, I will not consider in any more detail the parties' submissions about the admissibility or appropriateness of that evidence.

Respondent's arguments about the Ministry's "duty to assist"

[9] The respondent submits that the Ministry did not meet its duty to assist the respondent regarding the access request under s. 6(1) and that this should undermine what the Ministry says about s. 43.[11] The respondent seems to specifically suggest that the Ministry is required to positively demonstrate its compliance with s. 6(1) before seeking to rely on s. 43.[12]

[10] In reply, the Ministry says that s. 6(1) is not properly an issue in this inquiry and that there is no requirement for the Ministry to positively prove its compliance with s. 6(1) prior to requesting relief under s. 43.[13]

[11] I agree with the Ministry that s. 6(1) is not properly an issue in this inquiry. Section 6 is not listed as an issue in the OIPC's *Notice of Request for Application to Disregard (s. 43)*. Further, the OIPC *Instructions for Written Inquiries*, which were provided to the parties at the outset of the inquiry, make clear that an adjudicator will not usually consider new issues unless a party has sought and received the OIPC's permission to add those issues to the inquiry. There is no indication here that the respondent sought the OIPC's permission to add s. 6(1) as an issue in this inquiry and I find that the respondent's arguments regarding s. 6(1) do not demonstrate the kind of exceptional circumstances that would justify adding a new issue into the inquiry.[14]

[12] I also agree with the Ministry that there is no obligation for it to positively prove its compliance with s. 6(1) prior to me considering the merits of its s. 43 application. The respondent does not clearly point to any authority for the proposition that positively proving compliance with s. 6(1) is a necessary part of

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[10] Ministry's reply submission at para. 37.
[11] Respondent's submission at paras. 22-23 and 29.
[12] Respondent's submission at paras. 22 and 28.
[13] Ministry's reply submission at paras. 51-56 and 65-68.
[14] I also note that where an access applicant such as the respondent has concerns regarding a public body's conduct related to s. 6(1) it is preferable for those concerns to be independently brought to the OIPC's attention so they can be mediated and assessed, and it can be determined whether they merit independently being sent to inquiry.

a public body's request for relief under s. 43 and I am not aware of any such authority.[15]

[13] For these reasons, I will not consider whether the Ministry complied with s. 6(1) as an independent issue in this inquiry.[16]

Information about other disputes between the parties

[14] The respondent makes numerous references to an underlying access to information fee dispute between them and the Ministry and attempts to import information and evidence into this inquiry which I find relates, on its face, strictly to the fee dispute. I accept that some information the respondent provides about the Ministry's conduct throughout the entirety of the parties' interactions, including during the fee dispute matter, may be relevant to the Ministry's s. 43 application and I have considered that information where appropriate. However, I will not further reference or consider any of the respondent's submissions that I find are solely related to the fee dispute matter.

Impact of the amendments to s. 43

[15] As noted above, while the inquiry was ongoing s. 43 was amended by the Legislature as follows:[17]

> **Section 43 is amended**
>
> (a) by adding the following paragraph:
>
> (a.1) the behaviour of the applicant is abusive or malicious, and
>
> (b) by striking out "or" at the end of paragraph (b) and by repealing paragraph (c) and substituting the following:
>
> (c) responding to the request would unreasonably interfere with the operations of
>
> (i) the public body, or
>
> (ii) the ministry of the minister responsible for this Act, or
>
> (d) the request is

[15] The respondent seems to suggest, at para. 22 of their submission, that "Order F10-01" supports their position regarding the interplay between ss. 6(1) and 43, although their citation links to *Decision* F10-01, 2010 BCIPC 5. Having reviewed that decision in detail I find it is concerned, almost entirely, with the "custody and control" analysis under ss. 3 and 4 of FIPPA and does not say anything of value regarding the interplay between ss. 6(1) and 43 or that is otherwise supportive of the respondent's submission on this point. Similarly, it is not clear to me that Decision F06-03, 2006 CanLII 13535 (BC IPC) or Order F09-04, 2009 CanLII 14731 (BCIPC), which the respondent cites for similar propositions at para. 28 of their submission, or Decision F09-04, 2009 CanLII 42411 (BC IPC) which I believe the respondent intended to cite, say what the respondent alleges about the interplay between ss. 6(1) and 43.

[16] However, I do find that some of the evidence the respondent puts forward about the history and process of the access request at issue here is relevant to certain of the Ministry's arguments about s. 43 itself, so I have considered and taken account of that evidence where I discuss those arguments, below.

[17] See Bill 9, *supra* note 6 at s. 12.

> (i) an abuse of the right to make a request under section 5 or 29 because the request is repetitious or systematic, or
>
> (ii) excessively broad.

[16] The amendments came into force on May 28, 2026, and expressly apply to access requests received by public bodies prior to that date.[18]

[17] For clarity, prior to the amendments the portions of s. 43 relied on by the Ministry in making its s. 43 application read as follows:[19]

> **43** If the head of a public body asks, the commissioner may authorize the public body to disregard a request under section 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, or
> (ii) is repetitious or systematic.

[18] To my mind, the amendments could potentially impact the outcome of this inquiry in the following three ways:

1) As amended, s. 43 treats "excessively broad" at 43(d)(ii) and "unreasonable interference with the Ministry's operations" at 43(c)(i) as distinct grounds on which I may authorize the Ministry to disregard the access request as opposed to requiring the Ministry to prove both of these elements;
2) As amended, s. 43 says that if the Ministry were able to show that responding to the access request would unreasonably interfere with the operations of the "the ministry of the minister responsible for [FIPPA]," this would also be a ground for me to authorize it to disregard the access request; and,
3) As amended, s. 43 requires the Ministry to show that the access request is an "abuse of the right to make a request under section 5 or 29 [of FIPPA]" in order to rely on the access request being "repetitious or systematic" as a foundation for seeking authorization to disregard the access request.

[18] Bill 9, *ibid* at ss. 27 and 28.
[19] See Ministry's initial submission at paras. 4-5.

[19] I find below that the Ministry's evidence establishes that the access request is "excessively broad" and that responding to it would "unreasonably interfere" with the Ministry's operations. Therefore, it is clear to me that whether the amendments are applied or not the result is the same and, as is set out in detail below, the Ministry is authorized to disregard the access request.

[20] For clarity, and because of the Legislature's clear intention that the amendments apply to access requests received before May 28, 2026, I will refer to the wording and subsection numbers set out in the amendments, not the pre-May 28, 2026, wording or structure of s. 43 through the remainder of this order.

ISSUES

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

1. Would responding to the access request unreasonably interfere with the Ministry's operations under s. 43(c)(i)?
2. Is the access request an abuse of the right of access because it is systematic or repetitious under s. 43(d)(i)?
3. Is the access request "excessively broad" under s. 43(d)(ii)?
4. If none of ss. 43(c)(i), 43(d)(i), or 43(d)(ii) apply in this case, should I nonetheless exercise the residual discretion granted by the words "including because" in s. 43?
5. If the answer to any of the above is "yes," what remedy is appropriate?

[22] Prior orders have established that the Ministry, as the public body seeking relief under s. 43, bears the burden of showing the section properly applies.[20] The parties agree that the Ministry bears the burden in this case, and I find it appropriate to take that same approach here.[21]

DISCUSSION

Background and content of the access request

[23] The Ministry provides services supporting people facing financial hardship across British Columbia. Some of those services relate to income and disability assistance programs designed to help individuals and families meet basic needs such as food, housing, and healthcare.

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[20] See, for example, Order F19-44, 2019 BCIPC 50 at para. 4.

[21] The respondent seems to suggest in their submission that applications under s. 43 are subject to a higher standard of proof than other matters under FIPPA. However, I agree with the Ministry that the appropriate standard of proof under s. 43 is the regular civil standard of the "balance of probabilities" and I have applied that standard at each stage of my analysis below.

[24] The respondent is a private individual who has had ongoing and consistent personal interactions with the Ministry. The respondent made the access request on January 25, 2025, and asked the Ministry to provide records created between June 1, 2006, and the date of the access request which fall within any of the following 14 categories:[22]

> 1. Any and all information pertaining to the rubrics and policies/ adjudicator training materials that are used to evaluate medical eligibility for supplements, disability related medical equipment, and other medical service provisions under the employment and income assistance for persons with disabilities legislation, whether or not the clients are also monthly income assistance clients or just medical services only clients. This includes but is not limited to the training materials for administrative decision makers at each stage of evaluation, including the appeal tribunal. This item pertains to the ministry of Social Development and Poverty Reduction (SDPR) and any related tribunals.
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> 2. Any and all information, including compensation information, pertaining to the operating costs and overhead of the medical services provision within SDPR.
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> 3. Any and all information on how many applications for medical equipment, medical supplements, and medical non-income supplement support as described above, are received, denied, partially approved and approved each year, including how many of these decisions are overturned on appeal with respect to SDPR clients.
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> 4. Any and all information on the overhead and administrative costs of conducting eligibility reviews for employment and income assistance for persons with disabilities, both for existing clients and for applicants who may become clients.
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> 5. Any and all data on the instances of fraud or deliberate misrepresentation that have been identified as part of the eligibility review process, and any reasons that the client may have provided for knowingly providing false information, if it would not violate the client privacy rights, for example, anonymized rates of confirmed fraudulent reporting of household size or relationship status, or any other attested reason.
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> 6. Any and all data related to the financial cost of fraud investigation of persons with disability benefits, whether those benefits include income assistance or just medical services.
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> 7. With regard to SDPR, please include projections as well as the historical data on the aforementioned items above, in terms of financial cost to government in continuing the SDPR medical assistance model.
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> 8. Consistent with items one through 7, please provide all similar information regarding the Ministry of Health's At Home Program for children and youth with disabilities or chronic illnesses. This includes household

[22] Affidavit #1 of FOI Lead at para. 17 and Exhibit "**C**."

> income and asset thresholds if the data is available; the eligibility criteria and adjudication policy guidance and training materials; any data on the rates of clients who are anticipated to have lifelong congenital or traumatic disabilities; versus temporary disabilities that will resolve the need for support. This will also include the overhead cost of the program, including staff compensation cost and fraud investigation related costs. Please also include any and all projections about future costs in so far as they are available.
>
> 9. Similar to above, please also include any appeal rates of success or confirmation with regard to the at home program, including any documentation, training guidance or otherwise, related to relevant appeals tribunals[.]
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> 10. Please include any comparative emails, notes, correspondence, other analysis and briefing notes that may have been created regarding the two programs or indeed the conduct and non-MSP related cost of two ministries of SDPR and Health as it relates to the medical equipment and supplement needs of children, youth and adults, including seniors, clients with non-age related disabilities.
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> 11. Please provide any and all materials including correspondence, emails, briefing notes etc. related to the universal basic income panel which was convened in 2018 and submitted a report in 2022, and why it's recommendations regarding universal basic income were not adopted. Please provide evidence of any and all analysis that was conducted on this report in terms of its relationship to persons with disabilities.
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> 12. Please provide any information and analysis that has been done on the household composition and marital status of adults with disabilities, including any information regarding household composition comparison between adults with disabilities who receive assistance from SDPR as compared to adults with disabilities who don't.
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> 13. If any of the above categories of information are not available, please provide a detailed explanation as to why they are not available or have not been tracked. Please provide explanations as to why these various comparative analysis [sic] have not been done, if in fact they do not exist.
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> 14. Please provide any and all information including notes, emails, correspondence, briefing notes and analyses that have been conducted regarding including physical disability related equipment such as wheelchairs, patient lifts, commodes and other mobility aids in the MSP program regardless of client income level.

[25] The respondent says the information they requested is necessary to support their ongoing personal research into numerous aspects of the Ministry's programs, operations, and processes related, primarily, to supports for individuals with disabilities.

Section 43 – authorization to disregard access requests

[26] Section 43 allows the Commissioner to limit an individual's right of access to information under FIPPA by authorizing a public body to disregard access requests.

[27] Previous orders have clearly established that relief under s. 43 will only be granted in exceptional cases and after a careful consideration of the circumstances.[23] The reason that exercising the power granted in s. 43 is an exceptional remedy is because doing so restricts the public's right to access information under FIPPA. That right is clearly and unequivocally granted by s. 4 and is central to the purposes of FIPPA as set out in s. 2. Therefore, the Commissioner does not restrict it lightly.

[28] However, s. 43 is an important tool at the Commissioner's disposal to guard against abuses of the right of access.[24] Specifically, s. 43 recognizes that when an individual overburdens a public body and its resources, this can interfere with the ability of other members of society to exercise their own access rights under FIPPA.[25] Therefore, there can clearly be situations where imposing restrictions on one individual's right of access is necessary to further FIPPA's aims and purposes more broadly.

Section 43(c)(i) – unreasonable interference

[29] When asking whether responding to an access request would unreasonably interfere with a public body's operations, prior orders have considered the amount of time and effort required for the public body to search for and prepare the requested records for disclosure to the access applicant.[26] Where a public body can establish that searching for records and responding to the access request would impact its ability to honour the rights of other access applicants this will also weigh in favour of a finding of "unreasonable interference" with its operations.[27]

[30] Ultimately, determining whether responding to an access request would unreasonably interfere with a public body's operations under s. 43 involves an objective assessment of the facts, in conjunction with information about the size and nature of the public body's operations.[28]

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[23] See Order F22-08, 2022 BCIPC 8 at para. 29.
[24] *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 [*Crocker*] at para. 33.
[25] See Auth (s. 43) 99-01. Available at https://www.oipc.bc.ca/decisions/170 at pp. 7-8.
[26] Order F22-59, 2022 BCIPC 67 at para. 49.
[27] See, for example, Order F17-18, 2017 BCIPC 19 at para. 40 and Order F13-18, 2013 BCIPC 25 at para. 31.
[28] See *Crocker*, *supra* note 24 at para. 37.

Positions of the parties – "unreasonable interference"

Ministry Submission

[31] The Ministry submits that responding to the access request would unreasonably interfere with its operations. Specifically, the Ministry says that responding to the access request would:

- require an excessive amount of Ministry staff time and would consume a disproportionate share of the Ministry's FIPPA resources, impacting the Ministry's ability to respond to other access requests;[29] and,
- divert a significant amount of staff resources away from critical operational and service-delivery responsibilities, impacting the Ministry's ability to maintain timely program delivery and meet its obligations to its clients.[30]

[32] The Ministry says that a conservative estimate of the staff hours required to respond to the access request would be nearly 10,000 hours. In contrast to the usual 10-20 hours needed to respond to common access requests received by the Ministry.[31] The Ministry says this estimate is based, in part, on the fact that the access request is for records stretching back to 2006 and therefore some of the responsive records are likely to exist only in physical form and would not be able to be digitally searched, collected, and organized.[32]

[33] The Ministry also sets out the practical steps it says are required to properly process and respond to the access request and says that working through these steps would significantly impact the ability of many of its employees across diverse program areas to perform their regular functions.[33]

Respondent Submission

[34] The respondent's arguments regarding "unreasonable interference with the Ministry's operations" are diffused throughout their submission and not neatly organized or clearly and digestibly presented. I also find that elements of these same arguments are repetitive with things the respondent says in response to other aspects of the Ministry's s. 43 application.

[35] I have done my best, in the interest of fairness to the respondent, to parse and summarize their potentially relevant submissions below. As I read the respondent's submission, they say:

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[29] Ministry's initial submission at para. 81, citing Affidavit #1 of the Ministry's Data Officer (Data Officer) at para. 65.
[30] Ministry's initial submission at para. 82, citing Affidavit #1 of Data Officer at para. 65.
[31] Ministry's initial submission at para. 83-84, citing Affidavit #1 of Data Officer at paras. 67-68.
[32] Ministry's initial submission at para. 85, citing Affidavit #1 of Data Officer at para. 69.
[33] Ministry's initial submission at paras. 91-92, citing Affidavit #1 of Data Officer at paras. 75-76.

- The Ministry has not established that any interference with its operations due to responding to the access request would be "unreasonable, as required by *Besler v British Columbia*" (*Besler*)."[34] At most, the Ministry has established "significant interference" with its operations, which is not the test.[35]
- What is to be considered "unreasonable" in a given case must take account of FIPPA's purpose clause at s. 2 and considerations of the public interest.[36] Meeting the standard of "unreasonable interference" is a "high threshold."[37]
- The Ministry's affidavit evidence, specifically where it speaks to the number of staff hours required to search for records and respond to the access request "relies heavily on estimates, assumptions, and extrapolations rather than evidence of … actual interference [with the Ministry's operations]."[38]
- Any "interference" arising from responding to the access request is, at least partly, of the Ministry's own making and this weighs against finding that interference to be "unreasonable."[39]
- The Ministry conflates its arguments regarding "excessively broad" and "unreasonable interference" inappropriately and this undermines those arguments. The respondent says this is inconsistent with prior jurisprudence and OIPC orders.[40]

Ministry Reply

[36] In reply to the respondent, the Ministry says that its evidence, far from being speculative, clearly establishes not only that its assessment of nearly 10,000 hours of staff time being required to respond to the access request is sound, but that this estimate is conservative and the real figure is likely to be higher.[41] Further, the Ministry submits that the authorities cited by the respondent to impugn the Ministry's evidence do not say what the respondent alleges and that prior OIPC orders have clearly accepted the precise kinds of evidence

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[34] Respondent's submission at paras. 2 and 54, citing *Besler v. British Columbia (IPC)*, 2025 BCSC 662 [*Besler*].
[35] Respondent's submission at para. 17.
[36] Respondent's submission at paras. 8 and 58.
[37] Respondent's submission at para. 49.
[38] Respondent's submission at paras. 11, 13, 17, 89-90, 96, 109-110, and 113, among other places. The respondent appears to summarize their position on this point at paras. 161-162.
[39] Respondent's submission at paras. 18-20, 23, 25, 56, and 97, among other places.
[40] Respondent's submission at para. 104, citing *Mazhero v. British Columbia (IPC)*, 1998 CanLII 6010 (BC SC) [*Mazhero*]. See also para. 122, citing Order F23-98, 2023 BCIPC 114 and *Mazhero*.
[41] Ministry's reply submission at paras. 27-29(a-d), citing Affidavit #2 of Data Officer at paras. 10-11.

provided by the Ministry as sufficient to make out a claim of "unreasonable interference with operations."[42]

Analysis and conclusion – "unreasonable interference"

[37] For the reasons that follow, I find the Ministry's evidence establishes that responding to the access request would unreasonably interfere with the Ministry's operations.

[38] In the first place, I do not agree with the respondent that the Ministry's evidence is insufficient to make out its case. Rather, I find that the Ministry's affidavit evidence clearly establishes its reasonable estimate that nearly 10,000 hours of staff time would be required for it to search through potentially responsive records and compile a response to the access request.

[39] I am alive to the fact that what constitutes "unreasonable interference" in a given case is flexible and must take account of the resources and capacity of the public body in question. However, even where a public body is as large and well-resourced as the Ministry, I struggle to see how anyone could reasonably conclude that an unexpected commitment of nearly 10,000 staff-hours to a single file would not overwhelm those resources and impair the public body's ability to fulfill its FIPPA-related obligations in regard of other access applicants.

[40] Further, I am not persuaded by what the respondent implies about an alleged raising of the standard for what constitutes "unreasonable interference" coming out of *Besler.* Having reviewed *Besler* in detail, I find that in considering this issue the court simply restated what is said in prior OIPC orders and by the court in *Crocker v. British Columbia (IPC)*[43] (*Crocker*) and *Mazhero v. British Columbia (IPC)*[44] (*Mazhero*) and did not add anything substantively new to the "unreasonable interference" analysis. *Crocker* and *Mazhero* are not novel authorities but have been considered by the OIPC numerous times and form a foundation for how all of s. 43, including the "unreasonable interference" standard, is generally interpreted.

[41] I am also not persuaded by the respondent's submissions regarding the impact of FIPPA's purpose statement in s. 2 and the "public interest" in disclosure on the interpretation of "unreasonable interference" under s. 43. In *Crocker*, the court considered the interplay between ss. 2 and 43 and held that "the legislative purposes… in s. 2 of [FIPPA] are not a warrant to restrict the meaning of s. 43."[45] The court also noted that there is a freestanding and legitimate "public interest in an efficient, reasonable administration of the scheme

[42] Ministry's reply submission at paras. 31-35, citing Decision F06-03, *supra* note 15 at para. 54 and Order F25-64, 2025 BCIPC 74 at para. 75.
[43] *Crocker*, *supra* note 24.
[44] *Mazhero*, *supra* note 40.
[45] *Crocker*, *supra* note 24 at para. 33.

for [access to information under FIPPA], which in part, ensures that the operation of a public body is not unreasonably interfered with[.]"[46]

[42] I agree with the determination on both of these points in *Crocker* and I find that *Crocker* contradicts the respondent's submission that the "public interest" weighs unilaterally in their favour in this case. I also find that nothing the respondent says about s. 2 or the "public interest" demonstrates that those considerations override the Ministry's evidence of interference with its operations in the manner the respondent suggests.

[43] I accept, as the respondent says, that the standard set out in s. 43 is "unreasonable" interference and that this is a high bar. I also accept that there may be cases where a public body can establish "serious" or "significant" interference with its operations that nonetheless does not clear that bar. However, I find that in this case the Ministry's evidence establishes that responding to the access request would not just "seriously" or "significantly" interfere with its operations but would "unreasonably" do so.[47]

[44] Given the amendments to s. 43, in principle, this is sufficient to conclude my analysis and move on to the appropriate remedy. However, as set out above, I will also consider whether the access request is "excessively broad" because the Ministry would have been required to establish this as well under the pre-amendment language of s. 43.

Section 43(d)(ii) – is the access request "excessively broad"?

[45] Prior orders, including Order F23-98[48] which is leading in this area, say that the relevant question at this stage is whether the request itself is likely to result in an "overwhelming" or "inordinate" amount of responsive material.[49]

[46] Further, these same orders have held that "excessively broad" in s. 43 does not refer to the volume of records that may need to be searched in order to collect responsive records. Considerations of search volume are held to be more relevant to a public body's submissions regarding "unreasonable interference" with its operations due to responding to an access request.[50]

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[46] *Crocker*, *ibid* at para. 29.
[47] I also am not convinced by the respondent's claim that the Ministry is the agent of its own interference. I do not see that anything the respondent says regarding the Ministry's past actions undercuts the Ministry's clear evidence about the impact that responding to the access request would have on its operations.
[48] *Supra* note 40.
[49] Order F25-68, 2025 BCIPC 79 at para. 17, citing Order F23-98, *ibid* at paras. 37 and 39 and Order F24-15, 2024 BCIPC 21 at paras. 30-32. See also *Besler*, *supra* at note 34 at para. 52.
[50] Order F24-15, *ibid* at para. 31, citing Order F23-98, *ibid* at paras. 31-42.

Positions of the parties – "excessively broad"

Ministry Submission

[47] The Ministry follows two distinct lines of argument in attempting to show the access request is "excessively broad." First, the Ministry submits that the access request is clearly "excessively broad" in line with prior OIPC orders because responding to it will generate an "overwhelming" and "inordinate" amount of responsive material. Second, the Ministry submits that insofar as they focus on the amount of responsive material as opposed to the breadth and scope of the access request itself, Order F23-98 and the orders following it are wrongly decided and inconsistent with a proper interpretation of s. 43 and of FIPPA more broadly.

[48] Concerning the likely amount of responsive material, the Ministry says that it has developed detailed response estimates regarding two of the 14 categories contained in the access request.[51] Based on evidence provided by members of the Ministry's Freedom of Information team, the Ministry estimates that a proper response to these two categories would give rise to nearly 600,000 pages of responsive records.[52] The Ministry says this is in excess of what prior orders indicate as "overwhelming" for a public body and therefore that the entire access request clearly meets the standard of "excessively broad."[53]

[49] The Ministry's second argument is that an interpretation of "excessively broad" that focuses on the scope of the access request itself, not just the amount of responsive material, is preferable.[54] In support of this position, the Ministry advances the following series of arguments:

- In Order F23-98, the adjudicator incorrectly relied on three orders from the Ontario privacy commissioner's office, none of which supports the adjudicator's interpretation of "excessively broad" as concerning only the amount of responsive material;
- Order F23-98's focus on the amount of responsive material as opposed to search volume is inconsistent with how the volume of records is considered and assessed in relation to other sections of FIPPA, primarily s. 10(1)(b) which deals with time extensions for public bodies responding to access requests;
- The specific wording in s. 43(c)(i), prior to amendment, does not support the conclusion in Order F23-98 that the amount of responsive material is relevant to "excessively broad," but search volume is only relevant to "unreasonable interference";

[51] Categories 1 and 11 of the access request.
[52] Ministry's initial submission at paras. 56-62, citing Affidavit #1 of Data Officer at paras. 25 and 50-51.
[53] Ministry's initial submission at paras. 55 and 62, citing Order F25-64, *supra* note 42 at paras. 42-50 and Order F25-74, 2025 BCIPC 87 at para. 51.
[54] Ministry's initial submission at paras. 27-28.

- This same conclusion is overly narrow and therefore inconsistent with s. 8 of the *Interpretation Act*[55] which explains that statutory language ought to be interpreted in a manner that is "fair, large, and liberal";
- Prior orders have implicitly considered search volume at the "excessively broad" stage and grounded their findings in this criterion. These same orders seem to accept the Ministry's proposal that a determination that an access request is "excessively broad" can be grounded in a rational analysis of the scope of the access request itself and not only in a factual determination regarding the amount of responsive material;[56]
- When FIPPA's purposes and the purpose of s. 43 are taken into account, general principles of statutory interpretation clearly support the interpretation of "excessively broad" put forward by the Ministry.[57]

[50] The Ministry says that the access request at issue here is excessively broad in its scope and therefore comes within the interpretation of "excessively broad" advanced by the Ministry. In making this point the Ministry specifically points to the temporal scope of the access request, the number of distinct topics canvassed in the access request, the lack of any limitation regarding record type or format, and the respondent's consistent use of what the Ministry says are catch-all phrases such as "any and all [information/data/materials]" in the access request.[58]

Respondent Submission

[51] As with their submissions regarding "unreasonable interference," the respondent's submissions regarding "excessively broad" are diffuse and difficult to parse. I also find that they overlap significantly with the respondent's submissions on "unreasonable interference" and other aspects of the Ministry's s. 43 application.

[52] Again here, in fairness to the respondent, I have attempted to elucidate what I see as the key points or throughlines in their submission that are distinctly relevant to this issue.[59] Broadly speaking, I find the respondent's explanation of why the access request is not "excessively broad" is summarized at paragraph 31 of their submission so I begin by quoting that paragraph directly,

> The Ministry repeatedly describes the request as sweepingly worded, broadly articulated, and likely to capture tangential records. It asserts that the request is articulated to capture the broadest possible scope of information and that it is likely to capture records that are only tangentially

[55] RSBC 1996, c. 238.
[56] Ministry's initial submission at paras. 40-42, citing Order F25-41, 2025 BCIPC 49 at paras. 14 and 18; Order F25-68, *supra* note 49 at paras. 22 and 26.
[57] Ministry's initial submission at paras. 43-50.
[58] Ministry's initial submission at paras. 63-65.
[59] Given the overlap between some of the respondent's arguments on "excessively broad" and "unreasonable interference" I will not consider in detail here any arguments which I already disposed of entirely when considering "unreasonable interference," above.

> related to the subject matter. These descriptions do not reflect the actual structure or content of the request. The request is organized into discrete, subject-specific paragraphs, each of which targets a well-defined category of records relating to the administration, evolution, and legal compliance of disability-related programs. The request does not seek all records held by the Ministry, nor does it contain open-ended language such as all records relating to disability programs. Instead, each paragraph identifies a specific program area, function, or dataset.

[53] In attempting to support and make out this point more fully, the respondent says the following,

- The Ministry's affidavit evidence regarding the amount of responsive material "relies heavily on estimates, assumptions, and extrapolations rather than evidence of actual responsive volume[.]"[60] The respondent takes specific issue with the Ministry's decision to only provide detailed volume estimates regarding responding to two of the 14 categories set out in the access request as opposed to estimates regarding all 14 categories.[61]
- The temporal and topic scope of the access request are necessary to fulfill the specific research objectives underlying the access request and are therefore not evidence that the request is "excessively broad".[62]
- The Ministry's evidence does not properly distinguish between the amount of responsive material and the number of records it must search through and therefore is insufficient to establish "excessively broad" as that term is interpreted in Order F23-98.[63]
- The Ministry's submissions regarding the need to reinterpret the meaning of "excessively broad" are not well-founded and are inconsistent with prior authorities and the purposes of FIPPA.[64]

Ministry Reply

[54] In reply, the Ministry says the respondent is mistaken and its evidence clearly establishes an overwhelming amount of responsive material and not merely a potentially overwhelming search volume as the respondent alleges.[65] The Ministry also defends its position that focusing on two of the 14 categories in the access request was reasonable and appropriate.[66] Based on this, the Ministry

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[60] Respondent's submission at paras. 11, 13, 17, 89-90, 96, 109-110, and 113, among other places. The respondent appears to summarize their position on this point at paras. 161-162.
[61] Respondent's submission at para. 12.
[62] Respondent's submission at paras. 4, 33, and 139-154.
[63] Respondent's submission at paras. 158-159.
[64] Respondent's submission at paras. 14 and 39-48, among other places.
[65] Ministry's reply submission at paras. 5-11, citing Affidavit #1 of Data Officer at paras. 23, 26, 41, 51, and 77; Affidavit #2 of Data Officer at paras. 2, 3, 6-8, 10, and Exhibit "**A**."
[66] Ministry's reply submission at paras. 12-21, citing Affidavit #2 of Data Officer at paras. 3-5, 7-9, and Exhibit "**A**."

submits that nothing the respondent says negates the Ministry's clear evidence that the access request is "excessively broad." The Ministry also restates some of its submissions regarding the need for a new interpretation of "excessively broad" and says the fact it needed to create estimates regarding the amount of responsive material in this case underscores this need.[67]

Analysis and conclusion – "excessively broad"

[55] For the reasons that follow, I find the Ministry's evidence establishes that the access request is "excessively broad" because a proper response to it would involve an "overwhelming" and "inordinate" amount of responsive material.

[56] Given this, it is not necessary for me to consider the Ministry's submission that prior orders focusing on these elements are wrongly decided and I decline to do so. Further, in my view, the Ministry's arguments about the need to reinterpret "excessively broad" may have less relevance in light of the s. 43 amendments. Those amendments establish "unreasonable interference with a public body's operations" as a standalone ground for an application to disregard an access request under s. 43(c)(i). This, at least partly, ameliorates the Ministry's concern that evidence showing only that responding to an access request would require a public body to search through an "overwhelming" or "inordinate" volume of records was not previously sufficient for the public body to make out an application under s. 43.

[57] Moving on, as above I am not persuaded by what the respondent says about any alleged insufficiency in the Ministry's evidence. Rather, I find the Ministry's affidavit evidence clearly explains the process the Ministry took in determining the likely amount of responsive material regarding a specific portion of the access request. I also accept the Ministry's evidence that responding to this portion of the request is likely to involve nearly 600,000 pages of records.

[58] Furthermore, the word "excessively" in "excessively broad" has clearly been interpreted by Order F23-98 as meaning "productive of an *excessive* amount of responsive material." Not "in *excess* of the underlying needs of the access applicant." Given this, I find the respondent's submission that the underlying purpose of the access request precludes the Ministry from advancing certain kinds of evidence to be without a foundation and I do not accept it.

[59] I also do not see the impact of the respondent's submissions regarding the Ministry's choice to focus on two of the 14 categories set out in the access request in making its estimates and preparing its evidence on the likely amount of responsive material. The respondent is consistent in their position that the access request must be treated as a single request for 14 categories of records and not as 14 distinct access requests submitted concurrently. Honouring the respondent's position, it is clear to me that if responding to a portion of the access request would involve an "overwhelming" or "inordinate" amount of

[67] Ministry's reply submission at paras. 22-23.

responsive material, then responding to the entire access request would logically involve *an even larger amount of material*.

[60] Having accepted the Ministry's evidence for the reasons set out above, it is clear to me, on its face, that nearly 600,000 pages is an "overwhelming" and "inordinate" amount of responsive material. Further, this number is more than an order of magnitude beyond what prior orders, including those cited by the Ministry, have considered sufficient to render an access request "excessively broad."

[61] Taking all of the above together, I find the Ministry has established that the access request is "excessively broad." Given this finding and my finding above regarding "unreasonable interference," the Ministry has met the requirements of s. 43 in both its pre- and post-amendment form and I find that I do not need to consider what the Ministry says about the allegedly "systematic or repetitious" nature of the access request or my residual discretion under s. 43.

What remedy is appropriate?

[62] The Ministry is not seeking prospective, or future-looking, relief and asks only that if I find s. 43 applies in this case, I authorize it to disregard the access request.[68]

[63] The respondent makes a series of diffuse submissions which I find address whether any remedy should be provided to the Ministry even if it has technically made out its case under s. 43. The respondent's relevant arguments can be summarized as follows,[69]

- The respondent says the information they have requested is necessary to assess whether specific decisions made by the Ministry and related public bodies "… are made, or whether [those decisions comply] with statutory obligations, *Charter* values, or principles of administrative fairness."[70] On this basis, the respondent says that the Ministry "cannot rely on section 43 to prevent access to the very records necessary to evaluate legality, fairness, and compliance with *Charter* values."[71]
- As noted above and throughout, the respondent makes consistent reference to the general merit of their underlying purpose in making the access request and implies this weighs against granting the Ministry a remedy.[72]
- Finally, the respondent says the Ministry's request for s. 43 relief is not sufficiently attuned to the public interest in disclosure and does not take

[68] Ministry's initial submission at para. 114.
[69] I have dealt and disposed of some of the relevant arguments under separate headings above and will not repeat or consider them again here.
[70] Respondent's submission at para. 139 and Appendix "**B**."
[71] Respondent's submission at paras. 141 and 145.
[72] Respondent's submission at paras. 70-72 and 126-132, among other places.

> sufficient account of FIPPA's statutory presumption in favour of access.[73]

[64] I have read everything the respondent says regarding these topics and reviewed all the authorities they cite. However, for the reasons that follow, I find the respondent has not established that it would be inappropriate for me to grant the Ministry authorization to disregard the access request at issue.

[65] At the outset, I note that the respondent does not provide any example of an OIPC order where the adjudicator found s. 43 applied to an access request but nonetheless declined, on grounds of discretion, to authorize the public body to disregard the request. From my own brief research on this topic, I did not find any such order. This is not singularly dispositive of the appropriate course in this case, but I do find that consistency and regularity with how prior orders have considered remedies under s. 43 weighs in favour of granting the relief sought by the Ministry.

[66] Further, I find that the respondent relies on *Mazhero* as the foundation for most of the submissions set out above and repeatedly states that the court in that case held that s. 43 must not be applied in a manner that would "wholly deprive" an access applicant of their access rights.

[67] However, I do not see that the quotation the respondent ascribes to *Mazhero* actually appears anywhere in that case. Further, I find the statement in *Mazhero* which most nearly approximates the sentiment expressed by the respondent was clearly delivered in the context of requests under s. 43 for "prospective" relief, such as barring an access applicant from making future access requests.[74] I find that similar statements in *Crocker*, which preceded *Mazhero* and was relied on by the judge in *Mazhero*, clearly also concerned circumstances where a public body had been granted prospective relief under s. 43 and not simply authorization to disregard a specific access request.[75]

[68] As noted, the Ministry has not requested any prospective relief. In this context, it is difficult to see what foundation *Mazhero* provides for the respondent's broad submission that granting the Ministry's requested remedy would be inappropriate in this case.

[69] Even if I am wrong and the language on remedy in *Mazhero* and *Crocker* applies with equal force where no prospective relief is sought by the public body, it is still not clear to me based on the respondent's submissions and evidence that authorizing the Ministry to disregard the access request would be inappropriate. I accept that the respondent may not be able to fulfill their research

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[73] Respondent's submission at paras. 126-138.
[74] *Mazhero*, *supra* note 40 at para. 27.
[75] See *Crocker*, *supra* note 24 at para. 45 where the court speaks about the need for *prospective relief* to redress the harm the public body is seeking to remedy without being "wholly disproportionate" to that harm but does not turn its mind to authorization to disregard *simpliciter* in the same context.

goals without access to all the records they have requested. However, nothing the respondent says convinces me that they would be unable to access those records via alternative means that are respectful of the Ministry's legitimate concerns regarding scope, specificity, and resource capture.

[70] Therefore, I do not see how granting the relief requested by the Ministry could be construed as "effectively depriving" the respondent of their access rights as the court warned against in *Mazhero*,[76] or how that relief is "wholly disproportionate" to the harm the Ministry is seeking to redress via this application, as warned against in *Crocker*.[77] For the same reasons, I also do not see that granting the relief requested by the Ministry would "prevent access" to the records in the manner the respondent suggests in their submission regarding the impact of *Charter*[78] values on the appropriate remedy in this case.

[71] Finally, I find the respondent relies on Order F23-98 for the proposition that a public interest purpose in making an access request "weighs against granting section 43 relief." However, the respondent does not provide a direct citation to the allegedly relevant portion of Order F23-98 and, having reviewed that order, it is not clear to me that it says what the respondent alleges. Further, as noted above, I find that *Crocker* casts significant doubt on the respondent's submission that concerns over the "public interest" weigh unilaterally in favour of the respondent's position on remedies under s. 43.[79]

[72] Taking all of this together, I find the appropriate remedy in this case is to authorize the Ministry to disregard the access request.

CONCLUSION

[73] For the reasons given above, under s. 43 of FIPPA, I authorize the Ministry to disregard the respondent's January 25, 2025, access request.

June 17, 2026

ORIGINAL SIGNED BY

Alexander Corley, Adjudicator

OIPC File No.: F25-02635

[76] *Mazhero*, *supra* note 40 at para. 27.
[77] *Crocker*, *supra* note 24 at para. 45. See also *Besler*, *supra* note 34 at para. 56.
[78] *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c. 11.
[79] See *Crocker*, *supra* note 24 at para. 29, as briefly discussed above at paras. 41-42 of this Order.