



## **F06-04-MS                      Persistent Lawyer Gets ICBC Engineering Records**

A lawyer representing a driver involved in an accident at a four-way stop asked ICBC for copies of all records related to his client's accident. After receiving the records, the lawyer complained to our office that ICBC had not searched for all the records that were responsive to his request. We opened an "adequate search" complaint file to investigate whether ICBC had fulfilled its obligation to conduct a "complete" search for records under section 6 of the *Freedom of Information and Protection of Privacy Act*.

The lawyer told us that ICBC had contracted with an independent engineer to analyze the accident and help determine fault. The lawyer argued that the records obtained or created by the engineer in his work to provide the analysis were the property of ICBC and therefore should have been included in the records that ICBC released. Section 3 of FIPPA states that the Act applies to all records "in the custody or under the control of" a public body.

ICBC told us that the engineer's source records were not included in their search for responsive records because it had not been their practice to include these records in the adjuster's files. Typically, just the engineer's final analysis or results end up being part of the adjuster's file. We concluded that the engineer's records were under the control of ICBC and should have been included in ICBC's records. ICBC accepted this conclusion and, in this case, agreed to release the engineer's records to the applicant.