



064472

No.

..... Registry

In the Supreme Court of British Columbia

In the Matter of the decision of the Office of Information and Privacy Commissioner dated June 12, 2025 in OIPC File No. F24-02690 and Order F25-43, and in the matter of the Judicial Review Procedure Act, RSBC 1996, c 24

Between

Derek Pyne

Petitioner(s)

INFORMATION AND PRIVACY COMMISSIONER OF BRITISH COLUMBIA

Respondent(s)

PETITION TO THE COURT

ON NOTICE TO:

INFORMATION AND PRIVACY COMMISSIONER OF BRITISH COLUMBIA
4th Floor – 947 Fort Street
Victoria, B.C. V8V 3K3
info@oipc.bc.ca

And
Thompson Rivers University
805 TRU Way
Kamloops, BC, Canada
V2C 0C8
privacy@tru.ca

The address of the registry is

KAMLOOPS REGISTRY
223 - 455 Columbia Street
Kamloops, BC
V2C 6K4

The petitioner(s) estimate(s) that the hearing of the petition will take

One day, or less

[Check whichever one of the following boxes is correct.]

This matter is an application for judicial review.

[] This matter is not an application for judicial review.

This proceeding is brought for the relief set out in Part 1 below, by

[Check whichever one of the following boxes is correct and complete any required information.]

- the person(s) named as petitioner(s) in the style of proceedings above
[name(s)].....(the petitioner(s))

If you intend to respond to this petition, you or your lawyer must

- a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- b) serve on the petitioner(s)
 - i. 2 copies of the filed response to petition, and
 - ii. 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

- a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- c) if you were served with the petition anywhere else, within 49 days after that service, or
- d) if the time for response has been set by order of the court, within that time.

(1)	The ADDRESS FOR SERVICE of the petitioner(s) is: Derek Pyne 110-670 McBeth Place Kamloops, BC V2C 5V9 Fax number address for service (if any) of the petitioner(s): E-mail address for service (if any) of the petitioner(s): DerekPyne@shaw.ca
(2)	The name and office address of the petitioner's(s') lawyer is: Self represented

Claim of the Petitioner(s)

Part 1: ORDER(S) SOUGHT

1. An order in the nature of certiorari under section 2(2)(a) and section 3 of the Judicial Review Procedure Act, RSBC 1996, c.241 (the "JRPA"), quashing the Order of the Information and Privacy Commissioner for British Columbia (the "Commissioner"), OIPC File No. F24-02690, Order F25-43 (the "Order").
2. A declaration under section 2(2)(b) of the JRPA that in the present case, OIPC allow the petitioner's ongoing files to continue through OIPC processes.
3. Alternatively, an order remitting this matter back to the Commissioner for a rehearing in light of this Court's reasons, as allowed under Section 5 of JRPA.
4. Such further and other relief as this Court may deem just.

Part 2: FACTUAL BASIS

1. On October 7, 2024, OPIC's Director of Adjudication, Elizabeth Barker wrote in a letter that OPIC would hold an inquiry under Section 56(1) of FIPPA to address the following questions (page 2):

- "1. Is Dr. Pyne's use of FIPPA an abuse of process?
2. If yes, and Dr. Pyne's use of FIPPA is an abuse of process, what present and/or prospective remedy, if any, is appropriate?"

2. It went on to state (Page 2)

Both parties' initial submissions are due by October 29, 2024.

Both parties' response submissions are due by November 13, 2024.

Submissions should not exceed 25 pages in length.

3. On January 14, 2025, the adjudicator handling the case, Rene Kimmett, gave a submission date for both parties of Friday, January 31, 2025, to provide supporting material. On January 30, 2025, the adjudicator sent a letter extending this submission deadline to "Monday, February 10, 2025 at 8AM".

4. On June 12, 2025, OIPC issued order Order F25-43 which found that I had engaged in abuse of process and canceled my remaining files.

5. The order contains both legal errors and unreasonable findings, which I will discuss in the legal basis section.

6. I will address the number of FOIs I filed, as this seems to be a point raised in a few places in Order 25-43.

7. One reason stated in my submission was to provide focus. For example, for the personal information requested, I could have asked for all documents TRU had that mentioned my name but this would have produced thousands of pages of documents. Many/most would have been material that I would have had no interest in. It would also have made it difficult for me to respond to TRU submissions as I would never be sure what type of withheld documents they were referring to.

8. When informed that my requests involved overlapping material, I always told inquires that I did not want to re-adjudicate the same material twice. If I was told this by investigators, I was always willing to exclude the material during the mediation process. I was also willing to withdraw my OPIC files when investigators informed me that they material I was expecting was not included in the materials.

8. Also related to the focus issue, it also would have created problems for the non-personal FOIs. For example. for my research on predatory journals, given that TRU denies the findings of American courts on OMICS International, they likely would have returned nothing if I had just asked for all payments they had made for predatory publications and journals.

9. I will also note that my providing focus, made TRU's job easier in locating the information. Indeed, early on TRU's then privacy office recommended my doing this rather than submitting broad FOIs.

10. Cost was also an issue. Most of smallest FOIs for non-personal information (like the predatory publishing material) were to avoid TRU being able to charge me for the time spent searching for information. Indeed, FIPPA was effectively set up to encourage such smaller requests (they later changed the rules but my FOIs were filed under the older version of FIPPA). To fault me for taking advantage of the structure encouraged by FIPPA is unreasonable.

11. In many cases, TRU actions inspiring my FOI requests had not taken place when I filed my first FOI's, making it impossible for me to anticipate them. As just one example, the Order highlights the file underlying Order F24-81 which I could not have anticipated until later 2022, when I filed the FOI.

12. One key point, I made in my submissions is that smaller submissions allow for learning-by-doing

opportunities. When I did bring up similar issues in later inquiries, I attempted to address arguments adjudicators made in earlier Orders. I will elaborate on this point below.

13. Also, a few of the requests were to obtain information needed to support enquiries for other requests. In a few cases, these resulted in my obtaining the information in other enquiries. Given that OIPC enquiries do not have a discovery process, it is unreasonable to hold these requests against me.

14. OIPC broke with their normal practice of not naming FOI applicants. On July 19, 2025 an article on this Order appeared in infotel.ca, an online media outlet, clearly naming me.

Landry, Levi 2025. Former professor using Freedom of Information to 'air grievances' with TRU. *iNFOnews*, July 19, 2025. <https://infotel.ca/newsitem/former-professor-using-freedom-of-information-to-air-grievances-with-tru/it109905>

15. It is doubtful that TRU would want to remind the public of their history of predatory publications. I had told no one in Canada about the case. This makes OIPC the only other possible source of information.

16. This OIPC action removed the only reason I had been hesitant about asking for a juridical review.

Part 3: LEGAL BASIS

1. Below I largely refer to issues in the sequence they are brought up in the Order. First I will deal with legal errors and then I will move on to unreasonableness.
2. The Order 25-43 claims that there is “no formal burden of proof” in the proceedings (paragraph 18). The only citation they give to support this position specifies an order of submissions not followed in this case:

“As should be, the party that brought the proceeding that is put at risk by the question is invited to make its arguments first and, is thereby given the right of reply. (Dugré v. Canada (Attorney General), 2021 FCA 8 (CanLII) at paragraph 30)”
3. Instead submissions were done simultaneously in this case. It is unreasonable to cite a case that involved procedures that were not followed in this case. It also demonstrates a legal error in the order of submissions OIPC specified. Indeed, this legal error exists independently of the burden of proof issue. I should have been giving the opportunity to respond to each of TRU's submissions. Clearly, the adjudicator was aware of the submission issue as he cites the paragraphs from this previous case.
4. I will also note that Section 57 of FIPPA allocates burdens of proof and does not seem to make any exceptions. This legislation would override the case law cited in the Order. Otherwise, the legislation would have specified that there was no burden of proof in cases such as this.
5. I will also note that no previous OIPC case concerning Section 56 of FIPPA has had a formal burden of proof specified.
6. Now I will turn to points that I believe were unreasonable.
7. In paragraph 73, the order quotes from my submission and claims the issues were not related to the issues discussed in the inquiry. In paragraph 74 it claims that I acknowledge that. This is a mischaracterization. The quotations relate to TRU's argument in their submission that they were considering filing a section 43 claim:

“TRU is in the process of considering whether Dr. Pyne's access requests relating to the travel records of female faculty members will be the subject of a Section 43 FOIPPA Application. TRU continues to require legal advice in relation to that determination. Accordingly, TRU requests additional time to make the determination relating to a Section 43 Application.”
8. I agree that TRU's Section 43 claims were not relevant. The adjudicator in that case also seemed to support my position here. Nonetheless, for this adjudicator to fault me for responding to an irrelevant argument made by TRU is unreasonable. I supposed that I could have just stated that TRU's arguments were irrelevant but if I had just done that, I

would have risked the adjudicator claiming that my statement was unsupported by evidence. I have found that OIPC adjudicators often do this. I felt providing arguments and evidence was the safer course of action in my submission.

9. This material also related to the purposes of the FIPPA as set out in Section 2, which at the time, I thought would be relevant. This is clear from reading my submission. I have since learned that the stated purpose of FIPPA carries little weight at OIPC but I think it is unreasonable to fault me for not knowing this at the time. My only previous experience with such submissions was with the BC Labour Relations Board where they often use the stated aims of the act to deny fair representation complaints. It was not unreasonable to assume this principle would apply to other Acts. When I realized it did not apply to FIPPA, I only made such arguments for the most clear-cut cases.
10. Later, the adjudicator claims that I continued making multiple submission about perjury allegations and implies that I made the same arguments each time. Rather, the fact is that I altered the arguments to address points previous adjudicators had made.
11. For example, Order 24-77 paragraph 15 stated:

“Moreover, the Legal Counsel is a practicing lawyer who has a professional obligation to ensure privilege is properly claimed; some deference is owed to the lawyer claiming the privilege.”
12. This told me that I would have to provide examples of why this “deference” should not apply to TRU lawyers. Thus, I brought up the Blackford Affidavit claiming that materials had been privileged when they where not. I did this simply by referring to earlier inquiries.
13. Later, in a June 14, 2024 letter, Adjudicator Erika Syrotuck stated:

It may be helpful for the applicant to note that the Instructions for Written Inquiries (Instructions) state that parties must include a copy of any supporting documents in their submissions. In general, it is not sufficient to place material from past inquiries before an adjudicator simply by referring to it.
14. I had not realized that materials that all parties already had, would have to be resupplied but I did so after receiving this letter.
15. Thus, for the inquiry that resulted in Order 24-81, I submitted hundreds of pages of documentation that OIPC already had regarding perjury. However, once again the goal posts changed. In the case of Witness X (Peter Tsigaris), the adjudicator claimed at paragraph 11 that:

I also find it relevant that the kind of evidence at issue in the two inquiries is substantially different. While the applicant challenges factual statements Witness X made about records related to Order F22-48, the in camera evidence in this inquiry relates to Witness X’s feelings and personal circumstances.
16. At the same time for the legal privilege issues I had raised, the adjudicator for Order 24-81 in paragraphs 36-39 claimed that she had reviewed the material redacted under Section 14, despite TRU claiming in both of their submissions that they had not provided OIPC with this material. I filed an FOI request to see whether this meant that *ex parte* communications took place between TRU and OIPC. However, it turns out that OIPC is effectively allowed to have secret *ex parte* communications with one party.
17. If this issue come up again, I will have to consider how to address both the new position being applied by OIPC and the possibility of a stated review of records not supplied to OIPC. Regardless, it is unreasonable to claim that I cannot make new arguments at inquires to address points made in previous Orders.
18. I will also note that it perhaps would not be necessary to raise these new arguments at later inquires if I had been given the same opportunities to present additional evidence that TRU has received. In multiple inquires, TRU was invited to supply evidence they did not supply in their submissions, sometimes multiple times during a given enquiry (e.g. OIPC file numbers F20-81975, F21-86387, F21-86667, F21-87179). The only time I was ever given such an opportunity was in this inquiry and I suspect that was because even OIPC knew it would be blatantly unreasonable to give TRU the opportunity to provide documents and not myself.
19. This double standard for submitting extra materials is unreasonable. In connection with other material TRU claimed was subject to legal privilege material, I did sometimes successfully

- receive such material in files before OIPC.
20. In several places the Order states that I acknowledge that parts of my arguments are not relevant to the issues involved in the proceedings (e.g. paragraphs 74, 75, 85, 86). However, I am responding to points brought up in TRU's submission. Yes, I admitted that I was responding to irrelevant points. Nonetheless, I have had enough experience with OIPC to know that if I did not respond, the TRU points would likely be accepted. To blame me for responding to irrelevant points brought up by TRU is unreasonable.
 21. The adjudicator also seems to take issue with my explaining what predatory journals are (paragraphs 73). Clearly giving background information on what is being asked for in an FOI request is relevant.
 22. Finally, the adjudicator was inconsistent in the material he allowed and considered. For example, in his January 14, 2025, he indicated that he would not consider mediation material, claiming such items are "usually provided on a without prejudice basis." (which is never stated). Nonetheless, the analysis section of the order quotes from my letter to him about *in camera* material and uses it in a way detrimental to my position.
 23. Not only is the inconsistency unreasonable (and depending on the motivation involved, possibly biased) but the fact that I am not covered by FIPPA provides an additional reason for it to be unreasonable. I could find no case law covering such applications and thus, I was not only being honest but forced into the position of casting a wide net.
 24. In addition, OPIC was unreasonable when it leaked this story to the media and provided my name which was not part of the Order. This is not their usual practice. Besides being unreasonable, it may also indicate bias.

Part 4: MATERIAL TO BE RELIED ON

1. The complete record of the proceedings before the OIPC in the Inquiry (Records to be provided by the OIPC, as previous petitions have stated);
2. Freedom of Information and Protection of Privacy Act, Judicial Review Procedure Act and such further and other material as may be advisable or needed to address the response to this petition and that this Court may accept.

Date: 28/7/25

Derek Pinn

Signature of

petitioner lawyer for petitioner(s)

To be completed by the court only:

Order made

- in the terms requested in paragraphsof Part 1 of this petition
- with the following variations and additional terms:

.....
.....
.....

Date:

.....
Signature of Judge Associate
Judge