



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
— for —
British Columbia

Decision F09-03

ABBOTSFORD POLICE DEPARTMENT

Celia Francis, Senior Adjudicator

March 4, 2009

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Summary: The APD's request that an inquiry not be held is granted.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 56.

Authorities Considered: B.C.: Decision F07-04, [2007] B.C.I.P.C.D. No. 20; Decision F08-08, [2008] B.C.I.P.C.D. No. 26; Decision F08-11, [2008] B.C.I.P.C.D. No. 36; Order 00-42, [2000] B.C.I.P.C.D. No. 46; Order 01-19, [2001] B.C.I.P.C.D. No. 20; Order F09-03, [2009] B.C.I.P.C.D. No. 5.

1.0 INTRODUCTION

[1] The Abbotsford Police Department ("APD") has asked that, under s. 56 of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), an inquiry on the respondent's request for review not be held respecting his request for records. For reasons which follow, I have exercised my discretion to grant the APD's request.

2.0 DISCUSSION

The access request

[2] The respondent requested access to a specific APD file which concerned a number of allegations he had made against his former spouse and others, but which the APD declined to investigate. The APD disclosed most of the seven pages of records in the file with the exception of some minor severing of information under ss. 15(1)(a) and 22. Mediation of the respondent's request for review led to the disclosure of the s. 15(1)(a) information but left the s. 22 issue

unresolved. When the respondent requested that the matter proceed to inquiry under Part 5 of FIPPA, the APD asked, under s. 56, that the inquiry not proceed.

Parties' arguments

[3] The APD argued that s. 22(1) clearly applies to a third party's name, date of birth, address, telephone number and ethnicity.¹

[4] The respondent said his request stemmed from the APD's "blatant refusals" to investigate "allegations of pre-mediated wrong-doing" on the part of the third parties. In his view, s. 22 "is a deflated balloon of surmise and conjecture".²

[5] The APD argued in its reply that the respondent's arguments are not related to the FIPPA issues in this case but to his dissatisfaction with the APD's investigation of his allegations.³

Issue

[6] Section 56(1) of the Act reads as follows:

Inquiry by Commissioner

56(1) If the matter is not referred to a mediator or is not settled under section 53, the commissioner may conduct an inquiry and decide all questions of fact and law arising in the course of the inquiry.

[7] A number of previous decisions and orders have laid out the principles for the exercise of discretion under s. 56.⁴ I have taken the same approach here without repetition.

Analysis

[8] Section 22 requires public bodies to withhold personal information where its disclosure would be an unreasonable invasion of third-party privacy. The APD has accurately described the severed information and I note that previous orders have confirmed that s. 22 applies to this kind of third-party personal information.⁵

¹ Letter of January 26, 2009.

² Letter of February 9, 2009.

³ Letter of February 20, 2009.

⁴ See, for example, Decision F07-04, [2007] B.C.I.P.C.D. No. 20, Decision F08-08, [2008] B.C.I.P.C.D. No. 26, and Decision F08-11, [2008] B.C.I.P.C.D. No. 36.

⁵ See for example, Order 00-42, [2000] B.C.I.P.C.D. No. 46, Order 01-19, [2001] B.C.I.P.C.D. No. 20.

[9] The withheld personal information in this case is also similar in character to information I recently confirmed should be withheld under s. 22 in Order F09-03,⁶ a case involving this respondent and the APD.

[10] I recognize that the respondent does not have the burden of showing why an inquiry in this case should proceed. However, he has not provided a “cogent basis” for arguing that s. 22 does not apply in this case and why, particularly in light of previous orders on this type of third-party personal information, an inquiry should proceed.

[11] I agree with the APD that the respondent’s principal grievance appears to be with the APD’s conduct of its investigation into his allegations. This, however, does not suffice to establish a basis for concluding that an inquiry in this case would have a different result from previous orders on this topic. I find it plain and obvious that s. 22(1) applies here and there are no arguable issues that merit an inquiry.

3.0 CONCLUSION

[12] For reasons given above, this matter will not proceed to an inquiry under Part 5 of FIPPA. This Office’s file on the review will be closed.

March 4, 2009

ORIGINAL SIGNED BY

Celia Francis
Senior Adjudicator

OIPC File: F08-34391

⁶ [2009] B.C.I.P.C.D. No. 5.