Order F16-50

MINISTRY OF FINANCE

Carol Whittome
Adjudicator

December 5, 2016

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Summary: The applicant requested all reports of the Internal Audit and Advisory Services Unit and the Special Investigations Unit issued by the Ministry of Finance's Comptroller General within a particular time frame. The applicant further requested the records be released pursuant to s. 25 (clearly in the public interest). The Ministry of Finance identified investigation reports responsive to the request but withheld them in their entirety pursuant to s. 14 (solicitor client privilege) and s. 22 (harm to personal privacy). The adjudicator did not consider s. 14, as she determined that the Ministry is required to refuse to disclose the majority of the information withheld under s. 22. The adjudicator further determined that s. 25 did not apply to the records.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 4(2), 14, 22 and 25.

Authorities Considered: B.C.: Order 02-38, 2002 CanLII 42472 (BC IPC); Order F16-06, 2016 BCIPC 7 (CanLII); Order No. 165-1997, 1997 CanLII 754 (BC IPC); Order F15-64, 2015 BCIPC 70 (CanLII); Investigation Report F16-02, 2016 BCIPC 36 (CanLII); Order F15-17, 2015 BCIPC 18 (CanLII); Order F13-09, 2013 BCIPC 10 (CanLII); Order F14-41, 2014 BCIPC 44 (CanLII); Order F08-16, 2008 CanLII 57359 (BC IPC); Order 03-41, 2003 CanLII 49220 (BC IPC); Order F14-45, 2014 BCIPC 48 (CanLII); Order 01-53, 2001 CanLII 21607 (BC IPC); Order 01-07, 2001 CanLII 21561 (BC IPC); Order F14-10, 2014 BCIPC 12 (CanLII); Order F12-12, 2012 BCIPC 17 (CanLII); Order F16-12, 2016 BCIPC 14 (CanLII).

INTRODUCTION

[1] The applicant made an access request to the Ministry of Finance (the "Ministry"), under the *Freedom of Information and Protection of Privacy Act* ("FIPPA"). The request was for reports issued by the Internal Audit and Advisory Services Unit and the Special Investigations Unit for a specific time period. The applicant further stated that s. 25 applied to the responsive records and it was in the public's interest that the records be disclosed.

[2] The Ministry responded to the Applicant, stating that the Internal Audit and Advisory Services Unit reports are publicly available, and provided the link to those records. However, the Ministry withheld the Special Investigation Unit reports in their entirety under s. 15 of FIPPA (disclosure harmful to law enforcement).

[3] The applicant requested that the Office of the Information and Privacy Commissioner ("OIPC") review the Ministry's decision to withhold the Special Investigation Unit reports.[1] Mediation did not resolve the issues and the applicant requested to proceed to a written inquiry.

[4] During mediation, the Ministry reconsidered its severing decision and determined that it would no longer withhold the records under s. 15 but would instead rely on s. 22 (harm to personal privacy) to withhold them. During the inquiry, the Ministry sought leave, which the OIPC granted, to apply s. 14 (solicitor client privilege) to a small amount of the withheld information.

ISSUES

[5] The issues to be decided in this inquiry are as follows:

1. Is the Ministry required to disclose the information under section 25(1)(b) of FIPPA because the disclosure is clearly in the public interest?

2. Is the Ministry required to refuse to disclose the information at issue under section 22 of FIPPA because disclosure would be an unreasonable invasion of a third party's personal privacy?

3. Is the Ministry authorized to refuse to disclose the information at issue under section 14 of FIPPA because the information is subject to solicitor client privilege?

[6] Section 57 of FIPPA states the burden of proof at inquiry. Pursuant to s. 57(2) of FIPPA, the applicant must prove that disclosure of any personal

[1] The applicant did not dispute the Ministry's assertion that the Internal Audit and Advisory Services Unit reports are publicly available and therefore those records are not part of this inquiry.

information in the requested records would not be an unreasonable invasion of third party personal privacy under s. 22. However, pursuant to s. 57(1) of FIPPA, the Ministry has the burden of proving that the applicant has no right of access to the information it is refusing to disclose under section 14.

[7] Section 57 of FIPPA is silent on the burden of proof with respect to s. 25(1)(b) of FIPPA. However, I agree with the following statement from previous orders:

> … Again, where an applicant argues that s. 25(1) applies, it will be in the applicant's interest, as a practical matter, to provide whatever evidence the applicant can that s. 25(1) applies. While there is no statutory burden on the public body to establish that s. 25(1) does not apply, it is obliged to respond to the commissioner's inquiry into the issue, and it also has a practical incentive to assist with the s. 25(1) determination to the extent it can.[2]

DISCUSSION

Background

[8] The applicant is a journalist who requested "… all reports issued by the Internal Audit and Advisory Services Unit and the Special Investigations Unit, from October 14, 2014 to January 6, 2015."

[9] The Internal Audit and Advisory Services Unit and the Special Investigations Unit fall under the ambit of the Office of the Comptroller General ("OCG"). The OCG reports to the Deputy Minister of Finance and is responsible for the overall quality and integrity of the government's financial management and control systems.[3] Part of the OCG's function is to prepare and issue government financial statements; develop and maintain the financial and procurement management framework and then monitor compliance with it; and conduct special investigations into reported wrong doing.[4]

Records

[10] The records that are responsive to the applicant's access request are OCG investigation reports. My ability to describe the records in detail is limited, as much of this evidence was provided, appropriately, *in camera*. However, I can state that records were created in the context of workplace investigations and contain

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[2] Order 02-38, 2002 CanLII 42472 (BC IPC), para. 39, recently cited with approval in Order F16-06, 2016 BCIPC 7 (CanLII), para. 8.
[3] Office of the Comptroller General, online: Ministry of Finance <http://www.fin.gov.bc.ca/ocg.htm>.
[4] Frequently Asked Questions of OCG, online: Ministry of Finance <http://www.fin.gov.bc.ca/ocg/ocg/faq.htm>.

witness statements and qualitative statements about a number of individuals.[5] The records also reveal the investigators' observations and findings.[6]

Section 25(1)(b) (clearly in the public interest)

[11] Section 25 of FIPPA requires a public body to disclose information in certain circumstances, even if other provisions in FIPPA would otherwise require or authorize it to be withheld. The part of s. 25 that is relevant in this case states:

> 25(1) Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people or to an applicant, information
> …
> (b) the disclosure of which is, for any other reason, clearly in the public interest.

[12] The applicant submits that s. 25 applies in this case because disclosure of the records "is clearly in the public interest (and goes far beyond merely 'what the public might find interesting')."[7] He does not elaborate on these submissions.

[13] The Ministry submits that s. 25(1)(b) does not apply in this case, as the "subject of the OCG investigations does not meet the required threshold of significance or magnitude."[8] The Ministry cites numerous cases in support of its position, all of which I have reviewed and considered in my analysis.[9]

[14] Section 25 overrides all of FIPPA's exceptions to disclosure and, thus, there is a high threshold before it applies. Previous orders have explained this concept as follows: "…the duty under section 25 only exists in the clearest and most serious of situations. A disclosure must be, not just arguably in the public interest, but clearly (*i.e.*, unmistakably) in the public interest...."[10]

[15] The "public interest" does not mean information which has merely "piqued the interest" of the public.[11] Therefore, the fact that the public may have a potential interest in what the information reveals about an issue would not meet the threshold for disclosure of that information as being "clearly" in the public interest under s. 25(1)(b).

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[5] Ministry's submissions, para. 4.28; Newton affidavit, paras. 6 – 9; McKnight affidavit, paras. 6 – 9; Main affidavit, paras. 6 – 14.
[6] *Ibid.*
[7] Applicant's submissions, para. 7.
[8] Ministry's submissions, para. 4.99.
[9] Order F16-06, 2016 BCIPC 7 (CanLII); Order F15-64, 2015 BCIPC 70 (CanLII); Order F15-58, 2015 BCIPC 61 (CanLII); Investigation Report F15-02, 2015 BCIPC 30 (CanLII).
[10] Order 02-38, 2002 CanLII 42472 (BC IPC), para. 45 citing Order No. 165-1997, 1997 CanLII 754 (BC IPC). Note that there is no longer a need to establish temporal urgency in order for s. 25(1)(b) to apply: Order F15-64, 2015 BCIPC 70 (CanLII), para. 13.
[11] Investigation Report F16-02, 2016 BCIPC 36 (CanLII), pp. 26 and 27.

[16] Former Commissioner Denham recently provided some guidance around the issue of what is required before disclosure is ordered in circumstances where the disclosure is "clearly in the public interest". In Investigation Report F16-02, she stated:

> There must be an issue of objectively material, even significant, public importance, and in many cases it will have been the subject of public discussion… disclosure must be plainly and obviously required based on a disinterested, reasonable assessment of the circumstances.[12]

[17] The reasons for invoking s. 25(1)(b) must be of sufficient gravity to warrant overriding all other provisions of FIPPA, including the exceptions found in Part 2 of FIPPA.[13] I have reviewed the content and context of the information in the records and, in my view, the information at issue here does not approach that level of magnitude or broader public significance that is required under s. 25(1)(b). This finding should not be construed as applying generally to records involving workplace investigations. In this case, there is simply no evidence before me that this situation is one of the "clearest and most serious of situations" where s. 25(1)(b) would apply. Therefore, I find that disclosure of the records is not "clearly" in the public interest and s. 25(1)(b) does not apply.

Section 22 (personal privacy)

[18] Section 22 is a mandatory exception requiring a public body to refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy. The OIPC has set out the proper analytical approach to s. 22 in numerous decisions, and I will apply those same principles in my analysis.[14]

Parties' Positions

[19] The Ministry's overall position is that releasing any portion of these investigation reports would allow third parties to identify individuals named in the reports and that this disclosure would thus be an unreasonable invasion of those individuals' personal privacy.[15]

[20] The Ministry also submits that the information about the subject matter that formed the context for the investigations is "widely known within MOTI [Ministry of

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[12] Investigation Report F16-02, 2016 BCIPC 36, p. 36 (CanLII).
[13] Order F15-64, 2015 BCIPC 70 (CanLII), para. 16.
[14] See, for example, Order F15-17, 2015 BCIPC 18 (CanLII), para. 11; Order F13-09, 2013 BCIPC 10 (CanLII), para. 18; Order F14-41, 2014 BCIPC 44 (CanLII), para. 10.
[15] Ministry's submissions, paras. 4.08 and 4.09.

Transportation and Infrastructure] and that some of it is known publicly."[16] Disclosure of any of the information, says the Ministry, would allow a "knowledgeable third party" to identify individuals in the reports, including MOTI employees and some members of the public."[17]

[21] The applicant submits that the Ministry is over-applying s. 22 in these circumstances, but he does not make detailed arguments about s. 22.

Personal Information

[22] The first step in the s. 22 analysis is to determine whether the information at issue is the "personal information" of a third party. FIPPA defines personal information as "recorded information about an identifiable individual other than contact information."[18] "Contact information" is defined as "information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual."[19]

[23] I find that a significant amount of the withheld information is personal information, as it describes the words and actions attributed to specific, identifiable individuals. For example, there are witness statements that describe what an identifiable person said or did before or during the course of the investigation.

[24] There is also some information which would not normally be classified as personal information but, in these circumstances, it meets that definition because the information is reasonably capable of identifying an individual or a small group of identifiable people, either alone or when combined with other available sources of information.[20]

[25] The Ministry has provided sufficient evidence to persuade me that the nature and context of some (but not all) of the information in the records could allow an informed individual to use the information, in combination with information from other sources, to identify the individuals and thus lead to disclosure of their personal information. The context and details of certain information in the investigation reports are very specific and unique and its disclosure would, in these circumstances, likely result in knowledgeable members of the public (such as public body employees or reporters) identifying the individuals. Therefore, I find

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[16] Ministry's submissions, para. 4.11; Main affidavit, para. 7; McKnight affidavit, para. 8; Newton affidavit, para. 8.
[17] Ministry's submissions, para. 4.13, Main affidavit, paras. 11 and 14; McKnight affidavit, para. 9; Newton affidavit, para. 9.
[18] FIPPA, Schedule 1.
[19] *Ibid*.
[20] See Order F16-38, 2016 BCIPC 42 (CanLII), para. 112. This has also been termed the "mosaic effect" (see, for example, Order 03-41, 2003 CanLII 49220 (BC IPC), para. 44).

that a significant amount of the withheld information is "personal information" as defined by FIPPA.

[26] I also find that there is some information in the investigation reports which is not personal information. A small amount of the withheld information is contact information in the form of names, titles and business phone numbers of the individual who wrote the reports and those who received them.[21] To be clear, this is not information about individuals named in the investigation reports, but rather is contact information for individuals who were responsible for the investigation. Therefore, the Ministry is not required to withhold this information. I have highlighted this contact information in the copy of records that I am providing to the Ministry with this order.

[27] There is also information that is neutral background information (related to setting out Ministry and government policies, dates of the investigation reports and the Ministry's file numbers) and, in my view, it could not be used to identify the third parties mentioned in the investigation reports.[22] I find that the Ministry has not provided sufficient evidence, and it is not apparent from the records themselves, that this background information could be used, alone or in combination with other information that is already known to certain individuals or the public, to identify third parties mentioned in the report. Since this particular information is not "personal information" as defined by FIPPA, the Ministry is not required to withhold this information under s. 22 and it must be disclosed to the applicant. I have also highlighted this information in the copy of records that I am providing to the Ministry with this order.

Section 22(4)

[28] The second step in the analysis is to consider the application of s. 22(4) to the records. Section 22(4) sets out circumstances where the disclosure of personal information is not an unreasonable invasion of a third party's personal privacy.

[29] The Ministry submits that it considered whether s. 22(4)(e), (f) and (h) apply, but concluded that the information at issue does not fall within these subsections.[23] Again, much of the Ministry's submissions are properly made *in camera* and so I am limited in what I can disclose in this decision.

[30] The applicant makes no specific submissions regarding s. 22(4).

[31] The relevant portions of s. 22(4) are as follows:

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[21] Records, pp. 1, 16, 22 and 37.
[22] Records, pp. 1, 5, 22 and 25.
[23] Ministry's submissions, para. 4.20.

> (4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if
> …
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> (e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff,
>
> (f) the disclosure reveals financial and other details of a contract to supply goods or services to a public body,
> …
>
> (h) the information is about expenses incurred by the third party while travelling at the expense of a public body,

Section 22(4)(e) – third party's position, functions or remuneration

[32] The Ministry submits that subsection 22(4)(e) does not apply in these circumstances, as the information about the third parties was recorded in the context of a workplace investigation and includes "witness statements and qualitative statements about a number of individuals" and "reveal[s] the investigators' observations, finding and other work product."[24] Therefore, the Ministry submits, the information regarding a third party's position, functions and remuneration should be properly considered under s. 22(3)(d), which pertains to personal information that relates to "employment, occupational or educational history."[25]

[33] In Order F14-45, the adjudicator explained the relationship between s. 22(4)(e) and s. 22(3)(d) as follows:

> The context in which personal information appears plays a significant role in determining whether s. 22(4)(e) applies. In Order 01-53, [footnote omitted] former Commissioner Loukidelis found that a third party's name and other identifying information would, when appearing in the normal course of work activities, fall under s. 22(4)(e), but that s. 22(3)(d) would apply if the personal information appeared in the context of a workplace investigation or disciplinary matter. This is the same approach taken in many other orders, where it was held that s. 22(4)(e) covers personal information that is about the third party's job duties in the normal course of work-related activities, namely objective, factual statements about what the third party did or said in the normal course of discharging his or her job duties but not qualitative assessments or evaluations of such actions.[26] [footnote omitted]

[24] Ministry's submissions, para. 4.28.
[25] Ministry's submissions, paras. 4.23 – 4.29.
[26] Order F14-45, 2014 BCIPC 48 (CanLII), para. 45.

[34] I find that there is some personal information related to third parties' job duties in the normal course of work-related activities that are contained in the cover letters to the reports. It is information about when the Comptroller General met with Ministry officials, as well as an outline of the investigation timelines. In my view, this information is objective, factual statements about what the third party did or said in the normal course of discharging his or her job duties, and it is not qualitative assessments of public body employees. This information does not reveal anything about the individuals under investigation or those who were interviewed during the course of the investigations. Therefore, I find that s. 22(4)(e) applies to it, and the Ministry is not required to withhold this information from the applicant. I have highlighted this information in the copy of records that I am providing to the Ministry with this order.[27]

Section 22(4)(f) and (h) – contract details and expenses

[35] The Ministry submits that the investigation reports do not relate to the financial or other details of contracts for goods and services.[28] Further, the Ministry submits that while some of the information is in the context of third party travel, the "crux of the reports is not information about expenses incurred by the third party while travelling at the expense of a public body." [29]

[36] After reviewing the records, I find that ss. 22(4)(f) and (h) do not apply because disclosure would not reveal financial and other details of a contract, or information about expenses incurred while travelling at the expense of a public body. The investigation reports are not about these issues.

[37] I also find that no other subsections of s. 22(4) apply.

Presumptions – section 22(3)

[38] The third step in the s. 22 analysis is to determine whether any of the presumptions in s. 22(3) apply, in which case disclosure is presumed to be an unreasonable invasion of third party privacy.

[39] The Ministry submits that s. 22(3)(d) and (g) apply in this situation, as the records relate to "evaluations and witness statements in the context of a workplace investigation."[30] The applicant makes no submissions regarding the presumptions.

[40] The relevant portions of s. 22(3) are as follows:

[27] Records, pp. 1, 16, 22 and 37.
[28] Ministry's submissions, para. 4.34.
[29] Ministry's submissions, para. 4.36.
[30] Ministry's submissions, para. 4.43.

> (3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if
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> …
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> (d) the personal information relates to employment, occupational or educational history,
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> …
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> (g) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations about the third party,

[41] I find that s. 22(3)(d) applies to much of the severed information, as there is a significant amount of personal information in the investigation reports that relates to subjective observations about individuals and their workplace actions in the context of a workplace investigation. I also find that s. 22(3)(g) applies to much of the information because it involves personal evaluations of individuals. These findings are consistent with previous OIPC orders regarding workplace investigations.[31]

[42] I find that no other s. 22(3) presumptions apply to the information in dispute.

Relevant circumstances – section 22(2)

[43] In determining whether disclosure of personal information is an unreasonable invasion of third-party personal privacy, a public body must consider all the relevant circumstances, including those set out in s. 22(2). At this stage, any presumptions that disclosure would be an unreasonable invasion of personal privacy may be rebutted.

[44] The parts of s. 22(2) that are relevant to consider in this case are as follows:

> 22 (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether
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> (a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,
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> …
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> (f) the personal information has been supplied in confidence,
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> …

[31] See, for example, Order 01-53, 2001 CanLII 21607 (BC IPC); Order 01-07, 2001 CanLII 21561 (BC IPC); Order F14-10, 2014 BCIPC 12 (CanLII).

> (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, and

Section 22(2)(a) – public scrutiny

[45] The Ministry submits that s. 22(2)(a) does not override a presumption of an unreasonable invasion of personal privacy where disclosure would "submit the conduct of employees, rather than the conduct of government, to scrutiny and where an investigation has already concluded."[32] It cites numerous cases in support of this assertion.[33] The Ministry also submits that the records relate to "specific, concluded workplace investigations and have no broad or public significance."[34]

[46] The applicant does not make any specific submissions on s. 22(2)(a). However, given his submissions on s. 25, it is reasonable to assume that he believes that disclosure of the investigation reports would be desirable for the purpose of subjecting the activities of the government to public scrutiny.

[47] I have reviewed and considered the case law submitted by the Ministry and I find that the orders are of limited use in this situation, as they pertain to information requests related to job competition processes. For example, applicants in the cases cited requested such documents as reference checks, resumes and disciplinary records in order to try to evaluate public body hiring decisions. In those cases, the adjudicators found that s. 22(2)(a) did not favour disclosure.

[48] I agree with the findings in those cases with respect to the application of s. 22(2)(a) but find they have minimal application in this case given the different context and type of information contained in the records. The records in this case were created in the context of workplace investigations and contain not just detailed information about individual conduct, but also information about how the Ministry approached the investigation and the general findings made.

[49] With regards to the detailed descriptions regarding individual conduct and corresponding findings of culpability, my view is that disclosure would not facilitate subjecting the Ministry's activities to public scrutiny. This information is more akin to that in the cases cited by the Ministry, where disclosure would only result in scrutiny of detailed, specific information about individuals.

[50] Regarding the information in the reports that is more focused on the investigations and general findings, I find that disclosure would meaningfully add

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[32] Ministry's submissions, para. 4.55.
[33] Ministry's submissions, para. 4.55 – 4.59, citing Order 00-48, 2000 CanLII 14413 (BC IPC); Order 01-18, 2001 CanLII 21572 (BC IPC); Order F14-41, 2014 BCIPC 44 (CanLII); Order 02-56, 2002 CanLII 42493 (BC IPC).
[34] Ministry's submissions, para. 4.59.

to the public's understanding of how the Ministry approached and dealt with the investigations, as well as the general findings made.

[51] In summary, I find that s. 22(2)(a) is a factor that weighs in favour of disclosing the activities of the individuals and corresponding general findings, but not the information that would tend to identify those individuals.[35]

Section 22(2)(h) – damage to reputation

[52] The Ministry states that "it is clear on the face of the Records that the reputations of various third parties would be unfairly damaged" if the investigation reports were disclosed, and provides affidavit evidence in support of this submission.[36] The Ministry also submits that some of the information is "critical of conduct" and the individuals involved do not have the opportunity to "respond or clarify what is expressed."[37]

[53] I find that disclosing some of the information in the investigation reports would likely cause unfair reputational harm to several of the named individuals. There is a significant amount of information in the reports that is disparaging of individuals' conduct in the workplace and the individuals involved do not have an opportunity to respond or clarify the characterization of their behaviour or the findings that were made about their conduct.

[54] Therefore, I find that s. 22(2)(h) is a relevant factor in this situation and weighs significantly against disclosure of information which would identify the individuals named in the investigation reports.

Conclusion – section 22(1)

[55] The final step in the s. 22 analysis is to consider the above factors and determine whether disclosure of the third party personal information would be an unreasonable invasion of privacy.

[56] I have found that there is a presumption against disclosing the personal information of third parties since the personal information relates to employment history and contains personal evaluations of some individuals (s. 22(3)(d) and (g)). However, I have found that there is a factor that rebuts the presumption that all of the information should be withheld, which is disclosure for the purpose of subjecting the activities of the government to public scrutiny (s. 22(2)(a)). In my view, the Ministry applied s. 22(2)(a) too narrowly when deciding whether to

[35] See Order F12-12, 2012 BCIPC 17 (CanLII), para. 38.
[36] Ministry's submissions, para. 4.62; McKnight affidavit, para. 9; Main affidavit, para. 8; Newton affidavit, para. 9.
[37] Ministry's submissions, para. 4.63.

disclose information, in non-identifying form, about some of the investigation details and findings.

[57] In light of the above factors, I find that it would be an unreasonable invasion of third party personal privacy to disclose most of the personal information in the investigation reports. The Ministry must continue to refuse to disclose that information under s. 22(1). For clarity, this includes names and titles, as well as some of the dates and details about the activities focused on in the investigation reports.

[58] However, I find that it would not be an unreasonable invasion of third party privacy to disclose the balance of the personal information being withheld. Specifically, this is information about the general employee and Ministry activities that were the focus of the report.

Section 4(2) – severing personal information

[59] Section 4(2) of FIPPA requires public bodies to sever information that is exempted from disclosure, if that can be reasonably done, and give the applicant access to the remainder of the requested record.

[60] The Ministry says that if a heavily redacted report is released it would be "essentially unintelligible and meaningless" and it is not obligated to produce such a report.[38] It also submits that a heavily redacted report would consist of "disconnected words or snippets" that would be "misleading or unintelligible." It cites Order F16-12 to support this submission.[39]

[61] I find that it is possible to sever the report without rendering the remaining contents misleading or unintelligible. Although there is a significant amount of personal information that must remain withheld, there is some information that can be disclosed that would give the applicant an understanding of what the investigation reports were about, which I find is desirable for the purposes of public scrutiny. I have highlighted this information in the copy of records that I am providing to the Ministry with this order.

Section 14 (solicitor client privilege)

[62] The Ministry also made submissions regarding a minor amount of information that it says is subject to solicitor client privilege. However, I do not need to address this submission, as I have already found that the Ministry must refuse to disclose that particular information under s. 22.

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[38] Ministry's submissions, paras. 4.74 and 4.75.
[39] Ministry's submissions, para. 4.8; Order F16-12, 2016 BCIPC 14 (CanLII), paras. 37 – 39.

CONCLUSION

[63] For the reasons above, under s. 58 of FIPPA, I order that the Ministry is:

1. Required to refuse to disclose most of the information in the investigation reports under s. 22, subject to paragraph 2 below; and

2. Required to give the applicant access to the information I have highlighted in the excerpted pages of the records that will be sent to the Ministry along with this decision.

[64] I also confirm that the Ministry is not required to disclose the records under s. 25 of FIPPA, as the disclosure is not *clearly* in the public interest.

[65] The Ministry of Finance must comply with this Order on or before **Wednesday, January 18, 2017**. The Ministry must concurrently copy the OIPC's Registrar of Inquiries on its cover letter to the applicant, together with a copy of the records.

December 5, 2016

ORIGINAL SIGNED BY

Carol Whittome, Adjudicator

OIPC File No.: F15-60660