Office of the Information & Privacy Commissioner for British Columbia

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Order F18-14

MINISTRY OF FORESTS, LANDS, NATURAL RESOURCE OPERATIONS & RURAL DEVELOPMENT

Celia Francis
Adjudicator

May 14, 2018

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Summary: An interest group requested access to records regarding the Ministry of Forests, Lands, Natural Resource Operations & Rural Development's Wolf Management Plan. The adjudicator found that ss. 13(1) and 22(1) applied to a small amount of information but that ss. 15(1)(f), 16(1)(a)(iii) and 19(1)(a) do not apply to other information (principally names and email addresses of Ministry employees) and ordered the Ministry to disclose this information to the applicant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 13(1), 13(2), 13(3), 16(1)(a)(iii), 15(1)(f), 19(1)(a), 22(1), 22(3)(d).

INTRODUCTION

[1] In early 2016, the Ministry of Forests, Lands, Natural Resources & Rural Development (Ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (FIPPA) for records related to the killing, hunting, tracking or culling of wolves in the Selkirk Region of BC. The Ministry responded by disclosing records but withholding information from some of them under seven FIPPA exceptions to disclosure: ss. 13 (advice or recommendations), 15 (harm to law enforcement), 16 (harm to intergovernmental relations), 17 (harm to financial or economic interests of a public body), 18 (harm to conservation of heritage sites), 19 (harm to individual or public safety) and 22 (harm to third-party personal privacy).

[2] The applicant, an interest group, requested a review by the Office of the Information and Privacy Commissioner (OIPC) of the Ministry's decision to withhold information. Mediation by the OIPC did not resolve the issues and the matter proceeded to inquiry. The OIPC invited submissions from the Ministry and the applicant but received a submission only from the Ministry. The applicant's May 2016 request for review was, however, included in the material before me.

[3] In its initial submission, the Ministry said that it was no longer relying on sections 17 and 18 but argued that ss. 13(1), 15(1)(f), 16(1)(a)(iii), 19(1)(a) and 22 still apply to the withheld information.

ISSUES

[4] The issues before me are whether the Ministry is authorized by ss. 13(1), 15(1)(f), 16(1)(a)(iii) and 19(1)(a), and required by s. 22(1), to withhold information. Under 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 the first four exceptions. However, under s. 57(2), the applicant has the burden of proving that disclosure of any personal information in the records would not be an unreasonable invasion of third-party personal privacy under s. 22.

DISCUSSION

Background

[5] The Ministry said that, in an effort to protect endangered caribou populations, it has implemented a management plan in certain areas of BC to reduce wolf populations (Wolf Management Plan). The Ministry said that its Wolf Management Plan has "resulted in considerable public debate."[1]

Information in dispute

[6] There are 109 pages of records at issue in this case. The information in dispute is names and other identifying information of Ministry employees and others, along with a few sentences, in a series of emails spanning 2014-2016.

Advice or Recommendations – s. 13(1)

[7] Section 13(1) is a discretionary exception which says that a public body "may refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister." The courts have said that the purpose of exempting advice or recommendations is "to preserve an effective and neutral public service so as to permit public servants

[1] Ministry's initial submission, para. 14.

to provide full, free and frank advice,"[2] recognizing that some degree of deliberative secrecy fosters the decision-making process.[3] They have interpreted the term "advice" to include a public servant's opinion as to the range of alternative policy options[4] and "an opinion that involves exercising judgment and skill to weigh the significance of matters of fact."[5] Previous orders have found that a public body is authorized to refuse access to information, not only when it directly reveals advice or recommendations, but also when it would enable an individual to draw accurate inferences about advice or recommendations.[6] In arriving at my decision on s. 13(1), I have considered the principles for applying s. 13(1) as set out in the court decisions and orders cited above.

[8] The Ministry submitted that s. 13(1) applies to approximately seven sentences on pages 81 and 92, on the grounds that their disclosure would, directly or indirectly, reveal advice or recommendations developed by or for the Ministry or its minister.[7] The applicant did not address s. 13(1) except to say it does not apply.

[9] The information at issue on page 81 consists of suggestions from a Ministry employee on how to respond to comments from the public on the Wolf Management Plan. The three lines of withheld information on page 92 are an exchange of opinions between Ministry employees as to how the Ministry could publicly report financial matters related to the Wolf Management Plan. In my view, disclosure of the withheld information on both pages would either directly reveal advice developed by or for the Ministry or allow the drawing of accurate inferences as to the nature of that advice.

Sections 13(2)

[10] Section 13(2) of FIPPA states that a public body may not refuse to withhold certain types of information under s. 13(1). The Ministry argued that s. 13(2) does not apply in this case.[8]

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[2] *John Doe v. Ontario (Finance*), 2014 SCC 36 [*John Doe*], at paras. 34, 43, 46, 47. The Supreme Court of Canada also approved the lower court's views in *3430901 Canada Inc. v. Canada (Minister of Industry)*, 1999 CanLII 9066 (FC), that there is a distinction between advice and factual "objective information", at paras. 50-52. In Order 01-15, 2001 CanLII 21569 (BC IPC), former Commissioner Loukidelis said that the purpose of s. 13(1) is to protect a public body's internal decision-making and policy-making processes, in particular while the public body is considering a given issue, by encouraging the free and frank flow of advice and recommendations.

[3] *College of Physicians of B.C. v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 [*College of Physicians*].

[4] *John Doe,* para. 46.

[5] *College of Physicians,* para. 113.

[6] See, for example, Order F18-01, 2018 BCIPC 01 (CanLII); Order F15-60, 2015 BCIPC 64 (CanLII); Order F16-32, 2016 BCIPC 35 (CanLII); and Order F15-52, 2015 BCIPC 55 (CanLII).

[7] Ministry's initial submission, paras. 41-47; affidavit of Ministry employee, para.10.

[8] Ministry's initial submission, paras. 48-51.

[11] While the information in question contains some "factual material", it is intertwined with and integral to the information which I find is advice and is necessary to the employees' deliberative process. Its disclosure would reveal their advice, either directly or by inference. As such, I find that s. 13(2)(a) does not apply to the withheld information in the emails. I have also considered the categories of information in ss. 13(2)(b)-(m) and find that none of them applies to the withheld information.

Section 13(3)

[12] The Ministry also argued that s. 13(3) does not apply.[9] This provision states that s. 13(1) does not apply to information in a record that has been in existence for more than 10 years. The records in this case date from the period 2014-2016. As such, s. 13(3) clearly does not apply.

Exercise of discretion

[13] Section 13(1) states that a public body "may" refuse access to advice or recommendations and is thus a discretionary exception to disclosure. Past orders have discussed factors a public body should consider in exercising its discretion in deciding to withhold information. I may order the Ministry to re-consider its discretion if it has not done so, has exercised its discretion in bad faith, has considered irrelevant or extraneous factors or has not considered relevant factors.[10] I must therefore be satisfied here that the Ministry exercised its discretion in deciding whether or not to disclose the information, having regard for the relevant factors.

[14] The Ministry said that it reconsidered its decision in November 2017 and that it disclosed "a considerable amount of information" to which it had applied s. 13(1). It said that it had exercised its discretion to withhold a small amount of information under s. 13(1).[11]

[15] The Ministry did not identify the information to which it had originally applied s. 13(1) and which it later disclosed. The Ministry also did not explain what factors it considered in disclosing the information, for example, the age of the records. However, I can see that the Ministry conducted a line by line review of the emails and that it disclosed some information that it could technically have withheld under s. 13(1). There is no evidence that it considered improper or irrelevant factors or that it acted in bad faith in deciding to withhold some information. I am satisfied that the Ministry exercised its discretion properly in this case.

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[9] Ministry's initial submission, para. 52.
[10] See, for example, Order 02-38, 2002 CanLII 42472 (BC IPC), at paras. 145-149, and Order F09-02, 2009 CanLII 3226 (BC IPC), at paras. 26-32.
[11] Ministry's initial submission, para. 55.

Conclusion on s. 13(1)

[16] I find that the withheld information is advice. I also find that s. 13(2) does not apply to this information. I therefore find that the Ministry is authorized to withhold this information under s. 13(1).

Unreasonable invasion of third-party privacy - s. 22(1)

[17] The approach to applying s. 22(1) of FIPPA has long been established. See, for example, Order F15-03, where the adjudicator said:

> Numerous orders have considered the approach to s. 22 of FIPPA, which states that a "public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy." This section only applies to "personal information" as defined by FIPPA. Section 22(4) lists circumstances where s. 22 does not apply because disclosure would not be an unreasonable invasion of personal privacy. If s. 22(4) does not apply, s. 22(3) specifies information for which disclosure is presumed to be an unreasonable invasion of a third party's personal privacy. However, this presumption can be rebutted. Whether s. 22(3) applies or not, the public body must consider all relevant circumstances, including those listed in s. 22(2), to determine whether disclosing the personal information would be an unreasonable invasion of a third party's personal privacy.[12]

[18] I have taken the same approach in considering the s. 22 issues here.

[19] The applicant did not address s. 22 in his request for review.

Is the information "personal information"?

[20] FIPPA defines "personal information" as recorded information about an identifiable individual, other than contact information. 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."

[21] The Ministry said that the small amount of information it withheld from an email on pages 100-101 under s. 22(1) is personal information.[13] The information in issue consists of the name and personal email address of a student who wrote to the Ministry about its Wolf Management Plan, together with a brief statement by the student about himself. It is recorded information about an identifiable individual that is not contact information. I therefore find it is personal information.

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[12] Order F15-03, 2015 BCIPC 3 (CanLII), at para. 58.
[13] Ministry's initial submission, paras. 70-72.

Does s. 22(4) apply?

[22] The Ministry said that s. 22(4) does not apply here.[14] I agree with the Ministry that there is no basis for finding that s. 22(4) applies here. The withheld information does not, for example, relate to a third party's position, functions or remuneration as an officer, employee or member of a public body (s. 22(4)(e)).

Presumed unreasonable invasion of third-party privacy – s. 22(3)

[23] The Ministry argued that the information relates to the student's educational history.[15] The student's statement about himself pertains to his field of study and I find that s. 22(3)(d) applies to it. His name and email address do not fall under any of the presumptions in s. 22(3).

Relevant circumstances – s. 22(2)

[24] The Ministry said that no relevant factors favour disclosure of the information in issue.[16] I agree. The Ministry disclosed the emails themselves and withheld only a few words. Disclosure of the student's educational history information would not, for example, be desirable for subjecting the Ministry to public scrutiny under s. 22(2)(a). I also find that no relevant circumstances favour disclosure of the student's name and email address.

Conclusion on s. 22(1)

[25] I found above that some of the information in issue relates to the student's educational history, to which s. 22(3)(d) applies. I also found that no relevant circumstances favour disclosure of this information. The presumption in s. 22(3) has therefore not been rebutted. I find that s. 22(1) applies to this information.

[26] As for the student's name and email address, I found that no s. 22(3) presumptions apply to this information. No relevant circumstances favour disclose of this information. I find that s. 22(1) requires the Ministry to withhold this information.

Standard of proof for harms-based exceptions

[27] The Supreme Court of Canada has stated the following about the standard of proof for exceptions that use the language "reasonably be expected to harm":

> This Court in *Merck Frosst* adopted the "reasonable expectation of probable harm" formulation and it should be used wherever the "could

[14] Ministry's initial submission, para. 73.
[15] Ministry's initial submission, para. 76.
[16] Ministry's initial submission, paras. 77-78.

> reasonably be expected to" language is used in access to information statutes. As the Court in *Merck Frosst* emphasized, the statute tries to mark out a middle ground between that which is probable and that which is merely possible. An institution must provide evidence "well beyond" or "considerably above" a mere possibility of harm in order to reach that middle ground… This inquiry of course is contextual and how much evidence and the quality of evidence needed to meet this standard will ultimately depend on the nature of the issue and "inherent probabilities or improbabilities or the seriousness of the allegations or consequences": *Merck Frosst*, at para. 94, citing *F.H. v. McDougall*, 2008 SCC 53 (CanLII), [2008] 3 S.C.R. 41, at para. 40.[17]

[28] Furthermore, there must be a "clear and direct connection" between disclosure of the particular information and the harm alleged and the burden rests with the public body to establish that the disclosure of the information in question could result in the identified harm.[18]

[29] I have taken these approaches in considering the arguments on harm under ss. 16(1)(a)(iii), 15(1)(f) and 19(1)(a).

Harm to conduct of relations with an aboriginal government – s. 16(1)(a)(iii)

[30] The Ministry said that disclosure of the information in question could reasonably be expected to harm the conduct of the BC government's relations with an entity which the Ministry said is an "aboriginal government" for the purposes of s. 16(1)(a)(iii). The relevant provision reads as follows:

> **Disclosure harmful to intergovernmental relations or negotiations**
>
> 16 (1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to
>
> (a) harm the conduct by the government of British Columbia of relations between that government and any of the following or their agencies:
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> …
>
> (iii) an aboriginal government;

[31] I have decided it is not necessary to determine if the entity in question is an "aboriginal government" as defined in Schedule 1 of FIPPA.[19] This is because,

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[17] *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31, para. 54.

[18] Order F07-15, 2007 CanLII 35476 (BC IPC), para. 17, referring to *Lavigne v. Canada (Office of the Commissioner of Official Languages)*, 2002 SCC 53 (CanLII), [2002] 2 S.C.R. 773; *British Columbia (Minister of Citizens' Services) v. British Columbia (Information and Privacy Commissioner)*, 2012 BCSC 875, para. 43.

[19] Schedule 1 of FIPPA defines "aboriginal government" as "an aboriginal organization exercising governmental functions."

even if it is, the Ministry has not, in my view, established that there is a reasonable expectation of harm to the conduct of relations with that entity.

Conduct of relations

[32] The Ministry said that disclosure of the information in question could reasonably be expected to harm the conduct of the BC government's relations with an aboriginal government. Its brief submission on this point was received *in camera*.[20] I am therefore limited in my ability to discuss it. I can however say that the Ministry's argument and evidence on harm rely on the drawing of inferences which I consider to be hypothetical and speculative, to say the least. The information in question strikes me as straightforward and I do not see how disclosing it could, even remotely, lead to the harm the Ministry argued. The Ministry also did not provide any evidence supporting its position on s. 16(1)(a)(iii) from the "aboriginal government" in this case.[21]

[33] Moreover, information the Ministry disclosed elsewhere in the records contradicts the Ministry's submission on harm. In addition, the Ministry applied s. 16(1)(a)(iii) to some information but not to the same or similar information elsewhere in the records.[22] It did not explain why.

[34] The Ministry's submission and evidence do not, in my view, suffice to establish a reasonable expectation of harm under s. 16(1)(a)(iii). It has not demonstrated a clear and direct connection between disclosing the information in dispute and the alleged harm. I find that s. 16(1)(a)(iii) does not apply to the information at issue.[23]

Harm to safety – s. 19(1)(a)

[35] The Ministry argued that s. 19(1)(a) applies to the names and other identifying information of Ministry employees[24] and others it said are associated with the Wolf Management Plan. It also applied this exception to the radio frequencies of wolf collars and other information it said would allow individuals to locate wolves. The applicant said only that s. 19(1)(a) does not apply.

[36] The relevant provision reads as follows:

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[20] Ministry's initial submission, paras. 63-64; Affidavit of Ministry employee, para. 11.
[21] In Order 01-13 and Order F17-28, 2017 BCIPC 30 (CanLII), the decision makers had submissions from the aboriginal governments in question which supported the application of s. 16(1)(a)(iii).
[22] On page 99, for example, the Ministry applied s. 16(1)(a)(iii) to the name and email address of an individual in the "from" line of an email but did not apply this exception to this person's name and other identifying information in the signature block at the end of the email.
[23] The information marked with s. 16 is on pp. 98, 99, 103 and 107.
[24] For example, their work email addresses, work phone numbers and other contact information.

Disclosure harmful to individual or public safety

19 (1) The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant, if the disclosure could reasonably be expected to

(a) threaten anyone else's safety or mental or physical health, …

Names and other identifying information

[37] The Ministry applied s. 19(1)(a) to the names, work email addresses and other identifying information of Ministry employees and other individuals. It said that it has received threats "that go directly to the personal safety of individuals who are at all associated with the Wolf Management Plan" and that it is "critical that this information continue to be withheld."[25] In the Ministry's view, the evidence indicates that "very serious threats have been made on multiple occasions and can be taken as a reliable predictor of future behaviour given that the Ministry's Wolf Management Plan is ongoing."[26] The Ministry said that, if the information is disclosed, it could reasonably be expected that these individuals will be targeted by similar threats.[27] The Ministry said it does not implicate the applicant in any of the threats it has received. It noted, however, that disclosure under FIPPA is considered disclosure to the world[28] and said it cannot "unnecessarily create a safety risk" by disclosing the identities.[29]

[38] The Ministry provided evidence of what it said were threats:

- messages to the Ministry by email, phone and Facebook in January 2015 stating that "For every wolf you kill I will personally put a bullet in the head of a BC human government employee involved";
- a phone call to the Ministry in January 2015 stating "How would you like it if I came down there and put a bullet in your head?";
- a December 2015 email to the Premier and various ministers and deputy ministers saying, among other things, that the author would die for the "beloved wolves and bears" being killed "and hopefully take down a few hunters with me … some people will die to protect god's creatures as they have as much right to be as you do – you greedy stuffed shirts."[30]

[25] Ministry's initial submission, para. 24.
[26] Ministry's initial submission, paras. 24-25.
[27] Affidavit of Ministry employee, para. 8.
[28] Order 01-52, 2001 CanLII 21606 (BC IPC), at para. 78.
[29] Ministry's initial submission, para. 27.
[30] Affidavit of Ministry employee, para. 6. The employee's evidence on this matter was hearsay. The Ministry did not provide copies of the messages and emails.

[39] The Ministry said its staff had reported the December 2015 email to the RCMP.[31] It did not say what, if anything, happened as a result.

[40] I have considered previous orders that found that s. 19(1)(a) applied. In Order 01-01,[32] for example, the former Commissioner had evidence of threats to the safety of third-party abortion service-providers, such as stalking, harassment and physical attacks, including gunshot injuries. In Order 00-02, the former Commissioner had evidence that the applicant had been charged with stalking. He concluded in both cases that disclosure of the information at issue could reasonably be expected to result in the anticipated harm to safety or physical or mental health and found that s. 19(1)(a) applied.[33]

[41] By contrast, other orders have noted that applicants might be upset by disclosure of the requested information and might therefore be irate, verbally abusive and challenging to deal with. These orders found, however, that these things did not amount to mental distress or anguish such as would satisfy the test of a reasonable expectation of harm under s. 19(1)(a).[34]

[42] I acknowledge that the communications in this case may have been unsettling to read. However, they occurred on only three occasions and appear to have been directed generally at the Ministry or the BC government, rather than specific employees. I take the Ministry's point that disclosure under FIPPA is considered disclosure to the world. In my view, however, the Ministry's argument and evidence on s. 19(1)(a) are vague and speculative and do not suffice to establish that there is a reasonable expectation of harm on disclosure.

[43] I also note that the Ministry withheld the name of an individual who said he was going to be interviewed on the CBC about the wolf cull issue, as well as the names of individuals who have published papers on this issue.[35] It also withheld the name of an employee who exchanged emails with a student, who addressed the employee by name and invited him to make a presentation to his class.[36] These people's identities and their interest in the wolf cull issue are thus already publicly known. There is no evidence as to how, or why, disclosing their names to the applicant would add to, or change, the risk of harm that might already exist due to the fact that their identities are already known. Further, there is nothing in the evidence, submissions or records that indicates that any of the individuals

[31] Affidavit of Ministry employee, para. 7.
[32] Order 01-01, 2001 CanLII 21555 (BC IPC).
[33] See also Order F13-25, 2013 BCIPC 32 (CanLII), where the adjudicator had evidence that the applicant had been the subject of criminal charges, including harassment, and found that the public body had made a rational connection between disclosure and a reasonable expectation of harm.
[34] See, for example, Order F16-32, 2016 BCIPC 35 (CanLII), Order F16-04, 2016 BCIPC 4 (CanLII), Order F14-22, 2014 BCIPC 25 (CanLII), Order 01-15.
[35] Page 77.
[36] Pages 100-101, which I dealt with above in the discussion on s. 22.

whose names were withheld expressed any concerns for their safety due to their association with the Wolf Management Plan.

[44] The Ministry argued that Order F08-22[37] stands for the proposition that the evidentiary threshold for s. 19 is lower than that for other harms-based exceptions given that health and safety interests are at stake.[38] The passage the Ministry referred to in Order F08-22 said this:

> In short, harms-based exceptions to disclosure operate on a rational basis that considers the interests at stake. What is a reasonable expectation of harm is affected by the nature and gravity of the harm in the particular disclosure exception. There is a sharp distinction between protecting personal safety or health and protecting commercial and financial interests. There is also a justifiably high democratic expectation of transparency around the expenditure of public money, which is appropriately incorporated into the interpretation and application of s. 17(1) when a public body's and service provider's commercial or financial interests are invoked to resist disclosure of pricing components in a contract between them for the delivery of essential services to the public.[39]

[45] While the test for a reasonable expectation of harm may be affected by the interests at stake, I do not read Order F08-22 as lowering a public body's evidentiary burden in proving that it is authorized to withhold information under s. 19(1)(a). Rather, as former Commissioner Loukidelis has noted, s. 19(1) "involves the same standard of proof as other sections" of FIPPA and there must be a rational connection between disclosure and the threat.[40]

[46] In this case, the Ministry has not, in my view, provided evidence that is "well beyond" or "considerably above" a mere possibility of harm. It has not persuaded me that disclosure of the names and other identifying information could reasonably be expected to harm anyone else's safety or mental or physical health. I find that s. 19(1)(a) does not apply to the withheld names, email addresses and other identifying information.

Wolf collar radio frequencies and pack location information

[47] The Ministry said it also applied s. 19(1)(a) to the radio frequencies of wolf collars and other information (*e.g.*, locations of some wolf packs) that would enable citizens to locate wolves. It said that wolves are dangerous and suggested that such individuals might locate wolves to protest the Wolf

[37] Order F08-22, 2008 CanLII 70316 (BC IPC).
[38] Ministry's initial submission, para. 23.
[39] Order F08-22, at para. 48.
[40] Order 00-02, 2000 CanLII 8819 (BC IPC), at page 5.

Management Plan, endangering themselves or others, and that, in doing so, they might also disturb the wolves.[41]

[48] Disclosed information in the records indicates that the Ministry uses radio collars to track wolf packs but that the collars have a high "failure/drop-off rate."[42] I also infer from the material before me that wolf packs travel widely and in remote areas.[43] Moreover, even if a citizen had the technical ability to detect a wolf collar, the records in this case are now several years old. There was no evidence that the frequencies or pack locations are still valid. I thus have difficulty accepting that an individual would be able to use this dated information to track a wolf pack with any accuracy or that an individual would even want to attempt to do so. The Ministry itself admitted that it could not "accurately speculate on how likely individuals are to take such actions."[44] I also decline to speculate. The Ministry's argument and evidence about the disclosure of wolf collar radio frequencies and associated information are vague and not persuasive, in my view, and do not support a finding of reasonable expectation of harm under s. 19(1)(a). I find that s. 19(1)(a) does not apply to this information.

Harm to life or physical safety - s. 15(1)(f)

[49] The Ministry applied s. 15(1)(f) to the same information to which it applied s. 19(1)(a). The applicant said that this exception does not apply. The relevant provision reads as follows:

> **Disclosure harmful to law enforcement**
>
> 15 (1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to
> …
> (f) endanger the life or physical safety of a law enforcement officer or any other person,
> …

[50] The Ministry's submission on s. 15(1)(f) relied on the evidence it provided in its submission on s. 19(1)(a). In my view, its argument and evidence on s. 15(1)(f) are equally vague and speculative.

Names and other identifying information

[51] The Ministry said that what it called "multiple explicit threats" to the Ministry and the BC government "go directly to the life or physical safety of its

[41] Ministry's initial submission, para. 29; Affidavit of Ministry employee, para. 9.
[42] Page 5 of records.
[43] For example, pp. 7-8 are a letter from the State of Idaho authorizing Ministry officials to track wolves from BC down into Idaho.
[44] Ministry's initial submission, para. 29.

employees or other individuals involved in the Wolf Management Plan." Disclosure of the names and other identifying information it withheld under s. 15(1)(f) could, it argued, reasonably be expected to result in these individuals being "targeted by similar threats."[45]

[52] First, the "threats" the Ministry referred to occurred some years ago and were aimed generally at government, not at specific individuals. In addition, while I accept that the "threats" may have been unsettling to read, I do not consider that the Ministry has drawn a link between disclosure of the withheld information and a reasonable expectation that the life or physical safety of the named individuals could be endangered. As noted above, there is also nothing in the records, evidence or submissions that suggests that the individuals themselves expressed any concern for their lives or safety. The Ministry has not persuaded me that disclosure of the names and other identifying information could reasonably be expected to endanger anyone's life or physical safety.

Wolf collar and pack location information

[53] The Ministry also argued that disclosure of the wolf radio collar frequencies and wolf pack location information "could unnecessarily endanger members of the public and/or other individuals involved in the Ministry's Wolf Management Plan if citizens were to follow through on their threats to place themselves in harm's way in order to take action" against Ministry employees involved in that plan. The Ministry referred again to the "multiple explicit threats" it has received and said "it has no option but to take these threats very seriously and to protect the safety of potentially identifiable individuals."[46]

[54] The information in question is dated and there is no evidence that it is still valid. It is not clear to me how an individual could use this information to go to remote locations in BC and endanger someone's life or safety. The Ministry's argument and evidence do not explain and, thus, do not persuade me that disclosure of the wolf collar and pack location information could reasonably be expected to endanger anyone's life or safety.

Conclusion on s. 15(1)(f)

[55] For the reasons provided above, which are similar to those I discuss above regarding s. 19(1)(a), I find that s. 15(1)(f) does not apply to the information the Ministry withheld under this exception.

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[45] Ministry's initial submission, paras. 35-37; Affidavit of Ministry employee, paras. 6-8. I summarized the "threats" above in the discussion on s. 19(1)(a).
[46] Ministry's initial submission, para. 38; Affidavit of Ministry employee, para. 9.

CONCLUSION

[56] For reasons discussed above, I make the following orders:

1. Under s. 58(2)(c), I require the Ministry to withhold the information it withheld under s. 22(1).
2. Under s. 58(2)(b), I confirm that the Ministry is authorized to withhold the information it withheld under s. 13(1).
3. Under s. 58(2)(a), I find that the Ministry is not authorized to withhold the information it withheld under ss. 15(1)(f), 16(1)(a)(iii) and 19(1)(a). I require the Ministry to give the applicant access to this information by June 26, 2018. The Ministry must concurrently copy the OIPC Registrar of Inquiries on its cover letter to the applicant, together with a copy of the records.

May 14, 2018

ORIGINAL SIGNED BY

Celia Francis, Adjudicator

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