



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for British Columbia

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Order F18-22

MINISTRY OF FINANCE

Chelsea Lott
Adjudicator

June 18, 2018

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Summary: The applicant requested access to the phone log of a government employee. The Ministry produced phone bills for a cell phone used by the employee but withheld an account number under ss. 15(1)(l) and 17 of the *Freedom of Information and Protection of Privacy Act*. The adjudicator confirmed the Ministry's decision to withhold the account number under s. 15(1)(l) and as a result it was unnecessary to consider s. 17.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 15(1)(l).

INTRODUCTION

[1] This inquiry involves an applicant's request for the "phone log" of a named government employee. The Public Service Agency, a part of the Ministry of Finance (Ministry), responded to the request and denied access to the responsive phone bills pursuant to ss. 15 (harm to law enforcement), 17 (harm to financial or economic interests of a public body) and 22 (personal privacy) of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

[2] The applicant requested the Office of the Information and Privacy Commissioner (OIPC) review the Ministry's response. Mediation resolved the s. 22 issue but failed to resolve the ss. 15 and 17 matters and the applicant requested they proceed to an inquiry.

[3] At the start of the inquiry, the Ministry disclosed additional information, and indicated that it was relying on ss. 17 and 22, but not s. 15 to withhold the

remaining information. However shortly after, the Ministry applied for and was granted permission from the registrar of inquiries to add s. 15(1)(l) (harm to the security of any property or system) as an issue for inquiry.¹

Preliminary matter

[4] The Ministry is withholding only two personal phone numbers under s. 22. Although the Ministry's decision to withhold that information was resolved at mediation,² the Ministry's inquiry submissions indicate that this s. 22 severing is still in dispute. Section 22 was not listed as an issue in dispute in either the investigator's fact report or the notice of inquiry. Given the applicant's previous statement that he does not want the personal phone numbers and as he has made no submissions for this inquiry, I will not consider the Ministry's application of s. 22 to withhold information from the records.

ISSUE

[5] The issues to be decided in this inquiry are whether the Ministry is authorized to refuse access to information pursuant to ss. 15(1)(l) or 17 of FIPPA. Section 57(1) provides that the public body has the burden of proving that an applicant has no right of access to all or part of a record.

DISCUSSION

The records

[6] The records at issue are eight pages of phone bills for a named government employee. The only information in dispute is the phone plan's account number, which appears once on each page. The withheld account number is associated with a government cell service plan.

Section 15(1)(l)

[7] The Ministry submits that it is authorized to withhold the account number under s. 15(1)(l) of FIPPA. The applicant made no submissions. Section 15(1)(l) reads as follows:

15(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to ...

(l) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system.

¹ Email from Ministry to the registrar dated March 23, 2018 and responding email from the registrar dated March 27, 2018.

² Investigator's fact report at paras. 3-4.

[8] Section 15(1)(l) requires that the hypothetical harm to property or a system “could reasonably be expected to” occur. In order to meet this test, a party must provide evidence to prove that the likelihood of a particular harm resulting from disclosure of the disputed information is “well beyond” or “considerably above” a mere possibility.³

Analysis

[9] I accept that the cell phone and its service plan are a part of the “communication system” of the Province because the government employee uses the phone in the course of her employment.⁴ The Ministry provided no affidavit evidence regarding this point, but as it is not challenged, I accept that the phone is for use in the course of employment with the Province.

[10] The Ministry alleges that disclosure of the account number could result in harm to its communication system by enabling unauthorized users to make changes to the cell phone plan. The Ministry has provided evidence from the Public Service Agency’s information security officer and manager of privacy and security (information security officer). The information security officer deposes that he has a Bachelor of Science degree in Computer Science and certifications as an information systems auditor and information system security professional. He has over 20 years in the information technology field and over 5 years working in information security.⁵

[11] The potential harm to the communication system identified by the Ministry is the unauthorized use, tampering or manipulation of phone services. The information security officer hypothesizes that if the cell phone account number is disclosed, unauthorized individuals could gain access to the account. He explains that with the information in the phone bill, including the account number, a person could deceive the cell phone service provider into believing he or she is the real account holder. The unauthorized individual could then make changes to the account such as adding or removing services, or call forwarding to a different number. The information security officer suggests that another “known attack method” is for an individual to add a new SIM (Subscriber Identity Module) card to divert a phone’s incoming information such as phone calls and text messages.⁶ The Ministry has also provided evidence of the cost to replace a compromised cell phone and cell phone plan.⁷

³ *Ontario (Community Safety and Correctional Services) v Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 at para. 54. See also Order F17-54, 2017 BCIPC 59 at para. 10.

⁴ Ministry submissions at para. 4.13.

⁵ Affidavit of information security officer at paras. 4–5.

⁶ *Ibid* at paras. 9–11.

⁷ Affidavit of paralegal, exhibits A, B and C.

[12] The Ministry's evidence that disclosing an entire phone bill could lead to risk of unauthorized access to the phone plan is convincing because it comes from an individual knowledgeable and experienced in information technology security. It is also consistent with common sense. The applicant did not reply to the Ministry's submissions or dispute the information security officer's evidence. Therefore, I am satisfied that the Ministry's evidence establishes that if the account number is disclosed, the potential harm to a part of the Province's "communication system" is well beyond a mere possibility. The Ministry is authorized to withhold the account number pursuant to s. 15(1)(l).

Section 17

[13] As I have concluded that the Ministry is authorized to withhold the account number under s. 15(1)(l), I decline to consider whether it may also withhold it under s. 17.

CONCLUSION

[14] Pursuant to s. 58(2), I confirm that the Ministry is authorized to withhold the information in dispute under s. 15(1)(l).

June 18, 2018

ORIGINAL SIGNED BY

Chelsea Lott, Adjudicator

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