



Order F22-30

INSURANCE CORPORATION OF BRITISH COLUMBIA

Celia Francis
Adjudicator

June 8, 2022

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Summary: An applicant requested access under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to two claim files. The Insurance Corporation of British Columbia (ICBC) disclosed most of the responsive records but withheld some information under ss. 22(1) (unreasonable invasion of third-party privacy), 13(1) (advice or recommendations), 17(1) (harm to financial interests of public body) and 3(5)(a) (record available for purchase by the public) of FIPPA. ICBC later abandoned reliance on s. 17(1). The adjudicator found that ss. 13(1), 22(1) and 3(5)(a) apply to most of the withheld information and ordered ICBC to withhold this information. The adjudicator ordered ICBC to disclose the information to which she found ss. 13(1), 22(1) and 3(5)(a) did not apply.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 3(5)(a), 13(1), 13(2)(a), 13(3), 22(1), 22(3)(a), 22(3)(d), 22(3)(f), 22(3)(j), 22(4)(a).

INTRODUCTION

[1] This case concerns an applicant's request under the *Freedom of Information and Protection of Privacy Act* (FIPPA), to the Insurance Corporation of British Columbia (ICBC) for two claim files.

[2] In February 2018, the applicant was involved in a collision with another vehicle. The applicant and the driver of the other vehicle (third party) both made claims to ICBC. ICBC found the applicant 75% liable for the collision and the third party 25%. The applicant disputed ICBC's determination on liability.

[3] The applicant later requested access to his claim file and that of the third party. ICBC responded by disclosing most of the 615 pages of responsive

records. It withheld some information under s. 22(1),¹ s. 13(1),² s. 17(1)³ and s. 3(5)(a).⁴

[4] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review ICBC's response. During mediation, ICBC disclosed some more information but maintained that the same four FIPPA sections applied to the withheld information. Mediation did not resolve the matter and it proceeded to inquiry. The OIPC received submissions from both the applicant and ICBC.⁵

PRELIMINARY MATTERS

Section 17(1) no longer an issue

[5] In its initial submission, ICBC said it was no longer applying s. 17(1).⁶ I understand that it has disclosed the information that it withheld only under that exception. Thus, the FIPPA provisions at issue for this inquiry are ss. 3(5)(a), 13(1) and 22(1).

ICBC's search and response not an issue

[6] The applicant said in his inquiry submission that he believes that ICBC did not fulfil one element of his request, in which he asked for "account statements of the current costs created at ICBC to argue me (time X value and any other costs)."⁷ The adequacy of ICBC's search and its response was not listed as an issue in the notice for this inquiry.

[7] Moreover, the notice for this inquiry states that "Parties may not add new exceptions or issues into the inquiry without the OIPC's prior consent." There is no indication that the applicant asked that the adequacy of ICBC's search or response be added as an issue in this inquiry. I have, therefore, decided not to consider it here.

¹ Unreasonable invasion of third-party privacy.

² Advice or recommendations.

³ Harm to financial interests of public body.

⁴ A recent FIPPA amendment renumbered s. 3(1)(j) as s. 3(5)(a), which says that FIPPA does not apply to a record available for purchase by the public.

⁵ ICBC also provided the applicant with an updated response package in March 2022.

⁶ ICBC's initial submission, para. 1. It appears that ICBC has disclosed any information that it withheld only under s. 17(1).

⁷ Applicant's emails of March 17, 2022, at 11:17 PM, and March 23, 2022, with OIPC Registrar and ICBC's counsel.

ISSUES

[8] The issues to be decided in this inquiry are:

1. Whether s. 22(1) requires and s. 13(1) authorizes ICBC to withhold information; and
2. Whether, under s. 3(5)(a), FIPPA does not apply to a record.

[9] Under s. 57(1), ICBC has the burden of proving that the applicant is not entitled to access to information withheld under ss. 3(5)(a) and 13(1).

[10] Under s. 57(2) of FIPPA, it is up to the applicant to prove that disclosure of third-party personal information would not be an unreasonably invasion of the third party's personal privacy. However, the public body has the initial burden of proving the information at issue qualifies as personal information under s. 22(1).⁸

DISCUSSION

Information in dispute

[11] The 615 pages of responsive records comprise the applicant's claim file (507 pages) and the third party's claim file (108 pages). The information in dispute consists of a Vancouver Police Department (VPD) incident report; information about the third party, including his claim; information about the claim of the owner of the vehicle the third party was driving (owner); information about the witnesses; and comments about the applicant's claim. There is considerable duplication in the records.

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

[12] ICBC said it applied s. 22 to information about third parties.

[13] The applicant said "I do not lay any claims to any 3rd party personal information but ask the adjudicator to verify that the public body has protected personal privacy"⁹ and that it has not applied s. 22 to other types of information.¹⁰

[14] The applicant's comments suggest that he does not want other people's personal information but simply wishes assurance that ICBC applied s. 22 properly. As s. 22 was listed as an issue in the notice and fact report for this inquiry, I have dealt with it below.

⁸ Order 03-41, 2003 CanLII 49220 (BCIPC) at paras. 9–11.

⁹ Applicant's response submission, email of March 29, 2022 at 11:17 AM.

¹⁰ Applicant's response submission, email of March 28, 2022 at 6:04 AM.

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

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.¹¹

Is it personal information?

[16] FIPPA defines “personal information” as recorded information about an identifiable individual, other than contact information.

[17] “Contact information” is defined in Schedule 1 of FIPPA 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.” Past orders have said “[w]hether information will be considered ‘contact information’ will depend on the context in which the information is sought or disclosed”.¹²

[18] ICBC said that all of the information it withheld under s. 22(1) is the personal information of third parties.¹³

ICBC employees

[19] ICBC withheld the cell and direct telephone numbers of two ICBC employees.¹⁴ ICBC argued that this information is not “contact information”.¹⁵ Rather, it said,

These cell phone numbers of ICBC employees are not their ICBC business telephone numbers and are for the benefit of internal (internal to ICBC) or private, not public use.

¹¹ Order F15-03, 2015 BCIPC 3 (CanLII), at para. 58.

¹² See, for example, Order F08-03, 2008 CanLII 13321 (BC IPC), at para. 82.

¹³ ICBC’s initial submission, paras. 25-30.

¹⁴ Pages 528, 547, 549.

¹⁵ ICBC’s initial submission, para. 30.

Not all ICBC employees have cell phones and those that do, have them so they can be reached by ICBC either when away from their desk during regular office hours or outside of business hours and for urgent matters only. The business telephone numbers of these employees, which have been released, are the numbers where they can be contacted during regular ICBC business hours.¹⁶

[20] The definition of “contact information” does not say the information is only for use by the public. It also does not exclude internal contact by fellow employees. It does not matter, in my view, whether ICBC is contacting these employees while they are away from their desks or outside work hours. Rather, it is the purpose of the contact that matters. In my view, the numbers are clearly for use in contacting these individuals for work purposes. It is irrelevant that ICBC apparently allows its employees to make personal or private use of these numbers.

[21] I find, therefore, that the direct and cell numbers at issue are “contact information” and not personal information. This means that s. 22(1) does not apply to them and ICBC must disclose them.

[22] In any case, according to ICBC’s table of records and the records themselves, ICBC disclosed the telephone and cell numbers of one of these employees elsewhere in the records.

Other individuals

[23] ICBC withheld the following information:

- the third party’s home address, telephone number and date of birth; information about his insurance claims, assets and liability and insurance coverage; his medical information; and information about his employment and activities at the time of the collision;
- the owner’s claims and insurance coverage information;
- the surnames, telephone numbers, home addresses and personal and employment activities of the witnesses and of an individual associated with one witness; and correspondence with the witnesses; and
- the name and home address of ICBC’s Fairness Commissioner.

[24] This information is all about identifiable individuals and is not contact information. I find it is personal information.

¹⁶ Affidavit of Senior Information Officer, Privacy & Freedom of Information, ICBC, paras. 4-5.

Does s. 22(4) apply?

[25] Section 22(4) lists circumstances where s. 22 does not apply because disclosure would not be an unreasonable invasion of personal privacy.

[26] ICBC said that the individuals in question have not consented to the disclosure of their personal information.¹⁷ I take this to refer to s. 22(4)(a) of FIPPA which says that it is not an unreasonable invasion of third-party personal privacy if the third party has, in writing, consented to or requested the disclosure. There is no indication that these individuals have consented to the disclosure of their personal information to the applicant, so I agree with ICBC on this point.

[27] ICBC also said that no other categories of s. 22(4) apply here either. Again, I agree. The personal information at issue does not, for example, relate to any third party's position, functions or remuneration as an officer, employee or member of a public body (s. 22(4)(e)).

[28] I find that s. 22(4) does not apply to the withheld personal information.

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

[29] Section 22(3) specifies information disclosure of which is presumed to be an unreasonable invasion of a third party's personal privacy.

[30] ICBC said that ss. 22(3)(a), (b), (d), (f) and (j) apply to the withheld personal information. The relevant provisions read as follows:

22 (3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation,

(b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation,

...

(f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness,

...

¹⁷ ICBC's initial submission, para. 26.

(j) the personal information consists of the third party's name, address, or telephone number and is to be used for mailing lists or solicitations by telephone or other means.

Medical information – s. 22(3)(a)

[31] Some of the withheld personal information is the third party's medical information. I find that s. 22(3)(a) applies to it.

Investigation into possible violation of law – s. 22(3)(b)

[32] ICBC said that information such as third-party claims information falls into this category, as it was compiled and is identifiable as part of an investigation.¹⁸

[33] Section 22(3)(b) refers to personal information that “was compiled and is identifiable as part of an investigation *into a possible violation of law ...*” [emphasis added]. ICBC did not specify the law in question nor say what the possible violation might be.

[34] I have decided I do not need to consider whether s. 22(3)(b) applies to any third-party claims information, however, as I find below that any such information falls under s. 22(3)(f).

Employment information – s. 22(3)(d)

[35] Some of the withheld personal information relates to third parties' employment. I find that s. 22(3)(d) applies to this information.

Financial information – s. 22(3)(f)

[36] Some of the withheld personal information relates to the claims and insurance coverage information of the third party and the owner, as well as information about their assets. I am satisfied that it is their financial information and I find that s. 22(3)(f) applies to it.

Use for mailing lists or solicitations – s. 22(3)(j)

[37] ICBC did not explain how third-party names, addresses or telephone numbers might be used for the purposes stated in s. 22(3)(j). There is also no indication in the applicant's submission that he might use the information in question for these purposes.

[38] I find, therefore, that s. 22(3)(j) does not apply to the information in question. I also find that no other s. 22(3) presumptions apply to it.

¹⁸ ICBC's initial submission, para. 27.

Other information

[39] Some withheld information is about the personal activities of third-party individuals. This information also does not fall squarely into any of the s. 22(3) categories.

Relevant Circumstances

[40] 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. It is at this stage that any s. 22(3) presumptions may be rebutted.

[41] ICBC said that no relevant circumstance overcomes the presumptions in s. 22(3).¹⁹ It did not elaborate on this point.

Applicant's rights - s. 22(2)(c)

[42] As noted above, the applicant disputes ICBC's determination that he was 75% liable for the collision. It also appears that he has not yet settled his claim. It is clear from his submission that he is unhappy with the way ICBC treated him. He also said he has been told his only recourse is to sue ICBC and the third party.²⁰

[43] I therefore considered whether disclosure of the personal information in dispute is relevant to a fair determination of the applicant's rights. The following four criteria must be met in order for this circumstance to apply:

1. The right in question must be a legal right drawn from the common law or a statute, as opposed to a non-legal right based only on moral or ethical grounds;
2. The right must be related to a proceeding which is either under way or is contemplated, not a proceeding that has already been completed;
3. The personal information sought by the applicant must have some bearing on, or significance for, determination of the right in question; and
4. The personal information must be necessary in order to prepare for the proceeding or to ensure a fair hearing.²¹

¹⁹ ICBC's initial submission, para. 28.

²⁰ See, for example applicant's email of March 14, 2022 at 5:34 AM and email of November 4, 2021 at 4:37 PM.

²¹ Order F22-10, 2022 BCIPC 10 (CanLII), para. 120.

[44] Despite the applicant's dissatisfaction with ICBC's handling of his claim, there is no indication that he is currently engaged in any legal proceedings against ICBC or the third party. If he is, there is no indication as to how the withheld personal information would be relevant to any such proceedings. I find, therefore, that s. 22(2)(c) does not apply here.

Other s. 22(2) circumstances

[45] None of the other circumstances listed in s. 22(2) is relevant here, in my view. There is no evidence, for example, that disclosure of the third parties' personal information is desirable for subjecting a public body's activities to public scrutiny (s. 22(2)(a)) or is likely to promote public health or safety (s. 22(2)(b)).

Other factors

[46] **Sensitivity:** In my view the sensitivity of the withheld medical and financial information is a relevant circumstance in this case, favouring non-disclosure.

[47] **Information about personal lives:** There is some information about third parties' activities, employment, home addresses, telephone numbers and correspondence. That information is not sensitive. However, it pertains to people's private lives, a factor which I consider is a circumstance that favours non-disclosure.

[48] **Applicant's knowledge:** The applicant provided the full names of the two witnesses in his statement to ICBC²² and thus clearly knows their surnames. Therefore, it would not, in my view, result in an unreasonable invasion of their personal privacy to re-disclose this information to the applicant.²³

[49] ICBC also withheld the name and home address of ICBC's Fairness Commissioner on p. 509, although it disclosed the same information elsewhere. Again, I do not see how its re-disclosure on p. 509 would unreasonably invade third-party privacy.

[50] **Applicant's stated goals:** The applicant has indicated that he does not want access to the third-party personal information. I consider that is a circumstance that weighs against disclosure.

Conclusion on s. 22(1)

[51] I found above that some information (ICBC employees' cell and direct business telephone numbers) is contact information and that s. 22(1) does not apply to it.

²² Pages 350-351, 166-171.

²³ On pp. 12, 52, 54, 58, 73, 217-218, 345.

[52] I also found above that the rest of the information in question is third-party personal information and that s. 22(4) does not apply to it. I found that some of this information falls under ss. 22(3)(a) and (f) and that other information does not fall under any of the s. 22(3) categories.

[53] I found that s. 22(3) does not apply to the surnames of the two witnesses and the name and home address of ICBC's Fairness Commissioner. I find that the applicant's knowledge of that personal information favours disclosure. I find, therefore, that s. 22(1) does not apply to this information.

[54] As for the other relevant circumstances, while the circumstances listed in s. 22(2) do not favour disclosure, the sensitivity of the medical and claims information favours withholding this information.

[55] Turning to the other third-party information (e.g., their activities, employment, home addresses, telephone numbers, correspondence), I consider that it is not sensitive. However, it pertains to people's private lives, a factor which I consider favours non-disclosure.

[56] I have also considered the fact that the applicant apparently does not want, and did not explain why he should have, access to other people's personal information in the records, sensitive or otherwise.

[57] The applicant has not met his burden of proof respecting this information. I find that s. 22(1) applies to this remaining information.

Advice or recommendations – s. 13(1)

[58] 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 to provide full, free and frank advice”,²⁴ recognizing that some degree of deliberative secrecy fosters the decision-making process.²⁵ They have interpreted the term “advice” to include an expression of opinion on policy-related matters²⁶ and expert opinion on matters of fact on which a public body must make a decision for future action.²⁷ They have also found that advice includes policy options prepared in the course of the decision-making process.²⁸

²⁴ *John Doe v. Ontario (Finance)*, 2014 SCC 36 [*John Doe*], at paras. 34, 43, 46, 47.

²⁵ *College of Physicians of B.C. v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 [*College of Physicians*], para. 105.

²⁶ *John Doe*, para. 46.

²⁷ *College of Physicians*, para. 113.

²⁸ *John Doe*, para. 35.

[59] 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.²⁹

[60] Order F21-16³⁰ sets out the process for determining if s. 13(1) applies:

The s. 13 analysis involves two steps. First, I must determine if disclosure of the information in dispute would reveal advice or recommendations developed by or for the public body. If it would, then I must determine whether the information falls into any of the categories listed in ss. [sic] 13(2) or 13(3). If it does, the public body cannot refuse to disclose it.

Section 13(2) lists categories of information that public bodies cannot withhold under s. 13(1). For example, s. 13(2)(a) says that public bodies cannot withhold factual material under s. 13(1). Section 13(3) says that public bodies cannot use s. 13(1) to withhold information in a record that has been in existence for 10 or more years.³¹

[61] 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.

Parties' submissions on s. 13(1)

[62] ICBC said it withheld a relatively small amount of information under s. 13. ICBC said the following about this information:

- It is advice and recommendations that its employees provided in claims file notes (such as manager notes or adjuster notes) and internal ICBC emails; or
- It is advice and recommendations that its external independent adjusters provided in reports or emails.³²

[63] The applicant noted that ICBC has the burden of proof respecting s. 13 and asked that I verify that s. 13 applies properly to the information in question. He also asked that I include that information.³³

²⁹ See, for example, Order F15-60, 2015 BCIPC 64 (CanLII), at para. 12. See also Order F16-32, 2016 BCIPC 35 (CanLII). Order F15-52, 2015 BCIPC 55 (CanLII), also discusses the scope and purpose of s. 13(1).

³⁰ Order F21-16, 2021 BCIPC 21 (CanLII).

³¹ Order F21-16 at paras. 14 and 15.

³² ICBC's initial submission, para. 34.

³³ Applicant's response submission, para. 5, and attached email of March 29, 2022 at 11:17 AM.

Analysis and findings

[64] ICBC applied s. 13(1) to a few lines of the applicant's own personal information on p. 56. ICBC's submissions do not address this information directly and do not explain how it consists of advice or recommendations. I find that it does not, for example, consist of options, analysis or opinion information. I find that s. 13(1) does not apply to it. In any case, ICBC disclosed the same information elsewhere in the records.

[65] The remaining information to which ICBC applied s. 13(1) consists of ICBC employees' and external adjusters' comments and opinions on the merits of the applicant's claim, assessments of his claim and options and recommendations on how to handle the claim. I am satisfied that this information consists of advice and recommendations and find that s. 13(1) applies to it.

Does s. 13(2) apply?

[66] ICBC and the applicant did not address this section.

Factual material

[67] I considered whether any of the information to which ICBC applied s. 13(1) consists of factual information under s. 13(2)(a). If it does, ICBC may not withhold any such information under s. 13(1).

[68] Section 13(2) reads as follows:

13(2) The head of a public body must not refuse to disclose under subsection (1)

(a) any factual material

...

[69] The Supreme Court of Canada has noted that there is a distinction between advice and factual "objective information."³⁴ In addition, the BC Supreme Court said this about the type of factual information to which s. 13(1) applies:

... if the factual information is compiled and selected by an expert, using his or her expertise, judgment and skill for the purpose of providing explanations necessary to the deliberative process of a public body or if the expert's advice can be inferred from the work product it falls under s. 13(1) ... the compilation of factual information and weighing the significance of matters of fact is an integral component of the expert's advice and informs

³⁴ *John Doe*, at paras. 50-52, commenting with approval on findings in *3430901 Canada Inc. v. Canada (Minister of Industry)*, 1999 CanLII 9066 (FC).

the decision-making process. Based on the principles articulated in *Physicians*, the documents created as part of a public body's deliberative process are subject to protection.³⁵

[70] ICBC withheld some factual information about the applicant's claim under s. 13(1). However, I can see it was compiled as part of, and is integral to, in the above-noted opinions, analysis and recommendations about the applicant's claim, which I found above to be advice or recommendations. Any such factual information does not qualify as "factual material" under s. 13(2)(a) because it could not, in my view, be disclosed without revealing information to which s. 13(1) applies.

[71] I find, therefore, that none of the withheld information at issue qualifies as factual information under s. 13(2)(a). I also see no indication that any other parts of s. 13(2) are applicable.

Section 13(3)

[72] None of the withheld information is older than 10 years. Section 13(3) does not, therefore, apply to it.

Conclusion on s. 13(1)

[73] I found that s. 13(1) does not apply to the withheld information on p. 56. However, I found that s. 13(1) does apply to the remaining information that ICBC withheld under that section.

Exercise of Discretion

[74] Section 13 is discretionary. This means that the head of a public body must properly exercise its "discretion in deciding whether to refuse access to information, and upon proper considerations."³⁶ If the head of the public body has failed to exercise discretion, the Commissioner can require the head to do so. The Commissioner can also order the head of the public body to reconsider the exercise of discretion where "the decision was made in bad faith or for an improper purpose; the decision took into account irrelevant considerations; or, the decision failed to take into account relevant considerations."³⁷

[75] ICBC said it considered whether to exercise its discretion in favour of disclosure. It said it declined to do so because of the nature of the advice and/or recommendations, the importance and purpose of the s. 13 exception, the fact

³⁵ *Provincial Health Services Authority v. British Columbia (Information and Privacy Commissioner)* [PHSA], 2013 BCSC 2322, at para. 94.

³⁶ Order 02-50, 2002 CanLII 43486 (BC IPC) at para. 144.

³⁷ *John Doe*, at para. 52; see also Order 02-50, 2002 CanLII 43486 (BC IPC) at para. 144 and Order 02-38, 2002 CanLII 42472 (BCIPC) at para. 147.

that the applicant continues to dispute the liability decision made by ICBC and the fact that as a motor vehicle insurance regulator, ICBC has an ongoing relationship with him.³⁸

[76] I do not find most of ICBC's arguments on this point particularly compelling. However, it is understandable that ICBC wishes to protect its advice and recommendations on the applicant's claim, in view of the fact that he continues to dispute ICBC's determination of liability and has apparently not yet settled his claim.

[77] I can also see that ICBC went through the records, line-by-line, and disclosed some recommendations it could technically have withheld under s. 13(1). I am therefore satisfied that ICBC exercised its discretion properly in this case.

Is one record excluded under s. 3(5)(a)?

[78] ICBC said that, under s. 3(5)(a), FIPPA does not apply to one record, the Vancouver Police Department's (VPD) incident report about the applicant's collision (pp. 207-211). ICBC said this kind of report is available for purchase by the public for a fee.³⁹

[79] ICBC also provided the address of the VPD website which has a form the public can fill out to request a police report on a variety of incidents. Residents of the lower mainland must pay a \$55 fee for requesting such a report. This includes a motor vehicle accident on which a police officer has completed an MV6020 report.⁴⁰

[80] Based on ICBC's submission, I accept that the report in question is available for purchase by the public for a fee. I find, therefore, that this record is excluded from FIPPA's scope under s. 3(5)(a). The applicant can of course request it directly from the VPD, if he has not already done so.

[81] ICBC also applied s. 22 to this record. However, since I find that FIPPA does not apply to it, I need not consider s. 22.

³⁸ ICBC's initial submission, para. 35; Affidavit of ICBC's Senior Information Officer, Privacy & Freedom of Information, para. 3.

³⁹ ICBC's initial submission, para. 36.

⁴⁰ <https://vpd.ca/contact-us/request-a-copy-of-a-police-report/>

Page 206

[82] ICBC withheld p. 206 on the grounds that it is a duplicate of p. 179, which ICBC disclosed. Page 179 is ICBC's request to the VPD for the police incident report. Page 206 is VPD's copy of this request.

[83] In addition to withholding p. 206 because it is a duplicate, ICBC said in its table of records that p. 206 falls under s. 3(5)(a) and s. 22. However, p. 206 is not a duplicate of p. 179. For one thing, it contains the VPD's date received stamp. I also do not see how it is a record available for purchase, any more than p. 179 is.

[84] I find, therefore, that p. 206 is not excluded from FIPPA's scope under s. 3(5)(a). I also see no reason, for the purposes of s. 22, why the applicant should not receive p. 206, since he already has most of the information on this page.

CONCLUSION

[85] For the reasons given above, under s. 58 of FIPPA, I make the following orders:

1. Under s. 58(2)(a), I require ICBC to disclose the following information to the applicant:
 - a) the cell and direct telephone numbers of ICBC's employees on pp. 529, 547 and 549;
 - b) the surnames of the witnesses on pp. 12, 52, 54, 58, 73, 217-218 and 345;
 - c) the name and home address of ICBC's Fairness Commissioner on p. 509;
 - d) the withheld information on p. 56; and
 - e) all of p. 206.
2. Under s. 58(2)(c), I require ICBC to withhold the remaining information it withheld, under ss. 3(5)(a), 13(1) and 22(1).

[86] Under s. 59(1), ICBC is required to comply with this order by **July 21, 2022**. ICBC must concurrently copy the OIPC Registrar of Inquiries on its cover letter to the applicant together with a copy of the records.

June 8, 2022

ORIGINAL SIGNED BY

Celia Francis, Adjudicator

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