Order P26-04

# THE DAVID SULLIVAN GROUP OF COMPANIES LTD., dba MARKET PLACE IGA

Elizabeth Barker
Director of Adjudication

March 24, 2026

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**Summary:** An applicant requested access to videos of himself that were taken in an IGA store. The organization denied him access to the videos under s. 23(4)(c) of the *Personal Information Protection Act* because disclosure would reveal the personal information of other individuals. The adjudicator confirmed the organization's decision to refuse access to other individuals' personal information under s. 23(4)(c) but found the organization had not established that it was not able to sever the videos under s. 23(5). The adjudicator directed the organization to sever other individuals' personal information from the videos and give the applicant access to his own personal information.

**Statutes Considered:** *Personal Information Protection Act*, [SBC 2003], c. 63, ss. 1 (definitions), 2, 4(1), 23(1), 23(4)(c) and 23(5). *Freedom of Information and Protection of Privacy Act*, [RSBC 1996] c 165, s. 4(2).

## INTRODUCTION

[1] Section 23(1) of the *Personal Information Protection Act* (PIPA) provides a legal right for individuals to access their own personal information that is under the control of an organization.

[2] In this case, an individual (applicant) requested The David Sullivan Group of Companies Ltd., doing business as Market Place IGA (Organization) give him access to video footage of an incident he was involved in at an IGA store. At first, the Organization did not respond to the request. The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Organization's failure to respond within the time frame required in PIPA. The OIPC opened file P24-98249, which was ultimately resolved when the Organization responded to the request.

[3] The Organization's response was to deny the applicant access to the records pursuant to s. 23(4)(c) of PIPA. Section 23(4)(c) states that an organization must not disclose personal information and other information if it would reveal personal information about another individual (i.e., a third party).

[4] The applicant was dissatisfied with the response and asked the OIPC to conduct a review. Mediation by the OIPC did not resolve the matter and the applicant requested it proceed to this inquiry.

## *Preliminary Matters*

### *Section 23(4)(a)*

[5] Section 23(4)(a) is not identified as an issue in the OIPC investigator's fact report or the notice of inquiry and the Organization says in its initial submission that it is not invoking s. 23(4)(a) in this inquiry.[1] Despite this, both parties argue about whether it applies.[2]

[6] The notice of inquiry and the other materials sent to the parties at the start of the inquiry clearly state that they may not add new exceptions or issues into the inquiry without the OIPC's prior consent. Neither party provided any reason for why they failed to request prior permission to add s. 23(4)(a) as an issue. I can see no exceptional circumstances or reasonable basis to justify expanding the scope of the inquiry at this late stage by adding it, so I decline to do so. As a result, I will not discuss what the parties say about s. 23(4)(a) in their submissions.

### *Matters not relevant to the issues*

[7] Establishing that s. 23(4)(c) applies does not require an organization to establish anything about the applicant's motive for seeking access, or that disclosure of the information would cause harm, or that the third parties did not consent to disclosure of their personal information. Nonetheless, the parties discuss these topics in their submissions. While I have read all of what the parties submitted, I will not discuss what they say about motive, harm or consent because they are not relevant to the issues set out in the notice of inquiry.

[8] In addition, I will not address what the parties say about what took place during the events captured on video (i.e., whether the Organization's staff used

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[1] Organization's initial submission at p. 4.

[2] Section 23(4)(a) says that an organization must not disclose personal information and other information if the disclosure could reasonably be expected to threaten the safety or physical or mental health of an individual other than the individual who made the request.

excessive force, whether the applicant was charged, etc.). PIPA gives me no power to make decisions about those matters, nor are they relevant to the issues I need to decide.

## ISSUES

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

1. Section 23(4)(c) requires the Organization to refuse access to the information in dispute.

2. The Organization is able to remove other individual's personal information from the videos and provide the applicant with access to the remaining information, pursuant to s. 23(5) of PIPA.

[10] Section 51 says that at an inquiry into a decision to refuse an individual access to all or part of the individual's personal information, it is up to the organization to prove to the satisfaction of the commissioner that the individual has no right of access to their personal information.

## DISCUSSION

### Background

[11] In the summer of 2024, an incident arose during which the applicant was accused of shoplifting from the Organization's IGA store. The store staff refused to let him leave, and a police officer eventually arrived and took the applicant away in handcuffs. The store's cameras recorded the event, and it is those video recordings the applicant seeks.

### Records in dispute

[12] The Organization provided four videos for my review.[3] They contain no audio. The date stamp in the top left of the videos indicates they were filmed on July 11, 2024 between 23:30 and 23:43. Three of the videos are 8:11 minutes long and the fourth is 8:12 minutes. The applicant appears for approximately ten minutes. Several customers and store staff plus a police officer also appear in the videos when the applicant is present.

- Video 1 – The applicant appears at 0:03-0:11.
- Video 2 – The applicant appears at 0:14-2:43 and 7:27-7:43.
- Video 3 – The applicant appears at 0:20-0:54 and 7:35-7:48.

[3] Video 1 (ch10-20240711233526). Video 2 (ch17-20240711233526). Video 3 (ch23-20240711233526). Video 4 (ch24-20240711233526).

- Video 4 – The applicant appears at 00:05-00:20, 00:55-2:21 and 2:24-7:35).

### *Access to personal information, s. 23*

[13] The parts of s. 23 that are relevant in this case state the following:

> 23 (1) Subject to subsections (2) to (5), on request of an individual, an organization must provide the individual with the following:
>
> > (a) the individual's personal information under the control of the organization;
> > …
>
> (4) An organization must not disclose personal information and other information under subsection (1) or (2) in the following circumstances:
> > …
> >
> > (c) the disclosure would reveal personal information about another individual;
> > …
>
> (5) If an organization is able to remove the information referred to in subsection (3) (a), (b) or (c) or (4) from a document that contains personal information about the individual who requested it, the organization must provide the individual with access to the personal information after the information referred to in subsection (3) (a), (b) or (c) or (4) is removed.

*Organization's submissions*

[14] The Organization submits that s. 23(4)(c) requires it to withhold the requested videos because disclosing them would reveal third parties' personal information.

[15] In addition, the Organization says that it is not able to sever the third parties' images from the videos under s. 23(5) for two reasons:

1. It is not "reasonably possible" to remove the excepted information from the video in a way that would permit partial access because the applicant's image is too intertwined with third parties' images to make severance meaningful.[4] The Organization says, "Blurring them [third parties] might still leave their outlines or actions visible, still revealing aspects of their

[4] Organization's initial submission at pp. 5-6.

personal information. In sum, effective removal of their identity from the footage is not achievable without gutting the footage itself."[5]

2. It is not "reasonably possible" for it to sever the videos because it does not have in-house video processing skills and technology. The Organization explains as follows:

> To redact the video, IGA would have to hire an external video editing service or invest in software/training, incurring significant expense and effort. Given that PIPA only permits charging a 'minimal fee' for access requests, the cost of such an undertaking would largely fall to the organization. For a small set of footage clips, the burden of outsourcing digital redaction is disproportionate. PIPA's drafters did not intend to force organizations to engage in costly technological processes for every access request; rather, s. 23(5) expects severance only where it is reasonably within the organization's ability. Here, it is beyond IGA's reasonable capacity to create a sanitized version of the video.[6]

*Applicant's submission*

[16] The applicant does not dispute that the videos contain third parties' personal information, and he recognizes that s. 23(4)(c) permits withholding personal information of others. However, he submits the third parties' personal information can be blurred or masked, and the Organization's refusal to engage in redaction of the third party images is unreasonable. He says, "Given the nature of modern video-editing software, it is entirely feasible to redact or blur the third parties' faces without distorting or removing critical information."[7] He says that the fact that the Organization may not possess in-house video-editing software or expertise does not absolve it from its obligations under PIPA, and it could have outsourced the redaction process. He says, "The cost or perceived difficulty of redacting the footage does not outweigh the applicant's right to access personal information".[8]

*Analysis*

[17] There is no dispute that the videos contain the applicant's personal information. Therefore, the first step in this analysis is to decide whether the videos contain third party personal information. If so, then s. 23(4)(c) applies. If s. 23(4)(c) applies, the next step is to decide if the Organization is able to sever the third party personal information from the videos under s. 23(5) and give the applicant access to his own personal information.

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[5] Organization's initial submission at p. 6.
[6] Organization's initial submission at pp. 5-6.
[7] Applicant's submission at p. 4.
[8] *Ibid*

Personal Information

[18] PIPA says "personal information" means information about an identifiable individual. The definition includes employee personal information but does not include contact information, or work product information.[9]

[19] Employee personal information means personal information about an individual that is collected, used or disclosed solely for the purposes reasonably required to establish, manage or terminate an employment relationship between the Organization and that individual, but does not include personal information that is not about an individual's employment. Contact information means 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. Work product information means information prepared or collected by an individual or group of individuals as a part of the individual's or group's responsibilities or activities related to the individual's or group's employment or business but does not include personal information about an individual who did not prepare or collect the personal information.

[20] The videos contain clear images of the applicant and other people. While the Organization's submissions only acknowledge there are images of the applicant and two security staff, it is important to note that the videos also contain images of many staff, customers and a police officer. These individuals are the "third parties" I am referring to in this order.

[21] I am satisfied that anyone watching the videos who knows the third parties depicted could easily identify them because of the adequate size and sharpness of the images in the videos. Also, it is very clear that the videos do not contain employee personal information, contact information or work product information. Therefore, I am satisfied that the images of the third parties in the videos are personal information because they are about identifiable individuals.

[22] The applicant's image only appears in brief portions of the videos, so those are the only portions that contain his personal information. Because PIPA only gives him the right to access his own personal information, it does not give him the right to access the portions of the videos that do not contain his personal information. For that reason, the Organization is not required to provide him access to any portions of the videos that do not contain his image. From this point forward in the analysis, I will only consider and discuss the portions of the video that contain the applicant's image.

[9] See PIPA s. 1 for definitions. The parties do not submit the information is employee personal information, contact information or work product information.

Section 23(4)(c)

[23] Section 23(4)(c) says the Organization must not disclose the third parties' personal information to the applicant. I find that the Organization is required, under s. 23(4)(c), to refuse to give the applicant access to the parts of the third parties' images that identify them.

Section 23(5)

[24] The next step is to consider the application of s. 23(5). Section 23(5) requires the Organization to give the applicant access to his own personal information if the Organization "is able to" remove the information it is required to refuse to disclose under s. 23(4)(c).

[25] The focus of the Organization's submission is that it is not able to sever the videos because it is not "reasonably possible" or "reasonably practicable" for it to do so. I accept that the Organization does not have in-house technology and skills to sever the third party images from the videos.[10] I also find that it is *possible* for the Organization to sever the videos by, as it acknowledges, hiring an external video editing service or obtaining the software or training needed to do it in-house.

Meaning of the phrase "is able to"

[26] The language of s. 23(4)(c) asks whether the Organization "is able to" sever the records. While past orders that considered s. 23(5) treated the phrase as interchangeable with "is possible to" or "can", they did not consider whether s. 23(5) incorporates a reasonableness component.

[27] Those past orders concerned the severing of *static* information from documents. As a result, the issue of what an organization was obliged to demonstrate about its technical skill and resources (or lack thereof) before it could legitimately claim it was unable to sever the documents, did not arise. This case is different because it concerns severing *moving* images, which is clearly a task that requires more technical equipment, skill and effort than severing static information in documents.

[28] This is the first case to squarely raise the issue of whether the phrase "is able to" in s. 23(5) incorporates a reasonableness component as the Organization suggests.

[29] The modern approach to statutory interpretation requires that I read the words of s. 23(5) in their entire context, in their grammatical and ordinary sense, harmoniously with the scheme of PIPA, the object of PIPA, and the intention of

[10] The applicant did not dispute this is the case.

the Legislature who enacted PIPA.[11] This approach is also consistent with s. 8 of the *Interpretation Act* which states: "Every enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects."[12]

[30] First, it is important to look at the phrase in the context of the provision. I note the Legislature chose the phrase "*if* the organization is *able* to". The use of "if…able" is language that qualifies or limits the obligation to sever information in s. 23(5).

[31] PIPA does not define "able", but dictionaries say it means "having the capacity or power"[13], and "having enough power, skill, etc. to do something".[14] In my view, those definitions are not that helpful in interpreting s. 23(5). Does s. 23(5) mean "able" in the sense that if the organization is capable of severing (i.e., it is possible), it must be done regardless of the effort or cost? Or does it mean "able" in the sense that the organization can do it without inordinate or unreasonable effort and cost?

[32] The scheme of PIPA has a reasonable person standard running throughout. For instance, s. 2 says that the purpose of PIPA is as follows:

> 2 The purpose of this Act is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances. [emphasis added]

[33] In addition, s. 4(1) says that in meeting its responsibilities under PIPA, an organization must consider reasonableness.

> 4(1) In meeting its responsibilities under this Act, an organization must consider what a reasonable person would consider appropriate in the circumstances. [emphasis added]

[34] The reasonable person standard also appears elsewhere in PIPA. For example, ss. 11, 14 and 17 say that an organization's collection, use and disclosure of personal information should be viewed from the perspective of what a reasonable person would consider appropriate in the circumstances.

[35] Section 23(5) is about an organization's responsibility to sever records to provide the applicant access to their personal information. In fulfilling that

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[11] *Rizzo & Rizzo Shoes Ltd.* (Re), 1998 CanLII 837 (SCC) at para 21.
[12] *Interpretation Act* [RSBC 1996] c 238.
[13] *Canadian Oxford Dictionary,* 2nd edition.
[14] *Webster's New World College Dictionary*, 5th edition.

responsibility, an organization is required to consider s. 4(1) and what a reasonable person would consider appropriate in the circumstances. This interpretation of s. 23(5) is consistent with both the reasonable person standard governing an organization's responsibilities under PIPA as well as PIPA's purpose of balancing the rights of applicants and the needs of organizations.

[36] It is also consistent with BC's broader regulatory scheme of information access rights and obligations which includes the *Freedom of Information and Protection of Privacy Act* (FIPPA). Section 4(2) of FIPPA also imposes a reasonableness component to severing obligations.

> Information Rights
>
> 4(2) The right of access to a record does not extend to information that is excepted from disclosure under Division 2 of this Part, but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record. [emphasis added]

[37] This is not the first order to recognize that severing responsibilities under both s. 23(5) of PIPA and s. 4(2) of FIPPA contain a reasonableness standard.[15] While he did not decide the issue, in Order P06-02, former Commissioner Loukidelis expressed the preliminary view that reasonableness is a component of s. 23(5). He said:

> I will note in passing my preliminary view that, although the language of s. 4(2) of FIPPA is not the same as that found in s. 23(5) of PIPA, the language in the latter about being "able to remove" information appears to import an objective standard of reasonableness that aligns s. 23(5) well with the requirements of s. 4(2) of FIPPA. I doubt the Legislature intended to require organizations to remove protected information and disclose personal information even in cases where it is extremely costly and technically challenging to do so, such that the effort and expenditure involved exceed what is reasonable in all of the circumstances.[16]

[38] I agree with the former Commissioner that the Legislature did not intend to require organizations to provide personal information when doing so would exceed what is reasonable in the circumstances. Section 4(1) of PIPA says that in meeting its responsibilities, an organization must consider what a reasonable person would consider appropriate in the circumstances. Section 23(5) describes one such responsibility - if it is able, an organization must sever the record and

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[15] Several orders remarked on the differences but it was not necessary to engage in a full statutory interpretation based on the facts: Order F24-08, 2024 BCIPC 59 (CanLII) at para 116; Order P23-09, 2023 BCIPC 82 (CanLII) at para 33; Order P23-07, 2023 BCIPC 66 at paras 49-52.

[16] Order P06-02, 2006 CanLII 32980 (BC IPC) at para 61 (FN 58). Order P06-01, 2006 CanLII 13537 (BC IPC) at paras 61-62 also suggests that s. 23(5) includes reasonableness component.

provide the applicant with their personal information. As a result, the task when reviewing an organization's severing is to decide if the organization complied with its responsibility under s. 23(5) in accordance with s. 4(1). That requires taking into account what a reasonable person would consider appropriate in the circumstances.

[39] Given all of the above, I find that the phrase "If an organization is able to remove the information" in s. 23(5) incorporates the concept of "what a reasonable person would consider appropriate in the circumstances" from s. 4(1). It is not sufficient to interpret s. 23(5) as requiring an organization to sever information simply because it is *possible* to do so. Instead, the standard when judging whether an organization "is able to" sever information under s. 23(5) is what a reasonable person would consider to be appropriate in the circumstances. As a result, in the circumstances of this case, s. 23(5) requires me to consider what the broader context and circumstances reveal about the reasonableness of incurring the expense and effort required to sever the information

[40] Employing the reasonable person standard requires considering what the hypothetical reasonable person, knowing the surrounding circumstances, would consider to be appropriate. As former Commissioner Loukidelis explained it is "an objective standard—the idiosyncrasies, likes, dislikes or preferences of a particular individual do not determine the outcome."[17] This is the approach I will take in considering whether the Organization is able to sever the videos under s. 23(5).

Did the Organization comply with s. 23(5)?

[41] As mentioned above, I accept that the Organization does not have the in-house technology and skills to sever the third party images from the videos. The question, therefore, is whether a reasonable person would consider it to be appropriate in the circumstances for the Organization to hire an external video editing service or obtain the software or training needed to do it in-house to fulfill its responsibility under s. 23(5).

[42] Given my interpretation above of s. 23(5), I agree with the Organization when it says that "an organization should make a reasonable effort to sever or redact excepted information, but it is not required to do the impossible or to incur unreasonable burden in order to provide a partial record."[18] Regrettably, the Organization chose to only provide an assertion with no explanatory detail or evidence. If the Organization actually obtained quotes or cost and time estimates for hiring a video editing service provider or obtaining software or training, it did not provide that information for my consideration. This lack of supporting detail or evidence means that I have no information and context by which to objectively

[17] Order P05-01, 2005 CanLII 18156 (BC IPC) at para 55.
[18] Organization's initial submission at p. 5.

assess its claims about the burden and cost of severing the videos. As a result, I am not persuaded by the Organization's argument that it is not able to sever the videos because doing so would be an unreasonable burden.

[43] Further, what the Organization says does not persuade me that the third parties' personal information cannot be removed from the videos because it is so intertwined with the applicant's personal information. The Organization provided no evidence to support its position, and in my view, it has not satisfactorily explained how in this day and age someone using available software and skills could not mask third parties' bodies and faces, even in the context where the third parties are standing behind, beside or touching the applicant. Based on my review of the videos, I recognize that what remains of the applicant's image after severing might be somewhat truncated and distorted, but perfection is not required and it would still meaningfully be his image. Therefore, I am not persuaded by the Organization's assertion that the images of the applicant and the third parties are so intertwined that it is not able to sever the videos.

[44] For the reasons provided above, when viewed through the lens of a reasonable person knowing the circumstances and the facts available, I find the Organization has not established that it is not able to sever the videos under s. 23(5). Therefore, I conclude that the Organization has failed to comply with s. 23(5), and the appropriate remedy is to require it to sever the videos in compliance with s. 23(5).

Guidance on severing

[45] PIPA only gives the applicant the right to access his own image in the videos. The Organization is not required to give him access to the parts that do not contain his image. The applicant's image only appears in the following seconds of the videos, so these are the only seconds the Organization must sever to comply with ss. 23(4)(c) and 23(5):

> Video 1 (ch10-20240711233526) at 0:03 - 0:11.
> Video 2 (ch17-20240711233526) at 0:14 - 2:43 and 7:27 - 7:43.
> Video 3 (ch23-20240711233526) at 0:20 - 0:54 and 7:35 - 7:48.
> Video 4 (ch24-20240711233526) at 00:05 - 00:20 and 00:55 - 2:21 and 2:24 - 7:35.

[46] When severing the videos, perfection is not required. The goal of the severing is to mask the parts of the third parties' images that would allow someone to identify them. It is reasonable and acceptable that there may be brief seconds where masking the third parties' images may result in the applicant receiving only part or none of his own image. Further, it is also reasonable and acceptable that in other seconds, the severing will result in some small, non-

identifiable parts of the third parties' hands, arms or legs remaining as they overlap with the applicant's image.

## CONCLUSION

[47] For the reasons given above, under s. 52 of PIPA, I make the following order:

1. I confirm the Organization's decision to refuse to disclose information to the applicant that would reveal other individuals' personal information under s. 23(4)(c).

2. I require the Organization to give the applicant access to all or part of his own personal information after severing the videos in accordance with s. 23(5) and the severing guidance provided in paragraphs 45-46 above.

3. The Organization must provide the OIPC registrar of inquiries a copy of its cover letter and the severed videos it sends to the applicant in compliance with item 2 above.

[48] Pursuant to s. 53, the Organization is required to comply with this order by May 7, 2026.

March 24, 2026

Elizabeth Barker, Director of Adjudication

OIPC File No.: P24-98367