

Order P26-09

JGC FLUOR BC LNG JOINT VENTURE

Carol Pakkala
Adjudicator

July 8, 2026

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Summary: An individual complained that JGC Fluor BC LNG Joint Venture (JFJV) violated the *Personal Information Protection Act* (PIPA) by inappropriately collecting, using, and disclosing his personal information. The alleged violations arose from a random drug dog search at a project site and a subsequent project site access ban. The adjudicator concluded JFJV had not met the consent requirements under s. 6 and was therefore not authorized to collect, use or disclose the complainant's personal information. The adjudicator further found JFJV had not complied with ss. 5(a) and 5(c)(i) of PIPA.

Statutes Considered: *Personal Information Protection Act*, [SBC 2003], c. 63, ss. 1, 5(a), (c)(i), 6, 7, 10, 11, 12, 14, 15, 17, and 18.

INTRODUCTION

[1] This inquiry decides a complaint by an individual (complainant) against JGC Fluor BC LNG Joint Venture (JFJV). The complaint alleges JFJV violated the *Personal Information Protection Act* (PIPA)¹ by inappropriately collecting, using, and disclosing his personal information and by failing to develop and follow policies and practices necessary to meet its obligations under PIPA.

[2] Investigation and mediation by the Office of the Information and Privacy Commissioner (OIPC) did not resolve the complaint, and it proceeded to this inquiry. Both parties provided submissions in this inquiry.

¹ From this point forward, unless otherwise specified, where I refer to section numbers, I am referring to sections of PIPA.

Background²

[3] At the time of the events leading to this complaint, the complainant was an employee of Altrad Services Ltd. (Altrad), a subcontractor to JFJV. The project he worked on was the construction of a liquefied natural gas processing plant near Kitimat, BC (Project). JFJV was the designated prime contractor for the Project and enforced the site access rules.

[4] The complainant was a passenger in an Altrad-owned vehicle when JFJV guards stopped it at an entry point to the Project site for a random drug dog search. There were other Altrad employees in the vehicle at the time of the search. The dog alerted on something in the vehicle. JFJV communicated this information to Altrad. Altrad used the information to require the complainant submit to a drug and alcohol test which he refused for reasons he provided in evidence here.

[5] Due to the above events, Altrad terminated the complainant's employment and JFJV banned him from the Project site.

[6] While this inquiry was still in the submission phase, I issued Order P26-05 which decided this same complainant's complaint against Altrad and Order P26-07, which decided the driver's complaint against Altrad.³ JFJV and the complainant were given, and took, the opportunity to provide further submissions about the impact of those orders on the issues in this inquiry.⁴

[7] Both the complainant and the driver of the vehicle filed a complaint against JFJV. I issued Order P26-10⁵ in the complaint by the driver.

Preliminary matters

Labour law

[8] The parties make voluminous submissions about various labour law principles and labour arbitration case law.⁶ In particular, the parties' make

² These background facts were taken from the OIPC's Fact Report and the submissions of the parties and are not in dispute. Instead, the dispute centers around how PIPA applies and who is responsible for the events that took place, not whether they, in fact, took place.

³ Order P26-05, 2026 BCIPC 35 (CanLII); Order P26-07, 2026 BCIPC 48 (CanLII).

⁴ The complainant provided input in his reply submission and JFJV in response to my letter inviting a further submission. After receiving JFJV's additional submission, I considered whether procedural fairness required me to give the complainant the opportunity to reply and decided it did not.

⁵ Order P26-10, 2026 BCIPC 75 (CanLII).

⁶ In light of the extensive labour law submissions, I briefly considered whether a labour arbitrator should decide the issues in this complaint. Labour arbitrators have broad jurisdiction over disputes arising under a collective agreement: *Weber v. Ontario Hydro*, 1995 CanLII 108 (SCC).

submissions about: the (in)applicability of the heightened standard for random drug and alcohol testing in the workplace established by the Supreme Court of Canada;⁷ the Canadian Model for Providing a Safe Workplace; and the validity of urinalysis testing to establish current impairment versus past substance use.

[9] I wish to be clear at the outset that I recognize the significance of these broader labour relations issues to the parties. Despite their importance, these issues are beyond the scope of this inquiry. For that reason, while I have read all of the submissions and reviewed all of the evidence, I will only refer in this order to those portions relevant to the application of PIPA.

The 2021 OIPC letter

[10] The complainant's complaint and inquiry submission quote at length from a 2021 OIPC letter (letter).⁸ The complainant did not provide the actual letter. JFJV did provide a copy of the letter *in camera*. JFJV says the contents of the letter are confidential and are also irrelevant to the issues in this inquiry. JFJV urges me to disregard the letter and asks that I not reference it in these reasons. I see no way to provide coherent reasons for my decision about the letter without referencing its existence, so I am referring to it here in general terms.

[11] In the letter, former Commissioner McEvoy provided commentary, under s. 36(f) of PIPA, about the protection of personal information in the context of canine searches. Section 36(f) is an important provision for encouraging organizations to seek out the advice of the Commissioner on the protection of personal information. The letter stated that its content was solely for three named parties, one of which was JFJV. The complainant is not one of the other two named parties.

[12] From my review of the letter, I can see that the comments made by the former Commissioner were based on the material and circumstances before him at that time, five years ago. I can also see that those circumstances are not the same as the ones currently before me in this inquiry. Further, the former Commissioner expressly stated that he was not making any findings of fact or law. He further said that his comments were not binding on himself or his office and set no precedent.

Here, there is no collective agreement between these parties and there is no employment relationship between the complainant and JFJV.

⁷ *Communications, Energy and Paperworkers Union of Canada, Local 30 v. Irving Pulp & Paper, Ltd.*, 2013 SCC 34

⁸ Complainant's initial submission at paras 14-16. The complainant says this letter resulted from the agreement of JFJV, a union, and two companies to submit certain questions about the Project to the OIPC. The complainant says that one of the questions was about whether a random drug dog search policy for the Project complies with PIPA.

[13] For all of the above reasons, I will not consider this letter in deciding the issues before me.

ISSUES AND BURDEN OF PROOF

[14] The issues I must decide in this inquiry are:

1. Did JFJV's collection of personal information comply with ss. 6 and 11 of PIPA?
2. Did JFJV's use of the complainant's personal information comply with ss. 6 and 14 of PIPA?
3. Did JFJV's disclosure of the complainant's personal information comply with ss. 6 and 17 of PIPA?
4. Has JFJV complied with its obligations under s. 5(a) and 5(c)(i)?

[15] PIPA does not say who has the burden of proof for an inquiry into the issues identified above. Previous OIPC decisions have found, however, that it will be in each party's interest to provide information and evidence to support and justify their position.⁹ I agree with, and adopt, this same approach.

DISCUSSION

Facts

[16] Before turning to the issues set out above, I set out here my findings about what happened.

[17] JFJV does not dispute that it collected, used, and disclosed the complainant's personal information.¹⁰ JFJV's position is that it did so in compliance with PIPA. I find that JFJV collected, used, and disclosed the complainant's personal information during the events described below.

[18] The complainant, who was present at the events, provided his sworn evidence about them.¹¹ I accept the complainant's version of events. I accept it because his evidence is sworn, he was present for the events, and his evidence about what physically happened is not contradicted by other sworn evidence.¹²

⁹ Order P21-06, 2021 BCIPC 35 (CanLII) at para 17 and Order P09-02, 2009 CanLII 67292 (BC IPC) at para 4.

¹⁰ JFJV's submission at paras 6 and 49.

¹¹ Complainant's statutory declaration sworn February 2, 2024.

¹² JFJV does dispute the complainant's evidence about his perception of, and feelings about, the human dynamics of the search. JFJV provides affidavit evidence from the Director, Health,

Further, his evidence about what happened is supported by sworn evidence of others who were also present at the relevant time.

[19] From the complainant's sworn evidence and from the submissions of the parties, I find what happened is as follows:

- The complainant was an Altrad employee who worked as a painter on the Project.
- At no time, prior to the events described below, was the complainant ever subjected to a search (canine or otherwise) at the Project site.
- On June 14, 2023, the complainant and other Altrad employees were sent to work at a location off the Project site in an Altrad vehicle.
- There was no work for the Altrad employees to do at the offsite location.
- After about an hour at the offsite location, an Altrad representative ordered its employees to return to the Project site with haste.
- Upon their return, JFJV guards at the gate ordered them to pull over for a random drug dog search. The guards contacted Altrad management for authorization to search the Altrad owned vehicle. Altrad gave that authorization.¹³
- The complainant was a passenger in the vehicle that got stopped and searched by drug dogs.
- The drug dogs searched the vehicle and its contents, which included the personal items of the vehicle's occupants. The dogs alerted (meaning detected something) in the vehicle. The JFJV guards communicated that information to Altrad.¹⁴
- The JFJV guards then searched the vehicle and the personal belongings. No drugs were found. Samples swabs were also taken that tested positive for drug residue.
- As a result of the search, Altrad demanded that the complainant undergo drug and alcohol testing. The complainant told Altrad he would not submit to testing.¹⁵ Altrad terminated the complainant's employment for his refusal to test.
- JFJV collected the complainant's refusal information from Altrad and used it to suspend the complainant's Project site access.

PIPA complaint

[20] The parties do not dispute that JFJV qualifies as an organization and is subject to PIPA. I find it is an organization under s. 3(1) and is subject to PIPA.

Safety, and Environment for Fluor Canada Ltd., who affirms at para 44, her own experience of a drug dog search at a Project entry point.

¹³ JFJV's submission at para 39.

¹⁴ JFJV's submission at para 42.

¹⁵ In order to be tested, the complainant would have to remain at the Project for testing and miss an already scheduled visitation with his child.

The complainant alleges JFJV collected, used, and disclosed his personal information contrary to PIPA through the random drug dog search that ultimately resulted in him being banned by JFJV from the Project site. The complainant further alleges JFJV failed to comply with ss. 5(a) and 5(c)(i).

Information at issue

[21] The information at issue is not in dispute. This information is the indication by a drug dog in the vehicle search and the complainant's refusal to test. There is no dispute between the parties that this information is the complainant's personal information, and I found it is his personal information in Order P26-05 which decided his complaint against Altrad.¹⁶

Overview of collection and use analysis

[22] PIPA imposes a consent-based regime for the collection and use of all personal information.

[23] Section 6 is the provision that provides the starting point for the analysis and provides as follows:

6 (1) An organization must not

- (a) collect personal information about an individual,
- (b) use personal information about an individual, or
- (c) disclose personal information about an individual.

(2) Subsection (1) does not apply if

- (a) the individual gives consent to the collection, use or disclosure,
- (b) this Act authorizes the collection, use or disclosure without the consent of the individual, or
- (c) this Act deems the collection, use or disclosure to be consented to by the individual.

[24] An organization can therefore only collect and use personal information about an individual in the following circumstances:

- Under s. 6(2)(a), where the individual gives consent. This consent is often referred to as “express” or “explicit” consent.

¹⁶ Order P26-05, 2026 BCIPC 35 (CanLII) at para 65. In addition, the definition of “personal information” is found in s. 1 of PIPA. The OIPC has a guidance document called *PIPA and workplace drug and alcohol searches: guidance for organizations* available on the OIPC website under guidance documents, <https://www.oipc.bc.ca/documents/guidance-documents>. See p. 1: “The canine’s initial indication is information disclosing that the room’s occupant may be in possession of contraband. That is personal information of the occupant.”

- Under s. 6(2)(b), where PIPA authorizes the organization to do so without consent.
- Under s. 6(2)(c), where PIPA deems the individual to have consented. This consent is often referred to as “deemed”, “implicit” or “implied” consent.¹⁷

Parties’ submissions – consent

[25] The complainant says he did not consent to the collection and use of his personal information.¹⁸ He also says the exceptions for consent do not apply.¹⁹ Finally, he says consent in these circumstances cannot be deemed or implied where the only other option is to decline or abandon employment.²⁰

[26] To support his position, the complainant provides his sworn evidence that:

- at no time during his employment with Altrad or his work on the Project was he ever subjected to a search (canine or otherwise) prior to the search of June 14, 2023.²¹
- he was not asked for, nor did he give, his consent to the JFJV guards for the search of the vehicle or its contents;²²
- he submitted to the search under compulsion, threat, and intimidation²³ by the show of force of the JFJV security guards and Altrad management representatives;²⁴
- he felt he would lose his job if he declined to comply with the search;²⁵
- he did not consent to the collection, use or disclosure of any of his personal information;²⁶
- he has been falsely accused of using or handling marijuana and has suffered an impact on his livelihood because of those false accusations.²⁷

[27] JFJV relies on express consent in this inquiry. JFJV says the complainant expressly consented to being searched, including by a drug dog, through his participation in the mandatory Project site orientation²⁸ and by signing an

¹⁷ Order P23-08, 2023 BCIPC 76 (CanLII) at para 60.

¹⁸ Complainant’s initial submission at para 44.

¹⁹ Complainant’s initial submission at paras 41-43 and reply submission at para 15.

²⁰ Complainant’s initial submission at paras 45-48.

²¹ Complainant’s statutory declaration at para 9.

²² Complainant’s statutory declaration at para 22.

²³ Complainant’s statutory declaration at para 19.

²⁴ Complainant’s statutory declaration at para 26.

²⁵ Complainant’s statutory declaration at para 26.

²⁶ Complainant’s statutory declaration at para 30.

²⁷ Complainant’s statutory declaration at para 33.

²⁸ JFJV’s submission at para 84.

acknowledgment of his receipt of the site safety rules.²⁹ JFJV also says Altrad consented to the search and that the complainant expressly consented at the time of the search.³⁰

[28] JFJV further says that PIPA does not require express consent in a verbal or written form and can instead be in the form of a positive action. JFJV suggests the positive action here is the complainant continuing to enter the Project site.³¹

[29] JFJV disputes the notion that the complainant's consent was involuntary,³² or that there was any compulsion, threat, or intimidation.³³ It also disputes that his consent was invalidated by the threat of loss of livelihood because JFJV says it had no authority regarding that employment.³⁴

[30] Finally, JFJV says that, in any event, consent is not required because ss. 12(1)(c), 15(1)(c), and 18(1)(c) authorize the collection, use, and disclosure of the complainant's personal information without consent for an investigation. JFJV says the investigation was into a potential breach of site safety rules contrary to occupational health and safety legislation and the *Criminal Code*.³⁵

[31] To support its position, JFJV offers affidavit evidence from the Health, Safety, and Environment Director for Fluor Canada Ltd. (Director). The Director attaches the following as exhibits to that affidavit:

- Exhibit "A": the Alcohol and Drug Testing Procedure for the Project;
- Exhibit "B": the Canadian Model for Providing a Safe Workplace;
- Exhibit "C": an unsigned and unaddressed two page Code of Conduct;
- Exhibit "D": an onboarding web form;
- Exhibit "E": the Health, Safety, Security and Environmental Orientation Handbook for the Project (Handbook);
- Exhibit "F": Site orientation slides;
- Exhibit "G": Camp accommodation centre rules;
- Exhibit "H": Bulletin;
- Exhibit "I": 2024 LNG privacy policy;
- Exhibit "J": Project protocol;
- Exhibit "K": Blank consent form;
- Exhibit "L": Photos of site entry point;
- Exhibit "M": Photos of guards and dogs; and
- Exhibit "N": Life saving rule investigation report.

²⁹ JFJV's submission at para 89.

³⁰ JFJV's submission at para 92.

³¹ JFJV's submission at para 90 relying upon Order P21-06, 2021 BCIPC 35 at para 105.

³² JFJV's submission at para 95.

³³ JFJV's submission at paras 96 to 104.

³⁴ JFJV's submission at paras 106-107.

³⁵ JFJV's submission at para 119. JFJV identifies a life saving rule as part of its site safety rules.

Analysis – consent

[32] JFJV's position relies upon ss. 6(2)(a) and 6(2)(b). For this reason, I will not address s. 6(2)(c), deemed/implicit/implied consent, in the analysis below.³⁶

[33] To set the context for the consent analysis, I draw from a guidance document on how to obtain meaningful consent.³⁷ This document was issued jointly by the Office of the Privacy Commissioner of Canada and the Offices of the Information and Privacy Commissioner of Alberta and BC. It describes meaningful consent as an essential element of private sector privacy legislation.³⁸

[34] The guidance document sets out that for consent to be considered valid; organizations must inform individuals of their privacy practices in a comprehensive and understandable manner. At minimum, individuals must be informed of the organization's purposes in sufficient detail such as to ensure they meaningfully understand what they are invited to consent to.³⁹ Further, for an organization to demonstrate that it obtained valid consent, it cannot simply point to a line buried somewhere in its documentation.

[35] Organizations must be able to show they have a process in place to obtain consent from individuals, and that it is compliant with the consent obligations set out in PIPA. The ability to demonstrate such a process is an integral part of not only obtaining consent, but also of an effective accountability regime.⁴⁰

Express consent - s. 6(2)(a)

[36] I understand JFJV's position on express consent is threefold. The first aspect is what I will call "advance consent", i.e., that the complainant provided his express consent to a drug dog search in advance of the events of the June 14, 2023. The second aspect is that the complainant provided his express consent at the time of the search. The third aspect is that Altrad gave its consent which I should accept as the complainant's express consent.⁴¹ The third aspect is easily dispensed with because s. 6(2)(a) clearly requires the individual's consent, not that of an organization.

[37] To establish the first aspect of its position on consent, JFJV relies on the employee onboarding process for the Project (the process). JFJV says the process includes a mandatory site orientation which it says the complainant

³⁶ JFJV explicitly notes it does not rely on deemed consent in its additional submission at p. 4.

³⁷ *Obtaining Meaningful Consent*, May 2018 available on the OIPC website under guidance documents, <https://www.oipc.bc.ca/resources/guidance-documents/>.

³⁸ *Ibid*, p. 1.

³⁹ *Ibid*, p. 3.

⁴⁰ *Ibid*, p. 8.

⁴¹ JFJV's submission at para 109.

attended on January 28, 2023, four and half months prior to the date of the search.

[38] JFJV says that from the process, the complainant was fully aware of the site entry searches and that they might involve dogs. JFJV provided the slides it says are part of that process. Drug detection dogs are mentioned on two of the 15 pages of those slides.⁴²

[39] JFJV also says that in the process, the complainant signed an acknowledgement confirming that he had reviewed the site safety rules, thereby consenting to the site entry searches and site safety rules. JFJV says that since the complainant thereafter continued to work on the Project site, he thereby consented to the site entry searches.

[40] From my review of the documents provided by JFJV, I do not see a signed acknowledgement. I do see a web form called “JFJV onboarding” filled out in the name of the complainant (the web form). The web form contains two acknowledgement boxes that appear to have been populated by selection with pre-filled text.⁴³ One indicates consent to use of a photo and the other an understanding of the code of conduct. The code of conduct does not mention drug dog searches.⁴⁴

[41] The web form also has other boxes which are not checked. One of those unchecked boxes is for acknowledging receipt of a copy of the Handbook.⁴⁵ The Handbook is 25 pages long and contains one reference to the possibility that inspections can involve the use of trained drug detection dogs. It also says that searches are voluntary and that they will occur with the utmost discretion and consideration.⁴⁶

[42] The complainant points to the explicit statement of consent to the use of photographs and says JFJV could have used that same opportunity to obtain a similarly explicit statement of consent to random drug dog searches.⁴⁷ I agree. I understand JFJV’s entire position to be that a random drug dog search is a routine thing at the Project and that it is a transparent and above board process. In that way, it seems to me it is much like their intended use of photographs, so I cannot see why JFJV did not provide for a similar statement of explicit consent to random drug dog searches on their web form.

⁴² Director’s affidavit, Exhibit “F”.

⁴³ Director’s affidavit, Exhibit “D”.

⁴⁴ Director’s affidavit, Exhibit “C”.

⁴⁵ Director’s affidavit, Exhibit “E”.

⁴⁶ Director’s affidavit, Exhibit “E” at p. 9.

⁴⁷ Complainant’s reply submission at para 11.

[43] I am not persuaded by JFJV's evidence about advance consent for several reasons. First, as discussed above, I do not see the complainant's signature on any of the documents provided by JFJV. Second, I am not convinced that having a process equates to knowledge and informed consent to everything within that process for an indefinite period, particularly in the absence of reminders. The complainant swears that before the search on June 14, 2023, he was never subjected to any kind of search, canine or otherwise.⁴⁸

[44] JFJV says that the complainant's repeated action of entering the Project site is proof of his ongoing advance consent. JFJV's argument that consent can be proven through such action rather than through a verbal or written confirmation is based on the following passage from Order P21-06:

Furthermore, I conclude that an individual who reads the sign and decides to enter the garbage and recycling room has consented to the collection and use of their personal information in accordance with s. 6(2)(a). The sign is appropriately placed before an individual enters the garbage and recycling room which affords the individual an opportunity to not enter the area under surveillance if they do not wish to have their image recorded or activities monitored. As a result, I find the consent requirements under ss. 6(2)(a) and 7(1) are satisfied for this specific purpose.⁴⁹

[45] I disagree with JFJV that the above passage applies to establish express consent through action here. JFJV does not allege there is a sign at the Project entry site "appropriately placed before an individual enters" affording individuals an opportunity to not enter and therefore not be subjected to a random drug dog search. Instead, I understand JFJV to be equating the sign in P21-06 with a slide in a worksite orientation session occurring many months prior to the date of the search. From an informed consent perspective, I am not persuaded the facts in P21-06 are similar.

[46] For the reasons given above, I find the complainant did not expressly consent in advance to the collection, use, and disclosure of his personal information.

[47] The second way that JFJV alleges the complainant expressly consented is that he gave his consent at the time of the actual search.

[48] JFJV's evidence is that its searches generally follow a search protocol.⁵⁰ This search protocol includes a consent to search form and JFJV provides a blank copy of this form.⁵¹ The form indicates it is to be completed by the person(s) selected for random vehicle and bag searches.

⁴⁸ Complainant's statutory declaration at para 9.

⁴⁹ Order P21-06, 2021 BCIPC 35 at para 105.

⁵⁰ Director's affidavit at para 36.

⁵¹ Director's affidavit, Exhibit "K".

[49] JFJV does not say, and I cannot see, that the search form was given to, seen, or signed by the complainant. The existence of the form tells me that JFJV was aware of the need for express consent. The absence of a signed form supports my conclusion below that the complainant did not give his express consent at the time of the search.

[50] JFJV says that the complainant's own statutory declaration confirms that he was asked for, and gave, permission for the search.⁵² JFJV does not provide a reference for where in his statutory declaration the complainant swears he consented. I find JFJV's argument about this to be puzzling because the complainant clearly swears as follows:

"At no time did I consent to a search of the Vehicle, nor was I asked by any person to provide such consent."⁵³ and

"I did not consent to the Personal Search or the Urinalysis Demand. I had no opportunity to seek union representation or get advice on what to do or say when confronted with the Personal Search or the Urinalysis Demand."⁵⁴

[51] I accept the complainant's evidence that he did not provide his consent. I see no basis for JFJV's assertion that the complainant gave express consent at the time of the search.

[52] JFJV also says the complainant is attempting to evade his admission of express consent by asserting it was involuntary due to compulsion, threat, and intimidation.⁵⁵ JFJV says the complainant's claim that there was a "show of force" from the security guards is unsupported by evidence and is an inaccurate description of the searches and investigation in question. JFJV says its own evidence objectively shows the searches were not coercive and were conducted in a respectful, non-intimidating, and professional manner.⁵⁶

[53] I understand JFJV is arguing the complainant's express consent was voluntary and informed and his evidence suggesting otherwise is not credible. As I have already found the complainant did not give his express consent, I need not consider the issue of whether that express consent was voluntary and informed. However, I will comment briefly on what JFJV said to challenge the complainant's description of the search and investigation and the impact they had on him.

[54] JFJV provides affidavit evidence from another employee (the Director) about her experience of being searched at the Project. She says she does not

⁵² JFJV's submission at para 92.

⁵³ Complainant's statutory declaration at para 22.

⁵⁴ Complainant's statutory declaration at para 29.

⁵⁵ JFJV's additional submission, p. 3.

⁵⁶ JFJV's additional submission, p. 4.

agree with the complainant's characterization of the process as being one of extreme pressure and intimidation due to the security guards' show of force.⁵⁷ In my view, the Director's experience does not make the complainant's experience any less credible. Everyone experiences events differently. Further, the complainant provided sworn evidence from the other individuals who were in the vehicle with him, and they describe the search in terms similar to his.

[55] JFJV also provides photographs of its guards, dogs, and dog handlers it says are used at the Project.⁵⁸ JFJV does not say, and I cannot tell, if these were the same guards, dogs, and dog handlers on the date the complainant was searched. Based on the photographs, JFJV argues that "a reasonable person would not find the dog handlers or guards to be intimidating."⁵⁹ I reviewed them and do not agree with that observation. Even if I did agree, it does not make the complainant's evidence about what he personally experienced invalid. I accept the complainant's evidence about his experience of the search.

[56] JFJV's evidence and argument does not persuade me to reject the complainant's evidence that he did not give his consent. For the reasons given above, I find the complainant did not expressly consent to the collection, use, or disclosure of any of his personal information.

[57] For the sake of completeness, even if I were satisfied that JFJV provided sufficient proof of express consent, either in advance or on the day of the search, I find ss. 7 and 10 would invalidate any such consent. The relevant provisions read as follows:

- 7 (1) An individual has not given consent under this Act to an organization unless
 - (a) the organization has provided the individual with the information required under section 10 (1), and
 - (b) the individual's consent is provided in accordance with this Act.
- 10 (1) On or before collecting personal information about an individual from the individual, an organization must disclose to the individual verbally or in writing
 - (a) the purposes for the collection of the information, and
 - (b) on request by the individual, the position name or title and the contact information for an officer or employee of the organization who is able to answer the individual's questions about the collection.

...

⁵⁷ JFJV provides affidavit evidence from the Director, Health, Safety, and Environment for Fluor Canada Ltd., who affirms at paras 44-45, her own experience of a drug dog search at a Project entry point.

⁵⁸ JFJV's submission at para 92.

⁵⁹ JFJV's submission at para 96.

- (3) This section does not apply to a collection described in section 8 (1) or (2).

[58] For the collection of information, s.7(1) stipulates a two-part test for express consent under s. 6(2)(a). The first part of the test requires an organization to provide an individual with notification under s. 10(1) of the purpose of collection of personal information before any consent they may provide would qualify as valid. The second part of the test requires that the individual subsequently provides their consent in accordance with PIPA.⁶⁰

[59] For the first part of the test under s. 7(1)(a), JFJV must establish it provided the complainant with a clear statement, either verbally or in writing, of the purpose for collection, use or disclosure of his personal information on or before collecting it.⁶¹ For the reasons that follow, I am not persuaded that JFJV provided that notification.

[60] JFJV says its purpose for the collection, use, and disclosure of the complainant's personal information was to enforce adherence to the Project's safety rules. JFJV says it had the goal of the Project being the safest one on earth.⁶² JFJV says the safety rules were in place to reach that goal by ensuring a safe worksite and to comply with legal and contractual obligations.⁶³ More specifically, JFJV says the site entry searches were conducted for the purpose of detecting and deterring contraband from entering the Project site and enforcing the rules around the use or possession of drugs and alcohol.⁶⁴

[61] In the context of its inquiry submissions, JFJV is able to succinctly describe its purpose for the collection, use, and disclosure of the complainant's personal information. However, JFJV does not say, and I do not see, that any statement of purpose was provided to the complainant prior to its collection, use, and disclosure of his personal information. More importantly, I do not see such a statement of purpose combined with a question asking if the complainant consents to the collection, use, and disclosure of his personal information for that purpose.

[62] I find that JFJV has not provided adequate evidence or explanation establishing when and how it provided the complainant with a clear verbal or written statement about the purposes for the collection, use, and disclosure of his personal information in the way ss. 7(1) and 10(1) require. Therefore, even if I had found express consent was given (and I find it was not), the absence of the notification required by s. 10(1) would have rendered it invalid.

⁶⁰ Order P22-08, 2022 BCIPC 74 (CanLII) at para 15.

⁶¹ OIPC Investigation Report F19-01, *Full Disclosure: Political parties, campaign data, and voter consent*, 2019 BCIPC 7 (CanLII), 2019 BCIPC 07 (CanLII) at 2.1.1.

⁶² JFJV's submission at para 20.

⁶³ JFJV's submission at para 56.

⁶⁴ JFJV's submission at para 63.

Collection and use of personal Information authorized without consent - s. 6(2)(b)

[63] Section 6(2)(b) allows for the collection, use, and disclosure of personal information without consent where authorized by PIPA. Sections 12, 15, and 18 are the provisions that set out when the collection, use, and disclosure of personal information without consent is authorized.

[64] In addition to arguing that the complainant expressly consented, JFJV relies on the PIPA provisions that say consent is not required when the personal information is collected, used, and disclosed in the course of an investigation.⁶⁵

[65] The relevant provisions are ss. 12(1)(c), 15(1)(c), and 18 (1)(c) which allows for the collection, use, and disclosure without consent where it is reasonable to expect that doing so with consent “would compromise the availability or the accuracy of the personal information” and the collection, use, or disclosure is “reasonable for an investigation or a proceeding”.

[66] An “investigation” is defined in PIPA as follows:

“investigation” means an investigation related to

- (a) a breach of an agreement,
- (b) a contravention of an enactment of Canada or a province,
- (c) a circumstance or conduct that may result in a remedy or relief being available under an enactment, under the common law or in equity,
- (d) the prevention of fraud, or
- (e) trading in a security as defined in section 1 of the *Securities Act* if the investigation is conducted by or on behalf of an organization recognized by the British Columbia Securities Commission to be appropriate for carrying out investigations of trading in securities,

if it is reasonable to believe that the breach, contravention, circumstance, conduct, fraud or improper trading practice in question may occur or may have occurred;⁶⁶

[67] The complainant says the investigation exception to the requirement for consent does not apply. The complainant relies on my treatment of this issue in Order P26-05, which also involved him and the same set of facts. There I found that Altrad had not sufficiently explained, and I could not see, how ss. 12(1)(c) and 15(1)(c) applied to these facts. I further noted that Altrad had not said what investigation or proceeding it meant, let alone how obtaining the complainant’s

⁶⁵ JFJV’s submission at para 113.

⁶⁶ Section 1.

consent would compromise the availability or accuracy of the information about him.⁶⁷

[68] In this inquiry, JFJV does identify what it means by “investigation” but does not explain how obtaining the complainant’s consent would compromise the availability or accuracy of the information about him.

[69] JFJV says the “investigation” here is into a potential breach of its site safety rules and therefore a breach of occupational health and safety legislation and/or the *Criminal Code*.⁶⁸ This type of investigation arguably falls under part (b) of PIPA’s definition i.e., related to “a contravention of an enactment of Canada or a province”.

[70] The second part of the definition of investigation requires that it was “reasonable to believe” that this potential breach of the rules (and therefore of a law of BC or of Canada) may occur or may have occurred. The drug dog search was random, not based on evidence of these particular workers being impaired or in possession of prohibited substances. Therefore, I cannot see how it was “reasonable to believe” that a breach of law by these individuals may occur or may have occurred.

[71] The complainant says, and I agree, that JFJV’s admission of randomness is inimical to the notion of an investigation as that term is defined in PIPA.⁶⁹ A “random” search does not meet the requisite “reasonable to believe” aspect of the definition of an investigation in PIPA. The reasonable belief needs to exist before what occurs can qualify as an “investigation”.

[72] I find that JFJV was not authorized by s. 12(1)(c) to collect the personal information in the search without consent. Since JFJV’s collection of that information was contrary to PIPA, in my view, JFJV’s use and disclosure flowing from that collection cannot then be justified as somehow compliant with PIPA. For this reason, I find that JFJV was not authorized by s. 15(1)(c) to use, or by s. 18(1)(c) to disclose, the information without consent.

Conclusion- s. 6

[73] I find that s. 6 did not authorize JFJV to collect, use, or disclose the complainant’s personal information.

⁶⁷ Order P26-05, 2026 BCIPC 35 (CanLII) at paras 108-109.

⁶⁸ JFJV’s submission at para 116.

⁶⁹ Complainant’s reply submission at para 15.

Sections 11, 14, and 17

[74] Even where an organization meets the requirements of s. 6, ss. 11, 14, and 17 place limitations on the collection, use, and disclosure of personal information. They say that an organization may collect, use, and disclose personal information only for purposes that a reasonable person would consider appropriate in the circumstances *and* that either fulfill the purposes that the organization discloses under section 10 (1) or are otherwise permitted under PIPA.

[75] I have already found that JFJV did not comply with s. 10(1) and its collection, use, and disclosure of the complainant's personal information was not permitted by PIPA. For that reason, I conclude it has not fulfilled the requirements of ss. 11, 14, and 17.

Policies and Practices, s. 5

[76] Both the Fact Report and the Notice of Inquiry list s. 5(a) and 5(c)(i) as issues in this inquiry. Those sections provide as follows:

5 An organization must

(a) develop and follow policies and practices that are necessary for the organization to meet the obligations of the organization under this Act,

...

(c) make information available on request about

(i) the policies and practices referred to in paragraph (a), and

...

[77] JFJV admits that it did not have a privacy policy in place at the time of the search. JFJV says all the contractors at the Project were required to have their own privacy policies.

[78] JFJV says it relied on communicating expectations about personal information through a series of documents. Additionally, JFJV says it developed internal procedures, including a search protocol,⁷⁰ to ensure compliance with PIPA. JFJV says that these documents meet the requirements of s. 5 generally in substance if not in form. In any event, JFJV says this issue is moot because it now has a privacy policy in place, which it provides for my review.⁷¹

[79] By its own admission, JFJV did not have a privacy policy in place on June 14, 2023. JFJV cannot rely on the privacy policies of other organizations for its compliance with PIPA. Each organization is independently responsible for such

⁷⁰ Director's Affidavit, Exhibit "J".

⁷¹ Director's affidavit, Exhibit "I".

compliance. I find JFJV did not have a privacy policy in place to meet its obligations under PIPA.

[80] I am not persuaded by JFJV's substance over form argument. The internal procedures, including a search protocol, that JFJV says it was following clearly failed. JFJV did not even use its own consent form for the search. Further, I found above that JFJV's collection, use, and disclosure of the complainant's personal information was not in compliance with PIPA. For these reasons, I find JFJV did not have practices in place to meet its obligations under PIPA.

[81] I find that, at the relevant time, JFJV was not in compliance with s. 5(1)(a) of PIPA. I further find JFJV was not compliant with s. 5(c)(i), because it did not have in place the requisite policies and practices referred to in paragraph (a).

Remedy

[82] The complainant seeks a declaration that JFJV collected, used, and disclosed his personal information without consent in violation of s. 6 and unreasonably in violation of ss. 11, 14, and 17.⁷² The complainant further seeks a cease and desist order and a referral to the British Columbia Supreme Court on the question of damages.⁷³ JFJV does not comment specifically on what remedy, if any, is warranted.

[83] On completing an inquiry under s. 50, as the commissioner's delegate, I must dispose of the issues by making an order under s. 52 to:

- Either confirm that a duty has been performed or require it to be performed.⁷⁴
- Require JFJV to stop collecting, using, and disclosing the complainant's personal information.⁷⁵
- Specify terms or conditions.⁷⁶

[84] Section 52 does not give me the authority to make a declaration.

[85] On the request for a referral for damages, I considered s. 57(1) which provides as follows:

57(1) If the commissioner has made an order under this Act against an organization and the order has become final as a result of there being no further right of appeal, an individual affected by the order has a cause of action against the organization for damages for actual harm that the

⁷² Complainant's initial submission at para 118.

⁷³ Complainant's initial submission at para 119.

⁷⁴ Section 52(3)(a).

⁷⁵ Section 52(3)(e).

⁷⁶ Section 53(4).

individual has suffered as a result of the breach by the organization of obligations under this Act.

[86] Given this section, I find it unnecessary to consider whether s. 53(4) allows for a referral to the British Columbia Supreme Court on the question of damages for actual harm.

CONCLUSION

[87] For the reasons given above, I confirm that JFJV was not authorized under s. 6 to collect, use, or disclose the complainant's personal information. I further confirm JFJV was not in compliance with ss. 5(a) or 5(c)(i) of PIPA.

[88] I decline to make an order under s. 52(3)(e) requiring JFJV to stop collecting, using, or disclosing the complainant's personal information. I also decline to make an order under s. 52(3)(a) requiring JFJV to perform its duties under ss. 5(a) and 5(c)(i). I decline to make these orders because they would serve no purpose for the following reasons:

- The collection, use, and disclosure took place several years ago and are not ongoing because the complainant's employment at the Project was terminated.
- JFJV is no longer the prime contractor, and it no longer administers random drug dog searches at the Project.⁷⁷
- JFJV implemented a privacy policy for the Project in January 2024.⁷⁸

July 8, 2026

ORIGINAL SIGNED BY

Carol Pakkala, Adjudicator

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⁷⁷ Director's affidavit at para 5.

⁷⁸ Director's affidavit at para 31. The Director attaches the privacy policy as Exhibit "I" to the affidavit.