



OFFICE OF THE  
INFORMATION & PRIVACY  
COMMISSIONER  
— for —  
British Columbia

Order F09-03

**ABBOTSFORD POLICE DEPARTMENT**

Celia Francis, Senior Adjudicator

February 19, 2009

Quicklaw Cite: [2009] B.C.I.P.C.D. No. 5

Document URL: <http://www.oipc.bc.ca/orders/2009/OrderF09-03.pdf>

**Summary:** The applicant requested access to records from the APD which disclosed them with some information severed under s. 22. APD is found to have applied s. 22 properly to some information and ordered to disclose other information to which s. 22 does not apply, as it is the applicant's own personal information and information about APD employees in a work context.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, ss. 22(1), 22(2)(f), 22(3)(b).

**Authorities Considered:** B.C.: Order 01-53, [2001] B.C.I.P.C.D. No. 56.

## 1.0 INTRODUCTION

[1] The applicant requested records from the Abbotsford Police Department ("APD"). The APD responded by disclosing some records and denying access to other information and records under ss. 15 and 22 of the *Freedom of Information and Protection of Privacy Act* ("FIPPA").

[2] The applicant requested a review of the APD's decision by this Office. Mediation led to the disclosure of more information and records. The matter then proceeded to an inquiry under Part 5 of FIPPA. This Office invited representations from the applicant, the APD and third parties. The applicant and the APD provided submissions.

[3] In the midst of my deliberations, I held two short *in camera* telephone hearings with the APD's information and privacy co-ordinator, as it was

necessary to clarify the severing of the records in dispute. I told the applicant about these hearings.<sup>1</sup> The APD's decisions on severing the records did not change and it sent the applicant a letter to this effect.<sup>2</sup>

## 2.0 ISSUE

[4] The issue before me in this case is whether the APD is required by s. 22(1) and s. 22(3)(b) to withhold information. Under s. 57(2) of FIPPA, the applicant has the burden of proof regarding third-party personal information.

[5] The APD originally denied access to some information under ss. 15(1)(a) and 15(1)(g) but abandoned these exceptions in its initial submission.<sup>3</sup>

## 3.0 DISCUSSION

[6] **3.1 Records in Dispute**—The applicant requested records that would answer three questions: (1) whether he had a police record; (2) “which specific section” the APD was referring to regarding “the issue of the unknown benefactor who spoke up on my behalf” to the local seniors peer support group; and (3) why the APD had not explained a certain “discrepancy” (apparently related to the referral to the support group).

[7] In reply to the first question, the APD told the applicant that it had no record of any convictions. It retrieved and processed seven files in response to the other two requests. These seven files concern various encounters the applicant has had with the APD, including an incident in which the applicant allegedly assaulted a third party. One of the files concerns the applicant's dealings with the APD's Victims Services Unit, which he approached trying to find out who had referred him to a local seniors support group. This latter issue appears to be the focus of his request. The APD disclosed the vast majority of the records in these seven files to the applicant. The withheld information is principally, but not entirely, the names and addresses of third parties and statements and information they provided to the APD.

[8] **3.2 Statutory Framework**—Section 22(1) of FIPPA requires public bodies to refuse to disclose personal information if its disclosure would be an “unreasonable” invasion of third-party “personal privacy”. The relevant aspects of s. 22 read as follows:

---

<sup>1</sup> My letter of January 16, 2009.

<sup>2</sup> APD's letter of February 16, 2009.

<sup>3</sup> At p. 4. The APD said it had disclosed the one page it withheld under s. 15(1)(g) and had applied s. 22 to information to which it earlier applied s. 15(1)(a).

**Disclosure harmful to personal privacy**

- 22(1) The head of 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.
- (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether ...
- (f) the personal information has been supplied in confidence, ...
- (3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if ...
- (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, ...
- (4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if ...
- (e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff, ...

[9] A number of orders have discussed the approach to applying s. 22.<sup>4</sup> I follow that approach here without repetition.

[10] **3.3 Does Section 22 Apply?**—The APD described the withheld information as “names, birthdates, addresses, telephone numbers, personal statements and other personal information of third parties” and argued that s. 22(1) required it to withhold this information. The APD also noted that the applicant has the burden of proof regarding s. 22 but it did not provide any other argument on s. 22.

[11] The applicant stated that “the main thrust centres on the data concerning my efforts to obtain assistance from the A.P.D.’s Victims Services”.<sup>5</sup> He also said he “requested explicit data on an unexplained issue from the A.P.D.”<sup>6</sup> I take from these statements that the applicant still wishes access to the withheld information on who referred him to the local seniors support group.<sup>7</sup> The applicant did not otherwise address the issues in dispute in this inquiry, although the notice for this inquiry explicitly states that he has the burden regarding s. 22.

---

<sup>4</sup> Order 01-53, [2001] B.C.I.P.C.D. No. 56.

<sup>5</sup> Initial submission.

<sup>6</sup> Reply submission.

<sup>7</sup> The applicant did not mention the remaining withheld information and it is not clear if he even wants access to it.

***Is the withheld information personal information?***

[12] Although the APD described the withheld information as third-party personal information, this is only partially correct. The withheld information consists of the following: names, addresses, birthdates and telephone numbers of third parties, together with the statements and information they provided to the APD; the applicant's own personal information; and the personal information of APD employees. It is all information about identifiable individuals and is thus personal information.

***Applicant's own personal information***

[13] In two places, the APD withheld the applicant's own personal information where it appears in isolation. In both cases, the information relates to the applicant's status in the APD's dealings with him and it is clear from the disclosed information that he is aware of this status.

[14] Section 22 does not apply to an applicant's own personal information. The applicant is entitled to have to the following items of his own personal information:

- the third page in APD file 03-008566 (the applicant's personal information is the only information on this page)
- the top half of the third page in APD file 04-044736 (the applicant's personal information on this page is similar in character to personal information of the applicant that the APD disclosed on the top half of p. 52, APD file 01-031312; information about a third party on the bottom half of the page, to which s. 22 applies, is readily severed)

***Information related to position or functions of public body employees***

[15] The APD withheld a few items of information about APD employees that appear in the context of the performance of their work duties. (It is also similar in character to information that the APD disclosed elsewhere, for example, on the last page of APD file 04-04316.) This employee information falls under s. 22(4)(e) and must be disclosed to the applicant. This finding applies to the following items:

- The last page in APD file 03-008566
- The last page in APD file 04-044736

### ***Remaining personal information***

[16] The remaining withheld personal information is the contact information of third parties who provided information to the APD during its investigation of allegations that the applicant assaulted a third party and regarding other matters involving the applicant, together with the statements and information they provided. I am constrained in what I can say about this information but I find that it falls principally under s. 22(3)(b), with minor amounts falling under s. 22(1).<sup>8</sup> Its disclosure is therefore presumed to be an unreasonable invasion of third-party privacy.

[17] The material before me indicates that the third parties provided this information in confidence and that they do not want the applicant to know they provided it, factors favouring non-disclosure of this information. Moreover, the personal information of the third parties is mingled inextricably with the applicant's personal information. I conclude that it would not be reasonable in this instance to sever the third-party personal information and disclose the applicant's personal information to him. The applicant provided no arguments as to why s. 22 did not apply to the third-party personal information and has not discharged his burden of proof in this inquiry. I therefore find that s. 22(1) requires the APD to withhold the remaining withheld personal information.

## **4.0 CONCLUSION**

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

1. Subject to para. 2 below, I require the APD to refuse the applicant access to the information it withheld under s. 22.
2. I require the APD to provide the applicant with access to the information it withheld under s. 22 on the pages listed below, as shown on the copies I will provide to the APD with its copy of this order:
  - the third page in APD file 03-008566
  - the top half of the third page in APD file 04-044736
  - the last page in APD file 03-008566
  - the last page in APD file 04-044736
3. I require the APD to give the applicant access to this information within 30 days of the date of this order, as FIPPA defines "day", that is, on or before

---

<sup>8</sup> It is not clear if the applicant wants access to most of the withheld information.

---

April 2, 2009 and, concurrently, to copy me on its cover letter to the applicant, together with a copy of the records.

February 19, 2008

**ORIGINAL SIGNED BY**

---

Celia Francis  
Senior Adjudicator

OIPC File: F06-29698