



Order F23-92

**PROVINCIAL HEALTH SERVICES AUTHORITY  
(BC Emergency Health Services)**

Elizabeth Vranjkovic  
Adjudicator

October 31, 2023

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**Summary:** The applicant made a request under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to BC Emergency Health Services (BCEHS) for access to records relating to her deceased father (the deceased). BCEHS responded that the applicant was not authorized to make an access request on behalf of the deceased and refused the applicant access to the responsive records under s. 22(1) of FIPPA (unreasonable invasion of a third party's personal privacy). The adjudicator found that the applicant was not authorized to make an access request on behalf of the deceased. The adjudicator also found that BCEHS was required to withhold some, but not all, of the information in dispute under s. 22(1).

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss. 5(1)(b), 22(1), 22(2), 22(2)(f), 22(2)(i), 22(3), 22(3)(a) and 22(4)(e). *Freedom of Information and Protection of Privacy Regulation*, BC Reg 155/2012, ss. 5(1), 5(2)(a) and 5(3). *Interpretation Act*, RSBC 1996, c 238, s. 29.

## INTRODUCTION

[1] An individual (applicant) made a request under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to BC Emergency Health Services (BCEHS) for all records relating to her deceased father (the deceased).

[2] BCEHS responded that the applicant was not an appropriate person to make an access request on behalf of the deceased under s. 5 of FIPPA and s. 5(1)(a) of the *Freedom of Information and Protection of Privacy Regulation* (Regulation). BCEHS also withheld all of the information in the responsive

records under s. 22(1) of FIPPA (unreasonable invasion of a third party's personal privacy).<sup>1</sup>

[3] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review BCEHS' decision. Mediation by the OIPC did not resolve the matter and it proceeded to inquiry.

[4] While BCEHS provided an inquiry submission, the applicant chose not to do so. Therefore, my understanding of the applicant's position is based on what she said in her access request to BCEHS and her request for review to the OIPC.

### ***Preliminary matters***

#### *Public body*

[5] BCEHS is not itself a public body under FIPPA. Rather, BCEHS is a program of the Provincial Health Services Authority (PHSA), which is the actual public body subject to this order.<sup>2</sup> However, the Notice of Inquiry and the public body's submission refer to BCEHS as the public body.<sup>3</sup> For consistency, I have referred to BCEHS as the public body throughout this order.

#### *Information no longer in dispute*

[6] BCEHS initially refused the applicant access to all of the responsive records under s. 22(1). During the inquiry, BCEHS provided the applicant some of the responsive records. In those records, BCEHS disclosed some information, continued to withhold some information under s. 22(1) and also withheld some information under ss. 15(1) (disclosure harmful to law enforcement) and 19(1) (disclosure harmful to individual or public safety).

[7] BCEHS requested that the applicant consent to BCEHS withholding the information at issue under ss. 15(1) and 19(1), which it described as identifying information about individual BCEHS staff members and information about BCEHS computer systems. The applicant confirmed that she no longer disputed BCEHS's decision to withhold "staff information [and] information on computer systems."<sup>4</sup> As a result, I conclude those issues and the information withheld under those sections are no longer in dispute.

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<sup>1</sup> From this point forward, whenever I refer to section numbers I am referring to sections of FIPPA, unless otherwise specified.

<sup>2</sup> The Provincial Health Services Authority is designated as a public body in Schedule 2 of FIPPA.

<sup>3</sup> Notice of Written Inquiry, January 30, 2023, and, for example, page 1 of the public body's submission.

<sup>4</sup> April 21, 2023 emails between the applicant and BCEHS.

[8] I can see from the records that BCEHS is withholding the names, ID numbers and unit numbers of some BCEHS personnel under s. 22(1).<sup>5</sup> In some instances, this information is the same information that was withheld under s. 19(1).<sup>6</sup> In my view, all of this information is the type of identifying information about individual BCEHS employees that the applicant does not dispute BCEHS withholding under s. 19(1). As a result, I conclude that BCEHS's decision to refuse the applicant access to the names, ID numbers and unit numbers of BCEHS personnel is not in dispute in this inquiry and it is not necessary for me to decide whether BCEHS is required to withhold that information under s. 22(1).

## ISSUES

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

1. Is the applicant acting on behalf of the deceased in accordance with s. 5 of FIPPA and s. 5(1)(a) of the Regulation?
2. Is the public body required to refuse to disclose the information at issue under s. 22(1)?

[10] Section 57 does not state who has the onus for establishing that an applicant is authorized to act on behalf of another person. In such a case, both parties are responsible for providing argument and evidence to support their positions.<sup>7</sup>

[11] With respect to s. 22(1), s. 57(2) places the burden on the applicant to establish that disclosure of the information at issue would not be an unreasonable invasion of a third party's personal privacy. However, the public body has the initial burden of proving the information at issue is personal information.<sup>8</sup>

## DISCUSSION

### *Background*

[12] In 2019, a 911 call was made about the deceased. Paramedics attended at the deceased's residence and subsequently pronounced him dead.<sup>9</sup>

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<sup>5</sup> Information located on pages 151, 152 and 154 of the written records and in BCEHS calls 4, 5 and 8.

<sup>6</sup> Information located on pages 151, 152 and 154 of the written records and in BCEHS calls 4, 5 and 8.

<sup>7</sup> Order F21-44, 2021 BCIPC 52 at paras 13-17; Order F18-08, 2018 BCIPC 10 at para 7; Order F17-04, 2017 BCIPC 4 at para 4; Order F15-36, 2015 BCIPC 39 at para 5.

<sup>8</sup> Order 03-41, 2003 CanLII 49220 (BCIPC) at paras 9-11.

<sup>9</sup> This information is from the applicant's access request.

[13] The applicant says that she and her siblings are trying to find out everything they can about the moments leading up to her father's death, including why and how he died.

***Authority to act on behalf of a deceased individual***

[14] Section 5(1)(b) of FIPPA explains how an applicant may make an access request on behalf of another person:

5(1) To obtain access to a record, the applicant must make a written request that

...

(b) provides written proof of the authority of the applicant to make the request, if the applicant is acting on behalf of another person in accordance with the regulations ...

[15] Section 5(2)(a) of the Regulation says that an "appropriate person" may act for a deceased person in relation to a request for access to records under s. 5.

[16] Therefore, in order to be entitled to exercise the deceased's FIPPA rights, the applicant must establish that she is an "appropriate person" pursuant to s. 5 of the Regulation and she is "acting on behalf of" the deceased pursuant to s. 5(1)(b) of FIPPA.

*Appropriate person*

[17] Section 5(1) of the Regulation defines "appropriate person" as follows:

**"appropriate person"** means,

(a) in respect of a deceased adult, one of the following

- (i) a committee acting under section 24 of the *Patients Property Act* for the deceased;
- (ii) if there is no committee acting for the deceased, the personal representative of the deceased;
- (iii) if there is no committee acting for the deceased and no personal representative of the deceased, the nearest relative of the deceased;...

[18] No one says that there is a committee acting for the deceased and I find that there is no such committee. As a result, an appropriate person to act for the

deceased is the deceased's personal representative, or if there is no personal representative, the nearest relative of the deceased.

[19] The *Interpretation Act* says that "personal representative" includes an executor of a will and an administrator with or without will annexed of an estate.<sup>10</sup>

[20] BCEHS submits that the applicant's step-mother is the deceased's personal representative because she is the executor of the deceased's estate.<sup>11</sup>

[21] The applicant says that although she initially told BCEHS that her step-mother was the executor of her the deceased's estate, her step-mother is no longer the executor because she chose not to probate the deceased's will.<sup>12</sup>

[22] The applicant does not say that she is the executor and there is no evidence to support that conclusion. Therefore, she is not the deceased's personal representative and an appropriate person on that basis.

[23] The only other way the applicant could qualify as an appropriate person is if there is no personal representative and she is the deceased's nearest relative.

[24] Given my conclusion below about who is the deceased's nearest relative, I do not need to decide whether there is a personal representative. Section 5(1) of the Regulation provides as follows:

"**nearest relative**" means the first person referred to in the following list who is willing and able to act under subsection (2) of this section for a deceased individual:

- (a) spouse of the deceased at the time of death;
- (b) adult child of the deceased;

...

"**spouse**" means a person who

- (a) is married to another person and is not living separate and apart, within the meaning of the *Divorce Act (Canada)* from the other person, or
- (b) is living in a marriage-like relationship for a continuous period of at least one year immediately before the death of the other person.

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<sup>10</sup> *Interpretation Act*, RSBC 1996, c 238, s. 29. FIPPA does not define the term "personal representative."

<sup>11</sup> Public body's submission at para 13.

<sup>12</sup> Applicant's request for review, August 14, 2021.

(3) If a nearest relative who is acting under this section ceases to be willing or able to act, the right to act under subsection (2) of this section passes to the person who is next in the definition of “nearest relative” and who is willing and able to act.

[25] As the spouse of the deceased at the time of death, the step-mother takes priority over the applicant as the nearest relative unless she is unwilling or unable to act on the deceased’s behalf. There is no evidence before me that the step-mother is unwilling or unable to act on behalf of the deceased with regards to exercising his rights under FIPPA. As a result, in the absence of an executor, the applicant still would not be an appropriate person because she is not the nearest relative as defined in the Regulation.

[26] Considering all of the above, I find that the applicant has not established that she is an “appropriate person” for the purpose of exercising the deceased’s rights to access records.

[27] However, it is evident that the applicant wants access to the records regardless of whether the request is made on her own behalf or the deceased’s behalf. As a result, I will consider her request on the basis that it is made on her own behalf.

### ***Records and information at issue***

[28] The responsive records consist of 158 pages of written records and nine audio recordings.<sup>13</sup>

[29] BCEHS is withholding most of the information in the written records under s. 22(1). BCEHS describes the written records as Patient Care Record Emergency Department Synopses, an Event Chronology, an Event Register and electrocardiogram printouts.<sup>14</sup>

[30] BCEHS is withholding the entirety of the audio recordings under s. 22(1).<sup>15</sup> One of the audio recordings is the 911 call about the deceased. The balance of the audio recordings (the BCEHS calls) are recordings of communications

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<sup>13</sup> BCEHS says there are ten audio recordings in dispute in its initial submission and affidavit evidence. However, in correspondence with the Registrar of Inquiries, BCEHS said there are nine audio recordings. BCEHS also provided nine audio recordings to the OIPC for review in this inquiry. I conclude that there are only nine audio recordings in dispute.

<sup>14</sup> BCEHS employee’s affidavit at para 8.

<sup>15</sup> To be clear, BCEHS did not provide written transcripts of the audio recordings for my review. When I refer to the 911 call or the BCEHS calls, I am referring to the audio recordings of those communications.

between individuals who were involved in the response to the 911 call in the course of their employment.<sup>16</sup>

***Unreasonable invasion of a third party's personal privacy, s. 22***

[31] Section 22 requires a public body to refuse to disclose personal information if its disclosure would be an unreasonable invasion of a third party's personal privacy.<sup>17</sup> Numerous orders have considered the application of s. 22, and I will apply those same principles here.<sup>18</sup>

*Personal information*

[32] Section 22 only applies to personal information, so the first step in a s. 22 analysis is to determine if the information in dispute is personal information.

[33] Personal information is defined in FIPPA as “recorded information about an identifiable individual other than contact information.” Information is “about an identifiable individual” when it is “reasonably capable of identifying an individual, either alone or when combined with other available sources of information.”<sup>19</sup>

[34] FIPPA defines contact information 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.”<sup>20</sup>

[35] BCEHS says that the “paramedic notes” constitute the deceased's personal information and the 911 call is the personal information of the deceased and the 911 caller.<sup>21</sup>

Analysis and findings, personal information

[36] I find that almost all of the information at issue is personal information.

[37] Most of the information at issue is clearly about the deceased, who is identified by name in the written records and whose identity is known to the applicant. I find that all of this information is the deceased's personal information.

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<sup>16</sup> The BCEHS calls are labelled “E-binder 3 of 10...” through “E-binder 10 of 10.” For simplicity, I refer to them simply as BCEHS calls 3 through 10. For example, I refer to the call labelled “E-binder 3 of 10...” as BCEHS call 3.

<sup>17</sup> Schedule 1 of FIPPA says: “third party” in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organization other than (a) the person who made the request or (b) a public body.

<sup>18</sup> See for example, Order F15-03, 2015 BCIPC 3 at para 58.

<sup>19</sup> Order F19-13, 2019 BCIPC 15 at para 16, citing Order F18-11, 2018 BCIPC 14 at para 32.

<sup>20</sup> Schedule 1.

<sup>21</sup> Public body's submission at paras 23-25.

[38] Some of the information does not directly identify an individual (i.e., by name) but given the context, it is reasonable to conclude that the applicant or other members of the public would be able to identify the individuals. For example, some of the information at issue is about the 911 caller.<sup>22</sup> While the 911 caller is not identified by name, their voice is audible in the 911 call, they are identified by their relationship to the deceased and the applicant says she knows the identity of the 911 caller. As a result, I conclude that the 911 caller is an identifiable individual and the information about the 911 caller is personal information.

[39] As another example, the 911 call-taker and the individuals who can be heard on the BCEHS calls (together, the employees) are not identified by name. However, their voices are audible and allow one to make inferences about each employee's age, gender, and first language. Additionally, some of the employees' occupations are evident from the recordings. In the particular circumstances before me, I am satisfied that the employees are identifiable individuals. I find that the recordings of those employees' voices are their personal information. I also find that the time and date of each of the audio recordings is information about the individuals involved in the communication that follows because it reveals when they made or received that communication.<sup>23</sup>

[40] Finally, some of the information in dispute is simultaneously the personal information of one or more identifiable individuals. For example, some of the information is the 911 caller talking about the deceased and is simultaneously the personal information of the 911 caller and the deceased. This is also the case where the employees are talking about the deceased.

[41] However, I find that some of the headings in the written records are not about an identifiable individual.<sup>24</sup> They are generic headings that I am satisfied would appear on the forms of any BCEHS patient and that do not reveal anything about the deceased or any other individual.<sup>25</sup> As a result, I find that some of the disputed headings are not personal information.

*Not an unreasonable invasion, s. 22(4)*

[42] The second step in the s. 22 analysis is to consider s. 22(4), which sets out circumstances where disclosure is not an unreasonable invasion of a third party's personal privacy. If information falls into one of the enumerated circumstances, s. 22(1) does not apply and the public body must disclose the information.

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<sup>22</sup> Information contained in the 911 call and pages 1, 6, 146 and 155 of the written records.

<sup>23</sup> Information contained in the first eleven seconds of each audio recording.

<sup>24</sup> Information located on pages 6 and 146-158 of the written records.

<sup>25</sup> In contrast, I find that the other headings in dispute are the deceased's personal information because they reveal information about the deceased's medical treatment.

[43] BCEHS says that s. 22(4) does not apply.<sup>26</sup> I have considered whether any of the subsections in s. 22(4) apply and, for the reasons that follow, I find s. 22(4)(e) applies to some of the personal information.

Public body employee's position, functions or remuneration, s. 22(4)(e)

[44] Section 22(4)(e) says that it is not an unreasonable invasion of a third party's personal privacy to disclose information about their position, functions or remuneration as an officer, employee or member of a public body.

[45] It is well established that s. 22(4)(e) applies to "objective, factual statements about what the third party said or did in the normal course of discharging [their] job duties, but not qualitative assessments of those actions."<sup>27</sup>

[46] I am satisfied from the context and content of the 911 call and the BCEHS calls that the employees are public body employees. In my view, the recordings are of the employees talking in the normal course of discharging their job duties and in most instances s. 22(4)(e) applies. However, in some instances, the employees are talking about the deceased or the 911 caller, so the information is simultaneously the personal information of those third parties. I find that s. 22(4)(e) does not apply where the employees are talking about the deceased or the 911 caller because that information is not exclusively about the employees' positions, functions or remuneration with the relevant public bodies.

[47] In summary, I find that s. 22(4)(e) applies to the employees' personal information except where the personal information is simultaneously the personal information of the deceased or the 911 caller.

[48] I have considered the other circumstances listed under s. 22(4) and I find that none apply.

*Presumptions, s. 22(3)*

[49] The third step in the s. 22 analysis is to determine whether s. 22(3) applies to the personal information. If so, disclosure is presumed to be an unreasonable invasion of a third party's personal privacy.

[50] BCEHS says that the presumption in s. 22(3)(a) applies.<sup>28</sup>

[51] I have considered whether any of the subsections in s. 22(3) apply and I find that only s. 22(3)(a) is relevant in this case.

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<sup>26</sup> Public body's submission at para 26.

<sup>27</sup> Order 01-53, 2001 CanLII 21607 (BCIPC) at para 40.

<sup>28</sup> Public body's submission at paras 27-28.

Medical history, diagnoses, condition, treatment or evaluation, s. 22(3)(a)

[52] Section 22(3)(a) creates a presumption that disclosure of personal information relating to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation is an unreasonable invasion of a third party's personal privacy.

[53] I can see that most of the personal information clearly relates to the deceased's medical history, diagnosis, condition or treatment. As a result, I find that s. 22(3)(a) applies to most of the personal information and disclosure is presumed to be an unreasonable invasion of the deceased's personal privacy.

*Relevant circumstances, s. 22(2)*

[54] The final step in the s. 22 analysis is to consider the impact of disclosing the personal information in light of all relevant circumstances, including those listed in s. 22(2). It is at this step that the s. 22(3) presumptions may be rebutted.

[55] BCEHS says that s. 22(2)(f), 22(2)(i) and the applicant's motive are relevant.<sup>29</sup> I will consider these circumstances in my s. 22(2) analysis. I will also consider whether there are any other circumstances, including those listed under s. 22(2), that may apply.

Supplied in confidence, s. 22(2)(f)

[56] Section 22(2)(f) asks whether the personal information has been supplied in confidence. If so, this factor weighs in favour of withholding the personal information. In order for s. 22(2)(f) to apply, there must be evidence that an individual supplied the personal information, and that they did so under an objectively reasonable expectation of confidentiality at the time the information was provided.<sup>30</sup>

[57] BCEHS says that s. 22(2)(f) weighs in favour of withholding the personal information.<sup>31</sup>

[58] In Investigation Report P97-010, then Commissioner Flaherty said that when a person calls 911 and seeks assistance, the call and any information supplied during the conversation with a 911 operator is in the strictest confidence.<sup>32</sup> While there is no express statement of confidentiality in the 911

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<sup>29</sup> Public body's submission at paras 30-39.

<sup>30</sup> Order F11-05, 2011 BCIPC 5 at para 41 citing and adopting the analysis in Order 01-36, 2001 CanLII 21590 (BC IPC) at paras 23-26 regarding s. 21(1)(b).

<sup>31</sup> Public body's submission at para 34.

<sup>32</sup> Investigation Report P97-01, <http://www.oipc.bc.ca/investigation-reports/1257> at page 3.

call, given the content and context of the 911 call, I find that it is reasonable to conclude that the 911 caller supplied information in the 911 call in confidence.

[59] I find that s. 22(2)(f) applies and weighs against disclosing the personal information supplied by the 911 caller in the 911 call.

Information about a deceased person, s. 22(2)(i)

[60] Section 22(2)(i) asks whether the personal information is about a deceased person, and if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person's personal privacy.

[61] FIPPA does not specify a number of years after which a deceased individual's personal information may be disclosed. Previous orders have noted that in most Canadian jurisdictions, the law provides that disclosing information about someone who has been deceased for 20-30 years is not an unreasonable invasion of their privacy. Previous orders have also said that an individual's personal privacy rights are likely to continue for at least 20 years past their death.<sup>33</sup>

[62] BCEHS says that the deceased passed away less than two years before the date of the access request, and that in other cases the OIPC has found this short period of time to be a factor weighing against disclosure.<sup>34</sup>

[63] In this case, the deceased has been deceased for much less than 20 years; therefore, I find that the deceased's privacy rights continue and have not been reduced by the passage of time. I find that s. 22(2)(i) does not weigh in favour of disclosing the deceased's personal information.

Applicant's purpose or motive

[64] An applicant's motive is not usually relevant in FIPPA access requests. However, it has been considered in the context of family members seeking information in order to deal with a death and its aftermath.<sup>35</sup> I find it appropriate to consider the applicant's motive here.

[65] BCEHS says that the applicant's purpose, seeking to understand the circumstances of her father's death favours disclosure, but does not rebut the s. 22(3)(a) presumption.<sup>36</sup>

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<sup>33</sup> Order F14-09, 2014 BCIPC 11 at para 30; Order F18-08, 2018 BCIPC 10 at paras 31-32.

<sup>34</sup> Public body's submission at para 37.

<sup>35</sup> Order F15-36, 2015 BCIPC 39 at para 31; Order F14-09, 2014 BCIPC 11; Order 96-1996, 1996 BCIPCD No 22; Order 00-11, 2000 CanLII 10554.

<sup>36</sup> Public body's submission at para 39.

[66] I can see from the applicant's access request and request for review that she is seeking to understand the circumstances of her father's death. I find that the applicant's motive weighs in favour of disclosing the disputed personal information.

#### Applicant's knowledge

[67] While not enumerated in s. 22(2), past orders have considered whether the applicant's knowledge of the information weighs for or against disclosure.<sup>37</sup>

[68] It is clear to me that the applicant knows some of the personal information. For example, based on the applicant's relationship to the deceased, I am satisfied that the applicant knows the deceased's name, age, date of birth, gender and address (the deceased's biographical information).<sup>38</sup> I can also see from the applicant's access request and request for review that she knows the dates of the 911 call and other events referenced in the written records, the location of the 911 call and the deceased's location prior to his death (the deceased's location). I find that the applicant's knowledge weighs in favour of disclosing this information.

#### Sensitivity

[69] Previous orders have considered the sensitivity of the information in dispute.<sup>39</sup> For example, where information is sensitive, it is a circumstance weighing in favour of withholding the information.<sup>40</sup>

[70] I find that some of the information in the 911 call is sensitive, in part because of the additional information it provides about an individual's emotional state. I find that the sensitivity of some of the personal information in the 911 call weighs against disclosure.

#### **Conclusion, s. 22(1)**

[71] To begin, some of the headings are not personal information under FIPPA.<sup>41</sup> BCEHS is not required to withhold this information under s. 22(1).

[72] The balance of the information at issue is personal information. I will explain my findings with respect to the specific personal information below in light of any relevant circumstances and presumptions that apply.

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<sup>37</sup> Order F18-48, 2018 BCIPC 51 at para 27; Order F20-22, 2020 BCIPC 26 at para 51.

<sup>38</sup> I can also see that the deceased's age and gender were openly disclosed on page 1 of the written records.

<sup>39</sup> For example, Order F21-69, 2021 BCIPC 80 at para 82.

<sup>40</sup> Order F19-15, 2019 BCIPC 17 at para 99.

<sup>41</sup> Information located on pages 6 and 146-158 of the written records.

[73] I find that disclosing some of the personal information would not be an unreasonable invasion of a third party's personal privacy.

[74] First, s. 22(4)(e) applies to the personal information that is solely about the employees, so its disclosure would not be an unreasonable invasion of the employees' personal privacy.

[75] Second, while s. 22(3)(a) applies to most of the personal information, I find that the applicant's knowledge and motive outweigh the presumption against disclosure of some of the dates and the deceased's location.<sup>42</sup> I find that disclosing this information would not be an unreasonable invasion of the deceased's personal privacy.

[76] Finally, the s. 22(3)(a) presumption does not apply to the deceased's biographical information or the 911 caller's location and no factors weigh against disclosing this information. As a result, I find that disclosing this information would not be an unreasonable invasion of the personal privacy of the deceased or the 911 caller.

[77] However, I find that disclosing the remaining personal information would be an unreasonable invasion of a third party's personal privacy. Section 22(3)(a) applies to most of the remaining personal information. Additionally, some of the remaining personal information was supplied in confidence and some of it is sensitive. While the applicant's motive weighs in favour of disclosing the personal information, it does not rebut the s. 22(3)(a) presumption or outweigh the factors weighing against disclosure. I find that disclosing the remaining personal information would be an unreasonable invasion of the personal privacy of the deceased and/or the 911 caller. BCEHS must refuse to disclose this information under s. 22(1).

### *Severance*

[78] Section 4(2) says that the right of access to a record does not extend to information excepted from disclosure under s. 22(1), but if that information can reasonably be severed from a record an applicant has the right of access to the remainder of the record.

[79] In some instances, severing some of the information excepted from disclosure under s. 22(1) would leave information without any surrounding context or meaning.<sup>43</sup> In those instances, it would not, in my view, be reasonable

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<sup>42</sup> In my view, disclosing these dates only reveals dates that are already known to the applicant and does not reveal any further information about the deceased. In contrast, I do not make this finding about some of the dates where, in my view, disclosure would reveal additional information about the deceased's medical treatment that is not known to the applicant.

<sup>43</sup> For example, the first six seconds of the 911 call and information located on pages 11-145, 151-152, 155 and 157 of the written records.

under s. 4(2) to sever the information about third parties and disclose the balance of the personal information to the applicant because the result would be meaningless, disconnected snippets of information.<sup>44</sup>

## CONCLUSION

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

1. I confirm the public body's decision that the applicant is not acting on behalf of the deceased under s. 5 of FIPPA and s. 5(1) of the Regulation.
2. I confirm, in part, the public body's decision to refuse the applicant access to the information withheld under s. 22(1). To be clear, this includes the entire audio recording of the 911 call.
3. The public body is required to give the applicant access to the information in the written records that I have determined it is not required to withhold under s. 22(1). I have highlighted this information in yellow on a copy of pages 1-6, 9 and 146-158 of the written records that will be provided to the public body with this order.
4. The public body is required to give the applicant access to the information in the BCEHS calls that I have determined it is not required to withhold under s. 22(1). This information is 1) the information that is solely the personal information of public body employees; and 2) the deceased's age, gender, address and location. To be clear, this information is the first 11 seconds of each audio recording of the BCEHS calls, the entirety of the audio recordings of BCEHS calls 4 and 5 and some of the information in the audio recordings of BCEHS calls 3 and 6-10.
5. The public body must concurrently copy the OIPC registrar of inquiries on its cover letter to the applicant, together with a copy of the records/pages described at items 3 and 4 above.

Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by December 13, 2023.

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<sup>44</sup> For similar findings, see Order F16-12, 2016 BCIPC 14; Order F10-08, 2010 BCIPC 12; and Order 03-16, 2003 CanLII 49186.

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October 31, 2023

**ORIGINAL SIGNED BY**

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Elizabeth Vranjkovic, Adjudicator

OIPC File No.: F21-87002